

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., June 18, 1999  
 PLACE: 1317 Winewood Blvd., Building 8, Room 232, Tallahassee, Florida 32399  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Perry, Adm., 1317 Winewood Blvd. Building 8, Room 221, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

65C-12.008 Case Supervision Responsibilities.

When a child who is not already under supervision is placed into shelter care by a child protective investigator, case supervision responsibilities remain with the child protective investigator until the case is referred and accepted for early service intervention. The primary supervision of the child is then transferred to the service counselor, but the child protective investigator will maintain overall case management responsibility until case disposition. For cases that are already under supervision at the time of placement, the service counselor maintains primary responsibility for case supervision and for overall case management.

- (1) Notification of Parent.
- (a) through (c) No change.

(d) Telephone calls and letters are a way to maintain contact between the parent, legal custodian or other caregiver and the child. The department will not give the telephone number or address where the child is located without the written permission of the shelter parent. The child's counselor will arrange for telephone calls at a Family Safety and Preservation office or some other appropriate location. Letters from a parent, legal custodian or other caregiver must be sent to the district Family Safety and Preservation office to be delivered, unopened, to the child. If circumstances arise which appear to warrant monitoring of calls or prior review of letters by the counselor, the court must be requested to authorize such monitoring or prior review before the counselor can take such an action.

- (2) through (10) No change.

Specific Authority 39.0121, 409.026(8) FS. Law Implemented 39.402, 409.145(1)(d), (2)(a), 409.165(1) FS. History—New 5-26-92, Amended 12-25-96, Formerly 10M-41.015, Amended \_\_\_\_\_.

## Section II Proposed Rules

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Outdoor Advertising Sign Regulation and Highway Beautification  
 RULE CHAPTER NO.: 14-10  
 RULE TITLES: Permits 14-10.004  
 Maintenance of Nonconforming Signs 14-10.007  
 PURPOSE AND EFFECT: The amendment to 14-10.007(1)(d)3. is an editorial correction of a cross reference. The amendment to 14-10.004(1)(a) is to increase the annual permit fee for each sign facing from \$35.00 to \$41.00 for 200 square feet or less, and from \$55.00 to \$61.00 for more than 200 square feet. The increase is based upon increases in program costs. Comparisons between Fiscal Years 1997-98 and 1996-97 showed increased costs for administering the program compared to the revenue generated by the fees.

Fiscal Year	1997-98	1996-97
Total Costs	\$1,536,401.69	\$1,542,265.09
Total Revenue	\$1,443,031.04	\$1,430,509.05
Deficit	\$93,370.65	\$111,756.04

SUMMARY: The amendment to 14-10.007(1)(d)3. is an editorial correction of a cross reference. The amendment to 14-10.004(1)(a) is to increase the annual permit fee for each sign facing from \$35.00 to \$41.00 for 200 square feet or less, and from \$55.00 to \$61.00 for more than 200 square feet. The increase is based upon increases in program costs. Comparisons between Fiscal Years 1997-98 and 1996-97 showed increased costs for administering the program compared to the revenue generated by the fees.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Statement of Estimated Regulatory Cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 339.05, 479.01(14), 479.02, 479.07, 479.24 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., June 17, 1999

PLACE: Haydon Burns Building Auditorium, 605 Suwannee Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-10.004 Permits.

(1) An application for a new sign permit is made by completing and submitting an Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 02/98, incorporated herein by reference, to the district office within whose boundaries the proposed site is located. Applications may be obtained from the State Outdoor Advertising License and Permit Office at the address listed in Rule Section 14-10.003(2) or from any of the Department's district offices. Applications for outdoor advertising sign permits on the Florida Turnpike shall be submitted to the district office of the district in which the specific portion of the Turnpike is located.

(a) Payment of the permit fee shall be made in the same manner provided for license fees in Rule Section 14-10.003(2)(b). The annual permit fee for each sign facing is \$~~41.00~~ ~~35.00~~ for 200 square feet or less and \$~~61.00~~ ~~55.00~~ for more than 200 square feet. A permittee shall notify, in writing, the district within whose boundaries the sign is located, prior to making any changes in the dimensions of a permitted conforming sign which would increase the area of the sign facing to over 200 square feet and shall submit an additional \$20.00.

(b) through (11)(d) No change.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.01(14), 479.02, 479.07, 479.24 FS. History--(Formerly part of Rule 14-10.04, Permits; 14-15.05, Right of Way Bureau Operating Procedures), New 3-28-76, Amended 4-21-77, 12-10-77, 6-26-78, 12-31-78, 1-1-86, Formerly 14-10.04, Amended 7-7-92, 6-28-98,\_\_\_\_\_.

14-10.007 Maintenance of Nonconforming Signs.

(1) The following shall apply to nonconforming signs:

(a) through (d)2. No change.

3. The materials to be included in the replacement materials costs to reerect the sign shall be all materials that would be used to return the sign to its configuration immediately prior to destruction and shall not include any material that is repaired on-site, but shall include any material obtained from a source other than the sign itself, whether used, recycled, or repaired. The repairs to the sign shall be with like materials and shall be those reasonably necessary to

permanently repair the sign in a manner normally accomplished by the industry in that area. The cost of such materials shall be as described in paragraph ~~(1)(d)2.~~ ~~(2)(e)2.~~

(e) through (2) No change.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07(9) FS. History--New 3-28-77, Amended 12-10-77, 1-1-86, Formerly 14-10.07, Amended 6-28-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth Towcimak, Director, Office of Right of Way

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P. E., Secretary

DATE PROPOSED RULE APPROVED: May 18, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Employee Grooming, Uniform and

RULE NO.:

Clothing Requirements 33-4.007

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to simplify the requirements for obtaining shaving exemptions; to clarify that shaving exemptions do not exempt employees from particular work assignments; to specify conditions for wearing the correctional officer badge; to provide for the issuance of specific colored badges based upon rank; and to clarify that the uniform cap will be furnished by the agency rather than the employee.

SUMMARY: The proposed rule allows for a permanent shaving exemption upon verification that the medical condition warranting the exemption is permanent; specifies that employees with shaving exemptions are not exempt from work assignments utilizing facial equipment; specifies conditions for wearing the correctional officer badge; provides for issuance of gold badges for officers of the rank of lieutenant and above; and provides for the Class B uniform cap to be furnished by the department.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., June 24, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-4.007 Employee Grooming, Uniform and Clothing Requirements.

(1) No change.

(2) In addition to the standards set forth in (1), all male employees shall comply with the following grooming standards:

(a) through (d) No change.

(e) The only exception to the shaving policy shall be based on medical need. Any employee who cannot adhere to the shaving policy based on a medical diagnosis must provide a statement from a dermatologist or other skin specialist stating the medical condition, ~~and~~ describing proposed treatment, ~~and stating whether it is a temporary or permanent condition.~~ If the physician indicates that it is a temporary condition and facial hair growth is prescribed, the physician's statement shall be forwarded through the chain of command for review, comment and recommendation to the appropriate Assistant Secretary or Deputy Secretary. The Deputy Secretary or Assistant Secretary may grant a temporary exemption to the shaving policy for medical reasons for a three to six month period. At the end of a period of temporary exemption, the employee shall be re-evaluated by his physician or a physician chosen by the department. Further temporary exemption periods of up to 12 months each may be granted under the foregoing criteria and procedures. If the physician states that the medical condition is permanent with no likelihood of improvement, a permanent exemption will be approved by the regional director, assistant secretary, or deputy secretary. Facial hair in cases of exemption shall be neatly trimmed to 1/4 ~~1/8~~ inch.

(f) Employees authorized to wear facial hair based upon a medical condition must read and sign Form DC4-877, Employee Grooming Policy Exemption. Form DC4-877 is hereby incorporated by reference. Copies of this form are available from the Office of Security and Institutional Management, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. Requests for forms to be mailed must be accompanied by a self-addressed stamped envelope. The effective date of this form is \_\_\_\_\_.

(g) Employees with shaving exemptions shall not be exempt from assignment responsibilities utilizing protective masks or other facial equipment.

(3) No change.

(4) The following provisions shall apply to employees in the positions of correctional officer colonel, correctional officer major, correctional officer captain, correctional officer lieutenant, correctional officer sergeant and correctional

officer, with the exception of employees at community correctional centers and probation and restitution centers. For the purposes of this rule, "correctional officer" is used to refer to the individual position or the class which includes all of the above-listed positions.

(a) Class A Uniform. The correctional officer class A uniform issued by the department shall be worn while performing official duties as determined by the superintendent. The class A uniform will be mandatory for all court appearances. The class A uniform will consist of:

1. through 5. No change.

6. Correctional officer badges. Badges shall be issued to all certified correctional officers regardless of their work location. Correctional officer badges will be issued by the department to be worn as part of the ~~class A uniform only while performing official duties off the grounds of a correctional facility such as court or other appearances.~~ The badge will be worn above the left shirt pocket affixed through the pre-sewn holes. Wearing the department issued badge carries a significant responsibility. The wearer is not only representing the Department of Corrections, but the law enforcement community and the State of Florida. The badge shall be routinely cleaned and presented in a manner so as to reflect the pride and professionalism of the Department of Corrections. Use of the issued badges as credentials for personal purposes is prohibited. Only badges issued by the department shall be used to conduct officially designated duties. The badge shall be 2-1/4" x 1-15/16" in size, silver colored metal for correctional officers and sergeants and gold color for lieutenants and above with black lettering, and pre-numbered with a pin clasp for securing to the shirt wallet clip. The badges shall be issued to certified officers upon employment and will be not be provided to uncertified officers until after certification is received. Correctional officers shall be responsible for reimbursing the department for any issued badge which is lost ~~or stolen~~. Issued badges are considered state property and, except for retirement under specific conditions, shall be returned to the department upon the officer's termination of employment with the department or removal from a position within the correctional officer class series. Correctional officers who retire from the department under honorable conditions and are eligible to retire under the State of Florida retirement system, including retirement under medical disability, shall be authorized to retain their issued badges. Correctional officer sergeants who are promoted to lieutenant shall return their silver colored badges to the superintendent prior to being issued gold colored badges.

7. No change.

8. Gold ~~Silver~~ colored lieutenant's bar for correctional officer lieutenants shall be worn on the collar military style.

9. Gold ~~Silver~~ colored captain's bar for correctional officer captains shall be worn on the collar military style.

10. No change.

11. ~~Gold Silver~~ colored colonel's insignia for correctional officer colonel shall be worn on the collar military style.

12. through 27. No change.

(b) Class B Uniform. The correctional officer class B uniform shall consist of all items included in the correctional officer class A uniform, except that the trousers will be made of a material compatible with the needs of the employee's assignment. Five uniform shirts and three pairs of class B uniform trousers will be issued per officer.

1. No change.

2. The uniform cap can be worn for daily wear with the class B uniform within the institution at the option of the correctional officer. The uniform cap shall be solid brown with a departmental emblem embroidered on the center front above the bill of the cap. Additional lettering, logos or rank insignia are not authorized on caps. The uniform hat shall be mandatory for all public and official appearances. The uniform cap will be furnished by the department.

3. No change.

(c) through (i) No change.

(5) through (13) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 2-27-85, Amended 6-19-85, Formerly 33-4.07, Amended 3-6-88, 8-15-89, 2-12-91, 10-13-91, 4-19-98, 12-7-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Stan Czerniak  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 4, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 26, 1998; December 31, 1998; January 21, 1999

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Rules of Prohibited Conduct and Penalties for Infractions  
RULE NO.: 33-22.012

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the meaning of the term "self-mutilation" as used in the rules of prohibited conduct for inmates.

SUMMARY: The proposed rule defines self-mutilation to include body piercing or other non-life threatening acts as determined by health care staff.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.14, 944.279, 944.28 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m., June 23, 1999

PLACE: Law Library Conference Room, Room B-404, 2601 Blair Stone Road, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-22.012 Rules of Prohibited Conduct and Penalties for Infractions.

The following table shows established maximum penalties for the indicated offenses. As used in the table, "DC" means the maximum number of days of disciplinary confinement that may be imposed and "GT" means the maximum number of days of gain time that may be taken. Any portion of either penalty may be applied.

SECTION 1 through SECTION 8 No change.

SECTION 9 – MISCELLANEOUS INFRACTIONS

9-1 through 9-29 No change.

9-30 Self Mutilation – includes body piercing 30 DC + 60 GT or other non-life threatening acts as determined by health care staff.

9-31 through 9-32 No change.

SECTION 10 through SECTION 11 No change.

Specific Authority 944.09, ~~944.14, 945.091~~ FS. Law Implemented 20.315, 944.09, 944.14, 944.279, 944.28, ~~945.04, 945.091~~ FS. History--New 3-12-84, Formerly 33-22.12, Amended 1-10-85, 12-30-86, 9-7-89, 11-2-90, 6-2-94, 10-1-95, 3-24-97, 7-9-98, 8-13-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Stan Czerniak

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 11, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 12, 1999





DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 1999

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE: Procedural  
 RULE CHAPTER NO.: 40D-2

RULE TITLE: Publications Incorporated by Reference  
 RULE NO.: 40D-2.091

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to provide a reference to the provisions of Section 40D-2.101(3), F.A.C., in the Water Use Permitting Basis of Review.

SUMMARY: Each applicant for a water use permit is required to submit a list of property owners that may be affected by the proposed withdrawal in accordance with the provisions of the District's Rule 40D-2.101, F.A.C. The District provides notice of agency action on each Water Use Permit application to such potentially affected property owners. The proposed rule amendment will provide a reference to the provisions of Section 40D-2.101(3), F.A.C., in the Water Use Permitting Basis of Review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-2.091, F.A.C., will not result in a substantial increase in costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 120.54, 373.044, 373.103, 373.113 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.219, 373.239, 373.243 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-2.091 Publications Incorporated by Reference.  
 The "Basis of Review for Water Use Permit Applications" ~~July 28, 1998~~, the "Agricultural Water Use Form, Form: WUP-15 (8/90)," and the "Agricultural Water Allotment Form, Form: WUP-11 (8/90)," are hereby incorporated by reference into this Chapter and are available from the District upon request.

