

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE CHAPTER TITLE: Elections
 RULE CHAPTER NO.: 1S-2

RULE TITLES: Initiative Constitutional Amendment Petition
 RULE NOS.: 1S-2.009

Reporting Requirements for Candidates, Committees, and Political Parties;
 State Matching Funds 1S-2.017

PURPOSE AND EFFECT: The purpose of rule development for these rules is to update forms currently incorporated by reference.

SUBJECT AREA TO BE DISCUSSED: Form of Initiative Constitutional Amendment petitions and the forms for reporting requirements for state matching funds.

SPECIFIC AUTHORITY: 100.371(3), 101.161(2), 106.35(1),(5) FS.

LAW IMPLEMENTED: 100.371, 101.161, 106.04, 106.07, 106.29, 106.30-.36 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., Monday, March 25, 2002

PLACE: Room 100, 107 West Gaines Street, The Collins Building, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Amy K. Tuck, Assistant General Counsel, Room 100, 107 West Gaines Street, Tallahassee, Florida 32399, (850)245-6200 or atuck@mail.dos.state.fl.us

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

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLE: Certificate of Authority Renewal
 RULE NO.: 3D-30.041

PURPOSE AND EFFECT: The purposes and effects of this amendment are to implement legislative changes to Section 497.407, F.S., by Laws of Florida 2000-195 and to change the renewal period to commence on July 1 of each year.

SUBJECT AREA TO BE ADDRESSED: The renewal period is changed to commence July 1 to allow for processing delays. New renewal form DBF-COA-R3 reduces a completed application from the former fifteen (15) pages to the new form's three (3) pages.

SPECIFIC AUTHORITY: 497.103(1), 497.105(1), 497.105(5), 497.407 FS.

LAW IMPLEMENTED: 497.105(1), 497.407 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.

Requests for the rule development workshop should be addressed to Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3D-30.041 Certificate of Authority Renewal.

(1) Each active certificate of authority shall be renewed for the annual period beginning ~~July~~ ~~June~~ 1 of each year upon approval by the Board of Funeral and Cemetery Services. The application for renewal will be presented to the Board upon receipt and review by the Department of a non-refundable renewal fee ~~as established by Section 497.407(4), F.S., of \$250 as set by the Board,~~ a financial statement as of the entity's most recent fiscal year end, and a completed Annual COA Renewal Statement. Certificate of Authority Renewal, Form DBF-COA-R1, effective 1-18-96, Annual COA Financial Statement, Form DBF-COA-R2, effective 1-18-96, and Annual COA Renewal Statement, Form DBF-COA-R3, ~~revised 12-6-01 effective 1-18-96,~~ are hereby incorporated by reference and available by mail or electronically from the Department of Banking and Finance, Division of Finance, ~~Suite 553,~~ Fletcher Building, Tallahassee, Florida 32399-0350.

(2) Failure to submit the statements as required in subsection (1) may result in the levy of a fine by the Board of Funeral and Cemetery Services in the amount of \$50 per day for each day the financial and renewal statements are not submitted as follows:

(a) Annual COA Financial Statement must be submitted to and received by the Department of Banking and Finance, Board of Funeral and Cemetery Services, ~~Suite 553,~~ Fletcher Building, Tallahassee, Florida, 32399-0350, within 3 months of the end of the certificateholder's fiscal year.

(b) Annual COA Renewal Statement and the required renewal fee must be submitted to and received by the Department of Banking and Finance, Board of Funeral and Cemetery Services, ~~Suite 553,~~ Fletcher Building, Tallahassee, Florida 32399-0350, on or before April 1 of each year.

(3) Financial statements may be prepared either on the form promulgated by this rule or by an independent certified public accountant on the accrual or income tax basis of accounting in conformity with Rule 3F-5.0016, F.A.C. Audited statements are acceptable. The financial statements must document compliance with the minimum financial responsibility requirements of Rule 3F-5.0016, F.A.C. Failure to comply with said rule shall result in denial of the renewal application.

(4) The Department or Board may request additional information from the Certificate of Authority to verify or confirm statements made in the Annual COA Renewal Statement and the Annual COA Financial Statement within one year after the end of the renewal period.

(5)(4) In the event the renewal application is denied by the Board, the renewal fee paid is not refundable. If a hearing is requested on the denial, the certificate shall remain in active status during the pendency of the hearing.

(6)(5) Any Certificate of Authority not approved or denied by the Board prior to July June 1 of each year shall automatically expire on July June 1 and the entity shall be required to cease and desist from all selling of preneed funeral and cemetery goods and services. All preneed sales agent registrations associated with the certificate of authority will be terminated. New applications for certification/registration must be submitted to and approved by the Board in order to return the certificate and agent registrations to active status. The applicants shall be subject to all requirements of initial application.

Specific Authority 497.103(1), 497.105(1),(5), 497.407 FS. Law Implemented 497.105(1), 497.407 FS. History–New 6-24-96, Amended 10-18-01,

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: Inactive Certificates of Authority

RULE NO.: 3F-5.0025

PURPOSE AND EFFECT: The Board proposes to adopt this rule to set forth the criteria for inactive certificates of authority, setting forth what is considered an inactive certificate and what must be done when a licensee becomes inactive.

SUBJECT AREA TO BE ADDRESSED: Inactive Certificates of Authority.

SPECIFIC AUTHORITY: 497.103, 497.437 FS.

LAW IMPLEMENTED: 497.437 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: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3F-5.0025 Inactive Certificates of Authority.

(1) A certificateholder shall be considered inactive upon acceptance by the Board of the surrender of the certificate of authority, if the certificateholder fails to submit a renewal application and fees or upon the final expiration of the certificate of authority after denial of renewal by the Board.

(2) Upon becoming inactive, the certificateholder shall do the following:

(a) Cease the sale of preneed contracts.

(b) Deposit into trust 100% of the funds collected as payments or made on outstanding preneed contracts.

(c) Notify the Department of the certificateholder's compliance with this rule.

(3) The licenses of all preneed sales agents registered with an inactive certificateholder shall expire immediately upon the certificateholder becoming inactive.

(4) If an inactive certificateholder intends to cease providing at-need services, the inactive certificateholder shall, prior to ending such services, assign all preneed contracts to a certificateholder for fulfillment. The Department and all preneed purchasers shall be notified of the assignment.

(5) As provided by Section 497.436(7), F.S., in order for the Board to exercise its jurisdiction as provided therein, an inactive certificateholder shall, at the same time as is required for renewing certificateholders, submit a certificate of authority renewal form and financial statement. Additionally, an inactive certificateholder shall continue to be subject to examination by the Department until all outstanding preneed contracts have been fulfilled or assigned to another certificateholder.

