

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE TITLE: Construction Materials Mining Activities
 RULE NO.: 4A-2.024

PURPOSE AND EFFECT: The Florida Legislature in CS/SB 772 gives the State Fire Marshal the sole and exclusive authority to promulgate standards, limits, and regulations regarding the use of explosives in conjunction with construction materials mining activities. Currently the counties or municipalities establish these standards. The standards will address such issues as ground vibrations, intensity, date/time restrictions, and notice requirements. The proposed rulemaking will establish the required standards.

SUBJECT AREA TO BE ADDRESSED: Standards, limits, and regulations regarding the use of explosives in conjunction with construction materials mining activities.

SPECIFIC AUTHORITY: 552.30 FS.

LAW IMPLEMENTED: 552.30 FS.

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

TIME AND DATE: 9:00 a.m. – 5:00 p.m., July 6, 2000

PLACE: 8000 N. W. 21st Street, Miami, FL

TIME AND DATE: 8:00 a.m. – 5:00 p.m., July 7, 2000

PLACE: Constitution Complex – 2480 Thompson Street, Ft. Myers, Florida

TIME AND DATE: 8:00 a.m. – 5:00 p.m., July 10, 2000

PLACE: City Hall, City Commissioners Chambers, 1st Floor, 201 Howell Avenue, Brooksville, Florida

TIME AND DATE: 8:00 a.m. – 5:00 p.m., July 11, 2000

PLACE: Room 116, Larson Building, 200 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: Terry Hawkins, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3624

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)413-4214.

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE: Preservation of Native Flora of Florida
 RULE CHAPTER NO.: 5B-40

RULE TITLES: Obtaining a Permit to Harvest Plants on the
 RULE NOS.: Endangered and Commercially Exploited
 Plant Lists 5B-40.003

Issuance of Permit to Harvest Plants on the
 Endangered and Commercially Exploited
 Plant Lists 5B-40.004

Regulated Plant Index 5B-40.0055

Procedures for Amending the Regulated Plant
 Index 5B-40.0056

Investigating Suspected Violations, Preservation
 of Endangered, Commercially Exploited
 and/or Threatened Plants Involved, and
 Reporting Suspected Violations 5B-40.008

Endangered and Threatened Native Flora
 Conservation Grants Program 5B-40.010

PURPOSE AND EFFECT: The purpose of these rule amendments is to incorporate changes to the Regulated Plant Index Rule as a result of the public meetings conducted by the Endangered Plant Advisory Council, and to comply with the provisions of Section 120.55(1)(a)4., F.S., by referencing forms used by the department as a result of the requirements specified in this Rule Chapter.

SUBJECT AREA TO BE ADDRESSED: These amendments revise the Regulated Plant Index and include references to Department forms used as a result of the requirements outlined in this rule chapter. Ten plants will be listed as endangered, three species will be de-listed from the endangered list, five will be moved from endangered to threatened based on their ranking scores, and four species will be removed from the threatened list.

SPECIFIC AUTHORITY: 570.07(23), 581.185(4),(9),(11) FS.

LAW IMPLEMENTED: 570.07(13), 581.185(4),(9),(11) 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 10, 2000

PLACE: Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Constance C. Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, Doyle Conner Building, 1911 S. W. 34th Street, Gainesville, Florida 32608

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-40.003 Obtaining a Permit to Harvest Plants on the Endangered and Commercially Exploited Plant Lists.

(1) Endangered plants.

(a) No change.

(b) Any person desiring to harvest one or more plants or parts thereof of a species contained on the endangered plant list from the private land of another or on any public land or water shall request a permit, DACS-08051, Revised 7/99, incorporated herein by reference, from the department. DACS-08051, Request for Permit to Harvest Endangered Plant(s) or Part(s) thereof may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100.

(c) Any person transporting for the purpose of sale, selling, or offering for sale any plant contained on the endangered plant list which is harvested from such person's own property shall request a permit (DACS-08051) from the department.

(d) No change.

(2)(a) No change.

(b) Any person desiring to harvest three or more plants or parts thereof of a species contained on the commercially exploited plant list from the private land of another or on any public land or water shall request a permit (DACS-08051) from the department.

(c) Any person transporting for the purpose of sale, selling or offering for sale any plant contained on the commercially exploited plant list which is harvested from such person's own property shall request a permit (DACS-08051) from the department.

(d) through (3) No change.

Specific Authority 570.07(23), 581.185(4) FS. Law Implemented 570.07(13), 581.185 FS. History--New 3-6-80, Formerly 5B-40.03, Amended 1-31-88,

5B-40.004 Issuance of Permit to Harvest Plants on the Endangered and Commercially Exploited Plant Lists.

(1) No change.

(2) The permit, DACS-08135, Revised 3/99, and incorporated herein by reference, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100, and shall include the following information:

(a) Name of the permittee.

(b) Address of the permittee.

(c) Date issued.

(d) Expiration date.

(e) Name of the species to be harvested.

(f) Number of plants to be harvested.

(g) Legal description of the property from which the plants will be harvested.

(h) Any special provisions as to conditions which shall be met in harvesting, transporting, or handling the plants being removed.

(3) Permits issued for endangered or commercially exploited plants shall be valid for one year for those plants permitted and may be renewed annually by refileing a request for permit (DACS-08051) with the department.

Specific Authority 570.07(23), 581.185(4) FS. Law Implemented 570.07(13), 581.185 FS. History--New 3-6-80, Formerly 5B-40.04, Amended 1-31-88,

5B-40.0055 Regulated Plant Index.

(1) All plants listed on the Endangered Plant List, the Threatened Plant List, and the Commercially Exploited Plant List as set forth herein are referred to as regulated. Information concerning scientific name, references, common names, family, and descriptions for these listed plants is available in the Florida Department of Agriculture and Consumer Services, Division of Plant Industry's "Note's on Florida's Endangered and Threatened Plants," (Bureau of Entomology, Nematology and Plant Pathology – Botany Section, Contribution No. 38, 3rd edition – 2000). A copy of the publication is free to Florida residents and may be obtained by writing to the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100.

(a) Endangered Plant List. The following plants shall be included in the Endangered Plant List:

1. Acacia choriophylla (tamarindillo).

2. Acacia tortuosa (poponax) Presumed Extirpated.

3. through 28. No change.

29. Baccharis dioica (broom-bush) Presumed Extirpated.

29. through 47. renumbered 30. through 48. No change.

49. Calamintha georgiana (Georgia calamint).

48. through 82. renumbered 50. through 84. No change.

85. Cissampelos pareira (pareira brava) Presumed Extirpated.

83. through 90. renumbered 86. through 93. No change.

91. ~~Conradina grandiflora (large-flowered rosemary)-~~

92. through 98. renumbered 94. through 100. No change.

99. ~~Crossopetalum rhacoma (rhacoma)-~~

100. through 118. renumbered 101. through 119. No change.

120. Desmodium ochroleucum (trailing tick-trefoil).

119. through 157. renumbered 121. through 159. No change.

160. Fothergilla gardenii (dwarf witch-alder).

158. through 170. renumbered 161. through 173. No change.

174. Heliotropium fruticosum (Key West heliotrope) Presumed Extirpated.

171. through 182. renumbered 175. through 186. No change.

~~183. *Hex krugiana* (Krug holly).~~

184. through 212. renumbered 187. through 215. No change.

~~216,217.~~ *Lindera melissifolia* (pondberry) Presumed Extirpated.

214. through 249. renumbered 217. through 252. No change.

253. *Nymphaea jamesoniana* (Jameson's water lily).

250. through 276. renumbered 254. through 281. No change.

282. *Pharus glaber* (creeping leafstalk grass).

277. through 312. renumbered 283. through 318. No change.

~~319,317.~~ *Rhus michauxii* (Michaux's sumac) Presumed Extirpated.

314. through 318. renumbered 320. through 324. No change.

325. *Rudbeckia triloba* (a browneyed Susan).

~~326,319.~~ *Ruellia noctiflora* (night-flowering wild-petunia).

~~320. *Sachsia bahamensis* (Bahama sachsia).~~

321. through 328. renumbered 327. through 334. No change.

~~329. *Schizachyrium sericatum* (silky bluestem).~~

330. through 357. renumbered 335 through 362. No change.

~~358. *Swietenia mahagoni* (mahogany).~~

~~363,359.~~ *Taxus floridana* (Florida yew).

~~360. *Tectaria coriandrifolia* (Hattie Bauer halberd fern).~~

361. through 373. renumbered 364. through 376. No change.

~~374. *Tillandsia flexuosa* (twisted or banded air plant).~~

375. through 384. renumbered 377. through 386. No change.

387. *Trichostigma octandrum* (hoop vine) Presumed Extirpated.

385. through 397. renumbered 388. through 400. No change.

~~398. *Vernonia blodgettii* (Blodgett's ironweed).~~

399. through 406. renumbered 401. through 408. No change.

~~407. *Xyris louisianica* (Kral's yellow-eyed grass).~~

408. through 412. renumbered 409. through 413. No change.

(b) Threatened Plant List. The following plants shall be included in the Threatened Plant List:

1. through 23. No change.

24. *Conradina grandiflora* (large-flowered rosemary).

25,24. *Crossopetalum ilicifolium* (Christmas berry).

26. *Crossopetalum rhacoma* (rhacoma).

25. through 34. renumbered 27. through 36. No change.

35. *Illicium floridanum* (Florida anise).

36. through 80. renumbered 37. through 81. No change.

82. *Sachsia bahamensis* (Bahama sachsia).

81. through 93. renumbered 83. through 95. No change.

96. *Swietenia mahagoni* (mahogany).

94. through 98. renumbered 97. through 101. No change.

102. *Tillandsia flexuosa* (twisted or banded air plant).

99. through 108. renumbered 103. through 112. No change.

(c) No change.

(2) No change.

Specific Authority 570.07(23), 581.185 FS. Law Implemented 570.07(13), 581.185 FS. History--New 12-3-91, Amended 9-20-93, 5-21-96, 12-10-96, 1-7-98, 10-5-98,_____.

5B-40.0056 Procedures for Amending the Regulated Plant Index.

(1) The department shall consider the recommendations of the general public and the recommendations of the Endangered Plant Advisory Council in the listing or deleting of plant species from the Regulated Plant Index. Proposals for listing or deleting plants and comments on these proposals may be submitted to the department in writing and shall be considered in open meetings of the Endangered Plant Advisory Council. All proposed listings, deletions, or changes in listing status shall be based on the results of a completed Ranking System For Plant Species of Potential Special Concern form, DACS-08267, Revised 4/00, incorporated herein by reference. DACS-08267, Revised 4/00, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100.

(2) The Endangered Plant Advisory Council shall meet at least once annually upon the call of the Chairman or Department. Endangered Plant Advisory Council meetings will be announced in the Florida Administrative Weekly. Notice of Council meetings will be mailed to all interested parties whose names and addresses are provided to the department. An opportunity for the public to comment or present data orally or in writing will be provided during the Council meetings. All comments shall be considered during the deliberations of the Council and shall become part of the minutes of the Council meeting.

Specific Authority 570.07(23), 581.185(4) FS. Law Implemented 570.07(13), 581.185 FS. History--New 3-16-92, Amended_____.

5B-40.008 Investigating Suspected Violations, Preservation of Endangered, Commercially Exploited and/or Threatened Plants Involved, and Reporting Suspected Violations.