Specific Authority 120.54, 373.044, 373.103, 373.113 FS. Law Implemented 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.219, 373.239, 373.243 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.

**BASIS OF REVIEW FOR WATER USE PERMIT APPLICATIONS**

**1.0 PERMITTING PROCEDURES**

1.1 through 1.6 No change.

**1.7 POTENTIALLY AFFECTED PARTIES**

Upon receipt of a permit application, the District will publish notice in a newspaper of general circulation near the location of the proposed withdrawal. Interested persons may request to be provided notice of agency action on a permit application.

Permit Applicants must submit a list of names and addresses of property owners that may be affected by the proposed withdrawals as indicated on the application form, and required by 40D-2.101(3), F.A.C.

The District will provide a Notice of Agency Action on each permit to potentially affected property owners as determined pursuant to subsection 40D-2.101(3), F.A.C., and interested persons, as well as the permit applicant. Affected persons may request a hearing on the agency action within 21 days of receipt of the notice in accordance with Chapter 120, F.S. and Chapter 28-106, F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Karen E. West, Senior Attorney, Office of General Counsel,  
 Southwest Florida Water Management District, 2379 Broad  
 Street, Brooksville, Florida 34609-6899, (352)796-7211,  
 extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Governing Board of the Southwest  
 Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: May 21, 1999

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE: Regulation of Wells  
 RULE CHAPTER NO.: 40D-3

RULE TITLE: Exemptions  
 RULE NO.: 40D-3.051

PURPOSE AND EFFECT: The purpose and effect of the  
 proposed rule amendment is to allow the District to receive  
 requests for and grant certain exemptions from well  
 construction requirements orally. Such a procedure is  
 necessary to allow the District to ameliorate various  
 emergencies encountered during well construction, repair or  
 abandonment when strict adherence to the rule requirements of  
 Chapter 40D-3, F.A.C., would cause undue hardship.

SUMMARY: The proposed rule language establishes the  
 procedure for orally requesting and obtaining emergency  
 exemptions from water well construction requirements from  
 the District. Upon oral request, the Executive Director or the  
 Executive Director's designee may grant the request orally. A  
 Well Completion Report must be filed with the District  
 documenting the request within 30 days of completion of the  
 well construction.

SUMMARY OF STATEMENT OF ESTIMATED  
 REGULATORY COST: A Statement of Estimated Regulatory  
 Cost is not being prepared based on the District's determination  
 that the proposed revisions to Rules 40D-3.051, F.A.C., will  
 not result in a substantial increase in costs to affected parties  
 and there will not be significant adverse effects on  
 competition, employment, investment or productivity.

Any person who wishes to provide information regarding the  
 statement of estimated regulatory costs, or to provide a  
 proposal for a lower cost regulatory alternative must do so in  
 writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.303, 373.308, 373.309, 373.313,  
 373.316, 373.326 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF  
 THIS NOTICE, A HEARING WILL BE SCHEDULED AND  
 ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE  
 PROPOSED RULE IS: Karen E. West, Senior Attorney,  
 Office of General Counsel, 2379 Broad Street, Brooksville,  
 Florida 34609-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-3.051 Exemptions.

(1) No change.

(2) In emergency situations when compliance with the requirements of Part III of Chapter 373, F.S., or Chapter 40D-3, F.A.C., will result in undue hardship, including those situations when an unexpected problem is encountered during the construction, repair or abandonment of a well, the Executive Director, or the Executive Director's designee, may authorize an exemption, by telephone, from the conditions required by a permit or rule requirements for a well. A Well Completion Report documenting the exemption must be submitted to the District in writing within 30 days of completion.

~~(3)~~ No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.303, 373.308, 373.309, 373.313, 373.316, 373.326 FS. History-Readopted 10-5-74, Formerly 16J-3.13, Amended 7-1-90, 9-30-91, 12-31-92,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Karen E. West, Senior Attorney, Office of General Counsel,  
 Southwest Florida Water Management District, 2379 Broad  
 Street, Brooksville, Florida 34609-6899, (352)796-7211,  
 extension 4651

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Governing Board of the Southwest  
 Florida Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: May 21, 1999

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Works or Lands of the District  
 RULE CHAPTER NO.: 40E-6

RULE TITLES: Part I  
 RULE NOS.:

Policy and Purpose	40E-6.011
Definitions	40E-6.021
Implementation	40E-6.031
Consent Required	40E-6.041
Exemptions	40E-6.051
Publications Incorporated by Reference	40E-6.091
Part II – Permits	
Subpart A – Notice General Permits	
Content of Application	40E-6.101
Conditions for Issuance of Notice General Permits	40E-6.121

Subpart B – Standard Permits  
 Content of Application 40E-6.201  
 Conditions for Issuance of Standard Permits 40E-6.221  
 Subpart C – General Provisions  
 Duration of Permits 40E-6.301  
 Access to Works and Lands of the District; Closures 40E-6.311  
 Modification of Permits 40E-6.321  
 Revocation of Permits 40E-6.331  
 Financial Assurances and Insurance 40E-6.341  
 Transfer of Permits 40E-6.351  
 Financial Assurances and Insurance 40E-6.361  
 Limiting Conditions 40E-6.381  
 Part III – Emergencies  
 Emergency Authorization 40E-6.451  
 Emergency Measures 40E-6.481  
 Unlawful Use 40E-6.491  
 Part IV – Violations  
 Unlawful Use and Civil Penalties 40E-6.501  
 Self Help 40E-6.521  
 Part V – Processing Fees  
 Permit Application Processing Fees 40E-6.601

**PURPOSE AND EFFECT:** The proposed rule incorporates changes to the South Florida Water Management District’s Right of Way Occupancy Permitting program. These changes are intended to allow the District to better respond to customer and community desires for use of the works or lands of the District without compromising the District’s ability to perform necessary routine and emergency operation and maintenance.

**SUMMARY:** The proposed rule streamlines the permitting and enforcement process including the introduction of a general permit category, maximizing the opportunities for consistent shared uses of works or lands of the District, including greenways and linear parks, and adjustment of the economic impact of certain permit application processing fees.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so within 21 days of this notice.

**SPECIFIC AUTHORITY:** 373.044, 373.109, 373.113, 373.129, 373.1395 FS.

**LAW IMPLEMENTED:** 120.60, 120.68, 196.199, 373.016, 373.044, 373.083, 373.085, 373.086, 373.103, 373.109, 373.113, 373.117, 373.118, 373.119, 373.129, 373.1395, 373.439, 373.603, 373.609, 373.613, 373.616, 373.3131, 380.06, 403.0877, 471.003 FS., Chapters 25209 and 25270, Laws of Florida.

**A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m., July 15, 1999

**PLACE:** South Florida Water Management District Headquarters, Auditorium, 3301 Gun Club Road, West Palm Beach, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Rosie Byrd, Staff Administrative Resource Associate, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1-800-432-2045, extension 6262 or (561)682-6262 (internet: rbyrd@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

**PART I**

(Substantial rewording of Rule 40E-6.011 follows. See Florida Administrative Code for present text.)

40E-6.011 Policy and Purpose.

(1) This chapter governs the use of or connection to works or lands of the District. Conditions and criteria are established to ensure that uses are compatible with the construction, operation, and maintenance of such works or lands.

(2) Due to the critical importance of works and lands of the District in providing flood protection and other benefits, it is considered essential that the District retain complete

dominion and control over the use of such works or lands, including those subject to occupancy permits. The District acts in a proprietary capacity in acquiring lands or interests therein for utilization as works of the District. These rules are based upon proprietary concepts of property law. A "permit" to utilize works or lands of the District is a contract between the District and the "permittee," whereby the permittee obtains a license which is revocable at will, except as otherwise provided herein. All risk of loss regarding expenditures in furtherance of the permitted use is borne by the permittee. The District retains complete discretion as to the manner, if any, in which works or lands of the District shall be utilized, and nothing in these rules is intended to limit that discretion.

(3) An exception to subsection (2), above, is made for governmental entities and utilities, which may have their consent to utilize District works or lands revoked only for cause, pursuant to the criteria set forth in this chapter.

(4) The District has determined that an unencumbered 40 foot wide strip of right of way, measured from the top of bank landward, is required in order for the District to perform the required routine and emergency operations and maintenance activities necessary to insure flood protection to the entire community. In this 40 foot right of way, subject only to limited exceptions provided in this rule, the District shall not authorize any above ground facilities or other encroachments.

(5) The requirement for the unencumbered 40 foot right of way shall be applicable regardless of the District's quality of title to the right of way and regardless of the width of the overbank right of way.

(6) In the past, the District has authorized certain above ground facilities and uses on its rights of way within a 40 foot wide area adjacent to the top of bank, as set forth in subsection (4), above. However, over time and with experience gained in disaster preparation, operation and recovery, the District has determined that these previously authorized above ground facilities and uses are now inconsistent with the current and future operation and maintenance needs of the District. These facilities and uses have also been determined by the District to increase the operation and maintenance costs (for both routine and emergency operation and maintenance activities) and pose a significant additional physical burden on District staff. Subject to those uses specifically allowed in the criteria (Basis of Review), no future authorizations by the District shall allow above ground facilities or uses within that 40 foot wide area adjacent to the top of bank within the right of way, and all previous authorizations for facilities and uses shall be expressly limited to minimize their adverse impact on District operations and maintenance. Specifically, such authorizations shall not be modified or transferred, and shall be subject to the revocation provisions set forth herein as determined necessary by the District in order to meet its current and future operation and maintenance responsibilities to provide adequate flood protection to the community.

(7) In order to effectively and efficiently evaluate proposed installations of above ground facilities and uses, the District has segmented the canal and rights of way into five (5) operational zones shown on the diagram below:

The specific above ground facilities and uses which are consistent with the District's operation and maintenance needs, and which will generally be authorized are set forth in Rules 40E-6.121 and 40E-6.221, F.A.C.. Those facilities and uses not specifically identified as being consistent with the District's operation and maintenance needs for the respective zones have been determined by the District to be inconsistent with District operation and maintenance needs and no District authorization shall be granted.

(8) Due to the varying widths and physical limitations of the rights of way obtained by the District for the canals of the Big Cypress Basin, maintenance of the Basin canals is currently performed with different equipment than is utilized throughout the remainder of the District. Based on the differing maintenance needs of the Big Cypress Basin, application of the five operational zones, as set forth in subsection (7), above, will be reviewed on a case by case basis taking into account the width of overbank right of way, the accessibility of the right of way to land-based maintenance equipment and any site specific conditions that would impact the Basin's ability to operate and maintain the canal which is the subject of a particular application.

(9) The District reserves sole authority to make a determination that portions of the District's rights of way are inaccessible for routine maintenance activities due to a variety of physical limitations. While a determination that a certain segment of right of way is presently unusable for routine land-based maintenance activities and relaxation of the restrictions in zones 2, 3, 4, and 5 may be allowed, such determination shall be at the sole discretion of the District and does not obviate the need for individuals with proposed or existing facilities within these areas to obtain permits from the District. Further, the District reserves the right to enter these areas to conduct emergency operations or to require the removal of any encroachments that are inconsistent with these rules at such time as maintenance access is perfected through the area.

(10)(a) The District has further determined that certain facilities and uses meeting specific minimum criteria for various right of way zones shall more efficiently be granted authorization with a limited review by District staff, since these specific facilities and uses do not adversely impact the District's ability to operate and maintain the District's right of way and works of the District. Such authorizations shall be administered by the provisions of Rules 40E-6.101 and 40E-6.121, F.A.C., as a notice general permit. The District will incur less expense in the review of notice general permit applications, and, therefore the application processing fee associated with such facilities and uses shall reflect accordingly, as set forth herein.

(b) If multiple uses are being requested and any of those uses require a standard permit, all authorizations shall be requested under the standard permit application and a notice general permit will not be required.

(11) It is further the policy of the District to allow, without charge for admission or use, public, passive recreational uses of District owned rights of way, given legally sufficient District property interests. However, nothing contained herein shall limit the District's ability to, either temporarily or permanently, limit or otherwise preclude public access to certain portions of District works and lands, such as structures and associated facilities.

(12) In managing its canal and levee system the District must, from time to time, change its criteria and permit requirements based on regional and site specific conditions. Applicants are cautioned that the information provided by District staff is based on the best available information at the time the information is conveyed, but is subject to change. This is particularly true when applicants delay months or years in submitting an application for permit. Therefore the rules, criteria and requirements in effect at the time a formal application is received for review will be applied to the permit application.

Specific Authority 373.044, 373.113, 373.1395 FS. Law Implemented 373.016, 373.083(1), 373.085, 373.086, 373.118, 373.129, 373.1395, 373.616, 373.6161 FS. History--New 9-3-81, Amended 12-29-86, Formerly 16K-5.01(1), Amended \_\_\_\_\_.

#### 40E-6.021 Definitions.

(1) The term "above ground facilities" when used in these rules is intended to mean any and all physical improvements or uses, whether man-made or natural (e.g. vegetation), that are extended above the existing surface of the ground.

(2) The term "Community Landscape Plan" when used in these rules is intended to mean a landscape scheme approved by the Governing Board that provides for use of the District's right of way for landscaping to a greater extent in certain zones than otherwise provided for by this rule.

(3) The term "change of ownership" when used in these rules is intended to mean the sale, purchase, or transfer of beneficial ownership of property adjacent to the District's right of way relative to a right of way occupancy permit; or in the case of utilities, bridges, or other such public facilities, the sale, purchase, or transfer of responsibility.

(4) The term "easement" when used in these rules is intended to mean the District's legal interest in the land for a specific limited use, such as construction, operation and maintenance of a canal or levee, access, stock piling of spoil material, or flowage of the land of another.

(5) The term "fee" ownership when used in these rules is intended to mean absolute and unconditional ownership by the District.

(6) The term “financial assurances” when used in these rules is intended to mean a cash bond to be held by the District in a non-interest bearing account, a performance bond issued by a licensed bonding company, a letter of credit issued by a financial institution authorized to do business in the State of Florida, or other such instrument approved by the District.

