

A RULE DEVELOPMENT WORKSHOP WILL BE HELD IN CONJUNCTION WITH THE COMMISSION'S PUBLIC MEETINGS AT THE TIME, DATES AND PLACE SHOWN BELOW:

TIME AND DATES: 8:30 a.m., January 22-24, 2003 – Fort Myers, Florida; 8:30 a.m., March 26-28, 2003 – Tallahassee, Florida; 8:30 a.m., May 28-30, 2003 – Kissimmee, Florida; 8:30 a.m., September 3-5, 2003 – Panhandle; and 8:30 a.m., November 19-21, 2003 – Florida Keys

PLACE: Exact locations will be noticed in the next available FAW

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Tim Breault, Division of Wildlife, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PERSON TO BE CONTACTED REGARDING A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James Antista, General Counsel, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

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

## Section II Proposed Rules

### DEPARTMENT OF STATE

#### Division of Historical Resources

RULE CHAPTER TITLE:	Florida Main Street Program	RULE CHAPTER NO.:	1A-36
RULE TITLES:	Purpose	RULE NOS.:	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

PROPOSE 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., December 17, 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, (850)245-6363, e-mail dferrp@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:

(1) “Active Local Program” means a local preservation-based downtown revitalization program that has been designated for participation in the Florida Main Street Program pursuant to Rule 1A-36.008, F.A.C., and is conducted in full conformance with the criteria listed in Rule 1A-36.010, F.A.C.

(2) “Advisory Committee” means the ad hoc Florida Main Street Advisory Committee established pursuant to Rule 1A-36.007, F.A.C., to review and make recommendations to the Secretary of State regarding applications for participation in the Florida Main Street Program.

(3) “Applicant” means the entity that (a) makes application for designation to participate in the Florida Main Street Program and (b) that will be responsible for administration of the local Main Street program, should it be designated. Applicants representing previously designated Local Programs are not eligible to reapply for designation of a local Main Street program to be conducted in the same Local Program Area.

(4) “Application” means a formal written request for participation in the Florida Main Street Program that is made on the Florida Main Street Program Application (Form HR4E023R0102, effective \_\_\_\_\_ 2003), which is incorporated by reference, and copies of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.

(5) “Application Deadline” means the formally announced closing date established annually by the Division of Historical Resources, Florida Department of State, for submission of applications for participation in the Florida Main Street Program.

(6) “Awards Committee” means the ad hoc Florida Main Street Awards Advisory Committee established pursuant to Rule 1A-36.011, F.A.C., to review nominations for awards recognizing achievements relating to the goals of individual Local Programs or of the statewide Florida Main Street Program.

(7) “Bureau” means the Bureau of Historic Preservation of the Division of Historical Resources, Florida Department of State.

(8) “Department” means the Florida Department of State.

(9) “Director” means the Director of the Division of Historical Resources, Florida Department of State.

(10) “Division” means the Division of Historical Resources, Florida Department of State.

(11) “Eligible Application” means an Application that has been (a) submitted by an eligible Applicant as described in Rule 1A-36.005, F.A.C., (b) received prior to the Application Deadline, and (c) determined by the staff of the Bureau of Historic Preservation to be sufficient and complete.

(12) “Florida Main Street Program” means the statewide preservation-based downtown revitalization assistance program conducted by the Division of Historical Resources, Florida Department of State.

(13) “Local Organization” means the entity meeting the eligibility requirements in Rule 1A-36.005, F.A.C., that has made application for designation of a local Main Street program for participation in the Florida Main Street Program.

(14) “Local Program” means a local preservation-based downtown revitalization program that has been designated for participation in the Florida Main Street Program pursuant to Rule 1A-36.008, F.A.C.

(15) “Local Program Area” means the specific geographic area, as delineated in the Application, in which the local Main Street program is or will be conducted.

(16) “Main Street Approach” means the comprehensive process developed by the National Main Street Center of the National Trust for Historic Preservation for encouraging downtown revitalization within the context of historic preservation. The Main Street Approach is described in the document entitled “The Main Street Approach”, National Trust for Historic Preservation, Washington D.C., 1993, which is incorporated by reference, and copies of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.

(17) “Manager” means the professional, full-time employee of the Local Main Street Organization who is responsible for administering the local Main Street program. The Manager also serves as liaison between the local Main Street program and the Florida Main Street Program.

(18) “Program Coordinator” means the employee of the Bureau of Historic Preservation responsible for planning and conducting the statewide Florida Main Street Program.

(19) “Secretary” means the Secretary of State of the State of Florida.

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

1A-36.003 Program Information.

(1) The Division shall make available to the public a Florida Main Street Program information package. The information package shall include a description of the program, eligibility requirements, application procedures, and the annual application deadline.

(2) Copies of the information package may be obtained by writing to the Bureau of Historic Preservation, 500 South Bronough Street, R.A. Gray Building (Fourth Floor),

Tallahassee, Florida 32399-0250, or by calling (850)245-6333. Bureau office hours are 8:00 A.M. to 5:00 P.M., Monday through Friday.

(3) The Division shall provide technical assistance on request to entities interested in making application for participation in the Florida Main Street Program. At a minimum, such assistance shall include meeting with community representatives, conducting one or more regional pre-application workshops annually, and responding to e-mail, telephone and written inquiries. Depending on availability of resources, such assistance may also include an assessment visit to the proposed Local Program Area by the Program Coordinator.

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

#### 1A-36.004 Program Description.

(1) The Florida Main Street Program is based on the program model developed by the National Trust for Historic Preservation in the early 1980s and provides training and technical assistance to designated Active Local Programs to assist development of preservation-based downtown revitalization programs within their Local Program Areas.

(2) Local Programs are designated for participation in the Florida Main Street Program by the competitive process prescribed in this rule.

(3) With the exception of the limited assistance described in subsection 1A-36.003(3), F.A.C., only Active Local Programs are eligible to receive training and technical assistance through the Florida Main Street Program.

(4) The structured training and technical assistance provided to Active Local Programs through the Florida Main Street Program continues for a period of up to three years following designation. After their initial three-years of participation, Active Local Programs shall receive additional training and technical assistance consistent with available resources.

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

#### 1A-36.005 Eligibility Requirements.

(1) An Applicant must represent:

(a) A local downtown preservation and revitalization program within an incorporated municipality, or

(b) A regional, countywide or unincorporated community program (with one or more traditional commercial districts, i.e., a group of small communities connected by a waterway or roadway) conducted by or in cooperation with one or more local and county governments.

(2) The Main Street Approach has been shown to be most successful in communities with populations between 5,000 and 50,000. However, in addition to communities within the 5,000 to 50,000 population range, communities with populations less than 5,000 and traditional neighborhood commercial districts

within cities with populations greater than 50,000 are also eligible for participation. For the purpose of application preparation, required population statistics shall be based on the most recent "Florida Estimates of Population" compiled by the Population Program, Bureau of Economic and Business Research, University of Florida.

(3) An Applicant for participation in the Florida Main Street Program must be:

(a) The government of an incorporated municipality;

(b) A county government;

(c) A local non-profit corporation whose articles of incorporation have been filed by the Department of State in accordance with Section 617.0125, F.S.;

(d) A community redevelopment agency which has been established by the governing body of an incorporated municipality and is authorized to carry out community redevelopment in a designated area pursuant to Chapter 163, F.S.; or

(e) A downtown development authority whose primary function and purpose is planning, coordinating and assisting in the implementation, revitalization and redevelopment of a specific downtown area of a jurisdiction pursuant to Chapter 165, F.S.

(4) An Applicant must provide verification of commitment to employ a full-time Manager for a period of at least one year following designation. A three-year commitment is preferred.

(5) An Applicant must provide verification of full first year funding for the Local Program, including: (a) salary and benefits for a full-time Manager, and (b) travel and operating expenses as described in the Application. A three-year Local Program funding commitment is preferred.

(6) Applications must be complete, including all required supporting materials.

(7) Consistent with the provisions of subsection 1A-36.008(1), F.A.C., an application that is determined by the Division not to meet the requirements in (1) through (6) above shall be declared ineligible. All ineligible applications will be returned by "Certified Mail" to the Applicant by the Division with a written explanation of the determination of ineligibility.

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

#### 1A-36.006 Application Procedures.

(1) Each year during the month of June, the Division shall publish notification of the annual Florida Main Street application cycle and the Application Deadline in the Florida Administrative Weekly. This notification shall be published at least 60 days prior to the established Application Deadline and shall include a mailing address and telephone number through which Application forms and additional information may be obtained, and shall specify the maximum number of Local

Programs that may be designated for the year. The Division shall provide information regarding the application process at one or more regional pre-application workshops.

(2) Prior to announcement of the annual application cycle, available funding and staffing will be compared with Florida Main Street Program obligations to second year, third year and other Active Local Programs to determine the resources available to provide training and technical assistance to new Local Programs. Based on the results of this assessment, Florida Main Street staff will determine the maximum number of new Local Programs that can be accommodated for the coming year. Only Applicants meeting the requirements set forth in Rules 1A-36.005 and 1A-36.008, F.A.C., will be recommended for designation. If less than the maximum allowable number of Applicants meet the requirements set forth in Rules 1A-36.005 and 1A-36.008, F.A.C., then that lesser number of Applicants will be recommended for designation.

(3) To be considered for designation, Applications must be delivered to the offices of the Bureau of Historic Preservation on or before 5:00 P.M. on the date of the Application Deadline, or must be clearly postmarked on or before that date and mailed by "Certified Mail" with "Return Receipt Requested", or by a suitable express mail or package service. The Bureau's address is indicated in subsection 1A-36.003(2), F.A.C. Applications that are delivered by the Applicant or are postmarked or shipped after the Application Deadline shall be automatically rejected, and shall be returned to the Applicant with all support materials by "Certified Mail".

(4) Applications shall be made on the Florida Main Street Program Application (Form HR4E023R0102, effective 2003).

(5) The Applicant's submission shall include the original and eight copies of the Application and all supporting materials indicated in the instructions in the Application.

(6) The Applicant Certification in the Application shall be signed by the person or persons with legal authority to obligate the Applicant.

(7) The Applicant may withdraw an Application at any time by submission of a written request to the Division. The request for withdrawal of an Application must be signed by the person or persons with legal authority to obligate the Applicant.

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

1A-36.007 Ad Hoc Florida Main Street Advisory Committee.

(1) For the purpose of reviewing Applications and making recommendations on such Applications, there is created annually the ad hoc Florida Main Street Advisory Committee. The Advisory Committee shall review and rank all Eligible

Applications and shall recommend Applicants to the Secretary for designation as Local Programs based on the criteria in Rule 1A-36.008, F.A.C.

(2) The Committee shall consist of up to eight members, representing the following public and private sector agencies and organizations:

(a) Division of Historical Resources, Florida Department of State;

(b) National Main Street Center of the National Trust for Historic Preservation;

(c) Florida Department of Community Affairs;

(d) Florida Redevelopment Association;

(e) Florida League of Cities;

(f) 1000 Friends of Florida;

(g) Florida Trust for Historic Preservation; and

(h) The Manager of an Active Local Program.

(3) Annually, the Director shall request the head of each agency and organization listed in paragraphs (2)(b) through (2)(g) above to appoint a representative to serve on the Advisory Committee. The Director shall annually appoint a member from the Division staff and a Manager from an Active Local Program to serve on the Advisory Committee.

(4) With the exception of the Division representative, members of the Advisory Committee shall receive no compensation for their services or reimbursement from the Department for expenses incurred in the performance of said services.

(5) As its first order of business, the Advisory Committee shall elect a chairperson from its membership.

(6) Staff support for the Advisory Committee shall be provided by the Division and shall include, but not be limited to:

(a) Providing notice of Advisory Committee meetings;

(b) Preparing and distributing an agenda of the business to be transacted at each meeting of the Advisory Committee;

(c) Evaluating Applications for completeness and eligibility;

(d) Distributing eligible Applications and related materials to Advisory Committee members for review;

(e) Recording Advisory Committee meetings;

(f) Preparing and distributing a written report of the actions of the Advisory Committee;

(g) Maintaining all records of the Advisory Committee;

(h) Responding to public requests for information on the Advisory Committee and its activities, and

(i) Participating in all Advisory Committee meetings to answer questions and provide such information as the Advisory Committee members may require.

(7) The Advisory Committee shall be convened annually at a place, date and time designated by the Division. Advisory Committee members shall be provided with notice of a scheduled meeting and an agenda at least 30 days in advance of such meeting.

(8) A copy of the agenda of any meeting of the Advisory Committee may be obtained by writing to the Bureau of Historic Preservation or by appearing in person at the offices of the Bureau of Historic Preservation at the address set forth in subsection 1A-36.003(2), F.A.C.

(9) Prior to each Advisory Committee meeting, members shall be provided with guidelines for application review. These guidelines shall include:

(a) A description of the Florida Main Street Program.

(b) An explanation of the Main Street Approach.

(c) An explanation of the eligibility criteria, and other factors to be considered in evaluating and ranking the Applications.

(d) Indication of the maximum number of communities that may be designated for the year.

(10) A public notice of each Advisory Committee meeting shall be published in the Florida Administrative Weekly at least seven days prior to the date of the meeting. The notice shall provide:

(a) The date, time and place of the meeting.

(b) A brief description of the purpose of the meeting.

(c) An address where interested persons may write to obtain a copy of the agenda.

(11) For purposes of transacting business, a simple majority of the membership of the Advisory Committee shall constitute a quorum. All action taken shall be by a majority vote of the members present.

(12) A written report of the actions of the Advisory Committee shall be prepared by the Division within 30 days of each Advisory Committee meeting. Advisory Committee members shall be provided with a copy of the written report, and shall notify the Director of any discrepancies within 30 days of receipt.

(13) All members of the Advisory Committee shall comply with all laws governing conflicts of interest, including Chapter 112, Part III, F.S.

(14) Any communication on a matter relevant to the duties or activities of the Advisory Committee may be directed to the Division at the address set forth in subsection 1A-36.003(2), F.A.C.

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

#### 1A-36.008 Application Review.

(1) Following the Application Deadline, Division staff shall review all Applications for completeness and eligibility. If Division staff determines that an Application is incomplete, they shall request additional information of the Applicant by

e-mail or facsimile transmittal. Requested additional information must be received by the Division within seven days of the request, otherwise the Application shall be declared ineligible and handled in accordance with subsection 1A-36.005(7), F.A.C.

(2) The Division shall send to each member of the Advisory Committee a copy of each Eligible Application in sufficient time for members to review all Eligible Applications prior to the Advisory Committee convening in a public meeting for the purpose of considering the Applications.

(3) Division staff shall make the Advisory Committee aware of any additional information or clarification requested by it and received from an Applicant prior to final consideration of said Application.

(4) The Advisory Committee shall hold a public meeting to review and evaluate Eligible Applications within 45 days of the Application Deadline. At least seven days before the meeting, the Division shall notify each Applicant of the date, time and place of the meeting, and provide each Applicant with a copy of the meeting agenda.

(5) Applications shall be evaluated and comparatively ranked in the best professional judgment of the Advisory Committee members in consideration of the following criteria:

(a) Criteria related to the characteristics of the community:

1. The history of the community and the proposed Local Program Area;

2. Community demographics, economic base and standard economic indicators;

3. Potential for benefit from the training and technical assistance provided by the Florida Main Street Program;

4. Plans for redevelopment within the proposed Local Program Area and the larger community;

5. Municipal, state and federal development programs and activities within the Local Program Area and the larger community;

6. Encouragement of economic reinvestment within the Local Program Area provided by local government and financial institutions; and

7. Other community organization activities, cultural and recreational events, and facilities that may contribute to revitalization of the Local Program Area.

(b) Criteria related to the readiness of the Applicant:

1. Organizational and financial readiness of the Applicant to manage the proposed Local Program;

2. Broad-based support and understanding of the proposed Local Program and its objectives within both the private and the public sectors;

3. Consistency of the goals of the proposed Local Program with the "Main Street Approach"; and

4. Job description, selection process, compensation, and means of evaluating performance of the Manager.

(c) Criteria related to the characteristics of the Local Program Area:

1. Cohesive and well-defined traditional commercial district with a concentration of historic buildings and sites;
2. Quantity and quality of housing in and around the Local Program Area;
3. Economic base and business mix of the Local Program Area and surrounding areas;
4. Previous downtown revitalization activities by government and private investment.

(d) The supporting documentation, including slides, aerial photographs, maps certifications, resolutions and letters of support required in the Application.

(e) All other factors being equal, the Advisory Committee shall give preference to Applications from areas of the state not currently served by the Florida Main Street Program in order to give all regions of the state an opportunity to benefit from the program. The training and technical assistance provided to Local Programs through the Florida Main Street Program often influence neighboring communities, cultivating interest in historic preservation and downtown revitalization. For this reason, uniform geographic distribution of the limited resources available through the Florida Main Street Program provides optimum benefit to the citizens of the state.

(6) After all Applications have been reviewed and all Applicants have been allowed to make brief presentations and to answer Advisory Committee questions, each Advisory Committee member shall numerically rank each Application relative to the others in order of priority. The individual rankings will be tabulated and averaged by Division staff. If two or more Applications receive the same average, the Advisory Committee shall vote to rank them relative to each other. After completion of the ranking process, the Advisory Committee shall recommend designation of Applicants as Local Programs, beginning with the highest ranked Applicant and progressing consistent with the ranked list of Applicants. The Advisory Committee may recommend any number of Applicants for designation up to the maximum number announced by the Division for the annual application cycle. However, all Applicants recommended for designation must, in the opinion of the Advisory Committee and consistent with the criteria in this section:

(a) Possess the physical attributes and resources required to conduct an effective local Main Street program, including:

1. A cohesive collection of historic commercial properties in the proposed Program Area;
2. An organization consistent with the model described in the Main Street Approach; and
3. A budget and committed funding for at least one year following designation as a Local Program.

(b) Demonstrate community understanding of the Main Street Approach and broad public and private local support for the proposed Local Program through letters and resolutions of support, and pertinent media articles; and

(c) Be ready to begin its participation in the Florida Main Street Program immediately upon selection.

(7) The recommendations of the Advisory Committee shall be submitted in writing by the Division to the Secretary of State (Secretary) for review and approval.

(8) Within 30 days of the Advisory Committee meeting, the Secretary, taking into account the recommendations of the Advisory Committee, shall confer Local Program designation on successful Applicants. Division staff shall notify all Applicants of the designated Local Programs.

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

1A-36.009 Program Administration.

(1) Upon designation as a Local Program, the successful Applicant shall enter into a formal Florida Main Street Agreement (Form HR3E0310202, effective \_\_\_\_\_ 2003), which is incorporated by reference. This agreement between the Local Organization and the Division shall set forth the responsibilities of each party relative to Local Program participation in the Florida Main Street Program. The term of the initial agreement shall be one year with provision for two one-year extensions with the mutual agreement of the parties.

(2) During the first year following designation, each Local Program will be eligible to apply for a one-time \$10,000 start-up grant from the Historical Resources Grant-in-Aid Program to assist initial development of the Local Program. All Local Program activities assisted through this grant shall be in accordance with the Main Street Approach. Award and administration of all such grants shall be in accordance with provisions of Chapter 1A-35, F.A.C.

(3) The Division, in cooperation with other agencies and organizations, shall conduct and participate in local, regional, and statewide conferences, training programs, and technical assistance events for Active Local Programs.

(4) In order to encourage and acknowledge activities that advance the Main Street Approach to revitalization and historic preservation, the Division shall conduct an annual awards program in accordance with the provisions of Rule 1A-36.011, F.A.C. Individuals, businesses, organizations and agencies of government may be nominated by any Active Local Program for recognition of exceptional activities in support of individual Active Local Programs or the statewide Florida Main Street Program.

(5) Direct Division involvement in Local Programs shall include professional architectural assistance relating to historic preservation and rehabilitation of historic properties, professional technical assistance in disciplines relating to various aspects of downtown revitalization, Local

Organization development assistance, Manager training, Local Program evaluations, conferences, and the grant-in-aid funding and awards programs described in this section.

(6) The training and technical assistance described in (5) above shall be provided by Division staff, other state agencies, and professional consultants with expertise in a range of disciplines relating to historic preservation and downtown revitalization. Consultant services in support of Florida Main Street training and technical assistance programs are provided by entities other than the State of Florida. These non-state entities include non-profit organizations and for-profit corporations. Such services are funded by private contributions or through state grants awarded through the Historic Preservation Grants Program authorized by s. 267.0617, F.S.

(7) Prior to delivery of consultant services in support of Florida Main Street training and technical assistance programs, regardless of the manner in which the services are to be funded, consultant qualifications and proposals for consultant services shall be reviewed and approved by the Program Coordinator to ensure that all services provided are consistent with:

- (a) Needs identified by the Local Program; and
- (b) The Main Street Approach.

(8) Consultants delivering services in support of the Florida Main Street Program, regardless of the manner in which the services are funded, shall:

(a) Provide the Program Coordinator and Local Program, as applicable, with a one-page report summarizing the services provided, professional observations regarding the effectiveness of the services, any related problems and opportunities identified, and recommendations for follow-up activities;

(b) Conduct all activities in a thoroughly professional manner. Unprofessional behavior, including violence, fighting, threatening, intimidating or abusive behavior, or use of threatening, profane, abusive or inappropriate language shall be grounds for a formal request by the Division for consultant termination.

(9) Entities providing consultant services in support of the Florida Main Street Program shall be required by the Division to investigate any reported unprofessional behavior to ascertain the accuracy of the report before taking any action relative to consultant termination.

(10) Entities providing consultant services in support of the Florida Main Street Program will be required by the Division to apprise all prospective consultants and all non-state providers of consultant services of the requirements of (8) above before acceptance of any proposal for consultant services.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(g), 267.0617(2) FS. History—New

1A-36.010 Active Local Programs.

(1) Active Local Programs shall include (a) Local Programs in the first three years of participation in the Florida Main Street Program and (b) Local Programs that have successfully completed three years of participation in the Florida Main Street Program and are currently conducting a program consistent with the Main Street Approach.

(2) To retain Active Local Program status, Local Programs in both categories in (1) above must conform to the criteria established by the National Main Street Center of the National Trust for Historic Preservation, with the exception noted in (j) below, and must meet the reporting requirements described in subsections 1A-36.010(3) and (4), F.A.C. To conform to the National Main Street Center criteria, Local Programs must:

(a) Have broad-based community support for the commercial district revitalization process, with strong support from both the public and private sectors;

(b) Have developed vision and mission statements relevant to community conditions and to the Local Program's organizational stage;

(c) Have a comprehensive Main Street work plan;

(d) Possess an historic preservation ethic as evidenced by:

1. Having or working towards putting in place an active design assistance program;

2. Encouraging building renovation or rehabilitation consistent with the recommended treatments described in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, National Park Service, U.S. Department of the Interior (revised 1990), incorporated by reference, and a copy of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.;

3. Encouraging public awareness of the historic properties in the Program Area and the importance of their preservation;

4. Working toward putting land use policies in place that encourage development of property in the Program Area; and

5. Encouraging development of financial mechanisms and incentives to attract investment to the program area.

(e) Have an active board of directors and committees;

(f) Have dedicated funding for an annual operating budget sufficient to cover the cost of:

1. Program Manager salary and fringe benefits;

2. Rent and general office expenses;

3. Travel for participation in Florida Main Street Quarterly Meetings and Annual Conference;

4. Program Manager professional development; and

5. Activities and programs conducted by Local Program committees.

(g) Have a full time paid professional program manager;

(h) Conduct a program of on-going training for staff and volunteers; and

(i) Report key statistics.

(j) While not required, Local Programs are encouraged to maintain membership in the National Trust's National Main Street Network program.

(3) Local Programs shall submit a completed FMS Quarterly Report (Form HR3E019R0102, effective 2003) on the schedule indicated on the form. Form HR3E019R0102 is incorporated by reference and copies may be obtained from the Bureau of Historic Preservation.

(4) Local Programs shall submit a completed FMS Annual Report (Form HR3E020R0102, effective 2003), which is incorporated by reference, and copies of which may be obtained from the Bureau of Historic Preservation. The reporting deadline for the Local Program's FMS Annual Report is July 1.

(5) Local Programs not conducted in accordance with the requirements of subsections 1A-36.010(2) through (4), F.A.C., will be notified by the Division in writing of noncompliance and will be allowed 90 days from the date of notification to bring the Local Program back into compliance with the cited requirements. All training and technical assistance to the Local Program to be provided pursuant to the Florida Main Street Agreement and subsection 1A-36.009(5), F.A.C., shall be postponed during this 90-day period or until the Local Program is brought back into compliance with the cited requirements.

(6) If, after the 90-day period allowed in subsection 1A-36.010(5), F.A.C., the Local Program remains in non-compliance with the requirements of subsections 1A-36.010(2) through (4), F.A.C., it will be designated as inactive and will not be eligible to receive on-site training and technical assistance from the Florida Main Street Program until such time as corrective actions are taken by the Local Program and it is once again conducted in accordance with the cited requirements.

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

1A-36.011 Secretary of State's Florida Main Street Awards Program.

(1) The Secretary of State's Florida Main Street Awards Program is intended to acknowledge and encourage activities that advance the revitalization and historic preservation goals of Active Local Programs and of the statewide Florida Main Street Program.

(2) Annually, at least 60 days but no more than 90 days prior to the deadline for award nominations, such nominations shall be solicited by the Division by written notice to all Active Local Programs. The notice shall include the deadline for award nominations and a mailing address and telephone number through which nomination forms and additional information may be obtained.