Upon any suspected violation of this chapter, any authorized representative of the department shall be empowered to:

(1) Request identification of the person involved and vehicles utilized in the transportation of the endangered, commercially exploited and/or threatened plants as well as information on the origin and destination of such plants.

(2) Take an inventory of the endangered, commercially exploited and/or threatened plants involved.

(3) Take temporary possession of the endangered, commercially exploited and/or threatened plants awaiting appropriate documentation. If the appropriate documentation is not presented within 30 days from the date of confiscation, the plants shall become the property of the department and shall be donated to a not-for-profit organization as outlined in 5B-40.008(6).

(4) Endangered, commercially exploited and/or threatened plants being harvested or moved in suspected violation of this chapter shall be maintained in a viable condition by the person having possession until action is taken to allow movement or the plants in question are confiscated.

(5) Violation report. A violation report, DACS-08128, Revised 5/99, incorporated herein by reference, (PI-17) shall be filed with the department by the authorized representative within 72 hours (excluding Saturday, Sunday or legal holiday) of the violation. DACS-08128, Report of Violation, Revised 5/99, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100.

(6) Endangered, commercially exploited and/or threatened plants which legally become the property of the department shall be donated to a not-for-profit organization such as a botanical garden or state park for preservation purposes. Such donations shall be documented by the department.

(7) Any permit which has been issued shall be withdrawn by an authorized representative or the director if it is determined that the holder thereof has not complied with any condition for the use of the document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the director within 10 days after receiving the written notification of the withdrawal. The appeal shall state all the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The director shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

Specific Authority 570.07(23), 581.185(4) FS. Law Implemented 570.07(13), 581.185(9) FS. History--New 3-6-80, Formerly 5B-40.08, Amended 1-31-88, 9-20-93, _____.

5B-40.010 Endangered and Threatened Native Flora Conservation Grants Program.

(1) through (4) No change.

(5) Application Requirements.

(a) Applications for grants from the Endangered and Threatened Native Flora Conservation Grants Program shall be signed by the person or persons with legal authority to obligate the applicant and shall be made on an Endangered and Threatened Native Flora Conservation Grants Program Application Form DACS-08271, Revised 1/00, (PI-271), incorporated herein by reference ~~and effective the date of this rule, and~~ which may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100.

(b) through (e) No change.

(6) Application Review.

(a) through (c) No change.

(d) The Council shall evaluate each application on the basis of the proposed project, the prospective grantee, and the public purpose of the project, as follows:

1. Criteria relating to the prospective grantee. The applicant must successfully document that it meets the evaluation standards specified in the Endangered and Threatened Native Flora Conservation Grants Program – Application Evaluation Form DACS-08272, Revised 4/00, (PI-272), Effective November 1997 and incorporated herein by reference. Form DACS-08272 may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100.

(e) through (j) No change.

(7) through (9) No change.

Specific Authority 570.07(23), 581.185(9),(11) FS. Law Implemented 570.07(13), 581.185(9),(11) FS. History--New 1-7-98, Amended 10-5-98, _____.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE TITLE: _____ RULE NO.: _____

Grading Services for Poultry 5K-5.014

PURPOSE AND EFFECT: The rule amendment changes the fee schedule for grading services provided by Department graders and amends the definitions used in the rule.

SUBJECT AREA TO BE ADDRESSED: Grading Services for Poultry.

SPECIFIC AUTHORITY: 570.07(23), 583.04, 570.07(23) FS.

LAW IMPLEMENTED: 583.051, 583.052 FS.

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

TIME AND DATE: 10:00 a.m., July 7, 2000

PLACE: Florida Department of Agriculture and Consumer Services, Conner Complex, George Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, FL, Telephone (850)488-3951

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Dr. John Fruin, Chief, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, Telephone (850)488-3951

(3) Under that agreement and to offset the cost of providing the services to the producer who orders them, the department establishes the following schedule:

- (a) Grader's time per hour for:
 - 1. ~~Full-time resident~~ ~~resident~~ location \$24.00 ~~24.05~~
 - 2. Overtime \$28.00 ~~26.50~~
 - 3. Non-resident location \$31.50 ~~28.50~~
 - 4. Non-specified days \$31.50 ~~28.50~~

- (b) Travel time to and from grader's headquarters:
 - 1. Non-resident location \$31.50 ~~28.50~~
 - 2. Non-specified days \$31.50 ~~28.50~~
 - 3. Part-time resident location \$25.00

(c) Mileage and per diem to and from the grader's headquarters shall be reimbursed at the prevailing rates provided in Section 112.061, Florida Statutes.

(4) Moneys due to the department for grading services provided to a producer who orders said services must be received within 30 days of the date of invoice.

(5) USDA volume charge on a per dozen basis will be identified separately on each billing statement ~~on separate billing statements~~.

Specific Authority 570.07(23), 583.04 FS. Law Implemented 583.051, 583.052 FS. History--New 8-13-92, Formerly 5E-7.014, Amended 9-30-96,

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Comprehensive Management Information System RULE NO.: 6A-1.0014

PURPOSE AND EFFECT: The purpose of this rule development is to revise existing requirements of the statewide comprehensive management information system which are necessary in order to implement changes recommended by school districts and to make changes in state reporting and local recordkeeping procedures for state and/or federal programs. The effect is to maintain compatibility among state and local information systems components. The statewide comprehensive management information system provides the data on which the measurement of school improvement and accountability is based.

SUBJECT AREA TO BE ADDRESSED: DOE Information Data Base Requirements, 2000-2001.

SPECIFIC AUTHORITY: 120.53(1)(b), 229.053(1) FS.

LAW IMPLEMENTED: 228.093(3)(d)3., 229.555(2), 229.565(3), 229.781 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 TO BE ADVERTISED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

Requests for the rule development workshop should be addressed to Wayne V. Pierson, Agency Clerk, Department of Education, Room 1702, The Capitol, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Lavan Dukes, Office of Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Room 852, Tallahassee, Florida 32399-0400, (850)487-2280

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

DEPARTMENT OF LAW ENFORCEMENT

Division of Criminal Justice Information Systems

RULE CHAPTER TITLE: Criminal History Records RULE CHAPTER NO.: 11C-6

Dissemination Policy RULE NO.: 11C-6.009

RULE TITLE: Sale and Delivery of Firearms
 PURPOSE AND EFFECT: Proposed revisions to Rule 11C-6.009, FAC., would reduce the amount of fees charged from a potential buyer of a firearm for the processing of a criminal history record check.

SUBJECT AREA TO BE ADDRESSED: The amount of fee charged for a criminal history check under the Firearm Purchase Program.

SPECIFIC AUTHORITY: 790.065, 943.03(4) FS.

LAW IMPLEMENTED: 790.065 FS., Title 18, U.S.C., Chapter 44, and Title 27, C.F.R., Part 178.

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., Wednesday, July 5, 2000

PLACE: Florida Department of Law Enforcement, 2331 Phillips Road, Conference Room, 3rd Floor, Quad C, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding should call (850)410-7900 (Voice) or (850)656-9597 (TDD), at least five working days before such proceeding.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Martha Wright, Bureau Chief, User Services Bureau, Criminal Justice Information Program, Florida Department of Law Enforcement, 2331 Phillips Road, Tallahassee, Florida 32308
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Incorporation by Reference
 RULE CHAPTER NO.: 14-15

RULE TITLE: Toll Facilities Description and Toll Rate Schedule
 RULE NO.: 14-15.0081

PURPOSE AND EFFECT: The purpose of this notice of rule development is to allow the public an opportunity to provide input to changes in the Toll Facilities Description and Toll Rate Schedule required by the construction of an interchange on Florida’s Turnpike at County Road 470 in Lake County. Tolls are proposed to be collected for southbound traffic exiting the Turnpike, and for traffic entering the Turnpike northbound.

SUBJECT AREA TO BE ADDRESSED: The proposed action is being taken to determine the Toll Rate Schedule resulting from the Florida Department of Transportation’s construction of an interchange at CR 470 and Florida’s Turnpike. The Toll Rate Workshop is being held in conjunction with the Project Development and Environment (PD&E) Public Hearing for the CR 470 interchange project, Financial Project ID 404214-1-52-01.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 338.222, 338.231, 338.155 FS.

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

TIME AND DATE: 7:00 p.m., July 11, 2000 (an informal open house will begin at 6:00 p.m.)

PLACE: St. Mark Lutheran Church, 28215 South US 27, Leesburg, Florida

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

14-15.0081 Toll Facilities Description and Toll Rate Schedule.

The Toll Facilities Description and Toll Rate Schedule, adopted November 15, 1987, and amended on February 8, 1988, August 1, 1988, February 2, 1989, May 10, 1989, July 1, 1991, August 1, 1991, November 6, 1991, July 11, 1993, November 28, 1993, September 18, 1994, June 6, 1995, July 9, 1995, January 1, 1996, March 31, 1996, April 28, 1996, June 2, 1996, July 28, 1996, September 23, 1997, November 24, 1997, February 12, 1998, June 30, 1998, July 29, 1998, January 6, 1999, February 9, 1999, April 29, 1999, ~~and~~ June 21, 1999, and _____, 2000, is hereby incorporated by this rule and made a part of the rules of the Department. Copies of this

Department of Transportation Toll Facilities Description and Toll Rate Schedule and any amendments thereto are available at no more than cost.

Specific Authority 334.044(2) FS. Law Implemented 338.222, 338.231, 338.155 FS. History–New 11-15-87, Amended 2-8-88, 8-1-88, 2-2-89, 5-10-89, 7-1-91, 8-1-91, 11-6-91, 7-11-93, 11-28-93, 9-18-94, 6-6-95, 7-9-95, 1-1-96, 3-31-96, 4-28-96, 6-2-96, 7-28-96, 9-23-97, 11-24-97, 2-12-98, 6-30-98, 7-29-98, 1-6-99, 2-9-99, 4-29-99, 6-21-99, _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

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

RULE TITLE: Forms and Instructions
 RULE NO.: 40D-1.659

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to adopt minor revisions to the form entitled Application for a Water Well Contractor’s License. Forms which the District uses in its dealings with the public must be adopted by rule pursuant to Section 120.55(1)(a)4., Florida Statutes. This rule amendment will incorporate the revised form by reference into District Rule 40D-1.659, Florida Administrative Code.

SUBJECT AREA TO BE ADDRESSED: Modification of District Rule 40D-1.659 to incorporate by reference the form entitled Application for a Water Well Contractor’s License.

SPECIFIC AUTHORITY: 373.044, 373.4113 FS.

LAW IMPLEMENTED: 373.113, 373.413, 373.414, 373.416, 373.419, 373.421 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, IS: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34609-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this Chapter. Copies of these forms may be obtained from the District.

GROUND WATER

(1) APPLICATION FOR A WATER WELL CONTRACTOR’S LICENSE FORM NO. 42.00-044 (05/00)

(2) through (18) No change.

SURFACE WATER

Application for Permit – Used for Docks or Piers and Bulkheads

(1) through (12) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.113, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.1.901, 40D-1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-95, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00,_____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Consumptive Use of Water 40D-2

RULE TITLE: RULE NO.:

Publications Incorporated by Reference 40D-2.091

PURPOSE AND EFFECT: To amend Section 4.2 of the Basis of Review to set forth the conditions under which the District will consider authorizing withdrawals that either require prevention/mitigation measures in order to meet the conditions for issuance of a water use permit, or are for environmental enhancement.