(7) The term “marina” when used in these rules is intended to mean a docking facility for three (3) or more watercraft.

(8) The term “modification” when used in these rules is intended to mean the addition or deletion of any facilities or uses not specifically authorized by the original permit.

(9) The term “notice general permit” when used in these rules is intended to mean a contractual license to occupy the works or lands of the District for specific types of proposed uses, with limited review by District staff, as set forth herein, and not requiring Governing Board approval.

(10) The term “owner” when used in these rules is intended to mean the individual or entity legally responsible for the ownership and control of the proposed facility or authorized use.

(11) The term “passive recreational use” when used in these rules is intended to mean conventional leisure activities, with minimal land or water resource impacts, which include such uses as walking, jogging, hiking, bicycling, fishing, nature appreciation, and equestrian use. Passive recreational use shall not include the use of motorized vehicles, with the exception of motorized wheelchairs necessary for use by disabled persons.

(12) The term “permit transfer” when used in these rules is intended to mean the changing of responsibility for the permit authorization from one person or entity to another.

(13) The term “right of way” when used in these rules is intended to mean those lands acquired by the District in fee, easement, or other type of grant, for the purpose of operations and maintenance of the District’s canal and levee system, spoil areas, Stormwater Treatment Area’s (STA’s), and access and other easements.

(14) The term “right of way occupancy permit” when used in these rules is intended to mean a contractual license to occupy the works or lands of the District, either by a notice general permit or a standard permit.

(15) The term “STA” when used in these rules is intended to mean the District’s Everglades Nutrient Removal Project (“ENR”), as well as those areas currently, or in the future, designated by the District as Stormwater Treatment Area’s.

(16) The term “standard permit” when used in these rules is intended to mean a contractual license to occupy the works or lands of the District for all uses not covered by a notice general permit, with a full review by District staff, as set forth herein, and requiring Governing Board approval.

(17) The term “top of bank” when used in these rules is intended to mean the point at which the flat or nearly level ground surface transitions down to the channel along the side slope of the canal bank.

(18) The term “tree” when used in these rules is intended to mean not only the trunk of the tree, but the farthest part of the canopy of the tree at maturity as well.

(19) The term “utility” when used herein means companies actually providing essential water, electric, telephone, sewer, or natural gas services. All other services shall be considered non-essential.

(20) The term “violator” when used in these rules is intended to mean any persons or entities acting contrary to the provisions of Chapter 373, F.S., these rules, as well as the provisions of any permit issued pursuant to these rules.

(21) The term “Works of the District” when used in these rules is intended to mean the canals, levees, structures, lands, water bodies, and other associated facilities which have been adopted as such by the District’s Governing Board.

(22) The term “Zone 1” when used in these rules is intended to mean the canal channel from the top of bank to the opposite top of bank, as depicted in Figure 1.

(23) The term “Zone 2” when used in these rules is intended to mean the point on the right of way from the top of bank to a point five (5) feet landward, as depicted in Figure 1.

(24) The term “Zone 3” when used in these rules is intended to mean the point on the right of way from a point five (5) feet landward from top of bank to a point twenty (20) feet landward, as depicted in Figure 1.

(25) The term “Zone 4” when used in these rules is intended to mean the point on the right of way from a point twenty (20) feet landward from top of bank to a point forty (40) feet landward, as depicted in Figure 1.

(26) The term “Zone 5” when used in these rules is intended to mean any right of way located further than forty (40) feet from the top of bank, as depicted in Figure 1.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086 FS. History—New

(Substantial rewording of Rule 40E-6031 follows. See Florida Administrative Code for present text.)

40E-6.031 Implementation.

(1) The effective date for the program established in this chapter is \_\_\_\_\_.

(2) All permits issued prior to the effective date of these rules shall remain in effect, except as provided herein.

(3) All applications, including permit application processing fees, for permits received by the District prior to the effective date of these rules shall be processed using the

criteria set forth in Volume V, Criteria Manual for Use of Works of the District – Permit Information Manual, adopted December 24, 1991.

(4) All applications, including permit application processing fees, received by the District on or after the effective date of these rules shall be subject to the provisions of these rules and the criteria adopted pursuant to these rules as set forth in Rule 40E-6.091, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 9-3-81, Amended 12-29-86, \_\_\_\_\_.

(Substantial rewording of Rule 40E-6.041 follows. See Florida Administrative Code for present text.)

40E-6.041 Consent Required.

(1) Unless expressly exempt by law or District rule, an right of way occupancy permit, either a notice general permit or a standard permit, must be obtained prior to connecting with, placing structures in or across, discharging into or making use of the works of the District and any additional lands or real property interest owned by the District, including the Stormwater Treatment Areas (STA's). Works or lands of the District subject to this requirement appear in the document listed in Rule 40E-6.091, F.A.C.

(2) All other use and occupancy of District works or lands must be consistent with the purposes and objectives of Ch. 373, F.S. and Title 40E, F.A.C.

(3) These rules do not apply to property managed by the District pursuant to Chapter 40E-7, Part V, Florida Administrative Code.

(4) These rules do not apply to the Seminole Tribe of Indians of Florida at such time as there exists a District approved agreement specifically addressing the use and management of District rights of way between the District and the Seminole Tribe of Indians of Florida.

(5) Except when works or lands of the District have been affirmatively opened to public vehicular use, an occupancy permit must be obtained prior to traveling on or across such works or lands.

(6) A conceptual approval for the use of works of the District may be obtained by processing a right of way occupancy permit application in conjunction with the request for a letter of conceptual approval only if the letter of conceptual approval is requested pursuant to section 380.06(9)(b), F.S.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086, 380.06(9)(b), 373.118 FS. History–New 9-3-81, Amended 2-29-86, 12-24-91, \_\_\_\_\_.

(Substantial rewording of Rule 40E-6.051 follows. See Florida Administrative Code for present text.)

40E-6.051 Exemptions.

(1) The following uses are exempt from permitting under this chapter where such facilities and uses comply with the criteria contained in the document listed in Rule 40E-6.091(1), F.A.C.:

(a) the planting or maintenance of native or drought and insect resistant turf grasses;

(b) drain lines (pool, roof, air-conditioning);

(c) low lying groundcover in certain zones;

(d) irrigation lines, flush or pop-up sprinklers, draft lines;

(e) not-for-profit, organized boat races, regattas and similar activities; and

(f) passive recreational use.

(2) An exemption from these rules shall not relieve any person or entity from compliance with other District permit requirements and any applicable permit requirements of federal, state and local government.

(3) The District is not responsible for the repair of or claims of damage to any facilities and uses which may incur damage resulting from the District's utilization of its rights of way or use by third parties. Improvements placed within the right of way are done so at the sole risk of the owner.

(4) The District is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the District's canal or any activities which may include use or contact with water from the District's canal, since the District periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

(5) Based upon the proprietary nature of the District's right of way occupancy permit program, the District reserves the right to require permits for previously exempt activities which no longer further the objectives of Ch. 373, F.S. and Title 40E, F.A.C., as presently existing or as modified in the future.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086 FS. History–New 12-24-91, Amended \_\_\_\_\_.

40E-6.091 Publications Incorporated by Reference.

(1) The "Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District – ~~December, 1991~~ \_\_\_\_\_", which includes separate and distinct criteria developed to address the unique characteristics and operational needs of the respective areas for the Okeechobee Basin, the Big Cypress Basin, and the STA's, is hereby published by reference and incorporated into this Chapter.

(2) District lands and works subject to this Chapter are adopted by the Governing Board in accordance with the provisions of section 373.086, F.S. The District's lands and works are listed in the document referenced in subsection (1) and are hereby published by reference and incorporated into this Chapter.

(3) The document listed in subsection (1) is published by the District and available upon request.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086, 403.0877 FS. History—New 9-3-81, Amended 12-29-86, 12-24-91, Formerly 16K-5.01(3), Amended \_\_\_\_\_.

## PART II – PERMITS

### SUBPART A – NOTICE GENERAL PERMITS

#### 40E-6.101 Content of Application.

(1) Applications for permits required by this ~~Subpart Chapter~~ shall be filed with the District. The application shall contain the following information:

(a) Form ~~NGP-1 RC-1~~ “Application to the South Florida Water Management District for Right of Way Notice General Permit” effective date \_\_\_\_\_ ~~April 1987~~, which is hereby incorporated by reference and which may be obtained at the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, Florida 33406;

(b) The applicant’s name and address including zip code and phone number;

(c) ~~All The~~ owner’s names, as appearing on the tax rolls, and complete address’ and phone numbers if applicant or user is other than the owner(s);

(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;

(e) A description of the portion of the works or lands of the District to be used;

(f) Whether the proposed use is a modification, ~~or~~ an existing use, or is a new use;

(g) A description of the proposed use of or encroachment on portion of the works or lands of the District and in which zone, as depicted in Figure 1, the proposed use will be located to be used;

(h) ~~Six Three~~ copies of a scaled or fully dimensioned 8 1/2” x 11” drawing, reflecting the proposed use in plan and elevation views, related to the applicable work of the District, and tied to a known reference point in the immediate area of the proposed use. Larger drawings and/or aerial photographs may be required, if necessary to adequately show the location and nature of the proposed use. ~~Except when exempt pursuant to Section 471.003, F.S., drawings for bridge crossings shall be signed and sealed by a Florida registered professional engineer.~~ A property survey, indicating the location of the District right of way boundary line, shall also be provided, unless waived pursuant to prior written request by the applicant.

1. All drawings shall utilize English units of measure or a combination of both English and metric units of measure. Vertical datum shall be National Geodetic Vertical Datum (1929), North American Vertical Datum (1988), or Mean Sea Level and the datum utilized shall be specified on the drawing(s).

2. All drawings for seawalls or bulkheads and subaqueous or pile-supported crossings shall be supported with cross sections of the existing channel. Unless waived or modified by the District pursuant to prior written request by the applicant, soundings for the cross sections shall be taken at 10 foot intervals from top of bank to top of bank and shall be tied to both canal/levee right of way lines. For subaqueous or pile supported crossings a minimum of 3 cross sections shall be supplied by the applicant; one at the point where the proposed crossing crosses the centerline of the canal; and one each upstream and downstream of the crossing at points determined by the District. For seawall or bulkhead projects the District shall determine the number of cross sections required but said cross sections will be no more frequent than one cross section per every 25 feet of proposed bulkheading. Cross sections shall be plotted to the same horizontal and vertical scale using standard 10 x 10 cross section paper or similar CAD format. The cross sections shall have superimposed upon them the design section for the canal at the location and existing cross sectional area below the design water surface shall be accurately calculated by the applicant and printed on or adjacent to each cross section.

3. Except where exempt pursuant to section 471.003, F.S., drawings for bridge crossings and bulkhead or seawall installations shall be signed and sealed by a Florida registered professional engineer.

(i) Information sufficient to demonstrate that the proposed use meets the criteria established in the document referred to in Rule 40E-6.091, F.A.C.; and

(j) The estimated length of time needed for completion of the proposed work once construction has begun.

(2) Applications shall be signed by ~~both the owner(s) the applicant or an~~ and authorized agent, if applicable.

(3) Applications shall not be considered complete until such time as all required information as set forth in subsections (1) and (2), above, and insurance and financial assurances in accordance with Rule 40E-6.361, F.A.C., have been received by the District.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085(1), ~~373.086, 373.117, 373.118, 471.003~~ FS. History—New 9-3-81, Amended 12-1-82, 12-29-86, 12-24-91, \_\_\_\_\_.

#### 40E-6.121 Conditions for Issuance of Notice General Permits.

(1) The District has determined that certain uses shall be authorized under a notice general permit when the proposed location is in an authorized operational zone and the criteria established in the Basis of Review, incorporated by reference in 40E-6.091, F.A.C., have been met. These uses are set forth in the Permit Index Chart included in the Basis of Review. Any facilities currently existing cannot be authorized by a notice general permit and must receive authorization through the standard permit application process or be promptly removed from the District’s right of way.

(2) Due to the nature of the projects, the following facilities and uses cannot be authorized by a Notice General Permit:

- (a) Roadway and highway projects;
- (b) Marinas and public boat launching facilities;
- (c) Linear Parks;
- (d) Permanent buildings and other above-ground structures;
- (e) Crude oil and petroleum product pipelines;
- (f) Other such facilities or uses.

(3) In determining whether a notice general permit should be issued, the District shall consider whether the proposed activity complies with the criteria set forth in Rule 40E-6.091, F.A.C.

(4) Except for utilities, both essential and non-essential, an applicant must own or lease the land adjacent to or served by the portion of the works or lands of the District involved.

(5) In addition to the requirements and restrictions set forth in subsections (1) to (4), the District, due to its proprietary interest in its lands and works, possesses and exercises all the rights and remedies available to owners of real property through statutory and common law.

(6) Except for Governing Board approved Community Landscape Plans, any and all above ground facilities located within the clear 40 foot wide right of way, as set forth in Rule 40E-6.011(4), F.A.C., or within the right of way at locations where the right of way is less than 40 feet wide, as measured from the top of the canal bank, are prohibited.

(7) The notice general permit provisions of this rule are not intended to apply to the notice general permit provisions in District Chapter 40E-62, F.A.C.

(8) The limiting conditions set forth in Rule 40E-6.361, F.A.C., shall be incorporated into every Notice General Permit issued.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.083(1), 373.085, 373.086, 373.118 FS. History—New \_\_\_\_\_.

