

**Section I**  
**Notices of Development of Proposed Rules**  
**and Negotiated Rulemaking**

**DEPARTMENT OF TRANSPORTATION**

<b>RULE CHAPTER TITLE:</b>	<b>RULE CHAPTER NO.:</b>
Contractors – Highway – Qualification to Bid	14-22
<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
General Procedural Requirements	14-22.0011
Rating the Applicant	14-22.003
Eligibility for Obtaining Proposal Documents	14-22.008
Over-Bidding	14-22.009
Suspension, Revocation, or Denial of Qualification	14-22.012
Contractor Non-Responsibility Forms	14-22.0141 14-22.015

**PURPOSE AND EFFECT:** The proposed amendment is to update and clarify provisions of Rule Chapter 14-22, including substantive amendments, restructuring of the rule chapter, and editorial revisions. In addition, the tables in Rule 14-22.003 showing ratings for Management and Administration of Work and Work Performance are being removed from the text of the rules. The rating factors will be contained in a new form, which is being incorporated by reference in Rule 14-22.015.

**SUBJECT AREA TO BE ADDRESSED:** This is a proposed amendment and restructuring of seven rules within Rule Chapter 14-22. The rating tables for Management and Administration of Work and Work Performance are being removed from the text and replaced by a form.

**SPECIFIC AUTHORITY:** 334.044(2), 337.14(1) FS.

**LAW IMPLEMENTED:** 120.569, 337.11(3)(b), 337.11(5)(a)1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.16, 337.164, 337.165, 337.167 FS.

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

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

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

14-22.0011 General Procedural Requirements.

(1) This rule chapter sets forth requirements for ~~qualifying~~ applicants ~~to be certified by the Department as qualified who wish~~ to bid for the performance of road, bridge, or public transportation construction contracts, in excess of \$250,000.

(2) Except for the provisions of Rules 14-22.012 and 14-22.0141, this rule chapter does not apply to bidders who wish to bid on construction contracts of \$250,000 or less, or other contracts not having to do with the construction of roads, bridges, or other public transportation projects.

(3) Time. The provisions of Rule 28-106, F.A.C., shall apply in computing any period of time prescribed by this rule chapter.

(4) Request for Hearing. All requests for hearing shall be in writing and shall be filed with the Clerk of Agency Proceedings, Department of Transportation, MS 58, Haydon Burns Building, 605 Suwannee Street, Tallahassee, Florida 32399-0458. A request for hearing is filed when it is delivered to and received by the Clerk of Agency Proceedings at the above address and accordingly, is not timely filed unless it is received by the Clerk of Agency Proceedings within the appropriate time period.

(5) Definitions.

(a) The following terms shall have the meanings set forth in Section 337.165, Florida Statutes: “contractor<sub>1</sub>”; “contract crime<sub>2</sub>”; “convicted” or “conviction<sub>1</sub>”; and “affiliate<sub>2</sub>”:

(b) The term “affiliate” also shall include those companies which:

1. Have the same person or entity holding at least five percent ownership interest in both companies ~~owning a majority of the stock of the companies~~.
2. Have one of the companies holding an ownership interest in ~~owning all or a majority of the stock of~~ the other.
3. Have a common director(s) or officer(s).
4. Have one company financing the other, or otherwise making financial advances to the other.
5. Have one company subscribing to all the capital stock of the other, or otherwise causing the incorporation of the other.
6. Have one company paying the salaries, expenses, or losses of the other.
7. Have the directors of one company directing the actions of the directors or officers of the other, so that the directors or officers of each company do not act independently of each other.

8. Have one business entity so closely allied with another business entity through an established course of dealings, such as lending of financial assistance or engaging in joint ventures, as to cause a public perception that the two firms are one entity.

(c) The term “applicant” means the person, firm, or combination of persons or firms for which qualification is desired. Joint ventures are addressed in Rule Section 14-22.007.

(d) The term “bidder” means an entity which is ~~pre~~qualified according to this rule chapter, and which possesses sufficient current capacity to obtain bid proposal documents from the Department.

(e) The terms ~~“business”, “business purposes” or “construction assets”~~ means assets used for the construction of roads, bridges, or public transportation projects. The terms ~~“non-business”, “non-business purposes,” or “non-construction assets”~~ means assets not used for the construction of roads, bridges, or public transportation projects.

(f) The term “qualified equipment appraiser” means an individual employed by an equipment company that sells, rents, or leases the general type of equipment being appraised, or a company or individual(s) engaged in the business of appraising equipment regularly used in the construction of roads, bridges, or other transportation projects.

(g) The term “qualified real estate appraiser” means an individual who meets all of the requirements of the laws of the state in which the appraisal occurs. Real estate appraisals on Florida real estate must be performed by a “Certified General Appraiser,” as defined in Section 475.611, Florida Statutes.

(h) The term “construction revenues” means all revenues earned through contracting for the performance of road, bridge, and other construction projects (to include all revenues derived from providing administration, labor, material, equipment, supplies, and services necessary to fulfill contractual obligations incurred in the performance of road, bridge, and other construction projects).

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 120.569, 337.11(3)(b), 337.11(5)(a)1.-3., 337.11 (7)(b)1., 337.11(7)(c), 337.14, 337.16, 337.164, 337.165, 337.167 FS. History—New 11-10-82, Amended 8-25-83, Formerly 14-22.011, Amended 12-20-89, 1-4-94, 7-1-95, 8-6-96, 1-17-99,

14-22.003 Rating the Applicant.

(1) Verification of Information. The Department will make such inquiries and investigations as deemed necessary to verify and evaluate whether the applicant is competent, is responsible, and possesses the necessary financial resources to perform the desired work, based upon the following applicant’s statements regarding:

~~(a) The necessary Organization and management, including construction experience, and past work performance record of the applicant or applicant’s employees, whether with or prior to their employment by that applicant, including deficiency in quality of completed work, any history of payment of liquidated damages, untimely completion of projects where liquidated damages were not paid, uncooperative attitude, contracts litigation, claims and defaults in Florida or other states possessed by the applicant’s employees.~~

(b) Adequate Equipment, as shown on the equipment list for the requested classes of work. Adequate equipment shall be basic equipment used by the industry in the normal construction for each class of work or called for in the Standard Specifications for Road and Bridge Construction in force at the time of application.

~~(c) Work performance record, including the quality of completed work, any history of payment of liquidated damages, untimely completion of projects where liquidated damages were not paid, cooperative attitude, contracts litigation, claims, and defaults.~~

~~(c)(4)~~ Integrity, including evaluation of truthfulness of statements in the application and in other contractual documents and responsibility.

(d) Financial resources, sufficient to establish a Maximum Capacity Rating (MCR) as set forth in (2) below. The Department will consider any other relevant financial information.

(2) MCR Maximum Capacity Rating.

~~(a) Definition and Formula. The Maximum Capacity Rating (MCR)~~ shall be the total aggregate dollar amount of uncompleted work an applicant may have under contract at any one time as prime contractor and/or subcontractor, regardless of its location and with whom contracted. The MCR is determined by the Department using the following formula:

MCR = AF x CRF x ANW, in which

MCR = Maximum Capacity Rating

AF = Ability Factor (determined from the Ability Score as provided below)

CRF = Current Ratio Factor (determined as provided below)

ANW = Adjusted Net Worth (for rating purpose, determined as provided below).

