

7. The home shall not be heated by un-vented gas fired space heaters or oil heaters unless they are equipped with an oxygen depletion sensor and the home has a carbon monoxide alarm. All gas-fired devices shall be equipped with an automatic pilot gas shut-off control. All electrical wiring shall meet required building codes.

8. All fireplaces, space heaters, steam radiators, and hot surfaces shall be shielded against accidental contact. Access by children under six years of age shall be restricted by a barrier.

9. Extension cords shall not extend from one room to another with the exception of situations involving emergency loss of power due to a natural or manmade disaster. Multiple electric outlet adapters shall not be used for more than two extensions at one time.

10. Volatile materials shall not be stored where water heaters are located or near other sources of heat. Attic space shall not be used for the storage of volatile materials.

(j) Transportation Safety.

1. The licensed out-of-home caregiver shall have transportation available twenty-four hours a day. All vehicles used to transport children shall be in safe condition, in compliance with applicable motor vehicle laws of the state, and equipped with seat belts and approved car seats for children as required under Section 316.613(1)(a), F.S. Vehicles shall be smoke-free when foster children are being transported. The licensed out-of-home caregiver shall have the ability to safely transport the number of children in his or her care.

2. The licensed out-of-home caregiver shall have all vehicles insured. The licensed out-of-home caregiver shall not allow foster children to be transported by any person not possessing a valid driver’s license or auto insurance.

3. The licensed out-of-home caregiver shall not have driving violations less than five years old on file with the Department of Motor Vehicles, which relate to driving under the influence of alcohol or drugs. A copy of the licensed out-of-home caregiver’s driving record shall be provided to the licensing authority at the time of initial licensure and at each re-licensure.

4. The licensed out-of-home caregiver shall not transport foster children in vehicles such as truck beds, motorcycles, or any other high-risk method of transportation. The licensed out-of-home caregiver shall not transport children on his or her lap.

(k) Disaster Plans.

1. Each licensed out-of-home caregiver shall make a written plan for evacuation in the event of a natural or man made disaster. The plan shall be kept up to date.

2. The plan shall include where the family intends to go and information as to how the family may be reached and must be shared with the supervising agency.

Rulemaking Specific Authority 409.175 FS. Law Implemented 409.175 FS. History–New 4-6-08, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Stacey Cleveland

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Don Winstead, Deputy Secretary, on behalf of George H. Sheldon, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 16, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 29, 2010, Vol. 36, No. 4

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NO.: 1B-2.011 RULE TITLE: Library Grant Programs

NOTICE OF WITHDRAWAL

Notice is hereby given that the proposed notice of change, as noticed in Vol. 36, No. 6, February 12, 2010 issue of the Florida Administrative Weekly was inadvertently submitted and is being withdrawn. This notice of change will be republished at a later date.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Florida Highway Patrol

RULE NO.: 15B-2.013 RULE TITLE: Approved Speed Measuring Devices

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 47, November 25, 2009 issue of the Florida Administrative Weekly has been withdrawn.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.321	Duration of Permits
40D-2.322	Population and Impact Analysis and Verification of 10-year Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 34, August 28, 2009 issue of the Florida Administrative Weekly.

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 34, August 28, 2009, Vol. 35, No. 36, September 11, 2009, Vol. 35, No. 51, December 24, 2009 and Vol. 36, No. 6, February 12, 2010, issues of the Florida Administrative Weekly.

Changes are made to address comments received from the Joint Administrative Procedures Committee on Rules 40D-2.091, 40D-2.321 and 40D-2.322, F.A.C., which are part of the rules referred to as "20-Year WUP rules". The changes also include combining the amendments to Rule 40D-2.321, F.A.C., being proposed as part of the 20-Year WUP rules with amendments proposed to that rule as part of the "Enhanced Conservation rules" and that are withdrawn on March 5, 2010. The 20-Year WUP rules consist of amendments to Rules 40D-1.607, 40D-2.091, 40D-2.301, and 40D-2.321 and proposed Rule 40D-2.322, F.A.C. The changes to certain of the 20-Year WUP rules are as follows:

40D-2.091 Publications Incorporated by Reference.

(1) through (2) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, ~~373.0363~~, 373.042, 373.0421, 373.0831, 373.116, 373.117, ~~373.1175~~, 373.118, 373.149, 373.171, 373.1963, ~~373.185~~, 373.216, ~~373.217~~, 373.219, 373.223, ~~373.227~~, ~~373.228~~, 373.229, ~~373.236~~, 373.239, 373.243, ~~373.250~~ FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, 2-13-08, 2-18-08, 4-7-08, 5-12-08, 7-20-08, 9-10-08, 12-30-08, 1-20-09, 3-26-09, 7-1-09, 8-30-09, 11-2-09, _____.

The following document is incorporated by reference in 40D-2.091 and paragraph 6. of section 2.1 is changed as follows:

WATER USE PERMIT INFORMATION MANUAL
PART B, BASIS OF REVIEW

2.0 ADMINISTRATIVE CONSIDERATIONS

2.1 CONTROL OF PROPERTY AND ACTIVITIES

6. Permittees shall periodically confirm that the water use activities conducted by the permittee continue to be consistent with the permit and that the information included in the permit continues to be accurate. The dates for this confirmation will be specified in water use permits based upon the use type authorized by the permit and the likelihood that the water use activities and information in the permit will change over the duration of the permit. As specified in the permit, agricultural permittees shall periodically submit written

~~documentation confirming property ownership and that the permitted water use activities are consistent with the approved permit.~~

40D-2.321 Duration of Permits.