(6) To ensure compliance with this rule, the Department is authorized to request additional information as needed, including but not limited to trust reports, bank statements, workpapers and statements of accounts receivable.

Specific Authority 497.103(1) FS. Law Implemented 497.437 FS. History–New _____.

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE TITLE: Permanent Identification on Outer

RULE NO.:

Burial Containers

3F-6.009

PURPOSE AND EFFECT: The Board proposes to promulgate this rule to set forth criteria for the permanent identification of outer burial containers.

SUBJECT AREA TO BE ADDRESSED: Permanent Identification on Outer Burial Containers.

SPECIFIC AUTHORITY: 491.103(1),(3), 497.0255 FS.

LAW IMPLEMENTED: 497.309(1),(3) 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: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

3F-6.009 Permanent Identification on Outer Burial Containers.

(1) The cemetery company shall maintain a detailed record identifying the permanent location of the deceased, which includes the name of the garden lot, space of mausoleum crypt or niche.

(2) In order to ensure the accuracy of interments, and inurnments and their related burial records, each cemetery company shall mark the outside of an outer burial container, or urn vault, or the inside of a crypt or niche, as appropriate, with the name of the deceased interred therein. The identity of the deceased shall be the responsibility of the entity that is handling the preparation of the deceased's remains, and not the responsibility of the cemetery.

(3) The identification shall contain the name of the deceased and the date of burial. The identification label shall be made of durable long lasting material capable of withstanding deterioration.

Specific Authority 491.103(1),(3), 497.0255 FS. Law Implemented 497.309(1),(3) FS. History-New _____.

DEPARTMENT OF INSURANCE

Division of State Fire Marshall

RULE TITLE: Construction Materials Mining Activities

RULE NO.: 4A-2.024

PURPOSE AND EFFECT: The amendment is to address a concern raised by the Joint Administrative Procedures Committee that the existing rule was not explicit that the permit fees collected would be exclusively for use to fund monitoring and enforcement activities as required by § 552.30, F.S. The amendment also revised Form DI4-1498 to add spaces for the name a location of the mine, and to provide instructions for organization of attachments.

SUBJECT AREA TO BE ADDRESSED: Construction materials mining activities.

SPECIFIC AUTHORITY: 552.30 FS.

LAW IMPLEMENTED: 552.161, 552.211, 552.30 FS.

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

TIME AND DATE: 9:30 a.m., March 26, 2002

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Terry Hawkins, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3624

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4A-2.024 Construction Materials Mining Activities.

(1) through (2) No change.

(3) Mining Permit.

(a) No change.

(b) A mining permit shall be issued only after:

1. No change.

2.a. Approval of an application, signed by the applicant showing the applicant's name and address, on Form DI4-1498 Rev. 6/01, 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.

b. through d. No change.

(c) through (i) No change.

(4) through (9) No change.

(10) Fees. The fees established pursuant to Section 552.30 ~~552.26~~, Florida Statutes, shall be used exclusively to fund the monitoring and enforcement activities pursuant to Section 552.30, Florida Statutes, unless otherwise approved by the Florida Legislature, and shall be as follows:

(a) through (e) No change.

(11) through (14) No change.

Specific Authority 552.30 FS. Law Implemented 552.161, 552.211, 552.30 FS. History-New 11-21-01, Amended _____.

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 workshop request must be submitted in writing within 14 days of the date of this notice to the Commission's Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Division of the Commission Clerk and Administrative Services, (850)413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT AT NO CHARGE IS: Jim Ruehl, Division of Auditing and Safety, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-6.0345 Safety Standards for Construction of New Transmission and Distribution Facilities.

(1) In compliance with Chapter 366.04(6)(b), F.S., 1991, the Commission adopts and incorporates by reference the 2002 ~~1997~~ edition of the National Electrical Safety Code (ANSI C-2), published August 1, 2001 ~~August 1, 1996~~, as the applicable safety standards for transmission and distribution facilities subject to the Commission's safety jurisdiction. Each public electric utility, rural electric cooperative, and municipal electric system shall comply with the standards in these provisions. Standards contained in the 2002 ~~1997~~ edition shall be applicable to new construction for which a work order number is assigned on or after the effective date of this rule.

(2) through (7) No change.

Specific Authority 350.127(2) FS. Law Implemented 366.04(2)(f),(6) FS. History--New 8-13-87, Amended 2-18-90, 11-10-93, 8-17-97, _____.

REGIONAL PLANNING COUNCILS

Southwest Florida Regional Planning Council

RULE CHAPTER TITLE: Strategic Regional Policy Plan
 RULE TITLE: Strategic Regional Policy Plan
 PURPOSE AND EFFECT: The purpose and effect is to finalize amendments to the Strategic Regional Policy Plan.

RULE CHAPTER NO.: 29I-6
 RULE NO.: 29I-6

SUBJECT AREA TO BE ADDRESSED: The strategic issues that are addressed include the Economy, Emergency Preparedness, Affordable Housing, Natural resources and Transportation.

SPECIFIC AUTHORITY: 186.508(1), 186.505 FS.

LAW IMPLEMENTED: 186.508(1), 186.505 FS.

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

TIME AND DATE: 9:30 a.m., March 21, 2002

PLACE: Southwest Florida Regional Planning Council Offices, 4th Floor, 4980 Bayline Drive, North Fort Myers, Florida

THE PERSON TO BE CONTACTED REGARDING PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: David Y. Burr, Southwest Florida Regional Planning Council, 4980 Bayline Drive, North Fort Myers, FL 33917, (941)656-7720

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

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Publications Incorporated by Reference
 PURPOSE AND EFFECT: The St. Johns River Water Management District proposes to amend the drainage basin and regional watershed figures and tables which are part of the Applicant's Handbook: Management and Storage of Surface Waters and are relevant to the review of applications for environmental resource permits (ERP) and mitigation bank permit applications. The District proposes to amend Figure 12.2.8-1 entitled "St. Johns River Water Management District Drainage Basins" and the figure in Appendix M entitled "St. Johns River Water Management District Regional Watersheds for Mitigation Banking." The drainage basins on Figure 12.2.8-1 define the geographical scope of the evaluation of whether a regulated activity will cause unacceptable cumulative impacts upon wetlands and other surface waters. The regional watersheds in Appendix M are used in the analysis of ecological benefits of proposed mitigation banks, are considered in the establishment of mitigation bank service areas, and are used as part of the determination of the number of mitigation credits needed to offset a given wetland impact. Specifically, the District proposes to amend Figure 12.2.8-1 by revising the Northwest boundary between drainage basins 4, 5, and 6, in the vicinity of Mill Dam Branch, Ponceon Gum Swamp, and Pablo Creek in Duval County, and revising part of the boundary between drainage basins 16 and 17 in the vicinity of the Southeast corner of Flagler County (in Sections 17-19, Township 14 South, Range 31 East). The District proposes to amend Appendix M by revising the Northwest boundary between regional watersheds 4, 5 and 6, in the vicinity of Mill

RULE NO.: 40C-4.091

Dam Branch, Puncheon Gum Swamp, and Pablo Creek in Duval County, and revising part of the boundary between regional watersheds 16 and 17 in the vicinity of the Southeast corner of Flagler County (in Section 17-19, Township 14 South, Range 31 East).