1. Ability Score.

a. New applicants and applicants who have not been qualified under this rule for more than two years shall have their Ability Factor determined from the total Ability Score resulting from evaluations of the applicant’s organization, management, work experience and letters of recommendation. The maximum values used in determining the ability score for the above applicants are as follows:

ABILITY SCORE	
	Maximum Value
Organization and Management	
Experience of Principals	15
Experience of Construction Supervisors	15
Work Experience	
Completed Contracts	
Highway and bridge related	
Non-highway and bridge related	10
Ongoing Contracts	
Highway and bridge related	25*
Non-Highway and bridge related	10
TOTAL	100
*Maximum value shall be increased to 35 if applicant's experience is exclusively in highway and bridge construction.	

b. If the applicant has been qualified under this rule within the last two years, and the Department has three or more Prime Contractor Past Performance Reports on file for projects completed for the Department within five years of the application filing date which have not been previously used to determine an Ability Score, the applicant's Ability Score shall be calculated by adding the scores of these reports plus the average score from the previous application and dividing this sum by the number of scores used. Prime Contractor's Past Performance Reports shall reflect the applicant's organization, management and demonstrated work performance, including work sublet to others, set forth in Form 700-010-25, which is incorporated by reference in Rule 14-22.015, as follows:

MANAGEMENT AND ADMINISTRATION OF THE WORK	Maximum Value
Preconstruction Conference Presentation	
Maintenance of traffic plan furnished	5
Erosion control and water pollution plan furnished	5
Written proposed work schedule furnished	5
Tentative work project schedule furnished	5
Additional permits and licenses required by the contractor identified or acquired	5
Sources for contract materials provided	5
Potential subcontractors identified	5
All forms necessary to meet E.E.O. requirements completed and furnished	5
Contractor's construction vehicle registration documentation provided	5
Contract Compliance with Equal Employment Opportunity (E.E.O.), Labor, On-the-job Training (O.J.T.), and Disadvantaged Business Enterprise (D.B.E.)	
Complied with E.E.O. hiring goals	5
Displayed company E.E.O. policy statement for duration of contract	5
Furnished certified payrolls to the Department as required for themselves and their subcontractors	5
Corrected wage violations within time frame stipulated	5
Complied with applicable labor regulations	5
Completed on-the-job (O.J.T.) training for worker classifications submitted	5
Satisfied contract D.B.E. requirements	5
Project Records and Contract Documentation	
Submitted subcontract requests in a timely manner (Reasonably prior to the subcontractor eing needed on the job)	10
Rental agreements provided to the department prior to deployment of equipment on the job	10
Certification for materials furnished when materials were delivered or stockpiled	10
Invoices and delivery tickets furnished for materials used	10
Shop drawings submitted to allow time for required review	10
Responded to correspondence from the department by the date requested	10
Provided the Department a copy of written permission for operations conducted on private property adjacent to the project	10
Effectiveness in Scheduling and Organizing Construction Operations and Negotiating Contract Modifications	
Materials were ordered and delivered early enough to be available for use when needed	30
Advanced planning and coordination was done on complicated or critical work to assure a smooth operation	40
Coordinated subcontractor operations to maintain work schedule	30
Organized and coordinated all operations to maintain work schedule preventing delays or stoppages of work	40
Notified the Department in advance of personnel or schedule changes and shut-downs for adverse weather, holidays, or other circumstances	20
Handled necessary modifications to the contract promptly and in a cooperative manner	20
Submitted documentation for extra work, time extensions, or claims that was organized and complete	30

WORK PERFORMANCE	Maximum Value
<b>Execution of the Work</b>	
Provided supervisory personnel that demonstrated experience in the types of work performed	30
Committed manpower that possessed skill levels commensurate with assigned duties to maintain work schedule	30
Performed work on other production items available when work on controlling items was prevented	10
Started and completed intermediate or critical project phases within scheduled time plus authorized extensions	20
Took necessary steps to minimize and immediately correct hazardous job site conditions and operations	30
Cooperated in the performance of the work with other contractors on or adjacent to the project.	10
Supervised subcontractors to maintain work schedule and insure contract compliance	30
Complied with conditions stipulated in regulatory permits	30
Adhered to the requirements stipulated in the contract and project plans	10
Provided accurate engineering and survey layout	20
Promptly corrected all deficient work to comply with the contract requirements	20
<b>Work Quality and Interface With the Department's Inspection of the Work</b>	
Provided resources to produce uniform quality to the finished work	40
Informed Department project personnel in advance of scheduled day-to-day items of work	20
Allowed sufficient time for completing job site sampling and testing of materials	30
Gave sufficient notice for the Department project personnel to provide for and complete required inspection before continuing with affected work	30
Informed the project personnel when conflicts with existing portions of the work were encountered	20
Provided and maintained adequate survey station markers and grades to allow for necessary inspection	10
Endeavored to resolve problems at the project level and followed the chain of authority in the Department	20
<b>Maintenance of Traffic (M.O.T.)</b>	
Provided and maintained necessary signing, striping, and traffic control devices to safely move traffic through the construction zone	40
Provided qualified personnel for the set-up and servicing of M.O.T. operations	30
Utilized appropriate and safe methods to switch, close, or open lanes under live traffic	40
Coordinated construction operations that directly affected the traveling public so as to minimize impact to the public	30
Provided properly trained and fully equipped personnel for flagging traffic	20
Provided and maintained a current list of personnel available for non-working hour emergencies	20
<b>Interaction of Construction Operations With Existing Facilities and Completed Work</b>	
Installed and maintained erosion control devices in accordance with approved erosion control plan	20
Protected private property and business facilities along the right of way or adjacent to the project	10
Provided and maintained adequate access to adjacent property	20
Coordinated daily construction activities with adjacent business operations to reduce adverse effects	30

Provided prompt response to legitimate complaints from adjacent business or property owners	20
Protected accepted work from damage from continuing construction operations	10
<b>Job Site Safety Conditions</b>	
Enforced contract safety regulations for construction operations	20
Enforced contractor's own safety policies for construction operations	20
Maintained work site in an organized and safe condition	20
Provided workers safety training and equipment	20
Maintained, in good working order, safety warning devices and safety gear on construction equipment	20
<b>Equipment Provision and Utilization</b>	
Had on site the amount and types of equipment required to maintain work schedule	10
Utilized equipment that met the contract requirements and produced an acceptable finished product	10
Repaired and maintained production equipment	10
<b>Interface with Utilities</b>	
Demonstrated effort to schedule and coordinate with utility companies prior to beginning construction operations affecting those utilities	10
Took adequate measures to protect existing utility equipment and property	10
Immediately notified utility companies and the Department when construction operations interrupted or damaged utilities	10
Demonstrated a cooperative effort to work together with utility companies as needed to correct unforeseen problems	10
<b>Final Completion of the Work</b>	
Completed work within contract time plus authorized extensions	5
Retained a work force sufficient to timely complete final clean-up	5
Completed all punch list items in a timely manner	5
Final paperwork and documentation was submitted	5
Performance Score Calculation. Total Score Divided by Maximum Rating Attainable Multiplied by 100 Equals Performance Score.	

c. If the applicant has been qualified under this rule within the last two years, and the Department does not have three or more Prime Contractor Past Performance Reports on file for the applicant for projects completed for the Department within five years of the application filing date, then the Ability Factor (AF) from the applicant's last successful application will be is brought forward and used.

d. The average Ability Score determined in a. or b. above is converted to an AF Ability Factor pursuant to Rule Section 14-22.003(2)(a)2., or the AF Ability Factor is brought forward as indicated in c. above. The AF Ability Factor is then used in the formula pursuant to Rule Section 14-22.003(2)(a) to compute the applicant's MCR Maximum Capacity Rating.

2. Ability Factor. The Ability Score for new and active applicants shall determine the Ability Factor (AF) as follows:

Ability Score	AF
<del>Less than 54</del>	<del>4</del>
<del>55-64 or less</del>	<del>1 2</del>
65-69	<u>2 3</u>
70-73	<u>3 4</u>
74-76	<u>4 5</u>
77-79	<u>5 6</u>
80-84	8
90-93	12
94-97	14

98-100 15

a. Notwithstanding the requirements in Rule Sections 14-22.003(2)(a) and 14-22.003(2)(a)1.a., 1.b., 1.c., 1.d., and 14.22.003(2)(a)2. above, the AF will be limited to a maximum of 4, if the applicant receives an ability score of 76 or less on the initial application, or receives an ability score of 76 on two or more Prime Contractor Past Performance Reports on file for projects completed during the 12 month period preceding the applicant's fiscal year ending date for which the Certificate of Qualification is being issued. The use of a surety commitment letter to raise the Maximum Capacity Rating is prohibited under this limitation.

b. This AF limitation will remain in effect during the current qualification period.

