

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Stone Crabs

RULE TITLE:

RULE NO.:

Licenses, Endorsements, and Permits for

Experimental, Scientific and

Exhibitional Purposes

68B-13.006

PURPOSE AND EFFECT: The purpose of this rule development effort is to effect a one-year delay in the implementation of the stone crab trap limitation program. Other rules in the rule chapter were amended to accomplish the delay, in rulemaking concluded in the Commission's May 23, 2001 regular meeting. This rule was not before the Commission at that time. The effect of this effort will be to conform this rule to others in the chapter and accomplish the economic and environmental benefits of the program after the one-year delay.

SUBJECT AREA TO BE ADDRESSED: Stone Crab Trap Limitation Program.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 calendar days before the workshop/meeting by contacting Andrena Knicely, (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-13.006 Licenses, Endorsements, and Permits for Experimental, Scientific and Exhibitional Purposes.

(1)(a) Except as provided in Rule 68B-13.010(5), F.A.C., in addition to a saltwater products license, a stone crab endorsement is required in order to harvest stone crabs for commercial purposes. This endorsement shall only be issued to

a person, firm or corporation that possess a valid restricted species endorsement on their saltwater products license issued pursuant to s. 370.06, Florida Statutes.

(b) Until July 1, 2002 ~~2001~~, no stone crab endorsements shall be renewed or replaced except those endorsements that were active during the 2000-2001 ~~1999-2000~~ fiscal year. Renewal of such endorsements shall be made by the endorsement holder or an immediate family member on the endorsement holder's behalf, prior to September 30, 2001 ~~2000~~. Failure to renew by September 30, 2001 ~~2000~~, shall lead to the deactivation of the holder's endorsement.

(2) In accordance with Section 370.10(2), Florida Statutes, the Fish and Wildlife Conservation Commission may issue permits to collect and possess whole stone crabs, dead or alive, solely for experimental, scientific, educational or exhibitional purposes.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History--New 7-1-00, Amended

**Section II  
Proposed Rules**

**DEPARTMENT OF INSURANCE**

**Division of State Fire Marshal**

RULE TITLE:

RULE NO.:

Construction Materials Mining Activities

4A-2.024

PURPOSE, EFFECT AND SUMMARY: Section 552.30, F.S., 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. Previously the counties or municipalities regulated this area. The standards address such issues as ground vibrations, air blast, date/time restrictions, and notice requirements. The proposed rulemaking will establish the required standards.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 552.30 FS.

LAW IMPLEMENTED: 552.161, 552.211, 552.30 FS.

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

TIME AND DATE: 9:30 a.m., July 2, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-2.024 Construction Materials Mining Activities.

(1) Scope.

(a) This section implements Section 552.30, Florida Statutes, which gives the State Fire Marshal sole and exclusive authority to promulgate standards, limits, and regulations regarding the use of explosives in conjunction with the extraction of limestone and sand by any person or company primarily engaged in commercial mining of limestone and sand suitable for production of construction aggregates, sand, cement, and road base materials and Section 552.211, Florida Statutes, which allows the State Fire Marshal to restrict the quantity and use of explosives at any location within the state where such explosive is likely to cause injury to life or property.

(b) Any person or company not primarily engaged in commercial mining of limestone and sand suitable for production of construction aggregates, sand, cement, and road base materials remains subject to the provisions of Section 552.25, Florida Statutes.

(c) Nothing in this section is intended to supercede the requirements of Chapter 552, Florida Statutes, or other sections in this rule chapter.

(2) Definitions. As used in this rule:

(a) "Blasting site" is a location within a mining area at which explosive charges are set.

(b) "Independent seismologist" means a person whose functions include vibration and air overpressure measurement and the analysis and evaluation of their effects upon structures. This person shall have credentials and actual field experience and not be an employee of the mining permit holder, blaster, or user.

(c) "Limestone" as used in Section 552.30(1), Florida Statutes, means any extracted material composed principally of calcium or magnesium carbonate. Coquina is a form of limestone composed of shell fragments.

(d) "Mining area" as used in this rule section is the area of land in which construction materials mining activity is to occur.

(e) "Urban development" is defined as a residential subdivision containing 25 or more occupied residences within the local urban development boundary or its equivalent.

(3) Mining Permit. A mining permit shall be issued only after:

(a) Payment of a fee established in subsection (10) below or by the county or municipality to cover costs.

(b) Filing of an application, signed by the applicant showing the applicant's name and address, on Form DI4-1498, Construction Mining Activity Application, which is hereby adopted and incorporated by reference and is available from Safety Program Manager, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(c) The permit holder shall report all complaints to the authority issuing the permit.

(d) Standards for Mining Permit Approval. A mining permit shall be approved unless any item listed on Form DI4-1498 in paragraph (b) above is not provided.

(e) License period. Each mining permit shall be issued for a period of 10 years.

(f) Annual Report and Annual Permit Fee Procedure.

1. The mining activity covered by the mining permit will be reviewed on an annual basis for compliance with Chapter 552, Florida Statutes, including but not limited to compliance with the record keeping requirements.

2. The mining permit holder shall annually pay a permitting fee specified in (10) below.

(4) Ground Vibration, Frequency Limits.

(a)1. The maximum ground vibration shall not exceed the limits of particle velocity and frequencies established by the U.S. Bureau of Mines Report of Investigations, No. 8507, Appendix B-Alternative Blasting Level Criteria (Figure B-1). A blasting operation shall use a seismograph, as identified in (c) below, to monitor each blast to ensure compliance with the ground vibration limits established in Section 552.30, Florida Statutes.

2. The U.S. Bureau of Mines Report of Investigations No. 8507, Appendix B – Alternative Blasting Level Criteria (Figure B-1) and Table 8-1.3, established in Section 8-1 of the National Fire Protection Association Standard 495, 1996 Edition are hereby adopted and incorporated by reference. Copies may be obtained from the Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee FL 32399-0342.

(b)1. Ground vibration shall be measured for every blast at the location of any building that is not owned, leased, or contracted by the blasting or mining operation, or on property for which the owner has not provided a written waiver to the blasting operations, up to a maximum of one mile.

2. If there are no such buildings within one mile, measurement shall be made at one mile in the direction of the nearest such building.

3. If there is a building that is not owned, leased, or contracted by the blasting or mining operation, or on property for which the owner has not provided a written waiver to the blasting operations in a direction 90 to 270 degrees from the direction of the nearest building specified in (b)1. above, and that building is no more than 500 feet farther than the nearest building, measurement shall also be made at the nearest of those buildings.

4. If a measurement location determined pursuant to (b)1.-3. above is not practicable, such as in a wet swamp, measurement shall be made at a point nearer to but in the same direction from the blast site.

(c)1. All measurements shall be made by an independent seismologist using seismographic equipment meeting the specifications of the International Society of Explosives Engineers Blasters' Handbook, 17th Edition, Copyright 1998.

2. Measurements shall be taken and equipment shall be installed in accordance with the International Society of Explosives Engineers Blaster's Handbook, 17th Edition, Copyright 1998.

3. The International Society of Explosives Engineers Blaster's Handbook, 17th Edition, Copyright 1998, is hereby adopted and incorporated by reference and may be obtained from the International Society of Explosives Engineers, 29100 AVRA Road, Cleveland, Ohio 44131

(d)1. All seismographic equipment used within the boundaries of the State of Florida shall be calibrated according to the manufacturer's specifications and shall be certified as accurate by the manufacturer on an annual basis or as needed.

2. If the manufacturer is unavailable for such certification, the certification shall be performed by a person approved by the State Fire Marshal. Such approval shall be granted if the certifying person is known to be independent and reliable. "Independent" means not an employee or affiliate of a company engaged in construction materials mining activity, and "reliable" means never having been found to have willfully or negligently miscalibrated seismographic equipment.

3. Units not meeting current calibration guidelines shall be removed from service until calibration has been completed.

4. Calibration records shall be made available to the Division upon request.

(5) Airblast.

(a) Airblast limits shall conform with the limits established in Section 8-2 of National Fire Protection Association Standard Number 495, 1996 Edition, which is hereby adopted and incorporated by reference.

1. The codes and standards published by the National Fire Protection Association may be obtained by writing to the NFPA at: 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

2. All standards adopted and incorporated by reference in this rule are also available for public inspection during regular business hours at the Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 325 John Knox Road, The Atrium, Third Floor, Tallahassee, Florida 32303.

(b)1. Measurements shall be made by an independent seismologist using seismographic equipment meeting the specifications of the International Society of Explosives Engineers Blasters' Handbook, 17th Edition, Copyright 1998.

2. Measurements shall be taken and equipment shall be installed in accordance with the International Society of Explosives Engineers Blasters' Handbook, 17th Edition, Copyright 1998.

(6) Time and Date of Explosives Use.

(a) The use of explosives shall be conducted during daylight hours between 8:00 a.m. and 5:00 p.m. local time, Monday through Friday.

(b) No explosive blasting shall occur on Saturdays, Sundays, official holidays recognized by the State of Florida pursuant to Section 110.117, Florida Statutes, or hours other than specified in the prior sentence unless consent is granted by the State Fire Marshal. Such consent shall be granted if the consent is in the interest of public safety.

(7) Blasting Activities Reporting. Each person engaged in construction materials mining activity shall submit to the Division or its delegatee, upon request, the results of ground vibration and airblast measurements. This report shall be maintained in accordance with Section 552.112, Florida Statutes. The report shall contain, at a minimum, for each blast:

(a) Date and time of blast;

(b) Number of holes;

(c) Depth;

(d) Number of wet holes, water depth;

(e) Hole diameter;

(f) Spacing;

(g) Amount of explosives;

(h) Number of primers;

(i) Type of caps (i.e. electric or nonelectric);

(j) Number of caps;

(k) Stemming feet;

(l) Maximum pounds delay;

(m) Maximum hole delay;

(n) Weather;

(o) Wind direction;

(p) Type and make of blasting machine;

(q) Global positioning system direction and distance in feet to the nearest building;

(r) Decking feet;

(s) Location of each seismograph;

(t) Peak particle velocity inches per second;

(u) Sound decibels;

(v) Name, address, and license number of user of explosives; and

(w) Name, address, and permit number of blaster.

(8) Local Government Notice.

(a) Each person engaged in construction materials mining activity shall submit written notification to the county and or municipality in which construction materials mining activity is to be conducted at least 20 days prior to the initial blast for any blasting.

(b) As soon as practical, but no later than one hour prior to the time when a blast is scheduled to take place, the person or firm engaged in construction materials mining activity shall, if requested, notify the county or municipality of any revisions to the notice.

(9) Delegation of Authority.

(a) The delegation by the State Fire Marshal described in Section 552.30(2), Florida Statutes, shall be accomplished by written agreement.

(b) Fees charged by the delegatee for activities specified in the agreement shall not exceed an amount calculated to cover the reasonable costs of the activities performed under the agreement.

(10) Fees. The fees established pursuant to Section 552.26, Florida Statutes, shall be as follows:

(a) Initial permit \$4000;

(b) Renewal \$4000 after 10 years;

(c) Annual mining permit fee \$1500.

(11) Disciplinary Action; Mining Permit; Grounds For Denial; Nonrenewal, Suspension, or Revocation of A Mining Permit.

(a) The State Fire Marshal shall investigate any alleged violation of Chapter 552, Florida Statutes, or this rule.

(b) The following acts constitute cause for disciplinary action:

1. Violation of any provision of Chapter 552, Florida Statutes, or any rule adopted pursuant thereto.

2. Violation of the ground vibration, frequency limits set forth in Section 552.30, Florida Statutes.

3. Failing to obtain, retain or maintain one or more of the qualifications for a mining permit as specified in this chapter.

4. Making a material misstatement, misrepresentation, or committing fraud in obtaining or attempting to obtain a mining permit.

5. Failing to maintain any record required pursuant to Chapter 552, Florida Statutes, and any rule or code adopted pursuant thereto.

6. Falsifying any record required to be maintained by Chapter 552, Florida Statutes, or rules adopted pursuant thereto.

(c) The lapse or suspension of a mining permit by operation of law or by order of the State Fire Marshal or a court or its voluntary surrender by a mining permit holder does not deprive the State Fire Marshal of jurisdiction to investigate or act in disciplinary proceedings against the mining permit holder.

(d) In addition, the State Fire Marshal shall not issue a new mining permit if it finds that the circumstance or circumstances for which the mining permit was previously revoked or suspended still exist or are likely to recur.

(12) Nothing in this rule shall impact a county's or municipality's authority to exercise whatever powers are not prohibited by Section 552.30, Florida Statutes.

(13)(a) Notwithstanding the standards in this rule, the Division shall, pursuant to Section 552.211(3), Florida Statutes, restrict the quantity and use of explosives at any location within the state when the Division determines, subject to protections provided by Chapter 120, Florida Statutes, the use of such explosives is likely to cause injury to life or property.

(b) Such restrictions shall be to the extent necessary to render the use of such explosives unlikely to cause injury to life or property.

(c) In determining that the use of explosives is likely to cause injury to life or property in a given location, the Division shall consider the following factors:

1. Distance of blasting activity to structures;

2. Use and occupancy of structures near blasting activity;

3. Geology of area near blasting activity; and

4. Type of construction use in structures near blasting activity.

5. Any credible evidence relevant to the risk of injury to life or property, not excluding evidence that existing damage resulted from causes other than the use of explosives.

(14)(a) Based upon the safe level of blasting vibrations for houses as shown in Figure B-1, United States Bureau of Mines, Report of Investigations 8507, notwithstanding the limits in (4) above, the use of explosives within two miles of an urban development, as defined in (2)(e) above, shall not exceed a peak particle velocity of more than 0.5 inches per second due to the potential existence of plaster on lath construction.

(b) Measurement of such ground vibration levels shall be made consistent with (4)(c)2. above at the nearest occupied residential structure within the urban development, which structure is not owned, leased, or contracted with the blasting or mining operation.

Specific Authority 552.30 FS. Law Implemented 552.161, 552.211, 552.30 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Terry Hawkins, Safety Program Manger, Bureau of Fire  
 Prevention, Division of State Fire Marshal, Department of  
 Insurance  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: James Goodloe, Bureau Chief,  
 Bureau of Fire Prevention, Division of State Fire Marshal,  
 Department of Insurance  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: May 29, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: June 16, 2000

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE:	RULE CHAPTER NO.:
Supplier Diversity & Outreach MBE	
Contracting Rule	40E-7
RULE TITLES:	RULE NOS.:
Policy	40E-7.611
Definitions	40E-7.621
Policy Review and Goal Setting Committee	40E-7.623
Bid Incentive Program	40E-7.628
Proposal Evaluation and MBE Criteria	40E-7.631
Sheltered Markets	40E-7.633
Annual, Long-Term, and Project-Specific Goals	40E-7.635
District Implementation	40E-7.637
Emergency Waiver of Participation Goals	40E-7.639
Compliance	40E-7.645
Good Faith Efforts	40E-7.647
Reciprocal Certification	40E-7.651
Certification Eligibility	40E-7.653
Certification Review Process	40E-7.655
Graduation from MBE Program	40E-7.659
Recertification Review Procedures	40E-7.661
Suspension, Debarment, Revocation	
or Decertification	40E-7.664
Penalties for Fraudulent MBE Representation	40E-7.6645
Application for Additional Areas	
of Certification	40E-7.665
Administrative Hearings	40E-7.667

PURPOSE AND EFFECT: The District intends to amend the current M/WBE Rule to address several legislative mandates in Chapter 288, Florida Statutes. In addition, the District is amending the rule to implement the District’s Equity in Contracting Plan. Specifically, the rule amendments will delete those portions of the rule dealing with the policy review & goal setting committee, sheltered markets, bid incentives, good faith efforts and project specific goals for District procurements. The District also intends to streamline the certification criteria. Although this rule has been presented to the public, since that time there have been significant changes. Therefore, during

this rule making period, the District seeks to encourage participation by the contracting community in developing this rule, which will increase diversity.

