

# **Memorandum of Understanding**

## **Florida Department of Environmental Protection**

**and**

## **Florida Public Service Commission**

The Florida Department of Environmental Protection (DEP) and the Florida Public Service Commission (PSC) recognize that water conservation and water reuse are key elements of Florida's long-term water management strategy. It is our joint goal and high priority to ensure that Florida's water and wastewater utilities provide safe and efficient treatment and use of water and wastewater. This memorandum of understanding (MOU) formally establishes the policies and procedures to be followed by the DEP and PSC to promote and encourage water conservation and reuse, and safe and efficient water supply and wastewater management services.

### **BACKGROUND**

#### **Drinking Water Program**

The Federal Safe Drinking Water Act requires certain monitoring, testing, treatment, and reporting to ensure the quality of potable waters. The Florida Safe Drinking Water Act, contained in Chapter 403, Florida Statute (F.S.), outlines the basic requirements for Florida's drinking water program. Chapters 62-550, 62-555, 62-560, and 62-699, Florida Administrative Code (F.A.C.), contain specific requirements governing drinking water systems in Florida. The PSC's responsibilities for regulation of investor-owned drinking water utilities are outlined in Chapter 367, F.S.

#### **Domestic Wastewater Program**

The Federal Clean Water Act and the Florida Water Pollution Control Act requires effective treatment and management of wastewater in order to protect the nation's ground water and surface water resources. Florida's wastewater management and environmental control programs are contained in Chapter 403, F.S. Specific regulations governing domestic wastewater management are contained in Chapters 62-600, 62-601, 62-602, 62-604, 62-610, 62-611, 62-620, 62-625, 62-628, 62-640, 62-650, and 62-699, F.A.C. The PSC's responsibilities for regulation of investor-owned wastewater utilities are outlined in Chapter 367, F.S.

## **Water Reuse Program**

The encouragement and promotion of water conservation and reuse of reclaimed water are established as state objectives in Sections 403.064(1) and 373.250, F.S.

The DEP, in association with the PSC, the water management districts, and other state agencies, has developed and implemented a comprehensive reuse program designed to meet those objectives. This water reuse program includes:

1. Comprehensive rules governing the reuse of reclaimed water (Chapter 62-610, F.A.C);
2. A mandatory reuse program;
3. The Antidegradation Policy;
4. The Indian River Lagoon System and Basin Act;
5. The APRICOT Act; and
6. Requirements for evaluation of reuse feasibility.

Section 403.064, F.S., requires that after January 1, 1992, all applicants for permits to construct or operate a domestic wastewater treatment facility in a water resource caution area evaluate the costs and benefits of reusing reclaimed water as part of their application for the permit.

The Antidegradation Policy is contained in Chapter 62-4, F.A.C., "Permits," and Chapter 62-302, F.A.C., "Surface Water Quality Standards." These rules require an applicant for a new or expanded discharge to surface waters to demonstrate that the discharge is clearly in the public interest. As part of this public interest test, the applicant must evaluate the feasibility of reuse of reclaimed water. If reuse is economically and technologically reasonable, it will be preferred over the surface water discharge.

The Indian River Lagoon System and Basin Act, which is contained in Chapter 90-262, Laws of Florida, provides increased protection to the Indian River Lagoon System. Section 3 of the Act requires the owner of an existing sewage treatment facility within the Indian River Lagoon Basin to investigate the feasibility of using reclaimed water for beneficial purposes. These reuse feasibility studies were to be completed before July 1, 1992.

## **OBJECTIVES**

The common objectives, as they relate to drinking water systems and domestic wastewater systems subject to regulation by the DEP and the PSC, are as follows:

1. To monitor drinking water treatment and distribution systems to ensure that safe and reliable water is produced and delivered in accordance with applicable rules and drinking water standards.
2. To monitor domestic wastewater systems to ensure the safe and efficient collection, treatment, and reuse or disposal of wastewater and residuals.
3. To encourage and promote water conservation and water reuse.
4. To foster conservation and to reduce withdrawals and use of ground water and surface water through employment of conservation-promoting rate structures, reuse of reclaimed water, and consumer education programs.
5. To encourage and promote the efficient and effective reuse of reclaimed water.
6. To promote the continued economic viability of utility systems.

## **PSC RESPONSIBILITIES**

The following is a general description of the roles and responsibilities of the PSC related to drinking water systems, water conservation, domestic wastewater systems, and water reuse. The PSC's jurisdiction is limited to economic regulation of investor-owned utilities and is effective in only some of the counties in Florida. The PSC will offer assistance to the extent provided by law and agency workload. The PSC agrees to implement policies and procedures necessary to administer the following duties:

### **Drinking Water Systems**

1. When appropriate, arrange for joint public meetings with customers to ensure that customers are aware of the need for drinking water system improvement projects, and the potential impacts the projects will have on service rates.
2. Inform the DEP of the PSC public meetings with customers and hearings in which drinking water system projects will be discussed.
3. Review proposed rate structures for investor-owned water utilities within PSC jurisdiction.