## SUBPART B – STANDARD PERMITS

### 40E-6.201 Content of Application.

(1) Applications for permits required by this Subpart shall be filed with the District. The standard permit application shall contain the following information:

(a) Form SP-1 “Application to the South Florida Water Management District” effective date \_\_\_\_\_, which is hereby incorporated by reference and which may be obtained at the South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, Florida, 33406;

(b) The applicant’s name and address including zip code and phone number;

(c) All owner’s names, as appearing on the tax rolls, and complete address if applicant or user is other than the owner;

(d) The project location relative to County, Section, Township and Range; Lot, Block and Subdivision; or a metes and bounds description;

(e) A description of the portion of the works or lands of the District to be used;

(f) Whether the proposed use is a modification of an existing use, or is a new use;

(g) A description of the proposed use of or encroachment on works or lands of the District and in which zone, as depicted in Figure 1, the proposed use will be located;

(h) Six copies of a scaled or fully dimensioned 8 1/2” x 11” drawing, reflecting the proposed use in plan and elevation views, related to the applicable work of the District, and tied to a known reference point in the immediate area of the proposed use. Larger drawings and/or aerial photographs may be required, if necessary to adequately show the location and nature of the proposed use. A property survey, indicating the location of the District right of way boundary line, shall also be provided, unless waived pursuant to prior written request by the applicant.

1. All drawings shall utilize English units of measure or a combination of both English and metric units of measure. Vertical datum shall be National Geodetic Vertical Datum (1929), North American Vertical Datum (1988), or Mean Sea Level and the datum utilized shall be specified on the drawing(s).

2. All drawings for seawalls or bulkheads and subaqueous or pile-supported crossings shall be supported with cross sections of the existing channel. Unless waived or modified by the District pursuant to prior written request by the applicant, soundings for the cross sections shall be taken at 10 foot intervals from top of bank to top of bank and shall be tied to both canal/levee right of way lines. For subaqueous or pile supported crossings a minimum of 3 cross sections shall be supplied by the applicant; one at the point where the proposed crossing crosses the centerline of the canal; and one each upstream and downstream of the crossing at points determined by the District. For seawall or bulkhead projects the District shall determine the number of cross sections required but said cross sections will be no more frequent than one cross section per every 25 feet of proposed bulkheading. Cross sections shall be plotted to the same horizontal and vertical scale using standard 10 x 10 cross section paper or similar CAD format. The cross sections shall have superimposed upon them the design section for the canal at the location and existing cross sectional area below the design water surface shall be accurately calculated by the applicant and printed on or adjacent to each cross section.

3. Except where exempt pursuant to section 471.003, F.S., drawings for bridge crossings and bulkhead or seawall installations shall be signed and sealed by a Florida registered professional engineer.

(i) Information sufficient to demonstrate that the proposed use meets the criteria established in the document referred to in Rule 40E-6.091, F.A.C.; and

(j) The estimated length of time needed for completion of the proposed work once construction has begun.

(2) Applications shall be signed by both the owner(s) and authorized agent, if applicable.

(3) Applications shall not be considered complete until such time as all required information as set forth in subsections (1) and (2), above, and insurance and financial assurances in accordance with Rule 40E-6.361, F.A.C., have been received by the District.

Specific Authority 373.044, 373.113 FS, Law Implemented 373.083(1), 373.085(1), 373.086, 373.117, 471.003 FS, History—New

#### 40E-6.221 Conditions for Issuance of Standard Permits.

(1) The District has determined that certain uses shall be authorized under a standard permit when located in an authorized zone and comply with the criteria established in the Basis of Review, incorporated by reference in Rule 40E-6.091, F.A.C. These uses are set forth in the Permit Index Chart included in the Basis of Review.

(2) In determining whether standard permit should be issued, the District shall consider whether the proposed activity:

(a) interferes with the present or future construction, alteration, operation or maintenance of the works or lands of the District;

(b) is consistent with the policy and objectives of Chapter 373, F.S., including the legislative declaration of policy contained in section 373.016, F.S.

(c) has an actual or potential negative impact upon environmentally sensitive areas, which include: wetlands; endangered or threatened species habitat; aquatic preserves; Outstanding Florida Waters; Class I or Class II waters; federal, state and privately owned parks and wildlife management areas; designated areas of critical state concern; lands purchased by federal, state and local governments for the purpose of environmental protection, water resource protection and aesthetics; and lands which contain native terrestrial plant species in significant amounts. Environmentally sensitive areas include areas on and off-site that are affected by activities which occur on, or are initiated from, the works of the District;

(d) degrades water quality within the receiving water body or fails to meet the provisions of Ch. 373, F.S., the state water policy, and Title 40E, F.A.C.;

(e) involves a discharge of wastewater from a new wastewater source or an increased discharge from an existing wastewater source;

(f) will discharge debris or aquatic weeds into works of the District or cause erosion or shoaling within the works of the District;

(g) is supported by financial assurances, which will ensure that the proposed activity will be conducted in accordance with Chapter 373, F.S. and Chapter 40E-6, F.A.C.;

(h) interferes with scientific activities;

(i) presents an increased liability risk to the District;

(j) meets the general and specific criteria in the Basis of Review which is incorporated by reference in Rule 40E-6.091, F.A.C.;

(k) interferes with actual or potential public use of the District's works or lands, including public recreational or other facilities not within the District's works;

(l) meets applicable criteria in Chapters 40E-61 and 40E-62, F.A.C.

(3) The District shall consider a permit applicant's past and present violation of any District rules or permit conditions, including enforcement action, when determining whether the applicant has provided reasonable assurances that District standards will be met.

(4) Activities which can be carried out through the District's real property acquisition and disposal policy will not be eligible for a permit under this chapter.

(5) The District may also consider the cumulative impact of allowing the proposed use, and shall deny uses which appear insignificant with regard to the above criteria, based upon the cumulative impact of allowing similar uses in the affected area. The cumulative impact of projects or activities not using or proposing to use District works or lands may also be considered.

(6) The structural integrity of bridges across District works or lands shall be certified by a professional engineer registered in the State of Florida, except as provided in section 471.003, F.S.

(7) In those instances where the District does not own the underlying fee simple title, applicants may be required to show the necessary legal interest from the owner of the underlying fee. The District does not, however, assume any duty to protect the legal rights of the underlying fee owner.

(8) In general, no commercial uses will be allowed on District rights of way. In the event such a use is allowed, the District may enter into a lease therefor and charge a fee. However, when the anticipated annual income from a lease is less than \$500.00, the use, if allowed, will be authorized by a Standard Permit and no lease shall be required. There shall, however, be no presumption against allowing commercial use of the District right of way by utilities.

(9) Except for utilities, both essential and non-essential, an applicant must own or lease the land adjacent to or served by the portion of the works or lands of the District involved.

(10) In addition to the requirements and restrictions set forth in Subsections (1) through (9), the District, due to its proprietary interest in its lands and works, possesses and exercises all the rights and remedies available to owners of real property through statutory and common law.

(11) All of the items set forth in subsections (1) through (6) and (8) through (10), above, shall be considered by the District in those instances where the proposed use is located upon lands owned in fee simple by the District.

(12) The District may deny a proposed use based upon its property interest or upon any of these items set forth in subsections (1) and (11), above.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.083(1), 373.085, 373.086, 373.093 FS. History—New \_\_\_\_\_.

**SUBPART C GENERAL PROVISIONS**

**40E-6.301 Conditions for Issuance of Permits.**

Specific Authority 373.044 FS. Law Implemented 373.016, 373.083(1), 373.085, 373.086, 373.093 FS. History—New 9-3-81, Amended 12-29-86, 12-24-91, Repealed \_\_\_\_\_.

**40E-6.311 Access to Works and Lands of the District; Closures.**

(1) Consistent with the District’s policy to allow for public access, without charge, to publicly owned lands, access to Works and Lands of the District by the public is generally allowed for passive recreational uses.

(2) Works and Lands of the District shall be closed to public use, either temporarily or permanently, under the following conditions:

(a) when necessary for public safety during wildfires or prescribed burns;

(b) when necessary for scientific activities;

(c) when necessary for construction, operation or maintenance activities;

(d) when necessary during emergency conditions such as floods, severe weather events, or wildfire danger for public safety and the protection of the natural resources; and

(e) when there is an insufficient District property interest to allow for such public use or access by the general public.

(3) When necessary on a permanent basis to protect natural, historic or archaeological resources, or for ongoing scientific activities, such closures shall require advance public notice and approval by the Governing Board.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.083(1), 373.085, 373.086, 373.119, 373.1395 FS. History—New \_\_\_\_\_.

(Substantial rewording of Rule 40E-6.321 follows. See Florida Administrative Code for present text.)

**40E-6.321 Duration of Permits.**

(1) Permits issued prior to the effective date of \_\_\_\_\_ and do not comply with the Basis of Review incorporated by reference in Rule 40E-6.091, F.A.C., shall expire upon the change of ownership of the property. These authorizations shall not be transferred to a new property owner and must be immediately removed from the District’s right of way unless a new permit application has been submitted and approved by the District.

(2) Unless revoked or otherwise modified the duration of an occupancy permit is:

(a) as set forth in the permit, including the special conditions to the permit; or

(b) after construction is complete, perpetual, unless revoked.

(3) Permits authorizing construction expire automatically on the date indicated on the face of the permit, unless a written request for extension is received by the District on or before the expiration date. If an extension has not been requested prior to the expiration of the permit, a new application, including the application processing fee, must be submitted. Upon the expiration of a permit, all construction activities must cease until the new permit has been issued. Extensions of the construction period may be granted administratively, or in cases involving litigation, environmental, water resource, or other impact, shall be referred to the Governing Board for final action. The District shall decline to extend a permit authorizing construction if the proposed use is no longer consistent with the objectives of the District or other provisions of these rules.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086 FS. History—New 9-3-81, Amended 12-29-86, Formerly 16K-5.07, 40E-6.321, Amended \_\_\_\_\_.

(Substantial rewording of Rule 40E-6.331 follows. See Florida Administrative Code for present text.)

**40E-6.331 Modification of Permits.**

(1) Applications for permit modifications required by this Chapter shall be filed by formal application, including the permit modification application fee, with the District.

(2) Applications for modification to permitted uses shall be reviewed using the same criteria as new applications, pursuant to Rules 40E-6.091, 40E-6.121, and 40E-6.221, F.A.C.

(3) Letter modifications may be issued by District staff, provided the requested modification:

(a) does not substantially alter the permit authorization;

(b) does not interfere with construction, operation and maintenance of District lands or works; and

(c) is otherwise consistent with the purposes and policies of Chapter 373, F.S. and Chapter 40E-6, F.A.C.

(4) Under sections 373.083 and 373.085, F.S., the District is authorized to modify a permit when it determines that the currently permitted use has become inconsistent with the factors and conditions enumerated in Rules 40E-6.121 and 40E-6.221, F.A.C.

(5) Permit modifications may be initiated by the District in accordance with the provisions of Chapter 40E-1, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.083 (1), 373.085, 373.086 FS. History—New 9-3-81, Amended 12-29-86, 12-24-91, Formerly 16K-5.11(1), Amended \_\_\_\_\_.

(Substantial rewording of Rule 40E-6.341 follows. See Florida Administrative Code for present text.)

## 40E-6.341 Revocation of Permits.

(1) Under sections 373.083 and 373.085, F.S., the District is authorized to revoke a right of way occupancy permit under any of the following circumstances:

(a) the permittee or his agent has committed any of the acts enumerated in Rule 40E-1.609, F.A.C.;

(b) the permitted use interferes or will interfere with the construction, alteration, operation, or maintenance of present or proposed works or lands of the District;

(c) the permittee has failed to immediately comply with an emergency or other order issued pursuant to Rules 40E-1.611 and 28-107.005, F.A.C.;

(d) the permitted use is no longer consistent with the factors and conditions enumerated in Rules 40E-6.121 and 40E-6.221, F.A.C., the provisions of Chapter 373, F.S., Title 40E, F.A.C., and the state water policy, Chapter 62-40, F.A.C.;

(e) is inconsistent with any provision of this rule, or any subsequent revisions to this rule, including any provision of the Basis of Review, incorporated by reference in Rule 40E-6.091, F.A.C.; or

(f) the permitted use is no longer consistent with District policy, based upon a change in District policy.

(2) Right of Way Occupancy permits are subject to immediate revocation by the District's Executive Director with the concurrence of the Governing Board if an emergency condition exists and the continued exercise of the permit might endanger lives, human safety or property.

(3) Revocations for reasons specified in subsection (1) shall be conducted in accordance with the procedures specified in Rules 40E-1.609 and 28-107.004, F.A.C. Emergency revocations under subsection (2) shall be conducted in accordance with the procedures specified in Rule 28-107.005, F.A.C.

(4) Revocation shall be effective as provided in the notice. Notice of revocation shall be provided by certified mail or personal service. If the permittee declines to accept notice or is otherwise unavailable, the District shall post notice on the premises and follow the constructive notice procedure set forth in section 120.60(5), F.S. The permitted use shall be removed within a reasonable time, which shall be specified in the notice of revocation.

(5) The provisions herein shall take precedence over the general revocation provisions, applicable to all District permits, provided for in Rule 40E-1.609, F.A.C., as the permit program governing use of works and lands of the District is a proprietary based program. To the extent there is any conflict between the general provisions of Chapter 40E-1, F.A.C., the specific provisions of Chapter 40E-6, F.A.C., shall prevail.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.60(5), 373.083(1), 373.085, 373.086, 373.129 FS. History--New 9-3-81, Amended 12-29-86, 12-24-91, Formerly 16K-5.07(3), (4), Amended \_\_\_\_\_.

(Substantial rewording of Rule 40E-6.351 follows. See Florida Administrative Code for present text.)

## 40E-6.351 Transfer of Permits.

(1) As the District has no control over the sale or transfer of real or personal property, it is the sole obligation of a permittee to disclose the existence of a Right of Way Occupancy Permit, its terms and conditions, to prospective purchasers.

(2) Right of Way Occupancy Permits will be considered for transfer when:

(a) The request is otherwise consistent with the provisions of these rules and Chapter 373, F.S.

(b) The applicant demonstrates that the permitted use still qualifies for a permit under Rules 40E-6.121 or 40E-6.221, F.A.C.

(c) The applicant agrees to abide by the provisions of Chapter 373, F.S., this chapter, and the terms and conditions of the permit, including these rules, including the standard limiting conditions, and criteria which are applicable at the time of the request for transfer.

(d) The adjoining land use has not changed.

(e) The request for transfer is accompanied, when required, with the correct fee.