SUBJECT AREA TO BE ADDRESSED: The proposed rules amend the drainage basin and regional watershed figures (Fig. 12.2.8-1 and figure in Appendix M) in the Applicant’s Handbook: Management and Storage of Surface Waters.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.414, 373.4136, 373.418 FS.

LAW IMPLEMENTED: 373.016(2), 373.413, 373.4135, 373.4136, 373.414(8), 373.416, 373.418, 373.426 FS.

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

TIME AND DATE: 10:00 a.m., March 19, 2002

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40C-4.091 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference:

(a) Part I “Policy and Procedures,” Part II “Criteria for Evaluation,” subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K “Legal Description Upper St. Johns River Hydrologic Basin,” “Legal Description Ocklawaha River Hydrologic Basin,” “Legal Description of the Wekiva River Hydrologic Basin,” “Legal Description of the Econlockhatchee River Hydrologic Basin,” “Legal Description of the Sensitive Karst Areas Basin, Alachua County,” “Legal Description Tomoka River Hydrologic Basin,” Legal Description Spruce Creek Hydrologic Basin,” “Legal Description of the Sensitive Karst Areas Basin, Marion County,” and “Legal Descriptions of the Lake Apopka Drainage Basin,” and Appendix M “Regional Watersheds for Mitigation Banking,” of the document entitled “Applicant’s Handbook: Management and Storage of Surface Waters,” effective _____ ~~10-11-01~~.

(b) through (2) No change.

Specific Authority 373.044, 373.046(4), 373.113, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421, 373.461 FS. Law Implemented 120.60, 373.016(2), 373.042, 373.0421 373.046, 373.085, 373.086, 373.109, 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.421(2)-(6), 373.423, 373.426, 373.461(3), 380.06(9), 403.813(2) FS. History—New 12-7-83, Amended 10-14-84, Formerly 40C-4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 8-11-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, 8-21-00, 7-8-01, 10-11-01, _____.

INSERT MAP – PAGE 1 OF 2

FIGURE 12.2.8-1

INSERT MAP – PAGE 2 OF 2

APPENDIX M

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE TITLES:	RULE NOS.:
Definitions	40E-4.021
Permit Thresholds	40E-4.0415
Exemptions from Permitting	40E-4.051
Publications, Rules and Interagency Agreements	
Incorporated by Reference	40E-4.091
Content of Permit Applications	40E-4.101
Conceptual Approvals	40E-4.305
Conversion from Construction Phase	
to Operation Phase	40E-4.361
Abatement and Abandonment of a System	40E-4.371
General Conditions	40E-4.381

PURPOSE AND EFFECT: The Joint Administrative Procedures Committee (JAPC) objected to certain language in various sections of Chapter 40E-4, F.A.C. The objections were based upon the use of undefined or ambiguous terms, improper use of the word “may,” rule vagueness, and improper references or incorporations by reference. The purpose of the proposed amendments is to delete and/or revise the language objected to by JAPC.

SUBJECT AREA TO BE ADDRESSED: Chapter 40E-4, F.A.C., addresses environmental resource permits and implements the comprehensive permit system authorized in Part IV, Chapter 373, F.S. Specifically, the proposed amendments: 1) adopt a definition for “Appropriate Registered Professional” or “Registered Professional” (see 40E-4.021 and 40E-4.361); 2) delete the word “may” and state that the SFWMD’s Governing Board has identified geographical areas where additional criteria are necessary to assure that surface water management systems are not harmful to the water resources of the SFWMD (see 40E-4.0415); 3) delete the phrase “if feasible, or operated in accordance with an impoundment management plan approved by the District” (see 40E-4.051(2)(d)); 4) delete the word “private” when used to reference docks and add a reference to piers (see 40E-4.051(3)); 5) delete statutory and rule cross references (see 40E-4.051(6)(b)15.); 6) incorporate by reference ERP/SWM operation agreements between the SFWMD, Palm Beach, Collier, and Miami-Dade counties and update the effective date of the ERP Basis of Review (see 40E-4.091); 7) delete the requirement that permit applicants submit for review “other” undefined information (see 40E-4.101 and 4.4.4.8 and 4.4.9.5 BOR); 8) replace reference to “373.421(2), F.S.” with reference to “Section 40E-4.042, F.A.C.” (see 40E-4.305 and 40E-4.381(1)(o)); 9) clarify the authority for certain SFWMD forms incorporated by reference (see 40E-4.361, 40E-4.381 and 10.1 BOR); 10) delete the references to Sections 373.433 and 373.426, F.S., pertaining to language directing the use of abatement proceedings for the abatement and abandonment of surface water management systems (see 40E-4.371); 11) delete language pertaining to modification of general permit

conditions by the Governing Board (see 40E-4.381(1)); 12) clarify that project-specific special conditions must meet the conditions for issuance found in 40E-4.301 and 40E-4.302 (see 40E-4.381(2));

13) add a rule reference (see 4.2.2.1 BOR); 14) correct typographical errors (see 4.2.4.3 and 4.2.5 BOR); 15) replace the words “However, the District may issue permits or certification for” with “This provision shall not apply to” and delete the words “by the Department” (see 4.2.5 BOR); 16) delete the case-by-case determination for innovative mitigation proposal and instead require the proposals to offset impacts to functions (see 4.3.1.8 BOR); 17) delete the requirement for prior written approval to withdraw or transfer funds in a financial responsibility mechanism and state that the mechanism cannot be canceled without first providing an alternative (See 4.3.7.4 BOR); 18) delete language stating that the Governing Board may revoke a formal determination (see 4.5.4 BOR); 19) delete language pertaining to the application fee for certain subsequent petitions (see 4.5.5 BOR); 20) delete the words “as provided by law” (see 4.5.6 BOR); 21) clarify and set forth specific permitting criteria relative to how reasonable assurances can be provided so that effluent does not migrate into surface water management systems (see 5.5 BOR); and 22) replace “will normally be” with “is” (see 5.9.2 BOR).

SPECIFIC AUTHORITY: 373.016, 373.044, 373.103(8), 373.113, 373.117, 373.171, 373.406(5), 373.413, 373.441 FS.

LAW IMPLEMENTED: 373.016, 373.019, 373.116, 373.117, 373.118(1), 373.229, 373.413(1), 373.403-443, 373.413, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441, 403.031, 704.06 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.