(1) When requested by an applicant, a water use permit shall have a duration of 20 years if:

(a) The applicant provides reasonable assurance that the proposed withdrawals and use meets the conditions for issuance in Rule 40D-2.301, F.A.C., and the criteria in Part B, Basis of Review, of the Water Use Permit Information Manual, incorporated by reference in Rule 40D-2.091, F.A.C., and

(b) There is a demonstrated demand of at least 20 years, and

(c) ~~That One~~ or more of the conditions ~~criteria~~ in paragraph (2)(a)-(f) will be met, and

(d) Where mitigation measures are proposed by the applicant, paragraph (2)(g) is met.

(2) Conditions for a water use permit with a duration of 20 years:

(a) through (f) No change.

(g) Any pre-existing adverse impacts resulting from the permittee's existing permit that are being addressed through a mitigation plan that includes a minimum flow and level recovery strategy must be eliminated by the tenth year of the permit.

(2) through (3) renumbered (3) through (4) No change.

~~(5)(4)~~ Permits with a duration greater than 10 but less than 20 years as provided in subsection (1)(2) above shall be granted based upon the period of time for which the applicant demonstrates a demand and provides reasonable assurance that the proposed use meets the conditions for issuance in Rule 40D-2.301, F.A.C., and the criteria in Part B, Basis of Review, of the Water Use Permit Information Manual facts presented by an applicant.

(5) through (7) renumbered (6) through (8) No change.

(9) Wholesale Public Supply Permits shall be issued with an expiration date that coincides with the expiration date of the supplier's permit that provides the majority of the supply to the Wholesale Public Supply Permittee.

~~(10)(8)~~ No change.

~~Rulemaking Specific~~ Authority 373.044, 373.103, 373.113, 373.171 FS. Law Implemented 373.103, 373.171, ~~373.219, 373.223, 373.227, 373.236, 373.250~~ FS. History—Readopted 10-5-74, Amended 12-31-74, 10-24-76, 1-6-82, 3-11-82, Formerly 16J-2.13, Amended 10-1-89, 7-28-98, 1-1-03, 1-1-07, 2-13-08, 12-30-08, _____.

40D-2.322 Population and Impact Analysis and Verification of 10-year Requirements 20-year Permit Requirements.

(1) through (3) No change.

(4) Permits that are issued for 20 year duration based on meeting the conditions requirements set forth in paragraph 40D-2.321(2)(4)(b), (c), (d) or (e), F.A.C., within 10 years shall include a timeline of activities proposed to result in achieving these requirements, and progress reports. If these requirements are not achieved within 10 years, the permit duration shall revert to the applicable duration provided in Rule 40D-2.321, F.A.C., unless this reversion would result in the permit having expired or less than a year of remaining duration. In such cases, the permit will expire one year following the final determination of non-achievement and will be limited to a permitted quantity that equals an additional two years future demand beyond current demand, as determined pursuant to section 3.0 of Part B, Basis of Review, of the Water Use Permit Information Manual incorporated by reference in Rule 40D-2.091, F.A.C., from the point of final determination of non-achievement.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103, 373.171, 373.219, 373.223, 373.227, 373.236, 373.250 FS. History–New _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.101	Content of Application

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 43, October 30, 2009 issue of the Florida Administrative Weekly.

Changes are made to address comments received from the Joint Administrative Procedures Committee on the rules referred to as “Enhanced Conservation rules”. The Enhanced Conservation rules consist of amendments to Rules 40D-1.659, 40D-2.021, 40D-2.091, 40D-2.101, and 40D-2.321, F.A.C. A separate notice of withdrawal for the amendments proposed to Rule 40D-2.321, F.A.C., which were published in Vol. 35, No. 43, October 30, 2009, is being published on March 5, 2010. The withdrawn amendments are being consolidated with the amendments to the same rule that are included in the rulemaking referred to as the “20-Year WUP rules”. A notice of change being published on March 5, 2010, to the 20-Year WUP rules will include those amendments. Other changes to the Enhanced Conservation rules are as follows:

40D-2.091 Publications Incorporated by Reference.

- (1) No change.
- (2)(a) through (j) No change.

(k) Florida Department of Environmental Protection’s Landscape Guidance: Models for Ordinances, Covenants, and Restrictions, 1/09:

(l) Landscape Irrigation and Florida Friendly Design Standards, dated December 2006; and

(m) University of Florida’s Institute of Food and Agricultural Science’s Department of Fisheries and Aquatic Sciences publication “Regulations Pertaining to Non-native Fish in Florida Aquaculture (FA121).

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, FS. Law Implemented 373.036, 373.0361, 373.0363, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.1175, 373.118, 373.149, 373.171, 373.1963, 373.185, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.236, 373.239, 373.243, 373.250 FS. History–New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, 2-13-08, 2-18-08, 4-7-08, 5-12-08, 7-20-08, 9-10-08, 12-30-08, 1-20-09, 3-26-09, 7-1-09 8-30-09, 11-2-09,_____.

40D-2.101 Content of Application.

(1) through (6) No change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363, 373.116, 373.117, 373.1175, 373.216, 373.229, 373.236 FS. History–Readopted 10-5-74, Amended 10-24-76, 1-6-82, 2-14-8, Formerly 16J-2.06. Amended 10-1-89, 10-23-89, 2-10-93, 7-15-99, 1-1-03, 1-1-07, 11-25-07, 09-10-08, 7-1-09, 8-30-09 10-26-09,_____.

The following document is incorporated by reference in 40D-2.091, F.A.C. and is being revised simultaneously with the above rule amendments.