4. Provide assistance to DEP on consumer confidence reports and capacity development programs.
5. Provide assistance in review of water conservation rate structures within PSC jurisdiction, to ensure that the rate structures are designed to promote water conservation.
6. Monitor abandonment and bankruptcy proceedings for investor-owned water utilities within PSC jurisdiction. Inform the DEP of pending abandonment and bankruptcy cases.
7. Provide legal and technical support to the DEP in any related administrative hearings or legal proceedings, if an applicant for a DEP permit challenges the interpretation of Section 367.031, F.S.

### **Domestic Wastewater Systems**

1. When appropriate, arrange for joint public meetings with customers to ensure that customers are aware of the need for domestic wastewater system improvement projects, and the potential impacts the projects will have on service rates.
2. Inform the DEP of the PSC public meetings with customers and hearings in which domestic wastewater projects will be discussed.
3. Review proposed rate structures for investor-owned wastewater management utilities within PSC jurisdiction.
4. Monitor abandonment and bankruptcy proceedings for investor-owned wastewater utilities within PSC jurisdiction. Inform the DEP of pending abandonment and bankruptcy cases.
5. Provide legal and technical support to the DEP in any related administrative hearings or legal proceedings, if an applicant for a DEP permit challenges the interpretation of Section 367.031, F.S.
6. Work with utilities within its jurisdiction and with the DEP to strengthen efforts to ensure that wastewater facilities have sufficient capacity available. The DEP has adopted rules requiring utilities to perform timely planning, design, and construction of expanded facilities to ensure that sufficient wastewater treatment, disposal, and reuse capacity is available.
7. Work with utilities within its jurisdiction and with the DEP to strengthen efforts to ensure proper operation and maintenance and to promote compliance with DEP permit requirements. The DEP has adopted rules governing proper operation and maintenance of domestic wastewater systems and has initiated a program designed to increase rates of compliance with permit requirements.

## **Water Reuse**

1. When appropriate, arrange for joint public meetings with customers to ensure that customers are made aware of the need for reuse system improvement projects, and the potential impacts the projects will have on service rates.
2. Inform the DEP of the PSC public meetings with customers and hearings in which water reuse will be discussed.
3. Provide feasibility analyses of the financial impacts, if any, of reuse projects on both the customers and the domestic wastewater utilities within PSC jurisdiction.
4. Within 10 days of receipt of a reuse feasibility study from DEP, review the document for completeness of the financial aspects and notify the DEP whether or not the document is complete and whether or not the PSC will be able to conduct a complete review. If the PSC staff determines that it will be able to review the document, the PSC staff shall provide comments and recommendations to the DEP within 30 days of receipt of the complete document.
5. Participate in appropriate DEP hearings in which the feasibility of reuse will be discussed.
6. Review proposed rate structures for reuse projects for investor-owned utilities within PSC jurisdiction. As noted in Section 403.064(6), F.S., and pursuant to Chapter 367, F.S., the PSC shall allow utilities that implement reuse projects to recover all prudent costs of such facilities through their rates.
7. Assist the water management districts in the review of reuse feasibility studies associated with the mandatory reuse program in Chapter 62-40, F.A.C., and other reuse-related activities of the water management districts in the counties within PSC jurisdiction. A separate MOU between the water management districts and the PSC governs these activities.

## **DEP RESPONSIBILITIES**

The following is a general description of the roles and responsibilities of the DEP related to drinking water systems, water conservation, domestic wastewater systems, and water reuse. The DEP agrees to adopt and implement policies and procedures necessary to administer the following duties:

## **Drinking Water Systems**

1. Review applications for construction of drinking water systems.
2. Monitor compliance of drinking water systems with applicable rules and drinking water standards.
3. Notify the PSC of impending abandonment or bankruptcy cases involving investor-owned water utilities and assist the PSC in such cases, as needed.
4. Verify the existence of a certificate of authorization from the PSC before issuance of a construction permit for a new drinking water system for utilities subject to Chapter 367, F.S.
5. Participate in interagency programs and working groups on subjects of mutual concern to the agencies.
6. Provide expert technical testimony at PSC customer meetings and hearings for rate cases or other proceedings involving investor-owned utilities. This shall be done at the PSC's request without the need for subpoenas.

## **Domestic Wastewater Systems**

1. Administer the federal National Pollutant Discharge Elimination System (NPDES) program.
2. Administer the federal Underground Injection Control (UIC) Program.
3. Administer the federal Pretreatment Program.
4. Review applications for construction and operation of domestic wastewater facilities.
5. Monitor compliance of domestic wastewater systems with applicable rules and effluent discharge limitations.
6. Monitor water quality in the State's ground waters and surface waters.
7. Notify the PSC of impending abandonment or bankruptcy cases involving investor-owned wastewater utilities and assist the PSC in such cases, as needed.
8. Verify the existence of a certificate of authorization from the PSC before issuance of a permit for construction of a new domestic wastewater treatment facility for utilities subject to Chapter 367, F.S.

