

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE TITLE: Provider Approval and Renewal Procedures
 RULE NO.: 64B32-6.005
 PURPOSE AND EFFECT: The Board proposes to update existing rule text.

SUBJECT AREA TO BE ADDRESSED: Provider Approval and Renewal Procedures.

SPECIFIC AUTHORITY: 456.025(4), 468.361(3) FS.

LAW IMPLEMENTED: 456.025(7), 468.361(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE TO BE PUBLISHED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-6.005 Provider Approval and Renewal Procedures.

(1) through (4) No change.

(5) Every provider shall:

(a) through (d) No change.

~~(e) Shall provide the board with semi-annual reports of all offerings provided for the previous six months.~~

(6) through (8) No change.

(9) The provider seeking approval for home study courses also shall understand and agree:

(a) through (b) No change.

(c) Instead of the information submitted for in-person programs, the provider shall submit the following for pre-approval:

1. A statement of the educational goals and objectives of the program, including the criteria for successful completion of the program and the number of correct answers required on the test by a participant to receive credit for having taken the program;

2. All materials to be read by the participant, and the testing questions to be answered for successful completion;

3. A current curriculum vitae of each person substantially involved in the preparation of the substance of the program;

4. The identification procedures for verification that the named licensee has taken the home study course;

5. A sample certificate of completion; and

6. If not completely original, references and permission for use or reprint of any copyrighted materials regardless of source.

(10) No change.

Specific Authority 456.025(4), 468.361(3) FS. Law Implemented 456.025(7), 468.361(3) FS. History--New 4-24-96, Amended 5-7-97, Formerly 59R-75.0041, Amended 4-23-98, 6-9-99, Formerly 64B8-75.0041, Amended 7-4-02.

**Section II
 Proposed Rules**

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Uniform Fire Safety Standards for
 RULE CHAPTER NO.: 4A-41

Residential Child Care Facilities
 RULE NOS.: 4A-41.101

RULE TITLES: PART I: RESIDENTIAL CHILD CARE
 FACILITIES FOR SIX OR
 MORE CHILDREN

PART II: RESIDENTIAL CHILD CARE
 FACILITIES FOR FIVE OR
 FEWER CHILDREN

Scope 4A-41.101

Definitions 4A-41.102

Standards of the National Fire Protection Association Adopted 4A-41.103

Occupancy Capacity of Each Facility 4A-41.104

Emergency Egress and Relocation Drills 4A-41.105

Inspections 4A-41.106

Cooking Equipment; Exception 4A-41.107

Special Requirements 4A-41.108

PURPOSE AND EFFECT: Provide firesafety standards for residential child care homes for facilities with five or fewer children, based upon changes to Chapter 409, Florida Statutes, and Rule Chapter 65C-14, Florida Administrative Code.
 SUMMARY: Provides firesafety standards for residential child care homes for facilities with five or fewer children.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 409.175(6)(f), 633.01(1) FS.

LAW IMPLEMENTED: 409.175(6)(f), 633.022 FS.

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

TIME AND DATE: 9:00 a.m., Thursday, August 7, 2003

PLACE: Room 143, 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 above.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3620

THE FULL TEXT OF THE PROPOSED RULES IS:

UNIFORM FIRE SAFETY STANDARDS FOR
RESIDENTIAL CHILD CARE FACILITIES
PART II RESIDENTIAL CHILD CARE FACILITIES
FOR FIVE OR FEW CHILDREN

4A-41.101 Scope.

(1) These rules apply to any residential child care facility required to be licensed by the Florida Department of Children and Family Services, pursuant to Section 409.175, Florida Statutes, in which full-time residence is provided to five or fewer children who are unrelated to the proprietor and who are under age 18. Programs which use such a facility include, for example, group homes which are administered by an agency, wilderness camps, maternity homes, emergency shelters, and runaway shelters.

(2) These rules address life safety during fires and similar emergencies. They address particular matters of construction, protection, and occupancy of buildings to minimize danger to life from fire, smoke, fumes or panic before buildings are vacated.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.102 Definitions.

As used in this part of these rules:

(1) “Facility” means a residential child caring agency, a child placing agency, or a “Family Foster Home” as defined in Section 409.175(2), Florida Statutes.

(2) “Agency” means a residential child caring agency or a child-placing agency.

(3) “AHJ” means the local authority having firesafety and fire prevention jurisdiction which employs or contracts with at least one firesafety inspector certified under Chapter 633, Florida Statutes.

(4) “Division” means the Division of State Fire Marshal of the Department of Insurance.