Written public comments regarding the proposed rule amendment must be received by the SFWMD no later than 21 days from the publication date of this notice.

Although Governing Board meetings, hearings and workshops are normally recorded (in the event that a workshop or workshops are held pursuant to the terms set forth above), 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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District,

MSC 1410, 3301 West Palm Beach, FL 33416-4680, telephone (800)432-2045, Extension 6320 or (561)682-6320, or via email: pbell@sfwmd.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-4.021 Definitions.

(1) through (2) No change.

(3) “Appropriate Registered Professional” or “Registered Professional” means, for purposes of this rule, a professional registered in Florida with the necessary expertise in the fields of hydrology, drainage, flood control, erosion and sediment control, and stormwater pollution control to design and certify stormwater management systems.

(3) through (40) renumbered (4) through (41) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.019, 373.403-443, 403.031, 704.06 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-1.05(1), Amended 7-1-86, 4-20-94, 10-3-95, 4-1-96, _____.

40E-4.0415 Permit Thresholds.

(1) No change.

(2) No change.

(3) Notwithstanding the provisions of subsections (1) and (2), the Governing Board has, in Rules 40E-41.023, 40E-41.123, 40E-41.223, and 40E-41.323, F.A.C., may designate specific geographic areas in which additional surface water management criteria are necessary in order to ensure that construction, alteration, operation, maintenance, removal or abandonment of surface water management systems is not harmful to the water resources within which individual or standard general environmental resource permits shall be required for the construction, alteration, operation, maintenance, removal or abandonment of surface water management systems which fall below any thresholds or activities set forth in this rule.

Specific Authority 373.044, 373.113, 373.171, 373.406(5) FS. Law Implemented 373.118(1), 373.413(1) FS. History—New 10-3-95, Amended 5-28-00, _____.

40E-4.051 Exemptions from Permitting.

(1) No change.

(2) Maintenance of Systems.

(a) through (c) No change.

(d) The restoration of less than 100 feet in length of existing insect control impoundment dikes and the connection of such impoundments to tidally influenced waters. Such impoundments shall be connected to tidally influenced waters for at least 6 months each year, beginning September 1 and ending February 28; if feasible, or operated in accordance with an impoundment management plan approved by the District. The connection shall be of sufficient cross-sectional area to allow beneficial tidal influence. Restoration shall involve no more dredging than needed to restore the dike to original

design specifications, and the final elevation of the dredge area shall be within two feet of immediately adjacent bottom elevations. For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of insect control impoundments.

(3) Docking Facilities and Boat Ramps.

(a) No change.

(b) The installation or repair construction of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity’s activities will not take place in any manatee habitat, and of which docks have of 1000 square feet or less of surface area over wetlands or other surface waters, or 500 square feet or less of surface area over wetlands or other surface waters for docks which are located in Outstanding Florida Waters. This exemption shall include the construction and repair of structures above the dock area, such as boat shelters and gazebos, provided such structures are not enclosed with walls and doors, are not used for residential or commercial purposes, or storage of materials other than those associated with recreational use, and provided the structures do not exceed, together with the docking facility, the total area limitations, above. To qualify for this exemption, any such dock and associated structure:

1. through 3. No change.

4. Shall be the sole dock constructed pursuant to this exemption as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot. For the purposes of this paragraph, multi-family living complexes and other types of complexes or facilities associated with the proposed private dock shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property. Construction of a private dock under this exemption does not require the District to issue a subsequent permit to construct a channel to provide navigational access to the dock. Activities associated with a private dock shall include the construction of structures attached to the dock pier which are only suitable for the mooring or storage of boats (i.e., boatlifts).

(c) No change.

(d) The replacement or repair of existing docks, or mooring piles or piers, provided:

1. thorough 3. No change.

(e) No change.

(4) through (5) No change.

(6) Bridges, Driveways and Roadway Crossings.

(a) No change.

(b) The construction or maintenance of culverted driveway or roadway crossings and bridges of artificial waterways, provided:

1. through 14. No change.

15. This exemption shall not apply to activities involving relocation or other alteration of all or part of the artificial waterway, or construction for other than the proposed culvert crossing, ~~except as exempted by Chapter 373, F.S., or Rule 40E-4.051, F.A.C.~~

(7) through (10) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(2) FS. History—New 9-3-81, Amended 1-31-82, 3-9-83, Formerly 16K-4.02, Amended 4-20-94, 10-3-95, 5-28-00, 9-2-01, _____.

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – _____ ~~January 2001.~~”

(b) through (k) No change.

(l) Operating Agreement Between the South Florida Water Management District and Collier County, effective _____.

(m) Operating Agreement Between the South Florida Water Management District and Palm Beach County, effective _____.

(n) Operating Agreement Between the South Florida Water Management District and Miami-Dade County, effective _____.

(2) No change.

Specific Authority 373.044, ~~373.103(8)~~, 373.113, 373.171, 373.413, 373.441, ~~373.171~~ FS. Law Implemented 373.413, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, _____.

40E-4.101 Content of Permit Applications.

(1) Applications for permits required by this chapter shall be filed with the District Service Center which will review the application as set forth in Rule 40E-1.6025, F.A.C. The application shall contain:

(a) through (b) No change.

~~(c) Other information that is required to provide reasonable assurances that the project will satisfy the conditions for issuance listed in Rules 40E-4.301 and 40E-4.302, F.A.C.~~

(2) through (4) No change.

Specific Authority 373.016, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.117, 373.413, 373.416, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 5-28-00, _____.

40E-4.305 Conceptual Approvals.

(1) through (7) No change.

(8) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Section ~~40E-4.042, F.A.C., 373.421(2), F.S.~~, provides otherwise.

(9) through (10) No change.

Specific Authority 373.044, 373.113, 373.171, 380.06(9) FS. Law Implemented 373.413, 373.416, 373.421(2), 380.06(9) FS. History—New 10-3-95, ~~Amended _____.~~

40E-4.361 Conversion from Construction Phase to Operation Phase.

(1) In order to convert an environmental resource or surface water management permit from the construction phase to the operational phase, the permittee shall submit the following:

(a) A completed and executed Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity Form No. # 0920, incorporated by reference in Rule 40E-1.659, F.A.C.;

(b) A completed and executed Environmental Resource/Surface Water Management Permit Construction Completion/Construction Certification Form No. # 0881, incorporated by reference in Rule 40E-1.659, F.A.C., in accordance with Section 10.0; of the “Basis of Review for Environmental Resource Permit Applications within South Florida Water Management District – _____ ~~November 1996;~~ and

(c) No change.

(2) The operation phase of a surface water management system which was required to be designed by an appropriate registered professional, as defined in Rule 40E-4.021(3), F.A.C., does not become effective until all of the following criteria have occurred:

(a) No change.