(f) The applicant agrees to record a Notice of Permit in the official records of the county clerk's office as specified by the District.

(g) In cases where unauthorized facilities or uses have been added that are not included in the permit authorization, a permit transfer request must also be accompanied by a request for modification pursuant to Rule 40E-6.331, F.A.C.

(3) Right of Way Occupancy Permits will be transferred without a fee when the request for transfer is received within twelve (12) months from the change of ownership, as evidenced by the date of transfer of ownership appearing in the deed or other instrument of conveyance.

(4) Requests for transfer of Right of Way Occupancy Permits shall be assessed a fifty (\$50.00) dollar processing fee when the request is received by the District more than twelve (12) months from the date of change of ownership but prior to eighteen (18) months from the change of ownership, as evidenced by the date of transfer of ownership appearing in the deed or other instrument of conveyance.

(5) Transfers requested more than 18 months from the date of change of ownership shall be denied and require the submission of an application and the appropriate application processing fee.

(6) All transfers require a field inspection and shall not become effective until such inspection is conducted and confirms all existing facilities are permitted and all uses comply with the criteria in Rule 40E-6.091, F.A.C., and the conditions of issuance in Rules 40E-6.121 or 40E-6.221, F.A.C. If additional facilities are present, no transfer will be allowed unless the unauthorized facility or use is removed immediately and the right of way restored. Applicants must submit a new standard permit application, along with the

appropriate application processing fee, for all additional facilities not removed and not currently authorized by a Right of Way Occupancy Permit.

(7) The District staff shall not issue transfers until all financial assurance and insurance requirements, if any, have been provided and accepted by the District staff.

Specific Authority 373.044, 373.109, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086, 373.109 FS. History—New 9-3-81, Amended 12-29-86, Formerly 16K-5.10, 16K-5.11(2), 16K-5.12, Amended \_\_\_\_\_.

#### 40E-6. 361 Financial Assurances and Insurance.

(1) The District may require the applicant requesting a right of way occupancy permit to provide and maintain financial assurances to the District and its successors, in the form of a cash bond to be held by the District in a non-interest bearing account, a performance bond issued by a licensed bonding company, a letter of credit issued by a financial institution authorized to do business in the State of Florida, or other such instrument approved by the District to ensure full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility. The amount and type of financial assurance shall be determined by the District.

(a) In instances where the District authorizes use of its rights of way as a temporary haul or access road, which does not include crossing over District structures or associated facilities, the amount of the financial assurance shall be Five Thousand (\$5,000.00) Dollars per half mile or multiple thereof, with a minimum amount of Five Thousand (\$5,000.00) Dollars.

(b) In instances where the District authorizes the construction of a private bridge on or across the District's right of way, the amount of the financial assurance shall be based upon a professional engineer's or certified demolition company's itemized estimate, to be provided by and paid for by the applicant, of the cost of the demolition of the bridge, removal of the debris, and restoration of the right of way. Such estimates shall be reviewed and approved by District staff.

(c) In instances where the District authorizes the installation of a water or sewer force main installation on or across the District's right of way other than those constructed by governmental entities, the amount of the financial assurance shall be based upon a professional engineer's or certified demolition company's itemized estimate, to be provided by and paid for by the applicant, of the cost of the demolition of the water or sewer force mains, removal of the debris, and restoration of the right of way. Such estimates shall be reviewed and approved by District staff. Upon acceptance by the governmental entity of the facility and the issuance of a permit transfer by District staff, such financial assurances shall be released.

(d) Any other uses of the District's right of way authorized by the District are subject to adequate financial assurances as determined necessary and reasonable by District staff based

upon a complete review of the unique circumstances and the potential liability, both personal injury and property damage, and environmental risks involved with the specific authorized use.

(2) In addition to the provision for financial assurances as provided in subsection (1), above, the District may require liability insurance, naming the District as an additional insured, in such amount and type as the District staff determines necessary. All insurance must be written by a company duly authorized to do business in the State of Florida or provided pursuant to a self insurance program consistent with the requirements of Florida law.

(3) Any applicable financial assurance or insurance requirement set forth above shall be maintained as a condition of the continued validity of the right of way occupancy permit.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086, 373.103 FS. History—New \_\_\_\_\_.

(Substantial rewording of Rule 40E-6.381 follows. See Florida Administrative Code for present text.)

#### 40E-6.381 Limiting Conditions.

The District's authorization to utilize lands and other works constitutes a revocable license (including both notice general permits and standard permits). In consideration for receipt of that license, permittees shall agree to be bound by the following standard limiting conditions, which shall be included within all permits issued pursuant to this chapter:

(1) All structures on District works or lands constructed by permittee shall remain the property of permittee, who shall be solely responsible for ensuring that such structures and other uses remain in good and safe condition. Permittees are advised that other federal, state and local safety standards may govern the occupancy and use of the District's lands and works. The District assumes no duty with regard to ensuring that such uses are so maintained and assumes no liability with regard to injuries caused to others by any such failure.

(2) Permittee solely acknowledges and accepts the duty and all associated responsibilities to incorporate safety features, which meet applicable engineering practice and accepted industry standards, into the design, construction, operation and continued maintenance of the permitted facilities/authorized use. This duty shall include, but not be limited to, permittee's consideration of the District's regulation and potential fluctuation, without notice, of water levels in canals and works, as well as the permittee's consideration of upgrades and modifications to the permitted facilities/authorized use which may be necessary to meet any future changes to applicable engineering practice and accepted industry standards. Permittee acknowledges that the District's review and issuance of this permit, including, but not limited to, any field inspections performed by the District, does not in any way consider or ensure that the permitted facilities/authorized use is planned, designed, engineered,

constructed, or will be operated, maintained or modified so as to meet applicable engineering practice and accepted industry standards, or otherwise provide any safety protections. Permittee further acknowledges that any inquiries, discussions, or representations, whether verbal or written, by or with any District staff or representative during the permit review and issuance process, including, but not limited to, any field inspections, shall not in any way be relied upon by permittee as the District's assumption of any duty to incorporate safety features, as set forth above, and shall also not be relied upon by permittee in order to meet permittee's duty to incorporate safety features, as set forth above.

(3) Permittee agrees to abide by all of the terms and conditions of this permit, including any representations made on the permit application and related documents. This permit shall be subject to the requirements of Chapter 373, F.S., and Chapter 40E-6, F.A.C., including all subsequent rule and criteria revisions. Permittee agrees to pay all removal and restoration costs, investigative costs, court costs and reasonable attorney's fees, including appeals, resulting from any action taken by the District to obtain compliance with the conditions of the permit or removal of the permitted use. If District legal action is taken by staff counsel, "reasonable attorney's fees" is understood to mean the fair market value of the services provided, based upon what a private attorney would charge.

(4) This permit does not create any vested rights, and except for governmental entities and utilities, is revocable at will upon reasonable prior written notice. Permittee bears all risk of loss as to monies expended in furtherance of the permitted use. Upon revocation, the permittee shall promptly modify, relocate or remove the permitted use and properly restore the right of way to the District's satisfaction. In the event of failure to so comply within the specified time, the District may remove the permitted use and permittee shall be responsible for all removal and restoration costs.

(5) This permit does not convey any property rights nor any rights or privileges other than those specified herein and this permit shall not, in any way, be construed as an abandonment or any other such impairment or disposition of the District's property rights. The District approves the permitted use only to the extent of its interest in the works of the District. Permittee shall obtain all other necessary federal, state, local, special district and private authorizations prior to the start of any construction or alteration authorized by the permit. Permittee shall comply with any more stringent conditions or provisions which may be set forth in other required permits or other authorizations. The District, however, assumes no duty to ensure that any such authorizations have been obtained or to protect the legal rights of the underlying fee owner, in those instances where the District owns less than fee.

(6) Unless specifically prohibited or limited by statute, Permittee agrees to indemnify, defend and save the District (which used herein includes the District and its past, present and/or future employees, agents, representatives, officers and/or Governing Board members and any of their successors and assigns) from and against any and all lawsuits, actions, claims, demands, losses, expenses, costs, attorneys fees (including but not limited to the fair market value of the District's inhouse attorneys' fees based upon private attorneys' fees/rates), judgments and/or liabilities which arise from or may be related to the ownership, construction, maintenance or operation of the permitted use and/or the possession, utilization, maintenance, occupancy and/or ingress and egress of the District's right of way which arise directly or indirectly and/or are caused in whole or in part by the acts, omissions and/or negligence of the District and/or of third parties. Permittee agrees to provide legal counsel acceptable to the District if requested for the defense of any such claims.

(7) The District does not waive sovereign immunity in any respect.

(8) The permittee shall not engage in any activity regarding the permitted use which interferes with the construction, alteration, maintenance or operation of the works of the District, including:

(a) discharge of debris or aquatic weeds into the works of the District;

(b) causing erosion or shoaling within the works of the District;

(c) planting trees or shrubs or erecting structures which limit or prohibit access by District equipment and vehicles, except as may be authorized by the permit.

Permittee shall be responsible for any costs incurred by the District resulting from any such interference:

(d) leaving construction or other debris on the District's right of way or waterway;

(e) damaging District berms and levees;

(f) the removal of District owned spoil material;

(g) removal of or damage to District locks, gates, and fencing;

(h) opening of District rights of way to unauthorized vehicular access; or

(i) running or allowing livestock on the District's right of way.

(9) The District is not responsible for any personal injury or property damage which may directly or indirectly result from the use of water from the District's canal or any activities which may include use or contact with water from the District's canal, since the District periodically sprays its canals for aquatic weed control purposes and uses substances which may be harmful to human health or plant life.

(10) Permittee shall allow the District to inspect the permitted use at any reasonable time.

(11) Permittee shall allow, without charge or any interference, the District, its employees, agents, and contractors, to utilize the permitted facilities before, during and after construction for the purpose of conducting the District's, routine and emergency, canal operation, maintenance, and construction activities. To the extent there is any conflicting use, the District's use shall have priority over the permittee's use.

(12) This permit is a non-exclusive revocable license. Permittee shall not interfere with any other existing or future permitted uses or facilities authorized by the District.

(13) The District has the right to change, regulate, limit, schedule, or suspend discharges into, or withdrawals from, works of the District in accordance with criteria established by the Big Cypress Basin, the District, and/or the U. S. Army Corps of Engineers for the works of the District.

(14) If the use involves the construction of facilities for a non exempt water withdrawal or surface water discharge, the applicant must apply for and obtain a water use or surface water management permit before or concurrently with any activities which may be conducted pursuant to the right of way occupancy permit.

(15) The District shall notify the local ad valorem taxing authority of the lands affected by the permitted use, where the permittee owns the underlying fee and derives a substantial benefit from the permitted use. The taxing authority may reinstate such lands on the tax roll. Failure to pay all taxes in a timely manner shall result in permit revocation. Such permit revocation shall not alleviate the responsibility of the permittee to pay all taxes due and payable.

(16) Permittee shall provide prior written notice to their successors in title of the permit and its terms and conditions.

(17) Permittee shall record a Notice of Permit through filing the appropriate notice agreed to by the District in the public records of the county or counties where the project is located and by providing the District with proof of filing or through an equivalent procedure. All costs associated with this requirement shall be the responsibility of the permittee. Governmental entities and utilities are not subject to this provision.

(18) This permit is contingent upon compliance with the recording of the Notice of Permit. Failure to provide proof of the recording of the Notice of Permit will result in the permit becoming invalid on its own terms, the removal of any existing facilities within the right of way, restoration of the right of way to the District's satisfaction, at the permittee's expense, and the possible assessment of civil penalties.

(19) Permittee shall be responsible for the repair or replacement of any existing facilities located within the District's right of way which are damaged as a result of the installation or maintenance of the authorized facility.

(20) All obligations under the terms of this permit authorization and any subsequent modifications hereto shall be joint and several as to all owners.

(21) It is the responsibility of the permittee to make prospective bidders aware of the terms and conditions of this permit. It shall be the responsibility of the permittee's contractors to understand the terms and conditions of this permit and govern themselves accordingly.

(22) It is the responsibility of the permittee to bring to the attention of the District any conflict in the permit authorization or permit conditions in order that they may be resolved prior to the start of construction. In resolving such conflicts the District's determination will be final.

Specific Authority 373.044, 373.113 FS. Law Implemented Chapters 25209 and 25270, Laws of Florida., 196.199(1), 373.083(1), 373.085(1), 373.086, 373.103, 373.109, 373.129, 373.1395, 373.603, 373.609, 373.613 FS. History--New 9-3-81, Amended 5-30-82, 12-29-86, 12-24-91, Formerly 16K-5.01(2), 16K-5.02(2), 16K-5.03(2), 16K-5.04(4), 16K-5.05, 40E-6.381, Amended \_\_\_\_\_.

### PART III – EMERGENCIES

(Substantial rewording of Rule 40E-6.451 follows. See Florida Administrative Code for present text.)

40E-6.451 Emergency Authorization.

(1) Permission to begin use of works or lands of the District prior to the issuance of a permit shall be granted pursuant to Rule 40E-1.6115 and 40E-0.108, F.A.C.

(2) All requests for emergency authorizations must be submitted with both the emergency application processing fee set forth in Rule 40E-6.601(2)(h), F.A.C., in addition to the applicable standard permit application processing fee set forth in Rules 40E-6.601(2)(d) through (g), F.A.C.

(3) In order to be eligible for an emergency permit authorization the applicant must have already filed a standard permit application with the District or simultaneously file a standard permit application with the District.

(4) In addition to the required standard permit application contents, the applicant must also file a written statement with the District which fully explains the basis and circumstances which support and justify the request for emergency authorization.

(5) Mere carelessness or lack of planning on the part of the applicant shall not be sufficient grounds to warrant the granting of an emergency authorization.

(6) The Executive Director may grant an emergency authorization pursuant to section 373.119(2), F.S.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086, 373.119, 373.439 FS. History--New 9-3-81, Amended 12-29-86, 7-1-98, Formerly 16K-5.09, 40E-6.451, Amended \_\_\_\_\_.