(3) All award nominations shall be made on a Secretary of State's Florida Main Street Award Nomination Form (Form HR3E018R0102, effective 2003), incorporated by reference, and a copy of which may be obtained from the Bureau of Historic Preservation at the address and telephone number indicated in subsection 1A-36.003(2), F.A.C.

(4) Award nomination forms shall be delivered to the offices of the Bureau of Historic Preservation on or before 5:00 P.M., on the date of the annual nomination deadline, or shall be clearly postmarked on or before the nomination deadline and mailed by "Certified Mail" or a suitable express mail or package service to the Bureau offices. All such nominations shall be designated eligible nominations. Award nominations that are postmarked, shipped or personally delivered to the Bureau after the nomination deadline shall be automatically rejected, and shall be returned to the nominator by "Certified Mail".

(5) All eligible nominations and associated support materials shall become the property of the Division and will not be returned to the nominator.

(6) For the purpose of evaluating eligible nominations, an ad hoc Florida Main Street Awards Advisory Committee shall be convened annually. Membership of the five-member Awards Committee shall include the Program Coordinator, the Bureau of Historic Preservation architect assigned to the Florida Main Street Program, and three Managers of Active Local Programs. The Program Coordinator shall select the three Managers.

(7) All members of the Awards Committee shall comply with all laws governing conflicts of interest, including Chapter 112, Part III, F.S.

(8) Division staff shall forward copies of all eligible nominations to the members of the Awards Committee, at least 30 days prior to the date of the meeting called for the purpose of reviewing nominations and formulating recommendations for awards. Awards Committee members are expected to familiarize themselves with the nominations before the meeting.

(9) Division staff shall conduct a review of all eligible nominations to determine if they are technically complete. If it is determined that a nomination is incomplete, the Division staff shall notify the nominator of the missing information or supporting material in writing. Supplemental information and supporting material received by the Division in response to this notification shall be presented to the Awards Committee for consideration in the course of the meeting during which recommendations regarding annual awards are formulated, and prior to final deliberations on nominations.

(10) The Awards Committee shall evaluate the nominations on the basis of information provided in the Secretary of State's Florida Main Street Award Nomination



Form and any additional information received pursuant to subsection 1A-36.011(9), F.A.C. All activities receiving recognition:

(a) Must conform with the principals set forth in the Main Street Approach; and

(b) For rehabilitation or other construction projects, must conform to the recommended approaches to rehabilitation set forth in The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(11) Based on its formal review of all eligible nominations, the Awards Committee shall formulate a consensus recommendation to the Secretary of State regarding nominees to receive awards.

(12) Within 30 days following the Awards Committee meeting, the Secretary, taking into account the recommendations of the Awards Committee, shall approve the awards to be conferred for the year. Division staff shall notify all award recipients and make arrangements for formal presentation of the awards.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:  
David Ferro, R. A., Architect Supervisor, Bureau of Historic Preservation, 500 South Bronough Street, R. A. Gray Building, Tallahassee, Florida 32399-0250

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gerard T. York, Assistant General Counsel, Department of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 27, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001

**DEPARTMENT OF LEGAL AFFAIRS**

RULE TITLE: Addition of Alphamethyltryptamine (AMT) to Schedule I, Subsection 893.03(1), F.S. RULE NO.: 2-40.006

PURPOSE AND EFFECT: The proposed rule is intended to add Alphamethyltryptamine (AMT), to the list of Schedule I controlled substances.

SUMMARY: The proposed rule adds Alphamethyltryptamine (AMT), to the list of Schedule I controlled substances.

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

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

SPECIFIC AUTHORITY: 893.035 FS.

LAW IMPLEMENTED: 893.035 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Bayó, Senior Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULE IS:

2-40.006 Addition of Alphamethyltryptamine (AMT) to Schedule I, Subsection 893.03(1), F.S.

(1) Under the authority of Section 893.035 (2)(a), Florida Statutes, the substance Alphamethyltryptamine (AMT), including any of its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters ethers, and salts is possible within the specific chemical designation of Alphamethyltryptamine (AMT), is hereby a controlled substance added to Schedule I, subsection 893.03(1), F.S.

(2) All provisions of Chapter 893, F.S., applicable to controlled substances listed in Schedule I, subsection 893.03(1), F.S., shall be applicable to Alphamethyltryptamine (AMT), including any of its isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters ethers, and salts is possible within the specific chemical designation of Alphamethyltryptamine (AMT).

Specific Authority 893.035 FS. Law Implemented 893.035 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Edwin A. Bayó, Senior Assistant Attorney General

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard E. Doran, Attorney General  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 25, 2002

**DEPARTMENT OF INSURANCE**

RULE TITLES: Rates RULE NOS.: 4-191.054  
Actuarial Memorandum and Definitions 4-191.055

PURPOSE, EFFECT AND SUMMARY: The amendments to Rules 4-191:

- Remove the requirements for information that is not needed upon initial review of an HMO filing
- Allow for a streamlined filing of trend for business with less than 1,000 Florida subscribers in force
- Clarify details that are needed in order to adequately review a filing

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

SPECIFIC AUTHORITY: 641.31, 641.36 FS.

LAW IMPLEMENTED: 641.21(1)(e), 641.22(2),(4),(6), 641.31(2),(3), 641.31074, 641.3922(3) FS.

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

TIME AND DATE: 2:00 p.m., December 16, 2002

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

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 below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Frank Dino, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, (850)413-5014

THE FULL TEXT OF THE PROPOSED RULES IS:

4-191.054 Rates.

(1) Before charging or quoting premiums to subscribers, an HMO shall file for approval the rating methodology by which those premiums were determined with the Department.

(a) No change.

(b) For purposes of this rule, ~~and~~ Rule 4-191.055, F.A.C., and the time periods established in Section 641.31, Florida Statutes, a filing is considered "filed" with the Department upon receipt of the material required in paragraph (2)(a), below. For purposes of this rule and Rule 4-191.055, F.A.C., the term "filed" does not mean "approved".

(2) Filings of rating methodologies shall provide adequate information, so that the Department, in accordance with generally accepted actuarial principles as applied to Health Maintenance Organizations, may verify that the rating methodology does not produce inadequate, excessive, or unfairly discriminatory premiums. All rate classifications should be clearly identified, and the formulas and/or methods of calculating premiums adequately described, as defined in Rule 4-191.055, F.A.C.

(a) The components of HMO rate filings shall consist of one copy of all of the items in subparagraphs 1. through 4. Filings for small group coverage subject to s. 627.6699, F.S. shall additionally comply with the provisions of Part III of Chapter 4-149, F.A.C.

1. A brief letter explaining the type and nature of the filing. The letter shall indicate if the filing is for a new product, a rate revision or a resubmission. If the filing is a resubmission, the letter should indicate when the previous filing was submitted, the Florida filing number, and the date of the disapproval. ~~Letters requiring a reference to a Florida filing number will not be processed without the inclusion of the Florida filing number.~~

2. No change.

3. Rate pages which define all proposed rates, rating factors, and methodologies for determining rates applicable in the state.

4. No change.

(b) through (c) No change.

(3) through (4) No change.

(5) HMOs with fewer than 1,000 Florida subscribers, for all individual forms combined or for all group forms combined, may, at their option, file a streamlined annualized rate increase filing not exceeding medical trend as provided in subsection 4-149.003(7), F.A.C. The filing shall be made in accordance with paragraph 4-191.054(2)(a), F.A.C., with a certification that the filing includes all individual forms or all group forms in lieu of the actuarial memorandum required by Rule 4-191.055, F.A.C. Rate filings shall be signed by a qualified actuary.

(6)(a) Rates for group conversion contracts, issued on a group or on an individual basis are exempt from the loss ratio requirements below. The loss ratio for group conversion contracts shall not be less than 120 percent %. The premium for a converted contract may not exceed 200 percent of the standard risk rate, as published in Chapter 4-149, Part X, F.A.C.

(b) Rates for contracts, including riders and endorsements, issued to individual (non-group) ~~s~~Subscribers shall be deemed excessive if anticipated loss ratios for such contracts are less than 70%.

(c) Rates for contracts, including riders and endorsements, issued to group subscribers shall be deemed excessive if ~~target anticipated~~ anticipated loss ratios anticipated over the rating period for such contracts are less than the following: those indicated in the Loss Ratio Table—Group Contracts:

~~1. Loss Ratio Table—Group Contracts~~

Group Size	Loss Ratio <del>in</del> %
51 to 100	70%
101 to 500	75%
over 500	80%

~~2. No rate shall be deemed excessive if the anticipated loss ratio is greater than or equal to 80%. Loss ratio shall be calculated as 3. divided by 4. where 3. and 4. are calculated as follows:~~

~~3. The anticipated costs attributable to items (a) through (h) less the anticipated revenues associated with items (i) and (j). Such items shall be determined according to the definitions included in the instructions for the filing of financial reports with the Department.~~

- ~~a. Physician services;~~
- ~~b. Other professional services;~~
- ~~c. Outside referrals;~~
- ~~d. Emergency room, out-of-area, other;~~
- ~~e. Occupancy, depreciation and amortization (medical and hospital);~~
- ~~f. In-patient;~~
- ~~g. Other medical;~~
- ~~h. Incentive pool adjustment;~~
- ~~i. Co-payments;~~
- ~~j. C.O.B. and subrogation.~~

~~4. The anticipated revenues attributable to items (a) through (c). Such items shall be determined according to the definitions included in the instructions for the filing of financial reports with the Department.~~

- ~~a. Premium;~~
- ~~b. Fee for services;~~
- ~~c. Title XVIII — Medicare.~~

~~(d) Rates filed for approval that are anticipated to result in an actual to expected ratio over the rating period which is less than 1.0 shall be deemed to be excessive.~~

~~(e) Rates for contracts providing home health care coverage pursuant to Section 641.2018, Florida Statutes, shall comply with the provisions of Rules 4-157 and 4-149, F.A.C.~~

~~(7) Rates are inadequate if the following condition is not met:~~

~~(a) The premiums derived from the rating structure, plus investment income, co-payments, and revenues from coordination of benefits and subrogation, fees-for-service and reinsurance recoveries are not set at a level at least equal to the anticipated cost of medical and hospital benefits, expenses and contingency margin during the period for which the rates are to be effective, and the other expenses which would be incurred if other expenses were at the level for the current or nearest future period during which the HMO is projected to make a profit. For this analysis, investment income shall not exceed 3% of total projected revenues. In order that the Department may determine HMO other expense levels at the time of profitability, HMOs which have never reported a profit for twelve consecutive months shall maintain on file with the Department a financial projection for future periods until the HMO is projected to be profitable for 12 consecutive months.~~

~~(b) Individual contracts do not incorporate the projected entire effects of insurance trend.~~

~~(c) The premium schedule is determined such that if all assumptions are satisfied, the annual rate increase needed will exceed medical trend.~~

(8) Premiums as to a risk or group of risks are unfairly discriminatory if:

(a) For individual non-group subscribers, the premiums charged deviate from the filed rating methodology.

(b) For group subscribers not subject to experience rating, the premiums charged are designed to produce total revenue for that group which differs from the revenue requirements for its rating class, as filed with the Department of Insurance. For group subscribers subject to experience rating, the premiums charged deviate from the filed rating methodology.

(c) The effect of changes to the underlying age/gender slope, reduction in the anticipated loss ratio for the form, and change in the durational slope for individual contract forms, results in subscriber impact greater than 50 percent of medical trend, as defined by subsection 4-149.003(7), F.A.C., unless phased-in over a 3 year period. A shorter time period shall be considered on a case-by-case basis based on unique situations and justification by the HMO. The HMO, at its option, may request a new business rate schedule based on the full effect of the new assumptions with the phase-in only applicable to existing subscribers.

(d) When an HMO discontinues offering a particular contract form for health insurance coverage pursuant to Sections 627.6425(3)(a) or 641.31074(3)(a), Florida Statutes, the nonrenewal of coverage shall occur on the contract anniversary, and the offer of new coverage pursuant to Section 627.6425(3)(a)2., or 641.31074(3)(a)2., Florida Statutes, shall be considered a renewal of coverage and shall be renewed on the contract anniversary at the same class basis as the coverage being discontinued. If the forms do not have consistent class definitions, the class shall be determined based on the original application and underwriting status of the individual when the discontinued coverage was first issued.

(9) No change.

(10) Prohibitions. A premium schedule is unfairly discriminatory if it incorporates any of the following:

(a) ~~Select and Ultimate Premium Schedules, as defined in paragraph 4-191.055(4)(j), F.A.C., are prohibited. Select and ultimate premium schedules are premium schedules that have premiums that vary based on the time elapsed since issuance of the contract.~~

(b) Attained age premium schedules where the slope by age is substantially different from the slope of the ultimate claim cost curve are prohibited. Attained age premium schedules are defined in paragraph 4-191.055(4)(a), F.A.C. An attained-age premium schedule is one in which the subscriber's premium rate is dependent upon his or her age at contract renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups, HMOs shall use each available

renewable age. The requirement to use each available renewable age does not apply to any group contract where the final premium charged is an average of the individual members.

(c) Premium structures that provide for retroactive cost determination, or if the subscriber or contract holder participate in the experience under the form.

Specific Authority 641.31, 641.36 FS. Law Implemented 641.21(1)(e), 641.22(2), ~~4~~(6), 641.31(2), (3), 641.31074, 641.3922(3) FS. History—New 2-22-88, Amended 10-25-89, Formerly 4-31.054, Amended 10-8-96, 8-15-02, \_\_\_\_\_.

4-191.055 Actuarial Memorandum and Definitions.

(1)(a) In order for a rate filing to be reviewed properly by the Department, the actuarial memorandum required by subparagraph 4-191.054(2)(a)2., F.A.C., shall contain the items listed in subsection (2), below, for a new product filing, a rate revision or justification of existing rates.

(b)1. Pricing assumptions shall reflect assumptions based on sound actuarial principles reflecting actual anticipated experience. Pricing assumptions shall be based on the HMO experience to the degree credible, and industry experience where HMO experience is not credible, available or appropriate.

~~2. Assumptions shall reflect what the HMO fully expects to occur, rather than assumptions developed primarily for rate filing purposes, based on sound actuarial principles.~~

~~2.3. All such items shall be adequately justified by supporting data. In reviewing these assumptions, the Department will use, as an initial point of reference, comparisons of the assumptions with those from similar products of the same HMO, similar products of other HMO's and independent studies.~~

3. New forms shall include a rate and benefit comparison to other similar forms of the HMO. The HMO shall demonstrate that the premium rate schedules represent an actuarially sound relationship between the forms and between benefit options within forms.

4. Rate revision filings shall clearly list and justify all rating factors and methods proposed to be changed. Additional information will be required, if, given the particular facts and circumstances of the filing, the Department determines that the additional information is necessary to properly complete its review of the filing to determine if the benefits are reasonable in relation to the premiums charged.

(c) No change.

(2) Note that the numbers preceding the item names refer to the descriptions in subsection (3), below.

(a) through (b) No change.

~~(c) Item 3. Renewability Clause.~~

~~(d) Item 4. Applicability.~~

~~(c)(e) Item 3.5. Morbidity.~~

~~(d)(f) Item 4.6. Retention Expenses.~~

~~(g) Item 7. Marketing Method.~~

~~(h) Item 8. Underwriting.~~

~~(e)(i) Item 5.9. Rate Classes.~~

~~(j) Item 10. Issue Age Range.~~

~~(f)(k) Item 6.11. Area Factors.~~

~~(l) Item 12. Average Monthly Premium.~~

~~(g)(m) Item 7.13. Premium Modalization Rules.~~

~~(n) Item 14. Claim Liability and Reserves.~~

~~(h)(o) Item 8.15. Trend Assumption – Medical and Insurance.~~

~~(i)(p) Item 9.16. Minimum Required Loss Ratio for the Form.~~

~~(j)(q) Item 10.17. Anticipated Loss Ratio for the Form.~~

~~(r) Item 18. Distribution of Business.~~

~~(s) Item 19. Contingency & Risk Margins.~~

~~(k)(t) Item 11.20. Experience on the Contract Form – Past~~

~~(l)(u) Item 12.21. History of Rate Adjustments.~~

~~(m)(v) Item 13.22. Number of Subscribers.~~

~~(n)(w) Item 14.23. Proposed Effective Date.~~

~~(o)(x) Item 15.24. Actuarial Certification.~~

(3) Descriptions.

(a) No change.

(b) The descriptions, by item number, of the terms listed above in subsection (2) follow:

1. through 2. No change.

~~3. Renewability Clause: This section shall identify the renewability classification of the form.~~

~~4. Applicability: This section shall specify whether the HMO anticipates new issues under the form or renewals only.~~

~~3.5. Morbidity: This section shall describe the morbidity basis for the form, including the source or sources used. Any substantive adjustments from either the source or earlier assumptions shall be explained. For new plans or forms, a PMPM (per member per month) development shall be provided. Utilization or claim cost assumption differences from other plans or prior filings shall be explained and justified. The morbidity assumed shall be adequately justified by supporting data.~~

~~4.6. Retention Expenses: This section shall include a brief description of any expense assumptions used. Components of expenses include, where applicable for the type of contract, per contract and percentage of premium expense for acquisition, maintenance, and commissions, contingency, and risk margins. These must be provided separately for each contract year. This section shall provide the reason and basis for any differences in retention between groups issued coverage under the same form.~~

~~7. Marketing Method: This section shall provide a brief description of the market and the marketing method. An example of an acceptable brief description is: "This product is sold to employee employer groups by a captive agency force." The information requested is not intended to compromise the~~

HMO's proprietary interests but rather to inform the Department's consideration of allocation of expenses and acquisition costs.

~~8. Underwriting: This section shall provide a brief description of the extent to which this product will be underwritten, if any, and the expected impact by duration and in total, on the claim costs. The HMO shall state separately the effects of different types of underwriting: medical, financial and plan appropriateness. An example of an acceptable brief description is: "This Policy form is subject to limited underwriting with yes/no questions. The expected impact is: Duration 1 = .15; duration 2 = .05; overall = .03 decrease in claim costs." The information requested is not intended to compromise the HMO proprietary interests but rather to permit the Department to evaluate past and prospective loss experience.~~

~~5.9. Rate Classes: This section shall state all the attributes upon which the rates vary. Rate classifications may include but not necessarily be limited to age, sex, subscriber type (single, couple or family), industry, effective date, charges or discounts for group size, riders, co-payments, limitations on benefits, retention and any rate guarantees for extended period. This section shall indicate the issue age range of the form.~~

~~10. Issue Age Range: This section shall specify the issue age range of the form. A statement shall be made as to whether the premiums are on an issue age, attained age or other basis.~~

~~6.14. Area Factors: This section shall include a brief description for any area factors used, and an explanation and justification of any changes since the last filing. The area factors and definitions must also be displayed, including a definition of which counties are included in each area. Area factors shall reflect the relative cost differences between the areas.~~

~~12. Average Monthly Premium: This section shall display the average monthly premium by county. If a rate adjustment is proposed, average monthly premiums reflecting the Premium Schedule both before and after the proposed adjustment shall be provided. The average monthly premium per policy for individual coverage or per certificate for group coverage shall be calculated based on the distribution of Florida business considering all criteria having a rate difference. This distribution is the anticipated issue distribution if the filing is a new policy form, and the actual in force distribution if the filing is for a rate revision or rate justification. Premiums for riders, endorsements and amendments must be added to the base plan premiums to yield this average.~~

~~7.13. Premium Modalization Rules: This section shall display the modalization factors and fees as applicable. For premium modes other than monthly, the level of the fees and factors shall be adequately justified by supporting data.~~

~~14. Claim Liability and Reserves: This section represents the present value of future claim payments on claims incurred prior to the valuation date. This includes both the accrued and~~

~~unaccrued portions of the liability and reserve as of the valuation date. A complete description of the development of these reserves shall be presented. A display which compares the reserve held to the actual claim runoff shall be included. For loss ratio purposes, the interest rates used to determine these reserves and liabilities shall be consistent with the HMO's premium determination interest rates, which may be different from rates used for valuation purposes. Claim runoff is a common insurance industry term which means the pattern of claims payout after the establishment of reserves.~~

~~8.15. Trend Assumptions: This section must describe the trend assumptions used in pricing. These assumptions must be appropriate for the specific HMO, product design, benefit configuration, and time period. Any and all factors affecting the projection of future claims must be presented. In no case will trend be approved for rating periods in excess of one year. The trend assumptions shall be presented under two categories: Medical and Insurance.~~

~~a. through b. No change.~~

~~c. In determining medical trend, the HMO shall use credible data and make appropriate adjustments to claims data to isolate the effects of medical trend only. This shall not include the effects of underwriting wearoff, aging, changes to claim costs due to changes in demographics, contract coverages, geographic distribution, or reinsurance.~~

~~d. An HMO without fully credible data may, at its option, use an annual medical trend assumption not to exceed the values in subsection 4-149.003(7), F.A.C., for the medical trend assumption without providing explicit trend justification.~~

~~9.16. Minimum Required Loss Ratio for the Form: This section shall provide the loss ratio standard for the form as approved in the original or subsequent filing for the form state the minimum required loss ratio for the form as defined in subsection 4-191.054(6), F.A.C.~~

~~10.17. Anticipated Loss Ratio for the Form: This loss ratio is defined in paragraph 4-191.054(6)(c), F.A.C.~~

~~a. This section shall provide the anticipated loss ratio for the form.~~

~~b. For individual contracts, this section shall also include the proposed, if applicable, and the currently approved durational loss ratio tables, i.e., the table of percentages of expected claims divided by expected premiums by contract duration, for the form. For new filings or requests to change the durational table, the actuary shall explain and justify the underwriting impact and the resulting durational loss ratio pattern. Applying pricing persistency and interest assumptions, the durational loss ratio table shall develop the loss ratio standard for the form.~~

~~c. The anticipated loss ratio may not be reduced from the loss ratio in the prior approved filing without approval. If the HMO proposes to reduce the anticipated loss ratio for the form from the approved anticipated loss ratio, this section shall~~

provide justification for such change. This shall include detailed expense information and the areas and reasons for expense increases.

~~18. Distribution of Business: This section shall provide the anticipated issue distribution for new policy forms and the actual in force distribution for rate revisions. All criteria having a rating difference shall be included.~~

~~19. Contingency and Risk Margins: This section shall describe the contingency and risk margins anticipated for the Policy Form at the time of the filing.~~

11.20. Experience on the Contract Policy Form.

a. (Past Experience): This section shall display the actual experience on the form. Experience from inception-to-date (or the last three years for group coverages, with no separation of experience data by issue year required) shall be displayed, although, with proper interest adjustment, the experience for calendar years more than five years in the past may be combined. For each calendar year and, where appropriate, and for individual contracts each contract year or issue year, the following information shall be displayed:

- ~~(I)a.~~ Calendar Year,
- ~~(II)b.~~ Earned premium,
- ~~(III)c.~~ Paid claims, including capitation,
- ~~(IV)d.~~ Paid loss ratio ~~(=III/II) (= (c)/(b)),~~
- ~~(V)e.~~ Change in claim liability and reserve, updating as actual runoff develops.
- ~~(VI)f.~~ Incurred claims ~~(=III+V) (= (e) + (e)),~~
- ~~(VII)g.~~ Incurred loss ratio ~~(=VI/II) (= (f)/(b)).~~
- ~~(VIII)~~ Expected claims
- ~~(IX)~~ Expected loss ratio ~~(=VIII/II)~~
- ~~(X)~~ Actual to expected ratio ~~(=VI/VIII or =VII/IX)~~

For periods where the actual claim runoff is complete, that data shall be displayed to replace (f).

b. Future periods:

(I) This section shall be the basis and demonstration that the proposed rate change is in compliance with the standards of this rule.

(II) This section shall provide the anticipated experience over the rating period, and shall provide the method, formulas and assumptions used in determining the projected values from the experience period used.

(III) The experience period shall be the most current available 12-month period. The experience period data used shall be the earned premium restated to the current manual rate basis for the entire experience period, i.e., removing the impact of adjustments to the actual earned premium due to the impact of rate limits, experience rating or retention differences from the target loss ratio and indifferent of the anniversary dates of the underlying contracts. The HMO shall also provide the actual experience over the rating period.

(IV) The HMO shall indicate how the experience period data has been adjusted for large nonrecurring claims, reinsurance recoveries, coordination of benefits and subrogation, benefit changes or other actuarial consideration that affect the determination of anticipated claims.

(V) Alternatively, the HMO may choose to develop the proposed rate without the use of premiums by basing its analysis on projected claim PMPM divided by the target loss ratio.