SUBJECT AREA TO BE ADDRESSED: The conditions under which prevention/mitigation may occur for unacceptable adverse withdrawal impacts to wetlands and lakes.

SPECIFIC AUTHORITY: 120.54, 373.044, 373.103, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.216, 373.219, 373.223, 373.239, 373.243 FS.

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

TIME AND DATE: 1:30 p.m. – 3:30 p.m., Friday, July 7, 2000

PLACE: Governing Board Room, Southwest Florida Water Management District, Tampa Service Office, 7601 U.S. Highway 301, North, Tampa, FL 33637

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IS: Karen A. Lloyd, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34609-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-2.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications” _____, 2000, ~~July 22, 1999~~, is hereby incorporated by reference into this Chapter and is available from the District upon request.

Specific Authority 120.54, 373.044, 373.103, 373.113, ~~373.171~~ FS. Law Implemented 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, ~~373.216~~, 373.219, 373.223, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99,_____.

BASIS OF REVIEW FOR WATER USE PERMIT APPLICATIONS

SECTION 4.2 CONDITIONS FOR ISSUANCE – TECHNICAL CRITERIA

4.2 ENVIRONMENTAL IMPACTS

A. through C. No change.

D. Prevention/Mitigation and Environmental Enhancement

1. Prevention/Mitigation of Unacceptable Adverse Impacts to Wetlands and Lakes

For water bodies that are predicted to be impacted by a proposed withdrawal, permitted withdrawals shall be limited to that quantity, as may be further limited by other provisions of 40D-2.301, F.A.C. and this Basis of Review, that does not cause the actual level to fall below the level that meets the Performance Standards on a Long-term average basis (the “Baseline Quantity”). “Long-term” means a period which spans the range of hydrologic conditions which can be expected to occur based upon historical records, ranging from high water levels to low water levels. In the context of a predictive model simulation, a Long-term simulation will be insensitive to temporal fluctuations in withdrawal rates and hydrologic conditions, so as to simulate steady-state average conditions. In the context of an average water level, the average will reflect the expected range and frequency of levels based upon historic conditions. This period will vary because reasonable scientific judgement is necessary to establish the factors to be used in the assessment of each application depending on the geology and climate of the area of withdrawal, the depth of and number of wells and the quantity to be withdrawn.

a. If the withdrawal of the requested quantity of water does not meet the condition in 4.2.D.1. above, the applicant shall identify the Baseline Quantity, and the District shall consider, as may be further limited by other provisions of 40D-2.301, F.A.C. and this Basis of Review, the authorization of the additional quantity of water to be withdrawn where the applicant:

(1) Demonstrates that there are no reasonable means to modify the proposed withdrawal to meet the conditions in 4.2.D.1. including the use of alternative supplies, to reduce or replace the amount of the requested quantity exceeding the Baseline Quantity. Regarding whether the use of alternative supplies are a reasonable means, cost shall not be the sole basis for the determination; and

(2) Provides reasonable assurance that harm will be prevented to the wetlands and surface water bodies that could be affected by the proposed withdrawal if the requested quantity is withdrawn; and

(3) Demonstrates that any measures used to provide the reasonable assurance specified in 4.2.D.1.a.(2) above will not cause a violation of any of the criteria listed in 40D-2.301(1)(a)-(n), 40D-4.301, or 40D-4.302, F.A.C., as applicable.

b. To support whether the applicant has provided reasonable assurance pursuant to 4.2.D.1.a.(2) above, the applicant must submit an environmental management plan ("EMP") for approval by the District describing the measures to be used to prevent harm from withdrawal of the requested quantity. The EMP must include a monitoring program for early detection of impacts to wetlands and surface water bodies that could be affected by the proposed withdrawal and an implementation strategy for corrective actions to prevent unacceptable adverse impacts. The EMP shall include provisions to evaluate changes in water quality, water levels, vegetation, and fish and wildlife. The EMP shall also include clear thresholds as to when the implementation strategy will be initiated. The implementation strategy shall include details as to how the proposed measures will be effected, the methods to be followed in order to functionally replicate the natural hydrologic regime of affected water bodies, and efforts to be undertaken to minimize the effects of changes in water chemistry. The implementation strategy shall also require reduction of pumping to the Baseline Quantity as a corrective action if no other measures, including supplemental hydration, are successful in preventing unacceptable adverse impacts to wetlands and surface water bodies due to withdrawals. An approved EMP shall be incorporated as a special condition to any permit issued.

(1) The measures proposed may include hydration of affected water bodies or modification of existing drainage structures to prevent harm to affected water bodies, provided that the measures within the EMP minimize the need for supplemental hydration to the greatest extent practical.

(2) If supplemental hydration is proposed, the applicant will be required to identify in the application and monitor a representative number of wetlands in the vicinity of the withdrawal. The monitored wetlands shall include, where available, a representative number of wetlands not receiving supplemental hydration as well as wetlands proposed for supplemental hydration.

(3) A representative number of wetlands is a number of a particular type or types of wetlands, in the vicinity of the withdrawal, sufficient to adequately determine the hydrologic response of the wetlands and surface water bodies that could be affected by the proposed withdrawal to rainfall and water withdrawals.

(4) If supplemental hydration is proposed to rehydrate lakes or wetlands, in order for a water use permit authorizing the Requested Quantity to be issued, the Governing Board must determine whether:

(A) The measures within the proposed EMP minimize the quantity of water required for supplemental hydration by raising water levels by filling or blocking ditches, removing culverts or outflows, or other alterations, where practical and feasible, and where such measures are demonstrated not to cause downstream impacts. Where the measures proposed by the applicant identify the need for specific Environmental Resource Permits, such permits must be obtained prior to withdrawal of the requested quantities;

(B) The applicant has proposed use of the lowest quality of water for rehydration which is scientifically, technically and environmentally feasible to prevent unacceptable adverse impacts;

(C) The measures within the proposed EMP minimize the need for ground water hydration to the greatest extent practical based on the quantity, frequency and duration of the anticipated use;

(D) The measures within the proposed EMP minimize or avoid the potential for unacceptable adverse impacts to water quality or fish and wildlife in the wetland or surface water body receiving supplemental hydration, and, if such a potential exists, the EMP contains adequate measures to detect impacts at an early stage and to prevent unacceptable adverse impacts in an expeditious manner;

(E) The measures within the proposed EMP minimize or avoid the potential for the establishment or spread of undesirable aquatic vegetation in the wetland or surface water body receiving supplemental hydration and, if such a potential exists, the EMP contains adequate measures to detect vegetative changes at an early stage and to prevent undesirable vegetative changes in an expeditious manner;

(F) The quantity of water needed for supplemental hydration is outweighed by the quantity of water made available for other uses;

(G) The quantity of water needed for supplemental hydration is reasonable compared to the unacceptable adverse impacts to be prevented;

(H) The unacceptable adverse impact to be prevented by supplemental hydration results in benefits that outweigh the potential for impacts caused by the additional withdrawal; and,

(I) The quantity of the water used for supplemental hydration is reasonable considering the proportion expected to percolate into the aquifer.

c. Wetlands or other surface water bodies receiving supplemental hydration must have flow meters to measure the quantity of supplemental hydration water used at each site. This information shall be reported to the District as required by permit condition.

d. Pursuant to Chapter 373, Florida Statutes and Chapter 40D-2, F.A.C., permits may be conditioned to include aquifer regulatory levels intended to achieve compliance with one or more of the Chapter 40D-2, F.A.C. conditions for issuance.

The aquifer regulatory level that will be appropriate for any particular permit, considering all conditions for issuance, is the level that results from the more stringent condition.

e. If the Board determines that reasonable assurances have been provided pursuant to 4.2 D.1.a. the Board shall authorize the additional quantity of water to be withdrawn.

2. Environmental Enhancement

a. Applicants proposing to environmentally enhance impacted wetlands or lakes by supplemental hydration where the impacts were not caused by the applicant or applicant's predecessor in interest shall:

(1) Demonstrate that any environmental enhancement measures will not cause a violation of any of the criteria listed in 40D-2.301(1)(a)-(n), 40D-4.301, or 40D-4.302, F.A.C., as applicable.

(2) Demonstrate that the the environmental enhancement measures proposed minimize the need for supplemental hydration to the greatest extent practical.

(3) Identify in the application and monitor a representative number of wetlands in the vicinity of the withdrawal. The monitored wetlands shall include a representative number of wetlands not receiving supplemental hydration. The monitored wetlands shall also include, where available, wetlands not receiving hydration as well as wetlands proposed for supplemental hydration. A representative number of wetlands is a number of a particular type or types of wetlands, in the vicinity of the withdrawal, sufficient to adequately determine the hydrologic response of the wetlands and surface water bodies that could be affected by the proposed withdrawal to rainfall and water withdrawals.

b. If supplemental hydration is proposed to rehydrate lakes or wetlands, in order for a water use permit authorizing the Requested Quantity to be issued, the Governing Board must determine whether:

(1) The measures proposed minimize the quantity of water required for supplemental hydration by raising water levels by filling or blocking ditches, removing culverts or outflows, or other alterations, where practical and feasible, and where such measures are deomonstrated not to cause downstream impacts. Where the measures proposed by the applicant identify the need for specific Environmental Resource Permits, such permits must be obtained prior to withdrawal of the requested quantities;

(2) The applicant has proposed use of the lowest quality of water for rehydration which is scientifically, technically and environmentally feasible to prevent unacceptable adverse impacts;

(3) The measures minimize the need for ground water hydration to the greatest extent practical based on the quantity, frequency and duration of the anticipated use;

(4) The measures proposed minimize or avoid the potential for unacceptable adverse impacts to water quality or fish and wildlife in the wetland or surface water body receiving supplemental hydration, and, if such a potential exists,

(5) The measures proposed minimize or avoid the potential for the establishment or spread of undesirable aquatic vegetation in the wetland or surface water body receiving supplemental hydration and, if such a potential exists, the proposal contains adequate measures to detect vegetative changes at an early stage and to prevent undesirable vegetative changes in an expeditious manner;

(6) The quantity of water needed for supplemental hydration is reasonable compared to the unacceptable adverse impacts to be mitigated;

(7) The unacceptable adverse impact to be mitigated by supplemental hydration results in benefits that outweigh the potential for impacts caused by the additional withdrawal; and,

(8) The quantity of the water used for supplemental hydration is reasonable considering the proportion expected to percolate into the aquifer.

c. Wetlands or other surface water bodies receiving supplemental hydration must have flow meters to measure the quantity of supplemental hydration water used at each site. This information shall be reported to the District as required by permit condition.

d. Pursuant to Chapter 373, Florida Statutes and Chapter 40D-2, F.A.C., permits may be conditioned to include aquifer regulatory levels intended to achieve compliance with one or more of the Chapter 40D-2, F.A.C. conditions for issuance. The aquifer regulatory level that will be appropriate for any particular permit, considering all conditions for issuance, is the level that results from the more stringent condition.

e. If the Board determines that reasonable assurances have been provided the Board shall authorize the proposed quantity of water to be withdrawn.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Consumptive Use of Water	40D-2
RULE TITLES:	RULE NOS.:
Publications Incorporated by Reference	40D-2.091
Standard Permit Conditions	40D-2.381
PURPOSE AND EFFECT: The Final Order in <i>Charlotte County, et al, vs. Southwest Florida Water Management District</i> , DOAH Case No. 94-5742RP, (the SWUCA case) invalidated rule 40D-2.381(3)(m) and Section 4.7 of the Basis of Review which is incorporated by reference in 40D-2.091, F.A.C. This rule development is intended to amend 40D-2.381(3)(m) and Section 4.7 to eliminate the deficiencies set forth in the Final Order. Further, the corresponding	

provision in Section 6.1 13. of the Basis of Review, while not ruled upon in the Final Order, is being rewritten to correspond to the changes made to 40D-2.381(3)(m) and Section 4.7.