Water Use Permit Information Manual
Part B, Basis of Review

1.0 PERMITTING PROCEDURES

The amendments proposed to Section 1.9 Permit Duration are deleted.

The following provisions of Chapter 3.0 are proposed to be changed:

3.0 REASONABLE WATER NEEDS

The following changes are made to the provisions of Section 3.3 Agriculture indicated below:

3.3 AGRICULTURE

Water Conservation Practices for Aquaculture Uses

1. through 5. No change.

6. Utilize other conservation practices as identified by the University of Florida’s Institute of Food and Agricultural Science’s Department of Fisheries and Aquatic Sciences publication “Regulations Pertaining to Non-native Fish in Florida Aquaculture (FA121);” incorporated herein by reference.

New _____

The following changes are made to the provisions of Section 3.6 Public Supply indicated below:

3.6 PUBLIC SUPPLY

APPLICANT CONSIDERATIONS

DEMAND

In order to accurately calculate demand, public supply Applicants must identify the demand for each of the uses listed in this section. ~~Examples of the information typically~~ required to demonstrate reasonable demand for each component ~~may~~ include the number, type, and size of service connections; past monthly pumpage records by use type; projected permanent and temporal population data for the service area; data on the specific uses; development projections; and data specific to the forecasting models used. All required demand information is described in this section. Demand quantities ~~shall~~ ~~should~~ be based on quantities required by end-use customers, not withdrawal quantities. The quantities must be expressed in average annual gallons per day for each component of demand. Revised 1-20-09, _____

COMMON AREAS DEVELOPED BY NON-GOVERNMENTAL ENTITIES

Non-governmental applicants for a General or Individual Water Use Permit for water supply for a residential development shall identify existing and proposed acreage of Common Areas on the application and demonstrate the following:

- 1. through 2. No change.
- 3. The local government responsible for the issuance of building permits for the project has adopted an ordinance incorporating the principles of Florida-friendly landscaping; or, the applicant will implement landscaping consistent with Section 373.185, F.S. The applicant may demonstrate consistency with Section 373.185, F.S., by establishing that the applicant has implemented, or commits to implement, or that the applicable local government has adopted the Florida Department of Environmental Protection’s Landscape Guidance: Models for Ordinances, Covenants, and Restrictions, 1/09, developed pursuant to Section 373.185, F.S. which is incorporated herein by reference, as may be updated from time to time, and this District’s supplements thereto.
- 4. No change.

For non-governmental Public Water Supply Utility applications that include quantities for residential developments after (effective date), demand for Common Area irrigation shall be met within the allowable per capita allocation.

New _____

CONSERVATION PLAN REQUIREMENTS

Permits For 100,000 Gpd Or Greater

All applicants for a new, renewal of, or modification of (except applicants for a Letter Modification) permits for 100,000 gpd or greater for public supply shall submit a conservation plan as part of the application that demonstrates that it will provide for and increase efficiency of use by implementing environmentally, technically and economically feasible water conservation practices. At a minimum, the plan shall include a description of how each water conservation practice listed below under the heading Minimum Water Conservation Practices for Public Supply Use is or will be addressed and its actual or expected implementation date.

Progress reports shall be due with the Annual Report.

Minimum Water Conservation Practices for Public Supply Use

- 1. through 3. No change.
- 4. Proposed and ongoing water conservation measures and programs, the scheduled implementation dates, and an estimate of the cost and anticipated water savings for each proposed and additional measure and program. A description or a copy of these measures and programs; shall be included in the conservation plan and an identification of which, if any, were derived from the “Conserve Florida Water Conservation Guide” published by the Conserve Florida Water Clearinghouse at www.conservefloridawater.org.
- 5. Water conserving irrigation practices including:
 - (a) through (b) No change.
 - (c) Implement Florida Friendly landscape principles and components consistent with Section 373.185, F.S. Consistency with Section 373.185, F.S., may be demonstrated by adoption by ordinances or covenants, as applicable, of the Florida Department of Environmental Protection’s Landscape Guidance: Models for Ordinances, Covenants, and Restrictions, 1/09, developed pursuant to Section 373.185, F.S., which is incorporated by reference in subparagraph 3. of the Common Areas Developed by Non-Governmental Entities section above of this Basis of Review, as may be updated from time to time, and this District’s supplements thereto;
 - (d) through (g) No change.

Water Use Annual Report For Permits Less than 100,000 gpd

All public supply permittees with a permit for less than 100,000 gpd shall submit the following information, as previously defined in the section entitled “PER CAPITA DAILY WATER USE”, using the form Public Supply Water Use Annual Report For General Water Use Permits Less Than 100,000 gpd, Form No. LEG -R.047.00 (07/09) incorporated by reference in subsection 40D-2.091(2), F.A.C., covering the preceding calendar year. Two identical copies of the Report and two identical copies of all required supporting

documentation shall be included if submitted in hard copy. This report is due no later than April 1. "Identical copy" in this instance means, for example, that when the original is in color, then all copies shall also be printed in color.

1. through 4. No change.

5. Functional population (FP). Functional Population is the served permanent population as adjusted by the seasonal resident, tourist, group quarters and net commuter population within a utility's service area as determined in accordance with "Requirements for the Estimation of Permanent and Temporal Service Area Populations," dated January 20, 2009 ~~1, 2007~~, as set forth in Part D of the Water Use Permit Information Manual, incorporated herein by reference. See the paragraph titled "SERVICE AREA FUNCTIONAL POPULATION ESTIMATES" for further information.

6. through 7. No change.