SUMMARY: The proposed rule making concerns changes to the South Florida Water Management District’s (“District”) existing Chapter 40E-7 Part VI, F.A.C. Supplier Diversity & Outreach MBE contracting Rule.

SPECIFIC AUTHORITY: 373.607 FS.

LAW IMPLEMENTED: 373.607 FS.

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

TIME AND DATE: 9:00 a.m., Thursday, July 12, 2001

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33407

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sandy Hammerstein, Procurement Division, South Florida Water Management District, Post Office Box 24680, West Palm Beach, Florida 33416-4680 telephone 1(800)432-2045, Extension 2847 or (561)682-2847 (internet: shammer@ sfwmd.gov). Although Governing Board meeting, 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 FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 40E-7.611 follows. See Florida Administrative Code for present text.)

40E-7.611 Policy.

(1) The rules under this Part establish policies and procedures designed to remedy documented disparities in District contracting and the present effects of past marketplace discrimination. The rules under this Part implement specific recommendations of the District’s Minority Business Availability and Utilization Study (“Study”) as developed by MGT of America, Inc., dated August, 1995 and made a part of the District’s Supplier Diversity & Outreach Program (“Program”).

(2) The District shall evaluate the progress of its Program to determine specific program provisions that require modification, expansion, and/or curtailment.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

(Substantial rewording of Rule 40E-7.621 follows. See Florida Administrative Code for present text.)

40E-7.621 Definitions.

(1) “Annual Contract Forecast Report” (ACFR) means a preliminary summary report estimating the number, probable dollar value and the planned solicitation date for budgeted contracts and purchases proposed for each fiscal year.

(2) “Certified Minority Business Enterprise” means a firm certified by the District pursuant to Rules 40E-7.651 and 40E-7.653, F.A.C and Section 287.0943(1) & (2), Florida Statutes.

(3) “Control” means to direct with primacy or cause the direction of all phases of the management and daily operations of the business, including, but not limited to, standard management practices and principles such as policy development, establishment of personnel reporting lines and operational procedures, problem solving, etc.

(4) “Domicile” means the state in which the business has its principal place of business and as it relates to corporations it also means the state under whose laws the corporation was formed.

(5) “Family member” means any person who is a spouse, parent, step-parent, grandparent, step-grandparent, child, step-child, grandchild, step-grandchild, sibling, half-brother, half-sister, step-sister, including adopted persons and those persons who are married to family members.

(6) “Federally recognized Indian Tribe” means an Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony or other organized group or community, including any Alaskan Native Village, which is recognized by the Secretary of the Interior as having special rights and is recognized as eligible for the services provided by the United States to Indians because of their status as Native Americans.

(7) “Front” means a business concern which falsely claims to be owned and controlled by minority persons or women as defined herein.

(8) “Industry categories” mean construction, CCNA professional services, non-CCNA professional services, commodity/services procurement (manufacturing, wholesale, retail), and contractual (other) services.

(9) “Independently operated” means not dependent on the support, influence, guidance, control or not subject to restriction, modification or limitation from a non-minority, except for customary business auxiliary services, e.g., legal, banking, etc.

(10) “Joint Venture” means an association of two or more persons or businesses carrying out a single business enterprise for which purpose they combine their capital, efforts, skills, knowledge and/or property. Joint ventures must be established by written agreement.

(11) “Minority Business Enterprise” or “MBE” is as defined in Section 288.703(2), Florida Statutes.

(12) “Minority” person means an individual who is a citizen or lawful permanent resident of the State of Florida who is:

(a) African American: a person having origins in any of the racial groups of the African diaspora.

(b) Asian American: a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands, including the Hawaiian Islands prior to 1778.

(c) Hispanic American: a person with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean Islands, regardless of race.

(d) Native American: a person who is a member of federally recognized Indian tribe.

(e) An American Woman.

(13) “Non-minority” means any person who does not meet the eligibility requirements of a minority person related to ethnicity, race or gender, permanent Florida residency or origins, even though such person has self-designated to be a member of a statutorily designated ethnic, racial or gender group.

(14) “Office of the Inspector General” – The District office which provides a central point for coordination of and responsibility for activities that promote accountability, integrity, and efficiency in government as referenced in Section 20.055(2), F.S.

(15) “Origins” means the minority owner's racial or cultural and geographic derivations, as substantiated by at least one grandparent's birth.

(16) “Permanent resident” means a resident whose true, fixed and permanent home and principal establishment is within the State of Florida, who has lived in the State of Florida for at least six (6) months out of the last twelve (12) months and who does not routinely and habitually establish occupancy in a personally owned, mortgaged or leased residence outside of Florida.

(17) “Program” means a blend of business initiatives, administered by the District, which include race, ethnic and gender neutral; and race, ethnic and gender specific provisions designed to:

(a) Increase diversity in District contracting and procurement; and

(b) Remedy disparity and the present effects of past marketplace discrimination.

(18) “Relevant Market Area” means the following Florida counties: Broward; Charlotte; Collier; Dade; Glades; Hendry; Highlands; Lee; Martin; Monroe; Okeechobee; Orange; Osceola; Palm Beach; Polk; St. Lucie; Alachua; Brevard; Duval; Hillsborough; Indian River; Leon; Pinellas; Seminole; and Volusia.

(19) “Responsible” means a firm is capable in all respects to fully perform the contract requirements and has the integrity and reliability, which will assure good faith performance.

(20) “Responsive” means a firm's bid or proposal conforms in all material respects to the invitation to bid or request for proposal and shall include compliance with MBE goals or good faith efforts.

(21) “A Small Business” – means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million, or any firm based in this state which has a Small Business Administration 8(a) Certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

(22) “Sole proprietorship” means a business concern owned by one minority person.

(23) “Supplier” means a firm that sells goods and commodities.

(24) “Third-Party Development Assistance Provider” – means local, regional, state or federal agencies, institutions and business development organizations that provide technical, management, financial and other related assistance to small, minority-owned businesses.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History–New 9-25-96, Amended.

40E-7.623 Policy Review and Goal Setting Committee

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History–New 9-25-96, Repealed.

40E-7.628 Bid Incentive Program.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History–New 9-25-96, Repealed.

(Substantial Rewording of Rule 40E-7.631 follows. See Florida Administrative Code for present text.)

40E-7.631 Proposal Evaluations and M/WBE Criteria.

(1) For contracts awarded based on evaluation criteria, there shall be a MBE participation criterion of 10% or 20% of the total points awarded. The District shall award points as reflected in Table 7.6-3 below. Maximum points will be awarded to the proposer if 30% or more of the total project work is performed by MBE firms. Percentages reflect the amount of total contract value proposed to be assigned to MBE firms. In the case of CCNA contracts, the percentages reflect the amount of total project work which shall be equated to the project dollars assigned to MBE firms.

Table 7.6-3

10 POINTS FOR MBE PARTICIPATION

- > 30% = 10 points
- > 27% = 9 points
- > 24% = 8 points
- > 21% = 7 points
- > 18% = 6 points
- > 15% = 5 points
- > 12% = 4 points
- > 9% = 3 points
- > 6% = 2 points
- > 3% = 1 point

20 POINTS FOR MBE PARTICIPATION

- > 30% = 20 points
- > 27% = 18 points
- > 24% = 16 points
- > 21% = 14 points
- > 18% = 12 points
- > 15% = 10 points
- > 12% = 8 points
- > 9% = 6 points
- > 6% = 4 points
- > 3% = 2 points

(2) The proposer shall identify all certified MBE firms which will be utilized as subcontractors, and delineate for each the specific elements of work each MBE firm will be responsible for performing and the dollar value of the work as a percentage of the total contract value. All proposals with MBE participation shall contain documentation, signed by both the proposer and the selected MBE subcontractors which: confirms their intent to establish a business relationship and confirms the MBE participation percent. All MBE's must submit proof of certification with the proposal.

(3) All MBEs must submit proof of certification with the proposal as described in Rule 40E-7.653, F.A.C.

(4) The percentage of MBE participation will be calculated by dividing the proposer's expenditures to a MBE subcontractor for providing direct labor or a bona fide service by the total project dollars as identified in the proposal.

(5) A proposer may count toward its MBE participation the fees or commissions charged for providing direct labor or a bona fide service, such as professional, technical, consultant or managerial services.

(6) For the purposes of this rule, the District will not count toward a proposer's MBE participation any portion or portions of the MBE subcontractor's work that is subcontracted back to:

(a) The proposer, either directly to, or through any other company or firm owned and/or controlled by the proposer, or

(b) Any non-MBE firm with which the MBE firm has a present business relationship. A present business relationship is defined as both firms having some of the same owners or the sharing of space, equipment, financing or employees.

(7) For the purposes of this rule, a MBE subcontractor shall not be allowed to subcontract all or a majority of the subcontractual portion of the work to another non-MBE firm or firms. A MBE subcontractor shall be prohibited from engaging in a subcontractual agreement with the intent of collecting a broker's fee or commission, and whose employees perform none of the direct labor or service activities specified in the contract.

(8) Participation by a MBE firm shall not be considered and the MBE firm shall be disqualified if the owner or owners of the MBE firm engages in an agreement with a non-MBE firm with the intent of securing employment with that non-MBE firm during the course of performing a District contract.

Specific Authority 287.055, 373.607 FS. Law Implemented 287.055, 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

#### 40E-7.633 Sheltered Markets Program.

Specific Authority 287.055, 373.607 FS. Law Implemented 287.055, 373.607 FS. History—New 9-25-96, Repealed \_\_\_\_\_.

#### 40E-7.635 Annual, Long-Term, and Project-Specific Goals.

Specific Authority 287.055, 373.607 FS. Law Implemented 287.055, 373.607 FS. History—New 9-25-96, Repealed \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.637 follows. See Florida Administrative Code for present text.)

#### 40E-7.637 District Implementation.

The District shall make affirmative efforts to ensure all businesses have the maximum opportunity to participate in the District's contracting and procurement processes. The following are examples of affirmative efforts by the District:

(1) Establish an office with sufficient staff and the necessary authority and responsibility to implement the rules established under this Part.

(2) Identify all competitive contracting opportunities within the District budget.

(3) Include MBEs on contract solicitation lists or vendor lists.

(4) Monitor and maintain records sufficient for verification of steps taken and results achieved to maximize MBE participation.

(5) Evaluate the District's efforts to achieve MBE participation.

(6) When requested by an unsuccessful bidder, conduct debriefing sessions on awarded contracts to explain why bids/proposals may have been unsuccessful.

(7) Coordinate outreach with Procurement and contracting departments to offer instructions and clarify bid/proposal specifications, procurement policy, procedures, and general bidding requirements.

(8) Divide purchases and contracts into smaller units, areas, or quantities where feasible and likely to increase MBE participation without substantial adverse fiscal impact to the District.

(9) Ensure that bid/proposals, specifications, and plans are written so as not to unreasonably limit MBE participation.

(10) Maintain a database of MBEs and encourage MBEs to participate in training programs offered by the District and/or third party development assistance providers.

(11) Encourage the development of MBEs by using services and assistance provided by the Small Business Administration and other third party development assistance providers.

(12) Refer businesses to third party development assistance providers for bonding, financial and technical assistance.

(13) Promote the District's Program internally and externally, through the use of an annual marketing and outreach plan.

(14) Collect and maintain information and reports to provide guidance to the Governing Board and staff regarding MBE participation.

(15) Schedule pre-bid or pre-proposal meetings, where appropriate, to inform potential contractors of Program requirements and other bid/proposal requirements.

(16) Maintain a file of successful bid/proposal documents from past procurement and encourage MBEs to review and evaluate such documents.

(17) Provide instructions on job performance requirements.

(18) Provide information and assistance on continued certification procedures, subcontracting practices, and bonding requirements.

(19) Provide supplier diversity training to District staff.

(20) Review multi-year contracts, amendments, and change orders for opportunities to increase MBE participation.



(21) Continue to investigate race, ethnic, and gender-neutral provisions to lessen barriers for participation by any business wishing to do business with the District.

(22) Place notices of contract opportunities and bids at District service centers, in the Dodge report, MBE trade association newsletters, major local or regional newspapers, and minority- and woman-focused media.

(23) Plan and participate in vendor training seminars for the purpose of informing potential bidders/proposers/vendors of the District's Program and the business opportunities available.

(24) Serve as liaison with economic development organizations and agencies working in support of economic development in the minority community.

(25) Provide notices of bids/business proposals to facilitate the participation of MBEs.

(26) Create and disseminate MBE directories to contractors for use in identifying subcontractors and material suppliers.

(27) Consider reducing bonding and insurance requirements for smaller projects.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended \_\_\_\_\_.

40E-7.639 Emergency Waiver of Participation Goals.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History--New 9-25-96, Repealed \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.645 follows. See Florida Administrative Code for present text.)

40E-7.645 Compliance.

(1) The District shall monitor and evaluate Program performance and compliance. Failure to comply with the MBE requirements of an awarded contract shall result in suspension or debarment of the firms or individuals involved.

(2) Suspension or debarment of firms for activity contrary to the Program, and the appeal process, shall be carried out pursuant to Rule 40E-7.664, F.A.C.

(3) Each District contract awarded with points provided for MBE participation shall contain a provision incorporating the rules under this Part by reference and a statement that failure to comply with any of the requirements by a contractor shall be considered a breach of contract.

(4) Each District contract shall contain a provision requiring the contractor, during the term of the contract, to comply with, as to tasks and proportionate dollar amounts throughout the term of the contract, all plans made in their proposal for use of MBEs.

(5) Each District contract shall contain a provision requiring maintenance of records, and information necessary to document compliance with the rules under this Part and shall include the right of the District to inspect such records.

(6) Each District contract shall contain a provision prohibiting any agreements between a contractor and a MBE in which the MBE promises not to provide subcontracting quotations to other bidders or potential bidders.

(7) The District shall ensure program compliance by a contractor or its participating subcontractors through contract provisions. Contractor compliance provisions include:

(a) Withholding from the contractor ten percent (10%) of all future payments, exclusive of any retainage, under the contract until it is determined that the contractor is in compliance;

(b) Withholding from the contractor all future payments under the contract until it is determined that the contractor is in compliance;

(c) Refusal of all future bids or offers submitted to the District by the Contractor for a period of three (3) years;

(d) Initiation of decertification action;

(e) Cancellation of the eligible project/contract for cause.

(8) Any individual who falsely represents any entity as a MBE or does not fulfill the contractual obligations is subject to the penalties under Section 287.094, F.S. To ensure that all obligations under contracts awarded to a MBE are met, the contractor's MBE efforts throughout the performance of the contract shall be reviewed. The contractor shall advise the District of any situation in which regularly scheduled progress payments are not made to MBE subcontractors.

(9)(a) After the date of contract execution, prime contractors shall make good faith efforts to maintain the level of MBE participation established in the contract by substituting a non-complying MBE subcontractor with another MBE subcontractor.

(b) Prime contractors must notify the District when the need to replace a MBE subcontractor arises.

(10) The District will not transact business with any vendor placed on the discriminatory vendor list maintained by the Department of Management Services pursuant to Section 287.134, Florida Statutes.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended \_\_\_\_\_.