~~12.21. History of Rate Adjustments: This section shall list the approval dates and average percentage rate adjustments in Florida by county or rating region, from inception.~~

~~13.22. Number of Subscribers: This section shall report the number of Florida subscribers/certificateholders who will be affected by the proposed rate revision.~~

~~14.23. Proposed Effective Date: This section shall state the proposed effective date and method of the proposed rate revision implementation. Rate changes may occur only on contract renewal.~~

~~15.24. Actuarial Certification: A signed certification by a qualified actuary that to the best of the actuary's knowledge and judgment:~~

~~a. The rates are neither inadequate nor excessive nor unfairly discriminatory,~~

~~b. The rates are appropriate for the classes of risks for which they have been computed,~~

~~c. The entire rate filing is in compliance with the applicable laws of the State of Florida and with the rules of the Department of Insurance, and complies with Actuarial Standard of Practice No. 8 "Regulatory Filings for Rates and Financial Projections for Health Plans," as adopted by the Actuarial Standards Board, January, 1989, and Actuarial Standard of Practice No. 16 "Actuarial Practice concerning Health Maintenance Organizations and Other Managed-Care Health Plans," as adopted by the Actuarial Standards Board, July, 1990, which standards are ~~is~~ hereby adopted and incorporated by reference. A copy of the standard may be obtained from the Bureau of Life & Health Forms and Rates, Division of Insurer Services, Department of Insurance, Larson Building, Tallahassee, FL 32399-0328.~~

~~d. If the actuary is unable to provide such an opinion, a detailed explanation and reason for any qualification shall be provided as part of the certification.~~

~~e. In providing the actuarial opinion and certification, the actuary shall consider actuarial standards of practice and the qualification standards for prescribed statements of actuarial opinion.~~

~~(4) Definitions.~~

~~(a) Actual to expected ratio:~~

~~1. This is the ratio of actual incurred claims divided by expected claims. This is equivalent to the actual loss ratio divided by the expected loss ratio.~~

2. For projected periods, the actual to expected ratio is the ratio of the projected claims divided by the expected claims. ~~Attained Age Premium Schedule: An attained age premium schedule is one in which the subscriber's premium rate is dependent upon his or her age at contract renewal. The aging component of the claim cost is not pre-funded. These schedules shall be constructed so that the slope by age is substantially similar to the slope of the ultimate claim cost curve. The premiums must form a smooth progression and, to eliminate jumps in premium caused by bracketed age groups, HMOs shall use each available renewable age. These requirements do not apply to any group contract where the final premium charged is an average of the individual members.~~

(b) Anticipated loss ratio: The present value of future benefits divided by the present value of future premiums computed over the entire future lifetime of the contract form. For group insurance, this is over the rating period and alternatively referred to as "target loss ratio."

(c)(b) Credible Data:

1. If a contract form has 2,000 or more subscribers in force, then full (100%) credibility is given to the experience; if fewer than 500 subscribers are in force, then zero (0%) credibility is given. Linear interpolation is used for in force amounts between 500 and 2,000.

2. For group contract forms, the numbers in this definition refer to group subscribers.

3. Medical trend shall be used for the non-credible portion of the analysis. ~~A combination of Florida and industry data shall be used only if Florida only data is not fully credible.~~

(d) Earned premiums: The portion of the total premium paid which is attributable to the period of coverage elapsed. This includes all modal loadings, fees, or charges that are required to be paid for coverage under a contract.

(e) Expected claims:

1. The actual earned premium, or for projected periods the projected premium, times the applicable contract durational loss ratio from the approved durational loss ratio table which was in effect for the time period covered by the premiums. For group contract, the durational loss ratio is the target loss ratio.

2. For group policies, this reflects the aggregation of the actual target loss ratio for the group; i.e., reflecting actual different retention loads by group, and not the assumed aggregate target loss ratio for the form.

(f) Expected loss ratio: This is the ratio of expected claims divided by earned premium.

(g)(e) Group HMO Contract Policy Form: This means any insurance provided by a group master contract issued to any entity.

(h)(d) Group Size: For Group HMO Contract Policy Forms, the group size is the average number of subscribers per employer.

(i) Incurred claims: Incurred claims are claims occurring within a fixed period, whether or not paid during the same period, under the terms of the contract form.

1. Claims include scheduled benefit payments, capitation payments, reimbursement benefit payments, or services provided by a provider or through a provider network for medical, dental, vision, disability, and similar health benefits.

2. Claims do not include state assessments, taxes, HMO expenses, or any expense incurred by the HMO for the cost of adjusting and settling a claim, including the review, qualification, oversight, management or monitoring of a claim or incentives or compensation to providers for other than the provision of health care services.

3. An HMO may, at its discretion, include costs that are demonstrated to reduce claims, such as a fraud intervention program or case management costs, which are identified in each filing, and are demonstrated to reduce claims costs and do not result in increasing the experience period loss ratio by more than 5 percent.

(e) through (h) renumbered (j) through (m) No change.

(i) ~~Renewal Clauses: Guaranteed Renewable means that renewal cannot be declined by the HMO for any reason other than those detailed in Sections 641.31074, and 627.6425, Florida Statutes, but the HMO can revise rates on a class basis.~~

(n) Renewal: This is the date 12 months after the original effective date of the contract and each subsequent anniversary period. This does not prevent a group contract purchaser to request a specific rating period or change the anniversary date of the contract.

(j) ~~Select and Ultimate Premium Schedule: This is any premium schedule which has premiums that vary based on the time elapsed since issuance of the contract.~~

(o)(k) No change.

Specific Authority 641.31, 641.36 FS. Law Implemented 641.22(2), 641.31(2),(3) FS. History—New 10-8-96, Amended 4-20-98, 8-15-02,

NAME OF PERSON ORIGINATING PROPOSED RULE: Frank Dino, Actuary, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Robleto, Bureau Chief, Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES****Division of Plant Industry**

RULE CHAPTER TITLE: Preservation of Native  
Flora of Florida

RULE CHAPTER NO.: 5B-40

RULE TITLE: Regulated Plant Index

RULE NO.: 5B-40.0055

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate changes to the Regulated Plant Index Rule as a result of the public meetings conducted by the Endangered Plant Advisory Council.

SUMMARY: This amendment revises the Regulated Plant Index. Eight plants will be listed as endangered, three species will be de-listed from the endangered list. Three plants will have name changes.

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

LAW IMPLEMENTED: 570.07(13), 581.185(4), (9), (11) FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., December 16, 2002

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Richard Gaskalla, Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100

## THE FULL TEXT OF THE PROPOSED RULES IS:

5B-40.0055 Regulated Plant Index.

(1) No change.

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

1. *Acacia choriophylla* (tamarindillo).
2. *Acacia tortuosa* (poponax) Presumed Extirpated.
3. *Actaea pachypoda* (baneberry).
4. *Adiantum melanoleucum* (fragrant maidenhair fern).
5. *Adiantum tenerum* (brittle maidenhair fern).
6. *Aeschynomene pratensis* (meadow jointvetch).
7. *Ageratum littorale* (Cape Sable whiteweed).
8. *Agrimonia incisa* (harvest-lice).
9. *Aletris bracteata* (bracted colicroot).
10. *Alvaradoa amorphoides* (alvaradoa).
11. *Amorpha crenulata* (Miami lead plant).
12. *Anemia wrightii* (parsley fern).
13. *Aquilegia canadensis* (columbine).
14. *Arabis canadensis* (sicklepod).
15. *Argusia gnaphalodes* (sea-lavender).
16. *Argythamnia blodgettii* (Blodgett's wild-mercury).

- ~~17. *Aristida simpliciflora* (southern three-awn).~~  
~~17.18. *Aristolochia pentandra* (Marsh's dutchman's pipe).~~  
~~18.19. *Aristolochia tomentosa* (pipevine).~~  
~~19. *Arnica acaulis* (leopard's-bane).~~  
~~20. *Arnoglossum album* (white-flowered plantain).~~  
~~21.20. *Asclepias curtissii* (Curtiss's milkweed).~~  
~~22. *Asclepias viridiflora* (green-flower milkweed).~~  
~~23.24. *Asimina tetramera* (four-petal pawpaw).~~  
~~24.22. *Asplenium auritum* (auricled spleenwort) (fern).~~  
~~25.23. *Asplenium dentatum* (slender spleenwort).~~  
~~26.24. *Asplenium monanthes* (San Felasco spleenwort).~~  
~~27.25. *Asplenium pumilum* (dwarf spleenwort).~~  
~~28.26. *Asplenium serratum* (bird's-nest spleenwort).~~  
~~29.27. *Asplenium verecundum* (delicate spleenwort).~~  
~~30.28. *Aster hemisphericus* (aster).~~  
~~31.29. *Aster spinulosus* (pinewoods aster).~~  
~~32.30. *Baccharis dioica* (broom-bush) Presumed Extirpated.~~  
~~33.34. *Balduina atropurpurea* (purple balduina).~~  
~~34.32. *Baptisia megacarpa* (Apalachicola wild-indigo).~~  
~~35.33. *Basiphyllaea corallicola* (Carter's orchid).~~  
~~36.34. *Bigelovia nuttallii* (Nuttall's rayless goldenrod).~~  
~~37.35. *Blechnum occidentale* (sinkhole fern).~~  
~~38.36. *Bonamia grandiflora* (Florida bonamia).~~  
~~39.37. *Bourreria cassinifolia* (little strongback).~~  
~~40.38. *Bourreria radula* (rough strongbark).~~  
~~41.39. *Bourreria succulenta* (bodywood).~~  
~~42.40. *Brassia caudata* (spider orchid).~~  
~~43.41. *Brickellia cordifolia* (Flyr's nemesis).~~  
~~44.42. *Brickellia mosieri* (Brickell-bush).~~  
~~45.43. *Bulbophyllum pachyrrachis* (rat-tail orchid).~~  
~~44. *Bumelia anomala* (Clark's buckthorn).~~  
~~45. *Bumelia lycioides* (gopherwood buckthorn).~~  
~~46. *Bumelia thornei* (Thorne's buckthorn).~~  
~~46.47. *Burmannia flava* (Fakahatchee burmannia).~~  
~~47.48. *Caesalpinia major* (yellow nicker).~~  
~~48.49. *Caesalpinia pauciflora* (fewflower holdback).~~  
~~49.50. *Calamintha georgiana* (Georgia calamint).~~  
~~50.51. *Callirhoe papaver* (poppy mallow).~~  
~~51.52. *Calopogon multiflorus* (many-flowered grass-pink).~~  
~~52.53. *Calycanthus floridus* (sweet shrub).~~  
~~53.54. *Calyptanthes zuzygium* (myrtle of the river).~~  
~~54.55. *Calystegia catesbaeiana* (Catesby's bindweed).~~  
~~55.56. *Campanula robinsiae* (Chinsegut bellflower).~~  
~~56.57. *Campylocentrum pachyrrhizum* (leafless orchid).~~  
~~57.58. *Campyloneurum angustifolium* (narrow swamp fern).~~  
~~58.59. *Campyloneurum costatum* (tailed strap fern).~~  
~~59.60. *Campyloneurum latum* (wide strap fern).~~



- ~~60.61.~~ *Canella winterana* (wild cinnamon).  
~~61.62.~~ *Carex chapmanii* (Chapman's sedge).  
~~62.63.~~ *Carex microdonta* (little-tooth sedge).  
~~63.64.~~ *Cassia keyensis* (~~=*Chamaecrista lineata* var. *keyensis*~~) (Key cassia).  
~~64.65.~~ *Catesbaea parviflora* (dune lily-thorn).  
~~65.66.~~ *Catopsis beteroniana* (airplant).  
~~66.67.~~ *Catopsis floribunda* (many-flowered airplant).  
~~67.68.~~ *Catopsis nutans* (nodding catopsis).  
~~68.69.~~ *Celosia nitida* (West Indian cock's-comb).  
~~69.70.~~ *Celtis iguanaea* (Iguana hackberry).  
~~70.71.~~ *Celtis pallida* (spiny hackberry).  
~~71.72.~~ *Centrosema arenicola* (sand butterfly pea).  
~~72.73.~~ *Cereus robinii* (tree cactus).  
~~73.74.~~ *Chamaesyce cumulicola* (sand dune spurge).  
~~74.75.~~ *Chamaesyce deltoidea* (~~=*Euphorbia deltoidea*~~) (rockland spurge).  
~~75.76.~~ *Chamaesyce garberi* (Garber's spurge).  
~~76.77.~~ *Chamaesyce porteriana* (Porter's spurge).  
~~77.78.~~ *Cheilanthes microphylla* (southern lip fern).  
~~78.79.~~ *Chionanthus pygmaeus* (pygmy fringe-tree).  
~~79.80.~~ *Chrysopsis cruiseana* (Cruise's golden-aster).  
~~80.81.~~ *Chrysopsis floridana* (Florida's golden-aster).  
~~81.82.~~ *Chrysopsis godfreyi* (Godfrey's golden-aster).  
~~82.83.~~ *Cienfuegosia yucatanensis* (~~=*Cienfuegosia heterophylla*~~) (yellow-hibiscus).  
~~83.84.~~ *Cissampelos pareira* (pareira brava) Presumed Extirpated.  
~~84.85.~~ *Cladonia perforata* (Florida perforate cladonia).  
~~85.86.~~ *Clitoria fragrans* (pigeon wings).  
~~86.87.~~ *Colubrina arborescens* (greenheart).  
~~87.88.~~ *Colubrina cubensis* (colubrina).  
~~88.89.~~ *Colubrina elliptica* (soldierwood).  
~~89.90.~~ *Conradina brevifolia* (short-leaved rosemary).  
~~90.91.~~ *Conradina etonia* (etonia rosemary).  
~~91.92.~~ *Conradina glabra* (Apalachicola rosemary).  
~~92.93.~~ *Corallorhiza odontorhiza* (autumn coralroot).  
~~93.94.~~ *Cordia globosa* (Curacao bush).  
~~94.95.~~ *Coreopsis integrifolia* (dye-flower).  
~~95.96.~~ *Cornus alternifolia* (pagoda dogwood).  
~~96.97.~~ *Cranichis muscosa* (moss orchid).  
~~97.98.~~ *Crataegus phaenopyrum* (Washington thorn).  
~~98.99.~~ *Croomia pauciflora* (croomia).  
~~99.100.~~ *Crotalaria avonensis* (Avon Park harebells).  
~~100.101.~~ *Croton humilis* (pepperbush).  
~~101.102.~~ *Cryptotaenia canadensis* (honestwort).  
~~102.103.~~ *Ctenitis sloanei* (Florida tree fern/red-hair comb fern).  
~~103.104.~~ *Ctenitis submarginalis* (brown-hair comb fern).  
~~104.105.~~ *Ctenium floridanum* (Florida toothache grass).  
~~105.106.~~ *Cucurbita okeechobeensis* (Okeechobee gourd).  
~~106.107.~~ *Cupania glabra* (cupania).  
~~107.108.~~ *Cuphea aspera* (tropical waxweed).  
~~108.109.~~ *Cynoglossum virginianum* (wild comfrey).  
~~109.110.~~ *Cyperus floridanus* (Florida flatsedge).  
~~110.111.~~ *Cyperus fuliginosus* (limestone flatsedge).  
~~111.112.~~ *Cyrtopodium punctatum* (cowhorn or cigar orchid).  
~~112.113.~~ *Dalbergia brownii* (Brown's Indian rosewood).  
~~113.114.~~ *Dalea carthagenensis* (Florida prairie clover).  
~~114.115.~~ *Deeringothamnus pulchellus* (white squirrel-banana).  
~~115.116.~~ *Deeringothamnus rugelii* (yellow squirrel-banana).  
~~116.117.~~ *Delphinium carolinianum* (Carolina larkspur).  
~~117.118.~~ *Dennstaedtia bipinnata* (cuplet fern).  
~~118.119.~~ *Desmodium ochroleucum* (trailing tick-trefoil).  
~~119.120.~~ *Dicerandra christmanii* (Christmann's mint).  
~~120.121.~~ *Dicerandra cornutissima* (Robin's mint).  
~~121.122.~~ *Dicerandra frutescens* (Lloyd's mint).  
~~122.123.~~ *Dicerandra immaculata* (Olga's mint).  
123. *Dicerandra thinicola* (Titusville balm).  
124. *Digitaria pauciflora* (Florida pineland crabgrass).  
125. *Dirca palustris* (leatherwood).  
126. *Dodecatheon meadia* (shooting-star).  
127. *Dodonaea elaeagnoides* (Keys hophbush).  
128. *Drosera filiformis* (dew-thread).  
129. *Drypetes diversifolia* (milkbark).  
130. *Echinacea purpurea* (purple coneflower).  
131. *Eleocharis rostellata* (beaked spikerush).  
132. *Eltroplectris calcarata* (~~=*Centrogenium setaceum*~~) (spurred neottia).  
133. *Encyclia boothiana* (*Epidendrum boothianum*) (dollar orchid).  
134. *Encyclia cochleata* (Florida clamshell orchid).  
135. *Encyclia pygmaea* (dwarf epidendrum).  
136. *Epidendrum acunae* (Acuna's epidendrum).  
137. *Epidendrum anceps* (dingy-flowered epidendrum).  
138. *Epidendrum difforme* (umbelled epidendrum).  
139. *Epidendrum nocturnum* (night-scented epidendrum).  
140. *Epidendrum rigidum* (rigid epidendrum).  
141. *Epidendrum strobiliferum* (matted epidendrum).  
142. *Epigaea repens* (trailing arbutus).  
143. *Eragrostis tracyi* (Sanibel lovegrass).  
144. *Eriocaulon nigrobacteatum* (dark-headed hatpins).  
145. *Eriogonum floridanum* (~~=*Eriogonum longifolium* var. *gnaphalifolium*~~) (scrub buckwheat).  
146. *Ernodea cokeri* (one-nerved ernodea).  
147. *Eryngium cuneifolium* (scrub eryngium).  
148. *Erythronium umbilicatum* (dimpled dogtooth-violet).

149. *Eugenia confusa* (redberry eugenia).  
 150. *Eugenia rhombea* (red stopper).  
 151. *Euonymus atropurpurea* (burning bush).  
 152. *Eupatorium frustratum* (Cape Sable thoroughwort).  
 153. *Eupatorium villosum* (Keys thoroughwort).  
 154. *Euphorbia commutata* (wood spurge).  
 155. *Euphorbia telephioides* (spurge).  
 156. *Evolvulus convolvuloides* (dwarf bindweed).  
 157. *Evolvulus grisebachii* (Grisebach's bindweed).  
 158. *Exostema caribaeum* (Caribbean princewood).  
 159. *Forestiera godfreyi* (Godfrey's swamp privet).  
 160. *Fothergilla gardenii* (dwarf witch-alder).  
 161. *Galactia smallii* (Small's milkpea).  
 162. *Galeandra beyrichii* (helmet orchid).  
 163. *Gentiana pennelliana* (wiregrass gentian).  
 164. *Goodyera pubescens* (downy rattlesnake orchid).  
 165. *Gossypium hirsutum* (wild cotton).  
 166. *Govenia utriculata* (Gowen's orchid).  
 167. *Guaiaacum sanctum* (lignum vitae).  
 168. *Guzmania monostachia* (Fuch's bromeliad).  
 169. *Gymina latifolia* (West Indian falsebox).  
 170. *Habenaria distans* (distans habenaria).  
 171. *Harperocallis flava* (Harper's beauty).  
 172. *Harrisia eriophora* (Indian River prickly-apple).  
 173. *Harrisia gracilis* (West coast prickly-apple).  
 174. *Hasteola robertiorum* (Gulf hammock indian-plantain).  
 175. *Helianthus carnosus* (flatwoods sunflower).  
 176. *Heliotropium fruticosum* (Key West heliotrope)  
 Presumed Extirpated.  
 177. *Hepatica nobilis* (= *Hepatica americana*) (liverleaf).  
 178. *Hexalectris spicata* (crested coral-root).  
 179. *Hibiscus poeppigii* (Poeppig's rosemallow).  
 180. *Hippomane mancinella* (manchineel).  
 181. *Hybanthus concolor* (green violet).  
 182. *Hydrangea arborescens* (wild hydrangea).  
 183. *Hymenocallis godfreyi* (Godfrey's spiderlily).  
 184. *Hymenocallis henryae* (Mrs. Henry's spiderlily).  
 185. *Hypelate trifoliata* (inkwood).  
 186. *Hypericum cumulicola* (Highlands scrub hypericum).  
 187. *Hypericum edisonianum* (Edison ascyrum).  
 188. *Hypericum lissophloeus* (smooth-barked St. Johns-wort).  
 189. *Illicium parviflorum* (star anise).  
 190. *Indigofera keyensis* (Keys' indigo).  
 191. *Ionopsis utricularioides* (delicate ionopsis orchid).  
 192. *Ipomoea microdactyla* (wild-potato morning-glory).  
 193. *Ipomoea tenuissima* (rocklands morning-glory).  
 194. *Isoetes engelmannii* (Engelmann's quillwort).  
 195. *Isopyrum biternatum* (false rue-anemone).  
 196. *Isotria verticillata* (whorled pogonia).  
 197. *Jacquemontia havanensis* (Havana clustervine).  
 198. *Jacquemontia pentantha* (skyblue clustervine).  
 199. *Jacquemontia reclinata* (beach jacquemontia).  
 200. *Juncus gymnocarpus* (Coville's rush).  
 201. *Justicia cooleyi* (Cooley's justicia).  
 202. *Justicia crassifolia* (thick-leaved water-willow).  
 203. *Kosteletzkya depressa* (white fen).  
 204. *Lantana canescens* (hammock shrub verbena).  
 205. *Lantana depressa* (pineland lantana).  
 206. *Lechea divaricata* (spreading pinweed).  
 207. *Lechea lakelae* (Lakela's pinweed).  
 208. *Leiphaimos parasitica* (parasitic ghostplant).  
 209. *Leochilus labiatus* (lipped orchid).  
 210. *Lepanthopsis melanantha* (tiny orchid).  
 211. *Lepuropetalon spathulatum* (little-people).  
 212. *Liatris ohlingerae* (scrub blazing-star).  
 213. *Liatris provincialis* (Godfrey's blazing-star).  
 214. *Licaria triandra* (licaria).  
 215. *Lilium iridollae* (panhandle lily).  
 216. *Lilium michauxii* (Carolina lily).  
 217. *Lilium superbum* (Turk's-cap lily).  
 218. *Lindera melissifolia* (pondberry) Presumed Extirpated.  
 219. *Lindera subcoriacea* (bog spicebush).  
 220. *Linum arenicola* (sand flax).  
 221. *Linum carteri* (Everglades flax).  
 222. *Linum westii* (West's flax).  
 223. *Liparis nervosa* (tall twayblade).  
 224. *Litsea aestivalis* (pond-spice).  
 225. *Lobelia boykinii* (Boykin's lobelia).  
~~226.225. *Lomariopsis kunzeana* (climbing holly-fern).~~  
~~227.226. *Lupinus aridorum* (= *Lupinus westianus* var. *aridorum*) (McFarlin's lupine).~~  
 228.227. *Lycopodium dichotomum* (hanging clubmoss).  
~~229.228. *Lythrum curtissii* (Curtis' loosestrife).~~  
~~230.229. *Lythrum flagellare* (lowland loosestrife).~~  
 231.230. *Macbridea alba* (white birds-in-a-nest).  
~~232.231. *Macradenia lutescens* (Trinidad macradenia).~~  
~~233.232. *Macranthera flammea* (hummingbird-flower).~~  
~~234.233. *Magnolia acuminata* (cucumber-tree).~~  
~~235.234. *Magnolia ashei* (Ashe's magnolia).~~  
~~236.235. *Magnolia pyramidata* (pyramid magnolia).~~  
~~237.236. *Magnolia tripetala* (umbrella magnolia).~~  
~~238.237. *Malaxis unifolia* (green adder's-mouth orchid).~~  
~~239.238. *Marshallia obovata* (Barbara's buttons).~~  
~~240.239. *Marshallia ramosa* (Barbara's buttons).~~  
 241.240. *Matelea alabamensis* (Alabama spiny pod).  
 242.241. *Matelea baldwyniana* (Baldwin's spiny pod).  
 243.242. *Matelea flavidula* (yellow-flowered spiny pod).