40E-6.481 Emergency Measures Actions.

(1) In addition to the provisions of Rule 40E-6.521, F.A.C., permitted uses are also subject to immediate alteration, repair or removal if an emergency condition exists and the continued exercise of the permitted use might endanger lives or property.

(2) In such event the permittee shall immediately comply with any written or oral instructions from the District regarding alteration, repair or removal of the permitted use. ~~The District shall provide written instructions, unless prevented by emergency conditions.~~

(3) If the permittee fails to remove, alter or repair a permitted use when so ordered by the District, the District may repair, alter or remove it at the permittee's expense.

(4) Permittee may request an administrative hearing regarding the emergency order in accordance with the procedures set forth in ~~Rule 28-107.004 40E-1.609(8),~~ F.A.C.

(5) In addition to the provision of Rule 40E-6.521, F.A.C., unpermitted uses are also subject to the provisions of this section.

(6) In no circumstances shall the District be responsible for any claims or damages caused in whole or in part, from any necessary emergency removal, alteration, or repair of any permitted or unpermitted use.

(7) All permitted and unpermitted uses are subject to the specific terms of an Emergency Order(s) which may be issued by the District.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083(1), 373.085, 373.086, 373.119, 373.439 FS. History—New 9-3-81, Amended 12-29-86, 7-1-98, Formerly 16K-5.08, 40E-6.481, Amended.

40E-6.491 Unlawful Use.

Specific Authority 373.044, 373.113, 373.129 FS. Law Implemented 120.68, 373.083(1), 373.085, 373.086 FS. History—New 9-3-81, Amended 12-29-86, Formerly 16K-5.08, Repealed.

PART IV – VIOLATIONS40E-6.501 Unlawful Use and Civil Penalties.

(1) It shall be unlawful to connect with, place structures in or across, or otherwise make use of works or lands of the District without a Right of Way Occupancy Permit. The District may use any remedy available to it under Florida common law and statutory law and the District's rules, to remove or cause the unpermitted use to be removed, as well as the assessment of civil penalties pursuant to this rule.

(2) It shall be unlawful for any permittee to violate the provisions of Chapter 373, F.S., Chapter 40E-6, F.A.C., or the terms and conditions of a Right of Way Occupancy Permit. The District may use any remedy available to it under Florida common law and statutory law and the District's rules, to remove or cause the unpermitted use to be removed, as well as the assessment of civil penalties pursuant to this rule. The

District may at its discretion, in furtherance of the purposes of Chapter 373, F.S., allow the permitted use to be brought into compliance with the permit by means of a permit modification.

(3) Damage to works or lands of the District resulting from the violations specified in subsections (1) and (2), above, shall, within the timeframes and in a manner consistent with the District's requirements, be repaired by the violator to the satisfaction of the District, however, the District reserves the right to make any and all necessary repairs, the full cost of which shall be the responsibility of the violator.

(4) Violators shall be responsible for payment of civil penalties up to \$10,000.00 per day, per violation, pursuant to section 373.129, F.S., investigative costs and the District's attorney's fees (including appeals).

(5) Factors considered in the assessment of civil penalties shall be:

(a) habitual violator;

(b) threat to health, safety, and welfare (flooding);

(c) immediacy of threat;

(d) severity of impact (size of drainage);

(e) potential for damage to surrounding property;

(f) threat to District staff if self-help used

(g) exposure of District to other liabilities;

(h) environmental impact;

(i) water quality; and

(j) unusual circumstances.

(6) Vessels which are being occupied or used as a temporary or permanent residence or business, or other vessels which have an adverse impact on the District's ability to construct, operate, and maintain its canals and structures, will not be permitted within District works or lands.

(7) The planting of any non-native vegetation not included on the District's designated plant list or specifically authorized by District permit within District works or lands will not be permitted.

(8) The abandonment of personal property within District works or lands will not be permitted.

(9) Use of the works or lands of the District as a temporary or permanent place of residence or shelter will not be permitted.

(10) It shall be unlawful for any person or entity to remove any spoil, without authorization from the District, and the District specifically reserves any and all rights to pursue such violations in both criminal and civil proceedings, in addition to the provisions contained herein.

Specific Authority 373.044, 373.113, 373.129 FS. Law Implemented 120.68, 373.083(1), 373.085, 373.086, 373.603, 373.609, 373.613 FS. History—New \_\_\_\_\_, Formerly 16K-5.06, 40E-6.491.

40E-6.521 Self Help.

(1) Unlawful uses or facilities placed within the works or lands of the District are subject to removal and restoration at the District's discretion with no guarantee of salvageability. In

no circumstances shall the District be responsible for any claims or damages caused, in whole or in part, from any self help removal and restoration of any unlawful uses or facilities.

(2) When employing self help, the District is not required to provide any notice of its intended action.

(3) The District may seek to recover removal and restoration costs, investigative costs, and attorneys fees and costs (including appeals) incurred in carrying out self help done to resolve the unlawful use of District works and lands.

Specific Authority 373.044, 373.113, 373.129 FS. Law Implemented 120.68, 373.083(1), 373.085, 373.086, 373.603, 373.609, 373.613 FS. History—New

**PART V – PROCESSING FEES**

**40E-6. 601 Permit Application Processing Fees.**

(1) A permit application processing fee is required and shall be paid to the District when applications are filed pursuant to District rules to connect with and make use of the works and lands of the District. An application shall not be processed until the appropriate application fee is submitted. These fees are assessed in order to defray the cost of evaluating, processing, and mailing required in connection with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to be exempt or the fee submitted is determined by the District to be incorrect. Failure of any person to pay the applicable fees established herein is grounds for the denial of an application.

(2) Based upon years of experience in reviewing applications for District right of way occupancy permits, the District has determined that applications for existing facilities or uses require additional staff time and resources (as compared to proposed facilities) in order to thoroughly review and inspect, and this differential shall be reflected in the application processing fees for all right of way occupancy permit authorizations as set forth herein.

(3) The fee for permit applications reviewed pursuant to Chapter 40E-6, F.A.C. are as follows:

(a) Notice General Permit Application, Notice General Permit Modification Application relating to a single family residential use (Category NGP-1) – No Fee

(b) Notice General Permit Application, Notice General Permit Modification Application for uses proposed by homeowners associations and condominium associations relating to more than one individual lot or dwelling unit (Category NGP-2) .....\$150.00

(c) Notice General Permit Application, Notice General Permit Modification Application for uses proposed by developers, builders, corporate entities, utilities, county, state, or local entities (Category NGP-3).....\$300.00

(d) Notice General Permit Application, Notice General Permit Modification Application relating to bridges, excluding culvert bridges (Category NGP-4)..... \$900.00

(e) Standard Permit Application, Standard Permit Modification Application relating to a single family residential use which does not meet Notice General Permit Criteria (Category SP-1) .....\$75.00

(f) Standard Permit Application, Standard Permit Modification Application relating to uses by homeowners associations and condominium associations and do not meet Notice General Permit Criteria (Category SP-2) .....\$300.00

(g) Standard Permit Application, Standard Permit Modification Application relating to uses by developers, builders, corporate entities, utilities, county, state, or local entities, as well as all other uses not covered in Categories SP-1, SP-2 and SP-4 (Category SP-3) .....\$625.00

(h) Standard Permit Application, Standard Permit Modification Application relating to uses involving bridges, linear parks, greenways, similar park and recreation projects, marinas and associated facilities (Category SP-4) .....\$1750.00

(i) Application for emergency authorization pursuant to Rule 40E-6.401, F.A.C. ....\$275.00

(j) Transfer Fees are set forth in Rule 40E-6.351, F.A.C., above.

(4) Notwithstanding the provisions set forth in this rule, upon request, the District shall waive any and all right of way occupancy permit application processing fees for right of way occupancy permit applications submitted by the governing body of a governmental entity only if provided with a resolution or other documentation as to the reciprocity commitment of the respective governmental entity applying for the right of way occupancy permit and clearly establishing that governmental entity's reciprocal waiver of any and all fees required for the District to carry out canal operation, maintenance, and construction activities for the District.

(5) Notwithstanding the provisions set forth in this rule, no permit application processing fee will be required from utilities or other necessary service providers, where the permitted facility or use of the works or lands of the District is required to supply utility or other necessary service to an existing or proposed District facility.

(6) The above permit application processing fees shall not apply to either the Seminole Tribe of Florida or the Miccosukee Tribe of Indians of Florida for facilities and uses located exclusively within the boundaries of their respective reservations or included in leases with the District.

Specific Authority 373.044, 373.109, 373.113 FS. Law Implemented 373.109, 373.083(1), 373.085, 373.086 FS. History—New, Formerly 40E-1.607(6), F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Thomas Fratz, Director, Right of Way Division, Department of Land Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 1999  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 1999

### DEPARTMENT OF THE LOTTERY

RULE TITLE: Administrative Leave  
 RULE NO.: 53-16.009

PURPOSE AND EFFECT: The purpose of the proposed rule is to amend subsection 53-16.009(14)(b) to provide for one and one-half hours of administrative leave for specific family activities, and to add a new subsection to address administrative leave for mentoring and tutoring activities.

SUMMARY: The proposed rule amends the administrative leave time allotted for family activities from one hour to one and one-half hours, and a new subsection has been added to address administrative leave for mentoring and tutoring activities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 24.105(10)(j) FS.

LAW IMPLEMENTED: 24.105(21)(d) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 9:00 a.m. June 23, 1999

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, Capitol Complex, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-16.009 Administrative Leave.

(1) through (13) No change.

(14) Family Responsibility Requirements.

(a) Initial and continued participation will depend upon the operational requirements of the Lottery, the immediate supervisor's approval, and shall be limited to relationship to a child in the immediate family.

(b) Each employee shall be granted one and one-half (1 1/2) hours ~~one (1) hour~~ of administrative leave per month, including up to thirty minutes of travel time, to participate in the following family activities:

1. Involvement in local private and public school activities including preschools and kindergarten through high-school; and

2. Involvement with or visitation of children in child care centers.

(c) If an employee does not use administrative leave as authorized in this section, the employee shall not accrue or be paid for such unused leave.

(d) An employee will, upon request, be granted family leave without pay for family responsibilities other than family medical leave for a period not to exceed thirty (30) calendar days per fiscal year if workload requirements permit. Whether continuous or intermittent, eligibility for leave without pay shall commence on July 1 and end on June 30 of each fiscal year. Examples of family responsibilities include:

1. Caring for aging parents;

2. Involvement in settling parents' estates upon their deaths; or

3. Relocating dependent children into private or public schools.

(15) Mentoring and Tutoring Activities.

(a) Each employee shall be granted up to one and one-half (1 1/2) hours of administrative leave per week, including up to thirty minutes of travel time, for participation in tutoring and/or mentoring activities in local education programs.

(b) Any employee, including an employee without children and an employee who does not have school-age children, may participate in the mentoring and tutoring activities in local public or private schools, including preschools, kindergarten, and grades one (1) through twelve (12). Mentoring and tutoring activities include the following:

1. Tutoring assignments, guest speaking, assisting in career day activities;

2. Participation in the Partners for Excellence Program, After-School Homework Center Program or the Take Stock in Children Program; and

3. Other mentoring and tutoring activities or programs with local schools in which the employee's participation is pre-approved by the Lottery.

(c) Initial and continued participation in tutoring or mentoring activities will be contingent upon the operational requirements of the Lottery and upon approval from the employee's immediate supervisor.

(d) If an employee does not use administrative leave as authorized in this section, the employee shall not accrue or be paid for such unused leave.

~~(16)~~ (15) Accrual and payment of administrative leave. If an employee does not use administrative leave as authorized in this section, the employee shall not accrue or be paid for such unused leave.

~~(17)~~ (16) This section applies to employees who are filling authorized and established positions.

~~(18)~~(17) An employee who is terminated from employment due to abolishment of his or her position can be placed on administrative leave with pay and full benefits for up to thirty (30) calendar days.

~~(19)~~(18) An employee who is terminated from employment for any reason other than abolishment of his or her position can be placed on administrative leave with pay and full benefits, in lieu of notice, for up to ten (10) consecutive workdays.

~~(20)~~(19) All requests for leave pursuant to this rule shall be in writing prior to the initial date of leave, when possible.

Specific Authority 24.105(10)(j) FS. Law Implemented 24.105(21)(d) FS. History—New 2-25-93, Amended 8-15-93, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr. General Counsel.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 18, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 23, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE CHAPTER TITLE: Hospital Licensure                      RULE CHAPTER NO.: 59A-3

RULE TITLE: Physical Plant Requirements for General,                      RULE NO.: Rehabilitation and Psychiatric Hospitals                      59A-3.081

PURPOSE AND EFFECT: The purpose of the proposed rule amendment to Chapter 59A-3, F.A.C., is to promulgate the physical plant minimum standards to ensure that all new hospitals are structurally capable of serving as shelters for patients, staff and family members of patients and staff and equipped to be self-supporting during and immediately following disasters as required by section 395.1055, F.S. The proposed rule is a result of workshops held with interested parties between March 1994 and September 1996. The proposed rule amendment will not compromise public safety, human health, the environment, or any other protection afforded by law.

SUMMARY: The proposed rule addresses the required standards for space, site, structural, roofing, exterior unit, heating, ventilation and air conditioning (HVAC), plumbing and medical gas systems as they pertain to disaster preparedness. In addition, a provision for an external emergency communications system has been incorporated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 395.1055 FS.

LAW IMPLEMENTED: 395.1055, 553.73, 633.022 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., June 18, 1999

PLACE: Agency for Health Care Administration, Building #1, Plans and Construction Conference Room 100, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James (Skip) Gregory, Chief, Bureau of Plans and Construction, Agency for Health Care Administration, Building #1, Room 145, 2727 Mahan Drive, Tallahassee, Florida 32308, (850)487-0713

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-3.081 Physical Plant Requirements for General, Rehabilitation and Psychiatric Hospitals.

(55) Physical Plant Requirements for Disaster Preparedness of New Hospital Construction.

