

Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLE: Title Insurance Rates
 RULE NO.: 4-186.003

PURPOSE AND EFFECT: To decrease title insurance by 9%.

SUBJECT AREA TO BE ADDRESSED: Actuarial analysis resulting from our data collection for 1994, 1995 and 1996 indicated title insurance rates were 9% too high. Savings for the consumer will result in an average of a \$52 savings in title insurance premiums on each \$100,000 transaction.

SPECIFIC AUTHORITY: 624.308(1), 626.9611, 627.782 FS.
 LAW IMPLEMENTED: 626.9541(1)(h)3.a., 627.777, 617,782, 627.783, 627.7831, 627.7841, 627.7845 FS.

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: 10:00 a.m., March 25, 1999
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: W. M. Senter, Insurer Services, Department of Insurance

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)922-3110, ext. 4214.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-186.003 Title Insurance Rates.

The following are risk rate premiums to be charged by title insurers in this state for the respective types of title insurance contracts. To compute any insurance premium on a fractional thousand of insurance (except as to minimum premiums), multiply such fractional thousand by the rate per thousand applicable, considering any fraction of \$100.00 as a full \$100.00.

(1) Owner's and Leasehold Rates

(a) The risk premium for original owner's or leasehold insurance shall be:

	Per Thousand
From \$0 to \$100,000 of liability written	<u>\$5.23</u> \$5.75
From \$100,000 to \$1 million, add	<u>\$4.55</u> \$5.00
Over \$1 million and up to \$10 million, add	<u>\$2.73</u> \$3.00
Over \$10 million, add	<u>\$2.05</u> \$2.25

Minimum Premium for all conveyances
 except multiple conveyances \$100.00
 Minimum Premium for multiple conveyances
 on the same property (e.g., timesharing) \$60.00
 (b) No change.

(2) Owner's, Mortgage, and Leasehold Reissue Rates.
 (a) The reissue risk premium charge for Owner's, Mortgage, and Leasehold Title insurance policies shall be:

	Per Thousand
Up to \$100,000 of liability written	<u>\$3.00</u> \$3.30
Over \$100,000 and up to \$1 million, add	<u>\$2.73</u> \$3.00
Over \$1 million and up to \$10 million, add	<u>\$1.82</u> \$2.00
Over \$10 million, add	<u>\$1.37</u> \$1.50
Minimum Premium	\$100.00

(b) No change.
 (c) No change.
 (3) No change.
 (4) Mortgage Title Insurance Rates
 (a) The risk premium for mortgage title insurance shall be:

	Per Thousand
From \$0 to \$100,000 of liability written	<u>\$5.23</u> \$5.75
From \$100,000 to \$1 million of liability written, add	<u>\$4.55</u> \$5.00
Over \$1 million and up to \$10 million, add	<u>\$2.73</u> \$3.00
Over \$10 million, add	<u>\$2.05</u> \$2.25
Minimum Premium	\$100.00

Minimum Premium for multiple conveyances on the same property (e.g., timesharing) \$60.00
 (b) No change.
 (5) through (13) No change.

Specific 624.308(1), 626.9611, 627.782 FS. Law Implemented 626.9541(1)(h)3.a., 627.777, 627.782, 627.783, 627.7831, 627.7841, 627.7845 FS. History--New 9-17-71, Amended 12-28-73, Repromulgated 12-24-74, Amended 4-12-82, 12-23-82, Formerly 4-21.03, Amended 6-25-86, 2-26-90, 7-26-90, 2-27-91, Formerly 4-21.003, Amended 2-13-95,_____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 97-35R

RULE CHAPTER TITLE: Management of Uplands Vested in the Board of Trustees
 RULE CHAPTER NO.: 18-2

PURPOSE AND EFFECT: At the May 12, 1998 meeting, the Board of Trustees directed the Department of Environmental Protection to modify chapter 18-2 to address under what conditions a public or private entity may use uplands owned by the Board of Trustees to implement mitigation projects required for issuance of a permit under chapter 161 of the Florida Statutes or part IV of chapter 373 of the Florida Statutes. Chapter 18-21 of the Florida Administrative Code,

Sovereignty Submerged Lands Management, is proposed to be modified similar to and concurrent with the changes proposed herein for chapter 18-2. During the rule development process, the Department may decide to amend any or all of the rule sections contained in chapter 18-2 of the Florida Administrative Code.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment will include the standards and criteria that must be met when mitigation is proposed to be conducted on state-owned uplands as a requirement for issuance of a permit under chapter 161 of the Florida Statutes or part IV of chapter 373 of the Florida Statutes. In addition, the proposed rules will include a prohibition against implementing a mitigation bank as provided in sections 373.4135-4136 of the Florida Statutes and chapter 62-342 of the Florida Administrative Code, on state-owned uplands.

SPECIFIC AUTHORITY: 253.03, 253.08, 270.11 FS.

LAW IMPLEMENTED: 253.022, 253.03, 253.034, 253.11, 253.42-.44, 253.51-.61, 270.08, 270.11 FS.

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., Wednesday, March 24, 1999

PLACE: Department of Environmental Protection, Twin Towers, Room 609, 2600 Blairstone Road, Tallahassee, Florida 32399-2400

TIME AND DATE: 1:00 p.m., Thursday, March 25, 1999

PLACE: St. Johns River Water Management District, Orlando Field Office, Wekiva Conference Room, 618 East South Street, Orlando, Florida 32803

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance Bersok, Environmental Administrator, Bureau of Submerged Lands and Environmental Resources, MS 2500, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)921-9858

A copy of the agenda may be requested in writing, by telephone at 850-921-9858, or electronic mail (bersok_c@dep.state.fl.us). If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)487-1855 or (800)955-8771 (TDD), at least seven days before the meeting.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

18-2.017 Definitions.

When used in this rule chapter, the following shall have the indicated meaning unless the context clearly indicates otherwise:

(1) through (50) No change.

(51) "Restoration planning document" means any plan whose purpose is comprehensive management of water quality or natural resources, such as a management plan under section 253.034, F.S.; a surface water and improvement plan under section 373.451, F.S.; an aquatic preserve plan under section 18-20.013, F.A.C.; a regional water supply plan under section 373.0361(5), F.S.; or an ecosystem management plan or agreement.

(51) through (67) renumbered (52) through (68) No change.

Specific Authority 253.03 FS. Law Implemented 253.022, 253.034 FS. History--New 6-4-96, Amended _____.

18-2.018 Policies, Standards, and Criteria for Evaluating, Approving, or Denying Request to Use Uplands.

Applications to use Trustees-owned uplands and decisions to approve or reject such applications will be based on all of the following:

(1) No change.

(2) General Policies

(a) through (p) No change.

(q) Mitigation required for issuance of a permit under chapter 161, F.S., or Part IV of chapter 373, F.S., on state-owned uplands shall meet the following criteria:

1. Mitigation shall be consistent with the restoration and enhancement objectives identified in any restoration planning document that exists for those state lands;

2. The mitigation design shall be approved by the land manager when a managing agency has been assigned;

3. The needed enhancement or restoration is not funded at the time the site is considered for the mitigation project. Mitigation may replace previously funded restoration or enhancement only if the funding is redirected to other restoration or enhancement activities on state-owned lands; and

4. Mitigation shall not be used to remedy unauthorized activities on state-owned uplands unless enforcement remedies are not available or cannot fully restore the damage caused by the unauthorized activities;

(r) Mitigation banking, as provided for in sections 373.4135-4136, F.S., and chapter 62-342, F.A.C., on state-owned uplands is prohibited.

(3) No change.

Specific Authority 253.03, 270.08, 270.11 FS. Law Implemented 253.03, 253.034, 253.11, 253.51-61, 253.42-44, 270.08, 270.11 FS. History--New 6-4-96, Amended _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

DOCKET NO.: 97-37R

RULE CHAPTER TITLE: Sovereignty Submerged
Lands Management

RULE CHAPTER NO.: 18-21

PURPOSE AND EFFECT: At the May 12, 1998 meeting, the Board of Trustees directed the Department of Environmental Protection to modify chapter 18-21 to address under what conditions a public or private entity may use sovereign submerged lands owned by the Board of Trustees to implement mitigation projects required for issuance of a permit under chapter 161 of the Florida Statutes or part IV of chapter 373 of the Florida Statutes. Chapter 18-2 of the Florida Administrative Code, Management of Uplands Vested in the Board of Trustees, is proposed to be modified similar to and concurrent with the changes proposed herein for chapter 18-21. During the rule development process, the Department may decide to amend any or all of the rule sections contained in chapter 18-21 of the Florida Administrative Code.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment will include the standards and criteria that must be met when mitigation is proposed to be conducted on sovereign submerged lands owned by the Board of Trustees as a requirement for issuance of a permit under chapter 161 of the Florida Statutes or part IV of chapter 373 of the Florida Statutes. In addition, the proposed rules will include a prohibition against implementing a mitigation bank as provided in sections 373.4135-.4136 of the Florida Statutes and chapter 62-342 of the Florida Administrative Code, on sovereign submerged land.

SPECIFIC AUTHORITY: 253.03, 253.0345, 253.73 FS.**LAW IMPLEMENTED:** 253.002, 253.01, 253.02, 253.03, 253.034, 253.0345, 253.04, 253.041, 253.12, 253.1221, 253.141, 253.51, 253.61, 253.67, 253.68, 253.72, 253.74, 253.75, 253.77 FS.**RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:****TIME AND DATE:** 1:00 p.m., Wednesday, March 24, 1999**PLACE:** Department of Environmental Protection, Twin Towers, Room 609, 2600 Blairstone Road, Tallahassee, Florida**TIME AND DATE:** 1:00 p.m., Thursday, March 25, 1999**PLACE:** St. Johns River Water Management District, Orlando Field Office, Wekiva Conference Room, 618 East South Street, Orlando, Florida**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Constance Bersok, Environmental Administrator, Bureau of Submerged Lands and Environmental Resources, MS 2500, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)921-9858.

A copy of the agenda may be requested in writing, by telephone at (850)921-9858, or by electronic mail (bersok_c@dep.state.fl.us). If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)487-1855 or (800)955-8771 (TDD), at least seven days before the meeting.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**18-21.003 Definitions.**

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

(1) through (46) No change.

(47) “Restoration planning document” means any plan whose purpose is comprehensive management of water quality or natural resources, such as a management plan under section 253.034, F.S.; a surface water and improvement plan under section 373.451, F.S.; an aquatic preserve plan under section 18-20.013, F.A.C.; a regional water supply plan under section 373.0361(5), F.S.; a marine sanctuary plan under U.S. Marine Protection, Research and Sanctuaries Acts of 1972 and 1990; a national estuary program plan under the Clean Water Act of 1987; a national estuarine research reserve plan under section 315 of the Coastal Zone Management Act of 1972 (15 CFR Part 921); or an ecosystem management plan or agreement.

(47) through (57) renumbered (48) through (58) No change.

Specific Authority 253.03(7), 253.0345 FS. Law Implemented 253.002, 253.02, 253.03, 253.0345, 253.1221, 253.67, 253.77 FS. History—New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83, 2-25-85, Formerly 16Q-21.03, 16Q-21.003, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 3-20-94, 10-15-98.

18-21.004 Management Policies, Standards, and Criteria.

The following management policies, standards, and criteria shall be used in determining whether to approve, approve with conditions or modifications, or deny all requests for activities on sovereign submerged lands.

(1) General Proprietary

(a) through (j) No change.

(k) Mitigation required for issuance of a permit under chapter 161, F.S., or Part IV of chapter 373, F.S., on sovereign submerged lands, except for mitigation proposed by a riparian upland owner or riparian lessee of a single family residence within his or her riparian area, shall meet the following criteria:

1. Mitigation shall be consistent with the restoration and enhancement objectives identified in any restoration planning document that exists for sovereign submerged lands;

2. The mitigation design shall be approved by the land manager when a managing agency has been assigned;

3. The needed enhancement or restoration is not funded at the time the site is considered for the mitigation project. Mitigation may replace previously funded restoration or

enhancement only if the funding is redirected to other restoration or enhancement activities on sovereign submerged lands in the same waterbody; and

4. Mitigation shall not be used to remedy unauthorized activities on sovereign submerged lands unless enforcement remedies are not available or cannot fully restore the damage caused by the unauthorized activities.

(l) Mitigation banking, as provided for in sections 373.4135-4136, F.S., and chapter 62-342, F.A.C., on sovereign submerged lands is prohibited.

Specific Authority 253.03, 253.73 FS. Law Implemented 253.03, 253.034, 253.04, 253.041, 253.141, 253.51, 253.61, 253.68, 253.72, 253.74, 253.75, 253.77 FS. History--New 3-27-82, Amended 8-1-83, Formerly 16Q-21.04, 16Q-21.004, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 10-15-98,

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Procedural
 RULE CHAPTER NO.: 40D-1

RULE TITLES: Permit Processing Fee
 RULE NOS.: 40D-1.607
 Forms and Instructions 40D-1.659

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to incorporate changes to Chapter 40D-1, F.A.C., necessitated by the repeal of Chapter 40D-45, F.A.C., and the creation of a Noticed General Permit for certain minor mining activities.

SUBJECT AREA TO BE ADDRESSED: The rule development will address revisions to various sections of Chapter 40D-1, listed above, that will require amendment concurrent with the District's proposed repeal of Chapter 40D-45 and the development of a Noticed General Permit for certain minor mining activities.

SPECIFIC AUTHORITY: 373.044, 373.046, 373.109, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.046, 373.085, 373.109, 373.113, 373.219, 373.337, 373.413, 373.4135, 373.414, 373.416, 373.419, 373.421, 373.427 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 5:30 p.m., March 16, 1999
 PLACE: Southwest Florida Water Management District's Tampa Service Office, Board Room, 7601 U.S. Highway 301, North, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Karen E. West, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

The Southwest Florida Water Management District does not discriminate on the basis of any individual's disability status. Anyone requiring reasonable accommodation as provided for in the American's With Disabilities Act should contact: Dianne Lee, (352)796-7211 or 1(800)423-1476, extension 4658; TDD 1(800)231-6103; FAX (352)754-6878, SUNCOM 663-6878.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
 RULE CHAPTER NO.: Resource Permits 40D-4

RULE TITLES: Definitions 40D-4.021
 Permits Required 40D-4.041
 Exemptions 40D-4.051
 Alteration of Exempt Projects 40D-4.054
 Publications and Agreements Incorporated by Reference 40D-4.091
 General Conditions 40D-4.381

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to incorporate changes to Chapter 40D-4, F.A.C., necessitated by the repeal of Chapter 40D-45, F.A.C., and the creation of a Noticed General Permit for certain minor mining activities.

SUBJECT AREA TO BE ADDRESSED: The rule development will address the various sections of Chapter 40D-4, listed above, that will require amendment concurrent with the District's proposed repeal of Chapter 40D-45 and the development of a Noticed General Permit for certain minor mining activities.

SPECIFIC AUTHORITY: 120.54(8), 373.044, 373.046, 373.113, 373.118, 373.149, 373.171, 373.414, 373.414(9) FS.

LAW IMPLEMENTED: 373.042, 373.046, 373.103(8), 373.114, 373.403, 373.406, 373.409, 373.413, 373.414, 373.414(9), 373.416, 373.426, 373.427, 373.429, 373.441 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 5:30 p.m., March 16, 1999
 PLACE: Southwest Florida Water Management District's Tampa Service Office, Board Room, 7601 U.S. Highway 301, North, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Karen E. West, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

The Southwest Florida Water Management District does not discriminate on the basis of any individual's disability status. Anyone requiring reasonable accommodation as provided for in the American's With Disabilities Act should contact: Dianne Lee, (352)796-7211 or 1(800)423-1476, extension 4658; TDD 1(800)231-6103; FAX (352)754-6878, SUNCOM 663-6878.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Standard General Environmental Resource Permits

RULE CHAPTER NO.: 40D-40

RULE TITLE: Conditions for Issuance of Standard General Permit for Minor Surface Water Management Systems

RULE NO.: 40D-40.301

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to incorporate changes to Chapter 40D-40, F.A.C., necessitated by the repeal of Chapter 40D-45, F.A.C., and the creation of a Noticed General Permit for certain minor mining activities.

SUBJECT AREA TO BE ADDRESSED: The rule development will address various sections of Chapter 40D-40, listed above, that will require amendment concurrent with the District's proposed repeal of Chapter 40D-45 and the development of a Noticed General Permit for certain minor mining activities.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.
LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.427 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 5:30 p.m., March 16, 1999
PLACE: Southwest Florida Water Management District's Tampa Service Office, Board Room, 7601 U.S. Highway 301, North, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Karen E. West, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

The Southwest Florida Water Management District does not discriminate on the basis of any individual's disability status. Anyone requiring reasonable accommodation as provided for in the American's With Disabilities Act should contact: Dianne Lee, (352)796-7211 or 1(800)423-1476, extension 4658; TDD 1(800)231-6103; FAX (352)754-6878, SUNCOM 663-6878.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Environmental Resource Permits

RULE CHAPTER NO.: 40D-400

RULE TITLE: General Permit for New Mining and New Mining Related Site Activities for a Small Barrow Pit

RULE NO.: (Unassigned)

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to create a Noticed General Permit for certain minor mining activities.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the development of a Noticed General Permit for certain minor mining activities.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.
LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.419 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 5:30 p.m., March 16, 1999
PLACE: Southwest Florida Water Management District's Tampa Service Office, Board Room, 7601 U.S. Highway 301, North, Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Karen E. West, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, Florida 34609-6899, (352)796-7211, extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

The Southwest Florida Water Management District does not discriminate on the basis of any individual's disability status. Anyone requiring reasonable accommodation as provided for in the American's With Disabilities Act should contact: Dianne Lee, (352)796-7211 or 1(800)423-1476, extension 4658; TDD 1(800)231-6103; FAX (352)754-6878, SUNCOM 663-6878.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Works or Lands of the District	40E-6
RULE TITLES:	RULE NOS.:
Part I	
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	
Conditions for Issuance of Permits	40E-6.301
Access to Works and Lands of the	
District; Closures	40E-6.311
Duration of Permits	40E-6.321
Modification of Permits	40E-6.331
Revocation of Permits	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.

SUBJECT AREA TO BE ADDRESSED: 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.

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 RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 7:00 p.m., March 24, 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 DEVELOPMENT 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, (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.

(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 the 40 foot right of way, 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. Accordingly, no future authorizations by the District shall allow above ground facilities or uses within that 40 foot 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:

INSERT FIGURE 1

*The District's rights of way vary in width, and may be either less than forty feet or more than forty feet in width. Accordingly, in those cases when the right of way is less than forty feet, only those zones depicted above would be applicable to the actual width of the right of way.

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, a 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 common 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 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 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 name 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, 373.117, 471.003 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

(g) 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 – VIOLATIONS

40E-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 basin);
- (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 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

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 developers, builders, 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 relating to bridges, excluding culvert bridges (Category NGP-3).....\$900.00.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

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

(i) 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 _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: RULE NO.:
Renewal of Active Status License 61G18-12.005
Fee for Veterinarians

PURPOSE AND EFFECT: The Board proposes to amend the existing rule to reduce the renewal fee of active status license to \$160.00.

SUBJECT AREA TO BE ADDRESSED: Renewal of Active Status License Fee for Veterinarians.

SPECIFIC AUTHORITY: 474.206, 474.211 FS.

LAW IMPLEMENTED: 474.211, 474.2065 FS.

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: 10:30 a.m., March 24, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: John Currie, Executive Director, Board of Veterinary Medicine, Department of Business and Professional Regulation, Northwood Mall, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G18-12.005 Renewal of Active Status License Fee for Veterinarians.

The fee for biennial renewal of an active status license shall be ~~\$260.00~~ \$160.00.

Specific Authority 474.206, 474.211 FS. Law Implemented 474.211, 474.2065 FS. History-New 11-14-79, Amended 3-1-84, Formerly 21X-12.05, Amended 12-14-87, 7-26-89, Formerly 21X-12.005, Amended 2-6-95, _____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Resource Management

DOCKET NO.: 98-62R

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Regulation of Oil & Gas Resources:

Wetlands and Submerged Lands 62C-30

RULE TITLE: RULE NO.:

Operations Within Coastal Waters 62C-30.007

PURPOSE AND EFFECT: The purpose of the workshop is to develop the final draft of a new rule which will set forth the requirements necessary and sufficient for engaging in oil and gas exploration activities in Florida's coastal waters. The effect will be to better regulate exploration and production operations in Florida, onshore and offshore.

SUBJECT AREA TO BE ADDRESSED: Offshore exploration.

SPECIFIC AUTHORITY: 377.22, 377.24 FS.

LAW IMPLEMENTED: 377.21, 377.22, 377.241, 377.2425, 377.243, 377.371(1) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., April 13, 1999

PLACE: Conference Room A, Douglas Building, 3900 Commonwealth Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Carolyn Stringer, Florida Geological Survey, 903 West Tennessee Street, Tallahassee, Florida 32304-7700, (850)487-2219

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)487-1855 or 1(800)955-8771 (TDD), at least seven days before the meeting.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

62C-30.007 Operations Within Coastal Waters.

Operations within coastal waters shall mean all drilling and producing operations conducted upon sovereign submerged lands below the mean high water line. All rules contained in Chapters 62C-25 through 30, FAC, shall also apply to operations within coastal waters unless clearly not applicable or unless superseded by this rule.

(1) Each Drilling Permit Application shall include an Organization Report, Application Fee, Surety, and 25 copies of the following items: Application to Drill, Location Map, Location Plat, Site Construction Plan, Site Inspection Report, Hurricane Plan, Well Design and Construction Plan, H₂S Contingency Plan, Well Testing Plan, Oil Spill Contingency Plan, Environmental Impact Report, and an Economic Impact Report. Each of these items is discussed below.

(a) Organization Report (Form 1): File in accordance with 62C-25.008, FAC.

(b) Application Fee: File in accordance with 62C-26.003(8), FAC.

(c) Surety: File a bond or other form of legal surety as required under Section 377.2425(1)(c), F.S., together with an explanation of how the surety amount was derived. This surety shall be sufficient to cover all potential costs based on the following criteria:

1. Maximum Oil Spill. Calculate the maximum potential oil spill by assuming a maximum possible blowout rate based on the following criteria: 1) duration of 120 days; 2) the producing zone is completely penetrated by the well bore; 3) zero skin damage; 4) maximum potential porosity, permeability, and formation pressure and; 5) 35^o API oil.

2. Adverse Hydrochloric/Atmospheric Conditions. Assume 12 knot winds for the entire 120 day period resulting in maximum adverse impact to adjacent environments along the coast.

3. Natural Resource Damages. Use the procedure described in Section 376.121, F.S., to calculate potential natural resource damages. Estimates of habitat acreage used in the calculation shall be submitted together with references. Assume damage to all habitats coming in contact with oil at or above a threshold thickness of one millimeter and submerged habitats overlain by less than 2 feet of water at mean low tide.

4. Projected Cleanup Costs. Prepare and submit a professional estimate of the Projected Cleanup Costs based upon the above assumptions. Include every cost that would result from such a spill, including on the water recovery, shoreline recovery, waste disposal, personnel and equipment, land-based support of any kind for each phase of cleanup activity, and direct cleanup costs borne by third parties (e.g. USCG, FDEP). Describe the entire cleanup process and explain the rationale for any assumptions used in the estimate and include references.

(d) Application to Drill (Form 3): File in accordance with 62C-25.008, FAC.

(e) Location Map. Provide a navigational chart or other area map of sufficient scale to show the general location of the well and surrounding area. The map should show all important physical features which help fix the location relative to nearby natural resources, Florida's coastline, and offsetting political subdivisions. This map shall include barrier islands, military zones, shipping lanes, navigational markers and hazards, disposal areas, artificial reefs, coastal towns, county lines, river mouths, drilling unit boundaries, proposed support vessel and helicopter routes, shore facilities, area well locations, parks, nature preserves, and major natural features such as seagrass beds, reefs, live and hardbottom areas, and other known marine communities. The surface hole shall be plotted and labeled with well name, latitude-longitude coordinates, and proposed vertical depth. If the applicant proposes significant directional or horizontal well bore deviation, the map shall also delineate the well trace and bottom hole location.

(f) Location Plat. File a location plat constructed by a registered surveyor and drawn to a scale sufficiently large, preferably 1:3000, to show the information described below. The plat may be based on LORAN, GPS, or any other equally accurate and appropriate method and shall show the elevation and the exact surface location, bottom hole location, surface trace of the proposed well, drilling unit boundaries and all prominent seabed features (shipwrecks, oyster reefs, hardbottoms, etc.) within the drilling unit. Bearings and distances to adjacent wells, proposed locations, unleased acreage, and important seabed features shall also be designated on the plat.

(g) Site Construction Plan. File a Site Construction Plan with Plat drawn to a scale of no more than 1:2000 and showing rig orientation; location of rig feet; pilings; anchors; landings for support vessels, barges, and helicopters; and prominent seabed features, including potential geologic hazards which fall within 1000 feet of the rig. The Plan shall include a written description of moving in and rigging up, construction necessary prior to spudding, and potential impacts on the safflower. Include any drawings, illustrations, specifications, or other information necessary to fully clarify the Plan.

(h) Site Inspection Report. File a complete, site specific, professional, biological-ecological-geological survey of the drilling pad and all seabottom within 1,000 meters of the proposed wellbore. The Report shall include a detailed photodocumentation survey together with a complete written report of all findings.

1. Photodocumentation. Each photodocumentation survey shall be conducted along at least 12 transects, each 1,000 meters long and 30 degrees from adjacent transects, radiating away from the proposed wellbore. Both television and still color photos of sufficient quality to accurately characterize the seabottom shall be taken. Still photos, encompassing a standard surface area of approximately .25 m², shall be taken along each transect at intervals of no more than 200 meters. Should a live bottom area be encountered along any transect, representative still photographs and continuous, narrated, video documentation of the entire live bottom area, regardless of distance from the transect, shall be taken. In addition, complete video documentation with explanatory audio track shall be provided for the full length of each transect.

2. Written Report. The written report shall explain the scientific rationale upon which the report is based and shall completely describe all ambient conditions in the study area. This Report shall include an introduction; a description of each piece of equipment used; a fully indexed diagram of each photodocumentation transect and each photo taken; a large scale map of the study area showing relative locations of transects, photos, hard bottoms and other findings; and a full discussion of all findings and conclusions, including descriptions of the substrate, habitats, fauna, flora, samples taken, geological hazards found, and potential environmental impacts at the rig site.

(i) Hurricane Plan. File a Hurricane Plan fully describing the rigs ability to withstand category five hurricanes and listing procedures to be employed at the drill site in the event of such a hurricane. Should the applicant wish to use the same Plan for subsequent wells, he/she may include the Plan by reference in later applications. However, all applications shall include a section entitled "Hurricane Plan" and shall state that a previously submitted plan will be used and shall identify both the plan and the application under which the plan was first submitted.

(j) Well Design and Construction Plan. Submit a Well Design and Construction Plan fully explaining how the well will be drilled and equipped or plugged and abandoned. A copy of the Drilling Prognosis provided the rig superintendent may be provided for this purpose, otherwise submit complete Casing and Cementing, Drilling, Drilling Mud, Blowout Prevention and Well Control, and Plugging and Site Restoration Programs, all with sufficient detail and specifications to insure quality control and to demonstrate that all Plan components meet petroleum industry and Department standards.

(k) H₂S Contingency Plan. Submit a complete H₂S Contingency Plan for controlling H₂S should it be encountered. This plan must deal with all aspects of H₂S control and must meet industry standards. In addition, the plan must model H₂S dispersion in sufficient detail to determine with reasonable certainty the minimum safe distance (breathable concentration of H₂S) from the rig in the event of a worst case release. For modeling purposes, use an H₂S concentration of 26% and a contour interval of 5 ppm.

(l) Well Testing Plan. Explain how the well will be tested and what will be done with produced fluids. Describe the flare system, transport mode and route, landfalls, shore facilities with construction details, etc. At the applicant's request, this requirement may be waived if the applicant wishes to apply for a drilling permit only and return at a later date for an Operating Permit to transport test fluids.

(m) Oil Spill Contingency Plan. Submit an Oil Spill and Contingency Plan for the prevention, control, and removal of a 42,000 gallon model spill and designate the person responsible for implementing the plan. Include Quality Control, Zero Discharge, Spill Trajectory, and Cleanup components as discussed below.

1. Quality Control. Submit a sampling plan to determine ambient conditions at the drilling site prior to startup, site conditions during drilling operations with the goal of early detection of any leaks that may occur during drilling, and after all operations have been concluded to demonstrate that the site has not been polluted.

2. Zero Discharge. The prevention component shall include plans for the use of a Zero Discharge Rig complete with a plan of implementation to guarantee that the rig (and all associated activities) is employed to its full potential in preventing discharges of all kinds, including runoff, materials transported to or from the rig, and produced fluids.

3. Spill Trajectory. Submit an analytical model depicting anticipated movements of a 42,000 gallon model spill. Include trajectory analysis based on meteorological and oceanographic data and reference the models or standard analytical procedures used.

4. Control and Removal. Completely describe all aspects of the spill response capability with regard to both the restraint and cleanup of any spill that may occur. Every contingency in all manageable wind and weather conditions shall be addressed, including notification list and procedures, locations and identities of response vessels and equipment, various transit times to spill area, personnel to be employed, inventory of containment and cleanup materials and equipment maintained on site, dispersants (if authorized), communications systems, and all other components necessary to complete a petroleum industry standards plan together with a complete discussion of the plan of operations which will be put into place in the event of such a spill.

(n) Environmental Impact Report. Submit a professional Environmental Impact Report addressing all known or likely environmental impacts drilling and testing the well as planned may have assuming 1) there are no accidental discharges and 2) assuming a 42,000 gallon model spill. Explain the rationale underlying the report and describe each possible impact that could occur, including those on air quality, birds, marine communities, archaeological resources, coastal habitats, barrier islands, threatened or endangered species (e.g.; various sea turtles, plovers, manatees), water quality, and the seafloor.

(o) Economic Impact Report. Submit a professional Economic Impact Report addressing all known or likely economic impacts drilling and testing the well as planned may have, again assuming no accidents of any kind and 2) assuming a 42,000 gallon model spill. Explain the rationale underlying the report and treat all known or suspected impacts to the various businesses and individuals who might be affected as well as to the area economy in general.

(2) Production Platforms. All requirements for drilling a well from a portable drilling rig apply equally to drilling additional wells from a production platform. However, any component of an application to drill an additional well that is identical to a that of a previously drilled well or pending application may be, at the applicant's written request and upon concurrence by the Survey, included by reference in the new application.

(3) Geologic Information. Submit sufficient geologic interpretations and data to show that the quality of the drilling prospect warrants exploration in light of the nature, character, and location of the lands involved. This material should include all studies, data, cross-sections, maps, plats, or other information the applicant wishes to provide to support the prospect. This information shall be, upon written request of the applicant, held confidential by the Survey for up to ten consecutive one-year periods.

Specific Authority 377.22(2) FS. Law Implemented 377.21, 377.22, 377.241, 377.2425, 377.243, 377.371(1). FS. History--New _____.

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: Excused Absences
PURPOSE AND EFFECT: The purpose of the proposed rule is to implement 455.534(3).
SUBJECT AREA TO BE ADDRESSED: Excused Absences.
SPECIFIC AUTHORITY: 455.534 FS.
LAW IMPLEMENTED: 455.534 FS.
IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

RULE NO.: 64B1-1.0035

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: William Buckhalt, Executive Director, Board of Acupuncture, 2020 Capital Circle, Southeast, BIN #C06, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B1-1.0035 Excused Absences.

Excused absences of board members are defined as absences caused by:

- (1) Illness or injury of the board member.
- (2) Illness, injury or death of a board member's immediate family.
- (3) Jury duty.

Specific Authority 455.534(3) FS. Law Implemented 455.534(3) FS. History--New _____.

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: Security and Monitoring Procedures for Licensure Examinations
RULE NO.: 64B1-3.008

PURPOSE AND EFFECT: The purpose of the amendment is to adopt the Department of Health rule on security and monitoring procedures for license examination.

SUBJECT AREA TO BE ADDRESSED: Security and Monitoring Procedures for Licensure Examinations.

SPECIFIC AUTHORITY: 455.574(1)(d) FS.

LAW IMPLEMENTED: 455.574(1)(d) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: William Buckhalt, Executive Director, Board of Acupuncture, 2020 Capital Circle, Southeast, BIN #C06, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B1-3.008 Security and Monitoring Procedures for Licensure Examinations.

The Board adopts by referenced Rule ~~64B-1.010~~ ~~61-11-014~~, F.A.C., of the Department of ~~Health Business and Professional Regulation~~, effective September 7, 1998 as its rule governing licensure examinations.

Specific Authority 455.574(1)(d) FS. Law Implemented 455.574(1)(d) FS. History--New 8-13-84, Formerly 21AA-3.08, 21AA-3.008, 61F1-3.008, 59M-3.008, Amended _____.

DEPARTMENT OF HEALTH

Board of Acupuncture

RULE TITLE: Standards for Approval of Continuing Education Credits
 RULE NO.: 64B1-6.005

PURPOSE AND EFFECT: The purpose of the amendment is to insert a statutory reference instead of listing all the statutory requirements for HIV/AIDS courses, and to clarify that the Board approves courses approved by the Department of Health.

SUBJECT AREA TO BE ADDRESSED: Standards for Approval of Continuing Education Credits.

SPECIFIC AUTHORITY: 457.104, 457.107(3), 455.604 FS.

LAW IMPLEMENTED: 457.107(3), 455.604 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: William Buckhalt, Executive Director, Board of Acupuncture, 2020 Capital Circle, Southeast, BIN #C06, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B1-6.005 Standards for Approval of Continuing Education Credits.

(1) through (4) No change.

(5) To receive credit for programs on HIV/AIDS, the program must be, at a minimum, 3 hours in length and must address the areas mandated in Section 455.604, F.S. consist of education on the modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS; and discussion of current Florida law on HIV/AIDS and its impact on testing, confidentiality of test results, and treatment of patients. The Board accepts HIV/AIDS programs presented or conducted by the Department, and the Department of Health and programs approved. ~~The Board also accepts courses for three hours of credit approved~~ by other professional regulatory boards for the health professions.