(5) “NFPA” means the National Fire Protection Association.

(6) “Child” means any unmarried person under the age of 18 years.

(7) “Owner” means the person who is licensed to operate the child-placing agency, family foster home, or residential child-caring agency.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022 FS. History—New _____.

4A-41.103 Standards of the National Fire Protection Association Adopted.

(1) The following portions of NFPA 101, known as the Life Safety Code, 2003 edition, are hereby adopted and incorporated herein by reference:

(a) Section 24.2.1;

(b) Section 24.2.2, except that an approved means of escape shall be equivalent to an outside window or door which shall be openable from the inside, without the use of tools or a key and shall provide a clear opening of not less than 22 inches in the least dimension and a minimum of 5 square feet in area. The bottom of the opening shall be not more than 48” above the finished floor;

(c) 24.2.3, 24.2.4, 24.3.4, 24.3.4.1, and 24.3.4.3.

(2) The codes and standards published by the National Fire Protection Association may be obtained by writing to the NFPA at: 1 Batterymarch Park, Quincy, Massachusetts 02269-9101. All standards adopted and incorporated by reference in this rule are also available for public inspection during regular business hours at the Bureau of Fire Prevention, Division of State Fire Marshal, Department of Insurance, 325 John Knox Road, The Atrium, Third Floor, Tallahassee, Florida 32303.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.104 Occupancy Capacity of Each Facility.

The total number of children shall be as determined in accordance with Section 409.175(3)(a), F.S.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.105 Emergency Egress and Relocation Drills.

(1) An emergency egress and relocation drill shall be conducted by each owner at each facility at least three (3) times per year. Each emergency egress and relocation drill shall be conducted at least 90 days after the previous emergency egress and relocation drill. The AHJ is permitted to require an additional emergency egress and relocation drill in conjunction with an annual firesafety inspection.

(2) The purpose of each emergency egress and relocation drill is to familiarize each occupant with the procedures required for the safe, orderly, and expeditious exiting of the building or structure. All occupants shall exit the building or structure to a predetermined area of safety. The climate and weather conditions shall be taken into consideration when scheduling any emergency egress and relocation drill.

(3) Each emergency egress and relocation drill shall be conducted at an unexpected time and under varying conditions that may occur in the case of fires.

(4) During each emergency egress and relocation drill, all occupants shall evacuate the building independently or with staff assistance or any other available assistance, as needed.

(5) Each emergency egress and relocation drill shall be applicable to all occupants of the facility with emphasis on the safe, orderly, and expeditious exiting under proper discipline.

(6) Any occupant subject to an emergency egress and relocation drill shall proceed to a predetermined location outside the building and remain there until all occupants are accounted for. Occupants are permitted to return to the building only when allowed by the person conducting the emergency egress and relocation drill.

(7) The owner shall keep a record of each emergency egress and relocation drill on Form DI4-1557, (rev. 02/2003), Record of Emergency egress and relocation drill, which is hereby adopted and incorporated into these rules by reference. Copies of the form may be obtained by writing to the Department of Insurance, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, Florida 32399-0342. The record shall list as a minimum:

(a) The date the drill was conducted.

(b) The time of day the drill was conducted.

(c) The amount of time, in minutes and seconds, that was required for all occupants to safely exit the building.

(d) Any unusual circumstance, in narrative or outline form, affecting the safe, orderly and expeditious exit from the building.

(8) If the owner does not keep the record required by subsection (6), or keeps it in a manner that is incomplete, incorrect, or otherwise does not contain the required information, another emergency egress and relocation drill must be performed as soon as possible and the results correctly recorded. In addition, the firesafety inspector shall advise the licensing agency that the facility is not maintaining compliance with the firesafety requirements.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.106 Inspections.

(1) The appropriate firesafety inspector shall conduct a firesafety inspection, which must be determined to be satisfactory for each facility prior to its initial licensure and prior to the annual renewal of its license.

(2) The owner shall request from the AHJ a firesafety inspection at least 30 days in advance of license expiration.

(3) The AHJ or the Division is permitted to require additional firesafety inspections.

(4) The owner shall be responsible for requesting all required firesafety inspections in writing or electronic format, except for any additional firesafety inspections which may be required as provided in subsection (3). All verbal inspection requests shall be followed by a written or electronic verification.

(5) Each required firesafety inspection shall be completed by the AHJ, where available.

(6) Any time there is no AHJ to perform a firesafety inspection, the owner shall notify the Division in writing or in an electronic format. The Division shall inspect or cause the facility to be inspected in accordance with Section 633.022, Florida Statutes.