40E-7.647 Good Faith Efforts.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History--New 9-25-96, Repealed \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.651 follows. See Florida Administrative Code for present text.)

40E-7.651 Reciprocal Certification.

(1) Reciprocal certification shall be granted to applicant businesses which have been certified by other jurisdictions and meet the District certification standards. An applicant business shall provide an affidavit attesting that the applicant business has sought to do business within the District's relevant market area prior to the time a bid or proposal is submitted.

(2) An applicant business is not eligible for reciprocal certification if the business exceeds a net worth of \$5 million. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

(3) Eligibility for reciprocal certification shall be contingent upon (1) an agreement between the District and another certifying jurisdiction within the State of Florida, and (2) any additional requirements, pursuant to this Rule. The applicant businesses seeking reciprocal certification must submit to the District a copy of the current certification from the certifying jurisdiction and a copy of the completed application submitted to the certifying jurisdiction along with affidavits of continued eligibility.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.653 follows. See Florida Administrative Code for present text.)

#### 40E-7.653 Certification Eligibility.

(1) The District shall have the authority to accept, review, approve and or deny applications for MBE certification. The District shall also have the authority to decertify, suspend and/or debar firms pursuant to Rule 40E-7.664, F.A.C.

(2) Applicant businesses shall submit applications for MBE certification using Form No. 0964, "Application for Certification", which is hereby incorporated by reference and which can be obtained from the District upon request. Mailing addresses must include the number, name of the street, suite number, if any, and correct zip code. A post office box will not be acceptable absent a street address. An applicant business shall provide an affidavit attesting that the applicant business has sought to do business within the District's relevant market area prior to the time a bid or proposal is submitted.

(3) An applicant business must satisfy subsection (4) below in order to be considered 51% owned by minority persons. The ownership exercised by minority persons shall be real, substantial, and continuing, and shall go beyond mere pro forma ownership of the firm as reflected in its ownership documents. In its' analysis, the District may also consider the transferal of ownership percentages with no exchange of capital at fair market value.

(4) If the applicant business was obtained by transfer, the minority person on whom eligibility is based must own 51% of the applicant firm for a minimum of two (2) years, when any previous majority ownership interest in the firm was by a non-minority who is or was a relative, former employer, or current employer of the minority person on whom eligibility is based. This requirement shall not apply to minority persons who are otherwise eligible who take a 51% or greater interest in a firm that requires professional licensure to operate and who will be the qualifying licensure for the firm when certified. A transfer made within a related immediate family

group from a nonminority person to a minority person in order to establish ownership by a minority person shall be deemed to have been made solely for purposes of satisfying certification criteria and shall render such ownership invalid for purposes of qualifying for such certification if the combined total net asset value of all members of such family group exceeds \$1 million. For purposes of this subparagraph, the term "related immediate family group" means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

(a) The applicant business must satisfy either subparagraphs 1., 2., or 3. below:

1. In a corporate form of organization, the minority shareholders of the corporation must own at least 51% of all issued stock. Minority shareholders who own at least 51% of each and every class of stock will be presumed to have satisfied the conditions of this rule. Where the minority shareholders do not own at least 51% of each class of stock, the applicant shall establish that the aggregate of all stock owned by minority shareholders is equal to at least 51% of all issued shares. The applicant may establish that the aggregate of all stock owned by minority shareholders is equal to at least 51% of all issued shares by:

a. Using the par value of the stock, but only where each class of stock has a par value;

b. Using the fair market value of each class of stock;

c. Showing the numerical ratio of stock ownership where all shares, regardless of class, have the same par value or fair market value; or

2. In a partnership form of organization, the minority partners must own at least 51% of the partnership, or

3. In any other form of organization, the minority owners must own at least 51% of the business interest of the organization, including, but not limited to 51% of the ownership of assets, dividends, and intangible assets such as copyrights and patents.

(a) The minority owners must demonstrate that they share income, earnings and any other benefits from the business concern which are accorded to any other owner. The minority owners' share of income, earnings and benefits shall be commensurate with the percentage of their ownership in the business concern, including salaries, draws, bonuses, commissions, insurance coverage, proceeds from business investments and properties, and profit-sharing.

(b) The minority owners must demonstrate that they share in all the risks assumed by the business firm. Such sharing of business risks shall be demonstrated through the minority owners' primary role in decision-making, and negotiation and execution of related transaction documents either as individuals or as officers of the business. The minority owners' sharing in business risks shall be commensurate with their percentage of ownership, including start-up costs and contributions, acquisition of additional ownership interests,

third-party agreements, and bonding applications. Start-up contributions may be space, cash, equipment, real estate, inventory or services estimated at fair market value. All contributions of capital by the minority owners must be real and substantial. The following are presumed not to be real and substantial capital contributions:

1. Promises to contribute capital;
2. Notes payable to the applicant business;
3. Notes payable to the non-minority owners or to the non-minority family members of any owner; and
4. Past services rendered by the minority person as an employee, rather than as a decision-maker.

(c) The business firm cannot at any time enter into any agreement, option, scheme, or create any rights of conversion, which, when exercised, would result in less than 51% minority ownership or in the loss of the minority owners' control of the business firm.

(5) An applicant must establish that the minority owner seeking certification be the license holder, qualifying agent, and/or the professional license holder and possess the authority to control and exercise dominant control over the management and daily operations of the business.

(a) The discretion of the minority owners shall not be subject to any formal or informal restrictions (including, but not limited to, by-law provisions, purchase agreements, employment agreements, partnership agreements, trust agreements or voting rights, whether cumulative or otherwise), which would vary or usurp managerial discretion customary in the industry.

(b) The minority owners must exercise sufficient management and technical responsibilities and capabilities to maintain control of the business. If the owners of the business who are not minority persons are disproportionately responsible for the operations of the business, then the business shall not be considered to be controlled by minority owners.

(c) The control exercised by the minority owners shall be real, substantial and continuing. In instances where the applicant business is found to be a family-operated business, with duties, responsibilities and decision-making occurring either jointly or mutually among owners and principals, or severally along managerial and operational lines between minority owners and non-minority owners or principals, the minority owners shall not be considered as controlling the business. Where the minority owners substantiate that the assumption of duties is not based on their lack of knowledge or capability to independently make decisions regarding the business' management and day-to-day operations, the minority owners' control may not be affected. The minority owners shall establish that they have dominant responsibility for the management and daily operations of the business as follows:

1. The minority owners shall control the purchase of goods, equipment, business inventory and services needed in the day-to-day operation of the business. The minority owners'

control of purchasing shall be evidence of their knowledge of products, brands, manufacturers, types of equipment and products and their uses, etc., rather than merely reflective of the minority owners' ministerial execution of the ordering/acquisition of goods.

2. The minority owners shall control the hiring, firing and supervision of all employees, and the setting of employment policies, wages, benefits and other employment conditions. In instances where minority owners have delegated the hiring and firing of employees, the minority owners shall demonstrate that their knowledge and capability is sufficient to evaluate the employees' performance in the given industry.

3. The minority owners shall have knowledge and control of all financial affairs of the business. The ability of any non-minority owner or employee to sign checks and enter into financial transactions on behalf of the business shall be considered in determining financial control. The minority owners shall expressly control the investments, loans to/from stockholders, bonding, payment of general business loans, payroll and establishment of lines of credit.

4. The minority owners shall have managerial and technical capability, knowledge, training, education and experience required to make decisions regarding that particular type of work. In determining the applicant business' eligibility, the District will review the prior employment and educational requirements for the given industry, the previous and existing managerial relationship between and among all owners, especially those who are familiarly related, and the timing and purpose of management changes. If the minority owners have delegated management and technical responsibility to others, the minority owners must substantiate that they have caused the direction of the management of the business and each phase of the technical operations of the business through their demonstrable knowledge of and capability in the delegated areas.

5. The minority owners shall display independence and initiative in seeking and negotiating contracts, accepting and rejecting bids and in conducting all major aspects of the business in regard to any and all bidding and contracting. In instances where the minority owners do not directly seek or negotiate contracts, prepare estimates, or coordinate with contracting officials, but claim to approve or reject bids and contractual agreements, the minority owners shall demonstrate that they have the knowledge and expertise to independently make contractual decisions.

6. The minority owners shall substantiate personal direction and actual involvement with all major aspects of the applicant business. The major aspects shall be defined as those tasks essential to accomplish all objectives and operations related to those services or commodities for which the applicant business requests certification.

(6) To establish that it is a small minority business concern, the applicant shall:

(a) Demonstrate that it is an independently owned and operated business concern. In assessing business independence, the District shall consider all relevant factors, including the date the firm was established, the adequacy of its resources, and the degree to which financial, managerial and/or operational relationships exist with other persons and/or business concerns. For purposes of this rule, the District's consideration of such financial relationships, managerial and/or operational relationships shall not be affected by arrangements made out of necessity or due to the business' inability to secure traditional capitalization through banks, lending institutions or others.

(b) Demonstrate that it is not an affiliate of a non-minority business nor share (on an individual or combined basis) common ownership, directors, management, employees, facilities, inventory, financial resources and expenses, equipment or business operations with a non-minority person and/or business concern which is in the same or an associated field of operation.

(c) To establish that it is a small business concern, the applicant shall demonstrate that the net worth of the business concern, together with its affiliates, does not exceed five (5) million dollars and an average net worth after federal income taxes, excluding any carryover losses, for the preceding two years of not more than two (2) million dollars. In determining the net worth of the business and its affiliates, the District shall consider the most recent annual financial statements for the business and the business owner. If no annual financial statement is available, the applicant shall submit a financial statement for any quarter during the previous six (6) months. In determining the business' income, the District shall consider the two most recent financial statements for the business and/or the most recent federal income tax returns.

(d) To establish that it is a small business concern, the applicant shall provide documentation to demonstrate that it employs two-hundred (200) or fewer permanent, full-time employees. The number of permanent, full-time employees shall be determined by adding the number of employees the applicant acknowledges to be permanent, full-time employees to the number of permanent positions the applicant needs in order to carry out its business based upon the quantity of work performed and the annual gross receipts of the business concern. In determining whether the applicant meets the criteria for a small business, the District shall consider such documentation as:

1. Personnel records.
2. Florida Quarterly Unemployment Reports.
3. Annual Federal Unemployment Report.
4. Payroll ledgers.
5. Employee leasing agreement.

(e) The applicant must demonstrate that it is domiciled in Florida. In determining whether the applicant is domiciled in Florida, the District shall consider such documentation as:

1. Articles of Incorporation.
2. Partnership Agreement.
3. Certification required to be filed pursuant to Section 620.108, Florida Statutes.

4. Business licenses.

(7) The applicant business must demonstrate that it is at least 51% owned by minority persons who are permanent residents of Florida.

(8) The applicant business must provide evidence of the minority/women status of owners who are claiming to be minority persons, as follows:

(a) Demonstrate that the applicant business owners' ethnicity qualifies them as an eligible person pursuant to Rule 40E-7.621(8), F.A.C. In determining the ethnicity of a person, the District shall consider any of the following:

1. Birth certificate.
2. Passport.
3. Citizenship papers.
4. Driver license.
5. Voter registration card.
6. Death certificate.
7. Membership in a federally recognized Indian tribe.
8. Tribal registration.
9. Any other documentation that tends to substantiate the person's claim of minority status.

(b) Demonstrate that the applicant business owners' gender qualifies them as an eligible person pursuant to Rule 40E-7.621(19), F.A.C. In determining the gender of a person, the District shall consider any of the following:

1. Birth certificate.
2. Passport.
3. Citizenship papers.
4. Driver license.
5. Any other documentation that tends to substantiate the person's claim of minority status.

(c) Demonstrate that the applicant business owners' origin qualifies them as an eligible person pursuant to Rule 40E-7.621(8), F.A.C. When determining a person's origins, the District shall accept any of the following documentation in order to clearly establish a direct line of descent:

1. Marriage licenses.
2. Divorce decrees.
3. Adoption papers, to show the adopted person's original, not adopted, origins.
4. Court orders which have the effect of changing a person's name.
5. An Affidavit, except that of an official of the federal government, a state government or a municipality.
6. A "family tree" or "family chart".

(9) The applicant business shall establish that it is currently performing or seeking to perform a useful business function in each specialty area requested by the applicant. The applicant business is considered to be performing a useful business function when it is responsible for the execution of a distinct element of the work of a contract and carrying out its responsibilities in actually performing, managing and supervising the work involved. The useful business function of an applicant business shall be determined in reference to the products or services for which the applicant business requested certification. When the applicant business is required by law to hold a license, other than an occupational license, in order to undertake its business activity, the applicant business shall not be considered to be performing a useful business function unless it has the required license(s).

(a) In determining if an applicant business is acting as a regular dealer and that it is not acting as a conduit to transfer funds to a non-minority business, the District shall consider the applicant business' role as agent or negotiator between buyer and seller or contractor. Though an applicant business may sell products through a variety of means, the District shall consider the customary and usual method by which the majority of sales are made in its analysis of the applicability of the regular dealer requirements. Sales shall be made regularly from stock on a recurring basis constituting the usual operations of the applicant business. The proportions of sales from stock and the amount of stock to be maintained by the applicant business in order to satisfy the requirements of this rule will depend on the business' gross receipts, the types of commodities sold, and the nature of the business' operation. The stock maintained shall be a true inventory from which sales are made, rather than be a stock of sample, display, or surplus goods remaining from prior orders or by a stock maintained primarily for the purpose of token compliance with this rule. Consideration shall be given to the applicant's provision of dispensable services or pass-through operations which do not add economic value, except where characterized as common industry practice or customary marketing procedures for a given product. An applicant business acting as broker or packager shall not be regarded as a regular dealer absent a showing that brokering or packaging is the normal practice in the applicant business' industry. Manufacturer's representatives, sales representatives and non-stocking distributors shall not be considered regular dealers for purposes of the rules under this Part.

(b) Documentation to substantiate a useful business function may include but not be limited to the following:

1. Executed purchase orders.
2. Paid invoices.
3. Executed contracts.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Amended 6-16-98,\_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.655 follows. See Florida Administrative Code for present text.)

40E-7.655 Certification Review Procedures.

(1) Upon receipt, all applications for MBE certification shall be given an initial screening to ensure appropriate signature and completeness. The application must bear the original signature of the minority owner who is submitting the application for review. If the application is submitted by means of a facsimile machine, the signature page of the application, with the original signature of the minority owner, must be submitted to the District within thirty (30) days of facsimile submission.

(2) Within sixty (60) days following initial receipt of the application, the District will request the applicant business to furnish omitted items or additional information. If all requested information or items are not received by the District within thirty (30) days from the date of the request, the District will deny the applicant business certification as a MBE.

(3) The on-site verification review may be conducted by the District upon receipt of the completed application. Failure to cooperate with the scheduling of the on-site review or during the on-site review shall result in the denial of the application.

(4) Applicants determined eligible shall receive a certification letter stating the length of time for which the business has been certified, the specialty areas of the business, the minority status categories in which the business is certified, and the business' responsibilities set out in Section 287.0943(1) & (2), F.S. Once certified, an applicant shall remain certified for a period of one (1) year unless otherwise revoked for cause. The District retains the right to reevaluate the certification of any business at any time.

(5) Applicants determined ineligible shall receive a letter stating the basis for the denial of certification and citing applicable rules and shall not be eligible to submit new applications until 180 days after the date of the notice of denial of certification or the District's final agency order denying certification.

Specific Authority 120.53, 120.54(1), 120.60(2), 373.607 FS. Law Implemented 120.53, 120.54(1), 120.60(2), 373.607 FS. History—New 9-25-96, Amended\_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.659 follows. See Florida Administrative Code for present text.)