3. Current Ratio Factor (CRF). The current ratio is the number resulting from dividing the adjusted current assets by the adjusted current liabilities. The actual current ratio from 0.60 up to a maximum of 2.00 will be used as the ~~CRF Current Ratio Factor~~. For current ratios greater than 2.00, 2.00 will be used as the ~~CRF Current Ratio Factor~~. The applicant will be denied qualification if their current ratio is less than 0.60.

4. Adjusted Net Worth (ANW). The ~~ANW Adjusted Net Worth~~ must be a positive value for the applicant to be considered for qualification. The ~~ANW Adjusted Net Worth~~ used in the Maximum Capacity Rating formula will be the amount of capital and surplus (net worth) adjusted as follows:

a. Value allowed for equipment shall be the book value, or 50 percent of actual value given by a qualified equipment appraiser, whichever is greater. Equipment appraisals must be dated no earlier ~~older~~ than six months prior to receipt of the application.

b. Value allowed for real estate used for business purposes (road, bridge or public transportation construction) shall be:

(I) The book value or the value given by a qualified real estate appraiser, (~~r~~Real estate appraisals shall be dated no earlier ~~older~~ than two years prior to the date the application is filed), less

(II) encumbrances against same (~~s~~Such encumbrances will not also be deducted elsewhere).

c. No value will be allowed for real estate, ~~or and~~ any other property not used in road, bridge, or public transportation construction, and no allowance shall be given for homesteads or personal property.

d. Assets of doubtful value shall be eliminated in part or entirely.

e. Contingent liabilities shall be treated as actual liabilities, wholly or in part, depending on the probability of such liabilities becoming actual liabilities.

5. ~~Maximum Capacity Rating (MCR)~~. The calculated ~~MCR Maximum Capacity Rating~~ shall be rounded off according to the following scale:

Up to \$500,000 – round off to nearest \$10,000

Above \$500,000 to \$2,000,000 – round off to nearest \$25,000

Above \$2,000,000 – round off to nearest \$50,000

(b) Bonding Capacity.

1. ~~Except for the provisions of 14-22.003(2)(a)2.a., above, an An~~ applicant who qualifies for a positive rating ~~under the above provisions,~~ has an Ability Score of ~~80~~ 75 or higher, and has a Current Ratio Factor of at least 1.00, shall be allowed to raise their ~~MCR Maximum Capacity Rating~~ upon receipt of evidence of a current bonding capacity exceeding the calculated ~~MCR Maximum Capacity Rating~~ from a surety company authorized to do business in Florida. Such evidence shall be in the form of a letter of commitment executed by an officer of the surety who is authorized to bind the surety, with a power of attorney attached. The surety letter must be dated within four months of ~~the~~ request and cover the certification period. The limit for a ~~MCR Maximum Capacity Rating~~ issued on the basis of such bond commitment for applicants with an Ability Score of ~~80~~ 75 through 90 will be determined by the following "Surety Capacity" formula:

$$SC = SM \times MCR \times (CRV \div TRV)$$

In which:

SC = Surety Capacity

SM = Surety Multiplier (Determined from Ability Score – Surety Multiplier Table as provided below)

MCR = Maximum Capacity Rating (Determined as provided in 14-22.003(2)(a))

CRV = Construction Revenues (As set forth in applicant's financial statements per 14-22.002(2)(c)2.)

TRV = Total Revenues (As set forth in applicant's financial statements)

ABILITY SCORE – SURETY MULTIPLIER TABLE			
Ability Score	Surety Multiplier	Ability Score	Surety Multiplier
75	2.0	83	4.2
76	2.2	84	4.6
77	2.4	85	5.0
78	2.6	86	5.6
79	2.8	87	6.2
80	3.0	88	6.8
81	3.4	89	7.4
82	3.8	90	8.0

2. ~~Except for the provisions of 14-22.003(2)(a)2.a., above, the MCR the Maximum Capacity Rating~~ for firms that have an Ability Score of 91 or greater will be the "Aggregate of Contracts" amount stipulated in the surety commitment letter. A ~~MCR Maximum Capacity Rating~~ established through the use of a surety commitment letter shall not exceed the "Aggregate of Contracts" amount stipulated in the surety commitment letter.

3. ~~Except for the provisions of Rule Section 14-22.003(2)(a)2.a., above, use~~ Use of a surety commitment letter to increase an applicant's ~~MCR Maximum Capacity Rating~~ will only be considered if at the time of application the applicant's ~~CRF Current Ratio Factor~~ is at least 1.00, as defined in Rule Section 14-22.003(2)(a)3., and the applicant has an Ability Score of ~~80~~ 75 or higher. No event(s) during the qualification period subsequent to the ending date of the audited financial statements used for qualification will be considered in determining an applicant's ~~CRF Current Ratio Factor~~.

4. ~~Newly established companies with a Current Ratio Factor of at least 1.00 may use a surety commitment letter as described above, provided the applicant has received an Ability Score of 75 or higher. The Maximum Capacity Rating issued on the basis of such bond commitment shall be determined by multiplying the surety commitment amount(s) by 0.50.~~

(3) Classification of Work.

(a) Applicant request for class(es) of work. Applicants shall indicate each class of work for which they desire qualification. The Department will consider qualifying the applicant only in the specific class or classes of work requested.

(b) The major classes of work are as follows:

1. Major Bridges:

- a. Bridges which include bascule spans.
- b. Bridges which include curved steel girders.
- c. Bridges with multi-level roadways.
- d. Bridges of concrete segmental construction.
- e. Bridges which include steel truss construction.
- f. Bridges which include cable stayed construction.

g. Bridges of conventional construction which are over a water opening of 1000 feet or more.

2. Intermediate Bridges are bridges that contain none of the types of construction listed under Major Bridges and span lengths exceeding 50 feet (center to center of cap).

3. Minor Bridges are bridges with span lengths not exceeding 50 feet (center to center of cap) and total length not exceeding 300 feet. A Minor Bridge shall not contain any type of construction listed under Major Bridges or Intermediate Bridges.

4. Bascule Bridge Rehabilitation.

5. Grading (includes clearing and grubbing, excavation, and embankment).

6. Drainage (includes all storm drains, pipe culverts, culverts, etc.).

7. Flexible Paving (includes limerock, shell base and other optional base courses, soil-cement base, mixed-in-place bituminous paving, bituminous surface treatments and stabilizing).

8. Portland Cement Concrete Paving.

9. Hot Plant-Mix Bituminous (includes structural and surface courses).

(c) Specialty classes of work are as follows:

- 1. Electrical work (includes roadway, bridge and runway lighting).
- 2. Fencing.
- 3. Guardrail.
- 4. Grassing, Seeding, and Sodding.
- 5. Landscaping.
- 6. Traffic Signals.
- 7. Computerized Traffic Control Systems.
- 8. Bridge Painting.
- 9. Pavement Markings (includes delineators, traffic stripe painting, and thermoplastics).
- 10. Roadway Signing.

(d) Such other classes of work not normally performed by road and bridge contractors as the applicant may request.

Specific Authority 120.53(1)(a), 334.044(2), 337.14(1) FS. Law Implemented 337.11(3)(b), 337.11(5)(a)1.-3., 337.11 (7)(b)1., 337.11(7)(c), 337.14, 337.164, 337.167 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(4), Amended 3-23-79, 11-10-82, 8-25-83, 1-9-84, 10-1-85, Formerly 14-22.03, Amended 12-20-89, 4-22-92, 1-4-94, 7-1-95, 7-2-95.

14-22.008 Eligibility for Obtaining Proposal Documents.

(1) Proposal documents for a specific project(s) shall be issued only to a prospective bidder who has a Current Capacity equal to or larger than the budgeted contract amount and a Certificate of Qualification, which expires on or after the date proposals are to be received, covering one or more classes of work which, in the aggregate, comprises 50 percent or more of the Department's budget estimate of the total value of normal work included in the proposal documents, ~~and who also has a Current Capacity equal to or larger than the budgeted contract amount.~~

(2) The term "normal work" as used herein means all work in the contract not designated in the proposal document or the Specifications as Specialty Work.

(3) The term "Current Capacity" as used herein is as defined in 14-22.006(1).

(4) Eligibility for obtaining proposal documents shall have no effect on determination of the Current Capacity.