(b) The registered professional shall certify that:

1. No change.

2. Any deviations from the approved plans and specifications will not prevent the system from functioning in compliance with the requirements of this rule and Section 10.0 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – _____ ~~November 1996.~~” The registered professional shall note and explain substantial deviations from the approved plans and specifications and provide two copies of as-built drawings to the District; and

(c) No change.

(3) A conversion to the operational phase shall not occur until a responsible entity meeting the requirements in Section 9.0, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – _____ ~~November 1996.~~” has been

established to operate and maintain the system. The entity must be provided with sufficient ownership, legal or equitable interest so that it has control over all water management facilities authorized by the permit.

(4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416 FS. History—New 10-3-95, Amended 1-7-97, _____.

40E-4.371 Abatement and Abandonment of a System.

~~(1) Abatement proceedings shall be conducted in accordance with the provisions of Section 373.433, F.S.~~

~~(2) Abandonment proceedings shall be conducted in accordance with Section 373.426, F.S.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.426, 373.433 FS. History—New 10-3-95, Repealed.

40E-4.381 General Conditions.

(1) The following general conditions shall be applicable to and binding on all permits issued pursuant to this chapter and Chapter 40E-40, F.A.C., unless waived by the District or ~~modified by the Governing Board~~ upon a determination that the conditions are inapplicable to the activity authorized by the permit. These conditions are enforceable under Part IV, Chapter 373, F.S.

(a) through (c) No change.

(d) The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource/Surface Water Management Permit Construction Commencement Notice Form No. 0960, incorporated by reference in Rule 40E-1.659, F.A.C., indicating the actual start date and the expected completion date.

(e) When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing the District's an Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction Form- No. 0961, incorporated by reference in Rule 40E-1.659, F.A.C. The Annual Status Report Forms shall be submitted the following June of each year.

(f) Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Construction Certification Form No. 0881, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and

specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.

(g) The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (f) above, has submitted the District's a Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase, and Transfer of Permit to the Operating Entity Form No. 0920, incorporated by reference in Rule 40E-1.659, F.A.C.; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water District - _____ November 1996." accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Rule 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

(h) No change.

(i) For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District - _____ November 1996, prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the

permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

(j) through (n) No change.

(o) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation shall not be considered binding unless a specific condition of this permit or a formal determination under Section 40E-4.042, F.A.C., Section 373.421(2), F.S., provides otherwise.

(p) through (s) No change.

(2) In addition to those general conditions set forth in subsection (1), the Governing Board shall impose on any permit granted under this chapter and Chapter 40E-40, F.A.C., such reasonable project-specific special conditions as are necessary to assure that the permitted system will meet the conditions for issuance in sections 40E-4.301 and 40E-4.302 ~~not be inconsistent with the overall objectives of the District or will not be harmful to the water resources of the District, as set forth in District rules.~~ Upon receipt of notice of proposed agency action, any substantially affected persons shall have the right to request a hearing in accordance with Rules 40E-1.511 and 40E-1.521, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.116, 373.229, 373.413, 373.416, 373.421, 373.422, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(3), 16K-4.38, Amended 7-1-86, 4-20-94, 10-3-95, 1-7-97, _____.

**BASIS OF REVIEW
FOR ENVIRONMENTAL RESOURCE PERMIT
APPLICATIONS WITHIN THE**

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

(The following represents proposed amendments to sections 4.2.2.1, 4.2.4.3, 4.2.5, 4.3.1.8, 4.3.7.4, 4.5.4, 4.5.5 and 4.5.6 and proposed deletions of sections 4.4.4.8 and 4.4.9.5 of the document entitled “Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001.”)

CHAPTER 4.0 ENVIRONMENTAL CRITERIA

4.0 through 4.2.2 No change.

4.2.2.1 Compliance with subsections 4.2.2 – 4.2.3.7, 4.2.5 – 4.3.8 will not be required for regulated activities in isolated wetlands less than one half acre in size, unless:

(a) through (c) No change.

(d) the District establishes that the wetland to be impacted is, or several such wetlands to be impacted are, cumulatively, of more than minimal value to fish and wildlife: based on the factors in subsection 4.2.2.3.

4.2.2.2 through 4.2.4.2 No change.

4.2.4.3 Additional Water Quality Considerations for Docking Facilities

Docking facilities are potential sources of pollutants to wetlands and other surface waters. To provide the required reasonable assurance that water quality standards will not be violated, the following factors must be addressed by an applicant proposing the construction of a new docking facility, or the expansion of or other alteration of an existing docking facility that has the potential to adversely affect water quality:

(a) Hydrographic information or studies shall be required for docking facilities of greater than ten boat slips. Hydrographic information or studies also may be required for docking facilities of less than ten slips, dependent upon the site-specific features described in paragraph 4.2.4.3(b) below. In all cases, the need for a hydrographic study, and the complexity of the study, will be dependent upon the specific project design and the specific features of the project site.

(b) through (i) No change.

4.2.4.4 through 4.2.4.5 No change.

4.2.5 Class II Waters; Waters Approved for Shellfish Harvesting

The special value and importance of shellfish harvesting waters to Florida’s economy as existing or potential sites of commercial and recreational shellfish harvesting and as a nursery area for fish and shellfish ~~shell fish~~ is recognized by the District. In accordance with paragraph 4.1.1(d), the District shall:

(a) though (b) No change.

(c) deny a permit for a regulated activity that is located directly in Class II or Class III waters which are classified ~~by the Department~~ as approved, restricted, conditionally approved or conditionally restricted for shellfish harvesting. This provision shall not apply to ~~However the District may issue permits or certifications for~~ maintenance dredging of navigational channels, the construction of shoreline protection structures, the installation of transmission and distribution lines for carrying potable water, electricity or communication cables in rights-of-way previously used for such lines, for clam and oyster culture, and for private, single family boat docks that meet the following criteria for installation in such waters:

1. through 7. No change.

4.2.6 through 4.3.1.7 No change.

4.3.1.8 Innovative mitigation proposals which deviate from the standard practices described in sections 4.3-4.3.6 may be proposed by an applicant; however, to receive District approval they must offset the adverse impacts to the functions identified in sections 4.2.-4.2.8.2 caused by the regulated activities ~~shall be considered on a case-by-case basis.~~ The donation of money is not considered to be an acceptable method of mitigation, unless cash payments are specified for use in a District or Department of Environmental Protection endorsed environmental preservation, enhancement or restoration project and the payments initiate a project or supplement an

ongoing project. The project or portion of the project funded by the donation of money must offset the impacts of the proposed system.

4.3.2 through 4.3.7.3 No change.