40E-7.659 Graduation from M~~A~~WBE Program.

(1) Participation in the District's Program will be dependent upon the MBE's need for the affirmative procurement initiatives extended to MBE's under this Part. The MBE shall be graduated and shall not be eligible for continued participation in the affirmative procurement initiatives contained in the rules under this Part as a prime contractor if the business exceeds a net worth of \$5 million. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

(2) A MBE which is considered graduated under this section shall be counted towards prime contractor's goal attainment when utilized as a subcontractor or joint venture partner.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.661 follows. See Florida Administrative Code for present text.)

40E-7.661 Recertification Review Procedures.

(1) Applications for recertification shall be submitted using Form No. 0958, "Application for Recertification", which is hereby incorporated by reference and available from the District upon request.

(2) The District will notify MBEs no later than sixty (60) days before the end of the certification period. If the minority owner is unable to use the recertification affidavit because changes in the applicant's business have occurred, the minority owner shall notify the District in writing. Recertification requests must be filed in the District no later than the last effective date of the current certification period. Recertification requests received by the District after the expiration of the certification period shall be given a ten (10) day grace period. Recertification requests received by the District after the ten (10) day grace period will not be processed for a period of 90 days.

(3) Upon receipt, all recertification requests shall be given an initial screening to ensure appropriate signature and completeness. Within sixty (60) days following initial receipt of the applicant's recertification request, the District will request the applicant to furnish omitted or additional information. If the requested information or items are not received by the District within thirty (30) days from the date of the request, the District will deny the applicant recertification as a MBE.

(4) The on-site verification review may be conducted by the District upon receipt and review of the recertification request. Failure to cooperate with the scheduling of the on-site review or during the on-site review shall result in the denial of recertification.

(5) Recertification shall be granted when the applicant has complied with this rule and substantiates eligibility for MBE status.

(6) Applicants deemed eligible shall receive a recertification letter stating the length of time for which the business has been certified, the specialty areas of the business, and the minority status categories in which the business is certified. Once recertified, an applicant shall remain certified for a period of one (1) year unless otherwise revoked for cause. The District retains the right to reevaluate the certification of any business at any time.

(7) Applicants determined ineligible shall receive a letter stating the basis for the denial of recertification and shall not be eligible to submit a new application for 180 days after the date of the notice of denial of recertification or the District's final agency order denying recertification.

(8) If an application for recertification is timely submitted, a MBE shall remain certified until the District has made a determination concerning eligibility.

(9) Applicant businesses failing to submit the District recertification application as required by Subsection (1) of this section, shall not be considered certified immediately subsequent to the anniversary date of the last certification. Applicant businesses shall receive written notification of the expiration of prior certification.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History--New 9-25-96, Amended \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.664 follows. See Florida Administrative Code for present text.)

40E-7.664 Suspension, Debarment, Revocation or Decertification.

(1) Prior to suspending, debarment, revoking or decertifying a firm from the Program, the District shall inform the firm in writing by certified mail, return receipt requested, of the facts or conduct which warrant such action.

(2) Facts or conduct that could warrant suspension, decertification, or debarment include but are not limited to:

(a) Failure to meet qualifying criteria.

(b) Fraud, deceit, or misrepresentation for the purpose of obtaining MBE status.

(c) Refusal to permit on-site inspections.

(d) Failure to report changes in the status or activities of the business entity or its minority ownership which affects the MBE's eligibility for certification.

(3) The written notice issued by the District shall contain:

(a) The statutory provision(s) or rule(s) of the Florida Administrative Code which is alleged to have been violated;

(b) The specific facts or conduct relied upon to justify the suspension, debarment, revocation or decertification; and

(c) A statement that the firm has the right to file a request for an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, within 14 days of receipt of the notice.

(d) A statement that the suspension, debarment, revocation or decertification shall become conclusive and final agency action if no request for a hearing is filed within 14 days of receipt of the notice.

(4) All requests for a hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, shall be made in the form of a Petition in accordance with Chapter 28-106, Florida Administrative Code.

(5) If the firm fails to file a request for a hearing within the timeframes prescribed in Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code, the suspension, debarment, revocation or decertification shall become conclusive and final agency action.

Specific Authority 120.53, 373.607 FS. Law Implemented 120.53, 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.6645 follows. See Florida Administrative Code for present text.)

40E-7.6645 Penalties for Fraudulent M~~A~~WBE Representation.

Applicant businesses are advised that criminal penalties can be imposed under Section 775.082, Section 775.083, or Section 775.084, F.S., for fraudulent MBE representation. It is the intent of the District to notify the proper law enforcement agency in all such instances.

Specific Authority 373.607 FS. Law Implemented 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.665 follows. See Florida Administrative Code for present text.)

40E-7.665 Application for Additional Areas of Certification.

(1) Any business that is currently certified shall submit a written request when requesting certification as a MBE in additional specialty areas.

(2) Within sixty (60) days following initial receipt of the request, the District will request the applicant business to furnish omitted or additional information. If all the requested information or items are not received by the District within thirty (30) days from the date of the request, the District will deny the applicant business certification as a MBE in the requested additional specialty areas.

(3) The on-site verification review may be conducted by the District upon receipt and review of the request. Failure to cooperate with the scheduling of the on-site review or during the on-site review shall result in the denial of certification in the requested additional specialty areas.

(4) Certification in the additional specialty areas shall be granted when the applicant business has complied with this rule and substantiates eligibility for MBE status.

(5) Applicant businesses determined eligible shall receive a certification letter stating the length of time for which the business has been certified, all the specialty areas of the business, and the minority status categories in which the business is certified.

(6) Applicant businesses determined ineligible shall receive a letter stating the basis for the denial of certification in the additional specialty areas and shall not be eligible to submit a new application for certification for 180 days after the date of the notice of denial of certification or the District's final agency order denying certification. If a firm is denied twice within a

year the firm shall not be able to reapply for a period of one (1) year from the date of the second denial, or if appealed, the date of the decision to deny is upheld.

(7) Submittal of a request for certification in additional specialty areas shall not extend the applicant business' original certification period.

Specific Authority 120.53, 373.607 FS. Law Implemented 120.53, 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

(Substantial Rewording of Rule 40E-7.667 follows. See Florida Administrative Code for present text.)

40E-7.667 Administrative Hearings.

If an applicant business believes it has been wrongly denied certification or recertification as a MBE, the applicant business may file a request for hearing pursuant to Sections 120.569 and 120.57, F.S. in the form of a petition in accordance with Chapter 28-106, F.A.C. within 21 days of receipt of Notice of Denial of certification.

Specific Authority 120.53, 373.607 FS. Law Implemented 120.53, 373.607 FS. History—New 9-25-96, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jock Merriam, Deputy Executive Director, Corporate Resources

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 15, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 27, 2000

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Everglades Program	40E-63
RULE TITLES:	RULE NOS.:
Purpose and Policy	40E-63.400
Scope of Program	40E-63.401
Definitions	40E-63.402
Incorporation of Forms, Instructions and References	40E-63.404
Delegation	40E-63.406
Waivers	40E-63.410
No Notice General Permits	40E-63.415
BMP Plan Pre-approvals	40E-63.420
Permit Applications	40E-63.430
Permit Modifications, Transfers and Renewals	40E-63.432
Permit Duration	40E-63.434
Permit Application Processing Fees	40E-63.436
General Permit Application Requirements in the C-139 Basin	40E-63.440
Basis of Issuance of General Permits in the C-139 Basin	40E-63.442

Limiting Conditions for General Permits in the C-139 Basin 40E-63.444  
 Individual Permit Application Requirements in the C-139 Basin 40E-63.450  
 Basis for Issuance of Individual Permits in the C-139 Basin 40E-63.452  
 Limiting Conditions for Individual Permits in the C-139 Basin 40E-63.454  
 Optional Discharge Monitoring Program 40E-63.456  
 Limiting Conditions for the Optional Discharge Monitoring Program 40E-63.458  
 C-139 Basin Compliance 40E-63.460  
 C-139 Basin Works of the District Permit Compliance 40E-63.470

PURPOSE AND EFFECT: The purpose is to develop rules to implement the Everglades Forever Act (“EFA”), Section 373.4592(4)(f)5., Florida Statutes (F.S.), which specifies, “effective immediately, landowners within the C-139 Basin shall not collectively exceed an annual average loading of phosphorus . . . .” The proposed rules will establish the compliance methodology and compliance actions required by C-139 landowners if the phosphorus load limitation for the C-139 Basin is exceeded. The effect of the proposed rule will be potential enhancement of the downstream receiving water quality in accordance with the intent of the EFA.

SUMMARY: The proposed rules establish a compliance methodology for phosphorus load limitations for the C-139 Basin.

STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed revisions to Rule Chapter 40E-63, F.A.C., regarding the C-139 Basin required to comply with the Everglades Forever Act, are expected to impose additional costs on permittees and permit applicants required to comply with the new provisions. However, the District has included features limiting the magnitude of cost increases to those directly affected. These features include: 1. a point system for required BMPs, so that the permittees and applicants can select that mix of BMPs which most cost-effectively reduces phosphorous discharges given the individual’s particular circumstances; 2. the availability of an optional discharge monitoring program, as specified in proposed Sub-sections 40E-63.456 and 40E-63.458, F. A. C.

In addition, there is a variety of Federal, state, District, and local programs available to share the costs of water quality improvement measures implemented by permittees or permit applicants.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.4592 FS.

LAW IMPLEMENTED: 373.016, 373.451, 373.453, 373.4592 FS.

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

TIME AND DATE: 8:30 a.m., July 14, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: For technical questions, Pamela Sievers, P.E., Senior Supervising Engineer, Everglades Regulation Department, Environmental Resource Regulation Division, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6901 or (561)682-6901 (e-mail: psievers@sfwmd.gov); or for legal/administrative questions, Julie Jennison, Senior Legal Research Asst., 1(800)432-2045, Extension 6294 or (561)682-6294 (e-mail: jjennis@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 FULL TEXT OF THE PROPOSED RULES IS:

40E-63.400 Purpose and Policy.

(1) This Program is intended to implement the requirements of the Everglades Forever Act, sec. 373.4592(4)(f), F.S., for the C-139 Basin. The goals of this Program are as follows:

(a) To provide economically feasible best management practices for controlling phosphorus discharges from the C-139 Basin;

(b) To ensure that the annual total phosphorus load discharged by surface water from the C-139 Basin does not exceed the historic average annual total phosphorus load recorded during the baseline period of October 1, 1978, to September 30, 1988, adjusted proportionately for rainfall;

(c) To establish the responsibility of C-139 Basin landowners to achieve their proportional share of compliance with the phosphorus load limitations of this Program; and

(d) To discourage conversion of current and low intensity land uses to different and more phosphorus intensive land uses.

(2) This Program provides a reasonable method for the landowners to reduce phosphorus discharges from the C-139 Basin, and in conjunction with the Stormwater Treatment Areas (STAs), especially STA-5, provides a sound basis for the State of Florida’s long-term cleanup and restoration objectives for the Everglades.



(3) The landowners within the C-139 Basin shall not be required to implement any additional water quality improvement measures before December 31, 2006, as long as they continue to:

(a) Maintain compliance with the phosphorus load limitation provided in this Part IV of Chapter 40E-63, F.A.C.; and

(b) Comply with conditions of their associated permits; and

(c) Pay their required taxes pursuant to the Everglades Forever Act, Section 373.4592, F.S.

(4) Unless otherwise provided by this Part IV of Chapter 40E-63, F.A.C., nothing herein shall be construed to modify any existing state water quality standards, nor to otherwise restrict the authority granted to the District pursuant to Chapter 373.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New

#### 40E-63.401 Scope of Program.

(1) For the purposes of this rule, the Works of the District for the C-139 Basin include water control structures, right-of-ways, canals, and other water resources which the South Florida Water Management District owns, operates and controls, and that have been specifically named as Works of the District pursuant to Section 373.086, F.S. Works of the District for the C-139 Basin include G-136, G-150, G-151, G-152, G-406, G-342A, G-342B, G-342C, G-342D, L-1 Canal, L-2 Canal, L-3 Canal, and their open channel connections.

(2) Unless expressly exempted, all lands within the C-139 Basin are users of the Works of the District within the C-139 Basin, and as such must be granted a No Notice General Permit pursuant to the provisions of Rule 40E-63.415, F.A.C., or must obtain a General or Individual Permit pursuant to the provisions of Rules 40E-63.440 or 40E-63.450, F.A.C., respectively. The rules shall apply to existing and new releases of water to Works of the District within the C-139 Basin.

(3) Landowners in the C-139 Basin share responsibility for achieving phosphorus load limitations. The compliance program, as established in this Part, ensures that landowners are responsible for their proportional share of phosphorus load discharged from the C-139 Basin based upon their proportional share of acreage to the total C-139 Basin acreage.

(4) Permits issued under this Part do not eliminate or alter other applicable permit requirements for discharges that impact other water bodies, basins, or Works of the District, nor do they affect the permit requirements of other District regulatory programs.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New

#### 40E-63.402 Definitions.

(1) “C-139 Basin” means those lands described in the EFA, Section 373.4592(16), F.S.

(2) “Nutrient Management Plan (NMP)” means a plan, applicable to cattle operations, to manage the amount, source, placement, form, and timing of nutrient application to optimize yields and minimize the movement of nutrients to surface and ground waters that ultimately discharge off-site. A site management plan and budget for tracking phosphorus shall be developed. The plan shall consider all nutrient sources (including but not limited to soil residual, crop residual, animal residual, organic and chemical fertilizer, soil amendments and supplements, irrigation water quantity and timing, animal nutrient supplements) versus the required amounts of nutrients. The plan shall utilize testing, analysis, and agricultural industry standards to determine nutrient needs. At a minimum, the plan shall address the timing, placement and method of nutrient application; optimization of nutrient uptake; prevention of nutrient movement off-site; site descriptions such as aerial photographs, crop maps, and soil maps; and implementation plans and schedules; sediment control BMPs; pasture management BMPs; and water quality monitoring for input into the mass balance prepared for the phosphorus budget.

(3) “Discharge” means any surface water runoff from a land area generated by rainfall, irrigation, or seepage. Runoff may occur through a structure or may flow as uncontrolled discharge from a land area.

(4) “Improved Pasture” means grazing lands that are not in crop rotation and are planted primarily to introduced domesticated native forage species that receive periodic renovation and/or cultural treatments such as tillage, fertilization, mowing, and weed control.

(5) “Land Practice Change” means any change in the use of a parcel which is likely to result in significant changes to the scope or type of Best Management Practice specified in the permitted BMP Plan for the parcel, or in the effectiveness of the Best Management Practice specified in the permitted BMP Plan.

(6) “Parcel” means a contiguous land area under single ownership within the C-139 Basin usually represented by a single county property tax identification number.

(7) “Range/Native Range Pasture” means raw, unimproved, native pasture suitable for grazing and browsing of domestic livestock at least part of the year. Rangeland includes any natural grasslands, savannas, shrublands, woodlands and wetlands that support a vegetative cover of native grasses, grasslike plants, forbs, shrubs, or other natural species. It does not include improvements such as seeding or application of fertilizer and lime.

(8) “Semi-improved Pasture” means range pasture having some improvements such as webbing, chopping, or mowing which increase the grazing capacity of the land but does not include improvements such as seeding or application of fertilizer and lime.