(a) Definitions. The following definitions shall apply specifically to all new facilities as used in rule 59A-3.081(55):

1. "New facility" means a hospital, or an addition of a wing or floor to a hospital, which is not in operation or has not received a Stage II Preliminary Plan approval pursuant to Chapter 59A-3, F.A.C., prior to the effective date of this rule:

2. "Net square footage" means the clear floor space of an area excluding cabinetry and other fixed furniture or equipment:

3. "During and immediately following" means a period of 72 hours:

4. "Occupied patient area(s)" means the protected location of patients inside of the facility during and immediately following a disaster:

5. "Applicable building code" means the building code enforced by the building official with local jurisdictional authority.

6. "Patient support area(s)" means those area(s) required to ensure the safety and well being of patients during and immediately following a disaster.

(b) New Facility Construction Standards. The following construction standards are in addition to the physical plant requirements described in Chapter 59A-3.079 through Chapter 59A-3.081, F.A.C. These minimum standards are intended to increase the ability of the new facility to be structurally capable of serving as a shelter for patients, staff and the family of patients and staff and equipped to be self-supporting during and immediately following a disaster:

### 1. Space Standards.

a. For planning purposes, each new facility shall provide a minimum of 30 net square feet per patient served in the occupied patient area(s).

b. Adequate space for administrative and support activities shall be provided for use by facility staff to allow for care of patients in the occupied patient area(s).

c. Adequate space shall be provided for additional staff and family members of patients and staff.

### 2. Site standards.

a. All new facilities and additions shall be located above the 100-year flood plain or hurricane Category 3 (Saffir-Simpson scale) hurricane surge inundation elevation, whichever requires the highest elevation or the floor elevation of all new patient use area(s) and all patient support area(s) and patient support utilities, including mechanical, electrical, and food services shall be located above the 100-year flood plain or hurricane Category 3 (Saffir-Simpson scale) hurricane surge inundation elevations, whichever requires the highest elevation.

b. At a minimum, new additions or floors added to existing facilities, as determined by their site locations, shall be so designed and constructed as to be in compliance with the current standards of the National Flood Insurance Program of the Federal Emergency Management Agency.

c. Where an off-site public access route is available to the new facility at or above the 100-year flood plain, a minimum of one on-site emergency access route shall be provided that is located at the same elevation as the public access route;

d. New landscaping elements shall be located so if damaged they will not block the on-site emergency access route to the facility. Outdoor signs and their foundations shall be designed to meet the wind load criteria of the applicable building code;

e. New light standards and their foundations used for lighting the on-site emergency access route shall be designed to meet the wind load criteria of the applicable building code with a minimum wind load factor of 140 miles per hour.

3. Structural Standards. Wind load design of the building structure and exterior envelope including exterior wall systems shall be designed in accordance with the applicable building code.

### 4. Roofing Standards.

a. Roofing membrane material shall resist the uplift forces specified in the applicable building code. Roof coverings shall be installed according to the specifications provided by the manufacturer.

b. Loose-laid ballasted roofs shall not be permitted;

c. All roof appendages such as ducts, tanks, ventilators, receivers, dx condensing units and decorative mansard roofs and their attachment systems shall be structurally engineered to

meet the wind load requirements of the applicable building code. All attachment systems shall be connected directly to the underlying roof structure or roof support structure.

### 5. Exterior Unit Standards.

a. All exterior window units, skylights, exterior louvers and exterior door units including vision panels and their anchoring systems shall be designed to resist the wind load requirements and the debris impact requirements as specified by the applicable building code.

b. Permanently attached protective systems such as shutters and baffling shall be designed to meet the wind load requirements and the debris impact requirements as specified by the applicable building code;

c. Removable protective systems designed to intricately fit with the wall/window system of the facility and stored on-site at the facility and that meet the wind load requirements and the debris impact requirements specified by the applicable building code may be utilized to protect the exterior units;

d. All anchoring and attachment to the building of both the permanently attached and removable protective systems shall be designed to meet the impact requirements specified by the applicable building code. These designs shall be signed, sealed and dated by a Florida registered structural engineer;

e. The glazed openings inside or outside of the protective systems shall meet the cyclical loading requirements specified by the applicable building code;

f. All of the impact protective systems shall be designed and installed so that they do not come in contact with the glazing under uniform, impact or cyclic pressure loading;

g. No protective system shall restrict the operability of the windows in the occupied patient bedrooms.

h. No protective systems shall reduce the clear window opening below 8% of the gross square footage of the patient room.

### 6. Heating, Ventilation and Air Conditioning (HVAC) Standards.

(a) Air moving equipment, dx condensing units, through-wall units and other HVAC equipment located outside of or on the roof of the facility shall be permitted only when either of the following are met:

(I) They are located inside a penthouse designed to meet the wind load requirements of the applicable building code, or;

(II) Their fastening systems are designed to meet the wind load requirements of the applicable building code and they are protected from impact as specified by the applicable building code.

b. All occupied patient areas and patient support areas shall be supplied with sufficient HVAC to ensure the health, safety and well being of all patients and staff during and immediately following a disaster.

c. Systems providing HVAC and their associated support equipment such as a control air compressor essential to the maintenance of the occupied patient and patient support area(s) shall receive their power from the emergency power supply system(s).

d. Ventilation air change rates in occupied patient areas shall be maintained as specified in Chapter 59A-3, F.A.C.

e. Auxiliary equipment and specialties such as hydronic supply piping and pneumatic control piping shall be located and routed in such a manner as to ensure the equipment receiving the services will not be interrupted.

#### 7. Plumbing Standards.

a. There shall be an independent on-site supply or storage capability of potable water tested and approved in accordance with the applicable building code at a minimum quantity of 3 gallons per patient served per day during and immediately following a disaster.

b. There shall be an independent on-site supply or storage capability of potable water tested and approved in accordance with the applicable building code at a minimum quantity of 1 gallon per facility staff and other personnel during and immediately following a disaster.

c. There shall be an independent on-site supply or storage capability of sufficient amount of non-potable water to provide for all patient services such as bathing, washing and flushing and support utilities during and immediately following a disaster.

d. When used, selected system appurtenances such as water pressure maintenance house pumps, and emergency water supply well pumps shall take power from the emergency power supply system(s).

8. Medical Gas Systems Standards. The distribution piping system and appurtenances shall be contained within a protected area(s) designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code.

#### 9. Emergency Electrical Generator and Essential Electrical System Standards.

a. There shall be an on-site Level I emergency electrical generator system designed to support all occupied patient areas and patient support areas with at least the following support services:

(I) Ice making equipment to produce sufficient ice for the patients served;

(II) Refrigerator unit(s) and food service equipment if required by the emergency food plan;

(III) Life safety and critical branch lighting and systems as required by Chapter 59A-3.081(51), F.A.C.;

(IV) Selected HVAC systems and other systems as required by this rule;

b. The emergency generator system shall be fueled by a fuel supply stored on-site sized to fuel the generator for 100 percent load for 48 hours or for actual demand load of the occupied patient areas and patient support area(s) and patient support utilities during and immediately following a disaster.

(I) The fuel supply shall either be located below ground or contained within a protected area that is designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code. If an underground system is utilized, it shall be designed so as to exclude the entrance of any foreign solids or liquids and have approval from the Environmental Protection Agency (EPA);

(II) All fuel lines supporting the generator system(s) shall be protected also with a method designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code.

(III) All panel boards, transfer switches, disconnect switches, enclosed circuit breakers or emergency system raceway systems required to support the occupied patient area(s), patient support area(s) or support utilities shall be contained within a protected area(s) designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code, and shall not rely on systems or devices outside of this protected area(s) for their reliability or continuation of service.

(IV) The emergency generator(s) shall be air or self-contained liquid cooled and it and other essential electrical equipment shall be installed in a protected area(s) designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code.

#### 10. Fire Protection Standards.

a. If the facility required fire sprinklers as part of its fire protection, either of the following shall be met:

(I) Sufficient on-site water storage capacity to continue sprinkler coverage, or;

(II) A plan to provide a Fire Watch as approved by the agency for all areas of the facility without sprinkler coverage.

b. If sprinkler coverage is adversely affected by interrupted water flow, the facility shall provide for additional fire extinguishers in the patient occupied areas.

11. External Emergency Communications Standards. In conjunction with the County Emergency Management Agency, each facility shall provide an alternative form of electronic communication such as on-site radio transmitter or a written agreement with an amateur radio operator volunteer group(s). This agreement shall provide for a volunteer operator and communication equipment to be re-located into the facility in the event of a disaster until communications are restored. Other methods shall be pre-approved by the agency.

Specific Authority 395.1055 FS. Law Implemented 395.1055, 553.73, 633.022 FS. History—New 1-1-77, Formerly 10D-28.81, Amended 1-16-87, 11-23-88, Formerly 10D-28.081, Amended 9-3-92, 6-29-97, 3-18-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James (Skip) Gregory, Chief, Bureau of Plans and Construction, Agency for Health Care Administration, Building #1, Room 145, 2727 Mahan Drive, Tallahassee, Florida 32308, (850)487-0713

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw, Jr., Executive Director, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 19, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 1999

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE CHAPTER TITLE: Nursing Home Licensure

RULE CHAPTER NO.: 59A-4

RULE TITLE: Plans Submission and Review and Construction Standards

RULE NO.: 59A-4.133

PURPOSE AND EFFECT: The purpose of the proposed rule amendment to Chapter 59A-4, F.A.C., is to promulgate the physical plant minimum standards to ensure that all new nursing homes are structurally capable of serving as shelters for residents, staff and family members of residents and staff and equipped to be self-supporting during and immediately following disasters as required by section 400.23(2)(a), F.S. The proposed rule is a result of workshops held with interested parties between March 1994 and September 1996. The proposed rule amendment will not compromise public safety, human health, the environment, or any other protection afforded by law.

SUMMARY: The proposed rule addresses the required standards for space, site, structural, roofing, exterior unit, heating, ventilation and air conditioning (HVAC), plumbing and medical gas systems as they pertain to disaster preparedness. In addition, a provision for an external emergency communications system has been incorporated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 400.23 FS.

LAW IMPLEMENTED: 400.23, 553.73, 633.022 FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., June 18, 1999

PLACE: Agency for Health Care Administration, Building #1, Plans and Construction Conference Room 100, 2727 Mahan Drive, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James (Skip) Gregory, Chief, Bureau of Plans and Construction, Agency for Health Care Administration, Building #1, Room 145, 2727 Mahan Drive, Tallahassee, Florida 32308, (850)487-0713

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-4.133 Plans Submission and Review and Construction Standards.

(18) Physical Plant Requirements for Disaster Preparedness of New Nursing Home Construction.

(a) Definitions. The following definitions shall apply specifically to all new facilities as used in rule 59A-4.133:

1. "New facility" means a nursing home, or an addition of a wing or floor to a nursing home, which is not in operation or has not received a Stage II Preliminary Plan approval pursuant to Chapter 59A-4, F.A.C., prior to the effective date of this rule;

2. "Net square footage" means the clear floor space of an area excluding cabinetry and other fixed furniture or equipment;

3. "During and immediately following" means a period of 72 hours;

4. "Occupied resident area(s)" means the protected location of residents inside of the facility during and immediately following a disaster;

5. "Applicable building code" means the building code enforced by the building official with local jurisdictional authority.

6. "Resident support area(s)" means those area(s) required to ensure the safety and well being of residents during and immediately following a disaster.

(b) New Facility Construction Standards. The following construction standards are in addition to the physical plant requirements described in Chapter 59A-4.133(1) through Chapter 59A-4.133(17), F.A.C. These minimum standards are intended to increase the ability of the new facility to be structurally capable of serving as a shelter for residents, staff and the family of residents and staff and equipped to be self-supporting during and immediately following a disaster:

1. Space Standards.

a. For planning purposes, each new facility shall provide a minimum of 30 net square feet per resident served in the occupied resident area(s).

b. Adequate space for administrative and support activities shall be provided for use by facility staff to allow for care of residents in the occupied resident area(s).

c. Adequate space shall be provided for additional staff and family members of residents and staff.

2. Site standards.

a. All new facilities and additions shall be located above the 100-year flood plain or hurricane Category 3 (Saffir-Simpson scale) hurricane surge inundation elevation, whichever requires the highest elevation or the floor elevation of all new resident use area(s) and all resident support area(s) and resident support utilities, including mechanical, electrical, and food services shall be located above the 100-year flood plain or hurricane Category 3 (Saffir-Simpson scale) hurricane surge inundation elevations, whichever requires the highest elevation.

b. At a minimum, new additions or floors added to existing facilities, as determined by their site locations, shall be so designed and constructed as to be in compliance with the current standards of the National Flood Insurance Program of the Federal Emergency Management Agency.

c. Where an off-site public access route is available to the new facility at or above the 100-year flood plain, a minimum of one on-site emergency access route shall be provided that is located at the same elevation as the public access route;

d. New landscaping elements shall be located so if damaged they will not block the on-site emergency access route to the facility. Outdoor signs and their foundations shall be designed to meet the wind load criteria of the applicable building code;

e. New light standards and their foundations used for lighting the on-site emergency access route shall be designed to meet the wind load criteria of the applicable building code with a minimum wind load factor of 140 miles per hour.

3. Structural Standards. Wind load design of the building structure and exterior envelope including exterior wall systems shall be designed in accordance with the applicable building code.

#### 4. Roofing Standards.

a. Roofing membrane material shall resist the uplift forces specified in the applicable building code. Roof coverings shall be installed according to the specifications provided by the manufacturer.

b. Loose-laid ballasted roofs shall not be permitted;

c. All roof appendages such as ducts, tanks, ventilators, receivers, dx condensing units and decorative mansard roofs and their attachment systems shall be structurally engineered to meet the wind load requirements of the applicable building code. All attachment systems shall be connected directly to the underlying roof structure or roof support structure.

#### 5. Exterior Unit Standards.

a. All exterior window units, skylights, exterior louvers and exterior door units including vision panels and their anchoring systems shall be designed to resist the wind load requirements and the debris impact requirements as specified by the applicable building code.

b. Permanently attached protective systems such as shutters and baffling shall be designed to meet the wind load requirements and the debris impact requirements as specified by the applicable building code;

c. Removable protective systems designed to intricately fit with the wall/window system of the facility and stored on-site at the facility and that meet the wind load requirements and the debris impact requirements specified by the applicable building code may be utilized to protect the exterior units;

d. All anchoring and attachment to the building of both the permanently attached and removable protective systems shall be designed to meet the impact requirements specified by the applicable building code. These designs shall be signed, sealed and dated by a Florida registered structural engineer;

e. The glazed openings inside or outside of the protective systems shall meet the cyclical loading requirements specified by the applicable building code;

f. All of the impact protective systems shall be designed and installed so that they do not come in contact with the glazing under uniform, impact or cyclic pressure loading;

g. No protective system shall restrict the operability of the windows in the occupied resident bedrooms.

h. No protective systems shall reduce the clear window opening below 8% of the gross square footage of the resident room.

6. Heating, Ventilation and Air Conditioning (HVAC) Standards.

a. Air moving equipment, dx condensing units, through-wall units and other HVAC equipment located outside of or on the roof of the facility shall be permitted only when either of the following are met:

(I) They are located inside a penthouse designed to meet the wind load requirements of the applicable building code, or;

(II) Their fastening systems are designed to meet the wind load requirements of the applicable building code and they are protected from impact as specified by the applicable building code.

b. All occupied resident areas and resident support areas shall be supplied with sufficient HVAC to ensure the health, safety and well being of all residents and staff during and immediately following a disaster.

c. Systems providing HVAC and their associated support equipment such as a control air compressor essential to the maintenance of the occupied resident and resident support area(s) shall receive their power from the emergency power supply system(s).

d. Ventilation air change rates in occupied resident areas shall be maintained as specified in Chapter 59A-4, F.A.C.

e. Auxiliary equipment and specialties such as hydronic supply piping and pneumatic control piping shall be located and routed in such a manner as to ensure the equipment receiving the services will not be interrupted.

#### 7. Plumbing Standards.

a. There shall be an independent on-site supply or storage capability of potable water tested and approved in accordance with the applicable building code at a minimum quantity of 3 gallons per resident served per day during and immediately following a disaster.

b. There shall be an independent on-site supply or storage capability of potable water tested and approved in accordance with the applicable building code at a minimum quantity of 1 gallon per facility staff and other personnel during and immediately following a disaster.

c. There shall be an independent on-site supply or storage capability of sufficient amount of non-potable water to provide for all resident services such as bathing, washing and flushing and support utilities during and immediately following a disaster.

d. When used, selected system appurtenances such as water pressure maintenance house pumps, and emergency water supply well pumps shall take power from the emergency power supply system(s).

8. Medical Gas Systems Standards. The distribution piping system and appurtenances shall be contained within a protected area(s) designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code.

9. Emergency Electrical Generator and Essential Electrical System Standards.

a. There shall be an on-site Level I emergency electrical generator system designed to support all occupied resident areas and resident support areas with at least the following support services:

(I) Ice making equipment to produce sufficient ice for the residents served;

(II) Refrigerator unit(s) and food service equipment if required by the emergency food plan;

(III) Life safety and critical branch lighting and systems as required by Chapter 59A-4, F.A.C.;

(IV) Selected HVAC systems and other systems as required by this rule;

b. The emergency generator system shall be fueled by a fuel supply stored on-site sized to fuel the generator for 100 percent load for 48 hours or for actual demand load of the occupied resident areas and resident support area(s) and resident support utilities during and immediately following a disaster.

(I) The fuel supply shall either be located below ground or contained within a protected area that is designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code. If an

underground system is utilized, it shall be designed so as to exclude the entrance of any foreign solids or liquids and have approval from the Environmental Protection Agency (EPA);

(II) All fuel lines supporting the generator system(s) shall be protected also with a method designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code.

(III) All panel boards, transfer switches, disconnect switches, enclosed circuit breakers or emergency system raceway systems required to support the occupied resident area(s), resident support area(s) or support utilities shall be contained within a protected area(s) designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code, and shall not rely on systems or devices outside of this protected area(s) for their reliability or continuation of service.

(IV) The emergency generator(s) shall be air or self-contained liquid cooled and it and other essential electrical equipment shall be installed in a protected area(s) designed and constructed to meet the structural and debris impact requirements as specified by the applicable building code.

#### 10. Fire Protection Standards.

a. If the facility required fire sprinklers as part of its fire protection, either of the following shall be met:

(I) Sufficient on-site water storage capacity to continue sprinkler coverage, or;

(II) A plan to provide a Fire Watch as approved by the agency for all areas of the facility without sprinkler coverage.

b. If sprinkler coverage is adversely affected by interrupted water flow, the facility shall provide for additional fire extinguishers in the resident occupied areas.

11. External Emergency Communications Standards. In conjunction with the County Emergency Management Agency, each facility shall provide an alternative form of electronic communication such as on-site radio transmitter or a written agreement with an amateur radio operator volunteer group(s). This agreement shall provide for a volunteer operator and communication equipment to be re-located into the facility in the event of a disaster until communications are restored. Other methods shall be pre-approved by the agency.

Specific Authority 400.23 FS. Law Implemented 400.23, 553.73, 633.022 FS. History—New 4-1-82, Amended 4-1-84, 2-29-92, Formerly 10D-29.120, 59A-4.120, Amended 2-6-97.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James (Skip) Gregory, Chief, Bureau of Plans and Construction, Agency for Health Care Administration, Building #1, Room 145, 2727 Mahan Drive, Tallahassee, Florida 32308, (850)487-0713

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ruben J. King-Shaw, Jr., Executive Director, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 19, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 1999

DEPARTMENT OF MANAGEMENT SERVICES

Career Service System

RULE CHAPTER TITLE: Disciplinary Actions, Grievances and Appeals
RULE CHAPTER NO.: 60K-9

RULE TITLE: Appeals to the Public Employees Relations Commission
RULE CHAPTER NO.: 60K-9.005

PURPOSE AND EFFECT: Repeals the subsection which limits an employees' appeals rights because of a demotion.

SUMMARY: The repeal removes the restriction on appeals to the Public Employees Relations Commission (PERC) by employees with Career Service status who have been demoted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: (None has been prepared).

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 110.227(2), 110.201(1) FS.

LAW IMPLEMENTED: 110.227(4),(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m., June 22, 1999

PLACE: Room 301, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard McLellan, Personnel Consultant, 4040 Esplanade Way, Tallahassee, Florida 32399-0950

THE FULL TEXT OF THE PROPOSED RULE IS:

60K-9.005 Appeals to the Public Employees Relations Commission.

(5)An employee who has earned permanent status in the Career Service in accordance with the provisions of Chapter 60K-4.004, F.A.C., shall have the right to appeal to the Public Employees Relations Commission any suspension, reduction in pay, transfer, layoff, demotion from a class in which the employee has permanent status in the Career Service System, or dismissal by the agency or officer by whom employed, except that:

(a) through (d) No change.

(e) An employee whose position is reclassified to a lower class which results in a demotion appointment shall not have the right to appeal the demotion to the Public Employees Relations Commission. If, however, the employee's salary is

reduced as a result of the demotion appointment, the employee shall have the right to appeal the reduction in pay to the Public Employees Relations Commission.

(e)(f) When an action is both appealable to the Public Employees Relations Commission and grievable under the grievance procedure prescribed by a collective bargaining agreement, an employee who is in a position that is in a certified bargaining unit covered by the agreement shall have the option of utilizing the Career Service appeal procedure or the collective bargaining grievance procedure, but such employee cannot use both the Career Service appeal procedure and the grievance procedure. Further, agencies employing sworn law enforcement or correctional personnel must assure that the provisions of Part VI of Chapter 112, Florida Statutes, Law Enforcement Officers' and Correctional Officers' Bill of Rights, are followed in the case of any employee covered by that statute. Agencies employing firefighter personnel must assure that the provisions of Part VIII of Chapter 112, Florida Statutes, Firefighters' Bill of Rights, are followed in the case of any employee covered by that statute.

(6) through (7) No change.

Specific Authority 110.227(2), 110.201(1) FS. Law Implemented 110.227(4),(5) FS. History--New 7-1-68, Revised 6-10-70, 7-1-73, Amended 4-30-79, 7-1-80, Formerly 22A-10.05, Amended 10-12-86, Formerly 22A-10.005, Amended 10-24-94.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon D. Larson, Director of Human Resource Management, Department of Management Services.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Derick Daniel, Deputy Secretary, Department of Management Services.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Barbers'

RULE TITLES: Renewal of Inactive License Fee
RULE NOS.: 61G3-20.015
Reactivation of Inactive License Fee 61G3-20.016

PURPOSE AND EFFECT: The proposed rules will set forth the fees charged for the renewal and reactivation of an inactive license.

SUMMARY: The proposed rules will set forth the fees for the renewal and reactivation of inactive barber and restricted barber licenses. Proposed rule 61G3-20.015 changes the fee charged for the renewal of an inactive license from \$100.00 to \$50.00; and, proposed rule 61G3-20.016 changes the fee charged for the reactivation of an inactive license from \$50.00 to \$100.00.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 476.064(4), 476.155 FS.

LAW IMPLEMENTED: 476.192(1)(a), 476.155 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW:

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ed Broyles, Executive Director, Barbers' Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G3-20.015 Renewal of Inactive License Fee.

The fee for renewal of an inactive barber or restricted barber license shall be fifty one hundred dollars (\$50.00) (~~\$100.00~~).

Specific Authority 476.064(4), 476.155 FS. Law Implemented 476.155(2) ~~476.192(1)(a)~~ FS. History--New 3-25-84, Formerly 21C-20.15, 21C-20.015, Amended 5-1-96, \_\_\_\_\_.

61G3-20.016 Reactivation of Inactive License Fee.

The fee for reactivation of an inactive barber or restricted barber license shall be one hundred fifty dollars (\$100.00) (~~\$50.00~~).

Specific Authority 476.064(4), 476.155 FS. Law Implemented 476.155(2) FS. History--New 3-25-84, Formerly 21C-20.16, Amended 5-11-88, 7-6-93, Formerly 21C-20.016, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Barbers' Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Barbers' Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 1999

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE TITLE: HIV/AIDS Education for Initial Licensure

RULE NO.: 64B11-2.007

PURPOSE AND EFFECT: The purpose is amend the rule text to update the requirements for continuing education on HIV/AIDS.

SUMMARY: The Board proposes to make amendments to this rule by updating the rule text to meet the mandated requirements for continuing education on HIV/AIDS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.604, 468.204 FS.

LAW IMPLEMENTED: 455.604 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE PUBLISHED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Occupational Therapy/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B11-2.007 HIV/AIDS Education for Initial Licensure.

(1) In order to comply with Section 455.604, Florida Statutes, each applicant for licensure as an Occupational Therapist must obtain for initial licensure a minimum of two hours of continuing education by participation in an approved formal training activity or self-study program on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome. In addition, the course shall include information on current Florida Law on Acquired Immune Deficiency Syndrome and its impact on testing, confidentiality of test results, ~~and~~ treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to Sections 381.004 and 384.25, Florida Statutes.

(2) through (3) No change.

Specific Authority 455.604, 468.204 FS. Law Implemented 455.604 FS. History--New 12-11-96, Formerly 59R-61.016, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 1999

**DEPARTMENT OF HEALTH**

**Board of Occupational Therapy**

RULE TITLE: HIV/AIDS Education for Initial Licensure  
 RULE NO.: 64B11-3.005  
 PURPOSE AND EFFECT: The purpose is amend this rule to update the mandated requirements for continuing education on HIV/AIDS.

SUMMARY: The Board proposes to make amendments to this rule to update the rule text to meet the mandated requirements for continuing on HIV/AIDS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.604, 468.204 FS.

LAW IMPLEMENTED: 455.604 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE PUBLISHED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Occupational Therapy/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

**THE FULL TEXT OF THE PROPOSED RULE IS:**

64B11-3.005 HIV/AIDS Education for Initial Licensure.

(1) In order to comply with Section 455.604, Florida Statutes, each applicant for licensure as an Occupational Therapy Assistant must obtain for initial licensure a minimum of two hours of continuing education by participation in an approved formal training activity or self-study program on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome. The course shall consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome. In addition, the course shall include information on current Florida Law on Acquired Immune Deficiency Syndrome and its impact on testing, confidentiality of test results, ~~and~~ treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to Sections 381.004 and 384.25, Florida Statutes.

(2) through (3) No change.

Specific Authority 455.604, 468.204 FS. Law Implemented 455.604 FS. History—New 12-11-96, Formerly 59R-62.013, Amended 4-5-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Occupational Therapy  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Occupational Therapy  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 1999  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 1999

**Section III  
 Notices of Changes, Corrections and  
 Withdrawals**

**GAME AND FRESH WATER FISH COMMISSION**

RULE NO.: 39-15.005  
 RULE TITLE: Quota Permits; Antlerless Deer Permits

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above proposed rule amendment regarding Fisheating Creek Wildlife Management Area, published in Florida Administrative Weekly, Vol. 25, No. 15, April 16, 1999, has been withdrawn.

**GAME AND FRESH WATER FISH COMMISSION**

RULE NO.: 39-15.061  
 RULE TITLE: Specific Regulations for Type I Wildlife Management Areas – South Region

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above proposed rule amendment regarding Fisheating Creek Wildlife Management Area, published in Florida Administrative Weekly, Vol. 25, No. 15, April 16, 1999, has been withdrawn.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-4.091  
 RULE TITLE: Publications and Agreements Incorporated 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. 25, No. 16, pages 1800 through 1805, April 23, 1999, issue of the Florida Administrative Weekly:

Environmental Resource Permitting Basis of Review Chapter Two – Administrative Criteria

Paragraph 2.6.1(2) shall now read as follows:

The project is a residential subdivision, condominium, commercial subdivision or industrial park and responsibility for the operation and maintenance of the surface water