4.3.7.4 General Terms for Financial Responsibility Mechanism

(a) through (d) No change.

(e) ~~Prior written approval from the District shall be obtained before withdrawing or transferring any portion of the funds therein. Except that a Δ co-beneficiary as provided in subsection (b) shall provide written notice to the District prior to withdrawing or transferring any portion of the funds therein.~~

(f) The financial responsibility mechanisms shall provide that ~~it they~~ can not be revoked, terminated or cancelled without first providing an alternative financial responsibility mechanism which meets the requirements of subsections 4.3.7-4.3.7.9. Within 90 days of receipt by the permittee of actual or constructive notice of revocation, termination or cancellation of a financial responsibility mechanism or other actual or constructive notice of cancellation, the permittee shall provide an alternate financial responsibility mechanism which meets the requirements of subsections 4.3.7-4.3.7.9.

4.3.7.5 through 4.4.4.7 No change.

4.4.4.8 ~~Any additional information which may be necessary to evaluate whether the proposed Mitigation Bank meets the criteria of this section.~~

4.4.4.9 through 4.4.9.4 No change.

4.4.9.5 ~~The District shall require additional documentation or actions from the grantor of the conservation easement or fee interest if such additional documentation or actions are necessary to adequately protect the District's interest in, or the integrity of, the Mitigation Bank.~~

4.4.9.6 through 4.5.3 No change.

4.5.4 Duration

The formal determination shall be binding for five years provided physical conditions on the property do not change so as to alter the boundaries of wetlands and other surface waters during that period. ~~The Governing Board may revoke a formal determination upon a finding that the petitioner has submitted inaccurate information to the District.~~

4.5.5 Formal Determinations for Properties with an Existing Formal Determination

Within sixty days prior to the expiration of a formal determination, the property owner, an entity that has the power of eminent domain, or any other person who has a legal or equitable interest in the property may petition for a new formal determination for the same parcel of property and such determination shall be issued, approving the same extent of surface waters and wetlands in the previous formal determination, as long as physical conditions on the property have not changed, other than changes which have been authorized by a permit pursuant to this part, so as to alter the boundaries of surface waters or wetlands and the methodology for determining the extent of surface waters and wetlands

ratified by Section 373.421, F.S., has not been amended since the previous formal determination. ~~The application fee for such a subsequent petition shall be less than the application fee for the original determination.~~

4.5.6 Nonbinding Determinations

The District may issue informal nonbinding pre-application determinations or otherwise initiate nonbinding determinations on its own initiative ~~as provided by law.~~

(The following represents proposed amendments to sections 5.5 and 5.9.2 of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001.")

CHAPTER 5.0 WATER QUALITY CRITERIA

5.0 through 5.4 No change.

5.5 Sewage Treatment Percolation Ponds –

Above ground percolation pond dikes shall not be within 200 feet of water management lakes or 100 feet of dry retention/detention areas. ~~Additional information and calculations (such as volume and rate of application to the pond(s) or flow net analyses) by the applicant will be necessary in unusual cases requiring deviations from these dimensions, or the applicant must provide reasonable assurance that effluent will not migrate into the water management lakes or detention areas. Reasonable assurance may be provided by:~~

(a) Documentation of volume and rate of application of effluent to the percolation ponds, and

(b) submittal of net flow analyses.

5.6 through 5.9.1 No change.

5.9.2 Monitoring ~~is~~ will normally be required for sites with high pollutant generating potential, such as industrial sites, and Class I and II solid waste disposal sites.

5.9.3 through 5.10 No change.

(The following represents the proposed amendment to section 10.1(a) of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001.")

CHAPTER 10.0 SURFACE WATER MANAGEMENT SYSTEM CERTIFICATION AND OPERATION

10.1 Construction Completion/Construction Certification –

(a) Within 30 days of the completion of the surface water management system construction, a Florida registered professional engineer shall certify that the construction was completed and that the system was constructed in substantial conformance with the plans and specifications approved by the District. The above requirement shall be met by submittal of a completed and executed Environmental Resource/Surface Water Management Permit Construction Completion/Construction Certification Form No. # 0881, incorporated by reference in Rule 40E-1.659, F.A.C., or equivalent.

(b) No change.

10.2 through 10.3 No change.

General Permit to the Department to Conduct
 Minor Activities 40E-400.483
 General Permit to the Department for
 Environmental Restoration or
 Enhancement Activities 40E-400.485

PURPOSE AND EFFECT: The Joint Administrative Procedures Committee (JAPC) objected to certain language in various sections of Chapter 40E-400, F.A.C. The objections were based upon rule vagueness, the SFWMD’s lack of jurisdiction to enforce other agencies’ regulations or require permittees to obtain approval from other regulatory agencies, and the lack of rule language specifying water quality standards for turbidity. The purpose of the proposed amendments is to delete and/or revise the language objected to by JAPC. Additionally, the SFWMD is updating various statutory and rule citations to be consistent with the current rules and laws in effect.

SUBJECT AREA TO BE ADDRESSED: Chapter 40E-400, F.A.C., addresses no notice and noticed environmental resource permits and implements the comprehensive permit system authorized in Part IV, Chapter 373, F.S. Specifically, the proposed amendments 1) delete a repealed statutory reference to Sections 403.91-929, F.S. (1984 Supp.) as amended, and update a Chapter 62, F.A.C., rule citation (see 40E-400.021); 2) delete subsection (2) of Rule 40E-400.315; 3) update a Chapter 373, F.S., definition citation (see 40E-400.417); 4) reference the Chapter 62, F.A.C., rule citations setting forth standards for maintaining State water quality standards regarding turbidity (see 40E-400.467); and 5) update the statutory source of funding utilized by the DEP for its environmental restoration and enhancement activities under the SFWMD’s noticed general permit (see 40E-400.485).

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171, 403.813, 403.814 FS.

LAW IMPLEMENTED: 373.113, 373.118, 373.413, 373.416, 373.426 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.

Written public comments regarding the proposed rule must be received by the SFWMD no later than 21 days from the publication date of this notice.

Although Governing Board meetings, hearings and workshops are normally recorded (in the event that a workshop or workshops are held pursuant to the terms set forth above), 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 PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320 or via email: pbell@sfwmd.gov.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-400.021 Definitions.

(1) through (4) No change.

(5) “Forested wetlands” means those wetlands where the canopy coverage by trees with a diameter at breast height of greater than 4 inches is greater than 10 percent, as well as those areas required to be planted with tree species to establish or reestablish forested wetlands pursuant to a permit issued or enforcement action taken, under rules adopted under Part IV of Chapter 373, F.S., ~~or Sections 403.91-929, F.S. (1984 Supp.) as amended~~, and those areas where the canopy has been temporarily removed but are expected to revegetate to a forested wetland if use of the area would remain unchanged.