- ~~244.243.~~ *Matelea floridana* (Florida spiny pod).  
~~245.244.~~ *Matelea publiflora* (sandhill spiny pod).  
~~246.245.~~ *Maxillaria crassifolia* (hidden orchid).  
~~247.246.~~ *Maxillaria parviflora* (minnie-max).  
~~248.247.~~ *Medeola virginiana* (Indian cucumber).  
~~249.248.~~ *Microgramma heterophylla* (climbing vine fern).  
~~250.249.~~ *Minuartia godfreyi* (Godfrey's sandwort).  
~~251.250.~~ *Monotropia hypopithys* (pine-sap).  
~~252.251.~~ *Monotropis reynoldsiae* (pygmy-pipes).  
~~253.252.~~ *Nemastylis floridana* (celestial lily).  
~~254.253.~~ *Neurodium lanceolatum* (ribbon fern).  
~~255.254.~~ *Nolina brittoniana* (Britton's bear-grass).  
~~256.255.~~ *Nymphaea jamesoniana* (Jameson's water lily).  
~~257.256.~~ *Ocimum campechianum* (ocimum).  
~~258.257.~~ *Okenia hypogaea* (burrowing four-o'clock).  
~~259.258.~~ *Oncidium bahamense* (dancing-lady orchid).  
~~260.259.~~ *Oncidium floridanum* (Florida orchidium).  
~~261.260.~~ *Oncidium luridum* (mule-ear orchid).  
~~262.261.~~ *Ophioglossum palmatum* (hand fern).  
~~263.262.~~ *Opuntia corallicola* (semaphore cactus).  
~~264.263.~~ *Opuntia triacantha* (Keys Joe-jumper).  
~~265.264.~~ *Oxypolis greenmanii* (giant water-dropwort).  
~~266.265.~~ *Pachysandra procumbens* (Allegheny-spurge).  
~~267.266.~~ *Panicum abscissum* (cut-throat grass).  
~~268.267.~~ *Parnassia caroliniana* (Carolina grass-of-Parnassus).  
~~269.268.~~ *Parnassia grandifolia* (grass-of-Parnassus).  
~~270.269.~~ *Paronychia chartacea* (papery whitlow-wort).  
~~271.270.~~ *Passiflora multiflora* (white-flowered passionvine).  
~~272.271.~~ *Passiflora pallens* (pineland passionvine).  
~~273.272.~~ *Passiflora sexflora* (goat's foot leaf).  
~~274.273.~~ *Pavonia paludicola* (swampbush).  
~~275.274.~~ *Pellaea atropurpurea* (hairy cliff-brake fern).  
~~276.275.~~ *Peperomia amplexicaulis* (clasping peperomia).  
~~277.276.~~ *Peperomia glabella* (cypress peperomia).  
~~278.277.~~ *Peperomia humilis* (peperomia).  
~~279.278.~~ *Peperomia magnoliifolia* (spathulate peperomia).  
~~280.279.~~ *Peperomia obtusifolia* (Florida peperomia).  
~~281.~~ *Peperomia rotundifolia* (round peperomia).  
~~282.280.~~ *Pharus glaber* (creeping leafstalk grass).  
~~283.281.~~ *Phoradendron rubrum* (mahogany mistletoe).  
~~284.282.~~ *Phyla stoechadifolia* (southern matchsticks).  
~~285.283.~~ *Phyllanthus leibmannianus* (pine woods dainties).  
~~286.284.~~ *Physocarpus opulifolius* (ninebark).  
~~287.285.~~ *Picramnia pentrandra* (Florida bitterbush).  
~~288.286.~~ *Pilosocereus bahamensis* (Bahamian treecactus).  
~~289.287.~~ *Pinguicula ionantha* (Panhandle butterwort).  
~~290.288.~~ *Pinguicula primuliflora* (primrose-flowered butterwort).  
~~291.289.~~ *Pisonia rotundata* (devil's smooth claws).  
~~292.290.~~ *Pityopsis flexuosa* (Florida golden-aster).  
~~293.291.~~ *Platanthera clavellata* (green rein orchid).  
~~294.292.~~ *Platanthera integra* (orange rein orchid).  
~~295.293.~~ *Pleopeltis astrolepis* (star-scaled fern).  
~~296.294.~~ *Pleurothallis gelida* (frosted orchid).  
~~297.295.~~ *Podophyllum peltatum* (mayapple).  
~~298.296.~~ *Poinsettia pinetorum* (~~=*Euphorbia pinetorum*~~) (Everglades poinsettia).  
~~299.297.~~ *Polygala lewtonii* (Lewton's polygala).  
~~300.298.~~ *Polygala smallii* (tiny polygala).  
~~301.299.~~ *Polygonella basiramia* (tufted wireweed).  
~~302.300.~~ *Polygonella myriophylla* (sandlace).  
~~303.301.~~ *Polygonum meisnerianum* (Mexican tear-thumb).  
~~304.302.~~ *Polymnia laevigata* (Tennessee leaf-cup).  
~~305.303.~~ *Polypodium dispersum* (widespread polypody).  
~~306.304.~~ *Polypodium plumula* (plume polypody).  
~~307.305.~~ *Polypodium ptilodon* (swamp plume polypody).  
~~308.306.~~ *Polypodium lindenii* (ghost orchid).  
~~309.307.~~ *Polystachya concreta* (pale-flowered polystachya).  
~~310.308.~~ *Ponthieva brittoniae* (Mrs. Britton's shadow witch).  
~~311.309.~~ *Potamogeton floridanus* (Florida pondweed).  
~~312.310.~~ *Prescottia oligantha* (small-flowered orchid).  
~~313.311.~~ *Prunus geniculata* (scrub plum).  
~~314.312.~~ *Pseudophoenix sargentii* (Sargent's cherry palm).  
~~315.313.~~ *Psychotria ligustrifolia* (Bahama wildcoffee).  
~~316.314.~~ *Remirea maritima* (beach-star).  
~~317.315.~~ *Rhexia parviflora* (Apalachicola meadow-beauty).  
~~318.316.~~ *Rhipsalis baccifera* (mistletoe cactus).  
~~319.317.~~ *Rhododendron alabamense* (Alabama azalea).  
~~320.318.~~ *Rhododendron austrinum* (Florida flame azalea).  
~~321.319.~~ *Rhododendron chapmanii* (Chapman's rhododendron).  
~~322.320.~~ *Rhus michauxii* (Michaux's sumac) Presumed Extirpated.  
~~323.321.~~ *Rhynchosia swartzii* (Swartz' snoutbean).  
~~324.322.~~ *Rhynchospora crinipes* (hairy peduncled beakrush).  
~~325.~~ *Rhynchospora megaplumosa* (hairy spikelet beakrush).  
~~326.323.~~ *Ribes echinellum* (Miccosukee gooseberry).  
~~327.324.~~ *Roystonea elata* (Florida royal palm).  
~~328.325.~~ *Rudbeckia nitida* (St. John's-Susan).  
~~329.326.~~ *Rudbeckia triloba* (a browneyed Susan).

- ~~330.327.~~ *Ruellia noctiflora* (night-flowering wild-petunia).
- ~~331.328.~~ *Salix eriocephala* (heart-leaved willow).
- ~~332.329.~~ *Salix floridana* (Florida willow).
- ~~333.330.~~ *Salvia urticifolia* (nettle-leaved sage).
- ~~334.331.~~ *Sarracenia leucophylla* (white-top pitcher-plant).
- ~~335.332.~~ *Savia bahamensis* (Bahama maidenbush).
- ~~336.333.~~ *Schaefferia frutescens* (Florida boxwood).
- ~~337.334.~~ *Schisandra coccinea* (bay star vine).
- ~~338.335.~~ *Schizachyrium niveum* (scrub bluestem).
- ~~339.336.~~ *Schizachyrium sericatum* (silky bluestem).
- ~~340.337.~~ *Schizaea germanii* (ray fern).
- ~~341.338.~~ *Schwalbea americana* (chaff-seed).
- ~~342.339.~~ *Scleria lithosperma* (Keys' nutrush).
- ~~343.340.~~ *Scutellaria floridana* (Florida skullcap).
- ~~344.341.~~ *Scutellaria havanensis* (Havana skullcap).
- ~~345.342.~~ *Selaginella eatonii* (pygmy spikemoss).
- ~~346.343.~~ *Setaria chapmanii* (coral panic grass).
347. *Sideroxylon alachuense* Anderson (Clark's buckthorn).
348. *Sideroxylon lycioides* (gopherwood buckthorn).
349. *Sideroxylon thornei* (Thorne's buckthorn).
- ~~350.344.~~ *Silene polypetala* (fringed pink).
- ~~351.345.~~ *Silene virginica* (fire pink).
- ~~352.346.~~ *Sphenomeris clavata* (wedgelet fern).
- ~~353.347.~~ *Sphenostigma coelestinum* (Bartram's ixia).
- ~~354.348.~~ *Spigelia gentianoides* (gentian pinkroot).
- ~~355.349.~~ *Spigelia loganioides* (Levy pinkroot).
- ~~356.350.~~ *Spiranthes adnata* (pelexia).
- ~~357.351.~~ *Spiranthes brevilabris* (small ladies'-tresses).
- ~~358.352.~~ *Spiranthes costaricensis* (Costa Rican ladies'-tresses).
- ~~359.353.~~ *Spiranthes elata* (tall neottia).
- ~~360.354.~~ *Spiranthes ovalis* (lesser ladies'-tresses).
- ~~361.355.~~ *Spiranthes polyantha* (Ft. George ladies'-tresses).
- ~~362.356.~~ *Spiranthes torta* (southern ladies'-tresses).
- ~~363.357.~~ *Stachydeoma graveolens* (~~=*Hedeoma graveolens*~~) (mock pennyroyal).
- ~~364.358.~~ *Stachys crenata* (shade betony).
- ~~365.359.~~ *Stachys tenuifolia* (narrow-leaved betony).
- ~~366.360.~~ *Staphylea trifolia* (bladder nut).
- ~~367.361.~~ *Stewartia malacodendron* (silky camellia).
- ~~368.362.~~ *Strumpfia maritima* (pride-of-Big-Pine).
- ~~369.363.~~ *Stylisma abdita* (hidden stylisma).
- ~~370.364.~~ *Stylosanthes calcicola* (Everglades pencilflower).
- 371.365. *Taxus floridana* (Florida yew).
- ~~372.366.~~ *Tectaria fimbriata* (least halberd fern).
- ~~373.367.~~ *Tephrosia angustissima* (hoary pea).
- ~~374.368.~~ *Thalictrum cooleyi* (Cooley's meadow rue).
- ~~375.369.~~ *Thalictrum thalictroides* (~~=*Anemonella thalictroides*~~) (Rue-anemone).
- ~~376.370.~~ *Thelypteris grandis* (Collier County maiden fern).
- ~~377.371.~~ *Thelypteris patens* (grid-scale maiden fern).
- ~~378.372.~~ *Thelypteris reptans* (creeping star-hair fern).
- ~~379.373.~~ *Thelypteris reticulata* (lattice-vein fern, cypress fern).
- ~~380.374.~~ *Thelypteris sclerophylla* (stiff star-hair fern).
- ~~381.375.~~ *Thelypteris serrata* (dentate lattice-vein fern).
- ~~382.376.~~ *Thrinax morrisii* (~~=*T. microcarpa*~~) (brittle thatch palm).
- ~~383.377.~~ *Thrinax radiata* (~~=*T. floridana*~~) (Florida thatch palm).
- ~~384.378.~~ *Tillandsia fasciculata* (common or stiff-leaved wild-pine).
- ~~385.379.~~ *Tillandsia pruinosa* (fuzzy-wuzzy or hoary air-plant).
- ~~386.380.~~ *Tillandsia utriculata* (giant wild-pine).
- ~~381.~~ *Tithymalus telephioides* (spurge)
- ~~387.382.~~ *Torreya taxifolia* (Florida torreya).
- ~~388.383.~~ *Tournefortia hirsutissima* (chiggery grapes).
- ~~389.384.~~ *Trema lamarckianum* (Lamarck's trema).
- ~~390.385.~~ *Trichomanes holopterum* (entire-winged bristle fern).
- ~~391.386.~~ *Trichomanes krausii* (Kraus's bristle fern).
- ~~392.387.~~ *Trichomanes lineolatum* (lined bristle fern).
- ~~393.388.~~ *Trichomanes punctatum* (Florida bristle fern).
- ~~394.389.~~ *Trichostigma octandrum* (hoop vine) **Presumed Extirpated.**
- ~~395.390.~~ *Trillium lancifolium* (lance-leaved wake-robin).
- ~~396.391.~~ *Triphora craigheadii* (Craigheads's orchid).
- ~~397.392.~~ *Triphora latifolia* (wide-leaved triphora).
- ~~398.393.~~ *Tropidia polystachya* (young-palm orchid).
- ~~399.394.~~ *Uvularia floridana* (Florida merrybells).
- ~~400.395.~~ *Vallesia antillana* (tear shrub).
- ~~401.396.~~ *Vanilla barbellata* (worm-vine orchid).
- ~~402.397.~~ *Vanilla dilloniana* (Dillon's vanilla).
- ~~403.398.~~ *Vanilla mexicana* (unscented vanilla).
- ~~404.399.~~ *Vanilla phaeantha* (leafy vanilla).
- ~~405.400.~~ *Veratrum woodii* (false hellebore).
- ~~406.401.~~ *Verbena maritima* (coastal vervain).
- ~~407.402.~~ *Verbena tampensis* (Tampa vervain).
- ~~408.403.~~ *Vicia ocalensis* (Ocala vetch).
- ~~409.404.~~ *Viola tripartita* (yellow violet).
- ~~410.405.~~ *Warea amplexifolia* (clasping warea).
- ~~411.406.~~ *Warea carteri* (Carter's mustard).
- ~~412.407.~~ *Xanthorhiza simplicissima* (yellow-root).
- ~~413.408.~~ *Xyris chapmanii* (Chapman's yellow-eyed-grass).

- ~~414.409.~~ *Xyris isoetifolia* (quillwort yellow-eyed-grass).  
~~415.410.~~ *Xyris longisepala* (Karst pond yellow-eyed-grass).  
 416. *Yucca gloriosa* (moundlily yucca).  
~~417.411.~~ *Zanthoxylum americanum* (prickly-ash).  
 418. ~~412.~~ *Zanthoxylum coriaceum* (leathery prickly-ash).  
~~419. 413.~~ *Zanthoxylum flavum* (yellowheart).  
 420. ~~414.~~ *Zigadenus leimanthoides* (coastal death camas).  
~~421. 415.~~ *Ziziphus celata* (scrub ziziphus).

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

1. *Acanthocereus pentagonus* (barbed-wire cactus).
2. *Acoelorrhaphe wrightii* (Everglades palm).
3. *Acrostichum aureum* (golden leather fern).
4. *Andropogon arctatus* (pine-woods bluestem).
5. *Angadenia berteroi* (pineland golden trumpet).
6. *Arnoglossum diversifolium* (Indian-plantain).
7. *Asclepias viridula* (green milkweed).
8. *Athyrium filix-femina* (southern lady fern).
9. *Baptisia hirsuta* (hairy wild-indigo).
10. *Baptisia simplicifolia* (scare-weed).
11. *Bletia purpurea* (pine-pink orchid).
12. *Byrsonima lucida* (locust berry).
13. *Calamintha ashei* (Ashe's calamintha).
14. *Calamintha dentata* (toothed savory).
15. *Calamovilfa curtisii* (Curtis' sandgrass).
16. *Calyptanthus pallens* (pale lidflower).
17. *Carex baltzellii* (Baltzell's sedge).
18. *Chamaesyce pergamena* (rocklands spurge).
19. *Chaptalia albicans* (white sunbonnets).
20. *Chrysophyllum oliviforme* (satin leaf).
21. *Cleistes divaricata* (spreading pogonia).
22. *Coccothrinax argentata* (silver palm).
23. *Coelorachis tuberculosa* (piedmont joint grass).
24. *Conradina grandiflora* (large-flowered rosemary).
25. *Crossopetalum ilicifolium* (Christmas berry).
26. *Crossopetalum rhacoma* (rhacoma).
27. *Cynanchum blodgettii* (Blodgett's swallowwort).
28. *Digitaria dolichophylla* (Caribbean crabgrass).
29. *Drosera intermedia* (water sundew).
30. *Drypetes lateriflora* (Guiana plum).
31. *Erithralis fruticosa* (blacktorch).
32. *Eulophia ecristata* (non-crested eulophia).
33. *Garberia heterophylla* (garberia).
34. *Harrisella filiformis* (threadroot orchid).
35. *Hartwrightia floridana* (hartwrightia).
36. *Hexastylis arifolia* (heartleaf wild ginger).
37. *Ilex amelanchier* (serviceberry holly).
38. *Ilex krugiana* (Krug's holly).
39. *Jacquemontia curtisii* (pineland jacquemontia).
40. *Jacquinia keyensis* (joewood).
41. *Kalmia latifolia* (mountain laurel).
42. *Lachnocaulon digynum* (Panhandle bogbuttons).
43. *Lechea cernua* (scrub pinweed).
44. *Leitneria floridana* (corkwood).
45. *Lilium catesbaei* (Catesby lily).
46. *Listera australis* (southern twayblade).
47. *Lobelia cardinalis* (cardinal flower).
48. *Lupinus westianus* (Gulfcoast lupine).
49. *Malus angustifolia* (crabapple).
50. *Manilkara jaimiqui* (wild dilly).
51. *Matelea gonocarpos* (angle pod).
52. *Maytenus phyllanthoides* (Florida mayten).
53. *Melanthera parvifolia* (small-leaved melanthera).
54. *Myrcianthes fragrans* (~~(=Eugenia simpsonii)~~) (Simpson's stopper).
55. *Najas filifolia* (slender naiad).
56. *Nephrolepis biserrata* (giant sword fern).
57. *Nolina atopocarpa* (Florida beargrass).
58. *Opuntia stricta* (shell mound prickly-pear).
59. *Panicum nudicaule* (naked-stemmed panic grass).
60. *Phoebanthus tenuifolius* (pineland false sunflower).
61. *Physostegia godfreyi* (Apalachicola dragonhead).
62. *Pinckneya bracteata* (fever-tree).
63. *Pinguicula caerulea* (blue-flowered butterwort).
64. *Pinguicula lutea* (yellow-flowered butterwort).
65. *Pinguicula planifolia* (swamp butterwort).
66. *Pithecellobium keyense* (Keys' blackbead).
67. *Platanthera blephariglottis* (white-fringed orchid).
68. *Platanthera ciliaris* (yellow-fringed orchid).
69. *Platanthera cristata* (crested fringed orchid).
70. *Platanthera flava* (gypsy-spikes).
71. *Platanthera nivea* (snowy orchid).
72. *Pogonia ophioglossoides* (rose pogonia).
73. *Polygonella macrophylla* (large-leaved jointweed).
74. *Prunus myrtifolia* (West Indian cherry).
75. *Psidium longipes* (mangrove berry).
76. *Pteris bahamensis* (Bahama ladder brake fern).
77. *Pycnanthemum floridanum* (Florida mountain-mint).
78. *Quercus arkansana* (Arkansas oak).
79. *Reynosia septentrionalis* (Darling plum).
80. *Rhexia salicifolia* (Panhandle meadow beauty).
81. *Rhynchosia parvifolia* (small-leaf snoutbean).
82. *Rhynchospora stenophylla* (narrow-leaf beakrush).
83. *Sachsia bahamensis* (Bahama sachsia).
84. *Sarracenia minor* (hooded pitcher plant).
85. *Sarracenia psittacina* (parrot pitcher plant).
86. *Sarracenia purpurea* (decumbent pitcher plant).
87. *Sarracenia rubra* (red-flowered pitcher plant).
88. *Scaevola plumieri* (inkberry).

- 89. *Senna mexicana* (Chapman's sensitive plant).
  - 90. *Smilax havanensis* (Everglades greenbrier).
  - 91. *Solanum donianum* (mullein nightshade).
  - 92. *Spermacoce terminalis* (false buttonweed).
  - 93. *Spiranthes laciniata* (lace-lip ladies' tresses).
  - 94. *Spiranthes longilabris* (long-lip ladies' tresses).
  - 95. *Spiranthes tuberosa* (little pearl-twist).
  - 96. *Stenorrhynchos lanceolatus* (leafless beaked orchid).
  - 97. *Swietenia mahagoni* (mahogany).
  - 98. *Tectaria heracleifolia* (broad halberd fern).
  - 99. *Tephrosia mohrii* (pineland hoary-pea).
  - 100. *Tetrazygia bicolor* (tetrazygia).
  - 101. *Thelypteris augescens* (abrupt-tipped maiden fern).
  - 102. *Tillandsia balbisiana* (inflated & reflexed wildpine).
  - 103. *Tillandsia flexuosa* (twisted or banded air plant).
  - 104. *Tillandsia valenzuelana* (soft-leaved wildpine).
  - 105. *Tipularia discolor* (crane-fly orchid).
  - 106. *Tragia saxicola* (rocklands noseburn).
  - 107. *Triphora trianthophora* (three-birds orchid).
  - 108. *Tripsacum floridanum* (Florida tripsacum).
  - 109. *Verbesina chapmanii* (Chapman's crownbeard).
  - 110. *Xyris scabrifolia* (Harper's yellow-eyed grass).
  - 111. *Zephyranthes atamasco* (rainlily).
  - 112. *Zephyranthes simpsonii* (Simpson's zephyr-lily).
  - 113. *Zephyranthes treatiae* (Treat's zephyr-lily).
- (c) No change.  
 (2) No change.

Specific Authority 570.07(23), 581.185 FS. Law Implemented 570.07(13), 581.185 FS. History—New 12-3-91, Amended 9-20-93, 5-21-96, 12-10-96, 1-7-98, 9-20-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Richard Gaskalla, Director, Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Craig Meyer, Deputy Commissioner of Agricultural Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 30, 2002

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Outdoor Advertising Sign Regulation and Highway Beautification Program	14-10
RULE TITLE:	RULE NO.:
Comprehensively Enacted Zoning and Zoning Enacted Primarily to Permit Signs	14-10.0052

PURPOSE AND EFFECT: This new rule is to clarify the use of commercial or industrial zoning for signs. The previous Rule 15-10.051, F.A.C., relating to Zoned and Unzoned Commercial and Industrial Areas along Interstate and Federal-Aid Primary Highways, was repealed.

SUMMARY: A new rule is being adopted pertaining to comprehensively enacted zoning, and zoning enacted primarily to permit signs. The proposed rule includes revisions resulting from a rule development workshop, which was conducted in Tallahassee on May 20, 2002.

SPECIFIC AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 479.07(10) FS.

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

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

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., December 18, 2002

PLACE: Department of Transportation, Haydon Burns Building, 605 Suwannee Street, Fourth Floor Conference Room (Room 479), Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-10.0052 Comprehensively Enacted Zoning and Zoning Enacted Primarily to Permit Signs.

(1) Commercial or industrial zoning which is not comprehensively enacted, or which is enacted primarily to permit signs, shall not be considered commercial or industrial zoning, and sign permits shall not be issued in such areas.

(2) "Commercial or Industrial Zoning" for purposes of this Rule, only includes property on which commercial or industrial uses are currently permitted under "comprehensively enacted zoning" (as defined below), and does not include any property on which commercial or industrial uses have been allowed primarily to permit the erection or maintenance of signs.

(3) "Comprehensively Enacted Zoning" means ordinances or other laws of general application, properly adopted by the county or municipal government with authority over the development and use of the affected property, that designate or

control the currently allowable uses of the affected property, pursuant to and consistent with a comprehensive plan enacted in accordance with Chapter 163, Florida Statutes.

(4) The Department shall consider the following criteria when determining whether commercial or industrial zoning applicable to a proposed sign site was adopted primarily to permit the erection or maintenance of signs:

(a) The language of the applicable zoning ordinance or law.

(b) Whether the applicable zoning ordinance or law allows commercial or industrial uses on the property as a matter of right, or whether such uses are only allowed by variance, special exception, conditional use permit, special use permit, or the equivalent.

(c) Whether the applicable zoning ordinance or law allows commercial or industrial uses on the property other than the following uses that are not recognized as commercial or industrial use for the purposes of this rule:

1. Agricultural, forestry, ranching, grazing, farming, or related activities, including wayside fresh produce stands.
2. Transient or temporary activities.
3. Railroad tracks and minor sidings.
4. Communication towers.
5. Electric transmission, telephone, telegraph, or other communications services lines.
6. Ditches, sewers; water, heat, or gas lines.
7. Pipelines, tanks, or pumps.
8. Fences.
9. Drainage ponds or water retention facilities.
10. Canals.
11. Roads.
12. Signs.

(d) The applicable county or municipal government building and development code requirements for commercial or industrial activities on the property, including setback requirements, parcel size and dimension requirements, and access and parking requirements.

(e) The size of the property on which the sign is proposed to be located.

(f) The location of the property in relation to other properties zoned for commercial or industrial uses.

(g) Access to the property.

(h) Utilities available to the property.

(i) Existing or approved commercial or industrial uses on the property.

(j) Existing or approved commercial or industrial uses on adjacent properties within 1,600 feet of the property.

(k) Any uses currently approved for the property.

(l) Any activities currently conducted on the property.

(m) Historic uses of the property.

(n) Efforts by the owner, or lessee with the right to current possession of the property, to actually conduct commercial or industrial uses.

(o) The location and orientation of the property in relation to any part of the State Highway System, the Interstate System, or the Federal-aid Primary System.

(p) Any statements or material presented to the county or municipal government in connection with any zoning decision on the property.

Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 479.07(10) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kenneth Towcimak, Director, Office of Right of Way  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Thomas F. Barry, Jr., P.E.,  
Secretary

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: November 12, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: April 5, 2002

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Toll Enforcement  
RULE CHAPTER NO.: 14-100

RULE TITLE: Training and Qualification Standards  
for Toll Enforcement Officers  
RULE NO.: 14-100.001

PURPOSE AND EFFECT: This amendment is needed to clarify the background investigation requirements for Toll Enforcement Officers. The term “good moral character” and all references to the Florida Department of Law Enforcement definition of that term and specific investigation requirements relating to that term are removed and replaced with a basic requirement for a background investigation as required by Section 110.1127, Florida Statutes.

SUMMARY: This is a proposed amendment to subsection 14-100.001(4), F.A.C., as it relates to background investigations for toll enforcement officers.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 316.1001, 316.640(1) FS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Management Analyst 4, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-100.001 Training and Qualification Standards for Toll Enforcement Officers.

(1) Application and Scope. The purpose of this rule is to establish minimum training and qualification standards for toll enforcement officers. These standards shall be the minimum requirements necessary for eligibility to be a toll enforcement officer for the Department of Transportation (hereinafter Department). Toll enforcement officers are authorized to issue uniform traffic citations for failure to pay tolls on a toll facility owned or operated by a governmental entity, as defined in Section 334.03(12), Florida Statutes. This rule should not be construed to preclude a governmental entity operating a toll facility from establishing more stringent requirements for its toll enforcement officers.

(2) Compliance. Compliance with the rule standards shall be the responsibility of the respective governmental entity which operates the toll facility.

(3) Minimum Training. Toll enforcement officers shall successfully complete the following:

(a) A training course with the Department of Highway Safety and Motor Vehicles on the procedures for issuance of uniform traffic citations.

(b) A minimum of 40 hours of technical instruction on how to access, operate, and maintain the violation enforcement system. The components of the training shall include, at a minimum, equipment configuration and operation.

(4) Minimum Qualifications. The following minimum qualifications shall be applicable to toll enforcement officers:

(a) Toll enforcement officers shall, through their education and work experience, demonstrate to the satisfaction of the hiring governmental entity that they possess the following :

- 1. The ability to collect and evaluate data related to a violation enforcement system; and
- 2. The ability to understand and apply applicable agency, evidentiary, and violation enforcement system rules, regulations, policies, and procedures.

(b) Toll enforcement officers shall have visual acuity correctable to 20/20.

(c) Toll enforcement officers shall be subject to a security background check as a condition of employment pursuant to Section 110.1127, Florida Statutes. ~~must:~~

~~1. Be certified pursuant to Section 943.13, Florida Statutes, and Chapter 11B-27, F.A.C.; or~~

~~2. Meet the requirements of Sections 943.13(1)-(4), Florida Statutes; and~~

~~3. Have good moral character, as described in Section 943.13(7), Florida Statutes, and Rule 11B-27.0011(2), (4)(a), (b), and (c)1-6., and (d), F.A.C. (Amended 1-2-97), as determined by a background investigation meeting the requirements of Rule 11B-27.0022(1) and (2), F.A.C. (Amended 1-2-97). The foregoing rules are incorporated herein by reference.~~

Specific Authority 334.044(2) FS. Law Implemented 316.1001, 316.640(1) FS. History-New 10-21-97, Amended 8-13-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Leigh Anne Yarbrough, Florida Turnpike Enterprise, Toll Services Group

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 18, 2002

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Interstate Agreement on Detainers

RULE NO.: 33-601.402

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to delete a rule which is unnecessary as it merely reiterates statutory language.

SUMMARY: The rule is being repealed because it is duplicative of language found in Chapter 941, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09, 945.21 FS.

LAW IMPLEMENTED: 941.45, 941.46, 941.47, 941.49 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.402 Interstate Agreement on Detainers.

Specific Authority 944.09, 945.21 FS. Law Implemented 941.45, 941.46, 941.47, 941.49 FS. History-New 7-7-81, Formerly 33-21.02, Formerly 33-21.002, Formerly 33-301.102, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan



NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2002

**DEPARTMENT OF CORRECTIONS**

RULE TITLES: ADMINISTRATIVE CONFINEMENT  
 Administrative Confinement 33-602.220  
 Protective Management 33-602.221

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify terms used in conjunction with administrative confinement; revise the process for recording data for administrative confinement and protective management inmates; clarify the process for the operation of confinement units; and provide for the use of new forms and the deletion of obsolete forms.

SUMMARY: The proposed rules clarify terms used in conjunction with administrative confinement; revise the process for recording data for administrative confinement and protective management inmates; clarify the process for the operation of confinement units; and provide for the use of new forms and the deletion of obsolete forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 945.04 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-602.220 Administrative Confinement.

(1) Definitions.

(a) through (m) No change.

(n) Offender Based Information System (OBIS) – refers to an electronic data system used by the Department of Corrections to record and retrieve offender information.

(2) Procedures for Placement in Administrative Confinement.

(a) No change.

(b) When a decision is made to place an inmate in administrative confinement, the reason for such placement shall be explained to the inmate and the inmate shall be given an opportunity to present verbal comments on the matter. The

inmate shall also be allowed to submit a written statement. Prior to placing the inmate in administrative confinement, the inmate shall be given a pre-confinement health assessment to include a physical and mental health evaluation that shall be documented in the health care record. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Segregation. Form DC6-229 is incorporated by reference in subsection (11) of this rule. When an official places an inmate in administrative confinement, this action shall be documented in the electronic classification contact log in OBIS. This entry shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement and a summary of the inmate’s comments. The reason must correspond with one of the criteria for placement provided in subsection (3) of this rule. This electronic entry shall be completed the same day the inmate is placed into confinement, and will establish the ICT 72-hour review appointment on a Report of Administrative Confinement, Form DC6-233a, including the reasons for the action and a summary of the inmate’s comments. Form DC6-233a is incorporated by reference in (11) of this rule. The heading and Section I shall be completed by the official who placed the inmate in administrative confinement. Inmates shall be weighed upon admission to administrative confinement, at least once a week while in administrative confinement, and upon leaving administrative confinement. The weight of the inmate shall be recorded on Form DC6-229, Daily Record of Segregation. Form DC6-229 is incorporated by reference in (11) of this rule. This section shall fully state the circumstances surrounding and reasons for placing the inmate in administrative confinement. The reason shall correspond with one of the reasons for placement stated in subsection (3) of this rule. Once Section I has been completed, the official who placed the inmate in administrative confinement shall sign Section I and forward the report to classification prior to the end of his or her shift or workday. Any written statements provided by the inmate shall be forwarded to the ICT for their consideration during the forthcoming 72-hour review attached to the form.

(c) The Institutional Classification Team shall review inmates in administrative confinement within 72 hours. The ICT’s findings and decision shall be documented in the electronic classification contact log in OBIS. The only exception to being reviewed within 72 hours is when the ICT cannot complete its review within the allotted timeframe due to a holiday. If the review cannot be completed within 72 hours, the action of the senior correctional officer shall be reviewed within 72 hours by the duty warden, documented on the DC6-229, Daily Record of Segregation, and evaluated within 5 days by the ICT. Inmates placed into administrative confinement shall not be released from this status until approved by the ICT. The classification supervisor shall be

responsible for ensuring that the ICT docket is prepared. The ICT Chairperson is responsible for scheduling the ICT hearing date and time. ~~All Reports of Administrative Confinement, DC6-233a, shall be completed the same day an inmate is placed into confinement and forwarded to the institutional classification unit to be placed on the docket.~~ The ICT shall review inmates for release. During this review the ICT shall consider pending disciplinary hearings and other pending issues or actions. If an inmate has been held in administrative confinement pending a disciplinary hearing and the decision is not to impose disciplinary confinement as a part of the disciplinary action, the disciplinary team or hearing officer shall notify the confinement supervisor who shall coordinate the release of the inmate from administrative confinement. If the confinement supervisor discovers other pending issues or actions, the ICT shall be required to immediately review the case. In the event it is necessary to release an inmate from administrative confinement during weekends or holidays the duty warden is authorized to approve the release immediately.

(3) Reasons for Placement in Administrative Confinement with time limits. Placement of an inmate in administrative confinement is authorized for the following reasons:

(a) through (b) No change.

(c) Inmates shall be placed in administrative confinement pending review of the inmate's request for protection from other inmates, (Rule 33-602.221, F.A.C.). The inmate shall be placed in administrative confinement by a senior correctional officer when the inmate presents a signed written statement alleging that the inmate fears for his safety from other inmates, and that the inmate feels there is no other reasonable alternative open to him. A senior correctional officer shall place an inmate in administrative confinement, pending review for protective management, based on evidence that such a review is necessary and the senior correctional officer determines that no other reasonable alternative is available. The inmate shall be encouraged to provide information and otherwise cooperate with the investigation of the matter. The protective management process, including the ICT's action, shall be completed within 15 working days from the initial confinement of the inmate.

1. The Institutional Classification Team (ICT) shall complete an OBIS electronic classification contact log entry approving the inmate's continuation in confinement. This entry will initiate an appointment for an investigation to be conducted gather information. A member of the ICT shall complete the heading and section IA of the DC6-234, Report of Protective Management. Form DC6-234 is incorporated by reference in (11) of this rule. The committee member shall utilize the documentation in the DC6-233a, Report of Administrative Confinement, for the information necessary to complete this portion of the report. The report shall then be forwarded to the investigative official assigned to investigate the reasons for protection. The investigator shall enter the

results of the investigation in the electronic classification contact log in OBIS; this entry will automatically schedule an complete Section IB of the report and return it to the ICT review appointment.

2. If the inmate submits a request for release in writing at any time during the ICT review or investigation process, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/Appeal Decision Form. Form DC6-203 is incorporated by reference in subsection (11) of this rule. The inmate shall complete Form DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate's written request.

3. Once the investigation is complete, the ICT shall interview the inmate to determine whether the inmate has a legitimate, verifiable need for protection. The ICT shall review all documentation available concerning the need for protection to include any written statements submitted by the inmate. The inmate's written request for release and the DC6-203 will also be reviewed. ~~The ICT shall document its findings and recommendations on the Report of Protective Management, Form DC6-234.~~ The following elements shall be considered in determining whether protective management is necessary:

a. through g. No change.

4. The ICT shall make recommendations concerning protective management based on the facts within 15 working days from the date of initial confinement. The ICT's findings and recommendations shall be entered in the electronic classification contact log in OBIS; this entry will automatically schedule an SCO review appointment. Whether the ICT recommends protective management or not, the inmate shall remain in administrative confinement at that facility pending review by the SCO. All non-electronic related documentation shall be made available to the SCO by the ICT. The DC6-234 shall be forwarded to the State Classification Office along with team findings, recommendations and all other related documentation. The State Classification Office shall approve, disapprove or return for additional information the recommendation of the Institutional Classification Team.

5. The State Classification Office (SCO) shall determine within five working days whether protection is necessary based upon the investigation and any follow-up ~~they~~ he deems appropriate. The SCO shall approve or disapprove placement of the inmate in protective management. The SCO's decision shall ~~also~~ be documented ~~in on~~ in the electronic classification contact log in OBIS Report of Protective Management, Form DC6-234, and this report shall be returned to the institution. If the SCO determines that a need for protection exists, ~~they~~ he shall direct indicate in the Report of Protective Management that the inmate shall be placed in a protective management unit or transferred to resolve the inmate's need for protection. If a decision is made to transfer the inmate for housing in a protective management unit or to resolve the inmate's need for protection at the inmate's current location, the inmate shall be

kept in administrative confinement until the transfer is completed. Transfers for protection needs shall be effected within five working days. SCO members are authorized to approve transfers. If the SCO determines that protective management is not necessary, the inmate may appeal this decision directly to the Office of the Secretary pursuant to Rules 33-103.007 and 33-103.011, F.A.C. The inmate shall be notified of the SCO's decision by the ICT ~~and this notification shall be documented on the Report of Protective Management, DC6-234.~~ At the time of notification, the inmate shall be asked if he wants to appeal the decision. The inmate's acknowledgement of being informed of the SCO denial and the inmate's decision on whether or not to appeal shall be documented on the electronically produced Notification of Protective Management Disapproval, Form DC6-137, and the electronic contact log DC6-203, Protection Waiver/Appeal Decision Form, Form DC6-137 is incorporated by reference in subsection (11) of this rule. The inmate shall remain in administrative confinement until the appeal process is complete.

6. Within three working days after an inmate has been either received at a protective management facility for the purpose of protective management or after an inmate already housed at a facility with a protective management unit has been approved for protective management by the SCO, a determination shall be made by the ICT as to appropriate housing. The ICT shall ensure that the housing supervisor assesses the inmate being placed into the protective management unit for his potential for risk to or from other inmates in the protective management unit. The inmate shall remain in administrative confinement until this assessment decision is made.

(d) through (f) No change.

(4) Administrative Confinement Facilities.

(a) The number of inmates housed in an administrative confinement cell shall not exceed the number of bunks in the cell. The only exception to this policy is during an emergency situation as declared by the warden or duty warden. The regional director and the emergency action center in central office shall be advised of the emergency. If the emergency situation exists in excess of 24 hours, the warden or duty warden must get specific written authorization from the regional director to continue to house inmates beyond the 24 hour period. Prior to placing inmates in the same cell, the inmates will be interviewed by the housing supervisor to ensure a determination shall be made that none of the inmates constitute a threat to any of the others.

(b) No change.

(c) Prior to placement of an individual in an administrative confinement cell, it shall be thoroughly inspected to ensure that it is in proper order and the inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221, Cell Inspection, shall be used for this purpose. Form

DC6-221 is incorporated by reference in subsection (11) of this rule. Routine searches of each cell may be conducted at any time, but will be conducted, at a minimum, each time an inmate is removed from the cell for a shower. All searches shall be documented on Form DC6-229, Daily Record of Segregation. All inmates will be searched prior to entering the confinement unit and upon departure. All items entering the confinement unit will be thoroughly searched, to include at a minimum, food cart and trays, laundry and linens and inmate property.

(d) The administrative confinement cells shall be physically separate from other confinement cells and the cell doors will feature remotely controlled locking devices, whenever possible given the physical design of the facility, and the number of inmates housed in administrative confinement shall not exceed the number of bunks in the cell. Whenever such location is not possible, physical barriers shall preclude the cross association of those in administrative confinement with those in other status confinement. Administrative confinement cells shall be built to permit verbal communication and unobstructed observation by the staff. The officers assigned will exercise care to maintain the noise within the unit to a reasonable level. Visual inspections shall be conducted of each cell, to include at a minimum, observations for clothes lines, pictures attached to the walls and lockers, windows or light fixtures covered with paper, clothes or towels, and air and heater vents that have been obstructed. When sufficient natural light is unavailable, interior cell lights shall be left on during day and evening hours.

(5) Conditions and Privileges.

(a) through (j) No change.

(k) Legal Access – Legal materials shall be as accessible to inmates in administrative confinement as to inmates in general population as long as security concerns permit. An inmate in confinement may be required to conduct legal business by correspondence rather than a personal visit to the law library if security requirements prevent a personal visit. However, all steps shall be taken to ensure the inmate is not denied needed access while in confinement. Although the inmate may not be represented by an attorney at any administrative hearing, access shall be granted for legal visits at any reasonable time during normal business hours to the inmate's attorney or aide to that attorney. Indigent inmates shall be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent shall be allowed to purchase paper, security pens and envelopes for this purpose through a canteen order. Typewriters or typing services are not considered required items and shall not be permitted in confinement cells. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is

provided an auxiliary aid shall also be allowed access to a certified research aide ~~law clerk~~ for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – Inmates in administrative confinement shall possess only a security pen. Other types of pens and pencils shall be confiscated and stored until the inmate is released from administrative confinement status. Inmates who are in possession of working pens or pencils when placed in administrative confinement will be issued a security pen. Inmates who are not indigent must purchase additional pens when needed from the canteen. If a security pen ~~is~~ are unavailable, the inmate shall be allowed to sign out a regular pen from the confinement housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail, documents, or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of reading or preparing correspondence.

(n) through (o) No change.

(p) Exercise – Those inmates confined on a 24-hour basis excluding showers and clinic trips may exercise in their cells. However, if confinement extends beyond a 30-day period, an exercise schedule shall be implemented to ensure a minimum of three hours per week of exercise out of doors. Such exercise periods shall be documented on Form DC6-229. The ICT is authorized to restrict exercise for an individual inmate only when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the confinement officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Segregation, Form DC6-229. Medical restrictions can also place limitations on the exercise periods. A disabled inmate who is unable to participate in the normal exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate’s limitations. Recreational equipment may be available for the exercise period provided such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Daily Record of Segregation, Form DC6-229.

(q) If items of clothing, bedding or property are removed in order to prevent the inmate from inflicting injury to himself or herself or others, ~~or~~ to prevent destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred.

(6) Restraint and Escort Requirements.

(a) through (f) No change.

(g) Inmates utilized as house-men or orderlies shall be confined to their assigned cells when not working.

(7) through (8) No change.

(9) Administrative Confinement Records.

~~(a) A Report of Administrative Confinement, Form DC6-233a, shall be kept for each inmate placed in administrative confinement. A photocopy of the DC6-233a, with section I completed, shall be kept in administrative confinement with the other confinement records for each inmate. Upon completion of the DC6-233a, the white copy of the form shall be mailed to central office to be filed in the central office inmate record and the yellow copy shall be filed in the institutional inmate record.~~

~~(a)(b) A Daily Record of Segregation, Form DC6-229, shall be maintained for each inmate as long as the inmate is in administrative confinement in the housing area for 30 days, then forwarded to the ICT for review, and then forwarded to classification for filing in the institutional inmate record.~~ The DC6-229 shall be utilized to document any activity such as cell searches, items removed, showers, recreation, haircuts and shaves and also unusual occurrences such as refusal to come out of a cell or refusal to eat. If items that inmates in administrative confinement are not prohibited from possessing are denied or removed from the inmate, the shift officer-in-charge or the confinement lieutenant must approve the action initially. The central office ADA coordinator shall be contacted within 24 hours if any item is removed that would be considered an auxiliary aid or device that ensures a disabled inmate an equal opportunity as a non-disabled inmate. The items denied or removed shall be documented on Form DC6-229 and the Chief of Security shall make the final decision in regard to the appropriateness of that action no later than the next working day following the action. The supervising officer shall make a notation of any unusual occurrences or changes in the inmate’s behavior and any action taken. Changes in housing location or any other special action shall also be noted. The DC6-229 shall be maintained in the housing area for 30 days ~~one week~~, at which time the form

shall be forwarded to the ICT for review. Once reviewed, these forms shall be forwarded to classification to be filed in the institutional inmate record.

(b)(e) No change.

(10) Staffing Issues.

(a) Officers assigned to a confinement unit shall be reviewed at least every 18 months ~~by the chief of security to determine whether a rotation is necessary. The shift supervisor or confinement lieutenant shall initiate the review by having the officer complete section I of the Special Housing Unit Rotation Review, Form DC6-295. Form DC6-295 is incorporated by reference in subsection (11) of this rule. The required supervisor shall conduct an interview with the officer and complete section II of the DC6-295 and forward the form to the chief of security.~~ The chief of security shall review personnel records, to include performance appraisals, incident reports, use of force reports, and any other documentation relevant to the officer's assignment and job performance; interview the officer and officers' supervisors for the period of review; ~~when necessary and shall make a recommendation to the warden as to the necessity of a rotation. The chief of security shall, upon completion of his or her review, complete section III of Form DC6-295 and forward the recommendation to the warden.~~ The warden shall review the recommendation, request additional information if necessary, and make the final determination as to whether the officer continues in the current assignment or is rotated to another assignment. ~~The warden's decision will be documented in section VI of the DC6-295 and returned to the chief of security for action. The chief of security shall maintain the completed DC6-295.~~ Any officer assigned to a confinement post shall be authorized a minimum period of five days annual leave or a five day assignment to a less stressful post every six months.

(b) No change.

(11) Forms. The following forms referenced in this rule are hereby incorporated by reference. A copy of any of these forms may be obtained from the Forms Control Administrator, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC4-650, Observation Checklist, and effective date ~~\_\_\_\_\_ 2-12-01.~~

(b) Form DC6-203, Protection Waiver/~~Appeal Decision~~ Form, effective date ~~\_\_\_\_\_ 2-12-01.~~

(c) through (d) No change.

~~(e) Form DC6-233a, Report of Administrative Confinement, effective date 2-12-01.~~

~~(f) Form DC6-234, Report of Protective Management, effective date 2-12-01.~~

(e)(g) No change.

(f) Form DC6-295, Special Housing Unit Rotation Review, effective \_\_\_\_\_.

(g) Form DC6-137, Notification of PM Disapproval, effective \_\_\_\_\_.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 945.04 FS. History—New 4-7-81, Amended 6-23-83, 3-12-84, Formerly 33-3.081, Amended 4-22-87, 8-27-87, 7-10-90, 12-4-90, 3-24-97, 4-26-98, 10-5-98, Formerly 33-3.0081, Amended 2-12-01, 2-5-02, \_\_\_\_\_.

33-602.221 Protective Management.

(1) No change.

(2) Procedures for placement in Protective Management.

(a) No change.

(b) Inmates on death row, in close management or disciplinary confinement are not eligible for placement in protective management. However, if an inmate in one of these statuses requests protection, procedures outlined in Rule 33-602.220, F.A.C., shall be completed begin.

(c) If it is determined that an inmate on death row, close management or disciplinary confinement needs protection, the inmate will be afforded such protection in his or her current status. Upon completion of that special status, the institutional classification team (ICT) shall review the inmate's need for protection and make recommendations to the state classification office (SCO), who shall determine the appropriate action to resolve the inmate's protection needs.

(d) ~~When Once the ICT and SCO determines have determined~~ that protective management is appropriate for an inmate, the inmate shall be interviewed by the housing supervisor and a review shall be initiated to assess the inmate's potential risk to or from ~~determine if any of the inmates in the protective management unit are a threat to the inmate being placed or if the inmate being placed is a threat to~~ other inmates in the unit. The completion of this review will be documented on Form DC6-235, Record of Protective Management. Form DC6-235 is incorporated by reference in subsection (10) of this rule. If the inmate can not be placed for ~~this these~~ reasons the housing supervisor shall place or maintain the inmate in administrative confinement until the issue can be expeditiously resolved. The case shall be immediately forwarded to the ICT for review. The ICT shall review the case and interview the inmate and forward recommendations to the SCO. The SCO shall review the case and may interview the inmate and make a final decision to resolve protection.

(3) Protective Management Facilities.

(a) The number of inmates housed in protective management housing units shall not exceed the number of beds in the cell. Exceptions may be made during an emergency situation as approved by the warden or duty warden, but such exceptions shall not continue for more than 24 hours without the specific written authorization of the regional director. Prior to placing inmates in the same cell, a determination shall be made by the housing supervisor that none of the inmates constitute a threat to any of the others and document such on Form DC6-235, Record of Protective Management.

(b) No change.

(c) Prior to placement of an individual in a protective management cell, the cell shall be thoroughly inspected to ensure that the cell is in proper order. The officer conducting the inspection will complete and sign the Cell Inspection, DC6-221, attesting to the conditions of the cell. The inmate housed in that cell shall then be held responsible for the condition of the cell. Form DC6-221 is incorporated by reference in subsection 33-602.220(11)(40), F.A.C.

(d) No change.

(4) Conditions and Privileges.

(a) Clothing – Inmates may wear shower slides or personal canvas shoes while in their housing units, but regulation shoes shall be required for work assignments. Otherwise the clothing for inmates in protective management shall be the same as that issued and exchanged to the general inmate population except when there is an indication of a security or health problem or when additional clothing is required for a work assignment. In such cases the exceptions shall be documented on Form DC6-235, Record of Protective Management, and approved by the chief of security. Any item may be removed from the cell in order to prevent the inmate from inflicting injury to himself or herself or others, ~~or to prevent the destruction of property or equipment, or to prevent the inmate from impeding security staff from accomplishing functions essential to the unit and institutional security.~~ If an inmate's clothing is removed, a modesty garment shall be immediately obtained and given to the inmate. If the inmate chooses not to wear the garment, the garment shall be left in the cell and this action shall be noted on Form DC6-235, Record of Protective Management, stating the reasons for such denial. Under no circumstances will an inmate be left without a means to cover himself or herself. ~~Form DC6-235 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 2-12-01.~~

(b) through (g) No change.

(h) Counseling Interviews – Counseling shall be provided to protective management inmates in-cell or out of cell when deemed necessary by mental health staff. ~~The ICT will determine whether an inmate in protective management may be removed from his or her cell to attend interviews and counseling sessions when they determine that it is safe to do so, or whether counseling must take place in-cell.~~

(i) No change.

(j) Telephone – Inmates in protective management shall be allowed to make one call per week of at least ~~15~~ 40 minutes. However, if telephones are available in the dayroom, protective management inmates shall be allowed to make calls in the same manner as general population inmates.

(k) Legal Access – inmates in protective management shall have access to the law library during evening or other hours when general population inmates are not present. If

security reasons prevent a visit, access shall be provided through correspondence or visits from the inmate ~~research aide law clerk~~. All steps shall be taken to ensure the inmate is not denied needed legal access while in protective management. Inmates shall be provided paper and writing utensils in order to prepare legal papers. Typewriters or typing services are not considered required items and will not be permitted in protective management housing units. However, an inmate with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer reader). An inmate who is provided an auxiliary aid will be allowed access to a certified research aide law clerk for the purpose of preparing legal documents, legal mail, or filing a grievance.

(l) No change.

(m) Writing utensils – Inmates in protective management shall be allowed to possess pens and pencils of the same type and number as those in general population. If it is determined that there is a safety, security or sanitation risk these items shall be confiscated and stored until the inmate is released from protective management status. The inmate shall be issued a security pen; if a security pen is unavailable the inmate shall be allowed to sign out a regular pen from the housing officer. All care shall be taken to ensure that an indigent inmate who requests access to a pen in order to prepare legal documents or legal mail or to file a grievance with the department has access to a pen for a time period sufficient to prepare the legal mail documents or grievances. An inmate who has been provided a “writer/reader” shall be allowed access to such for the purpose of preparing correspondence.

(n) through (o) No change.

(p) Exercise – an exercise schedule shall be implemented to ensure a minimum opportunity of three hours per week of exercise out of doors. The ICT is authorized to restrict exercise for an individual inmate when the inmate is found guilty of a major rule violation. In this instance, a major rule violation is defined as: any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; escape or escape attempt. Inmates shall be notified in writing of this decision and may appeal through the grievance procedure. The denial of exercise shall be for no more than 15 days per incident and for no longer than 30 days in cumulative length. If the inmate requests a physical fitness program handout, the wellness specialist or the housing officer shall provide the inmate with an in-cell exercise guide and document such on the Daily Record of Protective Management Segregation, Form ~~DC6-235 DC6-229~~. Form DC6-235 DC6-229 is incorporated by reference in subsection ~~33-602.220(10)~~ of this rule. Medical restrictions may also place limitations on exercise periods. A disabled inmate who is unable to participate in the normal

exercise program will have an exercise program developed for him or her that will accomplish the need for exercise and take into account the particular inmate's limitations. Similar recreational equipment shall be available as is available for general population inmates for the exercise period provided that such equipment does not compromise the safety or security of the institution. The reasons for any exercise restrictions shall be documented on the Report of Protective Management, Form DC6-235.

(q) through (s) No change.

(t) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-235, Record of Protective Management, and reported to the ICT. The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order or effective management of the institution. The ICT's decision for continuing restriction shall be documented on Form DC6-235, Record of Protective Management.

(5) Work assignments.

(a) Within 10 days of the protective management determination, work opportunities consistent with medical grades shall be available to inmates in protective management during the day, evening or night hours. All inmates shall be provided the opportunity for work assignments regardless of medical grade except when precluded by doctor's orders for medical reasons. Work shall be cancelled for an individual inmate or a work squad when staff concludes the work or work assignment would subject the inmate to danger or if adequate staff protection is not available. Each occurrence of work cancellation will be documented with reasons for the action on Form DC6-210, Incident Report, and shall be reviewed by the warden or ICT the next working following day. Form DC6-210 is incorporated by reference in subsection 33-602.210(9), F.A.C. Refusal of a work assignment shall result in disciplinary action pursuant to Rules 33-601.301-601.314, F.A.C. Inmates who refuse work assignments will not be allowed other housing unit activities. Those who accept work assignments shall be subject to awards of gain time pursuant to Rule 33-601.101, F.A.C., in the same manner as general population.

(b) No change.

~~(c) Other privileges shall be restricted on a daily case-by-case basis when such restrictions are necessary for the security, order or effective management of the institution. All such restrictions shall be documented on Form DC6-234, Report of Protective Management, and reported to the ICT. Form DC6-234 is incorporated by reference in rule 33-602.220(10). The ICT is authorized to restrict privileges on a continuing basis after a determination that such restrictions are necessary for the security, order, or effective management~~

~~of the institution. The ICT's decision for continuing restriction shall also be documented on Form DC6-235, Record of Protective Management.~~

(6) No change.

(7) Contact by Staff.

(a) The following staff members shall be required to officially inspect and tour the protective management unit. All visits by staff shall be documented on Form DC6-228, Inspection of Special Housing Record. The staff member shall also document his or her visit on the ~~Daily~~ Record of Protective Management Segregation, Form DC6-235 ~~DC6-229~~, if, during the visit by staff, any discussion of significance, action or behavior of the inmate occurs or any information is obtained which may have an effect on the status of protective management. These visits shall be conducted at a minimum of:

1. At least every 30 minutes ~~hour~~ by a correctional officer, but on an irregular schedule.

2. through 9. No change.

(b) Any inmate who has demonstrated behavior that is or could be harmful to himself or herself shall be designated as a special risk inmate. If the inmate demonstrates bizarre, mentally disordered, or self-destructive behavior, the medical department shall be immediately contacted to determine if special watch or suicide watch procedures shall be initiated. Suicidal inmates shall be removed to a designated area where a correctional officer or health care staff provides observation. Visual checks shall be made in accordance with medical protocols or at least every 30 minutes and shall be documented on Form DC4-650, Observation Checklist, until the inmate is no longer considered a special risk inmate. All actions taken by staff with regard to special risk inmates shall be documented on Form DC6-229, Daily Record of Segregation, and followed with an Incident Report, Form DC6-210. Forms DC4-650 is incorporated by reference in subsection 33-602.220(11)(10), F.A.C.

(8) Review of Protective management.

(a) through (d) No change.

(e) If the inmate submits a request for release in writing at any time after being placed in protective management, the area housing supervisor shall provide the inmate with a Form DC6-203, Protection Waiver/~~Appeal Decision~~ Form. Form DC6-203 is incorporated by reference in subsection 33-602.220(11)(10), F.A.C. The inmate shall complete Form DC6-203 and return it to the area housing supervisor for submission to the ICT along with the inmate's written request. The ICT shall docket and review the inmate's request, and interview the inmate. The ICT shall submit their recommendation along with the DC6-203 and any other documentation to the SCO for final consideration. The SCO review and decision shall be conducted during the next routine on-site visit.

(9) Protective Management Records.

(a) A printed copy of the electronic Report of Protective Management, Form DC6-234 shall be kept for each inmate placed in protective management.

(b) An Inspection of Special Housing Record, Form DC6-228 shall be maintained in each protective management area. Form DC6-228 is incorporated by reference in subsection (11)(10) of Rule 33-602.220, F.A.C. Each staff person shall sign the record when entering and leaving the protective management area. Prior to leaving the protective management area, each staff member will indicate any specific problems including any inmate who requires medical attention.

(c) No change.

(10) Form DC6-235, Record of Protective Management, is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of the form is \_\_\_\_\_.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.34, 945.04 FS. History--New 6-23-83, Formerly 33-3.082, Amended 3-12-84, 7-10-90, 12-4-90, 4-26-98, Formerly 33-3.0082, Amended 2-12-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry Vaughan  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Dugger  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE: Individual Environmental  
Resource Permits  
RULE TITLE: Formal Determination of Wetlands and Other Surface Waters  
PURPOSE AND EFFECT: This proposed rulemaking will make the administrative process for noticing petitions for formal wetland determinations consistent with the District's processes for noticing water use and environmental resource permit applications.

SUMMARY: This proposed rulemaking will amend Rule 40D-4.042, Florida Administrative Code (F.A.C.), to provide that a petitioner requesting a formal determination of wetlands and other surface waters may publish notice of the intended agency action in accordance with Rule 40D-1.1010, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-4.042,

F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.421(2) FS.

LAW IMPLEMENTED: 373.421(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.042 Formal Determination of Wetlands and Other Surface Waters.

(1) through (2)(b) No change.

(3)(a) Within 30 days of receipt of a petition for a formal determination, the District shall notify the petitioner of any additional information which may be necessary to complete review of the petition. The District shall complete the determination and shall issue a notice of ~~intended~~ agency action within 90 days after the petition is deemed complete. The petitioner may ~~District shall~~ publish the notice of ~~intended~~ agency action on the petition in a newspaper of general circulation in the county or counties where the property is located in accordance with Rule 40D-1.1010, F.A.C.

(b) The provisions of sections 120.57 and 120.569, F.S., apply to formal determinations made pursuant to this section. Any person whose substantial interests will be affected by the District's proposed action on the petition may request an administrative hearing on the proposed action. ~~If no request for an administrative hearing is filed, the District will then take final action on the petition for the formal determination.~~

(4) through (8) No change.

Specific Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History--New 10-3-95, Amended 7-2-98, 2-14-00, 5-28-00, 7-29-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2002



DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: November 8, 2002

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

Individual Environmental                      40D-4  
 Resource Permits

RULE TITLE:                                      RULE NO.:

Content of Application                      40D-4.101

PURPOSE AND EFFECT: Subsection 40D-4.101(6), Florida Administrative Code (F.A.C.), provides that the District will send notice of Environmental Resource Permit (ERP) applications involving activities located in, on or over wetlands or other surface waters to the Department of Environmental Protection (DEP) if the proposed activities have a potential to impact listed species. The Bureau of Protected Species, which is the unit that actually receives the notice and provides comments, has been transferred from the DEP to the Florida Fish and Wildlife Conservation Commission (FWCC). Subsection 40D-4.101(6), F.A.C., already provides that the FWCC will receive notice of all such applications.

SUMMARY: This proposed remaking will amend subsection 40D-4.101(6), F.A.C., to delete the DEP as an agency to receive notice of ERP applications involving activities that have a potential to impact listed species.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-4.101, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.042, 373.413 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jack R. Pepper, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.101 Content of Application.

(1) through (6)(c) No change.

~~(d) the Department of Environmental Protection, if the proposed activities have a potential to impact marine listed species.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.413 FS. History-Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(1),(2), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 12-16-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Jack R. Pepper, Senior Attorney, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 8, 2002

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE:                      RULE CHAPTER NO.:

Year-Round Water Conservation                      40D-22  
 Measures

RULE TITLES:                                      RULE NOS.:

Policy and Purpose                      40D-22.011

Definitions                      40D-22.101

Year-Round Water Conservation Measures                      40D-22.201

Goal-Based Alternative Community Conservation Program                      40D-22.302

Variance and Waivers                      40D-22.303

Enforcement                      40D-22.401

PURPOSE AND EFFECT: Update the District's year-round water conservation rule chapter which was first adopted in 1992, including incorporation of existing measures required by Board Orders Nos. 92-12, 92-21, 92-60, 93-105, and 01-83.

SUMMARY: The District's Year-Round Water Conservation Measures Rule (Chapter 40D-22, F.A.C.) contains the mandatory measures that apply when no water shortage event is declared. These baseline measures were first adopted by Rule in 1992 and, as originally written, consist primarily of a daytime ban on lawn watering. The proposed amendments update the Rule to incorporate measures included in Board Orders Nos. 92-12, 92-21, 92-60, 93-105, and 01-83. The proposed amendments also 1) update definitions, 2) streamline language for specific measures, 3) recognize the water-conserving features of Water Use Permits and published Best Management Practices, 4) create a local Alternative Community Conservation Program option, 5) provide for grandfathering of existing variances for a limited period of time, and 6) clarify the District's expectations regarding reclaimed water blends and local enforcement assistance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 120.542, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 120.542, 120.69, 373.119, 373.171, 373.223, 373.246(7), 373.609 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lois Sorensen, Water Shortage Coordinator, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4335

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-22.011 Policy and Purpose.

(1) This Chapter comprises the Southwest Florida Water Management District's (District) Year-Round Conservation Measures. It is the policy of the District to promote and require water conservation during times of average and above average rainfall as well as during declared water shortages. To that end, the purpose of this Chapter is ~~These measures are intended to~~ increase water use efficiency ~~through regulatory means~~ for all water irrigation uses. ~~The measures contained in this Chapter are intended to reduce wasteful practices and encourage lawn and landscape drought conditioning. These means are in addition to Chapter 40D-2, F.A.C., provisions and non-regulatory means, such as education and incentive programs that are also used by the District to promote water conservation. The measures prevent irrigation during periods of the day when water loss is highest.~~

(2) This Chapter applies to all water users and sources, including those not subject to permitting pursuant to Chapter 40D-2, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New 3-24-92 Amended \_\_\_\_\_.

(Substantial rewording of Rule 40D-22.101 follows. See Florida Administrative Code for present text.)

40D-22.101 Definitions.

When used in this Chapter:

(1) "Address" means the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community's address), then the community's main address shall be the property's address.

(2) "Aesthetic Use" means the use of water, primarily for fountains, waterfalls, and landscape lakes and ponds where such uses are ornamental and decorative and are not required for environmental mitigation, water treatment or other necessary use.

(3) "Agriculture" means the science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, zoological and botanical specimen exhibits, viticulture, forestry, dairy, livestock, pasture, poultry, bees, and any and all forms of farm products and farm production. Turfgrass production ("sod farming") is agriculture; however, the care of new or existing lawns, non-edible landscapes, and Athletic Play Areas are not classified as agriculture for the purpose of this Chapter.

(4) "Athletic play area" means all golf course fairways, tees, and greens, and other athletic play surfaces; for example, football, baseball, soccer, polo, tennis and lawn bowling fields, and rodeo, equestrian and livestock arenas.

(5) "Augmentation" means the transfer of water from one water source to another for the purpose of maintaining or raising the water level of a surface water body.

(6) "Best Management Practices" "BMPs" is a document describing a practice or combination of practices developed and approved by either the Department of Agriculture and Consumer Services, the University of Florida Institute of Food and Agricultural Sciences or similar accredited educational institution, a professional association applicable to the practice(s) in question, or the District and are deemed to be most effective and practicable methods to conserve water and prevent or reduce the discharge of pollutants into waters.

(7) "Cemeteries" means a place dedicated to and used or intended to be used for the permanent interment of human or pet remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated human or pet remains; or any combination of one or more of such structures or places.

(8) "Center-pivot" means an irrigation system consisting of a pipe lateral or lateral move system, both of which are typically self-propelled and consist of a lateral pipe, elevated on wheels, that rotates on a fixed point as it applies water to the land from sprinklers located along its length.

(9) "Community" means, for purposes of a Goal-Based Alternative Community Conservation Program (ACCP and see Rule 40D-22.302, F.A.C.), a group of water users within the jurisdiction of a local government or community development district. Self-supplied users served by a separate District WUP are specifically excluded from this definition. For example, an entity within city limits that irrigates its fields, trees or other plants with water regulated by a separate WUP would continue

to comply with water-conserving conditions of its own WUP and would not be addressed in the local government or community development district's ACCP. Self-supplied Agricultural, Industrial, and Recreational water users that are exempt from the WUP program may also be excluded from this definition if they demonstrate compliance with applicable Best Management Practices.

(10) "Consumptive Use Permit (CUP)" means a permit issued pursuant to Chapter 40D-2, F.A.C., authorizing the consumptive use of water (see Water Use Permit).

(11) "Domestic and Other Sanitary Uses" means the use of water for the individual personal household purposes of drinking, bathing, cooking, or sanitation, and sanitary use occurring elsewhere, as well as within the household. Other uses often associated with domestic activities, such as lawn irrigation and non-commercial car washing, are classified elsewhere in this Chapter within appropriate use classes.

(12) "Driving Range" is the turfgrass at a practice or instructional facility that provides a simulated golf fairway, simulated golf tee and simulated golf green. The simulated golf green associated with a simulated golf fairway is primarily a visual target instead of a regulated play surface, and so does not receive the foot traffic and related turfgrass damage normally associated with an actual golf green.

(13) "Essential Service Use" means the general use of water to satisfy federal, state, or local health and safety requirements.

(14) "Even Numbered Address" means an Address, ending in the numbers 0, 2, 4, 6, 8 or the letters A-M.

(15) "Fire Fighting, Health, and Medical Use" means the use of water for fire fighting purposes, or health and medical purposes; for example, controlled burns for forest fire suppression, rehabilitative therapy and kidney dialysis.

(16) "Frost/Freeze or Heat Stress" means the symptoms caused to plants or crops by extreme cold or hot weather unless an irrigation event occurs; for example, permanent wilt damage, yield reductions and/or plant death.

(17) "Golf Course" means an area of land laid out for the express purpose of playing golf, including all greens, tees, fairways, and roughs.

(18) "Hand Watering" means watering plants or crops with one hand held hose, fitted with a self-canceling or automatic shutoff nozzle, or a watering can or pail.

(19) "Industrial and Commercial Use" means the use of water integral to the production of goods or services. For example, such use includes phosphate mining and beneficiation; chemical manufacturing; power generation; limestone, sand and gravel mining; cement, concrete, and concrete products manufacturing; perishable foods processing and packing; airports, business parks, and amusement parks; schools other than athletic play areas, government buildings and other institutional facilities.

(20) "Irrigation" means the application of water to plants for the purpose of sustaining plant life, promoting plant growth or to facilitate crop production.

(21) "Landscape" means a section of ground adorned or improved by flowering plants, shrubs, palms, trees, and groundcover other than Lawn.

(22) "Landscape Use" means the application of water to Lawns and associated Landscape surrounding homes, commercial or industrial buildings, government or other non-commercial buildings, parks, recreational areas, non-play areas of golf courses, public and private right-of-ways and medians but excluding Athletic Play Areas and Cemeteries. Lawns and Landscape are further classified as follows:

(a) "Existing" means any Lawn or Landscape, or portion thereof, which has been in existence in the same location for a period of 60 days or more;

(b) "New Plant Material" means any Lawn or Landscape, or portion thereof, which has been in existence in the same location for less than 60 days.

(23) "Lawn" means a plot of turfgrass, usually tended or mowed, surrounding homes, commercial or industrial buildings, government or other non-commercial buildings, parks, and recreational areas, public or private rights-of-way and medians, but excludes Athletic Play Areas and Cemeteries.

(24) "Livestock" means animals raised and maintained for sale, research, personal consumption, breeding, slaughter, or other commercial purposes; for example, dairy and beef cattle, horses, hogs, poultry, and fish and other aquaculture. Horses, other riding animals, and zoological specimen animals are also considered to be livestock. Water use associated with livestock includes hydration ("watering"), washing, and maintenance of the animals and also includes the maintenance of facilities for the protection of livestock health and safety.

(25) "Low-Volume Irrigation" means the use of Hand Watering, Micro-irrigation or other equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated and designed to allow that water to be placed with a high degree of efficiency within the root zone of the plant.

(26) "Low-Volume Mobile Equipment Washing" means washing a vehicle or other Mobile Equipment with a hand carried water bucket or a hose with a self-canceling or automatic shutoff nozzle, or both.

(27) "Low-Volume Pressure Cleaning" means pressure cleaning by means of equipment which is specifically designed to reduce the inflow volume by applying water at a pressure of 1000 pounds per square inch (p.s.i.) or greater and at a volumetric rate of 5 gallons per minute (g.p.m.) or less.

(28) "Micro-irrigation" means any Irrigation device that distributes water near or within the root zone through low flow rate and emitters. Examples of Micro-irrigation devices include drip, line source, microspray, microsprinkler, bubbler and

similar types of systems. The term specifically includes propagation mist heads, capillary mats and soaker hoses. The term also includes water use in Mist Houses and similar establishments for plant propagation and production, but excludes any form of turf irrigation other than in a sod production ("turf farming") setting.

(29) "Mist Houses" mean all enclosed Agriculture Irrigation areas, whether enclosed by glass, shade cloth, plastic, wooden slates, or other materials that reduce evaporation.

(30) "Mobile Equipment" means any public, private or commercial automobile, truck, trailer, railroad car, camper, boat, or any other type of similar equipment.

(31) "Odd Numbered Address" means the Address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

(32) "Overhead Irrigation" means a pressurized system where water is distributed through pipes and then applied through a variety of outlet sprinkler heads or nozzles. Pressure is used to spread the water droplets above the plant's canopy to simulate rainfall. Low-Volume Irrigation, Traveling Gun Systems and Center Pivot Systems are specifically excluded from this definition.

(33) "Power Generation" means the use of water for such purposes as boiler make-up, cooling, meeting environmental standards, and other uses associated with the production of electricity or other forms of power.

(34) "Reclaimed Water" means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility.

(35) "Recycled Water" means water that has been recovered after use for Irrigation, industrial or other beneficial purposes.

(36) "Reuse" means the deliberate application of Reclaimed Water, in compliance with Department of Environmental Protection rules and District rules for a reasonable-beneficial use.

(37) "Source Class" means the classification given below to a source of water supply:

(a) Groundwater sources

1. Water table aquifers;

2. Confined and semi-confined aquifers.

(b) Surface Water sources

1. Streams or other watercourses;

2. Lakes or other impoundments;

3. Sinkholes.

(38) "Spot Treatment" is the Hand Watering of isolated areas of turfgrass or other plant material, such as golf course greens, in order to efficiently deliver water needed to provide uniform moisture content. This practice is a water-conserving means of compensating for differences in sun exposure, sprinkler coverage, and other site-specific factors.

(39) "Sprigged turf area" means a turf area being established vegetatively by placing Sprigs in furrows or small holes.

(40) "Sprigs" are a means of vegetative propagation that is sometimes used to produce golf course greens, golf course fairways, other Athletic Play Areas, and Lawns. Bermuda grass is the most common type of turfgrass propagated in this manner. A Sprig is an individual stem of grass with one to four nodes (joints) from which roots can develop. Sprigs may also be called runners, rhizomes, or stolons.

(41) "Surface Irrigation" means a process by which irrigation water is applied to the soil surface in order to transport water by gravity to a plant. This term includes seepage, sub-irrigation, semi and fully enclosed irrigation systems.

(42) "Syringing" is the watering of turfgrass or other plant material in order to lower the air temperature around the leaf surfaces. This generally involves the use of Hand Watering or "fogging" irrigation equipment. The purpose of the special watering technique is to cool-off the leaf tissue, not to wet the soil.

(43) "Traveling Volume Gun System" means irrigation equipment consisting of a wheeled cart with a large sprinkler, commonly called a "gun" or "big gun", the main traveler machine with a hose reel, and an irrigation hose. The wheeled cart, called a "gun cart", is pulled either by a cable or a hand irrigation hose during operation. The gun travels while irrigating, hence the term "traveling gun."

(44) "User" means any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including but not limited to uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40D-2, F.A.C., or uses from individual wells or pumps for Domestic and Other Sanitary Uses or individual home use.

(45) "Vertical Mowing" means a form of thatch removal involving the use of special equipment that makes multiple vertical cuts into the Lawn or other turfgrass. Vertical Mowing may also be referred to as verticutting.

(46) "Water Based Recreation" means the use of water within recreational areas where water-based activities occur; for example, public or private swimming and wading pools, and water slides. Expressly not included are pools specifically maintained to provide habitat for zoological specimens or aquatic life.

(47) “Water resource” means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, excluding seawater.

(48) “Water shortage or water shortage emergency” means that situation within all or part of the District when the Governing Board or Executive Director has declared a water shortage pursuant to Chapter 40D-21, F.A.C.

(49) “Water Use Permit” (WUP) means a permit issued pursuant to Chapter 40D-2, F.A.C., authorizing the use of water (See Consumptive Use Permit).

(50) “Water Utility Use” means the water used by a public or private supply system to replace line losses, flush lines, and otherwise maintain and operate the system. Water Utility Use does not include the water sold or otherwise distributed to customers by the system.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New 3-24-92 Amended \_\_\_\_\_.

(Substantial rewording of Rule 40D-22.201 follows. See Florida Administrative Code for present text.)

40D-22.201 Year-Round Water Conservation Measures.

(1) General Requirements – The year-round water conservation measures contained in this section are applicable to all water Users, whether end Users or self-supplied Users. End Users specifically include all public or private water system customers. Users whose own end use requires and are authorized by a WUP have been evaluated by the District and are required to maintain compliance with all WUP conditions and terms, including those designed to require the utilization of water conserving practices, and are, therefore, subject only to paragraphs 40D-22.201(1)(a), (b), and (e) through (k), F.A.C. The water conservation measures contained herein shall be effective throughout all geographical areas within the District. Any restrictions or other measures declared pursuant to Chapter 40D-21, F.A.C., or any related Board or Executive Director orders that is more restrictive than a water conservation measure contained within this Chapter shall supersede the water conservation measure for the duration of the applicable water shortage declaration.

(a) It shall be the duty of each water user to keep informed as to the water conservation measures presented within this Chapter, which affect each particular water use.

(b) In addition to the specific restrictions enumerated below, all wasteful and unnecessary water use is prohibited. The following are examples of wasteful and unnecessary water use:

1. Allowing water to be dispersed without any practical purpose to the water use; for example, leaving an unattended hose on a driveway with water flowing, watering a lawn when

it is raining or sufficient rainfall has occurred to make watering unnecessary, or watering more than is necessary to maintain normal plant vitality based on the season of the year;

2. Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; for example, allowing irrigation water to unnecessarily fall onto pavement, sidewalks and other impervious surfaces; and,

3. Allowing water to be dispersed to accomplish a purpose for which water use is unnecessary or which can be readily accomplished through alternative methods without water use; for example, hosing down a driveway instead of using a broom to remove grass clippings.

(c) Users shall reduce water use by employing water-conserving practices and should install water-conserving devices, except as may otherwise be specified in this rule.

(d) Users having access to more than one source class shall maximize the lesser or least limited source class. For example, if a User has access to two sources, but the ability to use one source is further limited by water shortage restrictions, the remaining source is the “lesser” limited source.

(e) Mobile Equipment Washing, including car washing conducted by charitable (not-for-profit) organizations, is allowed using Low-Volume Mobile Equipment Washing methods, without regard to the day of the week or time of day.

(f) Aesthetic Use is allowed. In order to maintain compliance with paragraph 40D-22.201(1)(b), F.A.C., any aesthetic-only augmentation of a water body or water feature is subject to the following requirements:

1. Augmentation equipment shall be properly maintained and operated, including compliance with any applicable permit;

2. Water Body or water feature shall be properly maintained, including prompt repair of lining leaks; and

3. Water shall be recycled, except for evaporative loss, and of the lowest acceptable quality that is available.

(g) All Irrigation Uses – The following requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to all Irrigation; for example: Lawns, Landscapes, Agriculture, Golf Courses, other Athletic Play Areas, and Cemeteries.

1. Irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

2. Irrigation systems may be operated during restricted days and/or times for cleaning and maintenance purposes with an attendant on site in the area being tested. Lawn and/or Landscape Irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed 5 minutes.

3. Irrigation for the purpose of watering in insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted, with two exceptions: such watering-in shall be limited to one application of one-quarter inches in the absence of specific alternative instructions from the manufacturer and,

when associated with a Lawn and/or Landscape, such watering-in shall be accomplished during normally allowable watering days and times unless a professional applicator has posted a temporary pesticide sign containing the date of application and the date(s) of needed watering-in activity.

4. Low-Volume Irrigation methods shall not be restricted to certain days or times, with two exceptions: all such activity must be conducted in accordance with paragraph 40D-22.201(1)(b), F.A.C., and this exemption does not apply to Lawns. When such methods are used to irrigate Lawns, Irrigation is restricted to the specified days and times.

5. Any plant material may be Spot Treated or Syringed without regard to the normally allowable watering days or times, with two exceptions: Syringing of established Lawns shall be done by manual means and all Spot Treating or Syringing activity must be conducted in accordance with paragraph 40D-22.201(1)(b), F.A.C.

6. In order to promote necessary ryzomal repair, extra watering of turfgrass may occur on any day of the week for a 14-day period after Vertical Mowing has occurred. An entire zone of an irrigation system may only be used for extra ryzomal repair watering if the zone in question is for an area that contains at least 50% turfgrass recovering from Vertical Mowing. Zones containing less than 50% turfgrass recovering from Vertically Mowing, may only receive establishment period watering by Hand Watering or some other means that only delivers extra water to the effected turfgrass. All such extra watering must be conducted in accordance with paragraph 40D-22.201(1)(b), F.A.C.

7. New Plant Material, other than that associated with Agricultural Uses, shall only be irrigated as follows:

a. Any New Plant Material may be irrigated on any day of the week as needed, for the purpose of maintaining plant health and encouraging root grow-in, during a 60-day establishment period. Turfgrass typically does not need daily watering beyond 30 days after installation.

b. This establishment period begins the day the New Plant Material is installed, and is limited to areas containing New Plant Materials only. An entire zone of an irrigation system may only be used for establishment period watering if the zone in question is for an area that contains at least 50% New Plant Material. Zones containing less than 50% New Plant Material, including situations in which New Plant Material is dispersed within a zone, may only receive establishment period watering by Hand watering or some other means that only delivers extra water to the New Plant Material.

c. On the day any New Plant Material is installed, it may be irrigated once without regard to the normally allowable watering times. Irrigation of the soil immediately prior to the installation of New Plant Material is also allowable without regard to the normally allowable watering times.

d. Irrigation of sprigged turfgrass areas is allowable without regard to the normally allowable watering times for the entire 60-day establishment period.

e. Irrigation of new turfgrass areas or other New Plant Material associated with a public road construction project, when and where conducted using tanker trucks or other vehicles, is allowable without regard to the normally allowable watering times for the entire 60 day establishment period.

f. Plant material other than turfgrass may continue to be irrigated without regard to the normally allowable watering days or times after the establishment period ends if Micro-Irrigation, Hand watering, or other Low-Volume Irrigation technology is used in accordance with subparagraph 40D-22.201(1)(g)4., F.A.C. This existing standard exemption is an efficient means to accommodate the longer root grown-in processes and unique watering needs of many trees, shrubs and other non-turfgrass plant materials.

g. Except as otherwise provided herein, all other such "establishment period" watering shall occur during normally allowable watering times.

8. Irrigation using Reclaimed Water shall not be restricted, except in accordance with paragraph 40D-22.201(1)(b), F.A.C., and as further restricted by a local government or other Reclaimed Water provider as necessary to promote conservation of this alternative water source. However, all properties should voluntarily conserve Reclaimed Water by only irrigating during the hours of 12:01 a.m. to 10 a.m. or 4 p.m. to 11:59 p.m. and by limiting Lawn and other turfgrass applications to no more than ¾ inch of water in each zone. In addition, if a Lawn or Landscape is irrigated with a source that contains a blend of Reclaimed Water and potable water, ground water, pond water or some other supply (with the exception of incidental stormwater runoff or District-authorized withdrawals from an unaugmented stormwater system), the use of this blended water shall be subject to the restrictions that apply to that other supply unless the applicable Reclaimed Water provider is implementing either:

a. A District-authorized variance from provisions of paragraph 40D-22.201(1)(g), F.A.C.; or

b. A District-authorized Goal-Based Alternative Community Conservation Program (pursuant to Rule 40D-22.302, F.A.C.), which addresses the use of this Reclaimed Water blend.

9. The operation of an Irrigation system for the discharge of water from a water-to-air air conditioning unit or other water-dependent cooling system shall not be subject to the provisions of this Rule, except in accordance with paragraph 40D-22.201(1)(b), F.A.C.

(h) Landscape Use – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to the Irrigation of Existing Lawns and Landscape.

1. Except as otherwise specified in this Chapter, Even Addresses may accomplish necessary Lawn and Landscape Irrigation on only Tuesday and/or Saturday.

2. Except as otherwise specified in this Chapter, Odd Addresses and rights-of-way or other locations without an Address may accomplish necessary Lawn and Landscape Irrigation on only Wednesday and/or Sunday.

3. Except as otherwise specified in this Chapter, Lawn watering shall be limited to no more than 3/4 inch of water on each allowable watering day. Typically, only one application per allowable watering day is necessary to achieve this amount.

(i) Water-Based Recreation Users shall minimize water consumption and, when practicable, recycle the water for the same use or other beneficial purpose.

(j) Washing or cleaning streets, driveways, sidewalks or other impervious areas shall be accomplished without the use of water when practicable. When water is used for this purpose, the User shall utilize Low-Volume Methods, such as Low-Volume Pressure Washing.

(k) Washing or cleaning of roofs, windows, and other portions of buildings and other structures shall be accomplished without the use of water when practicable. When water is used for this purpose, the User shall utilize appropriate Low-Volume Methods.

(2) Industrial and Commercial – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Industrial and Commercial uses, as appropriate:

(a) Compliance with all WUP conditions and terms by an individual User shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(2), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(2)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(2)(a), F.A.C., and in the absence of applicable Best Management Practices, all individual Users and groups of Users shall, at a minimum:

1. Minimize off-site water discharge to the greatest extent practicable.

2. Minimize water use for cleaning to the greatest extent practicable, given the nature of the operation. For example, any water use activity needed to maintain employee safety, protect the efficiency of the operation, maintain compliance with dust suppression regulations, or prevent damage to equipment is allowable so long as it is conducted in accordance with subsection 40D-22.201(1), F.A.C.

3. Minimize Mobile Equipment washing to the greatest extent practicable, given the nature of the operation. For example, continually clean vehicles are a necessary feature of a car dealership and school bus operation.

4. Minimize non-essential water uses to the greatest extent practicable. For example, if an open-loop (once-through) water-based cooling system can be replaced with an alternative that have a payback period equal to or less than that used by the operation to make equipment replacement decisions, use of that cooling system on an ongoing basis would not be considered essential.

5. Maximize the use of recycled water on site. For example, water consumption related to car washing may be minimized by the use of recycling wash facilities.

6. Electric utilities should encourage customers to reduce power consumption, so that they may reduce power production consumption and in turn reduce water consumption.

(3) Agriculture – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Agriculture Irrigation and Livestock uses as appropriate:

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(3), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(3)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(3)(a), F.A.C., in the absence of applicable Best Management Practices, all individual Users and groups of Users shall, at a minimum, follow the following measures:

1. Overhead Irrigation shall be limited to the times specified in subparagraph 40D-22.201(1)(g)1., F.A.C., except as otherwise specified in this rule.

2. Irrigation involving the use of Micro-Irrigation, other Low-Volume Irrigation, Traveling Volume Gun, Center Pivot, and Surface irrigation technology shall not be limited to the times specified in subparagraph 40D-22.201(1)(g)1., F.A.C., but shall still be limited by subsection 40D-22.201(1)(b), F.A.C.:

3. Operation of an Irrigation system for establishment of new crops or products shall not be subject to the provisions of this Chapter, except in accordance with subsection 40D-22.201(1)(b), F.A.C.:

4. Water use for plant protection, including Frost/Freeze or Heat Stress prevention shall not be restricted, except as may be conditioned by the water User's Water Use Permit and/or by subsection 40D-22.201(1), F.A.C. Plant protection specifically includes watering of nursery plant material and turfgrass pallets in preparation for shipment.

5. Necessary water use for Livestock Use is allowable, except as may be conditioned by the User's Water Use Permit and by subsection 40D-22.201(1), F.A.C.

6. Minimize surface runoff resulting from Irrigation or other water to the extent practicable.

(4) Golf Courses – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Golf Course Irrigation as appropriate:

(a) Users whose uses require and are authorized by a WUP have been evaluated by the District and required to maintain compliance with all WUP conditions and terms, including those designed to require the utilization of water conserving practices. Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(5), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(4)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity. Specific to Golf Courses, Best Management Practices include those documented in the portions of “Best Management Practices for Florida Golf Courses” (SP 141, produced by the Department of Environmental Horticulture at the University of Florida’s Institute of Food and Agricultural Sciences) found acceptable to the District.

(c) Except as excluded by paragraph 40D-22.201(4)(a), F.A.C., in the absence of applicable Best Management Practices, the following measures shall apply:

1. Irrigation shall be limited to the times specified in subparagraph 40D-22.201(1)(g)1., F.A.C., except as otherwise specified in this subsection.

2. Fairways, roughs and driving ranges, shall be watered no more than two times per week, except as otherwise specified in this subsection.

3. Tees and greens shall be watered no more than three times per week, except as otherwise specified in this subsection.

4. The Irrigation of tees and green shall not be restricted when such Irrigation is for plant protection, including Frost/Freeze or Heat Stress, except as may be conditioned by the water user’s permit and by paragraph 40D-22.201(1)(b), F.A.C.

5. Spot Treatment and Syringing are not restricted.

6. Irrigation related to overseeding that is a component of a fall transition program shall not be restricted to a certain number of applications each week.

(5) Other Athletic Play Area Irrigation – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply the play areas of athletic fields including football, baseball, soccer, polo, tennis, and lawn bowling fields.

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(4), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(5)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(5)(a), in the absence of applicable Best Management Practices, the following measures shall apply:

1. Operation of an Irrigation system for plant protection of Athletic Play Areas turfgrass fields, including Frost/Freeze or Heat Stress prevention, shall not be restricted, except in accordance with paragraph 40D-22.201(1)(b), F.A.C.:

2. The wetting of clay tennis courts, baseball/softball infields, Livestock or rodeo areas and other non-turf Athletic Play Areas immediately prior to play is allowable to ensure athlete/animal safety, comply with sport standards and control dust.

3. Baseball, softball, football, soccer, polo and other similar turfgrass playing field surfaces may receive one extra Irrigation application immediately after heavy league play if necessary to encourage turf repair needed to maintain safe play conditions.

4. One half of Athletic Play Areas may be irrigated on Mondays and/or Thursdays; the other half may be irrigated on Tuesdays and/or Fridays for the purpose of meeting normal supplemental Irrigation needs. If a specific property is unable to comply with this schedule, the variance process may be used to register an alternative schedule acceptable to the District.

(6) Cemeteries – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Cemetery irrigation, as appropriate:

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection 40D-22.201(6), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(6)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.

(c) Except as excluded by paragraph 40D-22.201(6)(a), F.A.C., in the absence of applicable Best Management Practices, the following measures shall apply:

1. One half of Cemeteries may be irrigated on Mondays and/or Thursdays; the other half may be irrigated on Tuesdays and/or Fridays.

2. If a specific property is unable to comply with this schedule, the variance process may be used to register an alternative schedule acceptable to the District.

(7) Essential Service Use – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to all Essential Service Use, as appropriate:

(a) Compliance with all WUP conditions and terms shall constitute compliance in lieu of other measures specified in this subsection.

(b) Except as excluded by paragraph 40D-22.201(7)(a), F.A.C., all individual Users and groups of Users shall use Best Management Practices applicable to each specific water use activity.



activity. American Water Works Associations (“AWWA”) manuals are a preferred source of Best Management Practices documentation for public supply systems.

(c) Except as excluded by paragraph 40D-22.201(7)(a), F.A.C., in the absence of applicable Best Management Practices, the following measures shall apply:

1. Fire hydrant and other potable line flushing shall be undertaken only as required for the protection of human health, safety and welfare.

2. Sanitary sewer, Reclaimed Water and other non-potable line flushing and testing shall be undertaken only as required for the protection of human health, safety and welfare.

3. Maintenance of facilities and equipment related to Water Utility Use, fire fighting, health and medical use or other uses necessary for the protection of public health not restricted, except in accordance with paragraph 40D-22.201(1)(b), F.A.C.

4. Water and wastewater systems should institute system level conservation measures (leak detection, repair programs, calibrating meters) in accordance with AWWA standards and recommendations.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New 3-24-92, Amended \_\_\_\_\_.

#### 40D-22.302 Goal-Based Alternative Community Conservation Program.

(1) A local government or community development district (CDD) may choose to implement a Goal-Based Alternative Community Conservation Program (ACCP) in lieu of mandating and enforcing the provisions of paragraph 40D-22.201(1)(f) and subparagraph 40D-22.201(1)(g)2. through subsection 40D-22.201(7), F.A.C., within its community. Any local government or CDD interested in pursuing this optional alternative shall request authorization from the District to follow its ACCP. This ACCP shall include:

(a) Achieving and maintaining the applicable water conservation goal – The local government or CDD shall agree in writing to achieve and then maintain a water conservation goal that is at or below the lower of:

1. The applicable required per capita water use rate for that local government or CDD, if a required per capita water use rate has been established pursuant to Rule 40D-2.091, F.A.C., and Basis of Review incorporated therein; and

2. The actual per capita water use rate calculated for that local government or CDD, for the 1999 calendar year, subject to future review and revision.

3. For the purposes of this subparagraph, “per capita water use” shall be equal to withdrawals, plus imports, minus exports, minus treatment loss, minus significant use, and minus environmental mitigation, if required as a District permit condition, with that resultant divided by the functional population. These terms shall be used as set forth in the Basis of Review incorporated by reference in Rule 40D-2.091, F.A.C.

4. For the purposes of this subparagraph, “maintaining the applicable water conservation goal” shall be monitored for compliance purposes using a moving average of the two most recent annual calculated “per capita water use values”.

(b) Implementation and maintenance of a water conservation plan – The local government or CDD shall submit to the District, and agree in writing to implement, a community-level water conservation plan. The plan shall promote conservation of potable and reclaimed water sources as needed to achieve and maintain the applicable water conservation goal (as described above) through a combination of education, incentives, regulations, or operational measures. The proposed water conservation plan for a CDD shall be subject to approval by the applicable local governments.

(c) Regular reporting – The local government or CDD shall submit regular ACCP progress reports to the District. Such reports shall typically be due according to an annual schedule based on the anniversary of the effective date of the ACCP, and are subject to District approval. Each report shall include:

1. The applicable water conservation goal, historical and current actual per capita water use rates, verifiable data and a list of any references used to calculate the current actual per capita water use rate, quantified status information regarding implementation of the measures specified in the ACCP, and any update to the combination of measures being used or proposed for the water conservation plan. The local government or CDD may provide more frequent updates or complete progress reports if desired. The District reserves the right to require more frequent reporting related to any specific measure as needed to ensure adequate water resource protection.

2. The local government or CDD shall specify the effective date for the ACCP. This effective date shall be no later than 1 year after the District authorizes the local government or CDD to follow its ACCP.

3. After the effective date of the ACCP, noncompliance with the ACCP shall be a violation of this Chapter 40D-22. Upon receipt of notice of noncompliance from the District to the local government or CDD, Users within the local government’s or CDD’s jurisdiction shall revert to being subject to the provisions of paragraph 40D-22.201(1)(f) and subparagraph 40D-22.201(1)(g)2. through subsection 40D-22.201(7), F.A.C. Upon receipt of this notice of noncompliance, the local government or CDD shall notify the affected Users, through direct communication to its utility customers and publishing a notice in a local newspaper of general circulation. Upon receipt of this notice of noncompliance, the local government or CDD shall also enforce all provisions of this Chapter 40D-22, F.A.C., as specified.

4. The District reserves the right to allow a probationary period, with extra reporting requirements and not to exceed 24 months in duration, if a local government or CDD demonstrates a good faith effort to return to full compliance with its ACCP.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.223 FS. History—New

40D-22.303 Variances and Waivers.

(1) In the absence of an applicable Goal-Based Alternative Community Conservation Program pursuant to Rule 40D-22.302, F.A.C., which would negate the need for a District variance, Users may request relief from the provisions of this Chapter 40D-22, F.A.C., by filing a petition for variance or waiver pursuant to Section 120.542, Florida Statutes and Chapter 28-104, F.A.C. Examples of circumstances, which, subject to the above referenced statute and Rule and the provisions below, may be candidates for the issuance of a variance or waiver are:

(a) Properties with Irrigation systems that water both Odd and Even Addresses at the same time.

(b) Two or more properties which share a common source of water.

(c) Properties with five or more irrigable acres.

(d) A local government or other reclaimed water provider that desires to sponsor a District-approved goal-based alternative to subparagraph 40D-22.201(1)(g)8., F.A.C., that both provides a net environmental benefit and encourages efficient use of the reclaimed water supply.

(e) A public or private water system experiencing, or anticipating, pressure problems associated with paragraph 40D-22.201(1)(g), F.A.C.

(2) A variance is invalid if it has expired or if the property owner or agent violates terms of the variance.

(3) Users requiring relief from measures in a local government’s District-approved Goal-Based Alternative Community Conservation Plan must petition that local government for relief.

(4) Variances and plans issued in accordance with Board Orders 92-12, 92-21, 92-60, 93-105, SWF 01-83 and Executive Director Order 00-18 are hereby ratified and affirmed, unless specifically overridden or negated by a District-approved Goal-Based Alternative Community Conservation Plan, and shall remain in full force and effect except that they shall expire 10 years after the original issuance, or one (1) year from [effective date of rule], whichever is later, unless an earlier date is specified in the letter granting the original variance or plan. These variances and plans are also subject to the following provisions:

(a) Any property with a valid District variance issued after March 2, 1992 but prior to April 26, 2000 may use both of the two watering days specified for each section of the property.

(b) Any property with a valid District variance issued after April 26, 2000 but prior to October 30, 2001, which contained provisions for a second water day for each section of property may also use the second watering day.

(c) Any property with a valid District variance issued after April 26, 2000 that did not specify a second watering day for each section of the property is modified as follows: each section of the property may also be irrigated on the day of the week that occurs three days following the originally specified day. (For example, if an alternative Irrigation plan stipulates that a certain section of property can be watered on Fridays, it may now also be watered on Mondays).

Specific Authority 120.542, 373.044, 373.113, 373.171 FS. Law Implemented 120.542, 373.119, 373.171, 373.175(4), 373.246(7), 373.609 FS. History—New

40D-22.401 Enforcement.

(1) This Chapter shall be effective year round. Provided, however, that in the event of conflict, the measures, provisions and restrictions imposed when a water shortage has been declared pursuant to Chapter 40D-21, F.A.C., or related Board or Executive Director orders, shall supersede the water conservation measures contained in this Chapter 40D-22, F.A.C. The provisions of this Chapter shall be temporarily superseded by any water shortage or water shortage emergency orders imposed by the Governing Board or Executive Director with the concurrence of the Board.

(2) As required by Section 373.609, F.S., but only upon specific request by the District, each county and city commission, state and county attorney, sheriff, police officer and other appropriate local government official shall respond to address-specific or location-specific complaints made to the District regarding violations of this Chapter 40D-22, F.A.C. Local governments may voluntarily elect to provide additional local enforcement assistance, such as a violation reporting telephone number for citizens’ use or a system of proactive enforcement patrols. It is the policy of the District to seek the cooperation and assistance of state, county, and municipal governmental officials, law enforcement officials, and police officers in the enforcement of the Year-Round Water Conservation Measures contained within this Chapter.

(3) Irrigation of established lawns and landscapes landscaping, as described established above, may be further restricted by local governments in response to a local water supply system concern. In the event any county or city within the District adopts or implements such local measures, the measures contained therein shall be at least as restrictive as those imposed by this Chapter and the county or city shall promptly notify the District of all local measures imposed and the effective date(s). In addition, the allowed watering days and hours under such local ordinance shall coincide with the District’s measures as contained in this Chapter.

(4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.119, 373.171, 373.175, 373.246, 373.609, ~~373.603~~ FS. History--New 3-24-92, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
B. J. Jarvis, Records and Data Director, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4299

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2002

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2001, March 29, 2002 and May 10, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE TITLE: Experience Requirement RULE NO.: 61J1-6.001

PURPOSE AND EFFECT: The purpose of the proposed rule is to bring the rule into compliance with statutory changes.

SUMMARY: The proposed rule change affects rule provisions relating to experience requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.617 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-6.001 Experience Requirement.

(1) All applicants for licensure or certification must present evidence satisfactory to the Board that the applicant has the experience required in s. 475.617, Florida Statutes, in real property appraisal activity. Acceptable appraisal experience includes fee and staff appraisals, ad valorem tax appraisals, condemnation appraisals, technical review appraisals, appraisal analysis, real estate counseling, highest and best use analysis, and feasibility analysis/study.

(2) Experience is described as follows:

(a) 1. For the licensed appraiser – two (2) years of experience which shall consist of two thousand (2000) hours of real property appraisal experience.

2. For the certified residential appraiser – two thousand five hundred (2500) hours of real property appraisal experience obtained over a 24-month period.

3. For the certified general appraiser – three thousand (3000) hours of real property appraisal experience obtained over a 30-month period.

(b) For the certified residential appraiser and the certified general appraiser, the experience claimed must have been accumulated in a time period of not less than 24 months and 30 months, respectively.

(c) There is no maximum time limit as to when experience may be obtained or claimed.

(3) For the certified general appraiser, at least 50% (1500 hours) of the claimed experience must be in nonresidential appraisal work. Residential is defined as one to four residential units.

(4) Each applicant shall verify the required his experience by certifying on form in such manner as provided by the Department 501.3 the experience as required below. Any proportional combination of required reports or hours, as required below, will be acceptable as long as the experience for the certified general appraiser is at least 50% nonresidential appraisal work as stated in paragraph (3) above. ~~Form 501.3, Appraisal Experience Log, effective July, 1991, is incorporated herein by reference, which may be obtained through the department at 400 West Robinson Street, Orlando, Florida 32801.~~

(5) Experience as defined in paragraph (2) above shall be accounted for on an appraisal experience log, which shall include the following minimum information: type of property, date of report, address of appraised property, and description of work performed. The log and supporting documents shall be retained for a minimum of 5 years after licensure or certification. All works submitted for experience shall comply with the Uniform Standards of Professional Practice, a form 501.4, Appraisal Experience Log, effective July, 1991, incorporated herein by reference, which may be obtained through the department at 400 West Robinson Street, Orlando, Florida 32801. Types of acceptable experience are as follows:

(a) Fee and staff appraisers:

1. Licensed residential: Experience shall consist of a minimum of 120 supportable and documented appraisal reports presented in a format generally acceptable to the appraisal industry. No more than 10% shall be restricted appraisal reports.

2. Certified residential: Experience shall consist of a minimum of 150 supportable and documented appraisal reports presented in a format generally acceptable to the appraisal industry. No more than 10% shall be restricted appraisal reports.

3. Certified general: Experience shall consist of a minimum of 23 narrative appraisal reports; or 12 narrative appraisal reports and 135 non-narrative supportable and documented appraisal reports presented in a format generally acceptable to the appraisal industry, or other proportional combination. In the event the nonresidential appraisal reports are form appraisal reports, 4 form appraisal reports will be equivalent to 1 narrative appraisal report. The nonresidential form appraisal report must meet the criteria of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, and 135 non-narrative supportable and documented appraisal reports presented in a format generally acceptable to the appraisal industry.

(b) Ad valorem tax appraisals:

1. Experience credit shall be credited when it is demonstrated that the applicant:

a. Used techniques to value properties similar to those used by appraisers; and

b. Effectively used the appraisal process.

2. Components of the mass appraisal process on which credit will be given are:

a. Highest and best use analysis;

b. Model specification (developing the model); and

c. Model calibration (developing adjustments to the model). All other components of the mass appraisal process are not eligible for experience credit.

3. Mass appraisals must be as set forth in Standard Rule 6 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes.

4. Experience will be granted for appraisals of individual parcels of real estate.

5. Experience will be verified by affidavit from the county property appraiser for whom the applicant works. In the case of the county property appraiser making application for licensure or certification, an affidavit as to experience from the applicant will suffice.

(c) Review Appraiser:

1. Licensed residential: Experience shall consist of a minimum of 240 appraisal review reports.

2. Certified residential: Experience shall consist of a minimum of 300 appraisal review reports.

3. Certified general: Experience shall consist of a minimum of 150 appraisal review reports of narrative appraisal reports. At least 50% (1500 hours) of the experience must be in nonresidential appraisal work as defined in paragraph (3) above.

a. Review appraisal experience shall be granted only when the applicant has performed review(s) of appraisals prepared either by employees, associates, or others, provided the appraisal report was not signed by the review appraiser.

b. Review appraisal experience may be claimed only when reviews are as set forth in Standard Rule 3 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes.

(d) Appraisal analysis, real estate counseling and highest and best use analysis:

1. Experience shall consist of a minimum of 150 narrative reports.

2. Experience may be claimed only when performed as set forth in Standard Rules 4 and 5 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, as applicable.

(e) Feasibility analysis/study:

1. Experience shall consist of a minimum of 150 narrative reports.

2. Experience may be claimed only when the analysis/study is prepared as set forth in Standard Rules 1 and 2 of the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, and the applicant can demonstrate that he is using similar techniques as appraisers to value properties and effectively utilize the appraisal process.

(6) The Board may require an applicant to document experience by producing appraisal reports, file memoranda, or other documentation to support the experience claimed.

(7) An applicant for licensure or certification who is employed by state or local government in Florida or by the federal government may have the experience requirement verified by an official statement when the applicant, due to statutory restrictions on the release of appraisal related work product, is unable to verify experience in the required format on forms 501.3 and 501.4. The experience for such an applicant must be verified by an official statement from a licensed or certified real estate appraiser who is in an appraisal supervisory capacity to the applicant. The filing of an official statement is enforceable pursuant to s. 837.06, Florida Statutes.

Specific Authority 475.614 FS. Law Implemented 475.617 FS. History--New 10-15-91, Formerly 21VV-6.001, Amended 9-22-93, 9-6-94, 2-19-98, 9-6-98, 12-12-99, 10-1-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: September 13, 2002

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE TITLE: RULE NO.:

Display and Disclosure of Registration, License 61J1-7.001  
 or Certification Designation

PURPOSE AND EFFECT: The purpose of the proposed rule is to clarify the language relating to appraiser abbreviations or designations.

SUMMARY: The proposed rule change affects rule provisions relating to abbreviations or designations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared.

Any person who wishes to provide information regarding the Statement of Estimated Regulatory Costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this Notice.

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.622 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-7.001 Display and Disclosure of Registration, License or Certification Designation.

(1) All appraisers registered, licensed or certified pursuant to Part II, Chapter 475, Florida Statutes, shall disclose and display the appropriate designation in writing in all appraisal reports which are signed by the appraiser. Disclosure of the appropriate designation is required even if the appraisal performed is outside of the scope of registration, licensure, or certification as an appraiser.

(2) The following designations or abbreviations shall be used:

(a) "State-registered assistant real estate appraiser", "~~registered assistant~~" or "~~trainee.~~" "~~state-registered assistant r.e. appraiser~~", "~~state-reg. assist. r.e. appraiser~~", "~~state-reg. assist. r.e. appr.~~" or "~~St. Reg. Assist. REA.~~"

(b) "State-licensed real estate appraiser", "state-licensed r.e. appraiser", "state-lic. r.e. appraiser", "state-lic. r.e. appr." or "St. Lic. REA"

(c) "State-certified residential real estate appraiser", "state-certified residential r.e. appraiser", "state-certified residential appraiser", "state-certified res. appraiser", "state-cert. res. appraiser", "state-cert. res. appr." or "St. Cert. Res. REA"

(d) "State-certified general real estate appraiser", "state-certified general r.e. appraiser", "state-certified general appraiser", "state-certified gen. appraiser", "state-cert. gen.appr." or "St. Cert.Gen.REA"

No other designation or abbreviation thereof shall be used. The above designations and abbreviations may be used without regard to capitalization or punctuation.

Specific Authority 475.614 FS. Law Implemented 475.622 FS. History--New 10-15-91, Formerly 21VV-7.001, Amended 10-29-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLES: RULE NOS.:

Notice of Noncompliance 64B8-8.011

Citation Authority 64B8-8.017

PURPOSE AND EFFECT: The proposed rule amendments are intended to address various violations with regard to responsibilities of medical directors of clinics.

SUMMARY: The proposed rule amendments specify the violations which are appropriate for notices of non-compliance or citations with regard to the responsibilities of medical directors.

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

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

SPECIFIC AUTHORITY: 456.073(3), 456.077, 458.309 FS.

LAW IMPLEMENTED: 456.073(3), 456.072(2)(d), 456.077 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry G. McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-8.011 Notice of Noncompliance.

(1) through (2) No change.

(3) The following violations are those for which the board authorizes the Department Agency to issue a notice of noncompliance.

(a) No change.

(b) Failure to perform one of the following statutory or legal obligations:

1. through 4. No change.

5. Dispensing medication without proper labeling ~~labelling~~, contrary to the provisions of Section 893.05(2), Florida Statutes, and Rule 64B16-28.108, Florida Administrative Code. This applies to dispensing practitioners only.

6. For a physician who is not required to register as a dispensing practitioner, failing to dispense drugs in the manufacturer's labeled ~~labelled~~ package with the practitioner's name, patient's name, and the date dispensed or, if such drugs are not dispensed in the manufacturer's labeled package, failing to dispense the medication in a container which bears the following information: practitioner's name; patient's name; date dispensed; name and strength of the drug; and directions for use, contrary to Section 465.0276, Florida Statutes.

7. through 8. No change.

9. Failing to have proper labeling ~~labelling~~ on all stock medications, contrary to Section 499.007(2), Florida Statutes.

10. through 17. No change.

(c) No change.

(d) Violation of the following medical director clinic responsibilities, as set forth in Section 458.0375(2) and (3), Florida Statutes:

1. Failure to file or renew clinic registration form.

2. Failure to display clinic registration certificate.

3. Failure to post signs identifying medical/clinical director in a conspicuous location.

4. Failure to ensure compliance with adverse incident reporting requirements.

Specific Authority 456.073(3), 458.309 FS. Law Implemented 456.073(3) FS. History—New 11-15-90, Formerly 21M-20.011, 61F6-20.011, 59R-8.011, Amended 1-27-00, 1-8-02, \_\_\_\_\_.

64B8-8.017 Citation Authority.

(1) through (2) No change.

(3) The following violations with accompanying penalty may be disposed of by citation with the specified penalty:

VIOLATIONS

PENALTY

(a) through (1) No change.

(m) Failure to display a clinic registration certificate (after failure to comply with issuance of a notice of non-compliance.)	\$500 fine.
(n) Failure to post signs identifying medical/clinical director of clinic in conspicuous location (after failure to comply with issuance of a notice of non-compliance.)	\$500 fine.

(4) through (7) No change.

Specific Authority 456.077, 458.309 FS. Law Implemented 456.072(2)(d), 456.077 FS. History—New 12-30-91, Formerly 21M-20.017, Amended 11-4-93, Formerly 61F6-20.017, Amended 8-23-95, Formerly 59R-8.017, Amended 4-7-99, 1-27-00, 1-31-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Medical Fraud Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:

Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

October 5, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

October 25, 2002

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE:

Disciplinary Guidelines; Range of Penalties;

RULE NO.:

Aggravating and Mitigating Circumstances 64B9-8.006

PURPOSE AND EFFECT: The Board proposes to amend to add offences and sanctions to the disciplinary guidelines.

SUMMARY: This rule includes sanctions for performing the wrong treatment or treating the wrong patient, as well as adding penalties for leaving foreign objects inside a surgical patient.

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

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

SPECIFIC AUTHORITY: 456.072, 456.079 FS.

LAW IMPLEMENTED: 456.072, 456.079, 464.018 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dan Coble, Executive Director, Board of Nursing/MQA, 4052 Bald Cypress Way, Tallahassee, Florida 32399-3252

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) through (3)(ww) No change.

(xx) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that it medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition.

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine	\$500 fine and suspension to be followed by probation
SECOND OFFENSE	\$500 fine and probation	\$750 fine and suspension to be followed by probation
THIRD OFFENSE	\$750 fine and suspension to be followed by probation	\$1000 fine and revocation

(yy) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures.

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine	\$500 fine and suspension to be followed by probation
SECOND OFFENSE	\$500 fine and probation	\$750 fine and suspension to be followed by probation
THIRD OFFENSE	\$750 fine and suspension to be followed by probation	\$1000 fine and revocation

(zz) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

	MINIMUM	MAXIMUM
FIRST OFFENSE	\$250 fine and compliance with rule or statute	\$500 fine and suspension until compliance with rule or statute
SECOND OFFENSE	\$500 fine and suspension until compliance with rule or statute	\$750 fine and suspension until compliance with rule or statute plus probation
THIRD OFFENSE	\$750 fine and suspension until compliance with rule or statute plus probation	\$1000 fine and revocation

(4) through (6) No change.

Specific Authority 456.072, 456.079 FS. Law Implemented 456.072, 456.079, 464.018 FS. History--New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98, 7-1-99, 3-23-00, 5-8-00, 5-2-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2002

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLE: RULE NO.:

Demonstrating Knowledge of Laws and 64B12-9.0016  
Rules for Licensure

PURPOSE AND EFFECT: The Board proposes to create a new rule that will require applicants for licensure to demonstrate knowledge of laws and rules associated with the profession of opticianry.

SUMMARY: The applicant is required to take a 2-hour course that includes certain laws and rules and integrates the subject materials with the field of practice. A completion certificate is required, the course qualifies for continuing education credit, and the length of a course hour is defined.

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

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

SPECIFIC AUTHORITY: 484.005, 484.002(6) FS.

LAW IMPLEMENTED: 456.017(6) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.0016 Demonstrating Knowledge of Laws and Rules for Licensure.

An applicant for licensure as an optician shall demonstrate knowledge of the laws and rules for licensure in the following manner:

(1) An applicant shall complete an approved course consisting of a minimum of two hours which shall include the following subject areas:

(a) Chapter 484, Part I, F.S.

(b) Chapter 64B12, F.A.C.

(c) Chapter 456, F.S.

(2) The laws and rules course must provide integration of the above subject areas into the competencies required for the practice of opticianry and interactive discussion of examples applying the laws and rules that govern opticianry.

(3) Upon completion of the course, the applicant shall receive a certificate of completion and submit the original certificate of completion to the Board.

(4) A laws and rules course offered by a Board approved laws and rules course provider shall qualify for continuing education credit even if the provider is not an approved continuing education provider pursuant to Rule 64B12-15.004, F.A.C.

(5) For purposes of this rule, an hour is defined as a 60-minute clock hour in which there is no less than 50 minutes of uninterrupted instruction.

Specific Authority 484.005, 484.002(6) FS. Law Implemented 456.017(6) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 21, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 25, 2002

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLE: Enforcement

RULE NO.: 64B12-16.008

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

SUMMARY: Apprentices in training must see to it that their sponsors provide a form documenting the training within 6 months of completion. Credit hours will be denied or a complaint filed if the information shows noncompliance with the law.

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

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

SPECIFIC AUTHORITY 484.005, 484.007(1) FS.

LAW IMPLEMENTED 484.007(1)(d)4. FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-16.008 Enforcement.

(1) through (2) No change.

~~(3)(a) For apprentices registered prior to November 1, 1996, sponsors and apprentices must file a complete report with the Board each twelve (12) months ending October 30 during which an apprentice has been supervised, which states that the training in each subject pursuant to Rule 64B12-16.003(6) has been provided in the preceding twelve (12) months. Reports must be received in the board office no later than 30 days after the reporting period ends. Failure to timely file a report will result in no credit being granted for the reporting period.~~

~~(b) For apprentices registered after November 1, 1996, sponsors and apprentices must file a complete report with the Board each twelve (12) month period ending on the anniversary of the date on which the apprentice became registered with the Department, during which an apprentice has been supervised, which states that the training in each subject pursuant to Rule 64B12-16.003(6), F.A.C., has been provided in the preceding twelve (12) months. Reports must be received in the board office no later than 30 days after the reporting period ends. Failure to timely file a report will result in no credit being granted for the reporting period.~~



(3)(4) The sponsor and the apprentice shall supply to the Board all information requested as set forth in Rule 64B12-16.009, F.A.C., which reasonably relates to the apprenticeship program and the Board's duty to properly monitor the program for compliance with program standards. The completed Apprenticeship Sponsor Attestation form must be provided within six months of the apprentice's completion of the program or After six months of failure to submit reports, credits will not be counted.

(4)(5) If an Apprenticeship Sponsor Attestation Form a report is not in compliance with this Chapter, the rules of the Department and the Board and Chapters 456 and 484, F.S., the Board shall deny credit for hours of apprenticeship claimed and/or the Board, the Apprentice Review Committee or Board staff shall initiate a complaint against the licensee who appears to be in violation.

Specific Authority 484.005, 484.007(1) FS. Law Implemented 484.007(1)(d)4, FS. History--New 10-12-80, Formerly 21P-16.08, Amended 3-5-87, 5-13-90, 9-30-92, Formerly 21P-16.008, Amended 5-2-94, Formerly 61G13-16.008, Amended 2-21-96, 4-10-97, Formerly 59U-16.008, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Opticianry  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Opticianry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 7, 2002  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 2, 2002

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Applications for Licensure  
RULE NO.: 64B15-12.003

PURPOSE AND EFFECT: The Board proposes to amend the rule to update the educational courses required for initial licensure applicants.

SUMMARY: The rule addresses the required educational courses for initial licensure applicants on HIV/AIDS, domestic violence and prevention of medical errors.

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

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

SPECIFIC AUTHORITY: 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS.

LAW IMPLEMENTED: 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 7, 2002 IN ORLANDO, FLORIDA, OR THE NEXT MEETING THEREAFTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-12.003 Applications for Licensure.

(1) No change.

(2) Applicants for licensure examination must have their application forms and fees submitted and received by the Board office and all information and documentation complete at least 30 days before the scheduled Board meeting in order to be considered by the Board. Applicants making initial application for licensure shall complete educational courses acceptable to the board on human immunodeficiency virus and acquired immune deficiency syndrome, domestic violence, and prevention of medical errors. Any applicant who has not completed any such courses at the time of licensure shall, upon an affidavit showing good cause, be allowed 6 months to complete this requirement.

(3) No change.

Specific Authority 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS. Law Implemented 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 FS. History--New 6-4-91, Formerly 21R-12.003, 61F9-12.003, Amended 10-15-95, Formerly 59W-12.003, Amended 9-26-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 22, 2002

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Citations  
RULE NO.: 64B15-19.007

PURPOSE AND EFFECT: The Board proposes to update the rule to add practice violations that may be disposed of by citations consistent with Section 456.077, F.S.

SUMMARY: Practice violations that may be disposed of by citation.

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

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

SPECIFIC AUTHORITY: 456.073, 456.077 FS.

LAW IMPLEMENTED: 456.073, 456.077 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 7, 2002 IN ORLANDO, FLORIDA, OR THE NEXT MEETING THEREAFTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.007 Citations.

(1) As used in this rule, "citation" means an instrument which meets the requirements set forth in Section 456.077, 455.624, F.S., and which is served upon a licensee or certificateholder for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 456.073, 455.225, F.S., the Agency is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject for a complaint that is the basis for the citation, within six months after the filing of the complaint that is the basis for the citation. If a violation for which a citation may be issued is discovered during the course of an investigation for an unrelated violation, the citation must be issued within 6 months from the discovery of the violation and filing of the uniform complaint form by the investigator.

(3) The following violations with accompanying fines may be disposed of by citation.

(a) through (c) No change.

(d) First time failure of the licensee to satisfy continuing education hours. The fine shall be \$150 for each hour not completed or completed late. In addition, \$2,000 and for each hour of continuing education not completed or completed late, the licensee shall make up all hours not completed, and shall be required to take 1 additional hour of continuing education for each hour not completed or completed late. All missing CEUs shall be made up within four (4) months of the date the citation becomes a Final Order. Respondent must submit certified documentation of completion of all CEU requirements for the period for which the citation was issued prior to renewing the license for the next biennium. Respondent must document compliance with the CEU requirements for the relevant period.

(e) Failure to report to the Board within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction. The fine shall be \$800 \$500.

(f) through (g) No change.

(h) Failure to conspicuously list the name of the osteopathic physician in an advertisement as required in Rule paragraph 64B15-14.001(2)(k), F.A.C. The fine shall be \$500.

(i) Advertising or holding oneself out as a board-certified specialist, if not qualified under Section 459.0152, F.S. The fine shall be \$1,500.

(j) Failure to include the disclosure statement in an advertisement as required in Section 456.062, F.S. The fine shall be \$750.

(k) Failure to timely provide medical records of only one patient. The fine shall be \$500.

(l) Excessively charging copying fees for patient records as specified in Rule 64B15-15.003, F.A.C. The fine shall be \$750.

(m) Failure to update physician profile as required in Sections 456.039(3) and 459.008, F.S. The fine shall be \$50 per day not in compliance not to exceed \$5,000.

(n) Failure to comply with Section 381.0261, F.S., by failing to inform patients of the address and telephone number of the agency responsible for responding to patient complaints or failure to make available a summary of rights to patients as required in Sections 459.015(1)(g) and 456.072(1)(k), F.S.; Section 381.0261(b), F.S. The fine shall be \$100 non-willful and \$500 willful.

(o) First time failure to pay fine or costs. The fine shall be 10% of the fine and/or costs imposed plus the fine and costs. Failure to pay citation shall result in an administrative complaint.

(4) through (7) No change.

Specific Authority 456.073, 456.077 FS. Law Implemented 456.073, 456.077 FS. History--New 10-28-91, Amended 8-24-92, 11-17-92, Formerly 21R-19.007, 61F9-19.007, 59W-19.007, Amended 11-27-97, 11-12-00,

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 4, 2002

**DEPARTMENT OF HEALTH  
Division of Family Health Services**

RULE CHAPTER TITLE: Antiepileptic Drug Program  
RULE CHAPTER NO.: 64F-19

RULE TITLES: Definitions  
RULE NOS.: 64F-19.001

Procedure  
64F-19.002

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise eligibility criteria for the Antiepileptic Drug Program.

SUMMARY: The rule establishes eligibility requirements and a form for the distribution of antiepileptic medication to Florida residents who could not otherwise obtain medication for the control of their seizures.

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

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by s. 120.54, must do so in writing within 21 days after publication of the notice.

SPECIFIC AUTHORITY: 385.207 FS.

LAW IMPLEMENTED: 385.207 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., December 19, 2002

PLACE: Florida Department of Health, 4025 Esplanade Way, Room 301A&B, Tallahassee, FL 32399-1744

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sarah Cawthon, Bureau of Chronic Disease Prevention, HSFCD, 4052 Bald Cypress Way, Bin #A18, Tallahassee, FL 32399-1744

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-19.001 Definitions.

(1) “Bona fide resident” means a person living in Florida with the intent to remain as evidenced by self-declaration. This definition does not exclude migrant farm workers as defined in Section 381.008(4), F.S., from participation in the Antiepileptic Drug Program.

(2) “Client” refers to a person who has been determined eligible for the Antiepileptic Drug Program and is receiving medications to control seizures through the program.

(3) “Epilepsy Services Program provider” is an agency that under contract with the Department of Health provides services to persons with epilepsy as outlined in s. 385.207, F.S.

(4) “Poverty guidelines” mean the guidelines defined by subsection 64F-16.001(7) F.A.C.

(5) “Self declaration” means a statement regarding assets, income, family size, medical diagnosis, or residency made by a person applying for services. Self-declaration does not require any documentation other than the signature of the person making the statement.

(6) “Valid prescription” means a prescription written by a licensed health care practitioner who is authorized by law to prescribe medicine and is presented within 12 months of the

date the prescription was written, except for controlled substances which must be presented within six months of the date written.

Specific Authority 385.204 FS. Law Implemented 385.204 FS. History–New

64F-19.002 Procedure.

(1) A person wishing to participate in the Antiepileptic Drug Program may apply at any county health department. The applicant will submit to the county health department a valid prescription or a completed Epilepsy Medication Request DH2007 (dated 6/01), incorporated herein by reference. An Epilepsy Medication Request may be obtained from any county health department or Epilepsy Services Program provider. In accordance to the eligibility criteria set forth in this rule, form DH2007 must be completed in its entirety prior to the Department’s acceptance of the applicant into the program.

(2) Clients of Children’s Medical Services who are diagnosed as having epilepsy are automatically eligible for the program.

(3) Additionally, the county health department will accept into the program persons who meet all the following eligibility criteria:

(a) Have a diagnosis of epilepsy;

(b) Are a bona fide Florida resident;

(c) Have no coverage for medication through Medicaid or other health insurance;

(d) Have a gross family income at or below 110 percent of the current federal poverty level guidelines, as defined in subsection 64F-16.001(7), F.A.C.; and

(e) Have no more than \$2,500 per family in private funds, bank accounts or liquid assets not including their homestead or personal vehicle.

(4) The department may establish a limited access program to provide antiepileptic medications not available through the Antiepileptic Drug Program. Persons who are eligible for the Antiepileptic Drug Program and who have a valid prescription may apply to participate in this program as provided in paragraph one. Antiepileptic medications available through this limited access program may vary and are determined by the Department’s Deputy State Health Officer or designee. A list of available medications are available through the limited access program is available from the DOH Central Pharmacy. Availability of these medications is limited and is based on need as evidenced by a valid prescription, and the availability of funds of the Department for this program.

(5) A person who does not meet the eligibility criteria as defined above who is temporarily without financial resources to purchase antiepileptic medication may receive a one month supply of medication once annually.

(6) Every 12 months a client must be determined eligible for the program.

(7) If at any time the client experiences a change in status which could affect his or her eligibility, the client must report this change to the county health department within 30 days.

(8) If a client is determined ineligible for the Antiepileptic Drug Program, the county health department will continue to provide medication through the Antiepileptic Drug Program to the client for up to six months after the determination of ineligibility unless another source for medication is found.

Specific Authority 385.207 FS. Law Implemented 385.207 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sarah Cawthon

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennie A. Hefelfinger, Chief, Bureau of Chronic Disease Prevention

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 31, 2002

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Economic Self-Sufficiency Program**

RULE TITLE: Amount and Duration of Cash Payment

RULE NO.: 65A-4.220

PURPOSE AND EFFECT: This rule amendment makes technical changes in terminology and simplifies references to eligibility standards.

SUMMARY: This rule amendment changes “WAGES” to “temporary cash assistance”, etc., and changes reference to the eligibility and consolidated need standards to a percentage of federal poverty levels.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.095 FS.

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

TIME AND DATE: 10:00 a.m., December 16, 2002

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, Florida 32399-0700

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

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-4.220 Amount and Duration of Cash Payment.

(1) The amount of cash assistance payment that a person receives is determined by using the applicable payment standard minus the total net available income. A resulting deficit must be rounded down to the nearest \$1.00 in determining for the benefit grant amount. The minimum grant is \$10. Persons entitled to benefits grants of under \$10 do not receive temporary cash direct assistance but are considered temporary cash assistance recipients for other purposes, including Medicaid and Food Stamp coverage.

(2) The temporary cash assistance WAGES program utilizes consolidated standards of basic needs, which include food, clothing, household incidentals and shelter. The applicable standards for the assistance group are selected based on the size of the assistance group and the assistance group’s verified shelter obligation.

The three shelter payment standards shown in a chart in s. 414.095(11), F.S., are referred to in this rule as Tiers Charts I, II, and III. They may also be referred to as payment standards. The chart applying to an individual with a shelter obligation of more than \$50, the shelter standard for the homeless and a teen parent incurring a shelter obligation in alternate living arrangements is Tier Chart I. Chart I is also used as the shelter standard for the homeless. The chart applying to an individual with a shelter obligation greater than \$0 and less than or equal to \$50 is Tier Chart II. The chart applying to an individual with a zero shelter obligation and a teen parent living in the home of a parent, other adult relative, or legal guardian regardless of any shelter obligation is Tier Chart III. Tier Chart I and II standards are used for assistance groups who have a purchased shelter obligation such as a mortgage payment, rent, room and board payment, purchase contract, etc. In order for Tier Chart I or Tier Chart II to be budgeted, the recipient must verify a shelter obligation must be verified by the recipient. A shelter obligation exists when the recipient has the responsibility to pay for the cost of their housing. When the parent or relative payee’s needs are included in the benefit amount, the shelter obligation must be verified. When the parent or stepparent payee’s needs are not included, they must indicate that the child(ren) is required to share their shelter cost and verify their shelter obligation. When a relative payee’s needs are not included, their statement that the child(ren) is required to share their shelter cost is accepted. Assistance group members added at one-half the benefit increase for an additional member are added at \$31 for Tier Chart I, \$26 for Tier Chart II and \$24 for Tier Chart III.

- (b) No change.
- (3) No change.

(4) The Consolidated Need Standard is based on 100 per cent of the current federal poverty standard. The Eligibility Standard is based on 185 per cent of the current federal poverty standard. Consolidated Need Standards and Eligibility Standards are as follows:

(a) ~~The Consolidated Need Standard (CNS) and Eligibility Standard (ES) are as follows:~~

Family Size	CNS	ES
1	\$671	1242
2	905	1673
3	1138	2105
4	1371	2537
5	1605	2968
6	1838	3400
7	2071	3832
8	2305	4263
9	2538	4695
10	2771	5127
11	3005	5558
12	3238	5990
13	3471	6422
<b>Add Each Additional Person</b>	<b>\$234</b>	<b>432</b>

(b) No change.

(5) No change.

~~(6) If the temporary cash assistance child is deprived of parental support due to the incapacity or incarceration of their parent then extensions of up to three months of cash assistance are granted when the incapacity or incarceration of a parent ends. If the parent returns to employment or assumes the usual child care or housekeeping duties, the extension is terminated. Assistance can be continued for only one month following the month of departure when the recipient moves out of the state and requests the extension.~~

Specific Authority 414.45 FS. Law Implemented 414.095 F.S. History--New 1-31-94, Amended 10-9-96, Formerly 10C-1.504, Amended 11-30-98, Formerly 65A-1.504, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Rodney McInnis, Operations Review Specialist

NAME OF SUPERVISOR OR PERSON WHO APPROVED

THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Public Assistance Policy, (850)488-3090

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: November 8, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: September 20, 2002

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

#### DEPARTMENT OF INSURANCE

RULE NOS.:

4-154.102

4-154.112

RULE TITLES:

Applicability and Scope

Guaranteed Availability of

Individual Health Coverage to

Eligible Individuals

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 43, October 25, 2002, of the Florida Administrative Weekly. These changes are being made due to concerns expressed in written comments regarding the Notice of Hearing.

1) Subsection (2) of Rule 4.154-102, F.A.C., is changed to read:

(2) Rules 4-154.110 through 4-154.112 and Rules 4-154.114 through 4-154.116, F.A.C., shall also apply to insurance coverage subject to the provisions of Section 627.6487, Florida Statutes. Notwithstanding the foregoing, nothing in this rule chapter shall be construed to establish that the Department has rate approval authority over any rate applicable to a group policy issued to an association outside this state, where that authority is not separately conferred by statute.

2) Subsection (6) of Rule 4-154.112, F.A.C., is changed to read:

(6) Each issuer offering health insurance coverage in the individual market must disclose, in writing, to all applicants at the time of application the availability of guarantee issue coverage for eligible individuals. Each issuer offering health insurance coverage in the individual market is responsible for informing the applicant at the time of application of the information necessary to determine determining whether an applicant for coverage is an eligible individual as defined in Section 627.6487(3), Florida Statutes as follows:

(a) through (c) No change.

(7) through (8) No change.

The remainder of the proposed rule will read as previously published.

#### DEPARTMENT OF INSURANCE

RULE NOS.:

4-157.023

4-157.103

4-157.104

4-157.107

4-157.108

RULE TITLES:

Reporting

Definitions

Policy Practices and Provisions

Required Disclosure of Rating

Practices to Consumers

Initial Filing Requirements