(5) A qualified bidder will be issued proposal documents for any number of projects, provided the estimated contract amount of any individual project requested does not exceed their Current Capacity. Except for the provisions of 14-22.003(2)(a)2.a., above, Qualified firms that desire to bid a project which exceeds their Current Capacity, ~~and~~ whose ~~CRF Current Ratio Factor~~ was at least 1.00 based on the financial statements used for current qualification, and that have an Ability Score of ~~80~~ 75 or higher, will be allowed to bid that specific project if the firm furnishes a commitment letter from a surety company, authorized to do business in Florida, that the project amount does not exceed the firm's Surety



Capacity as established by Rule Section 14-22.003(2)(b)1., ~~and that provides sufficient surety coverage to allow the firm to be eligible to receive bidding documents for that specific project only.~~ Issuance of proposal documents by the Department will be subject to payment of applicable costs by the qualified bidder.

(6) The bid shall be signed by the owner for sole proprietorships; partner(s) authorized to bind the entity for a partnership; the president or vice president for corporations; and for limited liability companies an ~~the~~ authorized executing official. Bids submitted by a joint venture shall be signed by the authorized executing officials of the business entities comprising the joint venture and the attorney-in-fact for the joint venture.

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11(3)(b), 337.11(5)(a)1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.164 FS. History—Formerly Chapter 14-8, Amended 7-1-68, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, Formerly 14-22.08, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95,\_\_\_\_\_.

14-22.009 Over-Bidding.

(1) Any bid that exceeds the Current Capacity of the bidder shall be disqualified and rejected unless the bidder fulfills the requirements of Section 14-22.009(3).

(2) In the event a bidder submits the low bid on two or more projects in the same letting where ~~and~~ the aggregate dollar amount of the bids is greater than the Current Capacity of the bidder, and the bidder is unable to increase their Current Capacity by fulfilling the requirements of Section 14-22.009(3), the Department shall select the particular project or projects for ~~to~~ award that will be in the best interest of the Department, and is within the bidder's Current Capacity, and shall disqualify and reject their other bid or bid(s).

(3) Before the Department takes action under the provisions of either of the preceding two paragraphs, the bidder shall be notified in writing of the Department's action and, except for the AF provisions of Rule Section 14-22.003(2)(a)2.a., above, shall be allowed a period of 10 days from the date the bid was opened to submit evidence to justify an increase in their Current Capacity such as additional bonding capacity (only permitted for firms that possess a Current Ratio Factor of at least 1.00 based on financial statements for current qualification and that have an Ability Score of 75 or higher) or that work on existing contracts has been subcontracted to others. Proposed subcontracts under unexecuted contracts will not be considered. If the Department finds the evidence justifies a change in the bidder's Current Capacity, their Current Capacity shall be changed accordingly. Any such change based on bonding capacity will be subject to the Surety Capacity requirements of 14-22.003(2)(b)1. and subject to a time limit.

(4) The determination of the successful bidder on any project or projects in which bids have been disqualified under the provisions of this section shall be made without consideration of the ~~bid or bids so~~ disqualified bid(s).

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 337.11(3)(b), 337.11(5)(a)1.-3., 337.11(7)(b)1., 337.11(7)(c), 337.14, 337.165 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, Formerly 14-22.09, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95,\_\_\_\_\_.

14-22.012 Suspension, Revocation, or Denial of Qualification.

(1) The Department will, for good cause, ~~as that term is defined in Section 337.16(2), Florida Statutes,~~ suspend, revoke, or deny any contractor's qualification to bid. A suspension, revocation, or denial for good cause pursuant to this rule shall prohibit the contractor from bidding on any Department construction contract for which prequalification is required by Section 337.14, Florida Statutes, ~~and~~ shall constitute a determination of non-responsibility to bid on any other Department construction or maintenance contract, and shall prohibit the contractor from acting as a material supplier or subcontractor, ~~or consultant~~ on any Department contract or project during the period of suspension, revocation, or denial. As provided in Section 337.16(2), Florida Statutes, such good cause shall include, but shall not be limited to, the provisions of paragraphs (a) and (b) through (e) below. When a specific period of revocation, denial, or suspension is not specified by this rule, the period shall be based on the criteria set forth in ~~of~~ Rule 14-22.0141(4), F.A.C., ~~as well as Department contractor certification activities.~~

(a) The contractor's Certificate of Qualification shall be suspended, revoked, or denied ~~or revoked~~ for at least one year when it is determined by the Department that any one of the following has occurred:

1. One of the circumstances specified under Section 337.16(2)(a),(b), ~~or (d), or (e),~~ Florida Statutes, has occurred.

2. Affiliated contractors submitted more than one proposal for the same work. In this event the Certificate of Qualification of all of the affiliated bidders will be revoked or denied. All bids of affiliated bidders will be rejected.

3. The contractor made or submitted to the Department false, deceptive, or fraudulent statements, certifications, or materials in any claim for payment or any information required by any Department contract, including the Certification of Current Capacity to the Department.

~~4. The contractor defaulted on any Department contract, or a the contract surety assumed control of financial responsibility for, took over any Department contract of from the contractor.~~

~~(b) When the Department determines that a contractor has submitted a false, deceptive, or fraudulent Certification of Current Capacity to the Department, the Certificate of Qualification of a contractor will be suspended or denied as provided in subparagraphs 1. and 2. Any bid submitted with a false, deceptive, or fraudulent Certification of Current Capacity shall be disqualified and rejected.~~

~~(b)1. A~~ The contractor's ~~shall have its~~ Certificate of Qualification shall be suspended, revoked, or denied; for a period of 90 days upon a first occurrence, 180 days upon a

second occurrence within three years of the first occurrence, or one year upon a third occurrence within three years of the first occurrence, when it is determined by the Department that one of the following has occurred:-

1. The contractor failed to timely furnish all contract documents required by the contract specifications or special provisions, or by any state or federal statutes or regulations.

2. The contractor failed to register, pursuant to Chapter 320, Florida Statutes, all motor vehicles operated in this state. In the event the contractor submits a second false, deceptive, or fraudulent Certification of Current Capacity within two years after the end of a suspension under subparagraph 1., the Department will revoke or deny the contractor's Certificate of Qualification to bid for a period not exceeding one year.

3. The contractor failed to notify the Contracts Administration Office within 10 days of the contractor or any of its affiliates being declared in default or otherwise not completing work on a contract, being suspended from qualification to bid or denied qualification to bid by any other public agency, semi-public agency, or private entity. This suspension will be in addition to any period of denial or revocation resulting from violation of (a) above.

(c) If the contractor is an affiliate of a contractor who has been determined non-responsible, pursuant to Rule 14-22.0141, or whose Certificate of Qualification was suspended, revoked, or denied and the contractor is dependent on the affiliation for personnel, equipment, bonding capacity, or financial resources, then that contractor's Certificate of Qualification shall be suspended, revoked, or denied for the same time period as the affiliate.

(d) A contractor's Certificate of Qualification shall be suspended for a period of four months when it is determined by the Department that the contractor failed to notify the Contracts Administration Office within 10 days of being declared in default, suspended from qualification to bid or denied qualification to bid by any public agency, semi-public agency, or private entity.

(e) A contractor's Certificate of Qualification shall be suspended for a period not to exceed four months when it is determined by the Department that either one of the following has occurred:

1. The contractor failed to timely furnish all contract documents required by the contract specifications or special provisions to be provided after the Department's offer of final payment. However, the contractor shall be reinstated to the qualified bidders list upon providing all outstanding documents, unless its Certificate of Qualification has expired.

2. The contractor failed to register, pursuant to Chapter 320, Florida Statutes, all motor vehicles operated in this state. However, the contractor shall be reinstated to the qualified bidders list upon providing a notarized affidavit of such registration unless its Certificate of Qualification has expired.

(2) The Department shall deny or revoke or deny the Certificate of Qualification to bid of any contractor and its affiliates for a period of 36 months, pursuant to Section 337.165, Florida Statutes, when it is determined by the Department that the contractor has, subsequent to January 1, 1978, been convicted of a contract crime within the jurisdiction of any state or federal court. Any such contractor shall not act as a prime contractor, material supplier, subcontractor, or consultant on any Department contract or project during the period of denial or suspension, revocation, or denial.