(7) A local firesafety inspector, or if no local firesafety inspector is available, a special state firesafety inspector, certified in accordance with Chapter 633, Florida Statutes, shall complete each required firesafety inspection.

(8) The inspecting authority shall provide a copy of each inspection report to the licensing agency within thirty days after completing the inspection.

(9) For the purpose of meeting the fire safety inspection requirements of this subsection, a family foster home shall comply with the following:

(a) Install smoke detectors in accordance with section 24.3.4.1 of NFPA 101, 2003 edition;

(b) Fireplaces, heaters, radiators and other hot surfaces shall be shielded against accidental contact;

(c) Sleeping rooms shall have a primary and secondary means of escape in accordance with paragraph 4A-41.103(1)(b), Florida Administrative Code;

(d) All heating appliances and other heating devices shall be properly vented;

(e) Emergency evacuation instructions must be posted in a conspicuous location;

(f) Conduct emergency egress and relocation drills in accordance with Rule 4A-41.105, Florida Administrative Code;

(g) Be free of improperly stored combustible materials;

(h) All exits and stairs shall be free of storage or obstructions affecting its use;

(i) Be free of temporary electrical wiring;

(j) Have at least one working flashlight for each sleeping room;

(k) Comply with Rules 4A-41.107 and 4A-41.108, Florida Administrative Code, of this rule chapter;

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.107 Cooking Equipment; Exception.

Notwithstanding any previous construction or interpretation of any law, rule, or code provision, any time a single domestic range or stove is used in an arrangement similar to that of a single family residence, the facility shall not be required to comply with NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, the edition as adopted in Rule 4A-3.012, Florida Administrative Code.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law Implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

4A-41.108 Special Requirements.

(1) Each facility shall have installed at least one portable fire extinguisher with a minimum rating of 2A-10BC.

(2) No unvented fuel-fired heaters shall be permitted unless the heater is listed and approved for such use.

Specific Authority 409.175(6)(f), 633.01(1) FS. Law implemented 409.175(6)(f), 633.022(1)(b) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, FL 32399-0342, (850)413-3620

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Randall A. Napoli, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 7, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2003

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at http://www.dep.state.fl.us/ under the link or button titled “Official Notices.”

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES:	RULE NOS.:
Definitions	40C-1.002
Interagency Agreements	40C-1.106
Delegations of Authority	40C-1.135
Licenses or Permits Required	40C-1.602
Fees	40C-1.603
Protest of Action	40C-1.708
Protest of Action	40C-1.721
Protest of Action	40C-1.801
Forms and Instructions	40C-1.900

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to (1) delete certain definitions that are unnecessary because the terms are defined by statute, (2) delete certain references to obsolete rules and statutes, (3)

correct certain erroneous citations to rules or statutes, (4) correct certain rule deficiencies to make the rule consistent with other rule provisions, (5) clarify rule provisions on permit fees by adding the form concerning request for reduction in permit fees to the rule, in accordance with Section 120.74, F.S. SUMMARY: The proposed rule amendment would delete the definition of the terms “agency head”, “DOAH”, and “Presiding Officer” in Rule 40C-1.002, F.A.C., delete the reference to Rules 40C-1.125 in 40C-1.106, F.A.C., replace the reference to Section 403.812, F.S., with Section 403.805(1), F.S., in Rule 40C-1.135, F.A.C., add provisions making clear that a mitigation bank permit must be obtained in order to establish a mitigation bank and that such application for a mitigation bank permit constitutes an application for any permit required under Chapters 40C-4, 40C-40, 40C-41, 40C-42, or 40C-400, F.A.C., add the form concerning requests for reduction in permit fees to the permit fee rule in Rule 40C-1.603, F.A.C., and replace references to the old Rule 40C-1.801, F.A.C., with Chapter 28-110, F.A.C., in Rules 40C-1.708, 40C-1.721, and 40C-1.801, F.A.C.

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

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

SPECIFIC AUTHORITY: 120.53(1), 373.044, 373.046, 373.109, 373.113 373.171 373.421(2) FS.

LAW IMPLEMENTED: 120.52, 120.53, 373.016. 373.019, 373.046, 373.085, 373.103, 373.106, 373.109, 373.118, 373.171, 373.203, 373.219. 373.303, 373.308, 373.323, 373.403, 373.413, 373.416, 373.421(2)-(7), 373.426, 373.463, 403.031, 403.803, 403.812, 403.911 FS., Ch. 94-278, Fla Laws.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-1.002 Definitions.