(6) through (7) No change.

(8) “Materials” means matter of any kind, such as sand, clay, silt, rock, dredged material, construction debris, solid waste, pilings or other structures, ash, and residue from industrial and domestic processes. The term shall not include the temporary use and placement of lobster pots, crab traps, or similar devices or the placement of oyster culch pursuant to Section 370.16, F.S., or Rule ~~62R-6 62-5~~, F.A.C.

(9) through (10) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Amended

40E-400.315 No Notice General Permit for Activities in Uplands.

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

~~(2) A no notice general permit is hereby granted for the construction or alteration of surface water management systems, provided that the surface water management system meets all of the conditions of subsection (a), below, and all thresholds and conditions of at least one of the subsections (b), (c), or (d), below.~~

~~(a) General Conditions.~~

~~(g)1-~~ The surface water management system design plans must be signed and sealed by a Florida Registered Professional Engineer, if required by Chapter 471, F.S.;

~~(h)2. The surface water management system must meet the criteria specified in Rule 40E-4.301, F.A.C., and applicable local requirements; and 40E-4.302, F.A.C.;~~

~~(i)3. Except as allowed for in Rule 40E-40.041(7), F.A.C., the project must not be located in natural water bodies, viable wetlands habitat, waters of the state, or a Florida Outstanding Water as listed in Rule 62-302.700, F.A.C.; and~~

~~(j)4. The permittee must have obtained a works of the District permit pursuant to Chapter 40E-6, F.A.C., if the project proposes to connect with, place structures in or across or otherwise make use of works of the District.~~

~~(b) Thresholds and Additional Conditions Within Dade County:~~

~~1. The project must have less than 40 acres total land area with positive stormwater outfall or less than 320 acres total land area and less than 160 acres of impervious area with no positive stormwater outfall.~~

~~2. The project and surface water management system must have been approved by the Dade County Department of Environmental Resource Management or its successor agency subsequent to October 2, 1977.~~

~~(c) Thresholds and Additional Conditions Within Palm Beach County:~~

~~1. The project must have less than 40 acres total land area.~~

~~2. The project and surface water management system must have been approved by Palm Beach County subsequent to October 2, 1977.~~

~~(d) Thresholds and Additional Conditions Within Collier County:~~

~~1. The project must have less than 40 acres total land area.~~

~~2. The project and surface water management system must have been approved by Collier County subsequent to September 17, 1980.~~

Specific Authority 373.044, 373.113, 373.118, 373.171, 403.813, 403.814 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended _____.

40E-400.417 General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks.

(1) A general permit is hereby granted to any person for construction, alteration or maintenance of a boat ramp and the associated accessory docks, provided:

(a) through (e) No change.

(f) Ramps constructed or altered under this general permit shall not exceed a width of 35 feet, including the side slopes. State agencies, counties, municipalities and water management districts established pursuant to Subsection 373.019(18)(2), F.S., are authorized to construct or alter a ramp or to widen an existing ramp which does not exceed 50 feet in width;

(g) through (j) No change.

(k) A maximum of two accessory docks, abutting either one or both sides of the boat ramp shall be authorized, and the total square footage of the accessory docks shall be less than 500 square feet over wetlands or other surface waters. State agencies, counties, municipalities and water management districts established pursuant to Subsection 373.019(18)(2), F.S., are authorized to construct or alter accessory docks such that the total area of the accessory docks over wetlands or other surface waters does not exceed 1000 square feet and the accessory docks are not more than six feet wide;

(1) through (n) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended _____.

40E-400.467 General Permit for Breaching Mosquito Control Impoundments by Governmental Mosquito Control Agencies.

(1) No change.

(2) This general permit shall be subject to the following specific conditions:

(a) Spoil material excavated during construction of the breaches shall be handled and deposited in such a manner as to prevent violations of the water quality standards for turbidity, pursuant to Sections 62-4.242, 62-302.300, and 62-302.530, F.A.C. and shall be contained in an upland disposal site; and

(b) through (3) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended _____.

40E-400.483 General Permit to the Department to Conduct Minor Activities.

A general permit is hereby granted to the Department to conduct the activities described below:

(1) The repair, replacement or alteration of any existing bridge, levee, dam, pump station, lock, culvert, spillway, weir, or any other water control structure with structures of the same design or of a comparable design, provided that the maximum discharge rate capacity and control elevation do not exceed that of the structure to be replaced. Minor deviations in the structure's design are authorized, including those due to changes in materials, construction techniques, or current construction codes or safety standards. Associated construction activities authorized by this permit include: temporary fill plugs or cofferdams; upland bypass channels; channel shaping needed to accommodate the repair, replacement, or alteration of the structure; and channel and bank stabilization, including riprap within 200 feet of the structure. Replacement may occur at the same site, or adjacent to the original structure. The area of wetlands or other surface waters from which material is to be dredged or filled shall not exceed a total of 0.5 acres for any one structure;

(2) through (3) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended

40E-400.485 General Permit to the Department for Environmental Restoration or Enhancement Activities.

(1) No change.

(2) In order to qualify for this general permit, the environmental restoration or enhancement project must comply with any one of the following procedures:

(a) through (b) No change.

(c) The project is wholly or partially funded by the Department through ~~the Pollution Recovery Trust Fund pursuant to Section 403.165, F.S., or the Water Resources Restoration and Preservation Act pursuant to Section 403.0615~~ 403.0165, F.S.

(3) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE TITLE: Consumer Confidence Report RULE NO.: 62-550.824

SUMMARY: The Department is developing rule amendments to clarify and update consumer confidence report (CCR) requirements for public water systems.

Rule 62-550.824 may be amended to make this rule consistent with 40 CFR 141, Subpart O – Consumer Confidence Reports, to clarify the reporting of analytical results, to include informational and educational statements, to incorporate by reference the *FRWA/DEP CCR Template Instructions and Template*, to clarify reporting requirements for community water systems issued variances and exemptions, to revise requirements for Internet distribution of CCRs, and to clarify CCR distribution requirements.

A Notice of Proposed Rule Development and Rule Development Workshop is being issued concurrently with this notice for proposed revisions to Forms 62-555.900(19) and (21).

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

TIME AND DATE: 9:30 a.m., Wednesday, March 27, 2002

PLACE: Room 609, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM: Steffi Tassos Dragovitsch, (850)921-9452

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE TITLE: Forms and Instructions RULE NO.: 62-555.900

SUMMARY: The Department is developing rule amendments to clarify and update consumer confidence report (CCR) requirements for public water systems. Changes to Forms 62-555.900(19) and (21) will be necessary to reflect the proposed amendments.