9. Provide expert technical testimony at PSC customer meetings and hearings for rate cases or other proceedings involving investor-owned utilities. This shall be done at the PSC's request without the need for subpoenas.

## **Water Reuse**

1. Administer the State's water reuse program.
2. Review reuse feasibility studies required by Section 403.064, F.S., the Antidegradation Policy, or the Indian River Lagoon System and Basin Act.
3. Within five working days after receipt of a reuse feasibility study required by Section 403.064, F.S., the Antidegradation Policy, or the Indian River Lagoon System and Basin Act, provide a copy of the reuse feasibility study to the PSC. This applies only to feasibility studies produced by investor-owned utilities located within counties regulated by the PSC.
4. Make final determinations on the adequacy of reuse feasibility studies. Comments and recommendations made by the PSC on the financial aspects of these reuse feasibility studies will be considered by the DEP.
5. Provide expert technical testimony at PSC customer meetings and hearings for rate cases or other proceedings involving investor-owned utilities. This shall be done at the PSC's request without the need for subpoenas.

## **PROJECT COORDINATION**

### **Drinking Water Program**

1. The PSC will designate a Drinking Water Project Manager.
2. The DEP's Drinking Water Section Administrator will serve as the DEP's Drinking Water Project Manager.
3. Exchange of information between the DEP and the PSC shall be through the designated Drinking Water Project Managers. Copies of pertinent correspondence related to drinking water treatment and distribution and water conservation issues shall be sent to the appropriate agency's Drinking Water Project Manager.

### **Domestic Wastewater Program**

1. The PSC will designate a Domestic Wastewater Project Manager.

2. The DEP's Domestic Wastewater Section Administrator will serve as the DEP's Domestic Wastewater Project Manager.
3. Exchange of information between the DEP and the PSC shall be through the designated Domestic Wastewater Project Managers. Copies of pertinent correspondence related to wastewater management issues shall be sent to the appropriate agency's Domestic Wastewater Project Manager.

## **Water Reuse Program**

1. The PSC will designate a Reuse Project Manager.
2. The DEP's Reuse Coordinator will serve as the DEP's Reuse Project Manager for purposes of this agreement.
3. Reuse feasibility studies to be submitted to the PSC will be submitted over the signature of the DEP Reuse Coordinator or over the signature of one of the six Water Facilities Administrators located in the DEP district offices. All reuse feasibility studies provided to the PSC will be directed to the PSC's Reuse Project Manager.
4. The DEP Reuse Coordinator shall be copied on any correspondence between the PSC's Reuse Project Manager and the DEP's Water Facilities Administrators regarding reuse feasibility studies.
5. Whenever a potential conflict regarding a specific project is identified, each agency will examine the alternative solutions available and then meet to discuss the issues involved and attempt to reach an agreement before announcing a position. If an agreement cannot be reached after due deliberations, several positions may be advocated. Such disagreements, if any, will not obviate this MOU.
6. Exchange of information between the DEP and the PSC shall be through the designated Reuse Project Managers. Copies of pertinent correspondence between an agency and other parties concerning a reuse project shall be sent to the Reuse Project Manager of each agency until project completion.
7. The Reuse Coordinating Committee will continue to meet three times each year to discuss issues related to water reuse in Florida and to coordinate activities of the member agencies toward the goal of encouraging and promoting water reuse. DEP's Reuse Coordinator chairs this committee and the PSC, as a member of the committee, will continue to participate in committee activities and will continue to attend committee meetings.
8. Representatives of the individual DEP district offices, the appropriate water management districts, and the PSC will meet between two and four times each year to discuss domestic wastewater and water reuse issues. These meetings are designed to promote



communication and coordination among the permitting staffs. The focus is on identification of potential suppliers of reclaimed water (domestic wastewater treatment systems) and potential users of reclaimed water (applicants for consumptive use permits) and to develop strategies for maximizing the use of reclaimed water within the areas served by the individual DEP districts and water management districts.

## Overall Coordination

The designated Drinking Water, Domestic Wastewater, and Reuse Project Managers from the DEP and the PSC shall meet as necessary. The meetings will address and review progress on the drinking water, domestic wastewater, and water reuse programs in Florida and will attempt to resolve any issues that may be identified by the staffs.

## AMENDMENTS


This MOU may be amended by mutual agreement of the DEP and PSC. It shall remain in effect until it is dissolved by mutual agreement among the agencies or terminated by an agency after giving 30-days written notice to the other agency.


## PREVIOUS MOU

This MOU supersedes the previous MOU dated November 20, 1992 between the DEP and the PSC. Upon signature of this MOU, the MOU dated November 20, 1992 will be null and void.

## EFFECTIVE DATE AND SIGNATURES

This MOU will become effective after being signed by both parties.

  
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E. Leon Jacobs, Jr., Chairman  
Florida Public Service Commission

  
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David B. Struhs, Secretary  
Department of Environmental Protection

SEPTEMBER 3, 2001  
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Date

September 13, 2001  
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Date