(9) “Structure” means a structural device or hydrologic feature (e.g. culvert, pump, open connection, surface grading, ditch) through which water is ultimately discharged/directed from one or more parcels in a hydrologic drainage area to a receiving water.

(10) “Water Management System” means the collection of devices, improvements or natural systems whereby surface waters are conveyed, controlled, impounded, or obstructed.

(11) “Water Year” means any 12-month period beginning on May 1 and ending on the following April 30.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New \_\_\_\_\_.

#### 40E-63.404 Incorporation of Forms, Instructions and References.

(1) South Florida Water Management District Form 1045, dated August 2001, entitled, “Application For A C-139 Basin Works Of The District Permit”.

(2) “Appendix B1 – BMP Equivalent Points Table”, dated August 2001, and including Best Management Practices for controlling the movement of phosphorus off-site in discharges through nutrient control practices, water management practices, particulate matter and sediment control practices, and pasture management practices.

(3) “Appendix B2 – C-139 Basin Compliance”, dated August 2001, and setting forth the procedures the District will follow to determine whether the C-139 Basin is in compliance with the applicable phosphorus load limitation set forth in this Part IV of Chapter 40E-63, F.A.C., and the process that the District will follow if the C-139 Basin is determined to be out of compliance.

(4) “Appendix B2.1 – FORTRAN Program for Calculating C-139 Basin Flows and Phosphorus Loads”, dated August 2001.

(5) “Appendix B2.2 – Flow Computation Methods Used to Calculate C-139 Basin Flows”, dated August 2001, providing applicable mathematical methods for calculating flow rates through water management structures.

(6) “Appendix B3 – Permittee Phosphorus Load Determination Based on the Optional Discharge Monitoring Plan”, dated August 2001, setting forth the procedures the District will follow to calculate a permittee's proportional share of phosphorus load in order to determine eligibility for release from implementation of additional BMPs when the permittee has elected to implement the optional discharge monitoring plan and the C-139 Basin is out of compliance.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New \_\_\_\_\_.

#### 40E-63.406 Delegation.

(1) The Governing Board delegates to and appoints the Executive Director and his or her designated agents to review and take final action on BMP Plan pre-approvals, applications to modify or transfer existing Individual Permits and all applications for General Permits issued under Chapter 40E-63, F.A.C., except when the staff recommendation is for denial of such applications.

(2) All recommendations for denial and all other applications regarding Individual Permits (new or renewals) shall be considered by the Governing Board.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New \_\_\_\_\_.

#### 40E-63.410 Waivers.

Any landowner in the C-139 Basin, as described in EFA, Section 373.4592(16), F.S., may submit evidence to the District demonstrating that the water discharged from such property does not use the Works of the District within the C-139 Basin and request a written waiver from the requirements of this Chapter pursuant to Chapter 28-104.002, F.A.C., and Chapter 120.542, F.S.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New \_\_\_\_\_.

#### 40E-63.415 No Notice General Permits.

(1) A No Notice General Permit for Use of Works of the District within the C-139 Basin is hereby granted for parcels of land that connect to or make use of the Works of the District within the C-139 Basin, subject to the requirements of Part IV of this Chapter, including Rule 40E-63.444(1)(e), (f), (g), and (i), F.A.C., and the conditions specified below:

(a) The land is not subject to the agricultural privilege tax, pursuant to the EFA, Section 373.4592(7)(a), F.S.; and

(b) The land is served by a properly permitted and operated surface water management system (Environmental Resource Program, ERP, or Surface Water Management Permit, SWM).

(2) No Notice General Permits for Use of Works of the District within the C-139 Basin granted upon adoption of Part IV remain effective for 5 year periods and shall be automatically renewed unless the District notifies a permittee in writing that the permit is revoked.

(3) In the event the C-139 Basin is determined to be out of compliance a fourth time, in accordance with Appendix B2 of Chapter 40E-63, F.A.C, the District shall revoke the No Notice General Permit and initiate rulemaking pursuant to Chapter 120, F.S., to revise this Chapter to ensure that the objectives of the EFA, Section 373.4592(4)(f)5., F.S., are met. Notification shall be by certified mail.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New \_\_\_\_\_.

40E-63.420 BMP Plan Pre-approvals.

(1) In order to begin implementation as soon as possible, the proposed plan for the initial BMPs shall be submitted by the permittee for written pre-approval from the District. This will allow the permittee to initiate implementation of the approved BMP plan prior to the completion of the administrative review and processing of the permit application.

(2) A Level I BMP Plan, as described in Appendices B1 and B2, shall be submitted to the District for approval within 30 days of the effective date of Part IV of this Chapter. Failure to provide a complete Level I plan within the 30 days shall not justify a corresponding delay for full implementation of the plan.

(3) The District shall make a final determination on the Level I BMP Plan within 10 days of receipt of a complete plan.

(4) Implementation of Level I BMPs shall be initiated within 45 days and fully implemented within 90 days of the effective date of Part IV of this Chapter.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New \_\_\_\_\_.

40E-63.430 Permit Applications.

(1) Applications for Works of the District Permits, including General Permits pursuant to Section 40E-63.440, F.A.C., and Individual Permits pursuant to Section 40E-63.450, F.A.C., shall be submitted to the District within 45 days of the effective date of this Part IV of Chapter 40E-63, F.A.C., and shall be made using Form 1045.

(2) Landowners, lessees or operators of a parcel or parcels may submit applications for Works of the District Permits. A lessee or operator may submit an application provided the lease (or equivalent contract) is in writing and reasonable assurance is provided that the lessee/operator has the capability of implementing and complying with the BMP Plan and other permit conditions.

(3) All General or Individual Permit applications shall include the following:

(a) A clear delineation of the area and acreage contained in the permit application, including a map which is correlated with a list of all parcel owners, operators, and lessees with tributary discharge water and county tax identification numbers.

(b) Copies of existing contracts, agreements, or equivalent regarding use or operation of the property or control structure between the entity responsible for operation and the parcel owners included in the application, where applicable.

(c) A list of all existing and pending District permits for the application area and their status.

(d) A completed copy of Form 1045, entitled “Application for a C-139 Basin Works of the District Permit”.

(e) All of the information necessary to satisfy the Basis for Issuance, including information as specified in the application Form 1045 and the Guidebook.

(4) If activities proposed in the permit application submitted pursuant to Part IV of this rule will affect water management systems or activities regulated pursuant to other rules (e.g. Surface Water Management, Environmental Resource Permit, Consumptive Water Use, Well Construction, Right-of-Way, or Lake Okeechobee SWIM) then the Applicant shall also submit applications for new permits or modifications to existing permits, as appropriate.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History–New \_\_\_\_\_.

40E-63.432 Permit Modifications, Transfers and Renewals.

(1) A permittee may apply for a modification to an existing Works of the District Permit issued under this Part IV of Chapter 40E-63, F.A.C., unless the permit has expired or has been otherwise revoked or suspended. An application for modification will not be processed as a complete application as long as the permit is not in compliance with applicable permit conditions, unless the permit modification is required to bring the permit into compliance. Modifications will be evaluated based on the criteria in effect at the time the application to modify is submitted. Permit modifications shall be subject to the following requirements and limitations:

(a) Applications to modify an existing Works of the District Permit shall contain the same information required in a new application, as applicable, and shall identify the portion of the existing authorization for which the modification is requested.

(b) Modifications to existing permits are acknowledged and approved by letter with an accompanying Permit Review Summary (Staff Report) from the District through correspondence to the permittee.

(2) A permittee shall notify the District within 30 days of any transfer, sale or conveyance of land or works permitted under Part IV of Chapter 40E-63, F.A.C. to allow time for processing the application for permit transfer. The permittee remains responsible for the requirements of the permit until the permit is transferred. A permittee or transferee may apply for a permit transfer, conveying responsibility for permit compliance. If the permit is not transferred within 90 days of the sale or conveyance of the property, the permit will become nontransferable and the transferee will be required to apply for a new permit. Permit transfers shall be subject to the following requirements and limitations:

(a) Applicants for permit transfers must use the appropriate Sections of Form 1045 and include the appropriate transfer fees.

(b) The District will transfer the permit only if the land practice remains the same and the permittee is in compliance with all conditions of the permit.

(c) All conditions of the existing permit will remain applicable to the new permittee.

(d) Any other changes or additions will require a permit modification in accordance with Rule 40E-63.432(1), F.A.C.

(3) A permittee shall apply for a permit renewal prior to the expiration of an existing permit, subject to the following requirements and limitations:

(a) Applications for renewals must contain all information required for new applications and will be evaluated based on the criteria in effect at the time the application is filed.

(b) Permit renewals will be effective for 5 years from the date of issuance.

(c) When timely application is made for a modification or renewal, the existing permit shall not expire until final agency action is taken by the District on the application. If the permit is denied or the pending approved permit conditions are modified from the previous issuance, the existing permit shall not expire until the last day for seeking review of the District order, or until any resulting legal proceedings are completed.

(d) If the permittee allows the permit to expire prior to applying for a permit renewal, an application for a new permit shall be required.

(4) Permit duration will not be affected by permit transfers or modifications of existing permits issued pursuant to this Part.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.434 Permit Duration.

Pursuant to the EFA, Section 373.4592(4)(f)2., F.S., new permits or permit renewals issued pursuant to this Part are valid for a 5-year term, unless:

(1) The permit is automatically terminated at the expiration of the permittee's lease or contract (where the permittee is the lessee or equivalent) that authorized the permittee to control operations (and permit compliance) on the permitted land; or

(2) The permit is otherwise modified by enforcement actions pursuant to Rule 40E-63.470(1), F.A.C.; or

(3) The permit is otherwise renewed pursuant to Rule 40E-63.432(3), F.A.C.; or

(4) The permit is extended through an administrative continuance in accordance with Chapter 120, F.S., for the purpose of rulemaking.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.436 Permit Application Processing Fees.

(1) The following permit application processing fees shall be paid to the District at the time the permit applications are filed.

Permit Type	New	Renewal	Modification	Transfer
General Permit	\$250	\$250	\$100	\$100
Individual Permit	\$1880	\$1880	\$500	\$100

(2) Without the proper fee, the application shall be considered incomplete and will result in denial of the application if the fee is not paid upon notice.

(3) Notwithstanding the table above, no fees shall be charged for clerical modifications that do not alter the Best Management Practices Plan or monitoring requirements of the underlying permit.

(4) In cases where more than one permit application type applies, the application shall be submitted as the permit type with the higher application fee.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.440 General Permit Application Requirements in the C-139 Basin.

(1) General Permit applications shall be submitted by a single operating entity (a single owner, operator, or lessee of all parcels identified in the permit) that is responsible for implementing the BMP Plan for all lands specified within the permit.

(2) Applications for General Permits shall contain all of the following:

(a) Date, signature and title of an individual landowner, lessee or other single operating entity submitting the application;

(b) Information which demonstrates that the applicant possesses the authority and ability to carry out all acts necessary to implement the terms and conditions of the permit, including, at a minimum:

1. A description of the legally responsible entity, and copies of recorded deeds, contracts, leases, property tax record of ownership, or other evidence of ownership or authority; and

2. Written contracts or agreements with landowners, lessees or other entities indicating their consent and intent to comply with the permit and specifying the terms of participation, where applicable.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.442 Basis for Issuance of General Permits in the C-139 Basin.

In order to obtain a General Permit, applicants must submit and implement a BMP Plan which includes a multi-level approach to implementation and operation including the following:

(1) A Best Management Practice Plan based on selection of BMPs specifically listed in Appendix B1 of Chapter 40E-63, F.A.C., for each crop or land use within each hydrologic drainage area described within the permit. The BMP Plan shall propose:

(a) A total of 15 BMP points for initial implementation (herein after referred to as a "Level I" BMP Plan).

(b) The continued implementation of a Level I BMP Plan, for the first time the C-139 Basin is determined to be out of compliance (herein after referred to as "Level II").

(c) An additional 10 BMP points for a total 25 BMP points to be implemented the second time the C-139 Basin is determined to be out of compliance (herein after referred to as "Level III"), and

(d) An additional 10 BMP points for a total of 35 points to be implemented the third time the C-139 Basin is determined to be out of compliance (herein after referred to as "Level IV").

(2) A description of Best Management Practice rationale for those selected, where appropriate;

(3) An education and training program, for the management and operation staff responsible for implementing and monitoring the approved BMP Plan, arranged by the permittee or other educational resources;

(4) A description of records and documentation to be maintained on-site to verify BMP implementation, as described in the post-permit compliance section, Appendix C of the Guidebook on the form entitled "C-139 Basin Annual Report – Certification of BMP Implementation"; and

(5) A BMP Plan implementation schedule that includes at minimum the initial BMPs being fully implemented within 90 days of the effective date of this Part IV of Chapter 40E-63, F.A.C. The 90-day implementation period may be exceeded if the following conditions are met:

(a) The BMP Implementation delay is because a new permit or a modification of an existing permit is required pursuant to Chapters 40E-4, 40E-40, and/or 40E-400, F.A.C., to construct the BMP; and

(b) The SWM/ERP permit applications have been submitted to the District pursuant to Chapters 40E-4, 40E-40, and/or 40E-400, F.A.C.; and

(c) Other approved BMPs, as defined in Appendix B-1, that are not subject to further regulatory review pursuant to sections 5(a) and (b) above, will be implemented until the BMP proposed under the application described in (a) and (b) above is operational.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History—New

40E-63.444 Limiting Conditions for General Permits in the C-139 Basin.

(1) All of the following standard limiting conditions (a) through (j) shall be attached to all General Permits:

(a) The permittee shall implement all elements and requirements of the approved BMP Plan according to schedule, including documentation of implementation, operation, and rationale where applicable.

(b) The permittee shall submit to the District an annual report certifying BMP implementation in accordance with the permit. The first report is due February 1, 2002, and annually thereafter. Failure to submit the report by February 1, will result in onsite verification of BMP implementation by District staff or the requirement for the permittee to submit a detailed report documenting implementation of the approved BMP Plan

for the previous calendar year. Failure to submit the required annual report or provide documentation of BMP implementation by April 30 of each year will result in revocation of the General Permit. If the permit is revoked, the permittee shall be required to apply for a new Individual Permit and shall be subject to enforcement under Rule 40E-63.470(1), F.A.C.

(c) The permittee shall allow District staff and designated agents reasonable access to the permitted property at any time to verify compliance with the rule and the permit. Since it is not possible to predict precisely when discharges will occur or problems will arise resulting in the need for a site visit, the District may not be able to provide a lengthy period of notice to the designated person in advance of a visit. However, at a minimum, the District will provide notice at least 24 hours prior to a site visit for verifying Best Management Practice installation or operation.

(d) The permittee shall notify the District in writing within 30 days of any:

1. Significant change in land practice, as described in Rule 40E-63.402(6), F.A.C.; or

2. Change in the approved BMP Plan for the permitted parcel; or

3. Transfer, sale or conveyance of land or works described in the permit.

(e) This permit does not relieve the permittee of the responsibility to comply with all other laws or regulations applicable to the use of or discharges from the parcel.

(f) This permit does not convey to the permittee any property right nor any rights or privileges other than those specified in the permit.

(g) This permit does not relieve the permittee from liability from harm or injury to human health or welfare; animal, plant or aquatic life; or property.

(h) The surface water management and monitoring system must be effectively operated and maintained in accordance with the Environmental Resource/Surface Water Management Permit. Any changes in drainage, land use or operations that could affect the BMP Plan or water quality of the discharge must be reported in writing to the District.

(i) The permitted discharge shall not otherwise be harmful, or adversely affect proper use and operation of the Works of the District.

(j) The C-139 Basin is required to achieve compliance with the phosphorus load limitation requirement as specified in Appendix B2 (C-139 Basin Compliance) of Chapter 40E-63, F.A.C.

(2) In the event that the District determines that any participant in a General Permit is not complying with the specific terms and conditions of the General Permit, the District may institute enforcement proceedings against the Permit holder, the landowner, or both, as applicable pursuant

to Rule 40E-63.460, F.A.C. If additional specific conditions become necessary, the District shall also require the Permit holder to apply for an Individual Permit.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.450 Individual Permit Application Requirements in the C-139 Basin.

(1) An applicant shall apply for an Individual Permit if the applicant is proposing:

(a) A discharge monitoring program, pursuant to Rule 40E-63.456, F.A.C.;

(b) A BMP not described in Appendix B1 of Chapter 40E-63, F.A.C.; or

(c) A BMP implementation schedule that exceeds 90 days, unless the situation qualifies for an exception as described in Rule 40E-63.442(6), F.A.C.

(2) An Individual Permit may be issued to any operating entity or entities, owners, or lessees of all parcels identified in the permit that are singly or collectively responsible for implementing the BMP Plan for all lands specified within the permit, as applicable.

(3) Applications for Individual Permits shall contain all of the following:

(a) Date, signature, title and authority of the entity submitting the application;

(b) For each participant, information that demonstrates that the participant possesses the legal, financial, and institutional (as applicable) authority and ability to carry out all acts necessary to implement the terms and conditions of the permit, including, at a minimum:

1. A description of the legally responsible entity or cooperating group of landowners, and copies of enabling legislation, articles of incorporation, interlocal agreements, landowner agreements, recorded deeds, contracts, leases, property tax record of ownership or other evidence of ownership or authority;

2. Completed and signed Certificates of Participation indicating the participant's consent and intent to participate in the Permit; and

3. Written contracts or agreements with participants indicating their consent and intent to participate and specifying the terms of participation, as applicable.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.452 Basis for Issuance of Individual Permits in the C-139 Basin.

(1) In order to obtain an Individual Permit, applicants must submit and implement a BMP Plan which includes a multi-level approach to implementation and operation including the following:

(a) A description of a Best Management Practice Plan, including implementation and operation, with consideration of BMPs described in Appendix B1 of Chapter 40E-63, F.A.C. The BMP Plan shall propose a total of 35 points at Levels as described in Rule 40E-63.442(1)(a) through (d), F.A.C.;

(b) A description of Best Management Practice rationale for those selected, where appropriate. If BMPs not listed in Appendix B1 of Chapter 40E-63, F.A.C., are proposed, provide an explanation for why the BMPs in the Appendix are not suitable for implementation. If an application includes proposed BMPs not listed in Appendix B1 of Chapter 40E-63, F.A.C., the application shall also include the following:

1. An explanation of the proposed BMP;

2. A schedule for implementation of the BMP;

3. Sample documentation of the BMP implementation; and

4. Other information providing a basis for the effectiveness of the proposed BMP (This may be verified through a proposed monitoring program or by reference to applicable research data).

(2) Applicants for an Individual Permit must also submit all of the information required by Subsections 40E-63.442(3) through (5), F.A.C. If the proposed implementation schedule is anticipated to take longer than 90 days, justification must be provided and accepted by the District.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.454 Limiting Conditions for Individual Permits in the C-139 Basin.

(1) The Board shall impose on any Individual Permit granted under this Part IV of Chapter 40E-63, F.A.C., such reasonable conditions as are necessary to assure that the permitted discharge will be consistent with the overall objectives of the District and will not be harmful to the water resources of the District.

(2) In addition to special conditions, all of the following standard limiting conditions (a) through (c) shall be attached to all Individual Permits:

(a) All conditions required by Subsections 40E-63.444(1)(a) through (j), F.A.C. (Limiting Conditions for General Permits in the C-139 Basin).

(b) Legal entities or groups of cooperating owners or operators responsible for implementing an Individual Permit shall remain legally and financially capable of performing their responsibilities required by the permits issued pursuant to this Section.

(c) If the District determines that any participant in an Individual Permit is not complying with the specific terms and conditions of the Individual Permit, the District will institute enforcement proceedings against either the Individual Permit holder, the participant, or both.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.456 Optional Discharge Monitoring Program.

(1) Permittees may elect to participate in an optional discharge monitoring program, and shall be subject to individual compliance evaluations, including:

(a) Compliance with permit conditions, in accordance with Rule 40E-63.470(1), F.A.C.;

(b) Compliance with Level I requirements to implement 15 BMP points;

(c) Compliance with Level II requirements to continue implementation of Level I BMPs and undergo BMP inspections; and

(d) Alternative, site-specific evaluations of compliance with phosphorus load targets and limits when the C-139 Basin is collectively required to implement Level III or Level IV BMP requirements.

(2) Applicants proposing to implement the optional discharge monitoring program, must provide the following information:

(a) An acceptable discharge (quantity and quality) monitoring plan that provides reasonable assurance that annual water discharge and total phosphorus load are accurately documented. A plan that includes the items specified in the application Form 1045 generally provides reasonable assurance, but other alternatives may be proposed by the applicant and authorized by the District; and

(b) A schedule to install equipment and implement the monitoring plan no later than 30 days after issuance of the permit.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.458 Limiting Conditions for the Optional Discharge Monitoring Program.

For those applicants proposing to implement the optional discharge monitoring program, all of the following conditions shall be attached to the Individual Permit:

(1) Those conditions listed under Rule 40E-63.454, F.A.C.; and

(2) The following additional conditions:

(a) The approved discharge monitoring plan shall be incorporated by reference and made part of this permit.

(b) Within 30 days of the permit issuance date, the permittee shall contact the District to verify that installation of the monitoring equipment is complete and to schedule an inspection.

(c) The permittee shall implement the discharge monitoring plan in accordance with the permit and shall submit to the District any proposed modification of the plan by submitting an application to modify the permit for review and approval prior to implementation.

(d) The location of sample collection shall be such that water sampled is representative of all water that discharges off site through the structure being monitored.

(e) All water quality sample collection, preservation, handling, transport, and chain-of-custody documentation shall be conducted in accordance with an approved Comprehensive Quality Assurance Plan as specified in the approved discharge monitoring plan. All laboratory analyses shall be conducted by a laboratory with proper certification for the specified parameter (e.g. phosphorus).

(f) In the event that water quality automatic sampling equipment becomes inoperable for any reason, grab samples shall be temporarily taken on a daily basis during flow events and composited for a maximum of 14 days for total phosphorus analysis. Reasonable effort must be made to render the automatic sampling equipment operable within 14 days.

(g) Monitoring conditions may be reduced or adjusted upon submission of data and/or studies that provide the basis for such, reasonably demonstrating that equivalent data will be obtained with the reduction or adjustment in monitoring.

(h) The District will provide at least one week notice to the permittee of the intent to conduct a quality assurance field audit of the sampling collection procedures.

(i) The water quantity and quality data shall be submitted to the District in a timely manner and in a consistent electronic format. Water quantity data shall be submitted to the District in proper electronic format on a monthly basis. Water quality data shall be submitted to the District in accordance with timeframes as specified in Special Limiting Conditions of the permit.

(j) All flow quantity discharged from the property shall be calculated using a method proposed by a Florida-registered Professional Engineer in a Calibration Report approved by the District. A Calibration Report shall be required for each pump, culvert or other discharge structure. Each Calibration Report shall contain at a minimum: data collection methodology, instrumentation and procedures; the actual field data collected; the basis for the full operating range represented by the data; the methodology for development of the calibration equation; operational information needed to calculate flow with a temporary backup methodology to be used if the primary equipment becomes inoperable; and the final calibration equation and primary method for calculating the flow. Any modification to the approved calibration shall require an application to modify the existing permit application.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New

40E-63.460 C-139 Basin Compliance.

(1) Landowners within the C-139 Basin shall not collectively exceed the annual average loading of phosphorus computed in accordance with the EFA, Section 393.4592(4)(f)5., F.S., and based proportionately on the historical rainfall for the basin as calculated pursuant to

Appendix B2 of Chapter 40E-63, F.A.C. "C-139 Basin" compliance will be determined by the District as specified in Appendix B2 (C-139 Basin Compliance) of Chapter 40E-63, F.A.C. The District will make the compliance determination and publish the results annually.

(2) In accordance with Appendix B2 the District shall continue collecting monitoring data from the C-139 Basin for the purpose of determining compliance with the phosphorus load limitation requirement. When the District periodically evaluates the collected monitoring data to assess the general trend in phosphorus load, the evaluation shall be included in an annual report.

(3) If the C-139 Basin is determined to be in compliance with the phosphorus load limitation requirement, permittees in the C-139 Basin shall not be subject to compliance and enforcement action by the District in regard to achievement of the phosphorus load limitation requirement so long as the C-139 Basin remains in compliance.

(4) If the C-139 Basin is determined to be out of compliance with the phosphorus load limitation requirement calculated in accordance with Appendix B2 of Chapter 40E-63, F.A.C., the District shall provide written notice to the C-139 Basin landowners. The District shall attempt to transmit the written notices by July 1 of any year the C-139 Basin is determined to be out of compliance. The notices shall describe the permittee's required actions as follows:

(a) First Time Out of Compliance – Continued implementation of the initial 15 points in the permitted BMP Plan and preparation for the District's on-site verification of BMP implementation;

(b) Second Time Out of Compliance – Implementation of a total of 25 points in the permitted BMP Plan (the initial 15 points and 10 additional points) and continued on-site verification of implementation by District staff;

(c) Third Time Out of Compliance – Implementation of a total of 35 points in the permitted BMP Plan (the initial 15 points, the second 10 points, and 10 additional points) and continued on-site verification of implementation by District staff.

(d) Fourth Time Out of Compliance – Initiation of rulemaking by the District, pursuant to Chapter 120, F.S., to revise this Chapter to ensure that the objectives of the EFA, Section 373.4592(4)(f)5., F.S., are met.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History—New \_\_\_\_\_.

#### 40E-63.470 C-139 Basin Works of the District Permit Compliance.

(1) The District is authorized to seek any enforcement or corrective action available under Florida law for permittees out of compliance with the provisions of this Chapter, pursuant to Chapter 373, F.S., and rules adopted thereunder, as follows:

(a) The District shall begin reviewing "permit compliance" with Best Management Practice implementation, documentation, and operation by permittees in the C-139 Basin no later than February 1, 2002 (the deadline for submitting the first "C-139 Basin Annual Report – Certification of BMP Implementation").

(b) All landowners who are not in compliance with their permit are subject to notification and enforcement actions by the District.

(c) All permittees who receive notice of non-compliance with their permit from the District must submit to the District, within 10 business days of receipt of the notice, a plan and schedule for achieving permit compliance within 60 days after transmittal of the District notice.

(2) If the C-139 Basin is determined to be out of compliance, permittees shall implement additional BMPs as follows:

(a) Permittees that do not propose to change their permitted BMP Plan shall submit to the District, within 15 days of transmittal of the written notification of out-of-compliance, confirmation that the next level of the approved BMP plan will be initiated within 45 days of receipt of the notification of out-of-compliance. Complete implementation of the BMPs shall be within 90 days of the District's transmittal of the notice that the C-139 Basin is not in compliance.

(b) Permittees that propose to revise the permitted BMP Plan shall:

1. Submit to the District within 15 days of transmittal of the written notification of out-of-compliance, the page entitled "C-139 Basin BMP Plan" of Form 1045 with proposed changes in BMPs and/or implementation schedules. The District shall provide pre-approval of the BMP Plan within 10 days of receipt of a complete plan, as applicable. Failure to provide a complete revised BMP Plan within 15 days shall not justify a corresponding delay of the date on which a permittee is required to implement the revised BMP Plan.

2. The implementation of the BMP Plan shall be initiated by the permittee within 45 days of the transmittal of the notification of out-of-compliance by the District.

3. The permittee's notice to the District to change the previously permitted BMP Plan shall be followed by submittal of the application for a modification to the existing Permit within 45 days of transmittal of the notice that the C-139 Basin is out of compliance. The application shall include all elements specified in Rule 40E-63.440 or 40E-63.450, F.A.C., as applicable; or explain why an omitted element is not relevant to evaluation of the revised plan. The modification shall propose a BMP implementation schedule that calls for complete implementation of the specified Level within 90 days of the District's transmittal of the notice that the C-139 Basin is out of compliance. Upon justification by the permittee, the



implementation schedule may be increased as a condition of the permit for Individual Permits only. Permittees shall make good faith efforts to provide complete revised BMP Plans.

4. Permittees who fail to complete the implementation of BMPs according to the approved implementation schedule, as verified by site visits and records review, shall be subject to enforcement action pursuant to Rule 40E-63.470(1), F.A.C.

(c) Permittees implementing an approved Optional Monitoring Program and meeting their compliance requirements will not be required to implement additional BMPs.

(3) If the C-139 Basin does not achieve the phosphorus load limitation requirement, by the water year following the determination that the basin was out of compliance, the District shall repeat the procedures specified in Rule sections 40E-63.460(4), F.A.C. above, and seek corrective action as appropriate, including those set forth in Appendix B2 of Chapter 40E-63, F.A.C., against all landowners and permittees within the C-139 Basin.

(4) If a permittee is authorized to implement an optional discharge monitoring plan, pursuant to Rules 40E-63.456 and 40E-63.458, F.A.C., the permittee may make a written request to the District for a release of Level III and/or IV BMPs. Upon receipt of the written request, the District shall individually evaluate the permittee's compliance. This evaluation shall compare the data collected pursuant to the optional discharge monitoring plan with the permittee's proportional share of the C-139 Basin's phosphorus load targets and limits, as calculated in accordance with Appendix B.3. Permittees with an approved optional discharge monitoring plan, that have made the written request, shall not be required to implement additional BMPs solely because the C-139 Basin is collectively out of compliance with Rule 40E-63.460, F.A.C. and Appendix B2.

Specific Authority 373.044, 373.113, 373.4592 FS. Law Implemented 373.016, 373.451, 373.453, 373.4592 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sharon Trost, Director, Everglades Stormwater Program Department

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 19, 2000, July 7, 2000, August 4, 2000

**DEPARTMENT OF ELDER AFFAIRS**

**Federal Aging Programs**

RULE TITLE:  
Program Forms

RULE NO.:  
58A-1.010

PURPOSE AND EFFECT: An amendment to rule 58A-1.010, F.A.C., Program Forms, is proposed creating subsection (3) which identifies revised DOEA Forms 203A, Care Plan, and 203B, Care Plan Instructions, dated July 2001, which will be incorporated by reference therein.

SUMMARY: For the purpose of documenting planned services of care, the Program Forms rule is amended to identify and incorporate by reference a revised care plan form and its instructions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 430.08, 430.101 FS.

LAW IMPLEMENTED: 20.41, 430.101 FS.

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

TIME AND DATE: 10:00 a.m., Monday, July 2, 2001

PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Dunn, Office of the General Counsel, (850)414-2000, Sharlene Davis or Mary Hodges, Division of Statewide Home and Community-Based Services, (850)414-2108, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000

THE FULL TEXT OF THE PROPOSED RULE IS:

58A-1.010 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

(1) through (2) No change.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July 2001.

Specific Authority 430.08, 430.101 FS. Law Implemented 20.41, 430.101 FS. History--New 8-20-00, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Marshall Kelley, Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gema G. Hernandez, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 14, 2000 and April 27, 2001

**DEPARTMENT OF ELDER AFFAIRS**

**Community Care for the Elderly**

RULE TITLE: Program Forms  
 RULE NO.: 58C-1.008

PURPOSE AND EFFECT: An amendment to Rule 58C-1.008, F.A.C., Program Forms, is proposed creating subsection (3) which identifies revised DOEA Forms 203A, Care Plan, and 203B, Care Plan Instructions, dated July 2001, which will be incorporated by reference therein.

SUMMARY: For the purpose of documenting planned services of care, the Program Forms rule is amended to identify and incorporate by reference a revised care plan form and its instructions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 430.08, 430.203-.205 FS.

LAW IMPLEMENTED: 430.201-.207 FS.

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

TIME AND DATE: 10:00 a.m., Monday, July 2, 2001

PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Dunn, Office of the General Counsel, (850)414-2000, Sharlene Davis or Mary Hodges, Division of Statewide Home and Community-Based Services, (850)414-2108, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000

THE FULL TEXT OF THE PROPOSED RULE IS:

58C-1.008 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

(1) through (2) No change.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July 2001.

Specific Authority 430.08, 430.203-.205 FS. Law Implemented 430.201-.207 FS. History—New 8-20-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marshall Kelley, Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gema G. Hernandez, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 14, 2000, and April 27, 2001

**DEPARTMENT OF ELDER AFFAIRS**

**Alzheimer's Disease Initiative**

RULE TITLE: Program Forms  
 RULE NO.: 58D-1.007

PURPOSE AND EFFECT: An amendment to Rule 58D-1.007, F.A.C., Program Forms, is proposed creating subsection (3) which identifies revised DOEA Forms 203A, Care Plan, and 203B, Care Plan Instructions, dated July 2001, which will be incorporated by reference therein.

SUMMARY: For the purpose of documenting planned services of care, the Program Forms rule is amended to identify and incorporate by reference a revised care plan form and its instructions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 430.08, 430.501-.503 FS.

LAW IMPLEMENTED: 430.501-.504 FS.

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

TIME AND DATE: 10:00 a.m., Monday, July 2, 2001

PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Dunn, Office of the General Counsel, (850)414-2000, Sharlene Davis or Mary Hodges, Division of Statewide Home and Community-Based Services, (850)414-2108, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000

THE FULL TEXT OF THE PROPOSED RULE IS:

58D-1.007 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

(1) through (2) No change.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July 2001.

Specific Authority 430.08, 430.501-.503 FS. Law Implemented 430.501-.504 FS. History—New 8-20-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marshall Kelley, Division Director
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gema G. Hernandez, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 14, 2000 and April 27, 2001

DEPARTMENT OF ELDER AFFAIRS

Home Care for the Elderly

RULE TITLE: Program Forms
PURPOSE AND EFFECT: An amendment to Rule 58H-1.009, F.A.C., Program Forms, is proposed creating subsection (3) which identifies revised DOEA Forms 203A, Care Plan, and 203B, Care Plan Instructions, dated July 2001, which will be incorporated by reference therein.

RULE NO.: 58H-1.009

SUMMARY: For the purpose of documenting planned services of care, the Program Forms rule is amended to identify and incorporate by reference a revised care plan form and its instructions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None prepared.

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

SPECIFIC AUTHORITY: 430.08, 430.603 FS.

LAW IMPLEMENTED: 430.601-.608 FS.

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

TIME AND DATE: 10:00 a.m., Monday, July 2, 2001

PLACE: Department of Elder Affairs, Conf. Room 225F, 4040 Esplanade Way, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pat Dunn, Office of the General Counsel, (850)414-2000, Sharlene Davis or Mary Hodges, Division of Statewide Home and Community-Based Services, (850)414-2108, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000

THE FULL TEXT OF THE PROPOSED RULE IS:

58H-1.009 Program Forms.

The following forms shall be used for programs regulated by this chapter, are hereby incorporated by reference, and are available in the Office of the Secretary and at each Area Agency on Aging:

- (1) through (2) No change.

(3) For purposes of documenting planned services of care: DOEA Forms 203A, Care Plan, and 203B, instructions dated July 2001.

Specific Authority 430.08, 430.603 FS. Law Implemented 430.601-.208 FS. History--New 8-20-00, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marshall Kelley, Division Director
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gema G. Hernandez, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2001
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 14, 2000 and April 27, 2001

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLE: Statement of Authority
RULE NO.: 61G4-15.002

PURPOSE AND EFFECT: The Board proposes to modify this rule to allow applicants who are qualifying corporations to engage in contracting to use an alternative method with which to provide a statement of authority establishing the applicant has the authority to legally bind the corporations, similar to that language in the existing rule providing the same method in the case of joint venture, business trusts and other legal business organizations.

SUMMARY: This rule is being amended in order to allow an alternative method to legally bind corporations to applications submitted on their behalf.

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

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

SPECIFIC AUTHORITY: 489.108 FS.

LAW IMPLEMENTED: 489.105(4), 489.119, 489.1195 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marlene Gundy, Interim Executive Director, Construction Industry Licensing Board, 7960 Arlington Expressway, Suite 300, Jacksonville, Florida 32211-7467

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-15.002 Statement of Authority.

Any person applying for the issuance of a certificate or registration to engage in contracting in other than an individual capacity, or any registrant or certificate holder applying to qualify a partnership, corporation, business trust or other legal business organization shall furnish as part of the application a statement that the applicant is legally qualified to act for the business organization in all matters connected with its contracting business and that the applicant has authority to supervise construction undertaken by such business organization.

(1) No change.

(2) If the business organization is a corporation, such statement shall either be contained in a copy of the official minutes of that corporation, certified and attested to by its secretary, or be signed by such other persons as will legally bind that business organization.

(3) through (4) No change.

Specific Authority 489.108 FS. Law Implemented 489.105(4), 489.119, 489.1195 FS. History—New 1-6-80, Formerly 21E-15.02, 21E-15.002, Amended 7-18-94,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Construction Industry Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 27, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Landscape Architecture**

RULE TITLES:	RULE NOS.:
Continuing Education Requirements	61G10-13.003
Obtaining Inactive Status	61G10-13.005
Reactivation of Inactive License	61G10-13.007
Delinquent License Status	61G10-13.008

PURPOSE AND EFFECT: The Board proposes to amend rules.

SUMMARY: The proposed rules will set forth the requirements for Continuing Education Requirements; Renewal and Reactivation of Fees; Obtaining Inactive Status; Reactivation of Inactive License; Delinquent License Status; Continuing Education Requirements.

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

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

SPECIFIC AUTHORITY: 481.315(2), 481.306, 481.315(2), 481.315, 455.271(2),(4),(5),(6),(7),(9),(11), 481.315, 455.2177 FS.

LAW IMPLEMENTED: 481.315(2), 455.271(2),(4),(5), (7),(9),(11), 455.2177 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sherry Landrum, Executive Director, Board of Landscape Architecture, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G10-13.003 Continuing Education Requirements.

(1) The continuing education requirements for reactivating a license are twelve (12) instructional classroom hours for each year the license was inactive but in no event shall exceed forty-eight (48) one hundred twenty (120) instructional classroom hours.

(2) Only those continuing education classroom hours earned at continuing education courses approved pursuant to Rule 61G10-18, F.A.C. and programs offered by providers also approved pursuant to Rule 61G10-18, F.A.C. for the purpose of keeping the licensee apprised of advancements and new developments in the following progression service areas will be accepted able:

~~(a) consultation, investigation, research, planning, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas where the dominant purpose of the program is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and planting, or naturalistic and aesthetic values;~~

~~(b) the determination of settings, grounds and approaches for building and structures or other improvements; and~~

~~(c) the setting of grades, the shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems.~~

Specific Authority 481.315(2) FS. Law Implemented 481.315(2) FS. History—New 2-4-80, Formerly 21K-13.03, 21K-13.003, Amended \_\_\_\_\_.

61G10-13.005 Obtaining Inactive Status.

(1) No change.

(2) A registered landscape architect may apply to the Department to place his license on inactive status. The application shall be made on forms provided by the Board

Office and shall be accompanied by an application fee ~~that complies with Rule 61G10-13.004, F.A.C. for inactive status in the amount specified in Rule 61G10-12.011(1), F.A.C.~~ Applications for inactive status will be considered by the Department only during the biennium license renewal period.

(3) through (4) No change.

Specific Authority 481.306, 481.315(2), 481.315, 455.271(2), (5) FS. Law Implemented 481.315(2), 455.271(2), (5) FS. History—New 3-13-89, Formerly 21K-13.005, Amended 11-19-00,\_\_\_\_\_.

61G10-13.007 Reactivation of Inactive License.

(1) through (2) No change.

(3) A licensee whose license has become null and void which has become inactive for more than two consecutive bienniums may reapply for licensure, reactivate his or her license upon application to the Department and demonstration of compliance with all of the requirements for active status and the following conditions:

(a) ~~Payment of the reactivation fee specified in Rule 61G10-12.002, F.A.C.~~

(b) ~~Proof of completion of 12 classroom hours of continuing education which fulfills the requirements of Rule 61G10-13.003(2), F.A.C., for each year or part of the year the license was inactive.~~

(4) through (5) No change.

Specific Authority 481.306, 481.315, 455.271(4), (9), (11) FS. Law Implemented 481.315, 455.271(4), (9), (11) FS. History—New 3-13-89, Formerly 21K-13.007, Amended 11-19-00,\_\_\_\_\_.

61G10-13.008 Delinquent License Status.

(1) The failure of a licensee to elect active or inactive status before the renewal period ends ~~license expires~~ shall cause the license to become delinquent as soon as the new biennium begins.

(2) The delinquent status licensee must apply for active or inactive status during the biennium in which the license becomes delinquent. Failure to timely apply for active or inactive status before the expiration of ~~the~~ biennium ~~during which the license became delinquent~~ shall render the license null and void without further action by the Board or the Department.

(3) The delinquent status licensee who applies for active or inactive status shall submit a complete application on a form provided by the ~~Board office Department~~ and:

(a) Pay the active status fee prescribed by Rule 61G10-12.002(1), F.A.C., or the inactive status fee prescribed by Rule 61G10-12.002(7), F.A.C., the delinquent status fee prescribed by Rule 61G10-12.002(10), F.A.C., and if applicable, the processing fee prescribed by Rule 61G10-12.002(11), F.A.C.; and

(b) Demonstrate compliance with the continuing education requirements prescribed by Rule 61G10-13.003, F.A.C., and Section 455.2177, F.S., and the rules promulgated thereunder.

(4) No change.

Specific Authority 481.306, 481.315, 481.325, 455.271(7), 455.2177 FS. Law Implemented 481.315, 481.325, 455.271(6), 455.271(7), 455.2177 FS. History—New 11-6-00, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Landscape Architecture

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Landscape Architecture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 9, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Landscape Architecture**

RULE TITLES:	RULE NOS.:
Continuing Education Credit for Biennial Renewal	61G10-18.001
Board Approval of Continuing Education Providers	61G10-18.002
Obligations of Continuing Education Providers	61G10-18.003
Evaluations of Providers	61G10-18.004
Duration of Provider Status	61G10-18.005
Approval of Continuing Education Courses	61G10-18.006
Revocation of Provider Approval	61G10-18.007

PURPOSE AND EFFECT: The Board proposes to promulgate new rules.

SUMMARY: The proposed rules will set forth the requirements for Continuing Education Credit for Biennial Renewal; Board Approval of Continuing Education Providers; Obligations of Continuing Education Providers; Evaluations of Providers; Duration of Provider Status; Approval of Continuing Education Courses; Revocation of Provider Approval.

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

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

SPECIFIC AUTHORITY: 455.2124, 481.306, 481.313, 455.2179, 455.219, 481.325(2) FS.

LAW IMPLEMENTED: 481.313, 553.841, 455.2179, 481.313 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sherry Landrum, Executive Director, Board of Landscape Architecture, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G10-18.001 Continuing Education Credit for Biennial Renewal.

(1) Every person licensed pursuant to Chapter 481, Part II, Florida Statutes, must obtain at least sixteen (16) continuing education credits per biennium.

(a) During the biennium ending November 30, 2003, four (4) of the required sixteen credits must be obtained by attending the four (4) hour course on the Uniform Building Code prescribed by Sections 553.841 and 481.313(5), Florida Statutes.

(b) A minimum of six (6) of the sixteen (16) credits must be obtained by attending an approved provider's advanced or specialized course in the following areas of study:

1. A minimum of a (4) four hour course on the Uniform Building Code approved by the Florida Building Commission and

2. A minimum two (2) hour course on Florida's laws affecting the practice of landscape architecture according to Chapter 481, Florida Statutes.

(c) A minimum of six (6) continuing education credits must be obtained for:

1. The completion of previously untaken courses in landscape architecture subjects at universities and colleges which are accredited by an accrediting agency that is recognized by the United States Office or Department of Education, including accredited junior and community college programs. No more than six (6) continuing education credits may be obtained for each semester hour or quarter hour equivalent thereof. A fifty minute instructional class shall equal one academic hour and each 15 academic semester or quarter hours or an equivalent shall equal one hour of continuing education credit. A "course in a landscape architecture subject" is a course that is defined in Rule 61G10-18.006(4), F.A.C.

2. The completion of courses approved by the Board and offered by continuing education providers approved by the Board for the provision of continuing education credit hours. The number of hours of credit shall be consistent with 61G10-18.003.

3. Any continuing education credit from an academic institution must be submitted to the Department 90 days prior to the licensee's renewal on November 30th of odd-numbered years. A certified copy of the transcript from the registrar of the academic institution shall be evidence of the continuing education credit for the academic institution.

(2) A first time Florida licensee, licensed 12 or more months prior to the end of a biennial period, is required to complete eight (8) hours of continuing education as a condition of renewal. A person initially licensed for less than 12 months prior to the end of a biennial period need not complete any continuing education as a condition of renewal.

Specific Authority 455.2124, 481.306, 481.313 FS. Law Implemented 481.313, 553.841 FS. History--New

61G10-18.002 Board Approval of Continuing Education Providers.

(1) To demonstrate the education and/or experience necessary to instruct landscape architects in the conduct of their practice for continuing education credit, an applicant for continuing education provider status must be either a vendor of equipment or software used in the practice of landscape architecture, an accredited educational institution, a commercial educator, a governmental agency, a state or national professional association whose primary purpose is to promote the knowledge, skills and abilities associated with the practice of landscape architecture, or a landscape architect with a Florida license to practice landscape architecture who is not under disciplinary restrictions pursuant to any order of the Board. In addition, the applicant must demonstrate particular education, experience or skill which sets the applicant apart from the landscape architects who the applicant proposes to instruct.

(2) To allow the Board to evaluate an application for continuing education provider status, the applicant must submit the following on form Number DBPR-LA-001, effective \_\_\_\_\_, adopted and incorporated herein by reference and copy of which can be obtained from the Board office:

(a) The name, address and telephone number and if available email address and fax number of the prospective provider;

(b) A description of the type of courses the provider expects to conduct for credit;

(c) An outline and course materials for each course;

(d) The particular qualifications of the prospective provider to conduct the proposed courses, which qualifications set the applicant apart from the landscape architects the applicant proposes to instruct;

(e) The name, address and telephone number of both a prospective instructor and alternate instructor as well as the qualifications that set the instructor and alternate instructor apart from the landscape architects the applicant proposes to instruct;

(f) A sample certificate of completion for the course to be conducted by the applicant which certificate shall state the provider number and the course number assigned to the provider by the Board office for that course;

(g) A non refundable application fee of \$250;

(h) A licensure fee of \$200, which, upon request, will be refundable if the applicant is denied provider status;

(7) Upon approval, each continuing education provider shall be issued a provider number. That provider number shall be used in all advertising, course materials, promotional materials and on the certificate required pursuant to Rule 61-6.015, F.A.C.

Specific Authority 455.2179, 481.306, 481.313 FS. Law Implemented 455.2179, 481.313 FS. History—New \_\_\_\_\_.

61G10-18.003 Obligations of Continuing Education Providers.

To maintain status as a continuing education provider, the provider must:

(1) Require each course attendee to remain for the entire course in order to receive a certificate of completion for the course.

(2) Comply with the requirements set forth in Rule 61-6.0015, F.A.C.

(3) Not permit a landscape architect or other qualified instructor to instruct a continuing education course for credit while under a disciplinary order from any professional regulatory board in any jurisdiction.

(4) Upon receipt of notice that an instructor is under discipline, the provider shall, within fifteen (15) days, confirm to the Board, in writing, that the instructor is no longer conducting any course offered by the provider. For the purpose of this subsection, a letter of guidance or a reprimand shall not constitute “under discipline.”

(6) Not advertise or offer for credit any course which does not have a current course approval number assigned by the board. Should any course approval number or the provider number be revoked, or otherwise inactive, all planned offerings of the course or provider, shall be cancelled and all tuition refunded.

(7) Not permit an instructor to teach a course until and unless that instructor’s credentials have been reviewed by the Board and approved to teach the specific course.

(8) Ensure that all promotional material for courses offered to professional landscape architects for credit contain the provider number assigned to the provider and the course approval number.

(9) Allow only one hour of continuing education credit for each fifty minutes of instruction time.

(10) Notify the Board within two (2) weeks of any change in the address, contact name or telephone number of the provider.

(11) Allow the Department of Business and Professional Regulation access to information concerning courses conducted by the provider for continuing education credit.

(12) Provide courses designed to enhance the education of landscape architects in the practice of landscape architecture that complies with Chapter 481, Florida Statutes and Rule 61G10-18.006(4), F.A.C.

Specific Authority 455.219, 481.306, 481.313 FS. Law Implemented 481.313 FS. History—New \_\_\_\_\_.

61G10-18.004 Evaluations of Providers.

(1) The Board will evaluate continuing education courses offered to landscape architects for credit by:

(a) Attending such courses; or

(b) Reviewing the files of the provider to gain information about any course offered to landscape architects; or

(c) Polling of attendees;

(2) If any evaluation results in revocation of either a provider or course number, credit for previous attendance shall be awarded. After revocation, no credit shall be given for subsequent attendance.

Specific Authority 481.306, 481.313 FS. Law Implemented 481.313 FS. History—New \_\_\_\_\_.

61G10-18.005 Duration of Provider Status.

(1) Continuing education providers are approved only for the biennium during which they apply or for which they have been renewed by the Board. Continuing education providers expire and shall renew by May 31st of odd-numbered years.

(2) If the Board denies the initial application or the renewal of any provider, the Board will issue a Notice of Intent to Deny.

Specific Authority 481.306, 481.313 FS. Law Implemented 481.313 FS. History—New \_\_\_\_\_.

61G10-18.006 Approval of Continuing Education Courses.

(1) Application for approval for each continuing education course offered by an approved provider shall be made on the Application for CE Course Approval – Landscape Architecture, number DPBR-LA-002, effective \_\_\_\_\_, adopted and incorporated herein by reference, a copy of which can be obtained from the Board Office.

(2) Continuing education courses shall expire two years from the date of approval. Continuing education providers shall reapply for approval of any course that has expired by complying with Rule 61G10-18.006, F.A.C.

(3) The application shall be submitted so that it is received four (4) months prior to the date on which the course is first to be conducted. It shall include:

(a) A description of the subject or subjects to be covered;

(b) An outline of the course;

(c) A current bibliography;

(d) The names of each proposed instructor and alternate instructor with the education, experience, publication lists and other information relative to his or her qualifications to teach the particular course;

(e) And the total hours of instruction which will be given.

(4) Complete applications shall be reviewed and approved by the Board. incomplete applications shall be returned to the provider with instructions to complete.

(5) Each course must be identified as falling within Rule 61G10-15.001, F.A.C. by addressing one or more of the following categories:

(a) Consultation, investigation, research, planning, general business, design, preparation of drawings, specifications, contract documents and reports, responsible construction supervision, or landscape management in connection with the planning and development of land and incidental water areas where the dominant purpose of the program is the preservation, conservation, enhancement, or determination of proper land uses, natural land features, ground cover and planting, or naturalistic and aesthetic values;

(b) The determination of settings, grounds and approaches for building and structures or other improvements;

(c) The setting of grades, the shaping and contouring of land and water forms, determination of drainage, and provision for storm drainage and irrigation systems;

(d) The design of such tangible objects and features as are necessary to the purpose defined in Rule 61G10-15.002, F.A.C.; and

(e) Professional practice management.

(6) Approval of an instructor shall be limited by the Board to courses he/she is qualified to teach by education or experience.

(7) Notice of any change in the title of a course shall be provided to the Board office thirty (30) days prior to implementation of the change.

(8) Any change in the name or the qualifications of the course instructor or an increase in the number of continuing education credits to be awarded for the course must be submitted on the form identified in subsection one (1) of this rule in time to permit review and approval or disapproval of the changed course by the Board prior to implementation of the proposed change.

(9) Any portion of a course approved by the Board during the biennium in progress may be shortened by the elimination of certain content, and offered for credit equal to the time spent in the shortened presentation during the biennium with Board Approval. The provider must comply with Rule 61G10-18.006, F.A.C.

Specific Authority 481.306, 481.325(2), 425.2179 FS. Law Implemented 425.2179 FS. History--New

61G10-18.007 Revocation of Provider Approval.

At any time, the Board shall request the Department to revoke its approval of a continuing education provider if it finds that such approval is sought or was received by fraud or misrepresentation by the provider, the provider has failed to adhere to the standards and other requirements as set forth in

this rule, or that the provider has engaged in fraudulent behavior relating to the provision of continuing education. Before requesting that the Department revoke a provider's approval, the Board shall give the provider notice and an opportunity to be heard. If the approval of a provider is revoked, the continuing education provider shall thereafter be barred from presenting any continuing education courses to licensees or registrants for credit unless the provider demonstrates to the Board that the provider has been sufficiently rehabilitated to be trusted to provide such courses to licensees or registrants in the future. Revocation of a continuing education provider's approval shall also operate as a revocation of all previously approved continuing education courses for all future offerings by the provider.

Specific Authority 455.2179 FS. Law Implemented 455.2179 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Landscape Architecture  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Landscape Architecture  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 30, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 9, 2001

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Supervisor  
RULE NO.: 64B3-5.002

PURPOSE AND EFFECT: The purpose is to clarify supervisor qualifications and to add specifics in the category of histology and for technologists in lieu of an examination.

SUMMARY: The purpose of the rule amendments are to correct rule text, to specify baccalaureate degree courses, to add the specialty of histology, and to provide an experience and continuing education alternative for technologists.

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

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

SPECIFIC AUTHORITY: 483.805(4), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.815, 483.823 FS.

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

TIME AND DATE: 3:00 p.m., June 21, 2001



PLACE: The Holiday Inn Select, 5750 T. G. Lee Blvd., Orlando, Florida 32822

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.002 Supervisor.

Qualifications and Responsibilities.

(1) Qualification. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or by foreign education equated pursuant to Rule 64B3-6.002(6), F.A.C. In order to be licensed as a supervisor, an applicant shall have four hours of Board approved HIV/AIDS continuing education and one of the following:

(a) An earned doctoral degree in medical technology or clinical laboratory science, one of the licensure categories, or one of the chemical or biological sciences, and three years of pertinent clinical laboratory experience in the categories for which licensure is sought.

(b) A masters degree in medical technology or clinical laboratory science, one of the licensure categories, or one of the chemical or biological sciences, and three years of pertinent clinical laboratory experience in the categories for which licensure is sought, one (1) year of which shall be post masters.

(c) A baccalaureate degree, which shall include 16 semester hours of academic science in clinical laboratory sciences, one of the licensure categories, or one of the chemical or biological sciences, and five (5) years of pertinent clinical laboratory experience in the categories for which licensure is sought, two (2) years of which shall be post baccalaureate, including a minimum of one (1) year in each category for which licensure is sought.

(d) In the categories of cytogenetics, cytology, ~~histology~~, and radioassay, the experience required in paragraphs (a), (b) and (c) must be in the specific category for which licensure is sought.

(e) For the category of blood gas analysis only, an associate degree in cardiopulmonary function technology or respiratory care, five (5) years of pertinent clinical laboratory experience and be licensed as a technologist in the category of Blood Gases, or as a respiratory care practitioner certified in critical care services or a respiratory therapist pursuant to Chapter 468, Part V, F.S.

(f) For the category of Cytology only, a baccalaureate degree which shall include 16 semester hours of academic science, have completed an accredited or Board approved training program in cytology, be licensed as a clinical laboratory technologist and have five (5) years of pertinent clinical laboratory experience in cytology. If ASCP (American

Society of Clinical Pathologists) certified prior ~~Prior~~ to 1985, have an associate degree or equivalent, national certification by the American Society of Clinical Pathologists, and 10 years of pertinent clinical laboratory experience within the past 15 years.

(g) In lieu of one year of experience required by Rule 64B3-5.002(1)(~~2~~)(a), F.A.C., an applicant may substitute Board certification obtained by examination in one or more of the laboratory specialties through the Board of Registry of the American Society of Clinical Pathologists, National Certification Agency of Medical Laboratory Personnel, National Registry of Clinical Chemistry, American Academy of Microbiology, American Medical Technologists, American Board of Bioanalysis, American Board of Clinical Chemistry, American Board of Medical Microbiology, American Board of Medical Genetics, ~~or~~ American Board of Medical Laboratory Immunology, or American Board of Histocompatibility and Immunogenetics.

(h) In the category of histology, one of the following:

1. Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnologist (HTL) level.

2. Board certification gained by examination in histology through the Board of Registry of the American Society of Clinical Pathologists certification at the Histotechnician (HT) level, 10 years of pertinent clinical laboratory experience post-certification, and 48 hours continuing education in administration and supervision within five years prior to application for licensure.

3. Florida licensure as a histology technologist, 10 years of pertinent clinical laboratory experience, and 48 hours continuing education in administration and supervision within five years prior to application for licensure.

(i) When the applicant is licensed in a specialty as a technologist and meets the experience requirement under Rule 64B3-5.002(1)(a), (b) or (c) and completes 25 hours of Board approved continuing education in the area of administration and supervision accumulated over no longer than five years prior to application for licensure.

(2) through (3) No change.

Specific Authority 483.805(4), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.815, 483.823 FS. History--New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 590-5.002, Amended 5-26-98, 1-11-99, 6-10-99, 3-11-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 15, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 4, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Citations RULE NO.: 64B8-44.005

PURPOSE AND EFFECT: The Board proposes to update the existing rule.

SUMMARY: The Board is updating the rule text with regard to the required continuing education courses for renewal of initial licensure.

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

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

SPECIFIC AUTHORITY: 468.507, 456.077 FS.

LAW IMPLEMENTED: 456.077, 46.517, 468.518 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council, 4052 Bald Cypress Way, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-44.005 Citations.

(1) through (3) No change.

(4) The Board designates the following as citation violations, which shall result in a penalty of \$100:

(a) through (c) No change.

(d) Falsely certifying timely completion of required continuing education courses for renewal or initial licensure, if completed by the time the citation is to be issued; penalty of \$100 per contact hour wrongfully claimed.

(5) through (6) No change.

Specific Authority 468.507, ~~455.617~~, 456.077 FS. Law Implemented 456.077, 468.517, 468.518 FS. History—New 1-1-92, Formerly 21M-50.005, 61F6-50.005, 59R-44.005, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Practice Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Manner of Application RULE NO.: 64B8-51.001

PURPOSE AND EFFECT: The rule amendment is for the purpose for updating the application form and procedures.

SUMMARY: The Board proposes to update the rule text by clarifying the area for applying for licensure as an electrologist.

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

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

SPECIFIC AUTHORITY: 478.43(1),(4) FS.

LAW IMPLEMENTED: 478.45 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-51.001 Manner of Application.

(1) All persons applying for licensure as an electrologist shall submit a signed application to the Executive Director of the Council on forms provided by the Council and approved and incorporated herein by reference by the Board as Form ~~DOH/MQA/EO APP/Rev. 01/01~~ ~~DOH/MQA/EO APP/REV-7/97~~, entitled "Application for Electrologist Licensure," effective 12-23-97, which can be obtained from the Council ~~at address set forth in Rule 64B8-50.002(3)(b), F.A.C.~~ The initial application must be accompanied by the application fee.

(2) through (4) No change.

Specific Authority 478.43(1),(4) FS. Law Implemented 478.45 FS. History—New 5-31-93, Formerly 21M-76.001, Amended 11-10-93, Formerly 61F6-76.001, Amended 5-29-96, Formerly 59R-51.001, Amended 12-23-97, 5-28-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE TITLE: Recommendation by the Tripartite Continuing Education Committee  
 RULE NO.: 64B16-26.602

PURPOSE AND EFFECT: The Board proposes to repeal this rule because the rule text is being incorporated into Rule 64B16-26.600.

SUMMARY: Repeal of Rule 64B16-26.602.

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

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

SPECIFIC AUTHORITY: 465.005 FS.

LAW IMPLEMENTED: 465.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Taylor, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

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

64B16-26.602 Recommendation by the Tripartite Continuing Education Committee.

Specific Authority 465.005 FS. Law Implemented 465.009 FS. History—New 10-17-79, Amended 7-29-81, Formerly 21S-13.03, 21S-13.003, 21S-26.602, Amended 7-18-94, Formerly 61F10-26.602, 59X-26.602, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 18, 2001

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral and Cemetery Services**

RULE NO.: 3F-10.003  
 RULE TITLE: Remittances to the Preneed Funeral Contract Consumer Protection Trust Fund

**NOTICE OF CHANGE**

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule published in Vol. 26, No. 47, November 24, 2001, issue of the Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

3F-10.003 Remittances to the Preneed Funeral Contract Consumer Protection Trust Fund.

For the quarter beginning October 1, 2001, and each quarter thereafter, the following amounts should be remitted to the Preneed Funeral Contract Consumer Protection Trust Fund.

Each certificateholder offering the sale of insurance or by establishing a trust pursuant to s. 497.417 or 497.429 shall remit the sum of \$1.00 per preneed contract. Each certificateholder utilizing s. 497.423 and s. 497.425 shall remit the sum of ~~\$5.00~~ ~~\$1.00~~ for each preneed contract.

Specific Authority 497.417, 497.423, 497.425, 497.429 FS. Law Implemented 497.413(12), 497.417, 497.423, 497.425, 497.429 FS. History—New 3-19-97, Amended.

**DEPARTMENT OF INSURANCE**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
4-157.001	Purpose
4-157.002	Applicability and Scope
4-157.004	Out-of-State Group Long-Term Care Insurance
4-157.017	Prior Institutionalization
4-157.022	Loss Ratio Requirements
4-157.023	Nonforfeiture Protection Provision

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rules, as noticed in Vol. 23, No. 10, March 7, 1997, of the Florida Administrative Weekly, have been withdrawn.

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-302.106  
 RULE TITLE: Offender Travel

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 3, January 19, 2001, Florida Administrative Weekly, has been withdrawn.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Cosmetology**

RULE NO.: 61G5-32.001  
 RULE TITLE: Continuing Education