(3) The Certificate of Qualification of a contractor found delinquent under Section 337.16(1), Florida Statutes, shall be denied, suspended, or revoked as provided in that statute. A suspension or revocation shall prohibit the contractor from being a subcontractor on Department work during the period of suspension or revocation, except when a prime contractor's bid has used prices of a Subcontractor who becomes disqualified after the bid and before the request for authorization to sublet is presented.

(4) Any decision by the Department to suspend, revoke, or deny a contractor's Certificate of Qualification to bid will be provided to the contractor in accordance with Rule 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201, and 28-106.301, F.A.C. In order to be timely, when the Department's intent is to deny a Certificate of Qualification for reasons other than delinquency or conviction for contract crime, the petition must be filed with the Department's Clerk of Agency Proceedings within 10 ~~21~~ days after receipt of the Department's notice, in accordance with Sections 337.14 and 337.16, Florida Statutes. When the Department's intent is to revoke or suspend a Certificate of Qualification or deny a Certificate of Qualification for delinquency or conviction for contract crime, Rule 28-106.111, F.A.C., ~~except that when Department action is based on a contract crime or delinquency,~~ the petition shall be filed within 21 ~~40~~ days of receipt of the Department's notice, pursuant to Rule 28-106.111, F.A.C. Substantially affected persons may file a request for a variance from or waiver of applicable Department rules in accordance with Section 120.542, Florida Statutes, and Rule Chapter 28-104, F.A.C.

(5) If a contractor's Certificate of Qualification is revoked, suspended, or denied and the contractor receives an additional period of revocation, suspension, or denial of its Certificate of Qualification, the time periods will run consecutively.

(6)(5) The suspension, revocation, or denial of any qualification to bid shall not affect obligations under any pre-existing contracts, except as may be amended by the parties.

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 334.044(27), 337.11, 337.14, 337.16, 337.164, 337.165, 337.167 FS. History—Formerly Chapter 14-8, Amended 7-1-67, 8-20-68, 5-9-70, 1-6-72, 9-24-75, Formerly 14-22.01(11), Amended 3-23-79, 11-10-82, 8-25-83, 10-1-85, Formerly 14-22.12, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, 2-16-99, \_\_\_\_\_.

## 14-22.0141 Contractor Non-Responsibility.

(1) Contractors who wish to bid for the performance of construction contracts less than or equal to \$250,000, or any maintenance contracts, are presumed to be responsible bidders unless the Department determines that good cause exists to declare the contractor non-responsible, which shall include the following one of the following occurs:

(a) One of the circumstances specified in Section 337.16(2), Florida Statutes, occurs;

(b) The contractor or its affiliate defaulted on any ~~Department~~ contract, or the contract surety assumed control of or financial responsibility for, ~~took over any Department contract of from~~ the contractor;

(c) The contractor's qualification to bid is suspended, revoked, or denied for good cause from qualification to bid or denied qualification to bid by any public agency or semi-public agency;

(d) The contractor made or submitted to the Department false, deceptive, or fraudulent statements, certifications, or materials in any claim for payments or any information required by any Department contract;

(e) The contractor failed to comply with contract requirements, or failed to follow Department direction in the execution of a contract; The contractor is otherwise determined by the Department to be non-responsible pursuant to Subsection (2);

(f) The contractor did not pay its subcontractors or suppliers in a timely manner or in compliance with contract documents;

(g)(f) The contractor or affiliate(s) ~~or affiliates~~ has been convicted of a contract crime, as provided in Section 337.165, Florida Statutes;

(g) ~~Qualifications, which the contractor does not possess, have been included in the proposal package for specialized work;~~

(h) An affiliate of tThe contractor has previously been determined by the Department to be non-responsible, and the specified period of suspension, revocation, or denial remains in effect.

(2) ~~In addition to the criteria set out in Subsection (1), the Department shall determine a contractor to be non-responsible pursuant to Section 337.16(2), Florida Statutes:~~

(i)(a) ~~When a review of the performance of a contractor performing under contract on construction contracts less than or equal to \$250,000, or any maintenance contracts reveals The contractor has instances of poor or unsatisfactory performance, deficient management resulting in project delay, or poor quality workmanship, a history of payment of liquidated damages, untimely completion of projects where liquidated damages were not paid, uncooperative attitude, contract litigation, claims, or defaults, the Department will consider all surrounding circumstances and make a professional~~

~~determination of contractor non-responsibility of any contractor determined to be deficient. The Department shall then proceed in accordance with Subsection (4).~~

(j)(b) ~~When the Department determines that any other circumstance constituting "good cause" under Section 337.16(2), Florida Statutes, exist. The Department shall then proceed in accordance with Subsection (4).~~

(3) ~~In the event that any of Subsections (1)(a) through (f) occur, the Department shall proceed in accordance with Subsection (4).~~

(2)(4) ~~Determination of Contractor Non-Responsibility. The determination of contractor non-responsibility will be made by the appropriate District Secretary. The Contractor District Secretary will be determined to be declare the contractor non-responsible and ineligible to bid on Department contracts for a period of time, based on the seriousness of the deficiency.~~

(a) Examples of factors affecting the seriousness of a deficiency are:

1. Impacts on project schedule, cost, or quality of work;
2. Unsafe conditions allowed to exist;
3. Complaints from the public;
4. Delay or interference with the bidding process; ~~and~~
5. The potential for repetition; ~~and~~
6. Integrity of the public construction process; and
7. Effect on the health, safety, and welfare of the public.

(b) This rule does not limit the Department's ability to reject a bid submitted by a contractor for a particular contract based upon the Contractor being non-responsible.

(3)(b) ~~Notice of intended agency action under this section Any decision to suspend the contractor from bidding will be provided in accordance with Rule 28-106.111, F.A.C. The Department's action will become final unless a timely petition for a hearing is filed in accordance with Rules 28-106.104, 28-106.201 and 28-106.301, F.A.C. In order to be timely, the petition must be filed with the Department's Clerk of Agency Proceedings within 21 days after receipt of the Department's notice, in accordance with Rule 28-106.111, F.A.C. except that when Department action is based on a contract crime, the petition shall be filed within 10 days of receipt of the Department's notice. Substantially affected persons may file a request for a variance from or waiver of applicable Department rules in accordance with Section 120.542, Florida Statutes, and Rule Chapter 28-104, F.A.C.~~

(c) ~~If a contractor receives two or more suspensions during the same period, the suspensions will be served consecutively.~~

(5) ~~This rule does not limit the Department's ability to reject a bid submitted by a contractor for a particular contract as non-responsible, should any of the events in Subsections (1)(a) through (f) occur.~~

Specific Authority 334.044(2) FS. Law Implemented 337.16(2) FS. History—New 4-12-95, Amended 12-7-97, \_\_\_\_\_.

14-22.015 Forms.

The following forms are incorporated by reference as part of the rules of the Department and are available from the Contracts Administration Office, 605 Suwannee Street, Mail Station 55, Room 1-B 60, Tallahassee, Florida 32399-0455:

Form Number	Date	Title
375-020-32	<del>10/93</del> 12/98	Application for Qualification
375-020-21	10/93	Status of Contracts on Hand
375-020-22	<del>02/95</del> 08/00	Certification of Current Capacity
<u>700-010-25</u>	<u>03/01</u>	<u>Contractor Past Performance Rating</u>

Specific Authority 334.044(2), 337.14(1) FS. Law Implemented 120.53(1)(b), 337.14, 337.164, 337.167 FS. History--New 11-10-82, Amended 8-25-83, Formerly 14-22.15, Amended 12-20-89, 1-4-94, 7-1-95, 7-2-95, \_\_\_\_\_.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

DOCKET NO.: 01-10R

RULE CHAPTER TITLE: Sovereignty Submerged Lands Management  
 RULE CHAPTER NO.: 18-21

RULE TITLES: Management Policies, Standards, and Criteria 18-21.004  
 Applications for Public Easement 18-21.009  
 Applications for Private Easement 18-21.010  
 Payments and Fees 18-21.011

PURPOSE AND EFFECT: The Department of Environmental Protection, as staff to the Board of Trustees, proposes to establish corridors for the placement of fiber optic cables on sovereign submerged lands along the coast of Florida. In addition, DEP is proposing to assess fees for the use of sovereign submerged lands by fiber optic cables and other types of utilities.

SUBJECT AREA TO BE ADDRESSED: Criteria for locating corridors and establishing fees associated with the use of sovereign submerged lands for placement of fiber optic cables and other utilities. During the rule development process, the Department may decide to amend any or all of the rule sections contained in Chapter 18-21 of the Florida Administrative Code.

SPECIFIC AUTHORITY: 253.03(7), 253.0345, 253.73, 258.43, 370.021(1) FS.

LAW IMPLEMENTED: 253.03, 253.0345, 253.034, 253.04, 253.041, 253.115, 253.12, 253.41, 253.61, 253.68, 253.71, 253.72, 253.74, 253.75, 253.77, 258.42, 258.43, 370.16 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Phil Coram, Department of Environmental Protection, Bureau of

Submerged Lands and Environmental Resources, 2400 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, telephone (850)921-9870 Fax (850)488-6579, or e-mail: Phil.Coram@dep.state.fl.us.

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

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

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to modify the circumstances under which the form entitled "Well Verification for All Non-Domestic Wells Located in the Most Impacted Area of the Eastern Tampa Bay Water Use Caution Area", Form No. 42.10-005 (10/95) must be submitted to the District. The effect of the proposed amendment will be to create an exemption from the requirement to submit the form for wells constructed on residential properties of one acre or less.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments address Section 7.2 of the District's Basis of Review for Water Use Permit Applications regarding the Eastern Tampa Bay Water Use Caution Area. Specifically, the amendment will create an exemption from the requirement to submit District Form No. 42.10-005 (10/95) for irrigation wells constructed on single family residential lots of one acre or less.  
 SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen E. West, Deputy General Counsel, Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-2.091 Publications Incorporated by Reference.  
 The "Basis of Review for Water Use Permit Applications" \_\_\_\_\_ ~~September 3, 2000~~, is hereby incorporated by reference into this Chapter and is available from the District upon request.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, \_\_\_\_\_.

Basis of Review for Water Use Permit Applications  
Section 7.0 Water Use Caution Areas

**7.2 EASTERN TAMPA BAY WATER USE CAUTION AREA**

- 1. through 7. No change.
- 8. Limitation of Quantity Permitted
- A. through E. No change.

F. Applicants for new non-domestic water well construction in the MIA must submit the form titled “Well Verification for All Non-Domestic Wells Located in the Most Impacted Area of the Eastern Tampa Bay Water Use Caution Area”, Form No. 42.10-005 (10/95), adopted by reference in Rule 40D-1.659, F.A.C., with a Well Construction Permit Application. Irrigation wells constructed on single family residential lots of one acre or less are exempt from this requirement.

F. is renumbered as G.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE TITLE: Exemptions

RULE NO.: 40D-4.051

PURPOSE AND EFFECT: The purpose of the proposed amendments is to remove several exemptions from environmental resource permitting from the District’s rules. Specifically, subsections 40D-4.051(3),(4),(5) and (6), F.A.C., which provide permitting exemptions for projects which had received some form of regulatory or governmental approval prior to October 1, 1984. The effect of the proposed amendments will be that projects that may have been exempt from permitting under these rules will be required to obtain environmental resource permits.

SUBJECT AREA TO BE ADDRESSED: The proposed amendments will repeal subsections (3), (4), (5) and (6) of Rule 40D-4.051, F.A.C. which provide exemptions for certain projects from environmental resource permitting.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171, 373.414(9) FS.

LAW IMPLEMENTED: 373.406, 373.413, 373.414(9) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen E. West, Deputy

General Counsel, Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40D-4.051 Exemptions.

The following activities are exempt from permitting under this chapter:

(1) through (2) No change.

~~(3) Any project, work or activity which has received all governmental approvals necessary to begin construction and is under construction prior to October 1, 1984.~~

~~(4) Any project, work or activity which received a surface water management permit from the District prior to October 1, 1984.~~

~~(5) Any project, work or activity which did not require a surface water management permit from the District and had received all other necessary governmental approvals to begin construction or operation prior to October 1, 1984.~~

~~(6) Any phased or long term build out project, including a development of regional impact, planned unit development, development with a master plan or master site plan, or similar project, which has received local or regional approval prior to October 1, 1984, if:~~

~~(a) The approval process requires a specific site plan and provides for a master drainage plan approved prior to the issuance of a building permit, and~~

~~(b) The developer has notified the District of its intention to rely upon this exemption on or before April 1, 1985.~~

~~Projects exempt under this subsection shall continue to be subject to the District’s surface water management rules in effect prior to October 1, 1984.~~

(7) through (16) renumbered (3) through (12) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.414(9) FS. Law Implemented 373.406, 373.413, 373.414(9) FS. History—Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95, \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE TITLE: Exemptions

RULE NO.: 40D-4.051

PURPOSE AND EFFECT: The purpose of the proposed amendments is to repeal or amend District rules which were listed by the District pursuant to Section 120.536, F.S. The effect will be to amend subsections 40D-4.051(12)(i) and (n), F.A.C. which are exemptions from environmental resource permitting that deal with the construction or restoration of seawalls, and to repeal subsection 40D-4.051(13)(d), F.A.C. in its entirety.

**SUBJECT AREA TO BE ADDRESSED:** The proposed amendment of subsection 40D-4.051(12)(i), F.A.C. will delete language that was listed by the District as unauthorized and for which no authorizing legislation was passed by the 2000 Legislature. The amendment will also add language clarifying the activities covered by the exemption. The proposed amendment to subsection 40D-4.051(12)(n), F.A.C. will delete redundant language, add the construction of riprap as an activity covered by the exemption, and clarify the requirements for construction of seawalls and ripraps in estuaries and lagoons. The repeal of subsection 40D-4.051(13)(d) will remove an exemption for the use of rotenone by the Florida Fish and Wildlife Conservation Commission.

**SPECIFIC AUTHORITY:** 373.044, 373.113, 373.149, 373.171, 373.414(9) FS.

**LAW IMPLEMENTED:** 373.406, 373.413, 373.414(9) FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS:** Karen E. West, Deputy General Counsel, Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

40D-4.051 Exemptions.

The following activities are exempt from permitting under this chapter:

(1) through (12)(h) No change.

(i) The restoration of a seawall or riprap at its previous location, upland of its previous location, or within 18 inches one foot waterward of its previous location, as measured from the face of the existing seawall slab to the face of restored seawall slab or from the front slope of the existing riprap to the front slope of the restored riprap. No filling can be performed except in the actual restoration of the seawall or riprap. No construction shall be undertaken without necessary title or leasehold interest, especially where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction and natural erosion. ~~Restoration and repair shall be performed using the criteria set forth in Section 373.414(5), Florida Statutes.~~ This exemption shall be limited to functioning seawalls or riprap. This exemption shall not affect the permitting requirements of Chapter 161, Florida Statutes.

(j) through (m) No change.

(n) The construction of ~~private vertical seawalls or riprap~~ in wetlands or other surface waters, ~~other than in an estuary or lagoon, and the construction of riprap revetments,~~ where such construction is between and adjoins at both ends existing seawalls or riprap, follows a continuous and uniform construction line with the existing seawalls or riprap, is no more than 150 feet in length, and does not violate existing water quality standards, impede navigation adversely or affect flood control. However, this shall not affect the permitting requirements of Chapter 161, Florida Statutes. In estuaries and lagoons cConstruction of vertical seawalls is limited to the circumstances and purposes stated in shall be in accordance with subsection 373.414(5)(b)1.-4., Florida Statutes.

(o) No change.

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

~~(d) The use of rotenone, by the Florida Game and Fresh Water Fish Commission, in conducting tests related to its responsibility regarding fish management. The chemical selected shall be used at no more than the strength approved by the EPA label, or a lesser strength than the EPA approved label. In addition, the chemical shall be used only under the direct on-site supervision of a staff member of the Florida Game and Fresh Water Fish Commission.~~

(e) through (h) renumbered (d) through (g) No change.

(14) through (16) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.414(9) FS. Law Implemented 373.406, 373.413, 373.414(9) FS. History-Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95,

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

**RULE CHAPTER TITLE:** General and Procedural **RULE CHAPTER NO.:** 40E-1

**PURPOSE AND EFFECT:** The purpose and effect of the rule development is to amend 40E-1, F.A.C. to clarify the District's interpretation of the statutory scope of the consumptive use program.

**SUBJECT AREAS TO BE ADDRESSED:** 40E-1.602.

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

**LAW IMPLEMENTED:** Chapter 373, Part II, FS.

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

**TIME AND DATE:** 10:00 a.m. – 4:00 p.m., March 6, 2001

**PLACE:** Mounts Building Auditorium, Mounts Botanical Garden, 531 North Military Trail, West Palm Beach, FL 33406

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water



**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Minimum Flows and Levels  
RULE CHAPTER NO.: 40E-8

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish minimum flows and levels by January, 2001 for Lake Okeechobee, the Everglades (which includes the freshwater regions of Everglades National Park, Water Conservation Areas, and the Holeyland and Rotenberger Wildlife Management Areas), the Biscayne Aquifer in Southeastern Florida, the Lower West Coast Aquifers, and the Caloosahatchee River, in accordance with Chapter 373, Florida Statutes.

SUBJECT AREAS TO BE ADDRESSED: Minimum flows and levels.

SPECIFIC AUTHORITY: 373.042, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

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

TIME AND DATE: 10:00 a.m. – 4:00 p.m., March 6, 2001

PLACE: Mounts Building Auditorium, Mounts Botanical Garden, 531 North Military Trail, West Palm Beach, FL 33406.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT THAT WILL BE AVAILABLE FEBRUARY 9, 2001 IS: For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: General and Procedural  
RULE CHAPTER NO.: 40E-20

PURPOSE AND EFFECT: The purpose and effect of the rule development is to amend 40E-20, F.A.C. to clarify the District’s interpretation of the statutory scope of the consumptive use program.

SUBJECT AREAS TO BE ADDRESSED: Consumptive use program.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.103 FS.

LAW IMPLEMENTED: Chapter 373, Part II. FS.

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

TIME AND DATE: 10:00 a.m. – 4:00 p.m., March 6, 2001

PLACE: Mounts Building Auditorium, Mounts Botanical Garden, 531 North Military Trail, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: General Water Use Permits  
RULE CHAPTER NO.: 40E-20

RULE TITLES: Policy and Purpose 40E-20.011  
Notice of Intent 40E-20.112  
Conditions of Issuance of Authorization 40E-20.302  
Limiting Conditions 40E-20.381

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish criteria for conditions for issuance of authorization consistent with Rule 40E-8, F.A.C., regarding minimum flows and levels. The purpose is also to update



references to the "Basis of Review for Water Use Permit Applications within the South Florida Water Management District – October 1997".

SUBJECT AREAS TO BE ADDRESSED: Minimum flows and levels.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.103, 373.118, 373.175, 373.246 FS.

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

TIME AND DATE: 10:00 a.m. – 4:00 p.m., March 6, 2001

PLACE: Mounts Building Auditorium, Mounts Botanical Garden, 531 North military Trail, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT THAT WILL BE AVAILABLE FEBRUARY 9, 2001 IS: For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov). Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: General and Procedural RULE CHAPTER NO.: 40E-21

PURPOSE AND EFFECT: The purpose and effect of the rule development is to amend 40E-21, F.A.C. to clarify the District’s interpretation of the statutory scope of the consumptive use program.

SUBJECT AREAS TO BE ADDRESSED: Consumptive use program.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.103 FS.

LAW IMPLEMENTED: Chapter 373, Part II. FS.

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

TIME AND DATE: 10:00 a.m. – 4:00 p.m., March 6, 2001

PLACE: Mounts Building Auditorium, Mounts Botanical Garden, 531 North Military Trail, West Palm Beach, FL 33406.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Water Shortage Plan	40E-21
RULE TITLES:	RULE NOS.:
Definitions	40E-21.051
Declaring a Water Shortage	40E-21.231
General Water Use Restrictions	40E-21.271
Phase II Severe Water Shortage	40E-21.531

PURPOSE AND EFFECT: The purpose and effect of the rule development is to modify provisions regarding agricultural uses of water during Phase III and IV water shortages consistent with Rule 40E-8, F.A.C. regarding minimum flows and levels.

SUBJECT AREAS TO BE ADDRESSED: Minimum flows and levels.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.103, 373.118, 373.175, 373.246 FS.

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

TIME AND DATE: 10:00 a.m. – 4:00 p.m., March 6, 2001

PLACE: Mounts Building Auditorium, Mounts Botanical Garden, 531 North Military Trail, West Palm Beach, FL 33406.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT THAT WILL BE AVAILABLE

FEBRUARY 9, 2001 IS: For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Regional Water Shortage Plans  
RULE CHAPTER NO.: 40E-22  
RULE TITLES: Policy and Purpose 40E-22.312  
Lake Okeechobee Agricultural Area Boundary 40E-22.322  
Water Shortage Triggers 40E-22.332

PURPOSE AND EFFECT: The purpose and effect of the rule development is to create a regional water shortage plan for Lake Okeechobee consistent with Chapter 40E-8, F.A.C. requirements.

SUBJECT AREAS TO BE ADDRESSED: Minimum flows and levels for Lake Okeechobee.

SPECIFIC AUTHORITY: 373.042, 373.0421, 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.086, 373.103(4), 373.175, 373.246 FS.

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

TIME AND DATE: 10:00 a.m. – 4:00 p.m., March 6, 2001

PLACE: Mounts Building Auditorium, Mounts Botanical Garden, 531 North Military Trail, West Palm Beach, FL 33406

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT THAT WILL BE AVAILABLE

FEBRUARY 9, 2001 IS: For technical issues contact, Scott Burns (internet: sburns@sfwmd.gov), or Cecile Ross (internet: cross@sfwmd.gov) at South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045. For procedural issues contact: Julie Jennison, South Florida Water Management

District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6294 or (561)682-6294 (internet: jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE CHAPTER TITLE: Everglades Program  
RULE CHAPTER NO.: 40E-63

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.

SUBJECT AREA TO BE ADDRESSED: Rule development to establish a compliance methodology for phosphorus load limitations for the C-139 Basin.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.4592 FS.

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

TIME AND DATE: 10:00 a.m. – 12:00 noon, March 7, 2001

PLACE: Conference Room, Clewiston Field Station of the South Florida Water Management District, S.R. 832, Rt. 1, Clewiston, FL 33440

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY TEXT IS:

For technical questions, Pam Smith, Sr. Supervising Engineer, Everglades Regulation Department, 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 psmith@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 jjenniso@sfwmd.gov).

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based.

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Division of Health Quality Assurance**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	59A-23.002
Quality Assurance	59A-23.004
Medical Records	59A-23.005
Grievance Procedures	59A-23.006
Reporting Requirements	59A-23.008
Employee and Provider Education	59A-23.009

**SUBJECT AREA TO BE ADDRESSED:** Workers' Compensation Managed Care Arrangements.

**PURPOSE AND EFFECT:** The Agency for Health Care Administration (AHCA) is proposing to amend rules 59A-23.002, 59A-23.004, 59A-23.005, and 59A-23.006, F.A.C.; and propose rules 59A-23.008 and 59A-23.009, to implement subsection (25) of section 440.134, Florida Statutes. These proposed changes will specify: (a) Requirements and procedures for case management, utilization management, and peer review; (b) Requirements and procedures for quality assurance and medical records; (c) Requirements and procedures for dispute resolution; (d) Requirements and procedures for employee and provider education; (e) Requirements and procedures for reporting data regarding grievances, return-to-work outcomes, and provider networks; and (f) clarify workers' compensation managed care arrangement definitions.

**SPECIFIC AUTHORITY:** 440.134(25) FS.

**LAW IMPLEMENTED:** 440.134 FS.

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

**TIME AND DATE:** 10:00 a.m. – 12:00 p.m., March 6, 2001  
**PLACE:** Agency for Health Care Administration, 2727 Mahan Drive, Building 3, 1st Floor Conference Room A, Tallahassee, Florida 32308-5403

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Betty Jean Cettie, Agency for Health Care Administration, Health Services and

Facilities Consultant, Bureau of Managed Health Care, (850)414-8981, Agency's web site: [www.fdhc.state.fl.us/MCHQ/Manage Health Care/WCMC/index.shtml](http://www.fdhc.state.fl.us/MCHQ/Manage Health Care/WCMC/index.shtml)

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Landscape Architecture**

**RULE TITLE:** Continuing Education **RULE NO.:** 61G10-18

**PURPOSE AND EFFECT:** The purpose of this new chapter is to address Continuing Education.

**SUBJECT AREA TO BE ADDRESSED:** Inactive Status.

**SPECIFIC AUTHORITY:** 481.315 FS.

**LAW IMPLEMENTED:** 481.315 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Sherri Landrum, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

**DEPARTMENT OF HEALTH**

**Board of Medicine**

**RULE TITLE:** Disciplinary Guidelines **RULE NO.:** 64B8-55.001

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

**SUBJECT AREA TO BE ADDRESSED:** Disciplinary Guidelines.

**SPECIFIC AUTHORITY:** 456.072, 476.079, 478.52(4) FS.

**LAW IMPLEMENTED:** 456.072, 456.079, 478.52(4) FS.

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

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

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

**DEPARTMENT OF HEALTH**

**Board of Respiratory Care**

RULE TITLE: Fees for Application, Examination, Initial and Renewal Licensure  
 RULE NO.: 64B32-3.005

PURPOSE AND EFFECT: The proposed rule change is to raise the fee charged for licensure and to change the word "registration" to licensure" for clarity.

SUBJECT AREA TO BE ADDRESSED: Fees for Application, Examaination, Initial and Renewal Registration.

SPECIFIC AUTHORITY: 455.641, 468.364 FS.

LAW IMPLEMENTED: 455.641, 468.364 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Executive Director, Board of Respiratory Care, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-3.005 Fees for Application, Examination, Initial and Renewal ~~Licensure Registration~~.

- (1) through (2) No change.
- (3) The initial ~~licensure registration~~ fee for a person who becomes licensed shall be ~~\$110.00~~ \$70.00.
- (4) No change.

Specific Authority ~~456.064 455.641~~, 468.364 FS. Law Implemented ~~456.064 455.641~~, 468.364 FS. History--New 4-29-85, Formerly 21M-35.05, Amended 9-21-93, 1-3-94, Formerly 61F6-35.005, Amended 9-29-94, Formerly 59R-72.006, 64B8-72.006, ~~Amended~~.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Shrimp  
 RULE CHAPTER NO.: 68B-31

RULE TITLE: Northwest Region Food Shrimp  
 RULE NO.: 68B-31.010

PURPOSE AND EFFECT: The purpose of this rule development effort is to delay for one year the scheduled expiration of the allowance for the use of skimmer trawls for food shrimp production in a portion of Apalachicola Bay. Necessary studies on the effects of such gear have not been completed, delaying a decision on whether the gear can be allowed on a permanent basis. The effect of this rule development effort will be to allow those food shrimp

producers who have been experimenting with skimmer trawls to continue for another year before a final decision is made on the appropriateness of the gear.

SUBJECT AREA TO BE ADDRESSED: Food shrimp production with skimmer trawls in Apalachicola Bay.

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.

Special accommodations at this workshop for persons with disabling conditions should be requested in writing at least 7 days in advance, if such workshop is held. Contact Lisa Rubenstein, Marine Fisheries Commission, 2540 Executive Center Circle, West, Suite 106, Tallahassee, Florida 32301.

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-31.010 Northwest Region Food Shrimp Production Gear Specifications.

Each person harvesting shrimp in the Northwest Region as a food shrimp producer shall comply with the requirements specified in this rule.

(1) Allowable Gear – No person shall harvest shrimp in the nearshore and inshore Florida waters of the region as a food shrimp producer with any type of gear other than:

(a) A roller frame trawl meeting the following specifications:

- 1. Neither the upper or lower horizontal beam on a roller frame trawl so used is greater than 16 feet in length.
- 2. The vertical bars shielding the trawl opening are spaced no further than 3 inches apart.
- 3. No more than two such trawls, unconnected, shall be towed by a single vessel at any time.
- 4. The netting of the trawl shall be no larger in mesh area than specified by Rule 68B-31.0035(2).

(b) No more than two unconnected otter trawls, each with a perimeter around the leading edge of the net not greater than 66 feet and a net no larger in mesh area than specified by Rule 68B-31.0035(2). The two otter trawls allowed in the nearshore and inshore Florida waters of this region shall include any try net being towed.

(c) Until July 1, ~~2002~~ 2001, and only in the area of the Northwest Region specified herein, no more than two unconnected skimmer trawls meeting the following specifications:

1. The perimeter around the leading edge of any skimmer trawl shall not exceed 56 feet.
2. No more than two skimmer trawls, unconnected other than being attached to the same vessel, shall be deployed from a single vessel at any time.
3. The netting of a skimmer trawl shall be no larger in mesh area than specified by Rule 68B-31.0035(2).
4. No skimmer trawl shall be used to harvest shrimp except in the following described area in Apalachicola Bay in the Northwest Region: All waters of Apalachicola Bay in Franklin County bounded on the north by the John Gorrie Memorial Bridge, on the west by the Apalachicola Shipping Channel to Channel Marker No. 2, on the south by ICWW Channel, and on the east by the Bryant Patton Bridge.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-1-92, Amended 1-1-96, 8-17-98, 6-1-99, Formerly 46-31.010, Amended \_\_\_\_\_.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Resources**

RULE CHAPTER TITLE: Artificial Reef Program  
 RULE CHAPTER NO.: 68E-9

PURPOSE AND EFFECT: The purpose of this proposed rule development is to codify the procedures for submitting applications from local coastal governments and nonprofit corporations for grants and financial assistance, the criteria used for awarding grants and financial assistance for artificial reef siting and development and monitoring, and the criteria used to determine the eligibility of nonprofit corporations.

SUBJECT AREA TO BE ADDRESSED: Procedures for submitting an application for financial assistance for artificial reef siting and development, and for artificial reef monitoring and evaluation and the criteria for allocating available funds pursuant to §370.25, Florida Statutes.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Fla. Const., 370.25(2),(4) FS.

LAW IMPLEMENTED: Art. IV, Sec. 9, Fla. Const. 370.25(2),(4) FS.

A HEARING ON THE PROPOSED RULE DEVELOPMENT WILL BE CONDUCTED IN CONJUNCTION WITH THE COMMISSION'S REGULARLY SCHEDULED PUBLIC MEETING AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., each day, March 29-30, 2001  
 PLACE: Holiday Inn-Capital, 1355 Apalachee Parkway, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Mr. Robert Palmer, Chief, Bureau of Marine Fisheries Management  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AND CAN BE OBTAINED FROM: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600

**Section II  
 Proposed Rules**

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Securities and Finance**

RULE TITLES:	RULE NOS.:
Records to be Maintained by Check Cashers	3C-560.704
Postdated Check	3C-560.803
Money Transmitters	3C-560.805

PURPOSE AND EFFECT: Distinguish transactions that are outside of the scope of Chapter 560, Florida Statutes.

SUMMARY: The proposed rule specifies that any agreement to extend, renew or continue a check cashing transaction, for value, is outside of the scope of Chapter 560, Florida Statutes. To assure compliance, a check casher may not enter into a check cashing transaction with a drawer until the expiration of two days following negotiation for value of any payment instrument made by the same drawer and accepted by the check casher.

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

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

SPECIFIC AUTHORITY: 560.105(3) FS.

LAW IMPLEMENTED: 560.309, 560.310, 655.86 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., March 12, 2001

PLACE: Room 526, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Don Saxon, Director, Division of Securities and Finance, Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805