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

TIME AND DATE: 9:30 a.m., Wednesday, March 27, 2002

PLACE: Room 609, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM: Steffi Tassos Dragovitsch, telephone (850)921-9452

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Beaches and Shores

RULE CHAPTER TITLE: Noticed General Permits for Activities Seaward of the Coastal Construction Control Line RULE CHAPTER NO.: 62B-34

The Department of Environmental Protection proposes rule development of Chapter 62B-34, F.A.C., Noticed General Permits for Activities Seaward of the Coastal Construction Control Line.

The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button entitled “Official Notices.”

If you have additional questions please contact: Susan DeVore-Fillmore, (850)488-3181.

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE: Disposition of Records Upon Termination or Relocation of Psychological Practice RULE NO.: 64B19-19.004

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address custodianship medical records.

SUBJECT AREA TO BE ADDRESSED: Custodianship medical records.

SPECIFIC AUTHORITY: 456.058, 490.004(4) FS.

LAW IMPLEMENTED: 456.058 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #05, Tallahassee, Florida 32399-3255

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

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER TITLE: Biomedical Waste
 RULE CHAPTER NO.: 64E-16

RULE TITLE: Enforcement and Penalties
 RULE NO.: 64E-16.013

PURPOSE AND EFFECT: The purpose of this rule development is to delete subsection 64E-16.013(3), Florida Administrative Code. Deletion of this subsection will remove from the Florida Administrative Code a rule that lacks statutory authority.

SUBJECT AREA TO BE ADDRESSED: The subject is the length of time for which a biomedical waste permit shall be suspended.

SPECIFIC AUTHORITY: 381.0098(3) FS.

LAW IMPLEMENTED: 381.006(8), 381.0098(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Edward J. Golding, Environmental Specialist III, 4052 Bald Cypress Way, BIN #A08, Tallahassee, FL 32399-1710, (850)245-4277

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64E-16.013 Enforcement and Penalties.

(1) through (2) No change.

~~(3) No permit shall be suspended under this section for a period of more than 12 month. Should the current permit expire during the suspension period, the biomedical waste facility may apply for renewal at the end of the suspension period.~~

Specific Authority 381.0061, 381.0098(5) FS. Law Implemented 381.0012, 381.0025, 381.006, 381.0061, 381.0098, 395.002(13), 395.1011, 775.082, 775.083 FS. History—New 6-19-89, Amended 12-14-92, 1-23-94, 6-3-97, Formerly 10D-104.008, Amended _____.

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE CHAPTER TITLE: Tanning Facilities
 RULE CHAPTER NO.: 64E-17

RULE TITLE: Licenses and Fees
 RULE NO.: 64E-17.006

PURPOSE AND EFFECT: The Bureau of Facility Programs of the Division of Environmental Health announces its intent to amend section 64E-17.006, Licenses and Fees, F.A.C. The rule is being amended to make certain language in that section more consistent with law and to eliminate the requirement for an annual license application in certain situations.

SUBJECT AREA TO BE ADDRESSED: The proposed revisions will address when a license application needs to be completed and submitted to the department and make the license fees more consistent with law. The latter will include revising the current annual license fee, revising the fee for each additional tanning device, deleting the fee cap for each establishment, deleting the late fee requirement, and amending or deleting the requirement for prorating fees.

SPECIFIC AUTHORITY: 381.89(13) FS.

LAW IMPLEMENTED: 381.89(3)(a),(b),(c),(13) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, THE FIRST OF A SERIES OF RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m. – 5:00 p.m., April 10, 2002

PLACE: 4042 Bald Cypress Way, Conference Room 240P (Second Floor), Tallahassee, FL

OTHER WORKSHOPS TO BE HELD: Other workshops will be held in Orlando and Fort Myers.

TIMES AND DATES: TBA

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Ken Widergren, Bureau of Facility Programs, Department of Health, 4052 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1710, (850)245-4444, Ext. 2453

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Income and Resource Criteria
 RULE NO.: 65A-1.716

PURPOSE AND EFFECT: Rule 65A-1.716 is amended to revise the monthly poverty income guidelines used in the Medicaid program for applicants and recipients to the level of federal guidelines for 2002.

SUBJECT AREA TO BE ADDRESSED: This proposed amendment will bring the federal poverty guidelines used in the Medicaid program to a current status.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.903, 409.904, 409.919 FS.

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

TIME AND DATE: 2:00 p.m., March 25, 2002

PLACE: Building 3, Room 100, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Audrey Mitchell, Program Administrator, Building 3, Room 421, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700, Telephone (850)488-3090

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Historical Resources

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Main Street Program	1A-36
RULE TITLES:	RULE NOS.:
Purpose	1A-36.001
Definitions	1A-36.002
Program Information	1A-36.003
Program Description	1A-36.004
Eligibility Requirements	1A-36.005
Application Procedures	1A-36.006
Ad Hoc Florida Main Street Advisory Committee	1A-36.007
Application Review	1A-36.008
Program Administration	1A-36.009
Active Local Programs	1A-36.010
Secretary of State's Florida Main Street Awards Program	1A-36.011

PURPOSE AND EFFECT: The Florida Main Street Program (Program), an established program of the Florida Department of State, Division of Historical Resources, provides training and technical assistance to aid the development of local historic preservation-based downtown revitalization programs. The Division recognizes the need to clarify and formalize the procedures associated with the various aspects of administration of the Program. The proposed rule will meet that need.

SUMMARY: The proposed rule will clarify and formalize (a) procedures and criteria for selection of local organizations or agencies for participation in the Florida Main Street Program, (b) procedures for administration of the Florida Main Street Program, (c) criteria for achieving and maintaining Active Local Program status, and (d) procedures for conducting the annual Secretary of State's Florida Main Street Awards Program.

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 regulatory cost, or to provide a proposal for lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 267.031(1) FS.

LAW IMPLEMENTED: 267.031(5)(g) FS.

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

TIME AND DATE: 10:00 a.m., March 29, 2002

PLACE: R. A. Gray Building, 500 S. Bronough Street, Third Floor Conference Room, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David Ferro, Supervisor, Architectural Preservation Services Section, Bureau of Historic Preservation, Division of Historical Resources, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, telephone (850)245-6363, e-mail: dferro@mail.dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

1A-36.001 Purpose.

The purposes of this rule are to provide: (a) procedures and criteria for the selection of local organizations or agencies for participation in the Florida Main Street Program, (b) procedures for administration of the Florida Main Street Program, and (c) procedures for conducting the annual Florida Main Street Awards Program. The Bureau of Historic Preservation, Division of Historical Resources, Florida Department of State, administers the Florida Main Street Program, a technical assistance program for Florida communities, which encourages economic revitalization of traditional downtown commercial districts within the context of historic preservation.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g) FS. History—New.

1A-36.002 Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings, except where the context clearly indicates a different meaning: