

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
4-204.004	Form Filings
4-204.006	Forms Review
4-204.010	Viatical Settlement Contracts and Related Forms
4-204.012	Viatical Settlement Purchase Agreements
4-204.022	Required Records in General
4-204.0225	Required Business Records
4-204.025	Department Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 27, No. 45, November 9, 2001, of the *Florida Administrative Weekly*.

Rules 4-204.004, .006, .010, .012, .022, .0225, .025 are changed to read as follows:

4-204.004 Form Filings.

(1) Any form that had been previously approved that is subsequently changed or modified must be filed with the Department for approval and be approved prior to its use. The new filing must include the Florida file number of the original approved filing.

(2)(a) All form filings shall be made in accordance with paragraph (2)(b) below. All materials submitted shall be legible. A form filed that is illegible or that contains illegible materials will be returned unprocessed.

(b) A form filing must include:

1. A transmittal letter explaining the type and nature of the filing, stating whether the form is an escrow form, a viatical settlement contract, a viatical settlement purchase agreement, or a related form. A related form filing shall indicate the type of form with which it will be used. The transmittal letter shall also indicate if the form filing is a new filing or the resubmission of a previously disapproved form. If the form filing is a resubmission of a previously disapproved form, the transmittal letter shall indicate the date the form was last filed and the date of the disapproval and provide a reference to the previous Department file number. A resubmission shall also include copies of all previous correspondence including the disapproval letter.

2. A copy of the form being submitted

(c) Each form must have a unique identifying form number in the lower left-hand corner of the first page of the form.

(d) Any items on the form that are intended to be variable must be bracketed and the filing must identify all possible variables.

(3) Form filings that are not part of an application for licensure shall be mailed to: Bureau of Life and Health Forms and Rates, Florida Department of Insurance, P. O. Box 8040, Tallahassee, FL 32301-8040. All filings sent to the Department by Federal Express or any other form of special delivery shall be delivered to: Department of Insurance, Bureau of Life and Health Forms and Rates, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0331. Form filings may be submitted by email to: LHFRBureau@doi.state.fl.us (Note: address is case sensitive).

(4) Definitions. As used in this rule:

(a) New filing – A new filing is one that is being submitted for the first time. Revisions made to previously approved forms are also considered new filings.

(b) Resubmission of a previously disapproved form – A filing submission in response to a final disapproval from the Department is a resubmission.

Specific Authority 626.9925, 626.9921, 626.9923, 626.9924 FS. Law Implemented 626.9925, 626.9921, 626.9923, 626.9924 FS. History—New

4-204.006 Forms Review.

(1) Form filing intended to be used in multiple jurisdictions, including Florida, shall comply with Florida law and rules.

(2) After reviewing a form filing, in the event the Department has questions, the Department shall issue a letter of clarification. The licensee shall submit the required data by a date certain stated in the letter of clarification to allow the Department sufficient time to perform a proper review. Failure to correct the deficiencies by the date certain in the letter of clarification will result in an affirmative disapproval of the filing by the Department.

Specific Authority 626.9925, 626.9921, 626.9923, 626.9924 FS. Law Implemented 626.9925, 626.9921, 626.9923, 626.9924 FS. History—New

4-204.010 Viatical Settlement Contracts and Related Forms.

(1) The viatical settlement contract must provide the following minimum information:

(a) The name and address of the viator and the name and address of the insured if different from the viator;

(b) The legal name of the insurance company;

(c) The insurance company’s policy number;

(d) The issue date of the insurance policy and, if the policy has been converted, the date of conversion and the new policy number, if there is one;

(e) The face amount of the insurance policy and the percentage of the policy being viaticated;

(f) The type of insurance policy being viaticated (e.g., group, term, universal or whole life);

(g) The name and address of the independent third-party trustee or escrow agent;

(h) The agreed upon payment to the viator, and

(i) The disclosures required by Section 626.9924(1), Florida Statutes, which shall be made on a separate page, and require a separate signature and date by the viator.

(2) The last page of the viatical settlement contract shall be a signature page which contains the following:

(a) The typed or printed name of the viator, the signature of the viator, and the date and place (city and state) the viator signed the viatical settlement contract;

(b) The typed or printed name and signature of the person authorized to act on behalf of the viatical settlement provider, the viatical settlement provider's Florida license number and the date the person signed the viatical settlement contract;

(c) The typed or printed name, address, and Florida license number of the broker, if any, who brokered the viaticated policy; and

(d) The state(s) and dates in which executions of the viatical settlement contract occurred by each party to the viatical settlement contract.

(3) Viatical settlement contracts must be signed and dated by the viatical settlement provider or its approved related provider trust.

(4)(a) The disclosures mandated by Section 626.99181, Florida Statutes, shall be memorialized for all executed viatical settlement contracts by means of the viatical settlement broker completing Form DI4-1508, "Viatical Settlement Broker Compensation Disclosure". The completed form shall be retained by the viatical settlement broker for 3 years after the date of the death of the viator. Form DI4-1508 is adopted in section 4-204.025 of this rule.

(5) A true and accurate copy of the disclosures required by Section 626.9923, Florida Statutes, which were made at the time of the application, shall be attached to any completed viatical settlement contract.

Specific Authority 626.9925, 626.9921, 626.9923, 626.9924 FS. Law Implemented 626.9925, 626.9921, 626.9923, 626.9924 FS. History—New

4-204.012 Viatical Settlement Purchase Agreements.

(1) The viatical settlement purchase agreement shall provide the following minimum information:

(a) The name and address of the viatical settlement purchaser;

(b) The name, address, state of domicile, and license number of the viatical settlement provider who viaticated the policy;

(c) The name and address of the independent third-party trustee or escrow agent utilized or to be utilized in effectuating the transaction;

(d) The name and address of the person responsible for tracking the insured; and

(e) The name and address of the person responsible for paying the premiums until the death of the insured.

(2) The last page of the viatical settlement purchase agreement shall be a signature page that contains the following:

(a) The typed or printed name and signature of the viatical settlement purchaser and the date and place (city and state) the viatical settlement purchaser signed the viatical settlement purchase agreement; and

(b) The typed or printed name, address, signature, and Florida license number of the sales agent who had direct contact with the viatical settlement purchaser in the offering or selling of the viaticated policy.

(3) The disclosures required by Section 626.99235(2), Florida Statutes, shall be contained within the body of the viatical settlement purchase agreement under the heading:

"DISCLOSURES REQUIRED BY FLORIDA LAW"

(4) Each viatical settlement purchase agreement must also give notice to the viatical settlement purchaser of the disclosures mandated by Section 626.99236, Florida Statutes. The notice required by this subsection shall be made in not less than 10 point type, under the heading:

"FURTHER DISCLOSURES TO BE MADE"

Specific Authority 626.9925, 626.9921, 626.99235, 626.99236 FS. Law Implemented 626.9925, 626.9921, 626.99235, 626.99236 FS. History—New

4-204.022 Required Records in General.

For the purpose of this rule, a "viatical settlement transaction" is defined as a transaction in which there is an offer and acceptance to buy or sell, all or any part of the death benefits of a life insurance policy pursuant to an executed viatical settlement contract or a viatical settlement purchase agreement.

(1)(a) Each licensed viatical settlement provider shall establish and maintain a viatical settlement transaction file for:

1. Each viator entering into a viatical settlement contract with the provider; and

2. Each viatical settlement purchaser entering into a viatical settlement purchase agreement with the provider.

(b) The files shall be maintained for at least 3 years after the death of the insured.

(2) Each viatical settlement transaction file established and maintained by the licensed viatical settlement provider for a viator shall contain all information regarding all insurance policies viaticated by the provider for that viator as well as the settlement contract identifier for that viator. The file shall be clearly cross-referenced and identified by the full legal name of all viatical settlement purchasers having an interest in all or any part of the death benefits of an insurance policy viaticated by that viator.

(3) Each viatical settlement transaction file established and maintained by the viatical settlement provider for a viatical settlement purchaser shall contain all information regarding all viaticated policies in which that viatical settlement purchaser has an interest. The file shall be clearly cross-referenced and identified by the full legal name and settlement contract identifier of the viator and the viatical settlement transaction files of all viators and their respective settlement contract identifier in whose policy the viatical settlement purchaser has an interest.

(4) Viatical settlement transaction files for viators maintained by providers shall contain for each viaticated policy, as a minimum, the original or a true and correct copy of the following information:

(a) The viatical settlement contract;

(b) The settlement contract identifier;

(c) The application for a viatical settlement;

(d) The application for insurance;

(e) The verification of coverage form from the insurer;

(f) The release of medical records form signed by the insured;

(g) A signed and witnessed document as required by Section 626.9924(1), Florida Statutes;

(h) The escrow agreement;

(i) All life expectancy certifications issued on the life of the insured;

(j) If the policy is contestable, the 20 day notice to the insurer as required by Section 626.9924(7), Florida Statutes;

(k) The identity and methodology used or to be used to track the insured, a record of contacts with the insured, and the insured's current location;

(l) If the owner is not the insured, the notice to the insured required by Section 626.9924(8), Florida Statutes;

(m) The name and address of the owner of the policy after viatication;

(n) The names and addresses of all persons purchasing or having an interest in the viaticated policy;

(o) The percentage of the face amount of the policy viaticated, the amount paid for the policy, the date and place such funds were deposited, and proof of payment to the viator;

(p) If the insured is deceased, a copy of the death certificate and proof of payment to all persons having an interest in the death proceeds of the policy;

(q) The disclosures required by Section 626.9923, Florida Statutes;

(r) The name, address, city, and state of the viatical settlement broker or person who negotiated the viatical settlement transaction if the transaction was not transacted directly with the viator;

(s) The name, address, city, and state of the original viatical settlement purchaser of the viaticated policy if the policy was not purchased directly from the viator;

(t) The medical records of the insured;

(u) A copy of any complaint received from the viator or the viator's representative and its resolution if resolved. If unresolved, an explanation as to the status of the complaint;

(v) A copy of any documents that evidence any cash advance to the viator or to any other person involved in negotiating the transaction for the viator;

(w) If the policy was a group policy or certificate, a copy of the application for conversion and the policy conversion number; and,

(x) The life insurance policy.

(5) Viatical settlement transaction files maintained by providers for viatical settlement purchasers shall contain for each viaticated policy, as a minimum, the original or a true and correct copy of the following information:

(a) The viatical settlement purchase agreement;

(b) The disclosures required by Section 626.99236, Florida Statutes;

(c) Proof of deposit of the purchaser's funds;

(d) Proof of how purchaser's funds were allocated;

(e) Identity of the insurer and the insurance policy number;

(f) All status reports on the health condition of the insured provided to the purchaser;

(g) Proof of payment of proceeds for all policies matured; if a policy has matured and proceeds have not been paid to a purchaser, an explanation as to the status of the payment;

(h) Evidence that any reinvestment of death proceeds into another viaticated policy was authorized by the purchaser;

(i) The name, address, city and state of the sales agent or person selling the viaticated policy or an interest therein to the purchaser;

(j) A record of premium advances, cash withdrawals or policy loans, if any, for which the purchaser is responsible; and,

(k) Any complaint received from the purchaser or a purchaser's representative and the provider's response thereto.

(6) Each viatical settlement broker shall establish and maintain a viatical settlement transaction file for each viator for whom the broker performed the functions of a viatical settlement broker. Such files shall be maintained for at least 3 years after the death of the insured.

(7) Viatical settlement transaction files for viators maintained by brokers shall contain for each viaticated policy, as a minimum, the original or a true and correct copy of the following information:

(a) The viatical settlement contract;

(b) The application for a viatical settlement;

(c) The application for insurance;

(d) The verification of coverage form from the insurer;

(e) The release of medical records form signed by the insured;

(f) A signed and witnessed document as required by Section 626.9924(1), Florida Statutes;

(g) All life expectancy certifications issued on the life of the insured;

(h) The identity and methodology used or to be used to track the insured, a record of contacts with the insured, and the insured's current location;

(i) The name and address of the owner of the policy after viatication;

(j) The percentage of the face amount of the policy viaticated, the amount paid for the policy, the date and place such funds were deposited, and proof of payment to the viator;

(k) The disclosures required by Section 626.9923, Florida Statutes;

(l) The medical records of the insured;

(m) A copy of any complaint received from the viator or the viator's representative and its resolution if resolved. If unresolved, an explanation as to the status of the complaint;

(n) A copy of any documents that evidence any cash advance to the viator or to any other person involved in negotiating the transaction for the viator; and

(o) If the policy was a group policy or certificate, a copy of the application for conversion and the policy conversion number.

(8) Each viatical settlement sales agent shall establish and maintain a viatical settlement transaction file for each viatical settlement purchaser for whom the sales agent performed the functions of a viatical settlement sales agent. Such files shall be maintained for a minimum of 3 years after the death of the insured.

(9) Viatical settlement transaction files maintained by viatical settlement sales agents for viatical settlement purchasers shall contain for each viatical settlement purchase agreement, as a minimum, the original or a true and correct copy of the following information:

(a) The viatical settlement purchase agreement;

(b) The disclosures required by Section 626.99236, Florida Statutes;

(c) Any complaint received from the purchaser or a purchaser's representative and the sales agent's response thereto.

(10) In addition to the requirements of subsections (4) through (9) of this rule, each viatical settlement transaction file for a viator or for a viatical settlement purchaser shall also contain the original or a true and correct copy of: all agreements, correspondence, memoranda, analysis, disclosures, medical reports or evaluations, status reports, underwriting analysis, work papers, fraud reports or documents sent, received, reviewed or obtained by or on behalf of a viatical settlement provider, a broker, a related provider trust, or an escrow agent, including but not restricted to, correspondence, memoranda, and notes, from or to: a viator, a

broker, a sales agent, an independent third party trustee or escrow agent, a medical professional, a viatical settlement provider, an insurer, an insured, a viatical settlement purchaser, a viatical settlement purchaser's representative, an officer, a director, an employee, a financing entity, a special purpose entity, a controlling person, a consultant, a person responsible for tracking an insured, a government agency or regulatory body, or any person acting on behalf of such persons with regard to that specific viatical settlement transaction.

(11) For each viaticated policy that is either not the subject of a viatical settlement purchase agreement, or is a subject of a viatical settlement purchase agreement to which a licensee or approved related provider trust is not a party, the viatical settlement transaction file shall also contain all documentation relating to the disposition of that viaticated policy.

Specific Authority 626.9925, 262.9922 FS. Law Implemented 626.9925, 262.9922 FS. History—New _____.

4-204.0225 Required Business Records.

(1) Every viatical settlement provider shall have and maintain financial records, to include a book of original entry and related subsidiary journals and ledgers.

(2) Every licensed viatical settlement provider shall establish and maintain a medical professional file which contains, at a minimum, information regarding the credentials, qualifications, or license, of each person (the "medical professional") issuing or performing life expectancy certifications for the viatical settlement provider. The information relating to any specific medical professional shall be maintained for at least 3 years after the death of the last insured for whom the medical professional issued a life expectancy certification and whose policy was viaticated by the provider.

(3) Each licensee shall establish and maintain at its office of record an advertising file containing a true copy of every advertisement. The file shall include the source of the advertisement. Each advertisement shall become part of the file as of the date the advertisement is first published or otherwise used, and shall be maintained in the file for at least 3 years after the last date of publication or use of the advertisement.

(4) Each licensee shall establish and maintain as a permanent file a forms file, which file shall contain a true copy of every form approved by the Department.

(5) Each licensee shall establish and maintain a litigation file containing a true and correct copy of any administrative, civil, or criminal action involving the licensee or its business of viatical settlements. The file shall contain petitions, filed complaints, law suits and other charging documents, and information regarding the status of any such action, including disposition. These documents shall be maintained for at least 3 years after the resolution of such action.

(6) Each licensee shall establish and maintain a record of all of its accounts with any financial institutions, regardless of location, and a record of all authorized signatories on such accounts, to include but not restricted to: business accounts, escrow accounts, and premium reserve accounts.

(7) The records required by the Viatical Settlement Act and these rules shall be established and maintained in accordance with Section 626.9922(3), Florida Statutes.

Specific Authority 626.9925, 262.9922 FS. Law Implemented 626.9925, 262.9922 FS. History--New _____.

4-204.025 Department Forms.

(1) The following form is hereby incorporated by reference to administer the provisions of Part X, Chapter 626, Florida Statutes:

Title	Form Number
(a) Viatical Settlement Provider Annual Report	DI4-1288 Rev 3/02
(b) Viatical Settlement Broker Compensation Disclosure	DI4-1508 Rev 8/01

(2) Copies of the form may be obtained from the Department of Insurance, Application Coordination Section, Larson Building, Tallahassee, Florida 32399-0300.

Specific Authority 626.9925 FS. Law Implemented 626.9925 FS. History--New _____.

The remainder of the rule reads as previously published.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Aquaculture

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5L-3	Aquaculture Best Management Practices
RULE NO.:	RULE TITLE:
5L-3.004	Aquaculture Best Management Practices Manual

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule, as noticed in Vol. 28, No. 32, August 9, 2002, Florida Administrative Weekly has been withdrawn.

ADMINISTRATION COMMISSION

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
28-18	Land Planning Regulations for the Florida Keys Area of Critical State Concern – City of Marathon
RULE NO.:	RULE TITLE:
28-18.200	Comprehensive Plan

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 27, No. 44,

November 2, 2001, issue of the Florida Administrative Weekly, and most recently amended in Vol. 28, No. 19, May 10, 2002, issue of the Florida Administrative Weekly.

28-18.200 Comprehensive Plan.

The Transitional Comprehensive Plan of the City of Marathon established by Chapter 99-427, Laws of Florida, is amended as follows:

(1) No change.

(a) The number of permits issued for new residential development under the rate of growth ordinance shall not exceed a total unit cap of 24 30 new residential units per year. The restored permits (6) are encouraged to be dedicated to affordable housing. This allocation represents the total number of new permits for development that may be issued during a ROGO year. No exemptions or increases in the number of new permits, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement for affordable housing between the Department and the local government, shall be allowed. For Year 5, the interim Permit Allocation System shall allow a minimum of 11 new residential permits. If fewer than 11 nutrient reduction credits are earned in Year 5, the deficit shall be made up in Year 6 prior to issuance of any new permits.

(b) No change.

(c) Except as provided below for the Little Venice sewer system, nutrient reduction credits earned by construction of a central sewer system using best available technology or advanced wastewater treatment shall be earned according to the following schedule:

1. One third of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced.

2. One third of the total estimated credits shall be earned when the construction of the system is 50 percent complete.

3. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated.

The nutrient reduction credits earned by the construction of the Little Venice system shall be earned according to the following schedule:

1. 213 250 of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced. Of these credits, 54 shall be made available to the Meridian West affordable housing project and 52 shall be made available to Monroe County to the Tradewinds for affordable housing project, and 67 42 for to a proposed affordable housing project

in the City of Marathon. Any credits not used for these affordable housing projects shall be available for future allocation pursuant to paragraph 2 below. In addition, 52 60 of these credits shall be made available to Monroe County and 42 of these credits shall be made available to the City of Marathon.

2. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated.

The nutrient reduction credits that are earned from the construction of such a central sewer system, in which state or federal funds are used, shall be allocated as follows:

1. The local government shall receive a pro rata share of the earned nutrient reduction credits in proportion to the amount of funds contributed from its jurisdiction to the total construction costs; and

2. The remaining earned nutrient reduction credits shall be allocated between Monroe County, the City of Marathon, and the Islamorada, Village of Islands in proportion to the annual ROGO allocation of each to the total annual ROGO allocation for these local governments.

(d) Beginning September 30, 2003 ~~August 1, 2002~~, and each year of the work program (set out in policy 101.2.13) thereafter, the City and the Department of Community Affairs shall report to the Administration Commission documenting the degree to which the work program objectives for that year have been achieved.

(e) The Work Program in Policy 101.2.13 for Year 4, Year 5, Year 6, and Year 7 shall be modified as follows:

YEAR FOUR (July 13, 2000 through July 12, 2001)

A. through C. No change.

YEAR FIVE (July 13, 2001 through July 12, 2002)

A. through D. No change.

YEAR SIX (July 13, 2002 through July 12, 2003)

A. through D. No change.

E. In cooperation with Monroe County, develop a City-wide master land acquisition plan which shall include:

(1) A strategy for the acquisition of those properties which should be preserved due their habitat value as well as those other properties where future development is to be discouraged;

(2) A management plan for implementing the strategy, and

(3) a reasonable, feasible plan for securing funding for said land acquisition.

Agencies: City, County, Land Authority, DCA, DEP, SFWMD, Army COE, EPA, USFWS and other interested parties to include representatives of environmental organizations and development interests.

F. Initiate and complete a collaborative process for the adoption of land development regulations, and/or comprehensive plan amendments as needed, that will strengthen the protection of terrestrial habitat through processes such as the Permit Allocation System and permitting processes, and the preservation and maintenance of affordable housing stock.

Agencies: City, County, DCA, DEP, FFWC, USFWS, and other interested parties to include representatives of environmental organizations and development interests.

YEAR SEVEN (July 13, 2003 through July 12, 2004)

A. and B. No change.

Specific Authority 380.0552(9) FS. Law Implemented 380.0552 FS. History--New _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Quinn, State Planning Administrator, Division of Community Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-4545

ADMINISTRATION COMMISSION

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
28-20	Land Planning Regulations for the Florida Keys Area of Critical State Concern – Monroe County
RULE NO.:	RULE TITLE:
28-20.100	Comprehensive Plan
NOTICE OF CHANGE	

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., originally published in Vol. 27, No. 44, November 2, 2001, issue of the Florida Administrative Weekly, and most recently amended in Vol. 28, No. 19, May 10, 2002, issue of the Florida Administrative Weekly.

The Monroe County Comprehensive Plan Policy Document, as the same exists on May 15, 2001, is hereby amended as follows:

28-20.100 Comprehensive Plan.

(1) through (34) No change.

(35) Policy 101.2.13

Monroe County shall establish an interim Permit Allocation System for new residential development. The interim Permit Allocation System shall supersede Policy 101.2.1 and remain in place until such time as Monroe County determines its future growth capacity based on hurricane evacuation, public safety and environmental needs including water quality and habitat protection, and amends its plan consistent with such determination, based on the results of the work program as set forth below. DEP, DOH, DCA and Monroe County shall develop a coordinated permit review process that will insure that no state agency shall issue a wastewater disposal permit that would allow development in excess of the number of

permits that Monroe County may issue under this interim policy. Similarly, Monroe County shall not issue development permits under this interim policy in excess of wastewater disposal permits that DEP or DOH may issue. For Years 3 and 4 of the Work Program, the interim Permit Allocation System shall allow a minimum of 88 new residential permits per year which may be used to address the backlog of ROGO allocations. Additional new residential permits will be allowed but limited to the number of nutrient reduction credits earned within the same unincorporated ROGO area. Nutrient reduction credits shall be earned consistent with Table 1 below. ~~Except as provided below for the Little Venice sewer system, nutrient reduction credits earned by construction of a central sewer system using best available technology or advanced wastewater treatment shall be earned according to the following schedule:~~

~~1. One-third of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced.~~

~~2. One-third of the total estimated credits shall be earned when the construction of the system is 50 percent complete.~~

~~3. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated.~~

The nutrient reduction credits earned by the construction of the Little Venice system shall be earned according to the following schedule:

1. ~~213~~ 250 of the total credits estimated to be available from the full operation of the system shall be earned when the wastewater construction permit for the system is issued by DEP, the design/build contract for the system has been fully executed, and construction of the system has commenced. Of these credits, ~~54 shall be made available to the Meridian West affordable housing project and 52 shall be made available to Monroe County to the Tradewinds for affordable housing project, and 67~~ 42 ~~for to a proposed affordable housing project~~ in the City of Marathon. Any credits not used for ~~these~~ affordable housing ~~projects~~ shall be available for future allocation pursuant to paragraph 2 below. In addition, ~~52~~ 60 of these credits shall be made available to Monroe County and 42 of these credits shall be made available to the City of Marathon.

2. All remaining available credits shall be earned when the construction of the system is 100 percent complete, the collection system lines have been installed, and when the final total of credits available from operation of the system has been calculated. The nutrient reduction credits that are earned from the construction of ~~such~~ a central sewer system, in which state or federal funds are used, shall be allocated as follows:

1. The local government shall receive a pro rata share of the earned nutrient reduction credits in proportion to the amount of funds contributed from its jurisdiction to the total construction costs; and

2. The remaining earned nutrient reduction credits shall be allocated between Monroe County, the City of Marathon, and the Islamorada, Village of Islands in proportion to the annual ROGO allocation of each to the total annual ROGO allocation for these local governments. Nutrient reduction credits earned using funds provided by the State and matched by the County in fiscal years 1997-98 and 1998-99 will be used to offset the nutrient impacts of the 88 new residential permits per year, but may not be used for additional new residential permits until such time as these funds generate more than 88 nutrient reduction credits for Years 3 and 4. For Year 5, the interim Permit Allocation System shall allow a minimum of 77 new residential permits. If fewer than 77 nutrient reduction credits are earned in Year 5, the deficit shall be made up in Year 6 prior to issuance of any new permits. For Year 6 and beyond, the interim permit allocation system shall limit the number of permits issued for new residential development to the number of nutrient reduction credits earned within the same unincorporated ROGO area, except as otherwise authorized herein. For all years the number of permits issued for new residential development under the Rate of Growth Ordinance shall not exceed a total unit cap of ~~158~~ 197 new residential units per year. ~~The restored permits (39) are encouraged to be dedicated to affordable housing.~~ This allocation represents the total number of new permits for development that may be issued during a ROGO year. No exemptions or increases in the number of new permits, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement for affordable housing between the Department and the local government in the critical areas, may be allowed. Monroe County shall develop a tracking system for monitoring the nutrient reduction credits earned. The tracking system shall commence upon the effective date of this rule and the number of nutrient reduction credits earned shall be cumulative and may be applied to future years of the interim Permit Allocation System.

Table 1
Nutrient Reduction Credits

	Treatment System Upgraded To			
	On-site Treatment	Centralized System		
OWNR or Equivalent On-site Treatment and Disposal Systems	Secondary Treatment	Best Available Treatment (BAT)	Advanced Wastewater Treatment (AWT)	
Cesspit Credit	1 EDU Credit	1 EDU Credit	1.0 EDU Credit	1.5 EDU
Substandard OSTDS	0.5	0.5	1.0	1.5
Approved OSTDS	0.5	0	1	1.5
Secondary Treatment	n/a	n/a	1	1.5

Additionally, the unit cap for new residential development shall be linked to the following work program which identifies actions necessary to correct existing wastewater and storm water problems, as well as actions necessary to determine appropriate future growth. Beginning September 30, 2003 ~~August 1, 2002~~, and each year of the work program thereafter, Monroe County and the Department of Community Affairs shall report to the Administration Commission documenting the degree to which the work program objectives for that year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether substantial progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that substantial progress has not been made, the unit cap for new residential development shall be reduced by at least 20 percent for the following year. If the Commission determines that substantial progress has been made, then the Commission shall increase the unit cap for new residential development for the following year up to a maximum of 158 ~~197~~ units. Other agencies identified in the work program, or any interested persons, may likewise report and make recommendations for consideration by the Commission. Notwithstanding any other dates set forth in this plan, the dates set forth in the work program shall control where conflicts exist. For each task in the work program, the Department of Community Affairs shall request of all relevant and appropriate federal, state, regional, and local agencies that they contribute any relevant data, analysis and recommendations, and that they take an active role in assisting the county in completing the task. Each such agency shall prepare, in coordination with the county, a section to be included in Monroe County's reports which indicates the agency's actions relative to the work plan. The Department of

Community Affairs shall specifically request that the Florida Keys National Marine Sanctuary Water Quality Protection Program Steering Committee (Water Quality Steering Committee) take an active role in coordinating with Monroe County, and relevant state and federal agencies, in the implementation of the tasks related to water quality, wastewater and storm water facilities, and in the development and implementation of the carrying capacity study. The Steering Committee will provide technical assistance and substantive comments and recommendations to ensure that the county's wastewater and storm water master plans and the carrying capacity study are consistent with the objectives of the FKNMS Water Quality Protection Program. The Steering Committee will make recommendations on wastewater systems and Hot Spot priorities prior to implementation by the County. It is the intent of this rule to accelerate the pace, and increase the effectiveness of the current cesspit replacement effort through both a regulatory and an incentive-based program. No later than August, 1999 Monroe County shall engage in a public education program to ensure that the public understands that the County is committed to the swift identification and replacement of cesspits, as a full partner with the Department of Health. The public education program shall explain the role of cesspit removal in the overall context of the Work Plan and Wastewater Master Plan. The County and the state shall request the participation of the Steering Committee in the public education program as well as the Florida Keys Aqueduct Authority.

WORK PROGRAM

YEAR ONE (ending December 31, 1997)

A. through G. No change.

YEAR TWO (ending December 31, 1998)

A. through F. No change.

YEAR THREE (January 1, 1999 through July 12, 2000)

A. through I. No change.

YEAR FOUR (July 13, 2000 through July 12, 2001)

A. through F. No change.

YEAR FIVE (July 13, 2001 through July 12, 2002)

A. through E. No change.

YEAR SIX (July 13, 2002 through July 12, 2003)

A. through D. No change.

E. Develop a Keys-wide master land acquisition plan which shall include:

(1) A strategy for the acquisition of those properties which should be preserved due their habitat value as well as those other properties where future development is to be discouraged;

(2) A management plan for implementing the strategy, and
(3) a reasonable, feasible plan for securing funding for said land acquisition.

Agencies: County, Land Authority, DCA, DEP, SFWMD, Army COE, EPA, USFWS and other interested parties to include representatives of environmental organizations and development interests.

F. Initiate and complete a collaborative process for the adoption of land development regulations, and/or comprehensive plan amendments as needed, that will strengthen the protection of terrestrial habitat through processes such as the Permit Allocation System and permitting processes, and the preservation and maintenance of affordable housing stock.

Agencies: County, DCA, DEP, FFWC, USFWS, and other interested parties to include representatives of environmental organizations and development interests.

YEAR SEVEN (July 13, 2003 through July 12, 2004)

A. through B. No change.

(36) through (65) No change.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Quinn, State Planning Administrator, Division of Community Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-4545

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NO.: 61-6.0015 RULE TITLE: General Information and Forms NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 17, April 26, 2002, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: 64B6-2.002 RULE TITLE: Definitions NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 27, No. 45, November 9, 2001, issue of the Florida Administrative Weekly. The changes are in response to the Board meeting held on July 26, 2002.

The rule shall now read as follows:

64B6-2.002 Definitions.

For the purpose of this chapter the following definitions apply:

(1) No change.

(2) "At least twelve (12) months of full-time experience as a legally practicing hearing aid specialist in another state" means presenting to the Board:

(a) through (b) No change.

(c) A ~~notorized~~ statement from the applicant's previous employer(s) that the applicant was employed for twelve (12) of the eighteen (18) months immediately preceding the application and had an average of two (2) sales per month for twelve (12) of the eighteen (18) months immediately preceding the application, as evidenced by receipts.

(3) "Next available examination" means the first licensure examination approved by the Department after a trainee fails the examination or "repeats" a training program for the purpose of retaking the examination.

(4) "First available examination" means the first licensure examination approved by the Department after completion of the training program referred to in Section 484.0445, Florida Statutes, or the first licensure examination approved by the Department after the applicant has been certified for examination by the Board.

Specific Authority 484.044, 484.0445, 484.045 FS. Law Implemented 484.0445, 484.045 FS. History--New 12-21-86, Amended 5-22-90, Formerly 21JJ-2.002, 61G9-2.002, Amended _____.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-12.009 RULE TITLE: Delinquent license NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 13, March 29, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee and from the Board meeting held on May 8, 2002.

Subsection (3)(b) shall now read as follows:

(b) If active is requested, demonstrate compliance with the continuing education requirements for each year, or part thereof, the license is delinquent, as set forth in Rule 64B12-15.001, F.A.C.,

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258