Specific Authority ~~455.2226,~~ 457.104, 457.107(3), 455.604 FS. Law Implemented ~~455.2226,~~ 457.107(3), 455.604 FS. History–New 2-24-88, Amended 8-6-89, Formerly 21AA-6.005, 61F1-6.005, Amended 3-18-97, Formerly 59M-6.005, Amended.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES: Examination Review Procedures
 RULE NOS.: 64B3-7.006
 Competency Areas and Weighting 64B3-7.007

PURPOSE AND EFFECT: The Board proposes to amend the existing Rule 64B3-7.006 to change the fee for examination to \$75. The Board also proposes changes to Rule 64B3-7.007 with regard to competency areas and weighting of the examination.

SUBJECT AREA TO BE ADDRESSED: The fee for examination review and competency areas and weighting of the examination.

SPECIFIC AUTHORITY: 455.574, 483.809 FS.

LAW IMPLEMENTED: 455.574, 483.809(2), 483.811 FS.

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: 10:00 a.m., March 24, 1999

PLACE: Room 324, Collins Building, 107 West Gaines Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-7.006 Examination Review Procedures.

(1) No change.

(2) The fee for each review for each examination shall be ~~\$65~~ \$75.

Specific Authority 455.574, 483.809(2) FS. Law Implemented 455.574, 483.809(2) FS. History–New 12-5-95, Formerly 59O-7.006, Amended.

64B3-7.007 Competency Areas and Weighting.

~~Beginning with the Spring of 1999,~~ The general areas of competency to be covered by the examinations for licensure and the approximate relative weight to be assigned in grading each content area tested, expressed as a percentage, ~~with column “T” for Technologist and “TC” for Technician~~ are as follows:

(1) No change.

(2) For the Specialty subjects for licensure as a Technologist:

(a) Microbiology:	F	TC
1. General bacteriology	50	60
2. Mycology	10	2
3. Parasitology	10	2

4. Virology, rickettsia, chlamydia	4	0
5. Infection control, surveillance and epidemiology	3	0
6. Antimicrobial agents and studies	5	6
7. Quality control/quality assurance	10	10
8. Equipment and Safety	3	6
9. Sterilization	1	6
10. Specimen collection, handling and logging	4	8
(b) Serology/Immunology:		
1. Basic immunology	20	44
2. Immunology	22	20
3. Quality control/quality assurance	10	10
4. Detection of immune substances	22	10
5. Evaluation of immune related cells	10	10
6. Production of antisera	2	0
7. Immunologically mediated or related conditions	8	0
8. Specimen collection/handling/safety	6	6
(c) Clinical chemistry:		
1. Clinical chemistry, biochemistry	40	50
2. Instrumentation	10	8
3. Urinalysis other fluids and crystals	10	16
4. Toxicology and therapeutic drug monitoring	6	10
5. Quality control/quality assurance	8	6
6. Correlation and test results	4	6
7. Blood gas analysis	4	0
8. Radioassay and Immunoassay	4	0
9. Specimen collection/handling/safety	4	4
(d) Hematology:		
1. Hematopoiesis	4	4
2. Hematological procedures	44	55
3. Hematologic disorders	14	8
4. Hemostasis	16	16
5. Quality control/quality assurance	10	6
6. Therapy and monitoring therapy	2	2
7. Microscopy/body fluids	6	5
8. Specimen collection/handling/safety	4	4
(e) Immunohematology:		
1. Immunology	10	17
2. Blood group systems, genetics, antigen and antibody identifications	25	20
3. Serologic/Immunohematologic testing	25	25
4. Transfusion reactions/problems	5	3
5. Physiology and transfusion practice	20	15
6. Quality assurance, safety, regulations	10	10

7. Specimen collection/handling/ storage	5	10
(f) Histology:		
1. Instrumentation	10	8
2. Fixation	8	16
3. Processing	10	12
4. Microtomy	8	14
5. Staining	20	20
6. Mounting/evaluation	2	4
7. Special techniques	14	8
8. Flow cytometry/immunohistology	0	0
9. Quality control/quality assurance	8	8
10. Specimen collection/handling/safety	10	10

(g) Blood Banking:

1. through 5. No change.

(3) For the Generalist Examination for licensure as a technician:

(a) Microbiology	18
(b) Serology/immunology	16
(c) Clinical chemistry	31
(d) Hematology	17
(e) Immunohematology	18

Specific Authority 455.574, 483.809 FS. Law Implemented 455.574, 483.811 FS. History—New 12-5-95, Formerly 590-7.007, Amended 7-5-98, _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLES:	RULE NOS.:
Application Fees	64B3-9.001
Initial Licensure Fees	64B3-9.002
Refunds	64B3-9.007

PURPOSE AND EFFECT: The Board proposes to amend Rule 64B3-9.001, changing the application fee to \$200. In Rule 64B3-9.002 the Board proposes to increase the fee for initial licensure for clinical laboratory training program to \$200. The Board proposes an amendment to Rule 64B3-9.007 to clarify refunds for examination fees.

SUBJECT AREA TO BE ADDRESSED: Application Fees, initial licensure fee, and refunds.

SPECIFIC AUTHORITY: 455.587, 483.805(4), 483.807(1) FS.

LAW IMPLEMENTED: 455.587, 483.807 FS.

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: 10:00 a.m., March 24, 1999

PLACE: Room 324, Collins Building, 107 West Gaines Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENTS AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 2020 Capital Circle, S. E., Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-9.001 Application Fees.

(1) through (7) No change.

(8) Clinical laboratory personnel training program – \$200 ~~\$300~~.

(9) through (12) No change.

Specific Authority 455.587, 483.807(1) FS. Law Implemented 455.587, 483.807 FS. History–New 12-7-93, Formerly 61F3-9.001, 59O-9.001, Amended 5-26-98,_____.

64B3-9.002 Initial Licensure Fees.

(1) For all clinical laboratory personnel licenses – \$100.

(2) Clinical laboratory personnel training program – \$200 ~~\$100~~.

(3) Continuing education providers – \$100.

Specific Authority 455.587, 483.805(4), 483.807(1) FS. Law Implemented 455.587, 483.807 FS. History–New 12-7-93, Formerly 61F3-9.002, 59O-9.002, Amended_____.

64B3-9.007 Refunds.

(1) No change.

(2) Examination fees are refundable only if the applicant is found by the Board to be ineligible to sit for the examination ~~or if the candidate withdraws from the examination prior to the withdrawal deadline and makes a written request for a refund.~~

(3) No change.

Specific Authority 483.805(4), 483.807(1) FS. Law Implemented 483.807 FS. History–New 12-7-93, Formerly 61F3-9.007, 59O-9.007, Amended 5-26-98,_____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Expiration of Incomplete Applications

RULE NO.: 64B7-25.006

PURPOSE AND EFFECT: The purpose of Rule 64B7-25.006 is to provide that applications not completed within one year of the date the original application form is submitted, the application shall expire as outdated.

SUBJECT AREA TO BE ADDRESSED: Expiration of Incomplete Applications.

SPECIFIC AUTHORITY: 480.035(7) FS.

LAW IMPLEMENTED: 480.041 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill Buckhalt, Executive Director, Board of Massage Therapy, 2020 Capital Circle, S. E., Bin #C09, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-25.006 Expiration of Incomplete Applications.

If an applicant fails to submit all items necessary for his/her application to be considered complete within one year from the date the application is first received by the Department, the application shall expire and the applicant’s file shall be closed.

Specific Authority 480.035(7) FS. Law Implemented 480.041 FS. History–New_____.

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Citations

RULE NO.: 64B7-30.004

PURPOSE AND EFFECT: The purpose for the amendment is to add to the list of statutory violations which the Board has determined are appropriately handled by the issuance of a citation as permitted in Section 455.617.

SUBJECT AREA TO BE ADDRESSED: Citations.

SPECIFIC AUTHORITY: 455.617 FS.

LAW IMPLEMENTED: 455.617 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill Buckhalt, Executive Director, Board of Massage Therapy, 2020 Capital Circle, S. E., Bin #C09, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-30.004 Citations.

(1) Definitions. As used in this rule:

(a) "Citation" means an instrument which meets the requirements set forth in s. ~~455.617~~ ~~455.224~~, F.S., and which is served upon a subject for the purpose of assessing a penalty in an amount established by this rule;

(b) No change.

(2) In lieu of the disciplinary procedures contained in s. ~~455.617~~ ~~455.225~~, F.S., the Department is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint which is basis for the citation.

(3) The Board hereby designates the following as citation violations, which shall result in a penalty as specified below:

(a) through (h) No change.

(i) Failure of a massage therapist to notify the Board of a change of address as required by Section 455.717(1), F.S.

(j) Advertising massage therapy services under a name under which a license has not been issued in violation of Section 480.046(1)(d), F.S. shall result in a penalty of \$250.00.

Specific Authority 455.617 FS. Law Implemented 455.617 FS. History—New 1-1-92, Amended 11-15-92, Formerly 21L-30.004, Amended 9-30-93, 12-12-93, 4-21-97, Formerly 61G11-30.004, Amended 8-16-98, _____.

DEPARTMENT OF HEALTH

Board of Occupational Therapy

RULE TITLES: RULE NOS.:
 Use of Prescription Devices 64B11-4.001
 Occupational Therapy Aides and Other
 Unlicensed Personnel Involved in the
 Practice of Occupational Therapy 64B11-4.002

PURPOSE AND EFFECT: The Board proposes to discuss the above rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Use of prescription devices; occupational therapy aides and other unlicensed personnel involved in the practice of occupational therapy.

SPECIFIC AUTHORITY: 468.203(4), 468.204 FS.

LAW IMPLEMENTED: 468.203(4),(5) FS.

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., March 26, 1999

PLACE: The Marriott North, 6650 N. Andrews Avenue, Ft. Lauderdale, Florida 33309

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Occupational Therapy/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENTS IS NOT AVAILABLE.

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER TITLE: RULE CHAPTER NO.:
 Emergency Medical Services 64E-2

PURPOSE AND EFFECT: To discuss revisions of rules 64E-2.013(1) through (9) related to submission and collection of prehospital forms and information. The workshop will address a proposal to use 15 aggregate prehospital data categories and sub-categories of information in lieu of existing data collection and reporting requirements. The proposed rule amendment would enable ambulance services to design a run report to better meet local needs, reduce workload related to completing the current form, and allow purchase of less expensive forms.

SUBJECT AREA TO BE ADDRESSED: Records and Reports.

SPECIFIC AUTHORITY: 401.30 FS.

LAW IMPLEMENTED: 401.30 FS.

RULE WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 11:00 a.m., March 22, 1999

PLACE: Metro Dade Fire Rescue, 8175 N. W. 12th Street, Suite 301, Miami, Florida

TIME AND DATE: 10:00 a.m., March 23, 1999

PLACE: Florida College of Emergency Physicians, 3717 South Conway Road, Orlando, Florida

TIME AND DATE: 10:00 a.m., March 24, 1999

PLACE: Department of Health, Bureau of Emergency Medical Services, 2002 Old St. Augustine Road, Building D, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, Department of Health, 2002 Old St. Augustine Road, Building D, Tallahassee, Florida 32310

P.O. EU 0568

**Section II
Proposed Rules**

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: RULE NO.:
 Cemetery By-laws 3F-6.003

PURPOSE AND EFFECT: The purpose of substantially rewording and amending this rule is to update the rule and allow the rule to be in compliance with the underlying statutes.

SUMMARY: Under the authority of the Board, the rule is being updated with current language in order to allow the rule to be in compliance with the underlying statutes.