Definitions in Chapters 120, 373, and 403, F.S. and all other District rules promulgated to implement the Florida Statutes shall apply in this chapter. The following words and phrases shall have the meanings set forth below unless a different meaning is plainly required by the context:

~~(1) The “agency head” of the District as defined by subsection 120.52(3), F.S. means the Governing Board.~~

~~(1)(2)~~ “Department” means the Department of Environmental Protection.

~~(2)(3)~~ “District” or “Water Management District” means the St. Johns River Water Management District or its successor agency

~~(4)~~ “D.O.A.H.” means the Division of Administrative Hearings.

~~(3)(5)~~ “Executive Director” means the Executive Director of the District.

~~(4)(6)~~ “Governing Board” or “Board” means the Governing Board of the District.

~~(7)~~ “Presiding Officer” means the Board, or member thereof, who conducts a hearing on behalf of the Board; a hearing officer assigned by the D.O.A.H., or any other person authorized to conduct administrative hearings.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.52, 373.019, 373.203, 373.303, 373.403, 403.031, 403.803, 403.911 FS. History—New 1-22-76, Amended 3-1-77, Formerly 161-1.03, 40C-1.03, 40C-1.031, Amended 8-1-89, 10-3-95, _____.

40C-1.106 Interagency Agreements.

(1) No change.

(2) Interagency agreements may be inspected in the office of the District Clerk pursuant to section 40C-1.125.

(3) No change.

Specific Authority 373.044, 373.046, 373.113 FS. Law Implemented 120.53, 373.016, 373.046, 373.103 FS. History—New 8-1-89. Amended 11-12-92, 10-3-95, 12-3-98, _____.

40C-1.135 Delegations of Authority.

(1) The District is delegated authority by the Department to assume certain responsibilities of Chapters 373 and 403, F.S. This delegation is pursuant to authority contained in Sections 373.016, 373.103 and 403.805(1) ~~403.812~~, F.S., and is described in Rule 62-113.200, F.A.C.

(2) No change.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.53, 373.016, 373.103, 373.113 FS. History—New 8-1-89, Amended 1-4-96, _____.

40C-1.602 Licenses or Permits Required.

Unless expressly exempted by law or District rule, permits or licenses must be obtained from the District prior to commencement of the following activities:

(1) through (9) No change.

(10) A mitigation bank permit must be obtained in order to establish a mitigation bank. An application for a mitigation bank permit shall also constitute an application for any permit required under Chapters 40C-4, 40C-40, 40C-41, 40-42, or 40C-400, F.A.C., to construct, alter, operate, maintain, abandon, or remove any surface water management system proposed as part of the bank.

(11) A mitigation bank conceptual approval permit may be obtained in order to estimate the legal and financial requirements for establishment of a mitigation bank, the information needed for the mitigation bank application, and the

potential mitigation credits for the bank. A mitigation bank conceptual approval permit does not authorize construction or establishment of a bank.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 373.085, 373.103, 373.106, 373.118, 373.171, 373.219, 373.308, 373.323, 373.413, 373.416, 373.426, 403.812 FS. History—New 1-22-76, Amended 1-15-80, Formerly 161-1.04, 40C-1.04, 40C-1.041, Amended 8-1-89, 8-11-91, 9-25-91, 10-3-95, _____.

40C-1.603 Fees.

A fee is required and shall be paid to the District when certain applications or petitions are filed pursuant to District rules or permit programs delegated to the District. Effective October 1, 1990, governmental entities shall be required to submit the fees established except as provided in subsection ~~(13)~~~~(12)~~. This fee recovers some of the District’s costs of processing applications. The fee schedule is:

(1) through (12) No change.

~~(13)~~ Pursuant to Section 218.075, F.S. Chapter 94-278, Laws of Florida, the District shall, for each fiscal year beginning October 1st and ending September 30th, reduce all permit application fees to \$100, or, if a permit application fee is less than \$100, by 50 percent, for any county, municipality, or third party under contract with a county or municipality, to apply for a permit on the county or municipality’s behalf, which qualifies under this subsection. A county, municipality, or third party as described above, may apply to reduce the permit application fees by submitting form 40C-1.603(13) ~~40C-1.900(1)~~ entitled “Request to the St. Johns River Water Management District to Reduce Permit Application fees,” which is hereby incorporated by reference, for each fiscal year certifying:

(a) That the county ~~had~~ has a population of 50,000 or less on April 1, 1994, and that the county’s population has not yet exceeded 75,000, that the municipality has a population of 25,000 or less, or that the county or municipality is not included within a metropolitan statistical area; and

(b) through (c) No change.