SUBJECT AREA TO BE ADDRESSED: The manner in which water use permit applications will be evaluated regarding the effect of the withdrawal on off-site land uses.

SPECIFIC AUTHORITY: 120.54, 373.044, 373.103, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.216, 373.219, 373.223, 373.239, 373.243 FS.

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

TIME AND DATE: 1:30 p.m. – 3:30 p.m., Friday, July 7, 2000

PLACE: Governing Board Room, Southwest Florida Water Management District, Tampa Service Office, 7601 U.S. Highway 301, North, Tampa, FL 33637

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IS: Karen A. Lloyd, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34609-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-2.091 Publications Incorporated by Reference.

The “Basis of Review for Water Use Permit Applications” _____, 2000, July 22, 1999, is hereby incorporated by reference into this Chapter and is available from the District upon request.

Specific Authority 120.54, 373.044, 373.103, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.216, 373.219, 373.223, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, _____.

40D-2.381 Standard Permit Conditions.

(1) though (2) No change.

(3) Every permit acquired under this Chapter shall include the following standard conditions which impose certain limitations on the permitted water withdrawal:

(a) through (l) No change.

(m) The Permittee shall mitigate, as specified in Section 4.0 of the Basis of Review for Water Use Permitting, to the satisfaction of the District any unacceptable adverse impact to environmental features or off-site land uses as a result of withdrawals. When unacceptable adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Mitigation shall meet the Performance Standards set forth in Section 4 of the Basis of Review. Unacceptable adverse impacts include those impacts that exceed the Performance Standards specified in Section 4 of the Basis of Review for Water Use Permitting, including the following:

1. Significant reduction in levels or flows in water bodies such as ponds, lakes, impoundments, canals, wetlands, springs, streams, or other watercourses, to the extent that the Performance Standards specified in Section 4 of the Basis of Review for Water Use Permitting are exceeded.

2. Sinkholes or land subsidence caused by reduction in water levels;

3. Damage to crops and other vegetation causing financial harm to the owner; ~~and~~

4. Damage to the habitat of endangered or threatened species.

5. Significant reduction in water levels in an off-site surface water body that is utilized for aesthetic, recreational, commercial, or water management purposes, including ponds, canals, and impoundments, to the extent that the utilization or purpose of the water body is impaired.

6. Flooding caused by offsite discharge,

(n) through (q) No change.

BASIS OF REVIEW FOR WATER USE PERMIT APPLICATIONS

SECTION 4.0 CONDITIONS FOR ISSUANCE – TECHNICAL CRITERIA

4.7 EXISTING OFF-SITE LAND USES

1. Initial Applications

A permit application shall be denied if the withdrawal of water would cause an unmitigated unacceptable adverse impact on an off-site adjacent land use that existed at the time of application for an initial water use permit ~~the initial permit was approved or that exists at the time a modification is requested.~~

2. Renewal or Modification Applications With No Changes

For renewal or modification applications, if ~~if~~ withdrawal locations, permitted quantities and actual use remain the same, but quantities are increased only the increased amount would be considered in addressing impacts to existing legal off-site land uses; and

a. the applicant proposes to conduct withdrawals and related water use activities in the same manner as actually conducted during the term of the existing permit, and

b. there have been no adverse impacts caused by the withdrawals to off-site land uses that existed at the time of the application for the current permit, then this information shall constitute reasonable assurances for this criteria.

3. Renewal or Modification Applications With Changes

For renewal or modification applications, if any of the following are proposed, the applicant shall provide reasonable assurances that off-site land uses existing at the time of the application for renewal or modification will not be unacceptably adversely impacted:

a. withdrawal locations change;

b. discharge locations or volumes change;

c. use locations change; or

d. permitted quantities are increased.

4. Unacceptable Adverse Impacts

Unacceptable adverse impacts on off-site land uses include:

a.1. Significant reduction in water levels in an adjacent surface water body that is utilized for aesthetic, recreational, commercial, or water management purposes, including ponds, canals, and impoundments, to the extent that the utilization or purpose of the water body is impaired;

b.2. Significant damage to crops or other types of vegetation;

c. Sinkholes or land subsidence caused by reduction in water levels.

d. Flooding caused by offsite discharge.

SECTION 6.0 PERMIT CONDITIONS

Standard Conditions apply in all cases and are automatically placed on all permits. Special Conditions are placed on permits on a case-by-case basis. This Section contains a list of standard conditions and examples of frequently used special conditions that may be imposed when appropriate.

6.1 STANDARD PERMIT CONDITIONS

The following conditions are placed on all Water Use Permits:

1. through 12. No change.

13. The Permittee shall mitigate, as specified in Section 4.0 of the Basis of Review for Water Use Permitting, ~~to the satisfaction of the District~~ any unacceptable adverse impact to environmental features or off-site land uses as a result of withdrawals. When unacceptable adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Mitigation shall meet the Performance Standards set forth in Section 4 of the Basis of Review. Unacceptable adverse impacts include those impacts that exceed the Performance Standards specified in Section 4 of the Basis of Review for Water Use Permitting, including the following:

a. Significant reduction in levels or flows in water bodies such as ponds, lakes, impoundments, canals, wetlands, springs, streams, or other watercourses, to the extent that the Performance Standards specified in Section 4 of the Basis of Review for Water Use Permitting are exceeded;

b. Sinkholes or land subsidence caused by reduction in water levels;

c. Damage to crops and other vegetation causing financial harm to the owner; ~~and~~

d. Damage to the habitat of endangered or threatened species;

e. Significant reduction in water levels in an off-site surface water body that is utilized for aesthetic, recreational, commercial, or water management purposes, including ponds, canals, and impoundments, to the extent that the utilization or purpose of the water body is impaired;

f. Flooding caused by offsite discharge.

14. through 18. No change.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Consumptive Use of Water

RULE CHAPTER NO.: 40D-2

RULE TITLE:

RULE NO.:

Publications Incorporated by Reference

40D-2.091

PURPOSE AND EFFECT: The Final Order in *Charlotte County, et al, vs. Southwest Florida Water Management District*, DOAH Case No. 94-5742RP, (the SWUCA case) invalidated the presumptions within Section 4 of the Basis of Review which is incorporated by reference in 40D-2.091, F.A.C. This rule development is intended to amend Section 4 to eliminate the deficiencies set forth in the Final Order with respect to the use and nature of presumptions.

SUBJECT AREA TO BE ADDRESSED: The nature of and manner in which presumptions set forth in Section 4 of the Basis of Review will operate in the evaluation and issuance of water use permit applications.

SPECIFIC AUTHORITY: 120.54, 373.044, 373.103, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.216, 373.219, 373.223, 373.239, 373.243 FS.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-2.091 Publications Incorporated by Reference.

The "Basis of Review for Water Use Permit Applications" _____, 2000, ~~July 22, 1999~~, is hereby incorporated by reference into this Chapter and is available from the District upon request.

Specific Authority 120.54, 373.044, 373.103, 373.113, ~~373.171~~ FS. Law Implemented 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, ~~373.216~~, 373.219, 373.223, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, _____.

BASIS OF REVIEW FOR WATER USE PERMIT APPLICATIONS
SECTION 4.0 CONDITIONS FOR ISSUANCE – TECHNICAL CRITERIA

4.0 Introduction

Section 373.223, F.S., provides a three-prong test for evaluating each proposed water use: the use must be reasonable ~~and~~ beneficial, must not interfere with any existing legal use of water, and must be consistent with the public interest. Reasonable assurances that water use on both an individual and cumulative basis meets this three-prong test is provided by the Applicant's compliance with the Conditions for Issuance, set forth in Rule 40D-2.301.

This ~~Section Chapter~~ provides guidelines for determining whether a water use meets the Conditions for Issuance set forth in Rule 40D-2.301. If the criteria described in this ~~Section Chapter~~ are not met, Applicants may consider reduction of withdrawal quantities, a pumpage rotation schedule, mitigation, or other means to bring a proposed use into compliance with the Conditions For Issuance. Mitigation is the act of offsetting an unacceptable adverse impact such that the Performance Standards of this Section 4 are met. ~~For some criteria, presumptions have been developed to facilitate evaluation. If site specific information is provided which demonstrates that the presumption is incorrect, this information will be used to evaluate compliance with the performance standards.~~

Listed within this Section are the performance standards and criteria District staff will use to ensure that unacceptable adverse impacts do not occur as a result of proposed withdrawals or discharges of water. Additionally, for some performance standards presumptions are described that the District will use as guidelines to predict whether withdrawals will cause unacceptable adverse impacts. These presumptions are used as screening thresholds by the District.

a. If the proposed withdrawal is predicted to cause an impact that will exceed a presumption, the applicant shall provide site specific information and analysis for evaluation to determine whether the predicted impact will meet the corresponding performance standard.

b. Where the proposed withdrawal is in an area of known unacceptable adverse impacts or within a water use caution area and the withdrawal is predicted not to cause an impact that exceeds a presumption, the applicant shall provide site specific information and modeling for evaluation to determine whether the performance standard is met.

c. Where a proposed withdrawal does not exceed a presumption and the withdrawal is not in an area of known unacceptable adverse impacts or within a water use caution area, the proposed withdrawal meets the corresponding performance standard. However, in the event that site specific information indicates that the predicted impact exceeds the applicable Performance Standard in this Section 4.0 or other information indicates the inapplicability of the presumption or in the event of a challenge by a third party to the issuance or proposed issuance of a permit that is deemed to have met a performance standard through meeting a presumption, the applicant has the burden of establishing that the proposed withdrawal meets the conditions for issuance of a permit set forth in 40D-2.301, F.A.C.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Consumptive Use of Water
RULE CHAPTER NO.: 40D-2

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

PURPOSE AND EFFECT: The Final Order in *Charlotte County, et al, vs. Southwest Florida Water Management District*, DOAH Case No. 94-5742RP, (the SWUCA case) invalidated the presumption within Section 4.5 of the Basis of Review which is incorporated by reference in 40D-2.091, F.A.C. This rule development is intended to amend Section 4.5 to eliminate the deficiencies set forth in the Final Order. Further, the corresponding provisions in Section 7.2 8 A. and B. of the Basis of Review, while not challenged nor ruled upon in the Final Order, are being rewritten to correspond to the changes made to Section 4.5.

SUBJECT AREA TO BE ADDRESSED: The manner in which water use permit applications will be evaluated regarding the effect of the withdrawal on salt water intrusion within the Most Impacted Area of the Eastern Tampa Bay Water Use Caution Area.

SPECIFIC AUTHORITY: 120.54, 373.044, 373.103, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.216, 373.219, 373.223, 373.239, 373.243 FS.

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Specific Authority 120.54, 373.044, 373.103, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0421, 373.0831, 373.103, 373.1963, 373.216, 373.219, 373.223, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, _____.

BASIS OF REVIEW FOR WATER USE PERMIT APPLICATIONS

SECTION 4-0 CONDITIONS FOR ISSUANCE – TECHNICAL CRITERIA

4.5 SALINE WATER INTRUSION

1. Performance Standards

No change.

2. Presumption

In addition to the significant saline water intrusion defined in the Performance Standards, above, the District presumes that proposed new quantities of ground water from the Floridan aquifer from areas outside the Most Impacted Area (MIA) of the Eastern Tampa Bay Water Use Caution Area as identified in Figure 7.2-2 and as delineated in Section 7.2, 8.F., that cause a potentiometric surface drawdown of 0.2 feet or greater within the MIA will significantly induce saline water intrusion. Applicants may demonstrate compliance with regard to the significant saline water intrusion standard by affirmatively showing that the Floridan aquifer potentiometric surface drawdown at the MIA boundary would be less than 0.2 feet, based on site-specific information, using scientifically acceptable flow modeling, or that significant saline water intrusion, as defined in the Performance Standards, Section 4.5, subsection 1, will not be caused within the MIA, using scientifically acceptable solute transport modeling. The drawdown impacts of successive withdrawal requests will be aggregated in applying this presumption to any permit issued pursuant to this rule. This presumption on permitting proposed new quantities of ground water does not apply to surface water, surficial aquifer, intermediate and desalination sources. This presumption also does not apply to the renewal of previously permitted quantities. This provision will remain in effect only

until a rule is adopted through Florida's Secretary of State's Office incorporating permanent saline water intrusion standards for the Southern Water Use Caution Area.

SECTION 7-0 WATER USE CAUTION AREAS

7.2 EASTERN TAMPA BAY WATER USE CAUTION AREA

1. through 7. No change.

8. Limitation of Quantity Permitted

A. Within the Most Impacted Area (MIA) within the WUCA, as identified in Figure 7.2-2, and delineated in paragraph F. below, in order to stabilize ground water declines, significant saline water intrusion and the associated water resource problems, the District presumes that new quantities of ground water use from the Floridan confined aquifers shall not be permitted from the Most Impacted Area (MIA) within the WUCA, as identified in Figure 7.2-2, and delineated in paragraph F., below unless the applicant can provide reasonable assurance that on a cumulative basis the proposed withdrawal will not contribute to significant saline water intrusion within the MIA. If site-specific information is provided which demonstrates that the presumption is incorrect, this information will be used to evaluate whether a permit may be issued. This restriction on permitting new quantities of ground water does not apply to surface water, surficial aquifer, and desalination sources. In addition, this restriction on permitting new quantities of ground water shall apply only to applications filed after April 24, 1990. Permits for water use in existence as of June 27, 1990, within the MIA may be issued provided that an application is filed prior to July 1, 1991, provided that all permitting criteria and conditions are met, and the quantity to be permitted represents an existing impact to the aquifer. New quantities outside the MIA shall only be permitted at high efficiency.

B. In order to reduce ground water declines and the ~~harmful inland~~ movement of the saline water interface, the District presumes that proposed new quantities of ground water ~~applied for after March 30, 1993,~~ from the Floridan confined aquifers from areas outside the MIA, whether inside of or outside of the Eastern Tampa Bay Water Use Caution Area, that cause a potentiometric surface drawdown of 0.2 feet or greater within the MIA will significantly induce saline water intrusion. Applicants may demonstrate compliance with regard to the significant saline water intrusion standard by affirmatively showing that the Floridan aquifer potentiometric surface drawdown at the MIA boundary would be less than 0.2 feet, based on site-specific information, using scientifically acceptable flow modeling, or that significant saline water intrusion, as defined in the Performance Standards, Section 4.5, subsection 1, will not be caused within the MIA, using scientifically acceptable solute transport modeling. The drawdown impacts of successive withdrawal requests will be aggregated in applying this presumption to any permit issued pursuant to this rule. This presumption on permitting proposed

new quantities of ground water does not apply to surface water, surficial aquifer, intermediate aquifer and desalination sources. This presumption also does not apply to the renewal of previously permitted quantities. The This provisions in paragraphs 7.2 8.A. and B. will remain in effect for a period of two years from March 30, 1993, except that if only until a rule is adopted through Florida's Secretary of State's Office incorporating permanent saline water intrusion standards for the Southern Groundwater Basin Water Use Caution Area is noticed for adoption during the two year period, this provision will remain in effect during the pendency of any Section 120.54(4), F.S., rule challenge and final disposition of the proposed rule by the Governing Board.

The presumption in this paragraph 8.B. is used as a screening threshold by the District.

a. If the proposed withdrawal is predicted to cause an impact that will exceed this presumption, the applicant shall provide site specific information and analysis for evaluation to determine whether the predicted impact will meet the Performance Standard in Section 4.5, subsection 1. of this Basis of Review.

b. Where a proposed withdrawal does not exceed the presumption, the proposed withdrawal meets the Performance Standard in Section 4.5, subsection 1. of this Basis of Review. However, in the event that site specific information indicates that the predicted impact exceeds the Performance Standard in Section 4.5, subsection 1. of this Basis of Review or other information indicates the inapplicability of the presumption or a challenge by a third party to the issuance or proposed issuance of a permit that is deemed to have met the Performance Standard in Section 4.5, subsection 1. of this Basis of Review through meeting the presumption, the applicant has the burden of establishing that the proposed withdrawal meets the conditions for issuance of a permit set forth in 40D-2.301, F.A.C.

C. through F. No change.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Consumptive Use of Water

RULE CHAPTER NO.: 40D-2

RULE TITLE:

RULE NO.: 40D-2.091

Publications Incorporated by Reference

40D-2.091

PURPOSE AND EFFECT: To amend the District's Basis of Review for Water Use Permitting to clarify the use, ownership and control of water use permits sought by multiple applicants for joint property and activities regarding said property.

SUBJECT AREA TO BE ADDRESSED: To clarify the use, ownership and control of water use permits sought by multiple private land owners.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.219, 373.239, 373.243 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, IS: Karen E. West, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34609-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-2.091 Publications Incorporated by Reference.

The "Basis of Review for Water Use Permit Applications," (effective date of revision) ~~July 22, 1999~~, is hereby incorporated by reference into this Chapter and are available from the District upon request.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.219, 373.239, 373.243 FS. History--New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99,_____.

(The following represents proposed changes to Section 2.1 of the document entitled "Basis of Review for Water Use Permit Applications", within the Southwest Florida Water Management District incorporated by reference in Rule 40D-2.091, F.A.C.)

2.1 APPLICANT CONTROL OF PROPERTY AND ACTIVITIES

(1) Applicants must demonstrate ownership or legal control of all property on which pumps, wells, diversions or other water withdrawal facilities are or will be located. Applications for leased property, except property leased from the District, must be either a joint application in the name of the lessee and the property owner(s) or be only in the name of the property owner(s). If there are multiple property owners, all owners must sign the permit application form or sign an attachment to the permit application form indicating their joinder in the permit application, and all property owners will be permittees on the water use permit, when issued.

(For related rules on this issue, see Rules 40D-1.6105, Chapters 40D-0.381, 40D-2.351, and 40D-2.381(3)(p) and (q), F.A.C., and Section 1.10, and 6.1, Basis of Review for Water Use Permit Applications.

(2) A governmental entity which owns the land on which the pumps, wells, diversions or other water withdrawal facilities for public water supply are or will be located need not be a permit applicant or a permittee, notwithstanding paragraph 2.11. above, provided that: 1) it is not a distributor of the water, 2) it does not receive any financial benefit from the water withdrawals or the applicant's use of the land or facilities, 3) it agrees in writing to the issuance of a water use permit for withdrawals from its land, and 4) another entity is the applicant and will operate the water withdrawal facilities. In these

instances, the entity that is operating the water withdrawal facilities shall be the applicant and the permittee on the water use permit.

2. through 4. renumbered 3. through 5. No change.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

General and Procedural 40E-1

PURPOSE AND EFFECT: The purpose and effect of the rule development is to modify and update the District’s forms to comply with changes proposed to the General Water Use Permits.

SUBJECT AREAS TO BE ADDRESSED: Amend the Administrative Forms pertaining to General Water Use Permits.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: Parts I and II, Chapter 373 FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 5, 2000

PLACE: Lee County Extension, Fort Myers, 3406 Palm Beach Blvd., Ft. Myers, FL 33916

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 6, 2000

PLACE: Kissimmee Civic Center, 201 E. Daken Avenue, Kissimmee, FL 34741

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 7, 2000

PLACE: South Florida Water Management District, 3301 Gun Club Road, Storch Conference Room, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet:jjennison@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Consumptive Use 40E-2

PURPOSE AND EFFECT: The purpose and effect of the rule development is to modify and update the District’s Water Use Rules to reflect new legislative direction, new policy development and regional water supply plans.

SUBJECT AREAS TO BE ADDRESSED: The following topics will be discussed: Dewatering, Model Applications, Limiting Conditions, Use of Saline Water, Salt Water Intrusion, Harm v. Adverse Impact, Pump Usage of Upper East Coast Floridan Aquifer System, Monitoring, Pollution, Level of Certainty, Impacts to Existing Legal Users, and Offsite Land Use Impacts.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: Parts I and II, Chapter 373 FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 5, 2000

PLACE: Lee County Extension, Fort Myers, 3406 Palm Beach Blvd., Ft. Myers, FL 33916

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 6, 2000

PLACE: Kissimmee Civic Center, 201 E. Daken Avenue, Kissimmee, FL 34741

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 7, 2000

PLACE: South Florida Water Management District, 3301 Gun Club Road, Storch Conference Room, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet:jjennison@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Water Wells **RULE CHAPTER NO.:** 40E-3
PURPOSE AND EFFECT: The purpose and effect of the rule development is to modify and update the District’s Well Construction Rules to reflect new policy development.
SUBJECT AREAS TO BE ADDRESSED: Well Construction Criteria.
SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171, 373.333 FS.

LAW IMPLEMENTED: Part III, Chapter 373 FS.
RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:
TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 5, 2000
PLACE: Lee County Extension, Fort Myers, 3406 Palm Beach Blvd., Ft. Myers, FL 33916
TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 6, 2000
PLACE: Kissimmee Civic Center, 201 E. Daken Avenue, Kissimmee, FL 34741
TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 7, 2000
PLACE: South Florida Water Management District, 3301 Gun Club Road, Storch Conference Room, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet:jjennison@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: General Water Use Permits **RULE CHAPTER NO.:** 40E-20
PURPOSE AND EFFECT: The purpose and effect of the rule development is to modify and update the District’s Water Use Rules to reflect new legislative direction, new policy development and regional water supply plans.

SUBJECT AREAS TO BE ADDRESSED: The following topics will be discussed: Dewatering, General Water Use Permits, Reduced Threshold Areas, Model Applications, Limiting Conditions, Use of Saline Water, Salt Water Intrusion, Harm v. Adverse Impact, Pump Usage of Upper East Coast Floridan Aquifer System, Monitoring, Pollution, Level of Certainty, Impacts to Existing Legal Users, and Offsite Land Use Impacts.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: Parts I and II, Chapter 373 FS.
RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:
TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 5, 2000
PLACE: Lee County Extension, Fort Myers, 3406 Palm Beach Blvd., Ft. Myers, FL 33916
TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 6, 2000
PLACE: Kissimmee Civic Center, 201 E. Daken Avenue, Kissimmee, FL 34741
TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 7, 2000
PLACE: South Florida Water Management District, 3301 Gun Club Road, Storch Conference Room, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet:jjennison@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE CHAPTER TITLE: Critical Water Supply Problem Areas **RULE CHAPTER NO.:** 40E-23
PURPOSE AND EFFECT: The purpose and effect of the rule development is to modify and update the District’s Water Use Rules to reflect regional water supply plans.
SUBJECT AREAS TO BE ADDRESSED: Water Resource Caution Areas (presently known as Critical Water Supply Problem Areas).

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: Parts I and II, Chapter 373 FS.

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

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 5, 2000

PLACE: Lee County Extension, Fort Myers, 3406 Palm Beach Blvd., Ft. Myers, FL 33916

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 6, 2000

PLACE: Kissimmee Civic Center, 201 E. Daken Avenue, Kissimmee, FL 34741

TIME AND DATE: 10:00 a.m. – 3:00 p.m., July 7, 2000

PLACE: South Florida Water Management District, 3301 Gun Club Road, Storch Conference Room, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet:jjennison@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Nursing Home Services
 RULE NO.: 59G-6.010

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Long-term Care Reimbursement Plan (the Plan) payment methodology, effective only for Fiscal year 2000-2001, as required by Section 8 (a)(2)(b) of SB 2242 to establish a provision for an interim rate adjustment for the increased costs of general and professional liability insurance for nursing homes when the following specified criteria are met:

- a) At least a 65 percent Medicaid utilization in the most recent cost report submitted to the Agency.
- b) The increase in general or professional liability costs to the facility for the most recent policy period affects the total Medicaid per diem by at least five percent.

c) This rate adjustment shall not result in the per diem exceeding the class ceiling.

Other changes in the Plan are as follows:

- 1. Only providers being paid a prospective rate under section V.B.6. of the Plan shall be eligible for the Medicaid Adjustment Rate (MAR).
- 2. A clarification that the Medicaid Adjustment Rate (MAR), Case-mix adjustment, and Direct Care Staffing Adjustment (DCSA) are included in the total cost related per diem in section V.B.20 of the Plan.
- 3. Provide for the Allowable Costs Section of the Plan (Section III. D.) to refer to the Nursing Facility Limitations Handbook.

The effect of the proposed amendment is the establishment of a provision for an interim rate adjustment for the increased costs of general and professional liability insurance for nursing homes when specified criteria are met; a clarification regarding only providers being paid a prospective rate under section V.B.6. of the Plan shall be eligible for the Medicaid Adjustment Rate (MAR); a clarification that the Medicaid Adjustment Rate (MAR), Case-mix adjustment, and Direct Care Staffing Adjustment (DCSA) are included in the total cost related per diem in section V.B.20 of the Plan; provide for the Allowable Costs Section of the Plan (Section III) to refer to the Nursing Facilities Limitations Handbook;

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed is the reimbursement payment methodology that will be used to establish a provision for an interim rate adjustment for the increased costs of general and professional liability insurance when specified requirements are met; only providers being paid a prospective rate under section V.B.6. of the Long-Term Care Reimbursement Plan shall be eligible for the Medicaid Adjustment Rate (MAR); a clarification that the Medicaid Adjustment Rate (MAR), Case-mix adjustment, and Direct Care Staffing Adjustment (DCSA) are included in the total cost related per diem in section V.B.20 of the Plan; providing for the Allowable Costs Section of the Plan to refer to the Nursing Facilities Limitations Handbook.

SPECIFIC AUTHORITY: 409.909 FS.

LAW IMPLEMENTED: 409.908 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., July 5, 2000

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Carol Shotwell, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106C, Tallahassee, Florida 32308, (850)414-2759

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: RULE NO.:

Payment Methodology for Inpatient 59G-6.020
Hospital Services

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement plan payment methodology, effective July 1, 2000, to provide the following changes based on Legislative direction provided in House Bill 2145, General Appropriations Act 2000-2001, Specific Appropriation 217 and 234A, and proviso language following those specific appropriations and House Bill 2147, the Implementing Bill for the 2000-2001 General Appropriations Act:

1. An exemption for teaching, specialty, and Community Hospital Education Program (CHEP) hospitals from the variable cost reimbursement ceilings.
2. Special Medicaid payments totaling \$144,349,164 will be made to certain hospitals for costs associated with providing inpatient medical education and serving significant numbers of low-income patients. The following amounts shall be paid to teaching and children’s hospitals:

\$2,998,909	All Children’s Hospital
\$87,142,115	Jackson Memorial Hospital
\$1,617,294	Miami Children’s Hospital
\$3,251,838	Mount Sinai Medical Center
\$2,511,252	Orlando Regional Medical Center
\$2,876,386	Shands Hospital-Alachua
\$9,356,836	Tampa General Hospital
\$21,126,584	Shands Hospital-Duval

The remaining funds shall be distributed to hospitals that qualify for the regular disproportionate share hospital program in proportion to each hospital’s payments under the program.

3. Provide for payments to hospitals qualifying for the disproportionate share program for children’s hospitals under CS/HB 2339 creating section 409.9119, Florida Statutes.
4. The January 1, 1999 Medicaid per diem and 1994 audited financial data shall be used in calculating Hospital Regular Disproportionate Share program payments under section V.D. of the Plan.

Additional changes to the Plan include:

5. Add the “Bureau of Medicaid Program Analysis, Division of Cost Reimbursement” to where a provider must file a certified cost report.
6. A correction related to previous state plan amendment Version XVIII, November 10, 1999, deleting language regarding the reporting of budgeted data for capital

improvements and new, expanded or discontinued services for the purpose of setting reimbursement ceilings and individual hospital rates.

7. The provisions for canceling a provider agreement for late filing of a cost reports is replaced with language providing for a retroactive recalculation of the reimbursement rate.

8. Updates to Florida Statute and Code of Federal Regulations references.

The effect of the proposed amendment will be an exemption for teaching, specialty, and Community Hospital Education Program (CHEP) hospitals from the variable costs reimbursement ceilings; special Medicaid payments totaling \$144,349,164 will be made to certain hospitals for costs associated with providing inpatient medical education and serving significant numbers of low-income patients; provides for payments to hospitals qualifying for the disproportionate share program for children’s hospitals under CS/HB 2339 creating section 409.9119, Florida Statutes; the January 1, 1999 Medicaid per diem and 1994 audited financial data shall be used in calculating Hospital Regular Disproportionate Share program payments under section V.D. of the Plan; addition of “Bureau of Medicaid Program Analysis, Division of Cost Reimbursement” to the location that a provider must submit a certified cost report, a correction related to previous state plan amendment Version XVIII, November 10, 1999, language regarding the reporting of budgeted data for capital improvements and new, expanded or discontinued services for the purpose of setting reimbursement ceilings and individual hospital rates is deleted, the provisions for canceling a provider agreement for late filing of a cost reports is replaced with language providing for a retroactive recalculation of the reimbursement rate, and updates to Florida Statute and Code of Federal Regulations references.

SUBJECT AREAS TO BE ADDRESSED: The subject areas to be addressed are the exemption for teaching, specialty, and Community Hospital Education Program (CHEP) hospitals from the variable costs ceilings; special Medicaid payments for certain hospitals for costs associated with providing inpatient medical education and serving significant numbers of low-income patients; payments to hospitals qualifying for the disproportionate share program for children’s hospitals under CS/HB 2339 creating section 409.9119, Florida Statutes; the January 1, 1999 Medicaid per diem and 1994 audited financial data shall be used in calculating Hospital Regular Disproportionate Share program payments under section V.D. of the Plan; addition of “Bureau of Medicaid Program Analysis, Cost Reimbursement” to the location that a provider must submit a certified cost report; a correction related to previous state plan amendment Version XVIII, November 10, 1999, deleting language regarding the reporting of budgeted data for capital improvements and new, expanded or discontinued services for the purpose of setting reimbursement ceilings and individual hospital rates; the provisions for

canceling a provider agreement for late filing of a cost reports is replaced with language providing for a retroactive recalculation of the reimbursement rate; and updates to Florida Statutes and Code of Federal Regulations references.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908, 409.9117 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 5, 2000

PLACE: 2727 Mahan Drive, Conference Room C, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Carol Shotwell, Medicaid Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106C, Tallahassee, Florida 32308, (850)414-2759

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Outpatient Hospital Services
 RULE NO.: 59G-6.030

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Outpatient Hospital Reimbursement plan (the Plan) payment methodology, effective July 1, 2000, to provide the following changes based on the Legislative direction provided in House Bill 2145, General Appropriations Act 2000-2001, Specific Appropriation 220:

1) Provide an exemption for teaching, specialty, and Community Health Education Program (CHEP) hospitals from the outpatient hospital reimbursement ceilings.

Other changes to the Plan include:

2) Addition of "Bureau of Medicaid Program Analysis, Cost Reimbursement" to the location that a provider must submit a certified cost report.

3) Provide a correction related to previous state plan amendment Version VII, September 6, 1999, deleting language regarding the reporting of budgeted data for capital improvements and new, expanded or discontinued services for the purpose of setting reimbursement ceilings and individual hospital rates.

4) Delete the provision for canceling a provider agreement for late filing of a cost report and replace it with language providing for a retroactive recalculation of the reimbursement rate.

5) Update the Outpatient Revenue Center Codes, Florida Statute references, and Code of Federal Regulations references.

6) Delete the phrases "a second opinion" and "or post authorization" from Section III.F. of the Plan.

The effect of the proposed amendment will be: teaching, specialty, and Community Health Education Program (CHEP) hospitals will receive an exemption from the hospital outpatient reimbursement ceilings; addition of "Bureau of Medicaid Program Analysis, Cost Reimbursement" to the location that a provider must submit a certified cost report; a correction related to the previous state plan amendment Version VII, September 6, 1999, deleting language regarding the reporting of budgeted data for capital improvements and new, expanded, or discontinued services for the purpose of setting reimbursement ceilings and individual rates; the provision for canceling a provider agreement for late filing of a cost report is deleted and replaced with language providing for a retroactive recalculation of the reimbursement rate; the Outpatient Revenue Center Codes, Florida Statute references, and Code of Federal Regulations references are updated; the phrases "a second opinion" and "or post authorization" are deleted from Section III F of the Plan.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed are exemption of teaching, specialty, and Community Hospital Education Program (CHEP) hospitals from outpatient hospital reimbursement ceilings; addition of "Bureau of Medicaid Program Analysis, Cost Reimbursement" to the location that a provider must submit a certified cost report; a correction related to previous state plan amendment Version VII, September 6, 1999, deleting language regarding the reporting of budgeted data for capital improvements and new, expanded or discontinued services for the purpose of setting reimbursement ceilings and individual hospital rates; the provision for canceling a provider agreement for late filing of a cost report is replaced with language providing for a retroactive recalculation of the reimbursement rate; updating Outpatient Revenue Center Codes, Florida Statute references, Code of Federal Regulation references; and the deletion of the phrases "a second opinion" and "or post authorization" from Section III F from the Plan.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 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: 11:00 a.m., July 5, 2000

PLACE: 2727 Mahan Drive, Conference Room C, Building 3, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Carol Shotwell, Medicaid

Cost Reimbursement, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2106C, Tallahassee, Florida 32308, (850)414-2759

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE TITLE: Monitoring of Continuing Education Requirements
RULE NO.: 61-6.015

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement section 455.2177, Florida Statutes. This section requires the Department to establish a system to monitor licensee compliance with applicable continuing education requirements and to determine each licensee’s continuing education status.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is the establishment of a system to monitor licensee compliance with applicable continuing education requirements and to determine each licensee’s continuing education status.

SPECIFIC AUTHORITY: 455.2177(5) FS.

LAW IMPLEMENTED: 455.2177 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: Tom Thomas, Assistant General Counsel, Office of the General Counsel, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE CHAPTER TITLE: General
RULE CHAPTER NO.: 61C-1
RULE TITLE: License Fees
RULE NO.: 61C-1.008

PURPOSE AND EFFECT: The purpose of this rule development is to modify the fee amounts for the inspection service of temporary public food service establishments and other vendors participating in 1 to 3 day temporary food service events and 4 through 30 day temporary food service events. Additionally, the division seeks to modify the fee amount for plan review services. These rules affect the licensure of all temporary public food service establishments and other vendors operating at temporary food service events and any planned new construction or remodeled public food service establishment.

SUBJECT AREA TO BE ADDRESSED: The division will address regulatory fee changes specific to the licensure of temporary public food service establishments and other food vendors and plan review services for public food service establishments.

SPECIFIC AUTHORITY: 509.032(6), 509.251 FS.

LAW IMPLEMENTED: 509.013, 509.032(2)(e), 509.032(3)(c), 509.251 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 IS: Lee M. Cornman, Management Review Specialist, Department of Business and Professional Regulation, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1012, Telephone (850)488-9263

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61C-1.008 License Fees.

(1) through (4) No change.

(5) Amount of License Fee – Public Food Service Establishment. The license fee for a public food service establishment shall be in accordance with the following schedule exclusive of the categories of fee adjustments set forth in rule 61C-1.008(1) and (3):

(a) Nonseating:

1.

	BASIC FEE	SERVICE TYPE FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
Permanent	\$175	\$0	\$10	\$6	\$191
Mobile Food Dispensing Vehicle	\$140	\$135	\$14	\$6	\$295
Catering	\$140	\$55	\$10	\$6	\$211

2.

	BASIC FEE	EPIDEMIOLOGICAL FEE	HEP FEE	TOTAL FEE
Temporary Public Food Service Establishments and Vendors				
1-3 Day events	\$77 32	\$2	\$6	\$85 40
4 through 30-day events	\$160 65	\$4	\$6	\$170 75
Vending Machines	\$10	\$1	\$6	\$17

3. Theme Park Food Carts

No. of Carts	Basic Fee	Capacity Fee	Epidemiological Fee	HEP Fee	Total Fee
1-5	\$140	\$55	\$10	\$6	\$211
6-10	\$140	\$65	\$10	\$6	\$221
11-15	\$140	\$85	\$11	\$6	\$242
16-20	\$140	\$105	\$12	\$6	\$263
21-25	\$140	\$125	\$13	\$6	\$284
26 or more	\$140	\$145	\$14	\$6	\$305

(b) Seating:

No. of Seats	Basic Fee	Capacity Fee	Epidemiologica l Fee	HEP Fee	Total Fee
1-49	\$140	\$55	\$10	\$6	\$211
50-149	\$140	\$65	\$10	\$6	\$221
150-249	\$140	\$85	\$11	\$6	\$242
250-349	\$140	\$105	\$12	\$6	\$263
350-499	\$140	\$125	\$13	\$6	\$284
500 or more	\$140	\$145	\$14	\$6	\$305

(c) Plan review fees shall be \$150 75; variance review process fees shall be:

1. Routine – \$150; and
2. Emergency – \$300.

(6) No change.

Specific Authority 509.032(6), 509.251 FS. Law Implemented 509.013, 509.032(2)(e), 509.032(3)(c), 509.251, 509.302(3) FS. History–New 7-31-79, Revised 9-1-80, Formerly 7C-1.08, Amended 5-10-89, 9-10-89, 10-31-89, 4-3-90, 12-31-90, 9-11-91, 2-27-92, 7-6-9, 8-23-92, 11-4-92, 4-4-93, Formerly 7C-1.008, Amended 9-20-93, 12-22-93, 6-29-95, 10-9-95, 9-25-96, 5-11-98,

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: Exemption of Spouses of Members of
Armed Forces from License
Renewal Requirements

RULE NO.: 61G19-9.0015

PURPOSE AND EFFECT: The Board determined it is necessary to promulgate a new rule to address a spouse’s exemption from license renewal if married to a member of the Armed Forces.

SUBJECT AREA TO BE ADDRESSED: Exemption of Spouses of Members of Armed Forces from License Renewal Requirements.

SPECIFIC AUTHORITY: 455.02 FS.

LAW IMPLEMENTED: 455.02 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: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G19-9.0015 Exemption of Spouses of Members of Armed Forces from License Renewal Requirements.

A licensee who is the spouse of a member of the Armed Forces of the United States and was caused to be absent from the State of Florida because of the spouse’s duties with the armed forces shall be exempt from all licensure renewal provisions under these rules during such absence. The licensee must show satisfactory proof to the Board of the absence and the spouse’s military status.

Specific Authority 455.02 FS. Law Implemented 455.02 FS. History–New

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE CHAPTER TITLE: Fee Schedule

RULE CHAPTER NO.: 64B4-4

PURPOSE AND EFFECT: The Board proposes to review and to consider possible amendments to the rules in Chapter 64B4-4.

SUBJECT AREA TO BE ADDRESSED: Application and examination fee for licensure by examination; application and examination fee for certification of education and subsequent examination; application fee for licensure by endorsement;

biennial licensure fee; reactivation fee; renewal of inactive status fee; change of status fee; delinquency fee; continuing education provider application fee; examination review fee for applicants for licensure as a clinical social worker; examination review fee for applicants for licensure as a mental health counselor; examination review fee for applicants for licensure as a marriage and family therapist; initial licensure fee.

SPECIFIC AUTHORITY: 455.587(1), 455.711, 455.564(2), 455.574(2), 491.004, 491.005, 491.007(1), 491.0085 FS.

LAW IMPLEMENTED: 455.564(2), 455.587(1), 455.711, 455.574(2), 491.005, 491.006, 491.007(1), 491.008, 491.0085(2) 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: 9:00 a.m., or thereafter, July 14, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-1758

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

DEPARTMENT OF HEALTH

Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE TITLE: Definition of a "Licensed Mental Health Counselor or the Equivalent Who Is a Qualified Supervisor" RULE NO.: 64B4-31.007

PURPOSE AND EFFECT: The Board proposes to review this rule for possible amendments.

SUBJECT AREA TO BE ADDRESSED: Definition of a licensed mental health counselor or the equivalent who is a qualified supervisor.

SPECIFIC AUTHORITY: 491.004(5), 491.005(4)(c) FS.

LAW IMPLEMENTED: 491.005(4)(c) 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: 9:00 a.m., or thereafter, July 14, 2000

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-1758

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

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Definitions of Remediable Tasks and Supervision Levels RULE NO.: 64B5-16.001

PURPOSE AND EFFECT: The Board proposes to amend this rule to update the rule text with regard to definitions of remediable tasks and the levels of supervision.

SUBJECT AREA TO BE ADDRESSED: Definitions of remediable tasks and supervision levels.

SPECIFIC AUTHORITY: 466.004(4), 466.024(1),(3) FS.

LAW IMPLEMENTED: 466.024, 466.003(11),(12) 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: 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:

64B5-16.001 Definitions of Remediable Tasks and Supervision Levels.

(1) through (3) No change.

(4) Direct supervision requires that a licensed dentist examine the patient, diagnose a condition to be treated, authorize ~~authorizes~~ the procedure to be performed, ~~be remains~~ on the premises while the procedure is performed, and approve ~~inspects and approves~~ the work performed prior to the patient's departure from the premises.

(5) Indirect supervision requires that a licensed dentist examine the patient, diagnose a condition to be treated, authorize the procedure to be performed, and be remain on the premises while the procedure is performed.

(6) General supervision requires that a licensed dentist examine the patient, diagnose a condition to be treated, and authorize the procedure to be performed.

~~(7) Remediable tasks, to be performed under general supervision in the office of a Florida licensed dentist, can be performed on a patient if the Florida licensed dentist who authorized the procedure has first examined the patient. Any authorization for remediable tasks to be performed under general supervision this rule is valid for a maximum of 13 months; after which, no further treatment under general supervision can be performed without another clinical exam by a Florida licensed dentist.~~

Specific Authority 466.004(4), 466.024(1),(3) FS. Law Implemented 466.024, 466.003(11),(12) FS. History--New 4-30-80, Amended 8-20-80, 1-28-81, 3-4-81, 10-8-85, Formerly 21G-16.01, Amended 6-30-86, 12-31-86, 7-5-87, 2-21-88, 1-18-89, Formerly 21G-16.001, Amended 3-30-94, Formerly 61F5-16.001, Amended 4-6-97, Formerly 59Q-16.001, Amended 1-6-99, _____.

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Procedure for Approval of Attendance at Continuing Education Courses

RULE NO.: 64B8-52.003

PURPOSE AND EFFECT: The Electrolysis Council proposed to the Board of Medicine that Rule 64B8-52.003 be amended to provide continuing education credit to lecturers or authors of continuing education programs or course materials.

SUBJECT AREA TO BE ADDRESSED: Procedure for Approval of Attendance at Continuing Education Courses.

SPECIFIC AUTHORITY: 478.43(4), 478.50(2),(4)(a),(b) FS.
LAW IMPLEMENTED: 455.564(6), 455.604, 478.50(2),(4)(a),(b) 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, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B8-52.003 Procedure for Approval of Attendance at Continuing Education Courses.

(1) through (5) No change.

(6) A maximum of 6 contact hours shall be awarded per biennium for each of the following or a combination of the following:

(a) The presentation of an electrology related course or program as either the lecturer of the course or program or as the author of the course materials. Each licensee who is participating as either a lecturer or author of an electrology

related course or program shall receive credit for the portion of the offering he/she presented or authored up to the total hours awarded for the offering.

1. Continuing education credit shall be awarded to a lecturer or author for the initial presentation of each electrology related course or program only; repeat presentations of the same course or program shall not be granted credit.

2. In order for a continuing education credit to be awarded to each licensee participating as either lecturer or author, the format of the electrology related course or program must conform with all applicable sections of this rule chapter.

3. The number of contact hours to be awarded to each licensee who participates in an electrology related course or program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.

Specific Authority 478.43(4), 478.50(2),(4)(a),(b) FS. Law Implemented 455.564(6), 455.604, 478.50(2),(4)(a),(b) FS. History--New 6-1-93, Formerly 21M-77.003, 61F6-77.003, Amended 5-11-95, Formerly 59R-52.003, Amended 2-9-98, 2-16-99, 2-17-00, _____.

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance Boards

RULE TITLE: Biennial Licensing

RULE NO.: 64B-9.001

PURPOSE AND EFFECT: The Department of Health, Division of Medical Quality Assurance, proposes the development of a rule to address the biennial renewal of licenses for all professions in a staggered manner.

SUBJECT AREA TO BE ADDRESSED: Biennial license renewals.

SPECIFIC AUTHORITY: 455.521(1) FS.

LAW IMPLEMENTED: 455.521(1) 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:

DATE AND TIME: 9:00 a.m., July 3, 2000

PLACE: Department of Health, Bureau of Operations, 4052 Bald Cypress Way, Room 110J, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Melissa Meadows, OMC Manager, Bureau of Operations/MQA, 4052 Ball Cypress Way, Bin #C10, Tallahassee, Florida 32399-3260

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B-9.001 Biennial Licensing.

(1) Pursuant to Section 455.521(1), Florida Statutes, the Department hereby implements a plan for staggered biennial renewal of licenses issued the Division of Medical Quality Assurance.

(2) The staggered biennial renewal issuance plan does not apply to the renewal of licenses which have a statutory period of one year or less and which do not mature into permanent licenses which would be subject to regular annual renewal.

(3) Biennial period shall mean a period of time consisting of 2 years (24 months). The first biennial period for the purposes of each board shall commence and continue on the dates specified in the department plan as set forth for each respective profession.

(4) The schedule for biennial license renewal for each respective profession shall be as follows:

	<u>EVEN YEARS</u>	<u>ODD YEARS</u>
<u>Acupuncturists</u>	<u>February 28</u>	
<u>Athletic Trainers</u>	<u>September 30</u>	
<u>Certified Master Social Workers</u>		<u>March 31</u>
<u>Chiropractic Physicians & Assistants</u>	<u>March 31</u>	
<u>Clinical Laboratory Personnel</u>	<u>August 31</u>	
<u>Clinical Social Workers</u>		<u>March 31</u>
<u>Consultant Pharmacists</u>	<u>December 31</u>	
<u>Dental Hygienists</u>	<u>February 28</u>	
<u>Dental Laboratories</u>	<u>February 28</u>	
<u>Dentists</u>	<u>February 28</u>	
<u>Dietitians/Nutritionists</u>		<u>November 30</u>
<u>Dispensing Opticians</u>	<u>December 31</u>	
<u>Electrologists</u>	<u>May 31</u>	
<u>Electrolysis Facilities</u>	<u>May 31</u>	
<u>Hearing Aid Specialists</u>		<u>March 31</u>
<u>Marriage & Family Therapists</u>		<u>March 31</u>
<u>Massage Therapists</u>		<u>August 31</u>
<u>Massage Establishments</u>		<u>August 31</u>
<u>Medical Doctors (Group I)</u>	<u>January 31</u>	
<u>Medical Doctors (Group II)</u>		<u>January 31</u>
<u>Medical Doctors – Public Psychiatry/Health Certificate</u>	<u>January 31</u>	
<u>Medical Doctors – Limited License</u>	<u>January 31</u>	
<u>Medical Doctors – Area of Critical Need</u>	<u>January 31</u>	
<u>Medical Physicists</u>		<u>January 31</u>
<u>Mental Health Counselors</u>		<u>March 31</u>
<u>Midwives</u>		<u>December 31</u>
<u>Naturopathic Physicians</u>	<u>September 30</u>	
<u>Nuclear Pharmacists</u>	<u>February 28</u>	
<u>Nurses</u>		
<u>Group I: Registered & Advanced Registered Nurse Practitioners</u>	<u>April 30</u>	

<u>Group II: Registered & Advanced Registered Nurse Practitioners</u>	<u>July 31</u>
<u>Group III: Registered & advanced Registered Nurse Practitioners</u>	<u>April 30</u>
<u>Licensed Practical Nurses</u>	<u>July 31</u>
<u>Nursing Home Administrators</u>	<u>September 30</u>
<u>Occupational Therapists & Assistants</u>	<u>February 28</u>
<u>Optometrists</u>	<u>February 28</u>
<u>Optometrist Branch Offices</u>	<u>February 28</u>
<u>Orthotists & Prosthetists</u>	<u>May 31</u>
<u>Osteopathic Physicians</u>	<u>March 31</u>
<u>Pharmacies</u>	<u>February 28</u>
<u>Pharmacists</u>	<u>September 30</u>
<u>Physical Therapists & Assistants</u>	<u>May 30</u>
<u>Physician Assistants</u>	<u>January 31</u>
<u>Podiatric Physicians</u>	<u>March 31</u>
<u>Psychologists</u>	<u>May 31</u>
<u>Respiratory Care Practitioners</u>	<u>November 30</u>
<u>Respiratory Therapists</u>	<u>November 30</u>
<u>School Psychologists</u>	<u>November 30</u>
<u>Speech Language Pathologists/ Audiologists & Assistants</u>	<u>December 31</u>

EXTENSION OF BIENNIAL LICENSURE PERIODS – When a current biennial licensure period for a profession is extended for a period longer than two years to conform to the above schedule of biennial periods, the biennial licensure fee for the profession shall be increased pro-rata to cover the additional extended period. The increased licensure fee shall be based on the biennial licensure fee established by the board. The amended licensure period and the pro-rated renewal fee shall be implemented for the purpose of restructuring the Department’s renewal schedule.

(5) The biennial license renewal fees shall be established by rule by each board, or by the Department, whichever is appropriate.

Specific Authority 455.521(1) FS. Law Implemented 455.521(1) FS. History–New_____.

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

<u>RULE TITLES:</u>	<u>RULE NOS.:</u>
Definitions	64E-4.002
Exemptions	64E-4.003

PURPOSE AND EFFECT: The purpose and effect of these proposed rules is to exempt from registration and regulation Class IIIA laser devices.

SUBJECT AREA TO BE ADDRESSED: Registration and regulation of Class IIIA laser devices.
 SPECIFIC AUTHORITY: 501.122(2) FS.
 LAW IMPLEMENTED: 501.122(2)(a),(c) 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: 9:00 a.m., July 12, 2000
 PLACE: Room 210J, 4042 Bald Cypress Way, Tallahassee, FL
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: William A. Passetti, Chief, Bureau of Radiation Control, (850)487-1004
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self Sufficiency Program

RULE TITLE: Family-Related Medicaid Eligibility Determination Process
 RULE NO.: 65A-1.704
 PURPOSE AND EFFECT: This proposed rule implements simplified Medicaid application procedures for pregnant women and presumptive eligibility for children.
 SUBJECT AREA TO BE ADDRESSED: A face-to-face interview will not be required of pregnant women. A mail-in application form will be used for pregnant women. This form includes an attached information/rights and responsibilities. For presumptive eligibility for children, provision is made for eligibility determination by a qualified designated Medicaid provider and the period of eligibility is specified.
 SPECIFIC AUTHORITY: 409.919 FS.
 LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 10:30 a.m., July 6, 2000
 PLACE: 1317 Winewood Boulevard, Building 3, Room 414, Tallahassee, Florida 32399-0700
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 406-A, Tallahassee, Florida 32399-0700, Telephone (850)488-3070
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-21.002
Application and Selection Process for Loans	67-21.003
Selection Criteria and Guidelines for Selection of Developments	67-21.004
Determination of Method of Bond Sale	67-21.0045
Selection of Qualified Lending Institutions as Credit Underwriters, Originators or Servicers	67-21.005
Development Requirements	67-21.006
Fees	67-21.007
Terms and Conditions of Loans	67-21.008
Interest Rate on Mortgage Loans	67-21.009
Issuance of Revenue Bonds	67-21.010
No Discrimination	67-21.011
Advertisements	67-21.012
Private Placements of Multifamily Mortgage Revenue Bonds	67-21.013
Credit Underwriting Procedures	67-21.014
Use of Bonds with other Affordable Housing Finance Programs	67-21.015
Compliance Procedures	67-21.016
Transfer of Ownership	67-21.017
Refundings and Troubled Development Review	67-21.018
501(c)(3) Bonds for Multifamily Housing	67-21.019

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-21, Florida Administrative Code (FAC.), is to establish the procedures by which the Florida Housing Finance Corporation shall administer the application process, determine loan amounts and issue multifamily mortgage revenue bonds for new construction or substantial rehabilitation of affordable rental units under the Multifamily Mortgage Revenue Bond Program.

SUBJECT AREA TO BE ADDRESSED: The Rule Development Workshop will be held to receive comments and suggestions from interested persons relative to the development of the 2001 application and program requirements for the Multifamily Bond Program, as specified in Rule Chapter 67-21, FAC.

SPECIFIC AUTHORITY: 420.507, 420.508 FS.
 LAW IMPLEMENTED: 420.502, 420.503, 420.507, 420.508, 420.509 FS.

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

TIME AND DATE: 2:00 p.m., July 6, 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 AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jan

Rayboun, Acting Deputy Development Officer, 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 Bill Metler 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 NOT AVAILABLE.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Aquaculture Interim Measures	5L-2
RULE TITLES:	RULE NOS.:
Purpose	5L-2.001
Definitions	5L-2.002
Requirement for an Aquaculture Certificate of Registration	5L-2.003
Aquaculture Interim Measures	5L-2.004
Aquaculture Certificate of Registration	5L-2.005
Minimal Impact Aquaculture Facilities	5L-2.006
Failure to Comply With the Interim Measures	5L-2.007
Aquaculture Permit Notification Form	5L-2.008

PURPOSE, EFFECT AND SUMMARY: These rules are to be repealed and replaced by 5L-3 Aquaculture Best Management Practices which will establish and implement aquaculture practices in accordance with Chapter 597, Florida Statutes.

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

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

SPECIFIC AUTHORITY: 570.07(23), 597.004(2)(b) FS.

LAW IMPLEMENTED: 597.004, 597.0041 FS.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Sherman Wilhelm, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301

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: 1:00 p.m., July 10, 2000

PLACE: Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel Management at (850)921-6262 at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sherman Wilhelm, Division of Aquaculture, 1203 Governor's Square Boulevard, 5th Floor, Tallahassee, Florida 32301, phone: (850)488-4033

THE FULL TEXT OF THE PROPOSED RULES IS:

5L-2.001 Purpose.

Specific Authority 570.07(23), 597.004(2)(b) FS. Law Implemented 597.003(1)(a), 597.004(2) FS. History--New 12-12-99, Repealed.

5L-2.002 Definitions.

Specific Authority 570.07(23), 597.004(2)(b) FS. Law Implemented 597.003(1)(a), 597.004(2),(4),(5),(6) FS. History--New 12-12-99, Repealed.

5L-2.003 Requirement for an Aquaculture Certificate of Registration.

Specific Authority 570.07(23), 597.004(2)(b) FS. Law Implemented 597.003, 597.004, 597.0041 FS. History--New 12-12-99, Repealed.

5L-2.004 Aquaculture Interim Measures.

Specific Authority 570.07(23), 597.004(2)(b) FS. Law Implemented 597.003(1)(a), 597.004(2) FS. History--New 12-12-99, Repealed.

5L-2.005 Aquaculture Certificate of Registration.

Specific Authority 570.07(23), 597.004(2) FS. Law Implemented 597.003(1)(a), 597.004 FS. History--New 12-12-99, Repealed.

5L-2.006 Minimal Impact Aquaculture Facilities.

Specific Authority 570.07(23), 597.004(2)(b) FS. Law Implemented 597.003(1)(a),(j), 597.004 FS. History--New 12-12-99, Repealed.

5L-2.007 Failure to Comply With the Interim Measures.

Specific Authority 570.07(23), 597.004(2)(b) FS. Law Implemented 597.004, 597.0041 FS. History--New 12-12-99, Repealed.

5L-2.008 Aquaculture Permit Notification Form.

Specific Authority 570.07(23), 597.004(2)(b) FS. Law Implemented 597.004, 597.0041 FS. History--New 12-12-99, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sherman Wilhelm

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 2000