

## Section I

### Notices of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Finance**

RULE TITLE: RULE NO.:

Quarterly Report Filing Requirements 3D-40.022

PURPOSE AND EFFECT: The purpose of the rule is to prescribe the procedure for filing the quarterly reports required by Sections 494.004(6) and 494.0067(9), F.S., that identify those persons who became or ceased being an associate of the business during the previous quarter.

SUBJECT AREA TO BE ADDRESSED: Quarterly reports to be filed by each mortgage brokerage business, correspondent mortgage lender, mortgage lender and mortgage lender licensed pursuant to the savings clause.

SPECIFIC AUTHORITY: 494.0011(2), 494.004(6), 494.0067(9) FS.

LAW IMPLEMENTED: 494.004(6), 494.0067(9) 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., July 18, 2000

PLACE: Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bob Tedcastle, Financial Administrator, Division of Securities and Finance, Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3D-40.022 Quarterly Report Filing Requirements.

(1) Each mortgage brokerage business, correspondent mortgage lender, mortgage lender, and mortgage lender licensed pursuant to the savings clause, that was licensed with the Department on or before March 31, 2000, shall file an initial quarterly report on or before April 30, 2000 as required by subsection 494.004(6), F.S., and subsection 494.0067(9), F.S. Thereafter, a quarterly report shall be filed as required by subsection 494.004(6), F.S., and subsection 494.0067(9), F.S., within 30 days of the end of each calendar quarter.

(2) Each mortgage brokerage business, correspondent mortgage lender, mortgage lender and mortgage lender licensed pursuant to the savings clause, that becomes licensed with the Department after March 31, 2000, shall file an initial quarterly report within 30 days of the end of the calendar

quarter in which the original license is issued, and thereafter shall file a quarterly report as required by subsection 494.004(6), F.S., and subsection 494.0067(9), F.S.

(3) The report may be filed electronically on Form DBF-MX-QR-E by accessing the Department's website at [www.dbf.state.fl.us](http://www.dbf.state.fl.us), or the report may be filed on Form DBF-MX-QR in a typed format. Forms DBF-MX-QR and DBF-MX-QR-E are hereby incorporated by reference and are available from the Department of Banking and Finance, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(4) All reports, written or electronic, shall be received by the Department in Tallahassee within thirty (30) days after the last day of each calendar quarter. If the 30th day falls on a weekend or official holiday such reports will be considered timely received on the next business day.

(5) If a correct initial report or correct quarterly report thereafter is not timely received (incidental and isolated clerical errors or omissions shall not be considered a violation) as required by subsection 494.004(6), F.S., or subsection 494.0067(9), F.S., the penalty shall be the issuance of a "notice of noncompliance" for the first offense. Any subsequent finding of a violation of this rule shall be a fine of \$500. The penalty for any intentional violations of this rule shall be a fine of \$500 and suspension of the license.

Specific Authority 494.0011(2), 494.004(6), 494.0067(9) FS. Law Implemented 494.004(6), 494.0067(9) FS. History--New

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Finance**

RULE TITLES: RULE NOS.:

Mortgage Brokerage Business License and Branch Office License Renewal 3D-40.053

Change of Name, Change of Entity and Change in Control or Ownership 3D-40.099

Mortgage Lender License, Mortgage Lender License Pursuant to Savings Clause, and Branch Office License Renewal 3D-40.205

Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation 3D-40.225

PURPOSE AND EFFECT: The purpose of the proposed amendments is to allow mortgage brokerage businesses, mortgage lenders, mortgage lenders pursuant to the savings clause, correspondent mortgage lenders and their branch offices to renew their licenses by submitting the renewal forms directly on the Department's website.

SUBJECT AREA TO BE ADDRESSED: Renewal of licenses under Chapter 494, F.S., on the Department's website.

SPECIFIC AUTHORITY: 494.0011, 494.0032, 494.0036 FS.

LAW IMPLEMENTED: 494.0031, 494.032, 494.036, 494.0061, 494.0062, 494.0064, 494.0065 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: 2:00 p.m., July 18, 2000

PLACE: Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bob Tedcastle, Financial Administrator, Division of Securities and Finance, Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3D-40.053 Mortgage Brokerage Business License and Branch Office License Renewal.

(1) Each active mortgage brokerage business license shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.032, F.S., and a completed renewal form. Form DBF-MB-707, Mortgage Brokerage Business License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-MB-707E on the Department's website (www.dbf.state.fl.us).

(2) A mortgage brokerage business license that is not renewed as required in Subsection (1) prior to September 1 of the renewal year shall revert from active to inactive status. An inactive license may be renewed within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0032, F.S., and submission of a completed reactivation form. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-MB-707E on the Department's website (www.dbf.state.fl.us).

(3) Each active mortgage brokerage business branch office license shall be renewed in conjunction with the mortgage brokerage business license renewal upon submission of the statutory renewal fee required by Section 494.032, F.S. and a completed renewal form. Form DBF-MB-708, Mortgage Brokerage Business Branch Office License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350. In lieu of filing the

paper version of the renewal form, the licensee may file the required information on Form DBF-MB-708E on the Department's website (www.dbf.state.fl.us).

(4) A mortgage brokerage business branch office license that is not renewed as required in Subsection (3) prior to September 1 of the renewal year shall revert from active to inactive status. An inactive branch office license may be renewed within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0032, F.S., and submission of a completed reactivation form. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-MB-708E on the Department's website (www.dbf.state.fl.us).

(5) No change.

Specific Authority 494.0011(2), 494.0032(2),(3), 494.0036(2) FS. Law Implemented 494.0032, 494.0036 FS. History--New 11-2-86, Amended 2-8-90, 10-1-91, 12-12-99, \_\_\_\_\_.

3D-40.099 Change of Name, Change of Entity and Change in Control or Ownership.

(1) through (5) No change.

(6) Upon approval of an application, a letter informing the applicant of the Department's intent to approve the application will be sent to the applicant's mailing address as indicated on the application. Upon the Department's receipt of the original license issued to the former owners, notification that the change in ownership or control has been finalized and the effective date of closing, a license will be issued, effective the later of the date of closing or the date of notice of intent to approve, for the remainder of the biennial licensure period. Failure to respond to the Department's notice of intent to approve within thirty (30) days of the date of that letter will result in the application being withdrawn.

Specific Authority 494.0011(2) FS. Law Implemented 494.0031, 494.0061, 494.0062, 494.0065 FS. History--New 1-10-93, Amended 5-14-95, 9-3-95, 12-12-99, \_\_\_\_\_.

3D-40.205 Mortgage Lender License, Mortgage Lender License Pursuant to Savings Clause, and Branch Office License Renewal.

(1) Each active mortgage lender license and mortgage lender license pursuant to the savings clause shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., a completed renewal form, ~~and a copy of the lenders most recent audited financial statements.~~ Form DBF-ML-R, Mortgage Lender License Renewal and Reactivation Form, revised 05/00 ~~10/99~~ and Form DBF-ML-RS, Mortgage Lender License Pursuant to Saving Clause Renewal and Reactivation Form, revised 05/00 ~~10/99~~, are hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350. In lieu of filing the paper version of the renewal

form, the licensee may file the required information on Form DBF-ML-R-E or Form DBF-ML-RS-E on the Department's website (www.dbf.state.fl.us).

(2) A license that is not renewed as required in Subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within 6 months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-ML-R-E or Form DBF-ML-RS-E on the Department's website (www.dbf.state.fl.us).

(3) Each active mortgage lender branch office license shall be renewed in conjunction with the mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form DBF-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 10/1/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-ML-RB-E on the Department's website (www.dbf.state.fl.us).

(4) A mortgage lender branch office license that is not renewed as required in Subsection (3) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon, payment of the statutory renewal and reactivation fees and submission of a completed license reactivation form. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-ML-RB-E on the Department's website (www.dbf.state.fl.us).

(5) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.0064 FS. History—New 10-1-91, Amended 9-3-95, 8-5-96, 12-12-99,\_\_\_\_\_.

**3D-40.225 Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation.**

(1) Each active correspondent mortgage lender license shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form, ~~and a copy of the lender's current audited financial statements.~~ Form DBF-CL-R, Correspondent Mortgage Lender License Renewal and Reactivation Form, revised 05/00 ~~10/99~~, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350. In lieu of filing the paper

version of the renewal form, the licensee may file the required information on Form DBF-CL-R-E on the Department's website www.dbf.state.fl.us).

(2) A correspondent mortgage lender license that is not renewed as required in Subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-CL-R-E on the Department's website (www.dbf.state.fl.us).

(3) Each active correspondent mortgage lender branch office license shall be renewed in conjunction with the correspondent mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form DBF-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350. In lieu of filing the paper version renewal form, the licensee may file the required information on Form DBF-ML-RB-E on the Department's website (www.dbf.state.fl.us).

(4) A correspondent mortgage lender branch office license that is not renewed as required in Subsection (3) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be renewed within six (6) months after becoming inactive, payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed license reactivation form. In lieu of filing the paper version of the renewal form, the licensee may file the required information on Form DBF-ML-RB-E on the Department's website (www.dbf.state.fl.us).

(5) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.0064 FS. History—New 10-1-91, Amended 9-5-95, 7-25-96, 12-12-99,\_\_\_\_\_.

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE TITLE: Financial Statements and Reports RULE NO.: 3E-300.002

PURPOSE AND EFFECT: The purpose of the proposed amendments is to eliminate, in most instances, the requirement for dealers that are current members of the National Association of Securities Dealers to file financial statements with the Department.

SUBJECT AREA TO BE ADDRESSED: Filing of financial statements.

SPECIFIC AUTHORITY: 517.03 FS.

LAW IMPLEMENTED: 517.081, 517.12 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: 1:00 p.m., July 18, 2000

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: David Haynes, Financial Examiner/Analyst Supervisor, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3E-300.002 Financial Statements and Reports.

(1) through (2) No change.

(3) Requirements for Dealers.

(a) Every dealer applicant, unless exempted under paragraphs (3)(b) or (3)(e) of this Rule, shall file financial statements as of a date within ninety (90) days prior to the date of filing for registration, ~~which~~ These financial statements need not be audited provided that there shall also be filed audited financial statements as of said applicant's most recent fiscal year end.

(b) Those dealer applicants which have been in operation for a period of time less than twelve (12) months, and for whom an audited financial statement has not been prepared or is not available, shall be permitted to file unaudited financial statements provided the following conditions are met:

1. Such financial statements are as of a date within thirty (30) days prior to the date of filing for registration, and are prepared in accordance with the provision of paragraphs (2)(b),(2)(d) and (3)(c) of this Rule; and

2. Such applicant is effectively registered with the Securities Exchange Commission or National Association of Securities Dealers, Inc.

(c) No change.

(d) The Department shall deem those financial statements and reports, prepared and filed in accordance with the provisions of ~~SEC S.E.C.~~ Rule 17a-5 (17 CFR 240.17a-5) and ~~SEC S.E.C.~~ Rule 17a-10 (17 CFR 240.17a-10) (as such provisions existed on March 1, 1999), to be in compliance with, and fulfill the requirements of, this Rule as applicable to a dealer.

(e) The financial statements and reports required by subparagraphs ~~(a) through (e)~~ and (d) are not required to be filed with the Department, unless specifically requested by the Department, by a dealer applicant or registrant if the dealer

registrant is a current member of a securities association registered pursuant to Section 15A of the Exchange Act and such association requires financial reports to be filed with it.

(4) through (7) No change.

Specific Authority 517.03 FS. Law Implemented 517.081, 517.12 FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-300.02, Amended 6-28-93, 11-22-93, 12-24-95, \_\_\_\_\_.

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE TITLES:	RULE NOS.:
Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser	3E-600.001
Application for Registration as Associated Person	3E-600.002
Central Registration Depository System	3E-600.0091
Notice of Civil, Criminal or Administrative Action	3E-600.010
Licenses to be Displayed	3E-600.018

PURPOSE AND EFFECT: The purpose of the proposed amendments is to revise the registration process to allow broker dealers that can evidence current membership in the National Association of Securities Dealers ("NASD") to file the appropriate forms and fees with the Department through the Central Registration Depository ("CRD"). Dealers that are current members of the NASD will no longer be required to designate a qualifying principal. Current NASD members and persons registered with the NASD will electronically file disciplinary updates through the CRD. Responses to requests for additional information made by the Department will be filed directly with the Department. The proposed amendments will also eliminate the requirement for registrants to display licenses evidencing registration with the Department.

SUBJECT AREA TO BE ADDRESSED: Filing of dealer registration applications, renewals and terminations, disciplinary updates, and display of licenses.

SPECIFIC AUTHORITY: 517.03(1), 517.12 FS.

LAW IMPLEMENTED: 517.12, 517.1205, 517.161 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: 1:00 p.m., July 18, 2000

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: David Haynes, Financial Examiner/Analyst Supervisor, Division of Securities and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3E-600.001 Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser.

(1)(a) Applications for initial and renewal registration of dealers, issuer/dealers, and investment advisers shall be filed on the forms prescribed by the Department in Rule 3E-301.002(7), FAC., and shall include all information required by such forms, any other information the Department may require, and payment of the statutory fees required by Sections 517.12(10) and 517.131, F.S. Except as otherwise provided in Rule 3E-600.0091, FAC., ~~t~~The Department shall deem an application to be received at such time as it and the appropriate fee have been date-stamped by the cashier's office of the Department of Banking and Finance. For dealers that are members of the National Association of Securities Dealers (NASD), such application shall be filed with the Department through the Central Registration Depository (CRD) of the NASD in accordance with Rule 3E-600.0091, FAC.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. For registration as a dealer or issuer/dealer, a Uniform Application for Broker-Dealer Registration, Form BD (Revised 7/99). For dealers that are members of the NASD, such application shall be filed with the Department through the CRD in accordance with Rule 3E-600.0091, FAC. For registration as an investment adviser, a Uniform Application for Investment Adviser Registration, Form ADV (Revised 1/99);

2. Statutory fee in the amount required by Section 517.12(10), F.S.;

3. ~~A Uniform Application for Securities Industry Registration or Transfer, Form U-4 (Revised 8/99), to register at least one principal as set forth in Rule 3E-600.002, FAC. Evidence of current membership as a dealer with the NASD shall satisfy this requirement. For any dealer that is a member of the National Association of Securities Dealers ("NASD"), the application for registration of a principal shall be filed with the Central Registration Depository ("CRD") System as set forth in Rule 3E-600.002, FAC. However, such dealer must in conjunction with filing its Form BD with the Department provide the Department written notification of the principal's name, CRD number, and social security number;~~

4. Financial statements and reports required under Rules 3E-300.002, 3E-600.015, 3E-600.016, and 3E-600.017, FAC.;

5. Proof of ~~SEC~~ effective registration with the Securities and Exchange Commission (SEC). Where required by Section 517.12(16), F.S., applicants for registration as a dealer shall also provide the Department with proof of insurance coverage by the Securities Investor Protection Corporation. Evidence of current membership as a dealer with the NASD shall satisfy this requirement;

6. through 8. No change.

9. When specifically requested by the Department, a copy of the ~~a~~Articles of Incorporation and ~~a~~Amendments thereto, ~~or~~ if a ~~p~~Partnership, a copy of the ~~p~~Partnership ~~a~~Agreement, or if a limited liability company, a copy of the articles of organization.

(2) If the information contained in any application for registration as a dealer or investment adviser or in any amendment thereto, becomes inaccurate for any reason, the dealer or investment adviser shall promptly file an amendment on the Form BD or the Form ADV, respectively, correcting such information. For applicants and registrants that are ~~a~~ members of the NASD, each such amendment, including those required by Rule 3E-600.007, FAC., shall be filed with the Department through the CRD system. All other applicants and registrants shall file such amendments, including those required by Rule 3E-600.007, FAC., directly with the Department.

(3) through (4) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6),(7), 517.1205 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.01, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 11-14-93, 4-30-96, 6-22-98, 5-10-00,\_\_\_\_\_.

3E-600.002 Application for Registration as Associated Person.

(1)(a) Applications for initial, reaffiliation, and renewal registrations of a principal or agent shall be filed on Form U-4, Uniform Application for Securities Industry Registration or Transfer (Revised 8/99), which is hereby incorporated herein by reference, and shall include all information required by such form, any other information the Department may require, and payment of the statutory fees required by Section 517.12(10), F.S. Except as otherwise provided in Rule 3E-600.0091, FAC., ~~t~~The Department shall deem an application to be received at such time as it and the appropriate fee have been date-stamped by the cashier's office of the Department of Banking and Finance. For dealers that are ~~a~~ members of the National Association of Securities Dealers ("NASD"), such application shall be filed with the Department through the Central Registration Depository ("~~CRD~~") of the NASD in accordance with Rule 3E-600.0091, FAC.

(b) A complete initial application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Uniform Application for Securities Industry Registration or Transfer, Form U-4 (Revised 8/99). As used on the Form U-4, the term "Office of Employment Address" shall mean the location where the person seeking registration will regularly conduct business on behalf of the dealer or investment adviser. For dealers that are ~~a~~ members of the NASD, such application shall be filed with the Department through the CRD ~~Central Registration Depository~~ of the NASD.

2. through 3. No change.
4. Evidence of examinations/disqualifications set forth in Rule 3E-600.005(2), FAC.
5. No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6),(7),(10) FS. History—New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, \_\_\_\_\_.

#### 3E-600.0091 Central Registration Depository System.

Wherever the Rules of this Department require the filing of applications, fees, and other documents with the Department, in lieu thereof, all dealers registered with this state who are members of the National Association of Securities Dealers, Inc. (NASD) shall file such items as hereinafter specifically provided:

(1) All NASD member dealers requesting initial registration, renewal or termination of registration in this state shall file the appropriate Form BD or BDW and the assessment fee required by Sections 517.12(10) or (11), F.S., with the Central Registration Depository System ("CRD") of the NASD. However, responses to requests by the Department for additional information shall be filed directly with the Department.

~~(2)(1) All NASD member dealers registered in this state requesting initial registration, renewal, reaffiliation or termination of an associated person of such member dealer shall file the appropriate Form U-4 or U-5 and the assessment fee required by Sections 517.12(10) or (11), F.S. Florida Statutes, with the Central Registration Depository System (CRD) of the National Association of Securities Dealers (NASD). However, requests for additional information shall be filed directly with the Department when requested by the Department.~~

~~(3)(2) Any application for registration as an associated person of an NASD member dealer filed with the Department via the CRD shall be deemed received by the Department on the date designated in the "Status Date" field on the line notated "FL" with a "Registration Status" of "pending" as indicated on the CRD "Registrations with Current Employers" screen indicated on the CRD ST-ALL screen as the "pending since" date on the line notated "FL".~~

~~(4)(3) Any application for registration as a dealer filed with the Department via the CRD shall be deemed received by the Department upon receipt of the Form BD and the application fee. The application fee shall be deemed received by the Department on the "payment date" reflected on the CRD "disbursement detail" report. TAT REGISTRATIONS Except as otherwise provided herein, a dealer who is a member of the NASD and who has signed an undertaking with the NASD for participation in the Temporary Agent Transfer ("TAT") program may register associated persons with the Department pursuant to the TAT program provided that the associated person is eligible and qualifies for registration through the~~

TAT program and provided further that the dealer has timely complied with all requirements of the TAT program with respect to the associated person's registration.

~~(a) Except as provided herein, the effective date of a TAT registration shall be the date indicated on the Central Registration Depository ("CRD") ST-ALL screen as the "Conditional On" date on the line notated "FL". No person seeking registration as a manager or a resident agent in charge of a branch office located in Florida shall act in the capacity of manager or resident agent in charge of a branch office located in Florida while the CRD ST-ALL screen indicates a "Conditional" registration on the line notated "FL".~~

~~(b) Any associated person who has applied for registration pursuant to the TAT program and whose TAT registration expires for failure to comply with the requirements of the TAT program or whose registration is terminated based upon ineligibility to register pursuant to the TAT program, agrees that in return for the privilege of utilizing the expedited registration provisions afforded by the TAT program such person waives the applicability of the provisions of Section 120.60, F.S., to any temporary registration obtained pursuant to the TAT program and such person further agrees to voluntarily terminate any registration obtained through the TAT program which registration has expired or been terminated by the NASD for the reasons stated above. In lieu of filing a Form U-5 with the Department to effectuate a termination under these circumstances, the associated person and the Department agree that notice by the NASD that the associated person's TAT registration has expired or terminated after a conditional period without such person's registration being immediately notated in the CRD as "APPROVED", shall be accepted by the Department as notice of voluntary termination of the associated person's registration with the Department and such notice shall be considered an effective termination pursuant to Rule 3E-600.008. Such voluntary termination shall be effective the date the NASD notifies the Department through the CRD system that the TAT registration has expired or been terminated, notwithstanding the associated person's failure to file a Form U-5 with the Department.~~

~~(c) Any applicant who attempted to register with the Department through the TAT program and who failed to comply with the requirements of the TAT program and thereby voluntarily terminated the registration temporarily granted may file an application for registration with the Department pursuant to the provisions of Rule 3E-600.002.~~

~~(d) It shall be considered a violation of Section 517.301(1)(c), Florida Statutes, for any dealer or associated person to execute or file an application with the Department for registration pursuant to the TAT program when the applicant is ineligible for registration pursuant to the TAT program. Persons under examination or investigation by the Department shall be ineligible for registration through the TAT program.~~

(e) The Department may deny the use of the TAT program to any associated person that is the subject of an investigation or examination by the Department if the Department has reason to believe that such person has or is about to violate any provision of Chapter 517, Florida Statutes, or the Rules promulgated thereunder. Whenever the Department exercises its discretion pursuant to this section, it shall notify the associated person or the dealer of the Department's decision to deny use of the TAT program to the associated person. Upon receiving notice from the Department, either orally or in writing, of the Department's denial of use of the TAT program, such person agrees to voluntarily terminate any temporary registration granted to such person by the Department and to pursue any registration still desired by filing an application in accordance with the provisions of Rule 3E-600.002. In lieu of filing a Form U-5 with the Department to effectuate a termination under these circumstances, the associated person and the Department agree that such person's TAT registration will be deemed to have been voluntarily terminated by such person effective the earlier of: (1) notice by the NASD that the associated person's TAT registration has expired after a conditional period without such person's registration being immediately notated "APPROVED", or (2) the date the NASD determines such person is ineligible for registration pursuant to the TAT program. Upon the earlier of these two dates, such associated person shall have been deemed to have voluntarily terminated its registration with the Department and the Department shall consider such termination effective termination pursuant to Rule 3E-600.008 notwithstanding the associated person's failure to file a Form U-5 with the Department.

Specific Authority 517.03, 517.12(15) FS. Law Implemented 517.12(10),(11),(15) FS. History--New 8-29-83, Formerly 3E-600.091, Amended 8-1-91, 6-16-92, 4-30-96, \_\_\_\_\_.

3E-600.010 Notice of Civil, Criminal or Administrative Action.

(1) through (2) No change.

(3) Any applicant or registrant in this state who is a member of the National Association of Securities Dealers, Inc. ("NASD") shall file such notifications with the Department through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 3E-600.0091, FAC. However, responses to requests by the Department for additional information shall be filed directly with the Department.

Specific Authority 517.03 FS. Law Implemented 517.12(6),(12), 517.161 FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.10, Amended \_\_\_\_\_.

3E-600.018 Licenses to be Displayed.

Specific Authority 517.03 FS. Law Implemented 517.12(1),(11) FS. History--New 12-5-79, Formerly 3E-600.18, Repealed \_\_\_\_\_.

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Division of Community Planning**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Rules of Procedure and Practiced	
Pertaining to Developments of	
Regional Impact	9J-2
RULE TITLES:	RULE NOS.:
Part I General	
Definitions	9J-2.001
Part II Procedures Pertaining to Developments	
of Regional Impact	
Subpart A General Procedures	
Forms	9J-2.010
Clearance Letters	9J-2.015
Binding Letters of Interpretation	9J-2.016
Preliminary Development Agreements	9J-2.0185
Subpart B Development of Regional	
Impact Procedures	
Preapplication Conferences and Conceptual	
Agency Review Procedures	9J-2.021
Filing the Application for Development Approval	9J-2.022
Public Hearing	9J-2.023
Regional Report and Recommendations	9J-2.024
Local Government Development Orders	9J-2.025
Abandonment of Development Orders	9J-2.0251
Development of Regional Impact Review Fee Rule	9J-2.0252
Hurricane Preparedness Policy Rule	9J-2.0256
Special Hurricane Preparedness Districts	
for Developments of Regional Impact	9J-2.0257
Appeals	9J-2.026
Aggregation Rule	9J-2.0275
Master Development Approval Alternative	
Review Procedure	9J-2.028
Part III Development of Regional Impact	
Uniform Standard Rules	
The Application of State, Regional and Local	
Plans in DRI Uniform Standard Rules	9J-2.040
Listed Plant and Wildlife Resources Uniform	
Standard Rule	9J-2.041
Archaeological and Historical Resources	
Uniform Standard Rule	9J-2.043
Hazardous Material Usage, Potable Water,	
Wastewater, and Solid Waste Facilities	
Uniform Standard Rule	9J-2.044
Transportation Uniform Standard Rule	9J-2.045
Air Quality Uniform Standard Rule	9J-2.046
Adequate Housing Uniform Standard Rule	9J-2.048
PURPOSE AND EFFECT: To modify the rules to comply with	
Section 120.536(2)(b), F.S. as amended by Chapter 99-379,	
§ 3, Laws of Florida, and update the rules.	
SUBJECT AREA TO BE ADDRESSED: Rule 9J-2.001 is	
revised to change the Division name. The revision to Rule	
9J-2.010 pertains to a change in address where various forms	

related to the development of regional impact (DRI) program can be obtained. Revisions to Rule 9J-2.016 pertain to changes to the procedures and process for obtaining a binding letter of interpretation regarding whether a development must undergo a DRI review. Rule 9J-2.018 is revised to change the distance from 5 miles to 1/2 mile, within which each land owner included in the project or the developer must submit additional documentation and information for a proposed preliminary development agreement. A reference to the state land development plan was deleted from Rule 9J-2.0185.

Revisions to Rules 9J-2.021 through 9J-2.0252, 9J-2.0256 through 9J-2.075, pertain to changes related to the DRI submittal, review and approval procedures, including binding letters of interpretation and abandonment procedures. Regional hurricane plan references are also updated. A reference to the state land development plan was deleted from Rule 9J-2.021. Rule 9J-2.022 is revised to delete a reference to a third request for additional information.

Changes to Rules 9J-2.040 through 9J-2.048 delete unnecessary references to sections of Chapter 380, Florida Statutes, incorporates revised statute citations and referenced documents, revises the definition of "listed species", updates the lists of plant species designated as critically imperiled, imperiled and rare, and deletes references to the state land development plan.

Statute citations for rule making authority and law implementation references have also been updated in the rules. SPECIFIC AUTHORITY: 380.032(2)(a), 380.06(15)(c)4., (19)(f),(21)(c),(23)(a),(c),(26), 380.0651(4)(f) FS.

LAW IMPLEMENTED: 120.536(2)(b) FS., as amended by Chapter 99-379, §3, Laws of Florida., 120.569, 380.021, 380.031, 380.031(13), 380.032(2),(3), 380.06(1),(2), (4)(i),(4)-(10),(13),(14),(15),(17),(18),(19),(20),(21),(22),(23), (25),(26), 380.061, 380.065, 380.0651(4), 380.07(2) FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., July 26, 2000  
 PLACE: Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodations at the hearing because of a disability or physical impairment should contact Jeff Bielling, Senior Management Analyst, Division of Community Planning, Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone number (850)922-1760, Suncom 292-1760 at least seven days before the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD). THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jeff Bielling, Senior Management Analyst, Division of Community Planning,

Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Telephone number (850)922-1760

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9J-2.001 Definitions.

(1) No change.

(2) "Division" means the Division of Community Resource Planning and Management of the Department of Community Affairs, which is the "state land planning agency" referred to in Chapter 380, Florida Statutes.

(3) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 380.031, 380.06(1),(23) FS. History--New 4-12-81, Amended 5-4-83, Formerly 27F-1.01, 9B-16.01, Amended 11-20-90, \_\_\_\_\_.

9J-2.010 Forms.

(1)(a) through (k) No change.

(2) These forms may be obtained without cost from the appropriate regional planning agency or by making written request to:

Division of Community Resource Planning and Management  
 Bureau of State Planning  
 2555 Shumard Oak Boulevard ~~2740 Centerview Drive~~  
 Tallahassee, Florida 32399-2100

Specific Authority 380.032(2)(a), 380.06(15)(c)4.,(19)(f)1.,(23)(a),(c)2.,(26) FS. Law Implemented 380.031(13), 380.06, 380.06(4)-(10), (15)(c)4.,(18),(19),(23)(c)2.,(26) FS. History--New 4-12-81, Amended 5-4-83, Formerly 27F-1.31, 9B-16.17, 9J-2.017, Amended 11-20-90, 3-23-94, \_\_\_\_\_.

9J-2.015 Clearance Letters.

(1) through (3) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a), 380.0651(4)(f) FS. Law Implemented 380.032(2), 380.06(4)(i), 380.0651(4) FS. History--New 11-20-90.

9J-2.016 Binding Letters of Interpretation.

(1) If any developer is in doubt whether his proposed development is required to undergo DRI review or whether his development rights have vested pursuant to Subsection 380.06(20), Florida Statutes, or whether a proposed substantial change to a development of regional impact previously vested pursuant to Subsection 380.06(20) would divest such rights, the developer may file an application for a Binding Letter of Interpretation with the Division. Prior to submitting a formal application, the developer is encouraged to consult with the Division staff to insure that appropriate information is presented. The developer shall submit an application for a binding letter of interpretation by completing and filing with the Division Form RPM-BSP-BLID-1 (development of



regional impact status), RPM-BSP-BLIVR-1 (vested rights), or RPM-BSP-BLIM-1 (substantial modification to a previously vested development), as appropriate.

These forms may be obtained upon request to any regional planning agency or to the Division of Community Resource Planning and Management, Bureau of State Planning, whose address is 2555 Shumard Oak Boulevard 2740 Centerview Drive, Tallahassee, Florida 32399-2100. The completed form shall be submitted to the Division of Community Resource Planning and Management, Bureau of State Planning.

(2)(a) through (8)(b) No change.

~~(e) The Division shall not consider any information submitted as part of an application for a binding letter of interpretation which is considered by the Division to be mitigation of the development's material adverse impacts to regionally significant resources or facilities. The intent of the binding letter process is to determine whether a development will have significant adverse impacts to regionally significant resources or facilities. Making a determination about the suitability of, or need for, mitigation is the role of the regional planning agency and other review agencies during the course of DRI review. Negotiation regarding mitigation needed to address impacts is not appropriate during the binding letter process and is not a function assumed by the Division during that process.~~

(9) through (13) No change.

(14) A Binding Letter of Interpretation shall contain findings of fact and conclusions of law which shall specify the factual, legal, and policy grounds supporting the Division's determination. The Binding Letter of Interpretation shall be final agency action unless, within thirty (30) days of the date of filing of said determination, the applicant requests in writing a reconsideration of the Binding Letter of Interpretation including an opportunity to present additional testimony, evidence or written statements pursuant to Subparagraph 120.57(2)(a)2., Florida Statutes, and Subsection (15) of this rule.

(15) Within fifteen (15) days of receipt of a request for reconsideration, the Division shall render to the applicant, the local government, and the appropriate regional planning agency a written notification granting or denying the request.

~~(a) A request for reconsideration of a binding letter shall be granted by the Division if the applicant's request: alleges and details the Division's findings of fact which are substantially inaccurate; alleges and details additional material facts not previously considered by the Division; or alleges and details the Division's conclusions of law which are substantially incorrect. However, the additional material facts offered by the applicant for reconsideration shall not include significant alterations in the plan of development of the project or offsite improvements committed to by the applicant. A significant alteration in the plan of development may be considered through the submittal of a new binding letter~~

~~application but shall constitute the basis for denial of the request for reconsideration. Offsite improvements will be considered mitigation by the Division and shall constitute the basis for denial of the request for reconsideration. If the request for reconsideration is granted, all additional information or evidence shall be submitted to the Division by the applicant within 90 days of the date the request for reconsideration is received by the Division and shall also be provided to the entities specified in Subsection 9J 2.016(3). Within 45 days after the Division receives written notice from the applicant that all information or evidence to be considered has been submitted, the Division shall issue a final binding letter of interpretation which shall constitute final agency action, subject to Chapter 120, Florida Statute.~~

~~(b) If a request for reconsideration is not timely filed with the Division or does not meet the requirements of Paragraph (a), the Division shall deny in writing the request for reconsideration. Denial of a request for reconsideration shall constitute final agency action, subject to Chapter 120, Florida Statutes, regarding the application for a binding letter.~~

~~(16) Binding Letters of Interpretation, and any reconsiderations thereof, shall be issued by the Division within the periods of time specified by these rules and after any informal proceedings held pursuant to Subsection 120.57(2), Florida Statutes. However, at any time before the initial binding letter is issued, or within 30 days after reconsideration of a binding letter is completed and a final binding letter issued, if the applicant believes the determination involves a disputed issue of material fact which requires a full evidentiary hearing, the applicant may request a formal hearing by filing a petition specifying the disputed material facts, in compliance with Subsection 120.57(1), Florida Statutes, and the Model Rules, Chapter 28-5, Florida Administrative Code.~~

~~(15)(17) Every binding letter issued by the Division determining that a proposed development is not required to undergo DRI review, but not including binding letters of vested rights or of modification of vested rights, shall expire and become void unless the plan of development has been substantially commenced within:~~

~~(a) Three years from October 1, 1985 for binding letters issued prior to October 1, 1985; or~~

~~(b) Three years from the date of issuance of binding letters issued on or after October 1, 1985.~~

The expiration date of a binding letter shall begin to run after final disposition of all administrative and judicial appeals of the binding letter and may be extended by mutual agreement of the Division, the local government with jurisdiction, and the developer. Comments from the regional planning agency will be solicited by the Division when any request for an extension of the expiration date is made.

~~(16)(18) Rights which have vested pursuant to Paragraph 380.06(20)(a), Florida Statutes, and for which the notification requirements of Paragraph 380.06(20)(a), Florida Statutes,~~

have been met, shall expire and become void after June 30, 1990, unless development of the vested plan has commenced prior to that date upon the property that the Division has determined has acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements of Paragraph 380.06(20)(a), Florida Statutes, have not been met, vested rights authorized by Paragraph 380.06(20)(a), Florida Statutes, expired June 30, 1986, unless development commenced prior to that date.

(17)(19) Copies of the binding letter shall be provided to the applicant, the local government, the regional planning agency, and appropriate state agencies. The Division shall request such governments or agencies to notify the Division of potential violations of Section 380.06, Florida Statutes. In addition, notice of the issuance of a binding letter shall be given to persons who have requested notice. Pursuant to Paragraph 380.06(4)(d), Florida Statutes, Binding Letters of Interpretation issued by the Division shall bind all state, regional and local agencies as well as the developer.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 120.569, 380.031, 380.032, 380.06(1),(2)(c),(d),(e),(4),(20), 380.0651 FS. History--New 4-12-81, Amended 5-4-83, Formerly 27F-1.16, 9B-16.16, Amended 11-20-90,\_\_\_\_\_.

9J-2.0185 Preliminary Development Agreements.

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

1. A disclosure by the developer and each owner of any parcel of real property which is included in the total proposed development of any interest in any other parcel or development located within 1/2 5 miles of any boundary of the total proposed development and a map depicting the location of any parcel or other development in which the developer or any owner has an interest within one mile of any boundary of the total proposed development.

2. A description of any deed or other instrument of conveyance by which the owner or developer acquired a property interest in the total proposed development or parcel within 1/2 5 miles of the same, with reference being made to the book and page of any such deed or instrument recorded in the public records.

3. Development plans setting forth number of dwelling units, number of square feet, number of boat slips, total acreage, and other descriptive information regarding the development of each parcel within 1/2 5 miles of the total proposed development in which the developer or each owner of the total proposed development has an interest.

4. A legal description of each parcel within 1/2 5 miles of the total proposed development in which the developer or each owner of the total proposed development has an interest.

5. Sufficient documentation and information to allow the Division to determine that the lands on which preliminary development is proposed are suitable for such development, including consistency with the State Comprehensive Plan, Strategic Regional Policy Plan ~~State Land Development Plan,~~

~~regional comprehensive policy plan,~~ and local government comprehensive plan, and that existing resources and existing and planned facilities expected to be affected by the preliminary development will not be materially, adversely impacted.

6. No change.

(e) through (6)(d) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 380.032(3), 380.06(8), 380.0651(4) FS. History--New 1-29-86, Amended 7-2-86, 11-20-90,\_\_\_\_\_.

9J-2.021 Preapplication Conferences and Conceptual Agency Review Process.

(1)(a) Before filing an application for development approval, the developer shall contact the regional planning agency with jurisdiction over the proposed development to arrange a preapplication conference. The regional planning agency shall make available to the developer information about the DRI process and the use of preapplication conferences to encourage cooperation and mutually beneficial solutions to problems, identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development. The information shall include copies of the Strategic Regional Policy Plans ~~any regional issues list adopted pursuant to Subsection 380.06(23), Florida Statutes,~~ and other appropriate material indicating issues of regional significance in the region, or containing regional policies. It shall include material describing planning, permitting or review requirements of state, regional or local agencies that has been obtained by the regional planning agency. Such information shall be made available before or during the preapplication conference.

(b) through (c) No change.

~~(d) When a DRI also requires an environmental impact statement, affected agencies should conduct one or more meetings in coordination with the regional planning agency for the purpose of considering the feasibility of integrating the DRI review process and report with the Environmental Assessment or Environmental Impact Statement review processes and reports.~~

(d)(e) In order to increase the effectiveness of agency participation and to more closely fulfill the intent of the preapplication conference, the applicant shall provide the participants in the preapplication conference with the information identified in Form RPM-BSP-PREAPP INFO-1 at least ten (10) working days before the scheduled preapplication conference, or a longer period if so stipulated by the regional planning agency. At a minimum, this information shall include an identification of the project location relative to any existing urban service areas and regional activity centers, whether a local comprehensive plan amendment will be required, the type and magnitude of land uses, preliminary site and environmental information, preliminary phasing and buildout dates of the projects, and specific methodology proposals. If

this information is not made available within the allotted time prior to the preapplication conference, the conference will be rescheduled.

~~(f) In order to increase the effectiveness of developer and agency participation in the preapplication conference, in 1983 and every three years thereafter, the Department, as the state land planning agency, shall request state and regional agencies which participate in DRI or binding letter application reviews to prepare brief descriptions of their programs, responsibilities and policies that may substantially affect proposed DRIs during planning or permitting reviews. Such descriptions may include goals and objectives, review criteria, procedures, information requirements, jurisdiction, rule or statute numbers, addresses, contact names, and other information considered useful to applicants entering the DRI review process. The Department shall work closely with agencies to ensure that the descriptions are reasonably uniform. Upon completion of the descriptions, as determined by the Department, copies shall be provided to regional planning agencies for use in preapplication conference proceedings.~~

~~(e)(g) As a part of the preapplication conference, the regional planning agency shall state the objectives to be achieved in the proceedings, help distinguish between DRI application and state or regional permit reviews, provide information about any local government review procedures that may apply, provide opportunities for the developer and affected agencies to obtain and comment on information of significance to the project, provide information about state land planning agency rules, the State Comprehensive Plan, State Land Development Plan, and the Strategic Regional Policy Plan Comprehensive Regional Policy Plan, and regional issues pursuant to Chapter 9B-20, Florida Administrative Code, and seek to promote expeditious and well-coordinated processing of DRI applications.~~

~~(f)(h) Within 35 days following the preapplication conference, the regional planning agency shall document the findings and agreements made by the participants, including a summary of all assumptions and methodologies agreed upon at the conference. This documentation shall be provided to all participants at the preapplication conference and regional and state agencies involved in the DRI review, who shall have a time period specified by the regional planning agency, but not less than 14 days, to comment, agree, or disagree in writing with the summary. After agreement has been reached regarding assumptions and methodologies, reviewing agencies may not subsequently object to the assumptions and methodologies, unless subsequent changes to the project or information obtained during the review make those assumptions and methodologies inappropriate. If agreement cannot be reached, then the regional planning agency may designate an assumption or methodology to be used, but reviewing agencies are not bound by such assumption or methodology in their reviews.~~

~~(g)(i) Pursuant to Paragraph 380.06(7)(b), Florida Statutes, each regional planning agency shall establish by rule a preapplication procedure by which a developer may enter into binding written agreements with the regional planning agency to eliminate questions from the application for development approval where those questions are found to be unnecessary for DRI review. Elimination of questions shall be consistent with the stated legislative intent contained in Subsection 380.06(7), Florida Statutes, and shall not preclude consideration of, recommendations regarding, or appeal on those issue areas. Any reference to State Comprehensive Plan goals and policies in the application is intended to provide guidance to the applicant as to general applicability of, and consistency with, the State Comprehensive Plan. Such references are not exclusionary or limiting in any way. The elimination of questions in the application for development approval does not eliminate the applicability of any State Comprehensive Plan goal or policy to the proposed development. Consistency of the proposed plan of development with a local comprehensive plan should be a factor taken into consideration when agreeing to the elimination of certain questions from the application for development approval.~~

(2) through (3) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 380.06(7),(9),(23) FS. History--New 5-4-83, Formerly 9B-16.21, Amended 11-20-90.

9J-2.022 Filing the Application for Development Approval.

(1) through (3)(b) No change.

(c) If the regional planning agency determines that the application is insufficient to begin review, the regional planning agency shall provide written notice by regular mail or hand delivery to the appropriate local government and the applicant within 30 days of receipt of the application stating that the application contains insufficient information for the regional planning agency to discharge its responsibilities under Subsection 380.06(12), Florida Statutes, and requesting additional information. Comments and questions not referenced or included within the written notice and rendered to the applicant after the regional planning agency's 30-day review period has expired may not be used as the basis for additional sufficiency questions and may be answered at the applicant's discretion. Within five working days of the receipt of the statement the applicant shall provide written notice to the local government and the regional planning agency that the requested information will be supplied, or will not be supplied, in whole or in part. Within 30 days after receipt of the requested information, the regional planning agency shall review it and may only request any additional information needed to clarify the information received or to answer new questions raised by, or directly related to, the information received. The regional planning agency may request additional

~~information no more than twice, unless the developer waives this limitation.~~ If the applicant does not provide information requested by the regional planning agency within 120 days of the regional planning agency's request, or within a time agreed upon by the applicant and the regional planning agency, the application shall be considered withdrawn. The applicant may request that the regional planning agency arrange a conference with the appropriate reviewing agencies after the applicant has received the second request for additional information from the regional planning agency and prior to the submission by the applicant of information in response to that request. The purpose of such a conference is to resolve any reviewing agency's informational needs ~~in an effort to eliminate a third request for additional information.~~

~~(c)(4)~~ When the regional planning agency determines that the application is sufficient to begin review or receives notification from the applicant that additional information requested will not be supplied, the regional planning agency shall provide written notice within ten (10) days to the appropriate local government pursuant to Subsection 380.06(10)(c), Florida Statutes, stating that the application contains sufficient information for the regional planning agency to begin review pursuant to the criteria of Subsection 380.06(12), Florida Statutes, or that no additional information will be provided by the applicant, and that a public hearing date may be set. Notice of such determination shall also be provided to all reviewing agencies.

~~(d)(6)~~ The regional planning agency shall keep all affected agencies informed of the progress of the DRI review process and otherwise coordinate reviews of DRIs.

1. through 2. No change.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 380.06(5)-(7),(9),(10),(21),(22),(25), 380.061 FS. History—New 7-7-76, Amended 5-4-83, Formerly 27F-1.20, 9B-16.22, Amended 11-20-90, \_\_\_\_\_.

9J-2.023 Public Hearing.

Specific Authority 380.032(2)(a), 380.06(23)(a) FS. Law Implemented 380.06(11) FS. History—New 7-7-76, Amended 5-4-83, Formerly 27F-1.21, 9B-16.23, Amended 11-20-90, Repealed.

9J-2.024 Regional Report and Recommendations.

(1) Upon receipt of the notice of public hearing issued pursuant to Subsection 380.06(11), Florida Statutes, the appropriate regional planning agency shall prepare a report and recommendations on the regional impact of the proposed development in accordance with the criteria identified in Subsection 380.06(12), Florida Statutes. In preparing the regional report, the regional planning agency shall identify and make recommendations on regional issues. ~~Lists of R~~regional issues to be used in reviewing DRI applications are included in the applicable local government comprehensive plans, the Development of Regional Impact Uniform Standards Rule, the State Comprehensive Plan, and Sections 380.06(12)(a)1., 2., and 3., Chapter 9B-20, Florida Administrative Code, pursuant

~~to Paragraph 380.06(22)(b), Florida Statutes. In addition, Strategic Regional Policy Plans comprehensive regional policy plans~~ adopted by regional planning councils pursuant to Sections 186.507 and .508, Florida Statutes, are a long-range policy guide for the development of the region and shall be used as the basis for regional review of DRIs. ~~The list of regional issues identifies regional resources, facilities, and other issues of importance within the region that may be pertinent in a review of a DRI, whereas comprehensive regional policy plans contain policy guidelines for decisions on such issues.~~ The regional planning agency may also identify and make recommendations on other local issues. However, local issues shall not be grounds for or be included as issues in a regional planning agency recommendation for appeal of a local government development order.

(2) through (5) No change.

(6)(a) When the proposed DRI lies within the review jurisdiction of two or more regional planning agencies, the regional planning agencies should designate a lead agency from among themselves. ~~If they are unable to reach a decision, then the Division may designate a lead agency.~~ The regional planning agencies should discuss and determine the method for handling procedural matters involved in the review of the DRI, who will assume responsibility for determining the sufficiency of information contained in the application for development approval, and how the regional report and recommendations will be prepared. To the extent possible, a single joint report and recommendations should be prepared.

(b) through (c) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(b) FS. Law Implemented 380.06(12) FS. History—New 7-7-76, Amended 5-4-83, Formerly 27F-1.22, 9B-16.24, Amended 11-20-90, \_\_\_\_\_.

9J-2.025 Local Government Development Orders.

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

(c) Pursuant to Subparagraph 380.06(19)(f)4.3., Florida Statutes, the Division ~~or and~~ the appropriate regional planning agency shall review the proposed change, and ~~either may, in its discretion and~~ within 45 30 days of submittal of Form RPM-BSP-PROPCHANGE-1, unless that time is extended by the developer, shall advise notify the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer of its intent to participate at the public hearing.

(d) through (f) No change.

Specific Authority 380.032(2)(a), 380.06(19)(f)1.,(23)(a) FS. Law Implemented 380.06(5)(a)1.,(13),(14),(15),(17),(18),(19), 380.07(2) FS. History—New 7-7-76, Amended 5-4-83, 7-7-85, Formerly 22F-1.23, 27F-1.23, 9B-16.25, 9J-2.25, Amended 11-20-90, \_\_\_\_\_.

9J-2.0251 Abandonment of Development Orders.

(1) through (4)(a) No change.

~~(b) In such cases the local government shall issue a resolution affirming the continued effectiveness of the existing development order.~~

(5) through (6)(b) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(26) FS. Law Implemented 380.06(2),(26) FS. History—New 3-10-91, Amended.

9J-2.0252 Development of Regional Impact Review Fee Rule.

(1) through (3) No change.

(a) The applicant shall be liable to the regional planning agency for 100% of the actual costs, both direct and indirect, of coordinating or reviewing an application for development approval, an application for development approval of a substantial deviation, an application for development designation, or an application for development designation of a substantial change. ~~The regional planning agency shall keep accurate records of the actual costs associated with coordinating and reviewing the project and shall charge the project's account in the same manner as all other regional planning agency accounts are charged. Such records shall be reasonably itemized and reflect generally acceptable accounting procedures and practices which sufficiently and properly reflect expenditure of funds. Such records shall be made available to the applicant during regular business hours with reasonable notice to the regional planning agency. All costs, direct and indirect, associated with the coordination of the preapplication conference and issue methodology meetings up through the review of the final development order shall be charged to the project's account or cost center.~~ Costs associated with an appeal filed pursuant to Section 380.07, F.S., shall not be charged to an applicant.

(b) through (c) No change.

(d) Upon completion of the review process, if the actual costs exceed the total amount deposited in the project's account or cost center, but are less than \$75,000, the regional planning agency shall bill the applicant within 90 days. The applicant shall pay the amount due to the regional planning agency within 30 days after receipt of the bill. Any dispute regarding expenses included in a final bill which is less than \$75,000 shall be submitted directly to the regional planning agency and handled by that agency in the same manner as other types of expense disputes. Upon completion of the review process, if the actual costs exceed the total amount deposited in the project's account or cost center, but are greater than \$75,000, the regional planning agency shall bill the applicant within 90 days. ~~The applicant shall pay the amount due, less any disputed expenses, to the regional planning agency within 30 days of receipt of the bill.~~ If the applicant disputes any of the expenses included in a final bill which exceeds \$75,000, the applicant shall notify the Department and the regional planning agency within 15 days of receipt of the bill in accordance with subsection (4) below.

(4) No change.

(a) through (b) No change.

(5) REFUNDS. If the applicant's deposit exceeds the final fee total, any remaining balance shall be refunded to the applicant within sixty days of the final charge to the project's account or cost center. Should the applicant notify the regional planning agency, in writing, at any time during the review process that he wishes to withdraw the application and discontinue the review process, the regional planning agency shall, within 60 days, refund to the applicant any remaining balance in the project's account or cost center, excluding the non-refundable \$5,000 deposit, after deducting all costs incurred prior to receipt of written notification of withdrawal of the application. ~~Failure to make any applicable refunds within sixty days shall require the regional planning agency to pay a one percent per month interest charge.~~

(6) No change.

~~(7) LATE CHARGES. Fees not remitted within 30 days of receipt of the final bill of the regional planning agency, or within 15 days of receipt of the Department of Community Affairs' determination regarding any disputed expenses, shall accrue a one percent per month interest charge.~~

~~(7)(8) APPLICABILITY AND EFFECTIVE DATE.~~ This rule shall be effective on 11-14-90, and shall supersede any existing regional planning agency rules pertaining to development of regional impact review fees. This rule shall apply to all projects for which an application for development approval or development designation has not yet been filed and to all projects for which a development order has been rendered but for which a substantial deviation determination, a substantial change determination, an application for development approval of a substantial deviation, an application for development designation of a substantial change or a supplemental plan or review request is not already in the review process as of 11-14-90. If a preapplication conference or issue methodology meeting has been held and review fees have been paid pursuant to an adopted regional planning agency rule prior to 11-14-90, such fees shall be converted to a project account or cost center pursuant to this rule and credited towards the deposit required pursuant to subsection (2).

Specific Authority 380.032(2)(a), 380.06(23)(a),(d) FS. Law Implemented 380.06(23)(d) FS. History—New 11-14-90, Amended.

9J-2.0256 Hurricane Preparedness Policy Rule.

(1) through (2) No change.

(a) "Strategic Comprehensive regional policy plan" means those plans developed according to Section 186.507, Florida Statutes, and adopted pursuant to Section 186.508, Florida Statutes.

(b) through (f) No change.

(g) "Inland shelter study" or "inland shelter plan" means the studies produced by the Department and the state's regional planning councils which detail regional public hurricane shelter availability according to various simulated regional hurricane events. The following studies are incorporated by reference:

~~Central Florida Regional Hurricane Shelter Plan Study Update, 1989;~~

East Central Florida Inland Shelter Plan (1989);

~~North Central Florida Regional Hurricane Shelter Study (1984); and the~~

~~Withlacoochee Inland Hurricane Shelter Study Phase II (1984).~~

These studies are available at the respective regional planning councils.

(h) through (j) No change.

(k) “Local Comprehensive Emergency Management Plan ~~Peacetime emergency plan~~” means those plans developed by a county according to the provisions of Rules 9G-6 and 9G-7, Florida Administrative Code, under the authority provided in Section 252.3835, Florida Statutes.

(l) through (m) No change.

(n) “Regional hurricane evacuation study” or “regional hurricane evacuation plan” means the studies produced by the Department, the state's regional planning councils, the U.S. Army Corps of Engineers, or the Federal Emergency Management Agency, which detail regional hurricane evacuation clearance times and public hurricane shelter availability according to various simulated regional hurricane events. The following studies are incorporated by reference:

Central Florida Regional Hurricane Evacuation Study Update, 1995, Central Florida Regional Planning Council;

South Florida Regional Hurricane Evacuation Study, 1996, South Florida Regional Planning Council;

~~Treasure Coast Region Hurricane Evacuation Study Update, 199488;~~ U.S. Army Corps of Engineers;

Hurricane Evacuation Study, Southwest Florida, Update, 199587, Southwest Florida Regional Planning Council;

East Central Florida Regional Hurricane Evacuation Study Update, 1989, East Coast Florida Regional Planning Council;

~~Lower Southeast Florida Hurricane Evacuation Study (1983);~~

~~North Central Florida Hurricane Evacuation Study (1985);~~

Northeast Florida Hurricane Evacuation Study 1988 Update, 1988 Northeast Florida Regional Planning Council;

~~1988 Tampa Bay Region Hurricane Evacuation Study, 1992 Tampa Bay Regional Planning Council;~~

~~Tri-State Hurricane Evacuation Study, (1986), U.S. Army Corps of Engineers;~~

Cedar Key Basin Hurricane Evacuation Study, 1996, U.S. Army Corps of Engineers, (applicable to Withlacoochee and North Central Florida regions) ~~Withlacoochee Hurricane Evacuation Study, Technical Data Report Update; and the Apalachee Bay Region 1984 Hurricane Evacuation Study Plan, 1997, U.S. Army Corps of Engineers Apalachee Regional Planning Council.~~

These studies are available at the respective regional planning councils.

(o) through (5)(b)2. No change.

3. Provision of roadway capacity improvements committed to by the developer above and beyond the improvements required by Rule 9J-2.045255, Florida Administrative Code, when those regional roadways anticipated to be impacted by the proposed development are also identified hurricane evacuation routes. Such provisions shall be consistent with adopted state, regional, and local infrastructure policies.

4. through (6) No change.

(7) Construction of Rule. The rule shall not be construed to limit the ability of ~~the regional planning councils~~ or local governments to adopt more stringent mitigative measures than those delineated in this rule.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.06, 380.06(23)(b) FS. History–New 11-30-88, Amended 7-11-90, \_\_\_\_\_.

9J-2.0257 Special Hurricane Preparedness Districts for Developments of Regional Impact.

(1) through (4) No change.

(5) Designation of Southwest Florida as a Special Hurricane Preparedness District for Developments of Regional Impact. Based on a written request supported by data and information received from the Southwest Florida Regional Planning Council, the Department designates the area contained within the category three hurricane flood zone as identified in the Hurricane Evacuation Study Update, 1995 ~~1987~~ Southwest Florida Regional Planning Council within the counties of Sarasota, Charlotte, Lee, and Collier as a special hurricane preparedness district for developments of regional impact. More specifically, the area that is designated as a special hurricane preparedness district for developments of regional impact is that portion of Southwest Florida that lies outside of areas subject to the impacts of a category two storm but within the area anticipated to be impacted by a category three hurricane as identified in the Hurricane Evacuation Study Update, 1995 ~~1987~~ Southwest Florida Regional Planning Council. The Department's designation is based on the following facts regarding the coastal counties of Southwest Florida:

(a) through (6)(e) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(b),(c)1, FS. Law Implemented 380.06, 380.06(23)(b) FS. History–New 11-30-88, Amended 7-11-90, \_\_\_\_\_.

9J-2.026 Appeals.

Specific Authority 380.032(2), 380.06(23) FS. Law Implemented 380.032(2), 380.06(19)(f), 380.07(2) FS. History–New 5-4-83, Formerly 9B-16.26, Amended 11-20-90, ~~Repealed~~ \_\_\_\_\_.

9J-2.0275 Aggregation Rule.

(1) through (2) No change.

(a) “Physically proximate” means that any portion of two or more developments is located:

1. No more than one-fourth (1/4) mile apart in areas designated as urbanized areas in the latest decennial census, as revised, by the 1980 U.S. Department of Commerce, Bureau of Census publication, Census of Population and Housing Block Statistics (PHC80-1) maps, Report No. 11 for the State of Florida, incorporated herein by reference. [This information These maps may be obtained from the U.S. Department of Commerce or viewed at the appropriate Regional Planning Council offices]; or

2. No more than one-half (1/2) mile apart in areas that are not designated as urbanized areas by the Census Bureau in the 1980 PHC80-1 maps. When any portion of the two or more developments is located within an area not designated as urbanized, the criteria in Subparagraph (2)(a)2. shall apply. Notwithstanding anything in this rule to the contrary, two or more developments will be considered physically proximate when they are separated by property contiguous to the developments that are owned or controlled by the same person or entity who owns or controls a significant legal or equitable interest in those developments sought to be aggregated, so long as the distance between the developments does not exceed two miles.

(b) through (4) No change.

(a) Request a binding determination from the Division of Community Resource Planning and Management. The developer shall submit his application for a binding letter of interpretation by completing and filing part I of Form RPM-BSP-BLID-1 BLWM-01-83, incorporated herein by reference, effective May 4, 1983 (Development of Regional Impact Status) along with supporting documentation sufficient to determine the applicability of Subsection 380.0651(4), Florida Statutes to the particular projects, with the Division Bureau of State Planning. This form may be obtained upon request to any regional planning agency or to:

Division of Community Resource Planning and Management

Bureau of State Planning

2555 Shumard Oak Boulevard 2740 Centerview Drive

Tallahassee, Florida 32399-2100; or

(b) Request an informal determination in the form of a clearance letter by submitting a written request along with supporting documentation sufficient to determine the applicability of Subsection 380.0651(4), Florida Statutes, with the Division of Community Resource Planning and Management, Bureau of State Planning. The Division shall, if it feels the issue is debatable, decline to issue a clearance letter.

Specific Authority 380.032(2)(a), 380.06(23)(a), 380.0651(4)(f) FS. Law Implemented 380.0651(4) FS. History—New 2-2-89, Amended

9J-2.028 Master Development Approval Alternative Review Procedure.

(1) through (5) No change.

Specific Authority 380.032(2)(a), 380.06(21)(c),(23)(a) FS. Law Implemented 380.06(21) FS. History—New 7-7-76, Amended 5-4-83, Formerly 27F-1.24, 9B-16.28, Amended 11-20-90.

9J-2.040 The Application of State, Regional and Local Plans in DRI Uniform Standard Rules.

(1) through (a) No change.

(b) Sections 186.002, 186.007, 186.009, and 186.021, 187.101, 380.031, and 380.07, Florida Statutes, establish the State Comprehensive Plan and the State Land Development Plan as the long-range, state land development policy guides to be considered in the DRI review process, pursuant to Subsections 380.06(3),(4),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(c) Sections 186.503, 186.505, 186.507, and 380.07, Florida Statutes, establish the Comprehensive Regional Policy Plan, until adoption of the Strategic Regional Policy Plan as the long-range, regional land development policy guide to be considered in the DRI review process, pursuant to Subsections 380.06(3),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(d) No change.

(e) It is the intent of the Department to set forth in this rule the manner in which the applicable state, regional and local plans will be utilized to implement the provisions of Section 380.021, Paragraphs 380.06(4)(a),(b),(d),(e), and (f), Subparagraph 380.06(8)(a)11., Subparagraphs 380.06(12)(a)1. and 2., Subsection 380.06(13), Paragraphs 380.06(14)(a),(e) and (d), Paragraph 380.06(15)(e),(d) and (e), Subsection 380.06(16), Paragraph 380.06(19)(a), Paragraphs 380.06(19)(e) and (e), Subparagraph 380.06(19)(f)6., Paragraphs 380.06(19)(g) and (h), Subsection 380.06(21), Subsection 380.06(22), Subsection 380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Paragraphs 380.065(3)(b) and (c), and Section 380.07, Florida Statutes.

(e)(f) The statutory authority to promulgate and establish this rule is derived from Subsections 380.032(2) and 380.06(23), Florida Statutes.

(2) No change.

(a) No change.

(b) “Applicable Regional Plan” means the Regional Planning Council’s adopted Comprehensive Regional Policy Plan prior to the adoption of a Strategic Regional Policy Plan pursuant to Section 186.508, F.S., and thereafter means an adopted Strategic Regional Policy Plan.

(c) “Applicable State Plan” means the State Comprehensive Plan and the State Land Development Plan.

(d) through (3) No change.

(a) A resource or facility specific DRI Uniform Standard rule shall be utilized in development reviews wherever a rule explicitly establishes the planning standards to be utilized for a specific regional or state significant facility or resource issue. For the purposes of this rule, Rule 9J-2.0256 (Hurricane

Preparedness Policy Rule) and 9J-2.0257 (Special Hurricane Preparedness Districts for Developments of Regional Impact) shall be considered as DRI Uniform Standard rules.

~~1. For the purposes of this rule, Rules 9J-2.0256 (Hurricane Preparedness Policy Rule) and 9J-2.0257 (Special Hurricane Preparedness Districts for Developments of Regional Impact) shall be considered as DRI Uniform Standard rules until superseded by a Hurricane Preparedness Uniform Standard Rule adopted into Part III of 9J-2, Florida Administrative Code.~~

~~2. Upon the adoption of Rule 9J-2.045 (Transportation Uniform Standard Rule), the applicable provisions of existing Rule 9J-2.0255 (Transportation Policy Rule) shall remain available as a mitigation option for minor transportation development impacts created by a non-substantial deviation change to a DRI project whose original ADA was submitted and authorized after January 20, 1987, and prior to the effective date of Rule 9J-2.045, as long as the resulting amended development order is consistent with the applicable local government comprehensive plan.~~

(b) through (5)(c) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.021, 380.06, 380.06(23)(b),(c)1, 380.065, 380.07 FS. History—New 3-23-94, Amended.

9J-2.041 Listed Plant and Wildlife Resources Uniform Standard Rule.

(1) No change.

(a) The Legislature established Chapter 380, Florida Statutes, in order to protect the natural resources and environment of Florida, by authorizing the state land planning agency to establish land management policies to guide local decisions relating to growth and development. Sections 186.002, 186.007, 186.009, ~~186.021, and~~ 187.101, ~~380.031, and~~ ~~380.07~~, Florida Statutes, establish the State Comprehensive Plan ~~and the State Land Development Plan~~ as the long-range, state land development policy guides to be considered in the DRI review process in order to ensure orderly growth in Florida, pursuant to Subsections 380.06(3),(4),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(b) Consistent with the land management policies delineated in the State Comprehensive Plan ~~and the State Land Development Plan~~, it is the intent of the Department to set forth in this rule the specific listed plant and wildlife review guideline standards and criteria to be utilized. ~~to implement the provisions of Section 380.021, Paragraphs 380.06(4)(a),(b),(d),(e), and (f), Subparagraph 380.06(8)(a)11., Subparagraphs 380.06(12)(a)1. and 2., Subsection 380.06(13), Paragraphs 380.06(14)(a),(e) and (d), Paragraph 380.06(15)(e), Paragraphs 380.06(19)(a) and (c), Subparagraph 380.06(19)(b)16., Subsubparagraph 380.06(19)(c)5.b., Subparagraph 380.06(19)(f)6., Paragraphs 380.06(19)(g) and (h), Subsection 380.06(21), Subsection 380.06(22), Subsection~~

~~380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Paragraphs 380.065(3)(b) and (e), and Section 380.07, Florida Statutes.~~

(c) through (2)(c) No change.

(d) “Applicable Regional Plan” means the Regional Planning Council’s adopted ~~Comprehensive Regional Policy Plan prior to the adoption of a~~ Strategic Regional Policy Plan pursuant to Section 186.508, F.S., ~~and thereafter means an adopted Strategic Regional Policy Plan.~~

(e) “Applicable State Plan” means the State Comprehensive Plan ~~and the State Land Development Plan.~~

(f) “Critically Imperiled Plant” means a state or federally listed plant species that is ranked S1 by the Florida Natural Areas Inventory, consistent with Paragraph 259.041(14)(c) 253.025(15), F.S., and is therefore considered as critically imperiled in Florida because of extreme rarity or because of extreme vulnerability to extinction due to some natural or man-made factor. When a plant species has a compound rank such as S1S2, the second listed rank will be utilized for the purposes of this rule.

(g) through (j) No change.

(k) “Imperiled Plant” means a state or federally listed plant species that is ranked S2 by the Florida Natural Areas Inventory, consistent with Paragraph 259.041(14)(c) 253.025(15), F.S., and is therefore considered as imperiled in Florida because of rarity or because of vulnerability to extinction due to some natural or man-made factor. When a plant species has a compound rank such as S1S2 or S2S3, the second listed rank will be utilized for the purposes of this rule.

(l) No change.

(m) “Listed Species” means an animal species identified as a state endangered, threatened, or species of special concern in Chapter ~~68 39~~, Florida Administrative Code, a plant species identified as a state endangered or threatened ~~in Rule 5B-40.0055, Florida Administrative Code~~, or a federally listed plant or animal species in 50 CFR 17.11-12, effective the date of this rule.

(n) through (s) No change.

(t) “Rare Plant” means a state or federally listed plant species that is ranked S3 by the Florida Natural Areas Inventory, consistent with Paragraph 259.041(14)(c) 253.025(15), F.S., and is therefore considered as either very rare and local throughout its range in Florida, is found locally within Florida in a restricted range, or is vulnerable to extinction because of other factors. When a plant species has a compound rank such as S2S3 or S3S4, the second listed rank will be utilized for the purposes of this rule.

(u) through (5)(a)3.b. No change.

c. The critically imperiled listed plant species covered by these provisions are:

- Acacia choriophylla (Tamarindillo)
- Actaea pachypoda (Baneberry; White baneberry)



- Actinostachys pennula [Schizaea germanii] (Ray fern)  
 Adiantum melanoleucum (Fragrant maidenhair fern)  
Alvaradoa amorphoides (Everglades leaf lace)  
 Amorpha crenulata [Amorpha herbacea var crenulata]  
 (Crenulate Miami lead plant)  
~~Anemonella thalictroides (Rue-anemone)~~  
Anemia wrightii (Wright's anemia)  
Aquilegia canadensis (Colubine)  
 Aquilegia canadensis var. australis (Wild columbine, Marianna  
columbine)  
 Arabis canadensis (Sicklepod)  
Aristolochia pentandra (Dutchman's pipe)  
 Asimina tetramera (Four-petal pawpaw)  
 Asplenium monanthes (San Felasco spleenwort, Single-sorus  
spleenwort)  
Asplenium myriophyllum [Asplenium verecundum] (Delicate  
spleenwort)  
 Asplenium pumilum (Dwarf spleenwort)  
 Asplenium serratum (Bird's nest spleenwort)  
~~Asplenium x biseayneum (Eaton's spleenwort)~~  
~~Asplenium x curtissii (Curtiss' spleenwort)~~  
~~Asplenium x plenum [Asplenium plenum] (Double~~  
~~spleenwort)~~  
 Aster hemisphericus (Aster, Tennessee aster)  
 Aster spinulosus (Pinewoods aster)  
Balduina atropurpurea (Purple balduina)  
 Basiphyllaea corallicola (Rockland orchid)  
 Bigelovia nuttallii (Nuttall's rayless goldenrod)  
 Blechnum occidentale (Sinkhole fern)  
~~Botrychium lunarioides (Winter grape fern)~~  
 Bourreria cassinifolia (Little strongbark)  
Bourreria radula (Rough strongbark)  
~~Brassia caudata (Long-tailed spider orchid)~~  
 Brickellia eupatorioides var. floridana [=B. mosieri] (Florida  
thoroughwort brickell-bush)  
 Bulbophyllum pachyrrhachis (Rat-tail orchid)  
 Burmannia flava (Fakahatchee burmannia)  
Caesalpinia pauciflora (Few-flowered holdback)  
Calystegia catesbiana (Trailing bindweed)  
 Campanula robinsiae (Robins' bellflower, Brooksville  
bellflower)  
 Campylocentrum pachyrrhizum (Leafless orchid)  
 Campyloneurum angustifolium (Narrow swamp fern,  
Narrow-leaved strap fern)  
Carex microdonta (Small-toothed sedge)  
 Catesbaea parviflora (Small-flowered lily-thorn)  
 Catopsis nutans (Nodding Catopsis)  
 Celtis iguanaea (Iguana hackberry)  
 Celtis pallida (Spiny hackberry)  
 Centrogenium setaceum (Spurred Neottia)  
 Cereus eriophorus var. fragrans (Fragrant prickly apple)  
 Cereus robinii (tree cactus)  
Chamaesyce deltoidea ssp adhaerens [Chamaesyce deltoidea]  
(Hairy deltoid spurge)  
 Chamaesyce deltoidea ssp deltoidea [=Euphorbia, Chamaesyce  
deltoidea] (Deltoid spurge)  
 Chamaesyce deltoidea ssp serpyllum [Chamaesyce deltoidea]  
 (Wedge spurge)  
 Chamaesyce garberi [=Euphorbia garberi, Chamaesyce  
porteriana var. keyensis] (Garber's spurge)  
Chamaesyce pinetorum (Pinelands spurge)  
~~Chamaesyce porteriana var. keyensis (Keys hairy-podded~~  
~~spurge)~~  
 Chrysopsis floridana (Florida's golden-aster)  
Cienfuegosia yucatanensis (Mexican hibiscus, yellow hibiscus)  
 Cladonia perforata (Florida perforate cladonia)  
Colubrina cubensis var floridana (Cuban snake-bark)  
 Conradina etonia (Etonia rosemary)  
 Conradina glabra (Apalachicola rosemary)  
 Corallorhiza odontorhiza (Autumn coralroot)  
Coreopsis integrifolia (Chipola dye-flower)  
 Crataegus phaenopyrum (Washington thorn)  
 Crotoparia avonensis (Avon Park rabbit-bells harebells)  
Cryptotaenia canadensis (Canada honewort)  
 Cucurbita okeechobeensis (Okeechobee gourd)  
Cucurbita okeechobeensis ssp okeechobeensis (Okeechobee  
gourd)  
 Cupania glabra (Cupania)  
Cuphea aspera (Tropical waxweed)  
Cyperus floridanus (Florida flatsedge)  
Cyperus fuliginosus (Limestone flatsedge)  
 Cyrtopodium punctatum (Cownhorn orchid)  
Dalea carthagenensis var floridana (Florida prairie clover)  
 Deeringothamnus pulchellus (Beautiful pawpaw)  
 Deeringothamnus rugelii (Rugel's pawpaw)  
 Delphinium carolinianum (Carolina larkspur)  
 Dennstaedtia bipinnata (Hay-scented fern)  
Desmodium ochroleucum (Creamflower tick-trefoil)  
 Dicerandra christmanii (Garrett's mint)  
 Dicerandra cornutissima (Robin's mint)  
 Dicerandra frutescens (Lloyd's mint)  
 Dicerandra immaculata (Lakela's mint)  
Digitaria pauciflora (few-flowered crabgrass)  
 Dodecatheon meadia (Shooting-star)  
Dodonaea elaeagnoides (Keys hopbush)  
Drosera filiformis (Thread-leaf sundew)  
Echinacea purpurea (Eastern purple coneflower)  
Eleocharis rostellata (Beaked spikerush)  
Eltroplectris calcarata [Centrogenium setaceum] (Spurred  
neottia)

- Encyclia boothiana (Dollar orchid)  
Encyclia boothiana var. erythronioides (Dollar orchid)  
Encyclia pygmaea (Dwarf ~~encyclia epidendrum~~)  
Epidendrum acunae [E. blancheanum] (Acuna's epidendrum)  
Epidendrum rigidum [E. strobiliferum] (Rigid epidendrum)  
Eriocaulon nigrobracteatum (Dark-headed hatpins)  
Ernodea cokeri (One-nerved ernodea)  
Eryngium cuneifolium (Wedge-leaved button-snakeroots)  
Eugenia rhombea (Red stopper)  
Eupatorium frustratum (Cape Sable thoroughwort)  
Euphorbia telephoides (Telephus spurge)  
Evolvulus grisebachii (Grisebach's false-morning-glory)  
Fothergilla gardenii (Dwarf witch-alder)  
Galactia smalli (Small's milkpea)  
Galeandra beyrichii (~~Galeandra~~ ~~orchid~~)  
Goodyera pubescens (Downy rattlesnake plantain)  
Govenia utriculata (Sheathing govenia)  
Harperocallis flava (Harper's beauty)  
Harrisia fragrans [Cereus eriophorus var. fragrans] (Fragrant prickly apple)  
Hasteola robertiorum (Florida hasteola)  
Hedyotis nigricans var pulvinata (Narrow-leaved bluets)  
Hybanthus concolor (Green violet)  
Hydrangea arborescens (Wild hydrangea)  
Hymenocallis godfreyi (Godfrey's spiderlily)  
Hymenocallis henryae (Panhandle spiderlily)  
Hypelate trifoliata (Inkwood)  
Illicium parviflorum (Star anise)  
Indigofera mucronata var keyensis (Decumbent indigo)  
Ionopsis utricularioides (Delicate ionopsis)  
Isopyrum biternatum (False rue-anemone)  
Isotria verticillata (Large whorled pogonia)  
Jacquemontia havanensis (Cuban jacquemontia)  
Jacquemontia reclinata (Beach jacquemontia)  
Lantana depressa var depressa (Florida lantana)  
Lantana depressa var sanibelensis (Gulf Coast Florida lantana)  
Lechea lakelae (Lakela's pinweed)  
Leochilus labiatus (Smooth-lipped leochilus)  
Lepanthopsis melanantha (Tiny orchid; Harris' tiny orchid)  
Lepuropetalon spathulatum (Little-people)  
Licaria triandra (Licaria; Gulf licaria)  
Lilium superbum (Turk's cap lily)  
Lindera subcoriacea (bog spicebush)  
Linum carteri var. carteri (Everglades flax; Carter's small-flowered flax)  
Lupinus aridorum [Lupinus westianus var aridorum] (McFarlin's lupine; Scrub lupine)  
Lycopodium dichotomum [Huperzia dichotoma] (Hanging club-moss)  
Lythrum curtissii (Curtiss' lythrum; Curtiss' loosestrife)  
Maebridea alba (~~White birds in a nest~~)  
Maeradenia lutescens (~~Trinidad maeradenia~~)  
Magnolia acuminata (Cucumber magnolia)  
Magnolia tripetala (Umbrella magnolia)  
Marshallia obovata (Barbara's-buttons)  
Marshallia ramosa (Barbara's-buttons; Southern marshallia)  
Matelea albamensis (Alabama anglepod; Alabama milkweed)  
Matelea baldwyniana (Baldwyn's spiny-pod)  
Matela flavidula (Carolina milkvine)  
Maxillaria crassifolia (Hidden orchid)  
Maxillaria parviflora (Minnie-max)  
Medeola virginiana (Indian cucumber-root)  
Minuartia godfreyi (Godfrey's sandwort)  
Monotropa hypopithys (Pine-sap)  
Monotropis reynoldsiae (Pygmy-pipes)  
Najas filifolia (Narrowleaf naiad)  
Oncidium floridanum (Florida oncidium)  
Oncidium luridum [Oncidium undulatum] (Mule-ear orchid)  
Oncidium variegatum [Tolumnia bahamense; Oncidium bahamense] (Dancing-lady orchid)  
Opuntia spinosissima (Semaphore cactus)  
Opuntia triacantha (three-spined prickly pear, Keys Joe-jumber)  
Pachysandra procumbens (Allegheny-spurge)  
Parnassia caroliniana (Carolina grass-of-parnassus)  
Paronychia chartacea ssp. minima (Crystal Lake Nailwort)  
Passiflora multiflora (Whitish passionflower)  
Peperomia amplexicaulis (Clasping peperomia)  
Peperomia glabella (~~Cypress peperomia~~)  
Phoradendron rubrum (Mahogany mistletoe)  
Physocarpus opulifolius (Ninebark)  
Picramnia pentandra (Bitter bush)  
Pilosocereus bahamensis (Bahamian treecactus)  
Pilosocereus robinii [Cereus robinii] (Tree cactus)  
Pilosocereus robinii var. deeringii (Tree cactus)  
Pisonia rotundata (Devil's smoothclaw)  
Platanthera clavellata (Little club-spur orchid)  
Pleopeltis revoluta (Star-seale fern)  
Podophyllum peltatum (May apple)  
Polygala smallii (Tiny polygala)  
Polymnia laevigata (Tennessee leafcup)  
Ponthieva brittoniae var. brittoniae (Bahama shadow-witch; Mrs. Britton's shadow-witch)  
Prescottia oligantha (Small-flowered prescotia)  
Pseudophoenix sargentii (Buccaneer palm; Florida cherry palm)  
Psychotria ligustrifolia (Bahama wild coffee)  
Rhipsalis baccifera (Mistletoe cactus)  
Rhododendron chapmanii (Chapman's rhododendron)  
Rhynchosia swartzii (Swartz's snoutbean)

- Rhynchospora crinipes (Hairy-peduncled beakrush)  
 Ribes echinellum (Miccosukee gooseberry)  
 Sachsia bahamensis [*Sachsia polycephala*] (Bahama sachsia)  
 Salix eriocephala (Heart-leaved willow)  
 Salvia urticifolia (Nettle-leave sage)  
Schizachyrium niveum (Scrub bluestem)  
Schizachyrium sericatum (Silky bluestem)  
 Schizaea germanii [*Actinostachys pennula*] (Ray fern; Tropical curly-grass)  
 Schwalbea americana (Chaff-seed)  
 Scutellaria floridana (Florida skullcap)  
Sideroxylon alachuense (Silver buckthorn)  
Sideroxylon thornei [Bumelia thornei] (Thorne's buckthorn)  
Silene polypetala (Fringed campion; Fringed pink)  
Silene virginica (Virginia campion; Fire pink)  
 Spigelia gentianoides (Gentian pinkroot)  
Spiranthes adnata (Pelexia)  
 Spiranthes costaricensis (Reichenbach's orchid)  
 Spiranthes elata (Tall neottia)  
Spiranthes lanceolata var. paludicola (Ladies' tresses)  
 Spiranthes torta [*S. tortilis*] (Southern ladies' tresses)  
 Stachys crenata (Shade betony)  
Stachys tenuifolia (Narrow-leaved betony)  
 Staphylea trifolia (American bladder-nut)  
 Strumpfia maritima (Pride-of-Big-Pine)  
 Tephrosia angustissima (Hoary pea; Coastal hoary pea)  
Tephrosia angustissima var corallicola (Rockland hoary-pea)  
Tephrosia angustissima var curtissii (Coastal hoary-pea)  
Tetramiera canaliculata (Grooved tetramiera)  
 Thalictrum cooleyi (Cooley's meadowrue)  
Thalictrum thalictroides [Anemonella thalictroides] (Rue-anemone)  
Thelypteris patens (Grid-scale maiden fern)  
Thelypteris reticulata (Lattice-vein fern: Cypress fern)  
 Thelypteris sclerophylla (Hard-leaved shield fern)  
Thelypteris serrata (Dentate lattice-vein fern)  
 Tillandsia pruinosa (Fuzzy-wuzzy air plant)  
 Torreya taxifolia (Florida torreya)  
 Trichomanes holopterum (Entire-winged bristle fern)  
Trichomanes lineolatum (Winged bristle fern)  
Trichomanes punctatum ssp floridanum [Trichomanes punctatum] (Florida bristle fern)  
 Triphora craigheadii (Craighead's nodding-caps)  
Tropidia polystachya (Young-palm orchid)  
Uvularia floridana (Florida merry-bells)  
Vallesia antillana (Pearl berry)  
 Vanilla mexicana [*Vanilla inodora*] (Scentless vanilla)  
 Verbena tampensis [*Glandularia tampensis*] (Tampa vervain)  
 Vicia ocalensis (Ocala vetch)
- Viola hastata* [*Viola tripartita* var. *glaberrima*] (Halberd-leaved yellow violet)  
 Warea amplexifolia (Clasping warea)  
 Xanthorhiza simplicissima (Yellow-root)  
Xyris chapmanii (Chapman's yellow-eyed grass)  
Xyris louisianica (Kral's yellow-eyed grass)  
Xyris seabrifolia (Harper's yellow-eyed grass)  
Zanthoxylum americanum (Northern prickly ash)  
Zanthoxylum coriaceum (Biscayne prickly ash, leathery prickly ash)  
 Zanthoxylum flavum (Yellowheart)  
 Ziziphus celata (Scrub ziziphus)  
 All rediscovered, previously considered to be extirpated or extinct, ranked listed plant species, including:  
Amyris balsamifera (Balsam torchwood)  
Baptista calycosa var. calycosa [Canby's wild indigo]  
Bletia patula (Haitian bletia)  
Brassia caudata (spider orchid)  
 Cranichis muscosa (Cranefly orchid)  
Croton elliotii (Elliott's croton)  
Hedyotis nigricans var. pulvinata (Narrow-leaved bluets)  
Linum sulcatum (Grooved flax)  
 Lindera melissifolia (Pondberry; Swamp spicebush)  
Macradenia lutescens (Trinidad macradenia)  
Peperomia glabella (Cypress peperomia)  
Pleopeltis astrolepsis [Pleopeltis revoluta] (Star-scale fern)  
Restrepella ophioccephala (Snake orchid)  
Rhynchospora culixa (Georgia beakrush)  
Rhynchospora punctata (Pineland beakrush)  
Salvia micrantha var blodgettii (Blodgett's sage)  
Solanum bahamense var rugelii (Rugel's Key West horse-nettle)  
 Tectaria amesiana [*Tectaria x amesiana*] (Ames' halberd fern)  
 Tectaria coriandrifolia (Hattie Bauer halberd fern)  
Tephrosia angustissima var angustissima (Devil's shoestring)  
 Triphora latifolia (Broad-leaved nodding-caps)  
Tropidia polystachya (Young-palm orchid)
4. through b. No change.  
 c. The imperiled listed plant species covered by these provisions are:  
Aeschynomene pratensis var pratensis [Aeschynomene pratensis] (Meadow jointvetch)  
Ageratum littorale (Cape Sable ageratum)  
Agrimonia incisa (Incised groove-bur)  
Aletris bracteata (Bracted colic-root)  
 Argythamnia blodgettii (Blodgett's wild-mercury)  
Aristida simpliciflora (Southern three-awned grass)  
Aristolochia tomentosa (Pipevine)  
Arnoglossum diversifolium [Cacalia diversifolium] (Variable-leaved Indian-plantain)

- Asclepias viridula* (Apalachicola milkweed)  
*Asplenium auritum* (Auricled Spleenwort)  
*Asplenium trichomanes-dentatum* [*Asplenium dentatum*] (Slender spleenwort)  
~~*Asplenium* x *heteroresiliens* [*Asplenium heteroresiliens*] (Wagner's spleenwort)~~  
~~*Baptisia hirsuta* [*Baptisia calycosa* var. *hirsuta*; *Baptisia calycosa* var. *villosa*] (Hairy wild-indigo; Pineland wild indigo)~~  
*Baptisia megacarpa* (Apalachicola wild-indigo)  
*Brickellia cordifolia* (Flyr's nemesis; Flyr's brickell-bush)  
~~*Bumelia lycioides* (Buckthorn)~~  
~~*Caecalia diversifolia* [*Arnoglossum diversifolium*] (Variable-leaved Indian plantain)~~  
~~*Calamovilfa curtissii* (Curtiss' sandgrass)~~  
*Callirhoe papaver* (Poppy mallow)  
*Calycanthus floridus* var. *floridus* (Sweet-shrub)  
*Calydorea coelestina* [*Sphenostigma coelestinum*] (Bartram's ixia)  
*Calyptanthes zuzygium* (myrtle-of-the-river)  
*Campyloneurum costatum* (Tailed strap fern)  
*Canella winteriana* (Wild cinnamon)  
~~*Carex baltzellii* (Baltzell's sedge)~~  
*Carex chapmanii* (Chapman's sedge)  
*Cassia keyensis* (Key cassia)  
*Catopsis berteroniana* (Powdery Catopsis)  
*Catopsis floribunda* (Many-flowered Catopsis)  
*Centrosema arenicola* (Sand butterfly pea)  
*Chamaecrista lineata* var. *keyensis* [*Cassia keyensis*] (Big pine partridge pea)  
~~*Cereus gracilis* var. *aboriginum* (Aboriginal prickly apple)~~  
~~*Cereus gracilis* var. *simpsonii* (Simpson's prickly apple)~~  
*Chamaesyce cumulicola* (sand-dune spurge)  
*Chamaesyce porteriana* var. *porteriana* (Porter's hairy-podded spurge)  
*Chamaesyce porteriana* var. *scoparia* (Porter's broom spurge)  
*Cheiroglossa palmata* [*Ophioglossum palmatum*] (Hand adder's tongue fern)  
*Chrysopsis godfreyi* (Godfrey's golden aster)  
*Chrysopsis gossypina* ssp. *cruiseana* [*Chrysopsis cruiseana*] (Cruise's golden-aster)  
*Coccothrinax argentata* (Silver palm)  
*Colubrina cubensis* (Colubrina)  
*Conradina breviflora* (Short-leaved rosemary)  
*Cornus alternifolia* (Pagoda dogwood)  
*Croomia pauciflora* (Few-flowered croomia)  
*Crossopetalum ilicifolium* (Christmas berry)  
*Ctenitis sloanei* (Comb fern)  
*Ctenium floridanum* (Florida toothache grass)  
*Cynoglossum virginianum* (Wild comphrey)  
*Dirca palustris* (Eastern leatherwood)  
*Drypetes diversifolia* (Milkbark)  
*Encyclia cochleata* [*Encyclia cochleata* var. *triandra*] (Clamshell orchid)  
*Epidendrum difforme* (Umbelled epidendrum)  
*Epidendrum nocturnum* (Night-scented orchid)  
*Epigaea repens* (Trailing arbutus)  
*Eragrostis tracyi* (Sanibel lovegrass)  
*Erythronium umbilicatum* (Dimpled dogtooth-violet; Trout lily)  
*Euonymus atropurpureus* (Burningbush)  
*Eupatorium villosum* [*Koanophyllum villosum*] (Villose fennel)  
*Euphorbia commutata* (Wood spurge)  
*Euphorbia pinetorum* [*Poinsettia pinetorum*] (Rockland painted-leaf)  
*Guaiacum sanctum* (Lignum-vitae tree)  
*Guzmania monostachia* (Fuch's bromeliad)  
*Gyminda latifolia* (False boxwood)  
*Gymnopogon chapmanianus* (Chapman's skeletongrass)  
*Halophila johnsonii* (Johnson's seagrass)  
*Harrisia aboriginum* [*Cereus gracilis* var. *aboriginum*] (Aboriginal prickly apple)  
*Harrisia simpsonii* [*Cereus gracilis* var. *simpsonii*] (Simpson's prickly apple)  
*Hartwrightia floridana* (Florida hartwrightia)  
~~*Hedeoma graveolens* (Moek pennyroyal)~~  
*Helianthus carnosus* (Lakeside sunflower)  
*Hepatica americana* [*Hepatica nobilis*] (Liverleaf)  
*Hippomane mancinella* (Manchineel)  
*Hypericum cumulicola* (Highlands scrub hypericum)  
*Hypericum edsonianum* (Edison's ascyrum)  
*Hypericum lissophloeus* (Smooth-barked St. John's-Wart)  
*Ilex amelanchier* (Serviceberry holly)  
*Ilex krugiana* (Krug holly)  
*Illicium parviflorum* (Star anise)  
*Ipomoea microdactyla* (Wild potato morning-glory)  
*Ipomoea tenuissima* (Rocklands morning-glory)  
*Jacquemontia curtissii* (Pineland jacquemontia)  
*Jacquemontia pentanthos* (Skyblue clustervine)  
*Juncus gymnocarpus* (Coville's rush)  
*Justicia cooleyi* (Cooley's justicia; Cooley's water willow)  
*Justicia crassifolia* (Thick-leaved water-willow)  
*Lachnocaulon digynum* (Bog button)  
*Lantana canescens* (Small-headed lantana)  
*Lantana depressa* (Pineland lantana)  
*Lantana depressa* var. *floridana* (Atlantic Coast Florida lantana)  
*Lechea divaricata* (Spreading pinweed; Pine pinweed)  
*Leiphaimos parasitica* (Ghost plant)

- Liatris provincialis* (Godfrey's blazing-star)  
*Lilium iridollae* (Panhandle lily)  
*Lilium michauxii* (Carolina lily)  
*Linum arenicola* (Sand flax)  
*Linum carteri* var. *smallii* (Everglades flax; Carter's large-flowered flax)  
*Linum westii* (West's flax)  
*Liparis nervosa* (Tall twayblade)  
*Lippia staechadifolia* [*Phyla staechadifolia*] (Southern matchsticks)  
*Litsea aestivalis* (Pond-spice)  
*Lomariopsis kunzeana* (Hollyvine fern)  
*Lupinus westianus* (Gulfcoast lupine)  
*Lythrum flagellare* (Lowland loosestrife)  
*Macbridea alba* (White birds-in-a-nest)  
*Macranthera flammea* (Hummingbird flower)  
~~*Magnolia acuminata* (Cucumber tree)~~  
*Magnolia ashei* (Ashe's magnolia)  
~~*Magnolia pyramidata* (Pyramid magnolia)~~  
*Matelea floridana* (Florida spiny-pod; Florida milkweed)  
*Melanthera parvifolia* (Small-leaved melanthera)  
~~*Medeola virginiana* (Indian cucumber-root)~~  
*Nemastylis floridana* (Fall-flowering ixia)  
*Nevrodium lanceolatum* (Ribbon fern)  
*Nolina brittoniana* (Britton's bear-grass; Scrub beargrass)  
*Okenia hypogaea* (Burrowing four-o'clock)  
~~*Ophioglossum palmatum* (Hand adder's tongue fern)~~  
~~*Panicum abscissum* (Cut throat grass)~~  
*Panicum nudicaule* (Naked-stemmed panic grass)  
*Parnassia grandifolia* (Grass-of-Parnassus)  
*Paronychia chartacea* (Papery whitlow-wort)  
*Passiflora pallens* (Pineland passionvine)  
*Pecluma ptilodon* (Swamp plume polypody)  
*Pellaea atropurpurea* (Purple cliff brake fern)  
*Peperomia humilis* (Terrestrial peperomia)  
*Peperomia obtusifolia* [*Peperomia floridana*] (Blunt-leaved peperomia; Florida peperomia; Everglades peperomia)  
*Phyllanthus liebmannianus* ssp. *platylepis* (Pine-wood dainties)  
*Pinguicula ionantha* (Violet-flowered butterwort)  
~~*Pinguicula planifolia* (Chapman's butterwort)~~  
*Pleurothallis gelida* (Frost-flower orchid)  
~~*Poinsettia pinetorum* (Everglades poinsettia)~~  
*Polygala lewtonii* (Lewton's polygala)  
*Polygonella macrophylla* (Large-leaved jointweed)  
*Polygonum meisnerianum* var. *beyrichianum* [*Polygonum meisnerianum*] (Mexican tear-thumb)  
*Polypodium dispersum* [*Pecluma dispersa*] (A polypoda)  
*Polypodium plumula* [*Pecluma plumula*] (Plume polypoda)  
*Polyrrhiza lindenii* [*Polyradicion lindenii*] (Ghost orchid)  
*Potamogeton floridanus* (Florida pondweed)  
*Prunus myrtifolia* (West Indian cherry)  
*Psidium longipes* (Mangrove berry)  
*Pteroglossaspis ecrinata* [*Eulophia ecrinata*] (Wild coco)  
~~*RPhexia parviflora* (Small-flowered *Apalachicola* meadowbeauty)~~  
*Rhexia salicifolia* (Panhandle meadowbeauty)  
*Rhododendron alabamense* (Alabama rhododendron)  
*Rhododendron chapmanii* (Chapman's rhododendron)  
*Roystonea elata* (Florida royal palm)  
*Rudbeckia nitida* var. *nitida* [*Rudbeckia nitida*] (St. John's-Susan)  
*Ruellia noctiflora* (Night-flowering ruellia)  
*Salix floridana* (Florida willow)  
~~*Sarraecenia rubra* (Red-flowered pitcher plant; sweet pitcher plant)~~  
*Savia bahamensis* (Maiden bush)  
*Schaefferia frutescens* (Yellowwood)  
*Schisandra glabra* [*Schisandra coccinea*] (*Schisandra*)  
*Scutellaria havanensis* (Havana skullcap)  
*Selaginella eatonii* (Eaton's spikemoss)  
*Sideroxylon lycioides* [*Bumelia lycioides*] (Gopherwood buckthorn)  
*Silene polypetala* (Fringed catchfly)  
~~*Sphenomeris clavata* (Wedgetlet fern; Parsley fern)~~  
~~*Sphenostigma coelestinum* [*Salpingostylis coelestina*] (Bartram's ixia)~~  
*Spigelia longanoides* (Levy pinkroot; Florida pinkroot)  
*Spiranthes polyantha* (Ft. George ladies-tresses)  
*Stachydeoma graveolens* [*Hedeoma graveolens*] (Mock pennyroyal)  
*Stylosanthes calcicola* (Pineland pencil flowers)  
*Swietenia mahagoni* (Mahogany; West Indian mahogany)  
*Taxus floridana* (Florida yew)  
~~*Tectaria ineisa* (Ineised halberd fern)~~  
*Tectaria fimbriata* (least halberd fern)  
*Tectaria lobata* (Lobed halberd fern)  
*Thelypteris reptans* (Creeping fern)  
*Thrinax radiata* (Florida thatch palm)  
*Tillandsia valenzuelana* (Soft-leaved wildpine)  
*Tragia saxicola* (Rocklands noseburn)  
*Trema lamarckianum* (Lamarck's trema)  
*Trichomanes krausii* (Kraus' bristle fern)  
*Trichomanes petersii* (Plateau bristle fern)  
~~*Trichomanes punctatum* (Florida bristle fern)~~  
*Trillium lancifolium* (Lance-leaved wake-robin)  
~~*Triphora rickettii* (Rickett's nodding caps)~~  
*Tripsacum floridanum* (Florida gamagrass)  
*Vanilla barbellata* (Worm-vine orchid)  
*Vanilla phaeantha* (Leafy vanilla, brown-flowered vanilla)  
~~*Veratrum woodii* (False hellebore)~~

Verbena maritima [Glandularia maritima] (Coastal vervain)

Warea carteri (Carter's warea; Carter's mustard)

Xyris isoetifolia (Quillwort yellow-eyed grass)

Xyris longisepala (Karst pond xyris)

~~Zanthoxylum americanum (Prickly ash)~~

Zigadenus leimanthoides (Coastal death camas)

5. through b. No change.

c. The rare listed plant species covered by these provisions are:

Acrostichum aureum (Golden leather fern)

Adiantum tenerum (Brittle maidenhair fern)

~~Adiantum tetraphyllum (Four-leaved maidenhair fern)~~

Andropogon arctatus (Pine-woods bluestem)

Anemia wrightii (Wright's anemia)

Argusia gnaphalodes [Tournefortia gnaphalodes] (Sea lavender)

Asclepias curtissii (Curtiss' milkweed)

Baptisia calycosa var villosa [Baptisia hirsuta] (Hairy wild indigo)

Baptisia simplicifolia (Scare-weed)

Bletia purpurea (Pink-pink orchid)

Bonamia grandiflora (Florida bonamia)

Byrsonima lucida (locustberry)

Calamintha ashei (Ashe Calamintha; Ashe's savory)

Calamintha dentata (Toothed savory)

Calamovilfa curtissii (Curtiss' sandgrass)

Calopogon multiflorus (Many-flowered grass-pink)

Carex baltzellii (Baltzell's sedge)

Cheilanthes microphylla (Southern lip fern)

Chionanthus pygmaeus (Pygmy fringe-tree)

Chrysophyllum oliviforme (Satin leaf)

Cleistes bifaria [Cleistes divaricata] (Spreading pogonia)

Clitoria fragrans (Pigeon-wing)

Coelorachis tuberculosa (Piedmont jointgrass)

Conradina grandiflora (Large-flowered rosemary)

~~Cordia sebestena (Geiger tree)~~

Crossopetalum rhacoma (rhacoma)

Ctenitis submarginalis (Brown-hair comb fern)

~~Cryptotaenia canadensis (Honewort)~~

Drosera intermedia (Water sundew; Spoon-leaved sundew)

Drypetes lateriflora (Guiana plum)

Epidendrum anceps (Dingy-flowered epidendrum)

Epidendrum rigidum (Rigid epidendrum)

Eriogonum floridanum [E. longifolium var. gnaphalifolium] (Scrub buckwheat)

Erithalis fruticosa (Blacktorch)

Eugenia confusa (Redberry eugenia; Tropical ironwood)

Eugenia simpsonii [Myrcianthes fragrans var. simpsonii] (Simpson eugenia; Twinberry)

Exostema caribaeum (Caribbean princewood)

Forestiera godfreyi (Godfrey's privet)

Gentiana pennelliana (Wiregrass gentian)

Glandularia maritima [Verbena maritima] (Coastal vervain)

Gossypium hirsutum (Wild cotton)

Hexalectris spicata (Crested coral root)

Hexastylis arifolia (Heartleaf)

~~Illicium floridanum (Florida anise)~~

Jacquinia keyensis (Joewood)

Kalmia latifolia (Mountain laurel)

Lechea cernua (Scrub pinweed; Nodding pinweed)

Leitneria floridana (Corkwood)

Liatris ohlingerae (Scrub blazing-star; Florida gayfeather)

Lilium catesbaei (Catesby's lily; Southern red lily)

~~Lomariopsis kunzeana (Holly vine fern)~~

Magnolia pyramidata (Pyramid magnolia)

Malaxis unifolia (Green adder's-mouth)

~~Mallotonia gnaphalodes [Tournefortia gnaphalodes] (Sea lavender)~~

Manilkara bahamensis [Manilkara jaimiqui] (Wild dilly)

Maytenus phyllanthoides (Florida mayten)

Microgramma heterophylla (Climbing vine fern)

Nephrolepis biserrata (Giant sword fern)

Nolina atopocarpa (Florida beargrass)

Oxypolis greenmanii (Giant water-dropwort)

Panicum abscissum (Cut throat grass)

Paronychia chartacea ssp. chartacea (Paper-like nailwort)

Phoebanthus tenuifolius (Narrow-leaved phoebanthus)

Phyllanthus leibmannianus (Pinelands dainties)

Physostegia godfreyi (Apalachicola dragon-head)

Pinguicula lutea (Yellow-flowered butterwort)

Pinguicula planifolia (Swamp butterwort; Chapman's butterwort)

Pinguicula primuliflora (primrose-flowered butterwort)

Pityopsis flexuosa (Panhandle golden aster; bent golden aster)

Polygonella basiramia (Tufted wireweed; Hairy jointweed)

Polygonella myriophylla (Small's jointweed)

Polystachya concreta (Pale-flowered polystachya)

Prunus geniculata (Scrub plum)

Pteris bahamensis (Bahama brake)

Pycnanthemum floridanum (Florida mountain-mint)

Quercus arkansana (Arkansas oak)

~~Remirea maritima (Beach star)~~

Rhododendron austrinum (Orange azalea)

Rhynchospora stenophylla (Narrow-leaved beakrush)

Sarracenia leucophylla (White-top pitcher-plant)

Sarracenia purpurea [S. purpurea ssp. purpurea] (Decumbent pitcher-plant)

Sarracenia rubra (Red-flowered pitcher-plant; Sweet pitcher-plant)

Sphenomeris clavata (Wedgelet fern; Parsley fern)

- Spiranthes lanceolata [Stenorrhynchos lanceolatum] (Leafless beaked orchid)
- Spiranthes longilabris (Long-lip ladies'-tresses)
- Spiranthes ovalis (Lesser ladies-tresses)
- Stewartia malacodendron (Silky camellia)
- Stylisma abdita (scrub stylisma, hidden stylisma)
- Tectaria heracleifolia (Broad halberd fern)
- Tephrosia mohrii (Pineland hoary-pea)
- Tetrazygia bicolor (Tetrazygia)
- Thelypteris augescens (Abrupt-tipped maiden fern)
- Thrinax morrisii (brittle thatch palm)
- Tillandsia balbisiana (Inflated and reflexed wild pine)
- Tillandsia flexuosa (Banded wild pine; Twisted air plant)
- Tillandsia utriculata (Giant wild pine)
- Triphora trianthophora (Three-birds orchid)
- Verbesina chapmanii (Chapman crownbeard)
- Vernonia blodgettii (Blodgett's ironweed)
- Xyris scabrifolia (Harper's yellow-eyed grass)
- Zephyranthes simpsonii (Simpson zephyr-lily; Rain lily)

6. through (12) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 4-25-94, Amended

9J-2.043 Archaeological and Historical Resources Uniform Standard Rule.

(1) No change.

(a) The Legislature established Chapter 380, Florida Statutes, to facilitate orderly and well-planned development, and to protect the quality of life of the residents of Florida, by authorizing the state land planning agency to establish land management policies to guide local decisions relating to growth and development. Sections 186.002, 186.007, 186.009, and 186.021, 187.101, 380.031, and 380.07, Florida Statutes, establish the State Comprehensive Plan ~~and the State Land Development Plan~~ as the long-range, state land development policy guides to be considered in the DRI review process in order to ensure orderly growth in Florida, pursuant to Subsections 380.06(3),(4),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(b) Consistent with the land management policies delineated in the State Comprehensive Plan ~~and the State Land Development Plan~~, it is the intent of the Department to set forth in this rule ~~the~~ specific archaeological and historical site or property DRI review guideline standards and criteria ~~to be utilized to implement the provisions of Section 380.021, Paragraphs 380.06(4)(a),(b),(d),(e), and (f), Subparagraph 380.06(8)(a)11., Subparagraphs 380.06(12)(a)1. and 2., Subsection 380.06(13), Paragraphs 380.06(14)(a),(e) and (d), Paragraph 380.06(15)(e),(d) and (e), Subsection 380.06(16), Paragraph 380.06(19)(a), Paragraphs 380.06(19)(e) and (e), Subparagraph 380.06(19)(f)6., Paragraphs 380.06(19)(g) and (h), Subsection 380.06(21), Subsection 380.06(22), Subsection 380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Paragraphs 380.065(3)(b) and (c), and Section 380.07, Florida Statutes.~~

~~Subsection 380.06(22), Subsection 380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Paragraphs 380.065(3)(b) and (c), and Section 380.07, Florida Statutes.~~

(c) through (2)(c) No change.

(d) “Applicable Regional Plan” means the Regional Planning Council's adopted ~~comprehensive Regional Policy Plan prior to the adoption of a Strategic Regional Policy Plan pursuant to Section 186.508, F.S., and thereafter means an adopted Strategic Regional Policy Plan.~~

(e) “Applicable State Plan” means the State Comprehensive Plan ~~and the State Land Development Plan.~~

(f) through (11) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 3-23-94, Amended

9J-2.044 Hazardous Material Usage, Potable Water, Wastewater, and Solid Waste Facilities Uniform Standard Rule.

(1) No change.

(a) The Legislature established Chapter 380, Florida Statutes, to protect the natural resources and environment of Florida, facilitate orderly and well-planned development, optimize the utilization of limited water resources, and protect the health, welfare, safety and quality of life of residents of Florida, by authorizing the state land planning agency to establish land and water management policies to guide local decisions relating to growth and development. Sections 186.002, 186.007, 186.009, ~~186.021~~, and 187.101, ~~380.031~~, ~~and 380.07~~, Florida Statutes, establish the State Comprehensive Plan ~~and the State Land Development Plan~~ as the long-range, state land development policy guides to be considered in the DRI review process in order to ensure orderly growth in Florida, pursuant to Subsections 380.06(3),(4),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(b) Consistent with the land and water management policies delineated in the State Comprehensive Plan ~~and the State Land Development Plan~~, it is the intent of the Department to set forth in this rule ~~the~~ specific hazardous material usage and potable water, wastewater and solid waste facility DRI review guideline standards and criteria ~~to be utilized to implement the provisions of Section 380.021, Paragraphs 380.06(4)(a),(b),(d),(e), and (f), Subparagraph 380.06(8)(a)11., Subparagraphs 380.06(12)(a)1. and 2., Subsection 380.06(13), Paragraphs 380.06(14)(a),(e) and (d), Paragraph 380.06(15)(e),(d) and (e), Subsection 380.06(16), Paragraph 380.06(19)(a), Paragraphs 380.06(19)(e) and (e), Subparagraph 380.06(19)(f)6., Paragraphs 380.06(19)(g) and (h), Subsection 380.06(21), Subsection 380.06(22), Subsection 380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Paragraphs 380.065(3)(b) and (c), and Section 380.07, Florida Statutes.~~

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

(b) "Applicable Regional Plan" means the Regional Planning Council's adopted ~~Comprehensive Regional Policy Plan prior to the adoption of a Strategic Regional Policy Plan pursuant to Section 186.508, F.S., and thereafter means an adopted Strategic Regional Policy Plan.~~

(c) "Applicable State Plan" means the State Comprehensive Plan ~~and the State Land Development Plan.~~

(d) "Consolidated Chemical List" means the list of chemicals in the United States Environmental Protection Agency (EPA) Publication Title III List of Lists (EPA 550-B-98-017 560/92-014), as amended by 40 CFR Part 355, ~~40CFR Part 302, and 40 CFR Part 372.~~

(e) through (6)(c)1.a.(I) No change.

~~(H) A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed potable water facility improvements, or a local government commitment in the current three years of their CIE to provide all needed potable water facilities when the local government has specifically adopted an in-compliance Rule 9J-5.0055(2)(e), F.A.C., concurrency management system in their plan; or~~

~~(II)(HH) A binding and enforceable commitment or legal agreement in the development order by the developer or third party to provide all needed potable water facility improvements concurrently with the development schedule approved in the development order; or~~

~~(III)(IV) Any combination of guarantees (I) through thru (II)(HH) above that ensures that all needed potable water facility improvements will be provided concurrently with the development schedule approved in the development order.~~

b. A provision which states that on no less than an annual basis the status of the guaranteed improvements shall be assessed and reported in the required annual status report, and the local government shall cause further issuance of building permits to cease immediately at the time the annual monitoring reveals that any needed potable water facility improvements guaranteed by development commitments 1.a.(I) ~~through thru~~ 1.a.~~(III)(IV)~~ above is no longer scheduled or guaranteed, has been delayed in schedule such that it is no longer consistent with the timing criteria of Sub-subparagraph 1.a. above, or is no longer being constructed and remains unoperational, unless the applicant is able to unequivocally demonstrate as part of the annual status report that the needed potable water supply is either existing or is permitted and ensured to be supplied both to all existing permitted project development and to all project development likely to be permitted during the next year. The periodic assessment contemplated by this rule is a review of the actual status of guaranteed improvements scheduled for construction and operation. A change to the approved development schedule for the project, as opposed to a change

to the schedule of needed improvements, will need to be addressed through the notification of proposed change provisions of Subsection 380.06(19), F.S.

c. through (7)(c)1.a.(I) No change.

~~(H) A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed wastewater facility improvements, or a local government commitment in the current three years of their CIE to provide all needed wastewater facilities when the local government has specifically adopted an in-compliance Rule 9J-5.0055(2)(e), F.A.C., concurrency management system in their plan; or~~

~~(II)(HH) A binding and enforceable commitment in the development order by the developer or a third party to provide all needed wastewater facility improvements concurrently with the development schedule approved in the development order; or~~

~~(III)(IV) Any combination of guarantees (I) through thru (II)(HH) above that ensures that all needed wastewater facility improvements will be provided concurrently with the development schedule approved in the development order.~~

b. A provision which states that on no less than an annual basis the status of the guaranteed improvements shall be assessed and reported in the required annual status report, and local government shall cause further issuance of building permits to cease immediately at the time the annual monitoring reveals that any needed wastewater facility improvements guaranteed by development commitments 1.a.(I) ~~through thru~~ 1.a.~~(III)(IV)~~ above is no longer scheduled or guaranteed, has been delayed in schedule such that it is no longer consistent with the timing criteria of Sub-subparagraph 1.a. above, or is no longer being constructed but remains unoperational, unless the applicant is able to unequivocally demonstrate as part of the annual status report that the needed wastewater supply is either existing or is permitted and ensured to be supplied both to all existing permitted project development and to all project development likely to be permitted during the next year. The periodic assessment contemplated by this rule is a review of the actual status of guaranteed improvements scheduled for construction and operation. A change to the approved development schedule for the project, as opposed to a change to the schedule of needed improvements, will need to be addressed through the notification of proposed change provisions of Subsection 380.06(19), F.S.

c. through (8)(c)1.a.(I) No change.

~~(H) A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed facility improvements, or a local government commitment in the current three years of their CIE to provide all needed solid waste facilities when the local government has specifically adopted an in-compliance Rule 9J-5.0055(2)(e), F.A.C., concurrency management system in their plan; or~~



~~(II)(H)~~ A binding and enforceable commitment in the development order by the developer or a third party to provide all needed solid waste facility improvements concurrently with the development schedule approved in the development order; or

~~(III)(V)~~ Any combination of guarantees (I) ~~through thru~~ ~~(II)(H)~~ above, or other regional or jurisdiction-wide solid waste capacity initiative guarantees, that ensures that all needed solid waste facility improvements will be provided concurrently with the development schedule approved in the development order.

b. A provision which states that on no less than an annual basis the status of the guaranteed improvements shall be assessed and reported in the required annual status report, and local government shall cause further issuance of building permits to cease immediately at the time the annual monitoring reveals that any needed facility improvements guaranteed by development commitments 1.a.(I) ~~through thru~~ 1.a.~~(III)(IV)~~ above is no longer scheduled or guaranteed, has been delayed in schedule such that it is no longer consistent with the timing criteria of Sub-subparagraph 1.a. above, or is no longer being constructed but remains unoperational, unless the applicant is able to unequivocally demonstrate as part of the annual status report that the needed solid waste capacity is either existing or is permitted and ensured to be supplied both to all existing permitted project development and to all project development likely to be permitted during the next year. The periodic assessment contemplated by this rule is a review of the actual status of guaranteed improvements scheduled for construction and operation. A change to the approved development schedule for the project, as opposed to a change to the schedule of needed improvements, will need to be addressed through the notification of proposed change provisions of Subsection 380.06(19), F.S.

b. through (10) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History—New 4-25-94, Amended

9J-2.045 Transportation Uniform Standard Rule.

(1) No change.

(a) The Legislature established Chapter 380, Florida Statutes, to facilitate orderly and well-planned development, by authorizing the state land planning agency to establish land management policies to guide local decisions relating to growth and development. Sections 186.002, 186.007, 186.009, ~~and 186.021~~, 187.101, ~~380.031~~, and ~~380.07~~, Florida Statutes, establish the State Comprehensive Plan ~~and the State Land Development Plan~~ as the long-range, state land development policy guides to be considered in the DRI review process in order to ensure orderly growth in Florida, pursuant to Subsections 380.06(3),(4),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(b) Consistent with the land management policies delineated in the State Comprehensive Plan ~~and the State Land Development Plan~~, it is the intent of the Department to set forth in this rule ~~the~~ specific transportation facility DRI review guideline standards and criteria ~~to be utilized to implement the provisions of~~ Section 380.021, Paragraphs 380.06(4)(a),(b),(d),(e), and (f), Subparagraph 380.06(8)(a)11., Subparagraphs 380.06(12)(a)1. and 2., Subsection 380.06(13), Paragraphs 380.06(14)(a),(c) and (d), Paragraph 380.06(15)(c),(d) and (e), Subsection 380.06(16), Paragraph 380.06(19)(a), Subparagraph 380.06(19)(b)15., Paragraphs 380.06(19)(c) and (e), Subparagraph 380.06(19)(f)6., Paragraphs 380.06(19)(g) and (h), Subsection 380.06(21), Subsection 380.06(22), Paragraph 380.06(24)(f), Subsection 380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Subparagraph 380.061(3)(a)6., Paragraphs 380.065(3)(b) and (c), and Section 380.07, Florida Statutes.

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

(b) “Applicable Regional Plan” means the Regional Planning Council’s adopted ~~Comprehensive Regional Policy Plan prior to the adoption of a~~ Strategic Regional Policy Plan pursuant to Section 186.508, F.S., ~~and thereafter means an adopted Strategic Regional Policy Plan.~~

(c) “Applicable State Plan” means the State Comprehensive Plan ~~and the State Land Development Plan.~~

(d) through (7)(a)1.a.(II) No change.

(III) A local government commitment in the current year of their local government comprehensive plan Capital Improvement Element (CIE) to provide all needed roadway improvements, or a local government commitment in the current three years of their CIE to provide all needed roadway improvements when the local government has specifically adopted an in-compliance Rule 9J-5.0055(3)(2)(c), F.A.C., concurrency management system in their plan; or

(IV) through (9) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.021, 380.06, 380.061, 380.065, 380.07 FS. History—New 3-23-94, Amended

9J-2.046 Air Quality Uniform Standard Rule.

(1) No change.

(a) The Legislature established Chapter 380, Florida Statutes, to protect the natural resources and environment of this state and to protect the health, welfare, safety and quality of life of its citizens, by authorizing the state land planning agency to establish land management policies to guide local decisions relating to growth and development. Sections 186.002, 186.007, 186.009, ~~and 186.021~~, 187.101, ~~380.031~~, and ~~380.07~~, Florida Statutes, establish the State Comprehensive Plan ~~and the State Land Development Plan~~ as the long-range, state land development policy guides to be considered in the DRI review process in order to ensure orderly

growth in Florida, pursuant to Subsections 380.06(3),(4),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(b) Consistent with the land management policies delineated in the State Comprehensive Plan and the State Land Development Plan, it is the intent of the Department to set forth in this rule the specific mobile source-related air quality DRI review guideline standards and criteria to be utilized to implement the provisions of Section 380.021, Paragraphs 380.06(4)(a),(b),(d),(e), and (f), Subparagraph 380.06(8)(a)11., Subparagraphs 380.06(12)(a)1. and 2., Subsection 380.06(13), Paragraphs 380.06(14)(a),(c) and (d), Paragraphs 380.06(15)(e),(d) and (e), Subsection 380.06(16), Paragraph 380.06(19)(a), Subparagraph 380.06(19)(b)15., Paragraphs 380.06(19)(e) and (e), Subparagraph 380.06(19)(f)6., Paragraphs 380.06(19)(g) and (h), Subsection 380.06(21), Subsection 380.06(22), Paragraph 380.06(24)(f), Subsection 380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Paragraphs 380.065(3)(b) and (c), and Section 380.07, Florida Statutes.

(c) through (2)(b) No change.

(c) "Applicable Regional Plan" means the Regional Planning Council's adopted Comprehensive Regional Policy Plan prior to the adoption of a Strategic Regional Policy Plan pursuant to Section 186.508, F.S., and thereafter means an adopted Strategic Regional Policy Plan.

(d) "Applicable State Plan" means the State Comprehensive Plan and the State Land Development Plan.

(e) through (7) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History--New 3-23-94, Amended

9J-2.048 Adequate Housing Uniform Standard Rule.

(1) No change.

(a) The Legislature established Chapter 380, Florida Statutes, to facilitate orderly and well-planned development and protect the health, welfare and quality of life of the residents of this state, by authorizing the state land planning agency to establish land management policies to guide local decisions relating to growth and development. Sections 186.002, 186.007, 186.009, ~~and 186.021~~, 187.101, ~~380.031, and 380.07~~, Florida Statutes, establish the State Comprehensive Plan and the State Land Development Plan as the long-range, state land development policy guides to be considered in the DRI review process in order to ensure orderly growth in Florida, pursuant to Subsections 380.06(3),(4),(12),(13),(14),(15),(25), and 380.065(3), Florida Statutes.

(b) Consistent with the land management policies delineated in the State Comprehensive Plan and the State Land Development Plan, it is the intent of the Department to set forth in this rule the specific adequate housing DRI review guideline standards and criteria ~~to be utilized to implement the~~

provisions of Section 380.021, Paragraphs ~~380.06(4)(a),(b),(d),(e), and (f), Subparagraph 380.06(8)(a)11., Subparagraphs 380.06(12)(a)1., 2., and 3., Subsection 380.06(13), Paragraphs 380.06(14)(a),(c), and (d), Paragraph 380.06(15)(c), Paragraphs 380.06(19)(a),(b),(c), and (e), Subparagraph 380.06(19)(f)6., Paragraphs 380.06(19)(g) and (h), Subsection 380.06(21), Subsection 380.06(22), Subsection 380.06(25), Subsection 380.06(26), Paragraph 380.06(27)(d), Paragraphs 380.065(3)(b) and (c), and Section 380.07, Florida Statutes.~~

(c) through (2)(f) No change.

(g) "Applicable Regional Plan" means the Regional Planning Council's adopted Comprehensive Regional Policy Plan prior to the adoption of a Strategic Regional Policy Plan pursuant to Section 186.508, F.S., and thereafter means an adopted Strategic Regional Policy Plan.

(h) "Applicable State Plan" means the State Comprehensive Plan and the State Land Development Plan.

(i) through (10) No change.

Specific Authority 380.032(2)(a), 380.06(23)(a),(c)1, FS. Law Implemented 380.021, 380.06, 380.065, 380.07 FS. History--New 3-23-94, Amended

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Minimum Criteria for Review of Local Government Comprehensive Plans and Plan Amendments, Evaluation and Appraisal Reports, Land Development Regulations and Determination of Compliance

9J-5

RULE TITLES: RULE NOS.:

Purpose 9J-5.001
Administration 9J-5.002
Definitions 9J-5.003
Public Participation 9J-5.004
General Requirements 9J-5.005

Evaluation and Appraisal Reports and Evaluation and Appraisal Amendments 9J-5.0053
Concurrency Management System 9J-5.0055
Future Land Use Element 9J-5.006
Housing Element 9J-5.010
Intergovernmental Coordination Element 9J-5.015
Capital Improvements Element 9J-5.016
Transportation Element 9J-5.019

PURPOSE AND EFFECT: To modify the rules to comply with 120.536(2)(b), F.S., as amended by Chapter 99-379, § 3, Laws of Florida, and update the rules.

SUBJECT AREA TO BE ADDRESSED: Chapter 9J-5 pertains to minimum criteria for the review of local government comprehensive plans and plan amendments, evaluation and appraisal reports, land development regulations, and determinations of compliance. Some of the rules in this

notice are proposed to be revised to either incorporate updated information or modify certain requirements. Other rules are proposed to be repealed. Statute citations for rule making authority and law implementation references have also been updated in the rules.

Rule 9J-5.001 is amended to repeal some sections which serve only as a table of contents. Rule 9J-5.002 concerning the substantial progress provision is proposed for deletion. Rule 9J-5.003 concerning definitions is amended to revise existing definitions and include new definitions. Rule 9J-5.004 concerning public participation is unnecessarily duplicative of statutory requirements and proposed for repeal. Rule 9J-5.005 concerning general requirements is amended to repeal redundant provisions, provide procedures for monitoring, evaluating and appraising implementation of local comprehensive plans. Rule 9J-5.0053 concerning evaluation and appraisal reports is proposed for repeal. Rule 9J-5.0055 concerning concurrency management systems is amended to reflect recent statutory changes, provide that concurrency requirements do not apply to public transit facilities, authorize and provide for multimodal levels of service standards, provide for school concurrency, authorize level of service standards for general use lanes of the Florida Intrastate Highway System, authorize multiuse developments of regional impact to satisfy the concurrency requirement by payment of a proportionate share contribution. Rule 9J-5.006 concerning future land use is amended to provide for multimodal transportation districts. Rule 9J-5.010 concerning housing is amended to correct the name of Department of Children and Family Services, allow locally generated data to supplement the affordable housing needs assessment, and clarify the meaning of substandard units. Rule 9J-5.015 concerning intergovernmental coordination is amended to address intergovernmental coordination requirements for joint planning areas, recognition of campus master plans, coordination with school districts for siting school facilities, the location and extension of public facilities subject to concurrency, the siting of facilities of county wide significance, and school concurrency. Rule 9J-5.016 concerning capital improvements is amended to provide for a public school facilities program and a schedule of capital improvements for multimodal transportation districts. Rule 9J-5.019 concerning transportation is amended to provide for level of service standards for general use lanes of the Florida Intrastate Highway System, specify analysis, objective and policy requirements to implement multimodal transportation districts.

SPECIFIC AUTHORITY: 163.3177(9),(10), 163.3180(14) FS.

LAW IMPLEMENTED: 163.3161, 163.3167, 163.3171, 163.3174, 163.3177(1),(2),(3),(4),(5),(6),(8),(9),(10),(11), 163.3178, 163.3180(13),(15), 163.3181, 163.3184, 163.3187, 163.3191, 163.3194 FS.

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

TIME AND DATE: 9:00 a.m., July 26, 2000

PLACE: Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodations at the hearing because of a disability or physical impairment should contact Maria Abadal Cahill, Community Planning Policy Administrator, Division of Community Planning, Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone number (850)922-1781, Suncom 292-1781 at least seven days before the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Maria Abadal Cahill, Community Planning Policy Administrator, Division of Community Planning, Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32303-2100, Telephone number (850)487-4545 or (850)922-1781

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9J-5.001 Purpose.

(1) No change.

(2) Rule 9J-5.002 contains general guidelines for the exercise of the Department's authority under law to review comprehensive plans and plan amendments for compliance.

~~(3) Rule 9J-5.003 contains definitions of important terms used in this chapter.~~

~~(4) Rule 9J-5.004 generally prescribes the contents of the public participation procedures to be adopted and enforced by each local government.~~

~~(5) Rule 9J-5.005 contains general format requirements and other requirements applicable to the data, analyses, goals, objectives and policies in the elements of the plan, and the procedural aspects of plan and plan amendment adoption.~~

~~(6) Rule 9J-5.0053 establishes the minimum criteria for the evaluation and appraisal reports.~~

~~(7) Rule 9J-5.0055 establishes the minimum criteria to ensure the availability of public facilities and services concurrent with the impacts of development.~~

~~(8) Rules 9J-5.006 through 9J-5.019 establish minimum criteria for comprehensive plan elements. The basic format of the criteria for each element requires the identification of available data, analyses of such data, and preparation of goals, objectives and policies supported by that data and analysis to accomplish desired ends. The goals, objectives and policies of each element must be consistent with the future conditions maps, and the future conditions maps must reflect the goals, objectives and policies of each element.~~

~~(9) Rules 9J-5.022, 9J-5.023 and 9J-5.024 establish the standards, procedures and criteria for the review of the required land development regulations and determination of their consistency with the comprehensive plan.~~

~~(2)(10)~~ Rules 9J-5.022 through 9J-5.024 establish procedures and criteria for the review of land development regulations pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, F.S., and Chapters 9J-5 and 9J-12, F.A.C. It specifies the standards the Department will use in determining whether a local government has totally failed to adopt one or more of the land development regulations required by Subsection 163.3202(2). It specifies procedures to initiate and control the administrative review of land development regulations by substantially affected persons, local governments and the Department. It specifies the criteria for determining consistency of the land development regulations with the comprehensive plan. Local governments may adopt land development regulations which exceed, or are more stringent than, the regulations described in this chapter.

~~(3)(11)~~ As minimum criteria, these criteria are not intended to prohibit a local government from proposing, considering, adopting, enforcing, or in any other way administering a comprehensive plan which is more specific, detailed, or strict, or which covers additional subject areas, whether within required or optional elements, as long as the comprehensive plan is in compliance with Chapter 9J-5, F.A.C., Chapter 163, F.S., and any other applicable statutes, laws or rules.

~~(4)(12)~~ When a federal, state or regional agency has implemented a permitting program, the state land planning agency shall not require a local government to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. Nothing in this paragraph shall prohibit the state land planning agency, in conducting its review of local plans or plan amendments, from making either objections, recommendations, and comments or compliance determinations regarding densities and intensities consistent with the Act.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3161, 163.3167, ~~163.3171~~, 163.3177, 163.3178, 163.3180,163.3181, 163.3184, 163.3187, 163.3191, 163.3194 FS. History--New 3-6-86, Amended 10-20-86, 11-22-89, 4-2-92, 3-23-94, 5-18-94, 3-21-99,\_\_\_\_\_.

9J-5.002 Administration.

(1) through (2)(g) No change.

~~(h) Whether the provision at issue constitutes substantial progress over existing provisions regarding consistency with and furtherance of Chapter 163, Part II, the State Comprehensive Plan, the strategic regional policy plan, and this Chapter, where the existing provisions are in a plan or plan amendment previously found in compliance.~~

(3) through (8) No change.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3167, 163.3177, 163.3178, 163.3184, 163.3187, 163.3194 FS. History--New 3-6-86, Amended 10-20-86, 5-18-94,\_\_\_\_\_.

9J-5.003 Definitions.

(1) through (50) No change.

~~(51)~~ "General Lanes" means intrastate roadway lanes not exclusively designated by the Florida Department of Transportation for long distance, high speed travel. In urbanized areas, general lanes include high occupancy vehicle lanes not physically separated from other travel lanes.

~~(52)(51)~~ "Goal" means the long-term end toward which programs or activities are ultimately directed.

~~(53)(52)~~ "Group home" means a facility which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents. Adult congregate living facilities comparable in size to group homes are included in this definition. It shall not include rooming or boarding homes, clubs, fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes, or emergency shelters.

~~(54)(53)~~ "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated or otherwise managed.

~~(55)(54)~~ "Historic resources" means all areas, districts or sites containing properties listed on the Florida Master Site File, the National Register of Historic Places, or designated by a local government as historically, architecturally, or archaeologically significant.

~~(56)(55)~~ "Hurricane shelter" means a structure designated by local officials as a place of safe refuge during a storm or hurricane.

~~(57)(56)~~ "Hurricane vulnerability zone" (also "areas subject to coastal flooding") means the areas delineated by the regional or local hurricane evacuation plan as requiring evacuation. The hurricane vulnerability zone shall include areas requiring evacuation in the event of a 100-year storm or Category 3 storm event.

~~(58)(57)~~ "Industrial uses" means the activities within land areas predominantly connected with manufacturing, assembly, processing, or storage of products.

~~(59)(58)~~ "Infrastructure" means those man-made structures which serve the common needs of the population, such as: sewage disposal systems; potable water systems; potable water wells serving a system; solid waste disposal sites or retention areas; stormwater systems; utilities; piers; docks;

wharves; breakwaters; bulkheads; seawalls; bulwarks; revetments; causeways; marinas; navigation channels; bridges; and roadways.

~~(60)(59)~~ "Intensity" means an objective measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services.

~~(61)(60)~~ "Interagency hazard mitigation report" means the recommendations of a team of federal, state, regional, or local officials which address measures to reduce the potential for future flood losses and which is prepared in response to a Presidential Disaster Declaration.

~~(62)(61)~~ "Level of service" means an indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service shall indicate the capacity per unit of demand for each public facility.

~~(63)(62)~~ "Limited access facility" means a roadway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no greater than a limited right or easement of access.

~~(64)(63)~~ "Living marine resources" means oceanic or estuarine plants or animals, such as mangroves, seagrasses, algae, coral reefs, and living marine habitat; fish, shellfish, crustacea and fisheries; and sea turtles and marine mammals.

~~(65)(64)~~ "Local peacetime emergency plan" means the plans prepared by the county civil defense or county emergency management agency addressing weather-related natural hazards and man-made disasters except nuclear power plant accidents and war. The plan covers hazard mitigation, emergency preparedness, emergency response, emergency recovery and in coastal counties, hurricane evacuation.

~~(66)(65)~~ "Local road" means a roadway providing service which is of relatively low traffic volume, short average trip length or minimal through traffic movements, and high volume land access for abutting property.

~~(67)(66)~~ "Low income household" has the meaning provided in Section 420.0004, F.S.

~~(68)(67)~~ "Major trip generators or attractors" means concentrated areas of intense land use or activity that produces or attracts a significant number of local trip ends.

~~(69)(68)~~ "Manufactured home" means a residential manufactured home meeting the definition in Section 320.01, F.S.

~~(70)(69)~~ "Marine habitat" means areas where living marine resources naturally occur, such as mangroves, seagrass beds, algal beds, salt marshes, transitional wetlands, marine wetlands, rocky shore communities, hard bottom communities, oyster bars or flats, mud flats, coral reefs, worm reefs, artificial reefs, offshore springs, nearshore mineral deposits, and offshore sand deposits.

~~(71)(70)~~ "Marine wetlands" means areas with a water regime determined primarily by tides and the dominant vegetation is salt tolerant plant species including those species listed in Rule 62-301.200(3) ~~Subsection 17-4.020(17)~~, F.A.C., "Submerged Marine Species."

~~(72)(71)~~ "Minerals" means all solid minerals, including clay, gravel, phosphate rock, lime, shells (excluding live shellfish), stone, sand, heavy minerals, and any rare earths, which are contained in the soils or waters of the state.

~~(73)(72)~~ "Mobile home" means a structure meeting the definition in Section 320.01, F.S.

~~(74)(73)~~ "Moderate income household" has the meaning provided in Section 420.0004, F.S.

~~(75)(74)~~ "Natural drainage features" means the naturally occurring features of an area which accommodate the flow of significant amounts of stormwater, such as streams, rivers, lakes, sloughs, floodplains and wetlands.

~~(76)(75)~~ "Natural drainage flow" means the pattern of surface and storm water drainage through or from a particular site before the construction or installation of improvements or prior to regrading.

~~(77)(76)~~ "Natural groundwater aquifer recharge areas" or "natural groundwater recharge areas" or "groundwater recharge areas" means areas contributing to or providing volumes of water which make a contribution to the storage or regional flow of an aquifer.

~~(78)(77)~~ "Natural reservations" means areas designated for conservation purposes, and operated by contractual agreement with or managed by a federal, state, regional or local government or non-profit agency such as: national parks, state parks, lands purchased under the Save Our Coast, Conservation and Recreation Lands or Save Our Rivers programs, sanctuaries, preserves, monuments, archaeological sites, historic sites, wildlife management areas, national seashores, and Outstanding Florida Waters. This definition does not include privately owned land managed by a state agency on either a voluntary or a short-term contractual basis.

~~(79)(78)~~ "Neighborhood park" means a park which serves the population of a neighborhood and is generally accessible by bicycle or pedestrian ways.

~~(80)(79)~~ "New town" means a new urban activity center and community designated on the future land use map and located within a rural area or at the rural-urban fringe, clearly functionally distinct or geographically separated from existing urban areas and other new towns. A new town shall be of sufficient size, population and land use composition to support a variety of economic and social activities consistent with an urban area designation. New towns shall include basic economic activities; all major land use categories, with the possible exception of agricultural and industrial; and a centrally provided full range of public facilities and services. A new town shall be based on a master development plan, and

shall be bordered by land use designations which provide a clear distinction between the new town and surrounding land uses.

~~(81)(80)~~ "Nonpoint source pollution" means any source of water pollution that is not a point source.

~~(82)(81)~~ "Objective" means a specific, measurable, intermediate end that is achievable and marks progress toward a goal.

~~(83)(82)~~ "Oceanic waters" means waters of the Atlantic Ocean, Gulf of Mexico, or Straits of Florida, excluding estuaries.

~~(84)(83)~~ "Open spaces" means undeveloped lands suitable for passive recreation or conservation uses.

~~(85)(84)~~ "Park" means a neighborhood, community, or regional park.

~~(86)(85)~~ "Partial evaluation and appraisal report" means an evaluation and appraisal report which focuses on selected issues or elements that may only be submitted by a municipality with fewer than 5,000 residents or a county with fewer than 50,000 residents pursuant to a written agreement with the Department and in accordance with the requirements of Section 163.3191(12), F.S.

~~(87)(86)~~ "Pattern" means the form of the physical dispersal of development or land use.

~~(88)(87)~~ "Playground" means a recreation area with play apparatus.

~~(89)(88)~~ "Point source pollution" means any source of water pollution that constitutes a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

~~(90)(89)~~ "Policy" means the way in which programs and activities are conducted to achieve an identified goal.

~~(91)(90)~~ "Pollution" is the presence in the outdoor atmosphere, ground or water of any substances, contaminants, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water, in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property.

~~(92)(91)~~ "Port facility" means harbor or shipping improvements used predominantly for commercial purposes including channels, turning basins, jetties, breakwaters, landings, wharves, docks, markets, structures, buildings, piers, storage facilities, plazas, anchorages, utilities, bridges, tunnels, roads, causeways, and all other property or facilities necessary or useful in connection with commercial shipping.

~~(93)(92)~~ "Potable water facilities" means a system of structures designed to collect, treat, or distribute potable water, and includes water wells, treatment plants, reservoirs, and distribution mains.

~~(94)(93)~~ "Potable water wellfield" means the site of one or more water wells which supply potable water for human consumption to a water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

~~(95)(94)~~ "Private recreation sites" means sites owned by private, commercial or non-profit entities available to the public for purposes of recreational use.

~~(96)(95)~~ "Proposed evaluation and appraisal report" means a draft evaluation and appraisal report prepared by the local planning agency that is transmitted to the local governing body for review and adoption.

~~(97)(96)~~ "Public access" means the ability of the public to physically reach, enter or use recreation sites including beaches and shores.

~~(98)(97)~~ "Public recreation sites" means sites owned or leased on a long-term basis by a federal, state, regional or local government agency for purposes of recreational use.

~~(99)(98)~~ "Public buildings and grounds" means structures or lands that are owned, leased, or operated by a government entity, such as civic and community centers, hospitals, libraries, police stations, fire stations, and government administration buildings.

~~(99) "Public facilities and services" which must be made available concurrent with the impacts of development means those covered by comprehensive plan elements required by Section 163.3177, F.S., and for which level of service standards must be adopted under Chapter 9J-5, F.A.C. The public facilities and services are: roads, Rule 9J-5.019(4)(e)1.; sanitary sewer, Rule 9J-5.011(2)(e)2.a.; solid waste, Rule 9J-5.011(2)(e)2.b.; stormwater, Rule 9J-5.011(2)(e)2.c.; potable water, Rule 9J-5.011(2)(e)2.d.; parks and recreation, Rule 9J-5.014(3)(e)4.; and mass transit, Rule 9J-5.019(4)(e)1., if applicable.~~

(100) through (142) No change.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3177, 163.3178 FS. History—New 3-6-86, Amended 10-20-86, 11-22-89, 4-2-92, 3-23-94, 5-18-94, 3-21-99, \_\_\_\_\_.

9J-5.004 Public Participation.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3177(9), (10), 163.3181 FS. History—New 3-6-86, Amended 10-20-86, Repealed \_\_\_\_\_.

9J-5.005 General Requirements.

(1) through (6) No change.

(7) Monitoring and Evaluation Procedures Requirements. Each element of the comprehensive plan shall contain procedures for monitoring, evaluating and appraising implementation of the plan. Specific measurable objectives shall be included to provide a basis for evaluating effectiveness

as required by Section 163.3191, Florida Statutes. Such procedures may include reporting requirements for entities responsible for implementing the objectives of the plan, records regarding the availability of new or revised data, planning and development activities, other actions taken to implement the plan, such as, capital improvements planning, adoption of interlocal agreements, issuance of development orders, certificates of occupancy, and land use changes. For the purpose of evaluating and appraising the implementation of the comprehensive plan, each comprehensive plan and each deepwater port master plan shall contain a section identifying five-year monitoring, updating and evaluation procedures to be followed in the preparation of the required five-year, seven-year, ten-year or twelve-year evaluation and appraisal reports as described in Rule 9J-5.0053. That section shall address:

(a) A description of the public participation process used by the local government in preparing the report;

(b) Updating appropriate baseline data and measurable objectives to be accomplished in the first five-year period of the plan, and for the long-term period;

(c) Accomplishments in the first five-year, seven-year, ten-year, or twelve-year reporting period, describing the degree to which the goals, objectives and policies have been successfully reached;

(d) Obstacles or problems which resulted in underachievement of goals, objectives, or policies;

(e) New or modified and reformulated goals, objectives, or policies needed to correct discovered problems;

(f) A means of ensuring continuous monitoring and evaluation of the plan during the five-year period;

(g) The extent to which unanticipated and unforeseen problems and opportunities occurred between the date of adoption and the date of the report;

(h) The effect on the comprehensive plan of changes to: Chapter 187, F.S., the state comprehensive plan Chapter 163, Pt. II, F.S.; the minimum criteria contained in Chapter 9J-5, F.A.C.; and the appropriate strategic regional policy plan;

(i) The major problems of development, physical deterioration, and the location of land uses and the social and economic effects of such uses in the area;

(j) The identification of any actions that are taken or need to be taken to address the planning issues identified in the report; and

(k) Proposed or anticipated plan amendments necessary to address or implement the identified changes.

(8) Procedural Requirements. Comprehensive plans, plan elements, and plan amendments shall be considered, adopted and amended pursuant to the procedural requirements of Sections 163.3161 to 163.3215, Florida Statutes, including but not limited to the following:

(a) The comprehensive plans for municipalities shall be prepared and submitted within the same timeframes as the counties in which the municipalities are located and all plans shall be prepared and submitted in accordance with the schedule adopted by the Department pursuant to Subsection 163.3167(2), Florida Statutes;

(b) The comprehensive plan or element shall be prepared in accordance with Section 163.3174 and Subsection 163.3167(4), Florida Statutes, relating to local planning agencies. Proposed plans, elements, portions thereof and amendments shall be considered at a public hearing with due public notice by the local planning agency prior to making its recommendation to the governing body pursuant to Subsection 163.3167(4) and Section 163.3174, Florida Statutes;

(c) The comprehensive plan, element or amendment shall be considered and adopted in accordance with the procedures relating to public participation adopted by the governing body and the local planning agency pursuant to Section 163.3181, Florida Statutes, and Rule 9J-5.004 of this chapter. The local government shall submit with its initial transmittal, pursuant to Subsection 163.3167(2), Florida Statutes, and subsequent transmittals pursuant to Section 163.3191, Florida Statutes, a copy of the procedures for public participation that have been adopted by the local planning agency and the governing body;

(d) The comprehensive plan and any comprehensive plan amendments shall be transmitted after formal action by the governing body in accordance with the provisions of Sections 163.3184 and 163.3187, Florida Statutes, and the procedural rule adopted by the Department pursuant to Subsection 163.3177(9), Florida Statutes;

(e) The comprehensive plan shall not be amended more than two times during any calendar year except in the case of amendments directly related to developments of regional impact pursuant to Section 380.05, Florida Statutes, Florida Quality Developments pursuant to Section 380.061, Florida Statutes, and small-scale development activities pursuant to Paragraph 163.3187(1)(b), Florida Statutes. In order for an amendment to be exempt from the twice-a-year amendment restriction under the development of regional impact provision, the amendment must have been transmitted and adopted as provided by law. The comprehensive plan, elements and amendments shall be adopted by ordinance and only after the public hearings required by Paragraph 163.3184(15)(b), Florida Statutes, have been conducted after the notices required by Paragraphs 163.3184(15)(b) and (c), Florida Statutes. Upon adoption the local government shall transmit to the Department a copy of the ordinance and the required notices;

(f) The comprehensive plan shall be evaluated and updated as required by Section 163.3191, Florida Statutes, and this chapter. A copy of the adopted report required by Section 163.3191, Florida Statutes, shall be transmitted to the

Department at the time of the governing body's transmittal of related amendments pursuant to Subsection 163.3191(4), Florida Statutes; and

(g) A comprehensive plan, element, or plan amendment applicable to a designated area of critical state concern shall not become effective until reviewed and approved as provided in Section 380.05, Florida Statutes, and any rules promulgated pursuant to that section.

(h) A comprehensive plan or plan amendment applicable to the Wekiva River Protection Area, in addition to meeting the requirements for compliance pursuant to Section 163.3184, Florida Statutes, must meet the requirements of Section 369.301, et seq., Florida Statutes, the Wekiva River Protection Act.

(i) Local governments may enter into and are encouraged to enter into joint planning agreements as provided in Chapter 163, Florida Statutes.

(8)(9) Recognition of Private Property Rights and Vested Rights. The Department recognizes private property rights created by law and guaranteed by the State and Federal Constitutions and the existence of legitimate and often competing public and private interests in land use regulations and other government action. Local governments may include appropriate provisions in their plans for the recognition of statutory and common law vested rights.

(9)(10) Duplication of Regulations. When a federal, state, or regional agency has implemented a regulatory program, the department shall not require a local government to duplicate that regulatory program in its local comprehensive plan.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3167, 163.3171, 163.3174, 163.3177, 163.3178, 163.3181, 163.3184, 163.3187, 163.3191, 163.3194 FS. History—New 3-6-86, Amended 10-20-86, 11-22-89, 3-23-94, 5-18-94, 3-21-99.

9J-5.0053 Evaluation and Appraisal Reports and Evaluation and Appraisal Amendments.

Specific Authority 163.3177(9), 163.3191(12)(8),(10) FS. Law Implemented 163.3187(5), 163.3191 FS. History—New 3-23-94, Amended 5-18-94, 3-21-99, Repealed.

9J-5.0055 Concurrency Management System.

The purpose of the concurrency management system is to establish an ongoing mechanism which ensures that public facilities and services needed to support development are available concurrent with the impacts of such development.

(1) No change.

(a) A requirement that the local government shall maintain the adopted level of service standards for roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and mass transit, if applicable, and public schools if imposed by local option.

(b) through (e) No change.

(2) through (a)8. No change.

9. Public schools, Rule 9J-5.025(3)(c)7., if imposed by local option.

(b) A local government, at its option, may make additional public facilities and services subject to the concurrency management system. Level of service standards of such additional facilities must be adopted in the local government comprehensive plan. A local government may adopt multimodal level of service standards for transportation facilities, as authorized in Section 163.3180(15)(a), Florida Statutes, using the Florida Department of Transportation methodology for multimodal level of service standards or other professionally accepted methodologies. If a local government desires to extend the concurrency requirement to public schools, the local government shall adopt the necessary amendments as specified in Section 163.3180(13), Florida Statutes, including a public school facilities element and interlocal agreement for school concurrency which are determined to be in compliance with the requirements of law. It should first complete a study to determine how the concurrency requirement is to be addressed and implemented by the local government, school board and all other parties responsible for school facilities. [Section 163.3180(1), Florida Statutes] The local government and school board shall jointly establish level of service standards that apply district-wide to all public schools of the same type including, elementary, middle, and high schools as well as special purpose facilities such as magnet schools. Local governments and school boards shall have the option of utilizing tiered level of service standards as provided in subparagraph (d) of this section. If the local government chooses to apply school concurrency on less than a district-wide basis, such as utilizing school attendance zones or larger school concurrency service areas, the local government and school board shall have the burden to demonstrate in the comprehensive plan that the utilization of school capacity is maximized to the greatest extent possible.

(c) For facilities on the Florida Intrastate Highway System as defined in s. 338.001, Florida Statutes, the local governments shall adopt the level of service standards established by the Department of Transportation by rule. With the concurrence of the Department of Transportation, local governments may establish level of service standards for general lanes in urbanized areas as specified in Section 163.3180(10), Florida Statutes. For other roads local governments shall adopt adequate level of service standards. These level of service standards shall be adopted to ensure that adequate facility capacity will be provided to serve the existing and future land uses as demonstrated by the supporting data and analysis in the comprehensive plan. [Section 163.3180(10), Florida Statutes]

(d) through (3)(c)6. No change.

7. A development order or permit within a designated multimodal transportation district may be issued provided the planned community design capital improvements are included in a financially feasible long range schedule of improvements for the development or redevelopment time-frame for the



district, without regard to the period of time between development or redevelopment and the scheduled construction of the capital improvements as specified in Section 163.3180(15)(c), Florida Statutes.

(d) For school facilities, a local government shall meet the following minimum standards to satisfy the concurrency requirement:

1. For district-wide concurrency service areas:

a. At the time the residential development order or permit is issued, the necessary facilities and services are in place or under construction; or

b. A residential development order or permit is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under construction not more than 3 years after permit issuance as provided in the adopted public school facilities program.

2. For less than district-wide concurrency service areas:

a. If public school concurrency is applied on less than a district-wide basis in the form of concurrency service areas, a residential development order or permit shall be issued only if the needed capacity for the particular service area is available in one or more contiguous service areas and school capacity is available district-wide as defined in Section 163.3180(13)(e), Florida Statutes.

(4) through (7) No change.

(8) CONCURRENCY EXCEPTION – FOR PUBLIC TRANSIT FACILITIES. Public transit facilities, as described in Section 163.3180(4)(b), Florida Statutes, shall not be subject to the concurrency requirement.

(9)(8) PRIVATE CONTRIBUTIONS TO LOCAL GOVERNMENT CAPITAL IMPROVEMENT PLANNING. In order to exercise the option of issuing a development order or permit pursuant to Section 163.3180(11), a local government must identify in the comprehensive plan a process for assessing, receiving, and applying a fair share of the cost of providing the transportation facilities necessary to serve the proposed development. A local government comprehensive plan may authorize multi-use developments of regional impact to satisfy the transportation concurrency requirement by payment of a proportionate share contribution consistent with Section 163.3180(12), Florida Statutes. The transportation facilities must be included in a financially feasible five-year Capital Improvement Schedule adopted pursuant to Section 9J-5.016 of this Chapter. The assessment shall have a reasonable relationship to the transportation impact that is generated by the proposed development.

Specific Authority 163.3177(9),(10),(11)(e) FS. Law Implemented 163.3177(3),(6),(8),(9),(10),(11), 163.3180 FS. History–New 11-22-89, Amended 3-23-94, 3-21-99,\_\_\_\_\_.

9J-5.006 Future Land Use Element.

(1) through (4)(a)11. No change.

12. Multimodal transportation district boundaries, if any such areas have been designated.

(b) through (f) No change.

(5) No change.

(6) Multimodal Transportation District.

Multimodal transportation districts may be established by local option for areas for which the local government assigns priority for a safe, comfortable, and attractive pedestrian environment. The local government must establish community design standards for the district to reduce vehicle miles traveled and to support an integrated, multimodal transportation system that includes the elements for community design specified in Section 163.3180(15)(b), Florida Statutes.

Specific Authority 163.3177(9),(10), 163.3180(14) FS. Law Implemented 163.3177(1),(2),(4),(5),(6)(a),(6)(d),(8),(9),(10),(11), 163.3178, 163.3180 (13),(15) FS. History–New 3-6-86, Amended 10-20-86, 3-23-94,\_\_\_\_\_.

9J-5.010 Housing Element.

(1) through (b) No change.

(c) An inventory using data from the latest decennial United States Census, or more recent estimates, including the affordable housing needs assessment, when available, showing the number of dwelling units that are substandard in each of the following categories: Substandard units are those that fail to meet the applicable building code, the minimum housing code, or that lacking complete plumbing; lacking complete kitchen facilities; lacking central heating; or and are overcrowded. Local governments may determine that units without heating are not substandard if they are located in areas where the temperature extremes do not indicate heating as a life safety factor. The inventory shall include locally determined definitions of "standard" and of "substandard" housing conditions and shall include an estimate of the structural condition of housing within the local government's jurisdiction, by the number and generalized location of dwelling units in standard and substandard condition. The inventory shall also include the methodology used to estimate the condition of housing.

(d) No change.

(e) An inventory of group homes licensed by the Florida Department of Children and Family Health and Rehabilitative Services, including the type, number, generalized location and capacity.

(f) An inventory of existing mobile home parks licensed by the Florida Department of Children and Family Health and Rehabilitative Services and mobile home condominiums, cooperatives and subdivisions including the generalized location and capacity.

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

(b) The housing need of the current and anticipated future residents of the jurisdiction, including an affordable housing needs assessment, when available, and including separate estimates of need for rural and farmworker households, by

number, type, cost or rent, tenure, and any other special housing needs, and shall include estimates for the replacement of housing units removed and for the maintenance of an adequate vacancy rate. Each local government shall utilize the data and analysis from the state land planning agency's affordable housing needs assessment as one basis for the housing element. The local government, at its option, may supplement the affordable housing needs assessment with locally generated data which more accurately assesses housing need for very low- or low-income households ~~conduct its own needs assessment, provided that it uses the methodology established by DCA in its rules;~~

(c) through (2)(f)3. No change.

4. The provision of adequate sites in residential areas or areas of residential character for group homes and foster care facilities licensed or funded by the Florida Department of Children and Family Health and Rehabilitative Services; and

5. through (3)(b)3. No change.

4. Adequate sites in residential areas or areas of residential character for group homes and foster care facilities licensed or funded by the Florida Department of Children and Family Health and Rehabilitative Services;

5. through (c)5. No change.

6. Establishment of principles and criteria consistent with Chapter 419, F.S., guiding the location of group homes and foster care facilities licensed or funded by the Florida Department of Children and Family Health and Rehabilitative Services that foster non-discrimination, and encourage the development of community residential alternatives to institutionalization including supporting infrastructure and public facilities;

7. through 11. No change.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3177(1),(5),(6)(f),(8),(9),(10), 163.3178 FS. History--New 3-6-86, Amended 10-20-86, 3-23-94, \_\_\_\_\_.

9J-5.015 Intergovernmental Coordination Element.

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

5. Ensure adoption of interlocal agreements within one year of adoption of the amended intergovernmental coordination element, pursuant to the requirements of Section 163.3177(6)(h)2., Florida Statutes.

6. Ensure intergovernmental coordination between all affected local governments and the school board as specified in Section 163.3180(13)(f), Florida Statutes, for the purpose of establishing concurrency requirements for public school facilities, if imposed by local option.

(c) through 3. No change.

4. Provide procedures to identify and implement joint planning areas for the purposes of annexation, municipal incorporation and joint infrastructure service areas ~~Resolving annexation issues;~~

5. through 9. No change.

10. Recognition of campus master plans prepared pursuant to Section 240.155, Florida Statutes, and procedures for coordination of the provisions of the campus master development agreement.

11. Establish joint processes for collaborative planning and decision-making with other units of local governments providing facilities and services but not having regulatory authority over the use of land on population projections and the location and extension of public facilities subject to concurrency.

12. Establish joint processes for collaborative planning and decision-making with the school board on population projections and the siting of public school facilities.

13. Establish joint processes for the siting of facilities with county-wide significance, including locally unwanted land uses, such as solid waste disposal facilities.

14. If imposed by local option, the adoption of an interlocal agreement for school concurrency as specified in Section 163.3180(13)(g), Florida Statutes.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3177(1),(4),(5),(6)(h),(8),(9),(10), 163.3180(13) FS. History--New 3-6-86, Amended 10-20-86, 3-23-94, 3-21-99, \_\_\_\_\_.

9J-5.016 Capital Improvements Element.

(1) through (4)(a)2. No change.

3. If imposed by local option for school concurrency, a five year financially feasible public school facilities program established in conjunction with the local school board that demonstrates the adopted level of service standards will be achieved and maintained.

4. A schedule of capital improvements for multimodal transportation districts, if locally established, required to promote the community design features for the district that are financially feasible over the development or redevelopment time-frame of the district as specified in section 163.3180(15)(c), Florida Statutes. Financial feasibility shall be based on currently available funding or funding sources that could reasonably be expected to become available over the planning period of the district.

(b) through (5) No change.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3177(1),(3),(5),(8),(9),(10), 163.3180(10),(13) FS. History--New 3-6-86, Amended 10-20-86, 11-22-89, 4-2-92, 3-23-94, \_\_\_\_\_.

9J-5.019 Transportation Element.

(1) through (3)(j) No change.

(k) For multimodal transportation districts established pursuant to Section 163.3180(15)(a) and (b), Florida Statutes, an analysis demonstrating that the proposed community design elements, including the transportation system and the land use distribution, densities and intensities, will reduce vehicle miles of travel and support an integrated, multimodal transportation system that achieves the objectives of the paragraphs cited above.

(4) through (b)9. No change.

10. For multimodal transportation districts established pursuant to Section 163.3180(15)(a) and (b), Florida Statutes, provide for a safe, comfortable and attractive pedestrian environment with convenient interconnection to public transportation.

(c) No change.

1. Establishment of level of service standards at peak hour for roads and public transit facilities within the local government's jurisdiction. For facilities on the Florida Intrastate Highway System as defined in Section 338.001, F.S., the local governments shall adopt the level of service standards established by the Department of Transportation by rule. With the concurrence of the Department of Transportation, a local government may establish level of service standards for general lanes in urbanized areas as specified in Section 163.3180(10), Florida Statutes. For all other facilities on the future traffic circulation map, local governments shall adopt adequate level of service standards. These level of service standards shall be adopted to ensure that adequate facility capacity will be provided to serve the existing and future land uses as demonstrated by the supporting data and analysis in the comprehensive plan;

2. through 21. No change.

22. For multimodal transportation districts established pursuant to Section 163.3180(15)(a) and (b), Florida Statutes, provide an interconnected network of streets and related facilities, such as sidewalk condition, availability and connectivity, street crossing convenience, transit proximity to origins and destinations, convenience and reliability of transit facilities, and roadway conditions for bicycles including lane width, surface condition, and separation from motor vehicle traffic, so as to promote walking and bicycling that is coordinated with land uses and other community design features and ensures convenient access to public transportation.

(5) No change.

Specific Authority 163.3177(9),(10) FS. Law Implemented 163.3177(1),(3),(5),(8),(9),(10), 163.3178, 163.3180(13),(15) FS. History--New 3-23-94, Amended 3-21-99,\_\_\_\_\_.

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Division of Community Planning**

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

Rules of Procedure and Practice Pertaining                      9J-28  
Quality Developments

RULE TITLES:	RULE NOS.:
Purpose	9J-28.001
Definitions	9J-28.002
Applicability	9J-28.003
Public Participation	9J-28.004
Notices, Agendas, Conduct of Proceedings	9J-28.005
Application Forms	9J-28.006

Requirements for Designation as a Florida Quality Development	9J-28.009
Filing the Application for Development Designation	9J-28.011
Pleadings	9J-28.014
Commencement of Appeal Proceedings	9J-28.015
Answer	9J-28.016
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Non-Party Response	9J-28.018
Time for Hearing Appeal	9J-28.019
Duties of Review Board Staff	9J-28.020
Conduct of Appeals	9J-28.021
Appeals Decisions	9J-28.022
Florida Quality Development Orders	9J-28.023

PURPOSE AND EFFECT: To modify the rules to comply with 120.536(2)(b), F.S., as amended by Chapter 99-379, § 3, Laws of Florida, and update the rules.

SUBJECT AREA TO BE ADDRESSED: Chapter 9J-28, Florida Administrative Code, pertains to developments of regional impact that meet certain criteria to be designated as Florida Quality Developments (FQD). Some of the rules in this notice are proposed to be revised to either incorporate updated information or modify certain requirements. Other rules are proposed to be repealed. Statute citations for rule making authority and law implementation references have also been updated in the rules.

Rule 9J-28.001, concerning the purpose for the rules, is repealed. The revision to Rule 9J-28.002, definitions, incorporates the correct name as the Division of Community Planning.

Rules 9J-28.003, pertaining to the applicability of the rules; 9J-28.004, encouraging public participation in the FQD process; and 9J-28.005, pertaining to notices, agendas and conduct of proceedings are repealed.

Revisions to Rule 9J-28.006 reference a new effective date for the FQD application form and changes the address and name of the Division within the Department where this form can be obtained.

Rule 9J-28.009, pertaining to requirements for designation as a Florida Quality Development, is revised to correctly reference the Florida Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission; changes a reference from Section 403.8171 to Chapter 403, F.S.; deletes the reference to the Florida Department of Agriculture and Consumer Services' endangered plant list and replaces it by reference to the plant list in Rule 9J-2.041, Florida Administrative Code; incorporates a requirement to include an outline and description of energy conservation features in the FQD project's energy conservation plan; updates references to correctly refer to the regional strategic plans; and deletes the reference to the state land development plan. In the Planning

and Design Features section, the reference to the Florida Department of Natural Resources is revised to reference the Department of Environmental Protection.

The revision to Rule 9J-28.011 (Filing for Application for Development Designation) changes the reference for determining the completeness of information submitted from section 120.57, F.S., to section 120.569, F.S.

Rules 9J-28.014 through 9J-28.019 and Rules 9J-28.021 and 9J-28.022 pertaining to pleadings filed in response to the designation or non-designation of a project as a FQD; commencement of appeal proceedings; answering a petition filed by a developer; the petitioner's reply to the answer; responses to the petition by non-party reviewing entities; procedures for scheduling an appeal; conduct of appeals; and appeals decisions are all repealed. In Rule 9J-28.020, the reference to repealed Rule 9J-28.022 is deleted.

A requirement that a finding of fact be made that a FQD development order is consistent with the state land development plan is deleted from Rule 9J-28.023. Also, references in the rule are updated to correctly refer to the Florida Department of Environmental Protection and Florida Fish and Wildlife Conservation Commission, delete the reference to the state land development plan and to correctly reference the regional strategic plan.

SPECIFIC AUTHORITY: 380.032(2)(a), 380.061(3), 380.061(6)(d), 380.061(8)(b) FS.

LAW IMPLEMENTED: 120.536(2)(b) FS as amended by Chapter 99-379, §3, Laws of Florida, 380.061(3), 380.061(4), 380.061(5)(b), 380.061(5)(d), 380.061(6)(a) FS.

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

TIME AND DATE: 9:00 a.m., July 26, 2000

PLACE: Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodations at the hearing because of a disability or physical impairment should contact Jeff Bielling, Senior Management Analyst, Division of Community Planning, Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone number (850)922-1760, SUNCOM 292-1760 at least seven days before the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD). THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Jeff Bielling, Senior Management Analyst, Division of Community Planning, Bureau of State Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32303-2100, Telephone number (850)922-1760

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

9J-28.001 Purpose.

Specific Authority 380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061 FS. History--New 1-23-90, Repealed.

9J-28.002 Definitions.

(1) through (7) No change.

(8) "Division" means the Division of Community Resource Planning and Management of the Department of Community Affairs.

(9) through (27) No change.

Specific Authority 380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061 FS. History--New 1-23-90, Amended.

9J-28.003 Applicability.

Specific Authority 380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061 FS. History--New 1-23-90, Repealed.

9J-28.004 Public Participation.

Specific Authority 380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061 FS. History--New 1-23-90, Repealed.

9J-28.005 Notices, Agenda, Conduct of Proceedings.

Specific Authority 380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061 FS. History--New 1-23-90, Repealed.

9J-28.006 Application Forms.

Applications for designation of a development as an FQD shall be made on Form RPM-BSP-ADA-1, "Development of Regional Impact Application for Development Approval," effective date: 11/9076, as incorporated by reference in 9J-2.0107(1)(a), Florida Administrative Code, and in addition thereto those items specified in Rules 9J-28.008, "General Requirements," and 9J-28.009, "Requirements for Designation as a Florida Quality Development." The form may be obtained by submitting a request to: State of Florida Department of Community Affairs, Division of Community Resource Planning, 2555 Shumard Oak Boulevard, Sadowski Building and Management, Bureau of State Planning, 2740 Centerview Drive, Rhyme Building, Tallahassee, Florida 32399-2100.

Specific Authority 380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061(4) FS. History--New 1-23-90, Amended.

9J-28.009 Requirements for Designation as a Florida Quality Development.

To be eligible for designation under this alternative DRI review program, the developer shall comply with each of the following requirements which is applicable to the site of a proposed FQD. The intent of establishing these minimum FQD development standards is to assist, promote, and advance the timely and expeditious review of FQD projects and, unless otherwise specified, such mitigative requirements shall be in addition to the mitigation standards and criteria for developments of regional impact.

(1)(a) No change.

1. Wetlands and Water Bodies Within the Jurisdiction of the Florida Department of Environmental ~~Protection Regulation~~. The developer shall preserve all wetlands and waterbodies within the jurisdiction of the Florida Department of Environmental ~~Protection (DEP) Regulation (DER)~~. In order to facilitate review, the developer should obtain a binding Jurisdictional Declaratory Statement from ~~DEPR~~ for all wetlands within the project boundaries.

a. The developer may alter such wetlands and water bodies for the purpose of site access provided other routes of access are unavailable or impractical. However, such use shall be subject to approval by the ~~DEPR~~, pursuant to its authority under Chapter 403, Florida Statutes.

b. No change.

c. The developer may enhance wetlands and water bodies which have been artificially created to produce a more naturally functioning system. Man-made wetlands, created for mitigative purposes, may not be altered unless the redesign or alteration enhances the functionality of the system and is performed in accordance with the approval of the appropriate agencies which required or permitted the mitigation site. Such use is subject to approval by the ~~DEPR~~, pursuant to its authority under ~~Chapter 403 Section 403.8171~~, Florida Statutes. The developer shall indicate any such proposed use in the application for development designation.

2. Dunes and Beaches. The developer shall preserve active beach and primary dunes seaward of the coastal construction control line established pursuant to Section 161.053, Florida Statutes. The developer shall also preserve secondary dunes seaward of the coastal construction control line except for those sites where the developer obtains a permit from the Florida Department of ~~Environmental Protection Natural Resources~~ to alter, excavate, or construct structures pursuant to Section 161.053, Florida Statutes. The developer shall set aside adequate public accessways to the beach. The developer may construct and maintain elevated walkways over the dunes to provide access to the beach as permitted pursuant to Section 161.053, Florida Statutes. These walkways shall be designed and built to protect the dunes and their associated vegetation.

3.a. through d. No change.

4. Areas Important to Endangered or Threatened Animal Species. The developer shall preserve the habitat areas necessary to ensure the survival of the animal species designated as endangered or threatened by the United States Fish and Wildlife Service hereby referenced as Chapter 50, Code of the Federal Regulations, Section 17.11-12, Subpart B – List, “Title 50 Wildlife and Fisheries Part 17 – Endangered and Threatened Wildlife and Plants,” and the Florida ~~Game and Fresh Water Fish and Wildlife Conservation~~ Commission hereby referenced as published in Section ~~3968A-27.003-.005~~, Florida Administrative Code, “Official List of Endangered and Potentially Endangered Fauna and Flora in Florida.”

a. No change.

b. The survey should be conducted according to guidelines for such surveys as recommended by the ~~Game and Fresh Water Fish and Wildlife Conservation~~ Commission (Commission). The survey should include, at a minimum: (1) a description of the survey methodology, including dates and times; and (2) a list and map of threatened and endangered animal species observed onsite and presumed to use the site based on the vegetative community and species range. The Department may consult with the Commission on the results of the survey and receive comments and recommendations from the Commission.

c. No change.

5. Areas Known to Contain Endangered Plant Species. The developer shall preserve areas known to contain plant species designated as endangered plant species ~~in Rule 9J-2.041, Florida Administrative Code by the Florida Department of Agriculture and Consumer Services hereby referenced as published in Sections 581.185-.187, Florida Statutes.~~

a. through (5)(b) No change.

(c) The developer shall prepare an energy conservation plan for the design, construction and operation of the development. The plan shall outline and describe energy conservation standards and features, and design criteria expected to be used in the architectural design, construction, and operation of the structures. The plan should be included in the application for development designation. The plan shall consider, but not be limited to, the following energy conservation features:

1. through (d) No change.

(6) Infrastructure. The developer will provide for construction and maintenance of all onsite infrastructure necessary to support the project. The developer shall enter into a binding commitment with the local government to provide an appropriate fair-share contribution toward offsite impacts which the development will impose on publicly funded facilities and services and condition or phase the commencement of development to ensure that public facilities and services will be available concurrent with the impacts of the development. This commitment does not include offsite transportation facilities. For the purposes of offsite transportation impacts, the developer shall comply, at a minimum, with the following standards: the state land planning agency's development of regional impact transportation rule, if in effect; the approved strategic regional policy comprehensive plan; any applicable regional planning council transportation rule; and the approved local government comprehensive plan and land development regulations adopted pursuant to Part II of Chapter 163, Florida Statutes.

(7) Consistency with Plans. The design and construction of the development shall be consistent with the adopted state comprehensive plan, ~~the state land development plan~~, the applicable ~~strategic comprehensive~~ regional policy plan, and the applicable adopted local government comprehensive plan.

(8)(a) through (b) No change.

DESIGN FEATURE

Primary Design Features

1. through 3. No change.

4. Preservation of areas that are primary habitat for significant populations of animal species of special concern designated by the Florida ~~Game and Fresh Water Fish and Wildlife Conservation~~ Commission or protection and preservation of uplands as wildlife habitat with special consideration given to prime recharge areas, areas designated by the Florida Department of ~~Environmental Protection Natural Resources~~ to be significant value to the state park system, or other environmentally sensitive property included on the Conservation and Recreation Lands or the Land Acquisition Trust Fund priority list or included as a priority for acquisition by a water management district through the Save Our River program;

3

5. through 13. No change.

Specific Authority 380.032(2)(a), 380.061(3),(8)(b) FS. Law Implemented 380.061(3) FS. History–New 1-23-90, Amended.

9J-28.011 Filing the Application for Development Designation.

(1) through (2)(b) No change.

(c) The application for development designation shall be approved or denied by the Department and the local government within 90 days after receipt of the original complete application or receipt of the timely requested additional information or correction of errors or omissions which determine the application complete. The 90 day time limitation prescribed by Subsection 120.60, Florida Statutes, for the approval or denial of license applications is subject to waiver by the applicant. The Department shall consider any report and recommendations made by the regional planning council which are received within 50 days after receipt of the complete application. In preparing its report and recommendations, the regional planning council should identify regional issues based on the criteria pursuant to Subsection 380.06(12), Florida Statutes. If the applicant chooses to appeal the completeness review for the FQD, the 90 day period will be tolled by the initiation of proceedings under Section 120.5697, Florida Statutes, and will resume 10 days

POINTS ASSIGNED

after the recommended order of the hearing officer is submitted to the Department, the local government, the applicant, and other parties.

(d) No change.

Specific Authority 380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061(5)(b) FS. History–New 1-23-90, Amended.

9J-28.014 Pleadings.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.015 Commencement of Appeal Proceedings.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.016 Answer.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.017 Reply.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.018 Non-Party Response.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.019 Time for Hearing Appeal.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.020 Duties of Review Board Staff.

(1) through (3) No change.

(4) Prepare the written decision of the Review Board ~~pursuant to rule section 9J-28.022, Florida Administrative Code.~~

(5) No change.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6)(a) FS. History–New 1-23-90, Amended.

9J-28.021 Conduct of Appeals.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.022 Appeals Decisions.

Specific Authority 380.032(2)(a), 380.061(6)(d),(8)(b) FS. Law Implemented 380.061(6) FS. History–New 1-23-90, Repealed.

9J-28.023 Florida Quality Development Orders.

(1) through (4)(b)6.a. No change.

~~b. The development is consistent with the state land development plan;~~

b.e. The local government with jurisdiction has reviewed the development, has found the development consistent with the local government comprehensive plan, and has approved the designation of the development as an FQD, specifying the conditions for approval;

~~c.d.~~ The Department has reviewed the development, has found it to be consistent with the state comprehensive plan ~~and the state land development plan~~, and has approved the designation of the development as an FQD, specifying the conditions of approval;

~~d.e.~~ The development is in an Area of Critical State Concern;

~~e.f.~~ The development is above the applicable development of regional impact thresholds, pursuant to s. 380.06, Florida Statutes, and is thereby a development of regional impact;

~~f.g.~~ The development will preserve, in perpetuity, wetlands and water bodies within the jurisdiction of the Department of Environmental ~~Protection Regulation~~ which occur on development property, specifying the mechanism to be used for the preservation of those wetlands and water bodies or stating that these lands do not occur on the development property;

~~g.h.~~ The development will preserve, in perpetuity, active beaches and primary dunes that occur seaward of the coastal construction control line on development property, specifying the mechanism to be used for the preservation of those areas or stating that no active beaches or primary dunes occur on the development property;

~~h.i.~~ The development will preserve, in perpetuity, all archaeological sites determined to be significant by the Department of State, Division of Historical Resources, specifying the mechanism to be used for the preservation of those sites or stating that no such sites occur on the development property;

~~i.j.~~ The development will preserve, in perpetuity, areas known to be important to animal species designated as endangered or threatened by the United States Fish and Wildlife Service or the Florida ~~Game and Fresh Water Fish and Wildlife Conservation~~ Commission, specifying the mechanism to be used for the preservation of those areas or stating that such areas do not occur on development property;

~~j.k.~~ The development will preserve, in perpetuity, areas known to contain plant species designated as endangered by the Florida Department of Agriculture and Consumer Services, specifying the mechanism to be used for the preservation of those areas or stating that such areas do not occur on the development property;

~~k.l.~~ The development will not produce or dispose of any substances designated as hazardous or toxic by the U.S. Environmental Protection Agency, the Florida Department of Environmental ~~Protection Regulation~~, or the Florida Department of Agriculture and Consumer Services;

~~l.m.~~ The development will participate in a downtown reuse or redevelopment program to improve and rehabilitate a declining downtown area if located in or adjacent to a redevelopment district;

~~m.n.~~ The development will include open space and recreation areas, specifying the type and acreage of those lands;

~~n.o.~~ The development will include energy conservation features;

~~o.p.~~ The development will minimize impermeable surfaces;

~~p.q.~~ The developer has entered into a binding commitment to provide for the construction and maintenance of all onsite facilities and services necessary to support the development;

~~q.r.~~ The developer will provide for construction and maintenance of all onsite infrastructure necessary to support the project and enter into a binding commitment with the local government to provide an appropriate fair-share contribution toward offsite impacts that the development will impose on the publicly funded facilities and services; and

~~r.s.~~ For the purposes of offsite transportation impacts, the developer will comply, at a minimum, with the standards of the Department's development of regional impact transportation rule if in effect, the approved regional ~~comprehensive~~ strategic plan, and any applicable regional planning council transportation rule, and the approved local government comprehensive plan and land development regulations adopted pursuant to part II of Chapter 163, Florida Statutes; and

~~s.t.~~ The development includes innovative design and quality of life features, or other development features that address the needs of the people as identified in the state comprehensive plan for those who will live and work in and near the development;

7. through (7)(c) No change.

Specific Authority ~~380.032(2)(a), 380.061(8)(b) FS. Law Implemented 380.061, 380.061(5)(d) FS. History—New 1-23-90, Amended \_\_\_\_\_.~~

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Monuments and Tombstones	12A-1.026
Funerals; Related Merchandise and Services	12A-1.035
Cemetery Organizations	12A-1.052

**PURPOSE AND EFFECT:** The purpose of the proposed repeal of Rule 12A-1.026, FAC., is to consolidate the guidelines for the taxability of monuments and monument services, such as tombstones or mausoleums, into proposed Rule 12A-1.035, FAC., Funerals; Related Merchandise and Services.

The purpose of the proposed amendments to Rule 12A-1.035, FAC., is to consolidate the administration of funerals and related items and services under one administrative rule and to provide guidelines to sellers of funeral or burial services and funeral or burial merchandise. The proposed amendments also remove the exclusion from tax for ambulance service, as it is unrelated to funerals and funeral services and is an unnecessary

rule provision. The proposed amendments also change the rule title to "Funerals; Related Merchandise and Services," to reflect these amendments.

The purpose of the proposed repeal of Rule 12A-1.052, FAC., is to remove: 1) unnecessary provisions regarding the requirement to register as a dealer and collect tax on the sale of tangible personal property that are provided in Rule 12A-1.060, FAC.; and 2) provisions regarding the bricking of graves and the construction of foundations for monuments that will be provided in proposed Rule 12A-1.035, FAC., Funerals; Related Merchandise and Services.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this rule development workshop is the administration of sales tax on the sale of funeral and burial services and funeral and burial merchandise.

**SPECIFIC AUTHORITY:** 212.17(6), 212.18(2), 213.06(1) FS.  
**LAW IMPLEMENTED:** 212.05(1)(a),(c), 212.06(1), 212.08(2),(7)(o),(v) FS.

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

**TIME AND DATE:** 2:00 p.m., July 19, 2000

**PLACE:** Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

Copies of the agenda for the rule development workshop may be obtained from Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

Copies of the agenda for the rule development workshop may be obtained by contacting the person listed below.

Any person requiring special accommodations to participate in any proceeding before the Technical Assistance and Dispute Resolution Office is asked to advise the Department at least five (5) calendar days before such proceeding by contacting Pamela Brown at (850)488-0717. If you are hearing or speech-impaired, please contact the Department by calling 1(800)DOR-TDD1 (1(800)367-8331).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

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

#### 12A-1.026 Monuments and Tombstones.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(a), 212.06(1) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.26, Repealed.

(Substantial Rewording of Rule 12A-1.035 follows. See Florida Administrative Code for present text.)

#### 12A-1.035 Funerals; Related Merchandise and Services.

##### (1) As used in this rule:

(a) "Funeral service" or "burial service" means any observance, ceremony, or service in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains.

(b) "Funeral merchandise" or "burial merchandise" means any tangible personal property commonly sold or used in connection with the final disposition, memorialization, interment, entombment, or inurnment of human remains. Examples of such items are caskets, burial containers, vaults, alternative containers, cremation containers, urns, monuments, private mausoleums, clothing, flowers, shrubs, benches, vases, memory folders, acknowledgment cards, prayer cards, and register books. This list is not intended to be an exhaustive list.

(2)(a) The sale of funeral or burial merchandise by any person required to be licensed or registered under the provisions of Chapter 470 or 497, F.S., is not subject to tax when the merchandise is sold in connection with the performance of a funeral service or burial service. When the merchandise is provided under a separate contract, or provided by a separate legal entity, the sale of the funeral or burial merchandise is not subject to tax only when the merchandise is provided in connection with the performance of a funeral or burial service. The purchase of such funeral or burial merchandise by the person licensed or registered under the provisions of Chapter 470 or 497, F.S., is subject to sales and use tax.

(b) The sale of funeral or burial merchandise, except monuments or monument services as provided in subsection (4) of this rule, by any person required to be licensed or registered under the provisions of Chapter 470 or 497, F.S., that is not in connection with the performance of a funeral or burial service is subject to tax. Sales tax is to be collected from the purchaser at the time of sale.

(c) The sale of funeral or burial merchandise by any person who is not required under the provisions of Chapter 470 or 497, F.S., to hold a certificate of authority, to be licensed, or to be registered is subject to tax.

(3) When any establishment that holds a certificate of authority pursuant to Chapter 497, F.S., enters into a pre-need contract with a customer to provide funeral or burial services upon the death of the customer, no sale occurs for sales and use tax purposes until the services are performed. Use tax is due on the purchase price of funeral or burial merchandise provided in connection with a funeral or burial service when the service is performed, unless sales tax was paid at the time of purchase of the merchandise.

(4)(a) The following sales of monuments or monument services by any person licensed or registered pursuant to Chapter 497, F.S., to sell monuments or monument services are not subject to sales tax:



1. The sale of a monument that is securely affixed to a foundation or permanent base;
2. The sale of a granite marker installed flush with ground level at the graveside;
3. Charges for the inscription of a monument installed on a foundation;
4. The building of a mausoleum, columbarium, or below ground crypt;
5. The bricking of graves; or
6. The construction of foundations for monuments.

(b) The sale of tangible personal property that is furnished to the customer, or incorporated into property furnished to the customer, as provided in paragraph (a), to any person licensed or registered pursuant to Chapter 497, F.S., to sell monuments or monument services is subject to tax.

(c) The sales of monuments or monument services that are not constructed, affixed to a foundation or permanent base, or installed, as described in paragraph (a), are subject to sales tax.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.05(1)(a),(c), 212.06(1), 212.08(2),(7)(v) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.35, Amended.

12A-1.052 Cemetery Organizations.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.06(1), 212.08(7)(o) FS. History—Revised 10-7-68, 6-16-72, Formerly 12A-1.52, Repealed.

**DEPARTMENT OF CORRECTIONS**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Control of Contraband	33-602.203
Routine Mail	33-602.401
Legal Documents and Legal Mail	33-602.402
Privileged Mail	33-602.403

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to provide relevant forms, clarify the responsibilities of inmates with regard to informing correspondents of applicable rules, clarify what constitutes, and procedures relating to, routine, legal, and privileged mail. The effect of the proposed rule is to: define permitted and prohibited items for routine, legal, and privileged mail; establish procedures for cash and cashiers checks contained in mail; clarify the bases upon which mail will be disapproved; clarify procedures for contraband mail; prohibit the use of handmade envelopes or packages; clarify the definition of what constitutes legal mail and provide procedures for mail disapproved as legal mail; clarify time limits for processing mail and for the forwarding of legal mail for inmates transferred to other institutions or released; and establish procedures relating to costs for the mailing of legal mail for indigent inmates.

**SUBJECT AREA TO BE ADDRESSED:** Control of Contraband, Routine Mail, Legal Documents and Legal Mail, and Privileged Mail.

**SPECIFIC AUTHORITY:** 20.315, 944.09, 944.11, 945.215 FS.

**LAW IMPLEMENTED:** 20.315, 944.09, 944.11, 944.47, 945.215 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: Giselle Lylen Rivera, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.203 Control of Contraband.

(1)(a) through (7)(d) No change.

(e) If items of contraband are detected in the mail, that are not of any illegal nature (other than cash concealed within mail), the institution finding the contraband will provide the sender and addressee a receipt for the property in accordance with department rules relating to mail procedures (33-602.401, Routine Mail; 33-602.402, Legal Documents and Legal Mail; and 33-602.403, Privileged Mail).

(f) If cash found in any mail is not in plain view, it will be considered contraband and deposited in the inmate welfare trust fund.

(8)(a) through (b) No change.

Specific Authority 944.09, 945.215 FS. Law Implemented 944.47, 945.215 FS. History—New 10-8-76, Amended 2-24-81, 4-18-82, 8-13-84, 2-13-85, 6-2-85, Formerly 33-3.06, Amended 2-9-87, 11-3-87, 8-14-90, 11-22-91, 1-06-94, 5-28-96, 10-26-97, Formerly 33-3.006, Amended 3-2-00, \_\_\_\_\_.

33-602.401 Routine Mail.

(1) No change.

(2) Inmates will be permitted to receive only the following types of materials through routine mail:

(a) Written correspondence (no limit as to number of pages). Correspondence may be written on greeting cards, but cards containing electronic or other non-paper parts or cards which are constructed in such a way as to permit concealment of contraband will not be permitted.

(b) Up to 5 pages of additional written materials. Each page can be no larger than 8 1/2 x 11 inches in size; material can be on both sides of a page. This does not include bound publications which will be handled pursuant to rule 33-501.401. Individual newspaper or magazine articles or clippings or clippings from other publications are permissible, up to the 5 page limit. No item can be glued, taped, stapled or otherwise affixed to a page.

(c) Photographs. Photographs will be counted toward the 5 page additional materials limitation. Personal nude photographs or personal photographs which reveal genitalia, buttocks, or the female breast will not be permitted. Polaroid photographs will not be permitted.

(d) Cashiers checks, certified bank drafts or money orders. These items do not count toward the 5 page limitation for additional materials. Note: pursuant to rule 33-203.201, persons sending money to inmates should send the funds directly to the service center for deposit and should not enclose them with routine mail. Funds enclosed in routine mail must be forwarded by the institution to the service center for deposit, resulting in delay of the inmate's access to the funds.

(e) Self-addressed stamped envelopes. These items do not count toward the 5 page limitation for additional materials, but cannot exceed the equivalent of 20 (1 ounce) first class stamps.

(f) Blank greeting cards, stationery or other blank paper or envelopes. These items do not count toward the 5 page limitation for additional materials, but cannot exceed 10 in number.

(g) U.S. postage stamps. The value of the stamps cannot exceed the equivalent of 20 (1 oz.) first class stamps. These items do not count toward the 5 page limitation for additional materials.

(3) No other items may be received through incoming routine mail. If an impermissible item is found (other than items of an illegal nature or cash concealed within the correspondence), the entire correspondence will be returned to the sender pursuant to paragraph (11) of this rule. For example, the following items are not permissible for inclusion in routine mail:

(a) Non-paper items;

(b) Items of a non-communicative nature such as lottery tickets or matchbooks;

(c) Stickers or stamps (other than postage stamps);

(d) Address labels;

(e) Laminated cards or other laminated materials.

(4) Inmates shall be responsible for informing correspondents of the regulations concerning incoming routine mail.

(2) through (6)(j) renumbered (5) through (9)(j) No change.

(k) Contains criminal history, offender registration, or other personal information about another inmate or offender which, in the hands of an inmate, presents a threat to the security, order or rehabilitative objectives of the correctional system or to the safety of any person;

(l) Is not in compliance with incoming mail regulations set forth in paragraphs (2) and (3) of this rule (incoming mail only); or

(m)(k) otherwise presents a clear and substantial threat to the security, order, or rehabilitative objectives of the Correctional System, or to the safety of any person.

(10)(7) No change.

(11)(8) When an inmate is prohibited from sending a letter, the letter and a written and signed notice stating one of the authorized reasons for disapproval and indicating the portion or portions of the letter causing disapproval will be given to the inmate. When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be given notice in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC6-222, will be placed in the original envelope with the correspondence and returned to the sender. If contraband is discovered in the mail (other than contraband of an illegal nature or concealed cash), the contraband item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt included. In either case the inmate may file a grievance to be reviewed by an officer or official other than the person disapproving the mail. Form DC6-222 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(9) through (10)(b) renumbered (12) through (13)(b) No change.

(14)(11) Cashier's checks, certified bank drafts and money orders found in incoming mail shall be forwarded to the service center to be deposited in the inmate's account in the Inmate Trust Fund pursuant to rule 33-203.201. ~~Cash and Uncertified bank drafts will not be accepted and will be returned to the sender. Cash found in plain view in incoming mail will be returned to the sender. However, if cash is concealed within the mail, such as hidden between the layers of the cover of a greeting card, the cash will be considered contraband and will be deposited in the Inmate Welfare Trust Fund.~~ The department is not responsible for any cash sent through the mail.

(15)(12) No change.

(16) Inmates shall not utilize hand-made packages or envelopes to send out routine mail. Mail enclosed in such materials will be returned to the inmate without processing.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New 10-8-76, Amended 10-11-77, 4-19-79, 11-19-81, 3-12-84, 10-15-84, Formerly 33-3.04, Amended 7-8-86, 9-4-88, 3-9-89, 9-1-93, 9-30-96, 5-25-97, 6-1-97, 10-7-97, 5-10-98, Formerly 33-3.004, Amended 12-20-99, \_\_\_\_\_.

33-602.402 Legal Documents and Legal Mail.

(1) All inmates shall have a right of unhindered access to the courts. No provision of this rule shall be applied in such a way as to conflict with any rule of court. In any filings or correspondence with state courts, inmates are restricted by s. 92.351, F.S., to mailing paper documents only, unless prior

authorization is obtained from the court for inclusion of non-paper materials. No non-paper materials will be forwarded to the court until the inmate presents a court order authorizing the mailing of non-paper documents to the court. Inmates shall be given ample time in which to prepare petitions and other legal documents. These documents will be processed promptly subject to the procedures outlined in this rule.

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

(f) Mail to and from Agency Clerks.

(g) Mail to and from government attorneys.

(3) Legal mail shall be delivered to the institution or facility by the U.S. Postal Service only.

(4) Inmates shall ~~may~~ be allowed to prepare legal documents and legal mail in their living quarters. Additionally, some institutions may designate other areas specifically for this purpose.

(5) No change.

(6) Inmates shall be permitted to receive only legal documents, legal correspondence, written materials of a legal nature (other than publications) and self-addressed stamped envelopes through legal mail. No other items may be received through legal mail.

(a) The following items are not permissible for inclusion in legal mail, but are permissible for inclusion in routine mail, along with other materials listed in 33-602.401(2):

1. Greeting cards, blank greeting cards, stationery or other blank paper or envelopes;

2. Articles or clippings or other written materials of a non-legal nature.

3. Photographs, unless related to the inmate's criminal case. If related to the criminal case, the photographs shall still be subject to restriction based on content if the photographs present a threat to the security or order of the institution or the rehabilitative interests of the inmate. Polaroid photographs are prohibited.

4. Cashiers checks, certified bank drafts, or money orders. (See also rule 33-203.201 for deposit procedures).

5. U.S. postage stamps, the value of which cannot exceed the equivalent of 20 (1 oz.) first class stamps.

(b) The following items which are prohibited for receipt in routine mail are also not permissible for inclusion in legal mail:

1. Non-paper items;

2. Items of a non-communicative nature such as lottery tickets or matchbooks;

3. Stickers or stamps (other than postage stamps);

4. Address labels;

5. Laminated cards or other laminated materials.

(c) Inmates shall be responsible for informing their legal correspondents of the regulations concerning incoming legal mail.

(7) When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be notified in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC6-222, will be placed in the original envelope with the correspondence and returned to the sender. If contraband is discovered in the mail (other than contraband of an illegal nature or concealed cash), the contraband item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt included. Form DC6-222 is incorporated by reference in rule 33-602.401.

~~(8)(a)(6)~~ All outgoing and incoming legal mail will be forwarded unopened when it can be determined from the envelope that the correspondence is legal mail and that it contains no contraband or other noncommunicative objects. A determination can be made in most instances by bending, shaking, or holding the envelope to a light. If a determination cannot be made from an examination of the envelope, the mail may be:

~~(a)~~ opened for inspection in the presence of the inmate. Only the signature and letterhead may be read; ~~or~~

~~(b)~~ held for a reasonable time pending verification that it was sent by or is properly addressed to a person or agency listed in subsection (2). Mail identified as being a communication from an attorney to a client will not be opened unless articles other than mail are detected therein.

~~(c)~~ If the incoming mail is not legal mail, it will be returned to the sender along with a form letter which states that the correspondence is being returned in accordance with subsection ~~(8)(6)~~ of this rule because it was being transmitted under the guise of legal mail. The inmate whom the mail was addressed shall receive a copy of the form letter.

(c) Incoming and outgoing legal mail that is properly addressed and otherwise in compliance with applicable rules shall not be held for processing for more than 24 hours, excluding weekends and holidays.

~~(9)(7)~~ Inmates shall be allowed to purchase and receive legal material (such as law books) at their own expense, limited only by the amount of space available to the inmate for the storage of such items. Inmates shall be allowed to keep legal material in their quarters subject to storage limitations. The Department of Corrections will not be responsible for lost or stolen or misplaced legal materials. The institution shall provide white paper and pen for the preparation of legal documents and legal mail for those inmates without necessary funds to purchase their own paper and pen. Inmates shall not utilize hand-made envelopes or packages to send out legal mail. Mail enclosed in such materials will be returned to the inmate without processing.

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

(b) At the time that copies or postage are provided to an inmate for this purpose, the business office shall place a hold on the inmate's account for the cost of the copies or postage.

The cost of providing the copies or postage shall be collected from any existing balance in the inmate's bank trust fund account. If the account balance is insufficient to cover the cost, the account shall be reduced to zero. If costs remain unpaid, a hold will be placed on the inmate's account, subject to priorities of other liens, and all subsequent deposits to the account will be applied against the unpaid costs until the debt has been paid.

(9) through (11)(b) renumbered (11) through (13)(b) No change.

(c) Specify that the inmate is responsible for notifying attorney and courts not to enclose prohibited items ~~money orders and checks~~ in envelopes with other legal mail.

(d) No change.

(12) through (14) renumbered (14) through (16) No change.

~~(17)(15)~~(a) All incoming legal mail received for an inmate shall be entered on the Incoming Legal And/Or Privileged Mail Log, Form DC6-256 DC3-321. The form shall include the inmate's name, DC number, the date the mail was received by the institution, the full address of the sender, the date the mail was received by the inmate, the signature of the inmate, and the initials of the mailroom officer who is present when the inmate signs for receipt of the mail. Form DC6-256 DC3-321 is hereby incorporated by reference. Copies of the form are available from the Forms Control Administrator, Office of the General Counsel Security and Institutional Management, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. ~~If forms are to be mailed, the request must be accompanied by a self-addressed stamped envelope.~~ The effective date of the form is February 15, 1998.

(b) In the event that the inmate has been released or transferred, in addition to the procedures required by rule 33-602.402(16)(14), Form DC6-256 DC3-321 shall be completed as required in 33-602.402(17)(15)(a), except that mailroom staff shall write 'Transferred' or 'Released' in the 'Date Mail Received By Institution' section, and shall write the date that the mail was forwarded in the 'Inmate Signature' section.

Specific Authority 20.315, 944.09, 944.11 FS. Law Implemented 944.09, 944.11 FS. History—New 10-8-76, Amended 4-19-79, 7-2-81, 6-8-82, 9-23-85, Formerly 33-3.05, Amended 10-7-86, 8-20-89, 4-4-91, 9-1-93, 4-28-96, 2-12-97, 5-25-97, 10-7-97, 12-7-97, 2-15-98, Formerly 33-3.005, Amended 12-20-99, \_\_\_\_\_.

33-602.403 Privileged Mail.

(1) No change.

(2) Inmates shall be allowed to receive only written correspondence and self-addressed stamped envelopes in privileged mail.

(a) The following items are not permissible for inclusion in privileged mail, but are permissible for routine mail along with other materials listed in 33-602.401(2):

1. Greeting cards, blank greeting cards, stationery or other blank paper or envelopes;

2. Articles or clippings;

3. Photographs;

4. Cashiers checks, certified bank drafts or money orders (see also rule 33-203.201 for deposit procedures);

5. U.S. postage stamps, the value of which cannot exceed the equivalent of 20 (1 oz.) first class stamps;

(b) The following items which are prohibited for receipt in routine mail are not permissible for inclusion in privileged mail:

1. Non-paper items;

2. Items of a non-communicative nature such as lottery tickets or matchbooks;

3. Stickers or stamps (other than postage stamps);

4. Address labels;

5. Laminated cards or other laminated materials.

(c) Inmates shall be responsible for informing all correspondents of the regulations concerning privileged mail.

(3) When an inmate is prohibited from receiving any item of mail, the inmate and the sender will be notified in writing that the mail has been disapproved stating one of the authorized reasons for disapproval. The Unauthorized Mail Return Receipt, Form DC6-222, will be placed in the original envelope with the correspondence and returned to the sender. If contraband is discovered in the mail (other than contraband of an illegal nature or concealed cash), the contraband item and the correspondence will be returned to the sender with the Unauthorized Mail Return Receipt included. Form DC6-222 is incorporated by reference in rule 33-602.401.

~~(4)(2) All outgoing and incoming privileged mail shall be forwarded unopened when it can be determined from the envelope that the correspondence is privileged mail and that it contains no contraband or other noncommunicative objects. A determination can be made in most instances by bending, shaking, or holding the envelope to a light. If a determination cannot be made from an examination of the envelope, the mail may be:~~

~~(a) opened for inspection in the presence of the inmate. Only the signature and letterhead may be read; or~~

(b) Held for a reasonable time pending verification that it was sent by or is properly addressed to a public official, a governmental agency or a member of the news media. Incoming and outgoing privileged mail that is properly addressed and otherwise in compliance with applicable rules shall not be held for processing for more than 24 hours, excluding weekends and holidays.

(3) through (5)(a) renumbered (5) through (7)(a) No change.

(b) Upon receipt of privileged mail, if there is a question that it is privileged mail, the mail shall be opened in the presence of the inmate to confirm that it is privileged mail. If it

is confirmed to be privileged mail, it shall be delivered to the inmate. If the mail is not ~~bona fide~~ privileged mail, it shall be returned to the sender along with a form letter which states that the correspondence is being returned in accordance with subsection ~~(3)(2)~~ and ~~(7)(5)~~ of this rule because it was being transmitted under the guise of privileged mail. The inmate to whom the mail was addressed shall receive a copy of the form letter.

(c) Anytime privileged mail is received for an inmate who has been released from the department, it shall be returned to the post office within ~~5~~ 10 working days with a forwarding address, if available, and a request shall be made to postal authorities to forward the privileged mail to the former inmate. If there is no available forwarding address, all privileged mail shall be returned to the sender.

(d) No postage or writing materials shall be provided to inmates for privileged mail, however the postage and writing materials provided in 33-602.401~~(15)~~~~(12)~~ may be used for this purpose.

(e) Inmates shall not utilize home-made envelopes or packages to send out privileged mail. Mail enclosed in such materials will be returned to the inmate without processing.

~~(8)(6)(a) All incoming privileged mail received for an inmate shall be entered on the Incoming Legal And/OR Privileged Mail Log, Form DC6-256 DC3-321. The form shall include the inmate's name, DC number, the date the mail was received by the institution, the full address of the sender, the date the mail was received by the inmate, the signature of the inmate, and the initials of the mailroom officer who is present when the inmate signs for receipt of the mail. Form DC6-256 DC3-321 is hereby incorporated by reference in rule 33-602.402. Copies of the form are available from the Office of Security and Institutional Management, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. If forms are to be mailed, the request must be accompanied by a self-addressed stamped envelope. The effective date of the form is February 15, 1998.~~

(b) In the event that the inmate has been released or transferred, in addition to the procedures required by rule 33-602.403~~(7)(5)~~, Form DC6-256 DC3-321 shall be completed as required in 33-602.403~~(8)(6)(a)~~, except that mailroom staff shall write 'Transferred' or 'Released' in the 'Date Mail Received By Institution' section, and shall write the date that the mail was forwarded in the 'Inmate Signature' section.

Specific Authority 20.315, 944.09, 944.11 FS. Law Implemented 944.09, 944.11 FS. History—New 9-1-93, Amended 5-25-97, 2-15-98, Formerly 33-3.0052, Amended 12-20-99,\_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Ambulatory Surgical Center Services  
 RULE NO.: 59G-4.020

PURPOSE AND EFFECT: The purpose of the rule development is to incorporate by reference the Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook, April 2000. The handbook is revised to clarify policy content, update codes specific to policy content, add coverage and limitation policy on services to Family Planning Waiver recipients, insert additional billing instructions, and update the list of covered procedures in Appendix A of the handbook. The effect will be to incorporate by reference in the rule the current Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook.

SUBJECT AREA TO BE ADDRESSED: Ambulatory Surgical Center Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 FS.

IF REQUESTED IN WRITING BY AN AFFECTED PERSON 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. – 10:00 a.m., July 17, 2000

PLACE: 2728 Fort Knox Boulevard, Building 3, Conference Room C, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ouida Mazzoccoli, Medical/Health Care Program Analyst, Medicaid Program Development Office, Agency for Health Care Administration, P. O. Box 12600, Tallahassee, FL 32317-2600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.020 Ambulatory Surgical Center Services.

(1) No change.

(2) All ambulatory surgical center providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Ambulatory Surgical Center Services Coverage and Limitations Handbook, April 2000 ~~April 1998~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, which is incorporated in 59G-5.020. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 10-25-84, Formerly 10C-7.531, Amended 5-13-92, 7-12-92, 7-27-93, Formerly 10C-7.0531, Amended 9-8-94, 7-3-95, 11-18-97, 10-27-98, \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE CHAPTER TITLE:	RULE NO.:
The Association	61B-23
RULE TITLES:	RULE NOS.:
Regular Elections; Vacancies Caused by Expiration of Term, Resignations, Death Recall of One or Members of a Board of Administration at a Unit Owner Meeting; Board Certification; Filling Vacancies	61B-23.0021
Recall by Written Agreement of the Voting Interests; Board Certification; Filling Vacancies	61B-23.0027
	61B-23.0028

**PURPOSE AND EFFECT:** The purpose of the rule amendment to 61B-23.0021 is to bring the rule into compliance with amendments to Chapter 718. The effect of the rule amendment is to conform the election procedures to the statute as amended. The purpose of the rule amendment to 61B-23.0027 is to clarify recall procedures regarding appointments and elections to the board to fill vacancies caused by recall at a unit owner's meeting. The effect of the rule amendment is that appointments and elections to the board to fill vacancies caused by recall are effective for the unexpired term of the seat being filled, without regard to whether an election has been noticed. Further, votes received by the board or votes revoked after adjournment of the recall meeting are ineffective. Appointments to the board during the pendency of an arbitration are temporary pending the arbitration decision. The purpose of the rule amendment to 61B-23.0028 is to clarify recall procedures, regarding appointments and elections to the board to fill vacancies caused by recall by written agreement of the voting interests. The effect of the rule amendment is that appointments and elections to the board to fill vacancies caused by recall are effective for the unexpired term of the seat being filled, without regard to whether an election has been noticed. Further, votes received or revoked after the written agreement for recall has been served on the board are ineffective. Appointments to the board during the pendency of an arbitration are temporary pending the arbitration decision.

**SUBJECT AREA TO BE ADDRESSED:** This rule amendment addresses certain election issues in condominium associations related to vacancies created by expiration of term, resignation, or death. The amendment addresses how an association may adopt different voting procedures in its bylaws. The amendment deletes the thirty-day requirement for the second notice of election, thereby conforming the rule provision with the statute. This rule amendment also addresses the procedures to be followed for a recall by vote at a meeting

of the unit owners and the appointment and election procedures to be followed for a recall by written agreement of the voting interests.

**SPECIFIC AUTHORITY:** 718.112 (2)(d)3., 718.112(2)(j) FS.  
**LAW IMPLEMENTED:** 718.112, 718.301 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Kathryn E. Price, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1007  
**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.**

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
The Association	61B-75
RULE TITLES:	RULE NOS.:
Regular Elections; Vacancies Caused by Expiration of Terms; Resignations, Death Recall of one or Members of a Board of Administration at a Unit Owner Meeting; Board Certification; Filling Vacancies	61B-75.005
Recall by Written Agreement of the Voting Interests; Board Certification; Filling Vacancies	61B-75.007
	61B-75.008

**PURPOSE AND EFFECT:** The purpose of the rule amendment to 61B-75.005 is to bring the rule into compliance with amendments to Chapter 719. The effect of the rule amendment is to conform the election procedures to the statute as amended. The purpose of the rule amendment to 61B-75.007 is to clarify recall procedures, regarding appointments and elections to the board to fill vacancies caused by recall at a unit owner's meeting. The effect of the rule amendment is that appointments and elections to the board to fill vacancies caused by recall are effective for the unexpired term of the seat being filled, without regard to whether an election has been noticed. Further, votes received or revoked after adjournment of the recall meeting are ineffective. Appointments to the board during the pendency of an arbitration are temporary pending the arbitration decision. The purpose of the rule amendment to 61B-75.008 is to clarify recall procedures regarding appointments and elections to the board to fill vacancies caused by recall by written agreement of the voting interests. The effect of the rule amendment is that appointments and elections to the board to fill vacancies caused by recall are effective for the unexpired term of the seat

being filled, regardless of whether an election has been noticed. Further, votes received or revoked after the written agreement for recall has been served on the board are ineffective. Appointments to the board during the pendency of an arbitration are temporary pending the arbitration decision.

**SUBJECT AREA TO BE ADDRESSED:** This rule amendment addresses certain election issues in cooperative associations related to vacancies created by expiration of term, resignation, or death. The amendment addresses how an association may adopt different voting procedures in its bylaws. The amendment deletes the thirty-day requirement for the second notice of election, thereby conforming the rule provision with the statute. This rule amendment also addresses the procedures to be followed for a recall by vote at a meeting of the unit owners and by written agreement of the voting interests.

**SPECIFIC AUTHORITY:** 719.106 (1)(d), 719.106(1)(f) FS.

**LAW IMPLEMENTED:** 719.106, 719.112 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE PUBLISHED AT A LATER DATE.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Kathryn E. Price, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1007

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Equivalency Education	61J1-4.002
Continuing Education	61J1-4.003
Notice of Satisfactory Course Completion	61J1-4.005
Correspondence Courses for Hardship Cases	61J1-4.006
Continuing Education for School Instructors	61J1-4.008

**PURPOSE AND EFFECT:** To establish distance education requirements for the continuing education of registered, licensed and certified real estate appraisers and school instructors.

**SUBJECT AREA TO BE ADDRESSED:** The Board will consider requirements for continuing education providers of distance education regarding course objectives, course materials, course approval, course modifications, end of course examinations and alternative evaluations of students.

**SPECIFIC AUTHORITY:** 475.614 FS.

**LAW IMPLEMENTED:** 475.613, 475.615, 475.615(2), 475.617, 475.618 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:** 1:00 p.m., July 31, 2000

**PLACE:** Office of Florida Real Estate Appraisal Board, 400 West Robinson Street, Suite 301, North Tower, Orlando, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Herbert S. Fecker, Jr., Director, Division of Real Estate, 400 West Robinson Street, Suite 308, North Tower, Orlando, Florida 32801

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.**

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

**RULE TITLE:** Application for Permit **RULE NO.:** 64B5-14.005

**PURPOSE AND EFFECT:** The Board proposes to amend this rule to update the rule text with regard to permits.

**SUBJECT AREA TO BE ADDRESSED:** Application for permit.

**SPECIFIC AUTHORITY:** 466.004, 466.017 FS.

**LAW IMPLEMENTED:** 466.017 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. or soon thereafter, August 18, 2000

**PLACE:** The Crowne Plaza, 950 N. W. LeJeune Road, Miami, Florida 33126

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** William Buckhalt, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

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

64B5-14.005 Application for Permit.

(1) No dentist shall administer, supervise or permit another health care practitioner, as defined in subsection 455.01, F.S., to perform the administration of general anesthesia, deep sedation, parenteral conscious sedation or pediatric conscious sedation in a dental office for dental patients, unless such dentist possesses a permit issued by the Board. A permit is required even when another health care

practitioner, as defined in subsection 455.01, F.S., administers general anesthesia, deep sedation, parenteral conscious sedation, or pediatric conscious sedation in a dental office for a dental patient. The dentist holding such a permit shall be subject to review and such permit must be renewed biennially. Nothing herein shall be read to authorize the administration of any anesthesia by a health care practitioner who is permitted to administer anesthesia pursuant to their own professional license. All dentists in a practice who perform the administration of general anesthesia, deep sedation, parenteral conscious sedation or pediatric conscious sedation shall each possess an individual permit.

(2) through (7) No change.

Specific Authority 466.004, 466.017 FS. Law Implemented 466.017 FS. History--New 4-7-86, Amended 1-29-89, 11-16-89, 11-8-90, 4-24-91, Formerly 21G-14.005, Amended 12-20-93, Formerly 61F5-14.005, Amended 8-8-96, Formerly 59Q-14.005, Amended.

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE TITLE: Patient Records; Copying Charges; Timely Release  
RULE NO.: 64B5-17.009

PURPOSE AND EFFECT: The Board proposes to amend this rule in order to rename the rule title and to provide rule text which will clarify the requirements for releasing patient records and the amount to be charged for copying.

SUBJECT AREA TO BE ADDRESSED: Timely release of patient records and copying fees.

SPECIFIC AUTHORITY: 466.004(4) FS.

LAW IMPLEMENTED: 455.674 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. or soon thereafter, August 18, 2000

PLACE: The Crowne Plaza, 950 N. W. LeJeune Road, Miami, Florida 33126

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: William Buckhalt, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B5-17.009 Patient Records; Copying Charges; Timely Release ~~Copying Charges for Patient Records.~~

(1) through (2) No change.

(3) A dentist shall comply with a patient's request for copies of records and report in a timely manner. In the absence of unusual circumstances, "timely" shall mean 15 days for records kept at the office, and 30 days for records kept at a storage facility.

Specific Authority 466.004(4) FS. Law Implemented 455.674 FS. History--New 4-26-87, Amended 6-20-89, Formerly 21G-17.009, 61F5-17.009, 59Q-17.009, Amended.

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Continuing Education on HIV/AIDS  
RULE NO.: 64B8-45.006

PURPOSE AND EFFECT: The Dietetics and Nutrition Council proposes to the Board of Medicine that a new rule be promulgated regarding HIV and AIDS continuing education.

SUBJECT AREA TO BE ADDRESSED: Continuing Education on HIV/AIDS.

SPECIFIC AUTHORITY: 455.604(7) FS.

LAW IMPLEMENTED: 455.604(7) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED 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: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Tallahassee, Florida 32399  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Division of Environmental Health and Statewide Programs**

RULE TITLE: Special Requirements  
RULE NO.: 64E-10.002

PURPOSE AND EFFECT: Provide minimum numbers of sanitary facilities, maintenance of the facilities, and provide public access to public sanitary facilities.

SUBJECT AREA TO BE ADDRESSED: The access of patrons and guests to public sanitary facilities (toilets, urinals, and handwashing). Repeal of the fixture table, places of public assembly.

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

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



SPECIFIC AUTHORITY: 381.006(16) FS.  
 LAW IMPLEMENTED: 381.006(15) FS.  
 IF REQUESTED 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., July 28, 2000  
 PLACE: Conference Room 240P, Department of Health, Bureau of Facility Programs, 4042 Bald Cypress Way, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ken Widergren, Bureau of Facility Programs, Department of Health, 4042 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1710, (850)245-4444, Ext. 2453  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**FLORIDA HOUSING FINANCE CORPORATION**

RULE TITLE: Eligible Uses for the Loan  
 RULE NO.: 67-38.008  
 PURPOSE AND EFFECT: The purpose of Rule Chapter 67-38.008(3)(d), Florida Administrative Code (FAC.), is to delineate legal fees eligible to be paid with Predevelopment Loan Funds. The purpose of the proposed revision to the above listed rule is to clarify this issue.  
 SUBJECT AREA TO BE ADDRESSED: The Rule Development Workshop (if requested) will be held to receive comments and suggestions from interested persons relative to the development of the above listed rule for the Predevelopment Loan Program.  
 SPECIFIC AUTHORITY: 420.528 FS.  
 LAW IMPLEMENTED: 420.526, 420.527, 420.528 FS.  
 IF REQUESTED, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:  
 TIME AND DATE: 10:00 a.m., July 17, 2000  
 PLACE: Florida Housing Finance Corporation, Sixth Floor, Seltzer Room, 227 North Bronough Street, Tallahassee, FL 32301  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Melanie Jordan, Manager, or Joyce Martinez, Administrator, Predevelopment Loan Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329.  
 Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Laurie Camp at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8771 (TDD)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

67-38.008 Eligible Uses for the ~~Advance and/or the Loan.~~  
 (3) ~~For Sponsors who elect to use PLP funds during the Pre-Acquisition Phase,~~ Eligible Predevelopment activities or expenses shall include, for example, the following:  
 (d) ~~Legal fees that are reasonable and necessary and incurred in conjunction with acquiring or permitting of property; however, legal fees for litigation, application preparation or legal research are not considered eligible uses of Predevelopment Loan funds (development team's counsel);~~

Specific Authority 420.528 FS. Law Implemented 420.526, 420.527, 420.528 FS. History--New 3-23-93, Amended 1-16-96, 5-21-96, Formerly 9I-38.008, Amended 3-26-98,\_\_\_\_\_.

**Section II  
 Proposed Rules**

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Division of Emergency Management**

RULE CHAPTER TITLE: Comprehensive Emergency Management Plan  
 RULE CHAPTER NO.: 9G-2  
 RULE TITLE: State Comprehensive Emergency Management Plan Adopted  
 RULE NO.: 9G-2.002  
 PURPOSE AND EFFECT: Incorporates the State Comprehensive Emergency Management Plan into the Florida Administrative Code by reference.  
 SUMMARY: Incorporates the State Comprehensive Emergency Management Plan into the Florida Administrative Code by reference.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.  
 Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
 SPECIFIC AUTHORITY: 252.35(2)(u) FS.  
 LAW IMPLEMENTED: 252.35(2)(a) FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW.  
 TIME AND DATE: 9:00 a.m., August 8, 2000  
 PLACE: Department of Community Affairs, Room 320Q, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100  
 Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact: Alfred O. Bragg, Assistant General Counsel, Office of the General Counsel, Department of Community Affairs, 2555