New _____

The following changes are made to the provisions in Section 3.7 Recreation or Aesthetic indicated below:

3.7 RECREATION OR AESTHETIC

The changes to the paragraph titled "Irrigation of Roughs" will now be as follows:

GOLF COURSE CONSERVATION – ADDITIONAL REQUIREMENTS WITHIN THE SWUCA

Irrigation Of Roughs – Roughs are areas outside of the designated play area (fairway, tees, greens). Since January 1, 2006, quantities have not been allocated for irrigation of roughs for golf courses with withdrawal points in a WUCA. Quantities will not be allocated for irrigation of roughs for Irrigation of roughs shall be eliminated for all golf courses with withdrawal points within SWUCA but not previously in the Eastern Tampa Bay Water Use Caution Area or the Highlands Ridge Water Use Caution Area by January 1, 2006. All all other golf courses by January 1, 2012. However, in all areas, If a permittee demonstrates that drought-tolerant landscaping has been utilized in the roughs, the permittee may irrigate the roughs using quantities permitted for the tees, greens, and fairways. The amount of permitted ground or surface water plus alternative water supply applied to the entire golf course shall not exceed reasonable-beneficial quantities for tees, greens and fairways alone. Separate quantities for rough irrigation will not be allocated. However, An applicant may request prior approval from the District to use roughs as wet weather reclaimed water disposal sites.

1-1-03, ~~Revised Amended~~ 1-1-07, _____.

The following changes are made to the provisions of Section 5.1 of Chapter 5.0 Monitoring indicated below:

5.0. MONITORING REQUIREMENTS

The changes to the paragraph titled "Irrigation of Roughs" will now be as follows:

5.1 WITHDRAWAL QUANTITY

Individual and General Water Use permittees will be required to monitor the quantity of water withdrawn from any source in accordance with the guidelines described in this section. Monitoring of actual pumpage provides a means to develop historical records in order to accurately project future reasonable demand, assess impacts to the resource and existing water and land uses, and ensure that quantities withdrawn do not exceed permitted pumpage. Monitoring methods must maintain plus or minus 5% accuracy, and must be approved by the District. Permittees shall use direct flow measuring devices unless the District determines direct methods are inappropriate for the particular water use system.

Permittees shall monitor withdrawal quantities from each withdrawal point and provide meter readings to the District at a frequency to be prescribed by permit conditions when:

1. Issued an Individual Water Use Permit;
2. Issued a General Water Use Permit for public supply use;
3. Issued a General Water Use Permit and one or more of the withdrawal points is located within the SWUCA or NTBWUCA; or
4. The District determines that there is a potential for harm to the resource or potential for adverse impacts to existing users.

~~The District will provide and install flow meters on agricultural withdrawal points where the Permittee's total permitted quantity is greater than or equal to 500,000 gpd annual average withdrawal. This provision shall apply only to those agricultural withdrawal points in existence prior to October 1, 1989, which are not equipped with totalizing flow meters that provide plus or minus 5% accuracy. The District may provide other flow measuring devices if appropriate. Agricultural permit applicants who submit an application on or after October 1, 1989, and any existing agricultural Permittees who have not installed permitted withdrawal points prior to October 1, 1989, shall provide and install flow meters at their expense. The cost of operation and maintenance of all meters and reporting of data shall be the responsibility of the Permittee.~~

Monitored Permittees shall, upon request of the District, provide the District an opportunity to perform measurements of flow during system operation. The District will ensure that the measurements are made in a manner that does not interfere with the Permittee’s water use activities.

Ordinarily, withdrawal quantities shall be totalized on a monthly basis and reported to the District by the tenth day of the following month. However, for intense uses such as frost/freeze protection, or for stream withdrawals, a Permittee may be required to totalize pumpage on a daily basis from each withdrawal point and report the daily withdrawal quantities to the District on a monthly basis.

Revised 12-30-08, _____.

The following provisions of Chapter 6.0 are proposed to be changed:

6.0 PERMIT CONDITIONS

6.5 ~~6.6~~ SWUCA PERMIT CONDITIONS

The proposed special condition “Notice of Recovery Strategy” is changed as follows:

Notice of Recovery Strategy

Condition: This Permit is located within the Southern Water Use Caution Area (SWUCA). Pursuant to Section 373.0421, Florida Statutes, the SWUCA is subject to a minimum flows and levels recovery strategy, which became effective on January 1, 2007. As set forth in subsection 40D-80.074(5), Florida Administrative Code, the recovery strategy, including water use permitting rules, are subject to change based on, among other criteria, tThe Governing Board’s ~~amend the recovery strategy, including amending applicable water use permitting rules, based on an annual assessment of water resource criteria, cumulative water withdrawal impacts, and on a recurring five-year evaluation of the status of the recovery strategy up to the year 2025 as described in Chapter 40D-80, Florida Administrative Code.~~ This Permit is subject to modification to comply with new rules.

Discussion: The above condition is required to be applied to all permits located in the SWUCA.

6.6 ALTERNATIVE WATER SUPPLIES

The “Discussion” related to special condition “2. Modification to Incorporate Alternative Water Supplies” is now changed as follows:

2. Modification to Incorporate Alternative Water Supplies

Discussion: Put on all SWUCA permits that include alternative water supplies required when any or all withdrawals have been discontinued from the ground water or natural surface water body (primary source) due to use of an alternative source.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-2.321
 RULE TITLE: Duration of Permits

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 43, October 30, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE NO.: 58A-5.0183
 RULE TITLE: Do Not Resuscitate Orders (DNRO)

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 49, December 11, 2009 issue of the Florida Administrative Weekly.

This is the second notice of change. The first notice of change was published in Vol. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly. Language is deleted as a result of comments received from the Joint Administrative Procedures Committee on February 22, 2010.

58A-5.0183 Do Not Resuscitate Orders (DNROs).

(1) POLICIES AND PROCEDURES.

(a) Each assisted living facility (ALF) must have written policies and procedures, which delineate its position with respect to state laws and rules relative to DNROs. The policies and procedures shall not condition treatment or admission upon whether or not the individual has executed or waived a DNRO. ~~In the event of conflict between the facility’s policies and procedures and the resident’s properly executed DNRO, provision should be made in accordance with Chapter 765, F.S.~~ The ALF must provide the following to each resident, or resident’s representative, at the time of admission:

- 1. through 3. No change.
- (b) No change.
- (2) through (4) No change.

Rulemaking Authority 429.255 FS. Law Implemented 429.255 FS. History–New_____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NOS.: 59A-35.064
 RULE TITLES: Initial Application
 59A-35.140 Administrative fines

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules as noticed in Vol. 35, No. 47, November 25, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE NOS.:	RULE TITLES:
60BB-3.0251	Definitions Relating to Emergency Unemployment Compensation
60BB-3.0252	Emergency Unemployment Compensation
60BB-3.0253	Emergency Unemployment Compensation Individual Accounts
60BB-3.0254	How to Apply for Emergency Unemployment Compensation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 36, September 11, 2009 issue of the Florida Administrative Weekly.

60BB-3.0251 Definitions Relating to Emergency Unemployment Compensation.

(1) Emergency Unemployment Compensation: A federally funded program created by Public Laws 110-252, 110-449, 111-5, 111-92, and 111-118, and implemented in Florida through an agreement between the Agency for Workforce Innovation and the United States Department of Labor which provides additional weeks of unemployment benefits to qualified individuals who have exhausted their rights to regular unemployment compensation on claims that were effective on or after May 2, 2006.

(2) Extended unemployment compensation: Benefits, including benefits payable to federal civilian employees and to ex-servicemembers under 5 U.S.C. ss. 8501-8525, that are payable to an individual under Section 443.1115 or 443.1117, Florida Statutes.

(3) Qualifying benefit year: The benefit year established on a Florida claim for regular unemployment compensation which was effective on or after May 2, 2006, and is the basis of the individual's eligibility for emergency unemployment compensation.

(4) Regular unemployment compensation: Benefits payable to an individual under Chapter 443, Florida Statutes, including benefits payable to federal civilian employees and to ex servicemembers under 5 U.S.C. ss. 8501-8525, other than extended unemployment compensation under Section 443.1115, Florida Statutes.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.036, 443.221(3) FS. History--New _____.

60BB-3.0252 Eligibility for Emergency Unemployment Compensation.

(1) Eligibility Conditions. Emergency Unemployment Compensation is available to individuals who:

(a) Have exhausted all rights to regular unemployment compensation on a Florida claim with a benefit year that ended on or after May 1, 2007;

(b) Have no rights to unemployment compensation under any other state or federal law;

(c) Are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(d) Are legally authorized to work in the United States.

(2) Exhaustion of Benefits. For purposes of this rule, an individual has exhausted all rights to regular unemployment compensation when that individual:

(a) Has received all regular unemployment compensation available on the qualifying benefit year; or

(b) Had rights to regular unemployment compensation on the qualifying benefit year, but has insufficient wage credits to establish a new benefit year for regular unemployment compensation.

(3) Amount Payable.

(a) The amount of emergency unemployment compensation payable to an individual for any week of total unemployment will be equal to the amount of regular unemployment compensation payable during the individual's qualifying benefit year for a week of total unemployment.

(b) The maximum amount of emergency unemployment compensation payable to any individual will not exceed the amount established for such individual in the emergency unemployment compensation account described in Rule 60BB-3.0253, F.A.C.

(4) Applicable Law. The terms and conditions of the law under which the individual claimed and received regular unemployment compensation will apply to claims for and payment of emergency unemployment compensation.

(5) Overpayments. An individual who receives emergency unemployment compensation to which he is not entitled will repay any such overpayment to the Agency for Workforce Innovation. The requirement to repay the overpayment will not be waived.

(a) The Agency may recoup any such overpayments by deducting 50 percent of the weekly benefit amount from any future payments until the overpayment is repaid in full.

(b) Recoupment of overpayments from future benefits may occur at any time during the 3-year period after the date the individual received the payment of the emergency unemployment compensation to which he was not entitled.

(c) No waiver of such recoupment may occur except as permitted by Section 443.151(6)(c), Florida Statutes.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.091, 443.111, 443.151(6), 443.221(3) FS. History--New_____.

60BB-3.0253 Emergency Unemployment Compensation Individual Accounts.

(1) Establishment of Account. Persons deemed eligible under Rule 60BB-3.0252, F.A.C., will be paid from emergency unemployment compensation accounts established for each individual with respect to that individual's benefit year.

(2) Eligibility Established Prior to November 23, 2008. The emergency unemployment compensation accounts of individuals whose period of eligibility began between July 6, 2008 and November 22, 2008, will be augmented as provided in this subsection.

(a) The amount established in an account under this subsection will equal the lesser of:

1. 50 percent of the total amount of regular unemployment compensation payable to the individual during his or her benefit year; or

2. 13 times the individual's average weekly benefit amount for the benefit year.

(b) Benefits under this subsection may be paid only for weeks of unemployment beginning on or after July 6, 2008.

(c) If the individual exhausts these benefits before November 23, 2008, no further benefits may be paid to the individual except as provided in subsections (3), (4), (5), and (6) of this rule.

(3) Tier One.

(a) Tier One benefits may be paid only for weeks of unemployment beginning on or after November 23, 2008.

(b) The emergency unemployment compensation account of each individual whose period of eligibility began after November 22, 2008, will be augmented with an amount equal to the lesser of:

1. 80 percent of the total amount of regular unemployment compensation payable to the individual during his or her benefit year; or

2. 20 times the individual's average weekly benefit amount for the benefit year.

(c) The emergency unemployment compensation account of an individual whose period of eligibility began before November 23, 2008 will, if the individual remains otherwise eligible, receive an additional augmentation equal to the amount previously paid under paragraph (b) of this subsection minus the amount actually received under subsection (2).

(d) Tier One benefits may be paid only in cases in which an individual's regular unemployment compensation benefits are exhausted by the week ending February 20, 2010.

(4) Tier Two.

(a) The emergency unemployment compensation account of an individual who receives benefits pursuant to subsection (3) of this rule will receive an additional augmentation pursuant to paragraph (b) of this subsection if:

1. The individual exhausts all Tier One benefits by the week ending February 27, 2010;

2. The individual remains otherwise eligible.

(b) Amount Added to Account. The amount established in an account under this subsection will equal the lesser of:

1. 54 percent of the total amount of regular unemployment compensation payable to the individual during his or her benefit year; or

2. 14 times the individual's average weekly benefit amount for the benefit year.

(c) Tier two benefits may be paid only for weeks of unemployment beginning on or after November 23, 2008.

(5) Tier Three.

(a) The emergency unemployment compensation account of an individual who receives benefits pursuant to subsection (4) of this rule will receive an additional augmentation pursuant to paragraph (b) of this subsection if:

1. The individual exhausts all Tier Two benefits by the week ending February 27, 2010;

2. The individual remains otherwise eligible; and

3. During or after the week these benefits are exhausted, but no later than the week ending February 27, 2010, one of the following circumstances occur:

a. The rate of insured unemployment for the current week and the immediately preceding 12 weeks equals or exceeds 4 percent; or

b. The average rate of total unemployment, seasonally adjusted, for the most recent 3 month period for which data for all States are published equals or exceeds 6 percent.

(b) The amount established in an account under this subsection will equal the lesser of:

1. 50 percent of the total amount of regular unemployment compensation payable to the individual during his or her benefit year; or

2. 13 times the individual's average weekly benefit amount for the benefit year.

(c) Tier Three benefits may be paid only for weeks of unemployment beginning on or after November 8, 2009.

(6) Tier Four.

(a) The emergency unemployment compensation account of an individual who receives benefits pursuant to subsection (5) of this rule will receive an additional augmentation pursuant to paragraph (b) of this subsection if:

1. The individual exhausts all Tier Three benefits by the week ending February 27, 2010;

2. The individual remains otherwise eligible; and

3. During or after the week these benefits are exhausted, but no later than the week ending February 27, 2010, one of the following circumstances occur:

a. The rate of insured unemployment for the current week and the immediately preceding 12 weeks equals or exceeds 6 percent; or

b. The average rate of total unemployment, seasonally adjusted, for the most recent 3 month period for which data for all States are published equals or exceeds 8.5 percent.

(b) The amount established in an account under this subsection will equal the lesser of:

1. 24 percent of the total amount of regular unemployment compensation payable to the individual during his or her benefit year; or

2. 6 times the individual's average weekly benefit amount for the benefit year.

(c) Tier Four benefits may be paid only for weeks of unemployment beginning on or after November 8, 2009.

(7) Termination of Emergency Unemployment Compensation. An individual who has a balance remaining in his or her individual account as of February 28, 2010, will continue to receive emergency unemployment compensation from such balance for any week beginning after that date for which he or she meets the eligibility requirements of this rule, except that no compensation will be payable for any week beginning after July 31, 2010.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.111, 443.191, 443.221(3) FS. History—New_____.

60BB-3.0254 How to Apply for Emergency Unemployment Compensation.

(1) Method of Application. Individuals whose regular unemployment compensation benefits are exhausted, whose benefit year expires between July 6, 2008 and February 20, 2010, or who are entitled to an augmentation of their emergency unemployment compensation accounts pursuant to Rule 60BB-3.0253, F.A.C., will receive notice regarding their eligibility or ineligibility for emergency unemployment compensation. Individuals who qualify for augmentation under any of the provisions set forth in subsection 60BB-3.0253(4)-(6), F.A.C., will be deemed eligible to receive these benefits without filing an application as long as they comply with the continued claims reporting requirements set forth in Rule 60BB-3.015, F.A.C. All other individuals who wish to receive emergency unemployment compensation must submit an application for benefits to the Agency for Workforce Innovation. An application may be submitted:

(a) Online by clicking on the "Internet Unemployment Compensation Claim Application (Initial Claim)" link to the Online Internet Unemployment Compensation Claim Application (11/07), or by clicking on the "Solicitud de Reclamo de Compensacion por Desempleo en el Internet (Reclamo Inicial)" link to the Online Internet Unemployment Compensation Claim Application (Spanish version) (11/07), which are incorporated by reference in paragraphs 60BB-3.029(1)(yy) and (zz), F.A.C., and which are available at www.fluidnow.com; or

(b) In writing on one of the forms listed in subsection (2) of this rule, which are hereby incorporated by reference into this rule and which are available at www.floridajobs.org/unemployment/uc_emp_claims.html.

(2) Submitting Written Applications.

(a) To submit a written application for emergency unemployment compensation under subsection (2), (3), or (4) of Rule 60BB-3.0253, F.A.C., the claimant must complete and submit one of the following forms:

1. Form AWI-UC310EUC (Rev. 10/09), Application for Emergency Unemployment Compensation;

2. Form AWI-UC310EUC (S) (Rev. 10/09), Solicitud de Compensacion de emergencia por desempleo, or

3. Form AWI-UC310EUC (C) (Rev 10/09), Aplikasyon pou Aloksyon Chomaj sou Ka Dijan.

(b) To submit a written application for emergency unemployment compensation under subsection (5) or (6) of Rule 60BB-3.0253, F.A.C., the claimant must complete and submit one of the following forms:

1. Form AWI-UC310EUCIII (12-09), Application for Tier III;

2. Form AWI UC310EUCIII (Sp) (12-09), Agencia para la innovacion en la fuerza de trabajo de Florida Compensacion de emergencia por desempleo; or

3. Form AWI-UCB310EUCIII (Cr) (12-09), Ajans pou Inovasyon Fos Travay "Agency for Workforce Innovation" Konpansasyon Chomaj Dijans.

(c) The applications described in paragraph (2)(b) of this rule will be mailed to:

1. All out of state claimants whose application for extended benefits was denied because the law of their state of residence did not permit payment of extended benefits; and

2. All claimants who did not qualify for extended benefits because their Tier Two benefits expired before February 27, 2009.

(d) All applications mailed pursuant to paragraph (2)(c) of this rule will be accompanied by Form AWI UC310EUCIII LTR(N) (Rev 12/09), Emergency Unemployment Compensation Instruction Sheet or a Form AWI UC310EUCIII LTR(S) (Rev 12/09), Emergency Unemployment Compensation Instruction Sheet, which are hereby incorporated by reference into this rule.

(3) Submitting Written Applications. The claimant must submit his or her application by mailing the completed form to the address set forth on the form and/or accompanying instructions, or by faxing the form to the Agency for Workforce Innovation, Unemployment Compensation Records Unit, (850)921-3938.

(4) Notice of Determination.

(a) Notice of ineligibility for cases in which the claimant does not meet the eligibility requirements of Rule 60BB-3.0252, F.A.C., will be mailed to the claimant on a Form

AWI-UCB11-I EUC (10/09), Emergency Unemployment Compensation Monetary Determination, which is hereby incorporated by reference into this rule.

(b) Notice of the Agency’s determination of a claimant’s eligibility or ineligibility for emergency unemployment compensation under subsection (2) or (3) of Rule 60BB-3.0253, F.A.C., will be mailed to the claimant on a Form AWI-UCB11 EUC (11/09), Emergency Unemployment Compensation Monetary Determination, which is hereby incorporated by reference into this rule.

(c) Notice of the Agency’s determination of a claimant’s eligibility or ineligibility for emergency unemployment compensation under paragraph (4)(b) of Rule 60BB-3.0253, F.A.C., will be mailed to the claimant:

1. On a Form AWI-UCB11 EUC-2 (12/22/09) Emergency Unemployment Compensation Monetary Determination, which is hereby incorporated by reference into this rule, when the claimant exhausts his Tier One benefits; or

2. On a Form AWI-UCB11 EUC-2R (12/09), Emergency Unemployment Compensation Tier II Monetary Determination, which is hereby incorporated by reference into this rule, when the claimant:

a. Claimed weeks on a Florida claim for extended benefits in a state in which extended benefits are not payable;

b. Received extended benefit payments for any week ending on or after November 14, 2009; or

c. Was determined to be entitled to an additional week of Tier Two benefits under the augmentation authorized by Public Law 111-92 for any week ending on or after November 14, 2009.

(d) Notice of the Agency’s determination of a claimant’s eligibility or ineligibility for emergency unemployment compensation under subsection (5) of Rule 60BB-3.0253, F.A.C., will be mailed to the claimant on a Form AWI-UCB11 EUC3 (12/22/09) Emergency Unemployment Compensation Monetary Determination, which is hereby incorporated by reference into this rule.

(e) Notice of the Agency’s determination of a claimant’s eligibility or ineligibility for emergency unemployment compensation under subsection (6) of Rule 60BB-3.0253, F.A.C., will be mailed to the claimant on a Form AWI-UCB11 EUC4 (12/09), Emergency Unemployment Compensation Monetary Determination, which is hereby incorporated by reference into this rule.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.091, 443.101, 443.111, 443.151, 443.221(3) FS. History—New _____.

DEPARTMENT OF MANAGEMENT SERVICES

Technology Program

RULE NO.:	RULE TITLE:
60FF-5.004	Requirements for Fee Remittance Submitted by or on Behalf of Wireless and Non-wireless Service Providers

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 28, July 17, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.:	RULE TITLE:
61C-3.001	Sanitation and Safety Requirements

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 35, No. 44, November 6, 2009 issue of the Florida Administrative Weekly.

The notice of change in Vol. 36, No. 3, January 22, 2010, issue of the Florida Administrative Weekly incorrectly stated no change to subsection (12). Subsection (12) was amended to become subsection (6). The rule no longer contains a subsection (12).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.:	RULE TITLE:
61G15-19.0051	Notice of Noncompliance

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.:	RULE TITLE:
61H1-20.008	Generally Accepted Auditing Standards

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 33, August 21, 2009 issue of the Florida Administrative Weekly.

The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee and by a vote of the Board of Accountancy at the February 5, 2010 meeting.

The changes are as follows:

(1) The first sentence of the rule shall now read as follows: Non-issuer ((non-issuers are (1) all entities who are not issuers as that term is defined by the Sarbanes-Oxley Act of 2002, and (2) entities whose audits are not required by Securities & Exchange Commission (SEC) rules to be conducted in accordance with the standards of the Public Company Accounting Oversight Board (PCAOB)) generally accepted auditing standards shall be deemed and construed to mean the Authoritative AICPA Audit and Attest Standards in effect as of June 1, 2009, approved and adopted by the membership of the American Institute of Certified Public Accountants (AICPA) hereby incorporated by reference and available from the AICPA's Resource Online at www.cpa2biz.com or by telephonic request at 1(888)777-7077.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: 61J2-24.001 RULE TITLE: Disciplinary Guidelines

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 31, August 7, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-18.002 RULE TITLE: Formulary of Topical Ocular Pharmaceutical Agents

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 2, January 15, 2010 issue of the Florida Administrative Weekly.

Subsection (5)(k) shall now read as follows:

(k) Ketorolac tromethamine – 0.4%, 0.5%;

Subsection (6)(h) is being added and shall now read as follows:

(h) Bepotastine besilate – 1.5%

Subsection (7) shall now read as follows:

(7) ANTIVIRAL AGENTS

(a) Trifluridine – 1.0%.

(b) Ganciclovir – 0.15%.

NAME OF PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, FL 32399

FISH AND WILDLIFE CONSERVATION COMMISSION

Vessel Registration and Boating Safety

RULE NO.: 68D-24.017 RULE TITLE: Palm Beach County Boating Restricted Areas

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 2, January 15, 2010 issue of the Florida Administrative Weekly.

This change is being made to reflect a change in the boating restricted area to reflect Slow Speed Minimum Wake from Donald Ross to and including Lake Worth Creek and reflects the action taken by the Fish and Wildlife Conservation Commission, sitting as agency head, at its public meeting held on Feb. 17-18, in Apalachicola, Florida. The proposed amendment to paragraph 68D-24.017(1)(b), F.A.C., will be changed to read as follows and drawing B will be revised to reflect the revised boundaries:

(b) Donald Ross Bridge – A Slow Speed Minimum Wake zone from shoreline to shoreline, in and adjacent to the Florida Intracoastal Waterway, bounded on the north by a line drawn perpendicular to the centerline of the Florida Intracoastal Waterway 300 feet north of the north end of the fender of the Donald Ross Bridge, and bounded on the south by a line drawn from headland to headland across the mouth of Lake Worth Creek at its southern terminus at Lake Worth ~~perpendicular to the centerline of the Florida Intracoastal Waterway 300 feet south of the south end of the fender of the bridge~~, as depicted in drawing B.

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-1.001 RULE TITLE: List of Approved Forms; Incorporation by Reference.

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 3, January 22, 2010 issue of the Florida Administrative Weekly.

A change was made to each of the three new forms, Notice of Change in Location of Funeral Establishment, Notice of Change in Location of Cinerator Facility, and Notice of Change in Location of Direct Disposal Establishment. The

fourth sentence of the first paragraph has been changed to read “This form shall be filed with the Division at least 21 days BEFORE the new location is ready for inspection to allow the Division to schedule the inspection.” The revised forms can be found on the Division’s website at www.myfloridacfo.com/FuneralCemetery/.

FINANCIAL SERVICES COMMISSION

Financial Services Commission

RULE NOS.:	RULE TITLES:
69M-236.002	Definitions
69M-236.004	Limitations and Exclusions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 47, November 25, 2009 issue of the Florida Administrative Weekly.

These changes were made in response to comments received at the hearing held on the proposed rules on February 9, 2010.

Subsection (5) of Proposed Rule 69M-236.002, F.A.C., has been deleted. This subsection contained a definition for “qualifying premium.”

The words “average number” have been deleted from Subsection (7) of Proposed Rule 69M-236.004, F.A.C., and replaced by the word “median” and the words “by all personal residential property insurers” have been added. The words “qualifying premium” have been deleted from Subsections (8) and (10) of Proposed Rule 69M-236.004, F.A.C., and replaced in subsection (8) by the words “direct written personal residential premium in this state during the experience period, excluding the latest year” and in subsection (10) by the words “direct written personal residential premium in this state.”

As changed, the proposed rules will read:

69M-236.002 Definitions.

(1) “Complaint” means any written communication that expresses dissatisfaction with a specific personal residential property insurer subject to regulation under Florida’s insurance laws. An oral communication which is subsequently converted to a written form meets the definition of a complaint for this purpose.

(2) “Division” means the Division of Consumer Services of the Department of Financial Services.

(3) “Experience period” means the latest five calendar years for the purpose of evaluating complaints and the latest five calendar-accident years for the purpose of evaluating time to pay claims.

(4) “Personal residential property insurer” means an insurer that writes personal residential property insurance such as homeowner’s, mobile home owner’s, dwelling, tenant’s, condominium unit owner’s, cooperative unit owner’s and similar policies and includes an insurer that, in addition to writing personal residential property insurance policies, also

writes commercial residential property insurance policies such as condominium association, cooperative association, apartment building and similar policies.

69M-236.004 Limitations and Exclusions.

(7) For calendar-accident years in which a company had fewer than 50 paid claims as of the end of the latest calendar year, such claims are assumed to have been paid in the median number of months for payment by all personal residential property insurers.

(8) Insurers with less than \$30 million in direct written personal residential premium in this state during the experience period, excluding the latest year, are graded on each of the four factors but are given an overall grade of “I” for “insufficient complaint history” due to a lack of actuarial credibility.

(10) Insurers with less than \$100,000 in direct written personal residential premium in this state in the latest calendar year will not be graded.

The remainder of the rule reads as previously published.

**Section IV
Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**Section V
Petitions and Dispositions Regarding Rule Variance or Waiver**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”