Specific Authority 373.044, ~~373.109~~, 373.113, ~~373.171~~, 373.421(2) FS. Law Implemented 218.075, 373.109, 373.421(2)-~~(7)~~ FS., ~~Ch. 94-278, Fla. Laws.~~ History—New 10-1-87, Amended 6-1-88, 10-17-88, Formerly 40C-1.202, Amended 8-1-89, 10-19-89, 8-19-90, 7-21-91, 7- 23-91, 8-11-91, 9-25-91, 11-12-91, 10-20-92, 11-30-92, 1-6-93, 12-6-93, 1-23-94, 4-12-95, 1-4-96, 4-25-96, 10-2-96, 10-11-01, 4-10-02, _____.

40C-1.708 Protest of Action.

Protest under this sub-part shall be subject to Chapter 28-110, Section 40C-1.801, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.53 FS. History—New 9-25-90, Amended _____.

40C-1.721 Protest of Action.

Protest under this subpart shall be subject to Chapter 28-110, section 40C-1.801, F.A.C.

Specific Authority 373.044, ~~373.113~~ ~~373.411~~ FS. Law Implemented 120.53 FS. History—New 9-25-90, Amended _____.

40C-1.801 Protest of Action.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.53 FS. History—New 9-25-90, Amended 6-17-91, Repealed _____.

40C-1.900 Forms and Instructions.

Specific Authority 373.044, 373.113 FS. Law Implemented Ch. 94-278, Fla. Laws. History—New 4-12-95, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES:	RULE NOS.:
Permits Required	40C-2.041
Exemptions	40C-2.051
Duration of Permit	40C-2.321

PURPOSE AND EFFECT The purpose and effect of this proposed rule amendment is to (1) delete references to obsolete rules, and (2) delete rule provisions that are unnecessary or obsolete, in accordance with Section 120.74, FS.

SUMMARY: The proposed rule amendment would delete the reference to Chapter 40C-1, F.A.C., delete the reference to the Florida Electrical Power Plant Siting Act and Florida Industrial Siting Act, and delete the rule that extends the duration of certain consumptive use permits in Rule 40C-2.321, F.A.C.

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 inwriting within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.216 FS.

LAW IMPLEMENTED: 373.103, 373.171, 373.216, 373.219, 373.226, 373.243, 373.244 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-2.041 Permits Required.

(1) through (4) No change.

(5)(a) The Governing Board may designate specific geographic areas in which permits shall be required for amounts less than those specified in subsection (1) above.

(b) Such designation shall be adopted by rule pursuant to Chapters 120 and 373, Florida Statutes, and Chapter 40C-1, Florida Administrative Code, regarding the anticipated impacts of such designation.

Specific Authority 373.113, 373.216 FS. Law Implemented 373.219, 373.226 FS. History—New 1-2-77, Amended 1-1-83, 6-1-84, Formerly 40C-2.04, Amended 5-31-84, Formerly 40C-2.041, 40C-2.0041, Amended 7-23-91, 1-20-93, 12-6-93, 2-15-95, 4-25-96, 1-7-99, _____.

40C-2.051 Exemptions.

No permit shall be required under the provisions of this rule or Chapters 40C-20 or 40C-22, F.A.C., for the following water uses:

(1) No change.

(2) Those uses for which certification has been obtained pursuant to the provisions of the Florida Electrical Power Plant Siting Act or the Florida Industrial Siting Act.

(3) through (10) renumbered (2) through (9) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.103, 373.171, 373.216, 373.219, 288.501 et seq, 403.501 et seq. FS. History—New 1-1-83, Formerly 40C-2.051, 40C-2.0051, Amended 8-18-87, 11-19-87, 9-12-89, 12-6-93, 8-18-94, 4-25-96, 10-2-96, _____.

40C-2.321 Duration of Permit.

(1) through (2) No change.

(3) The Governing Board extends the duration of the following consumptive use permits according to the following schedule:

(a) All consumptive use permits issued for fern irrigation for land in Putnam, Volusia or Lake Counties which will expire after January 1, 1992, but before December 31, 1992, are extended until 1993. These permits shall expire on the same month and day in 1993 as they would have expired in 1992 but for this extension.

(b) All consumptive use permits issued for citrus irrigation for land in Lake, Marion or Indian River Counties which will expire after January 1, 1992, but before December 31, 1993, are extended until 1994, except for permits for citrus irrigation in Indian River County that are also subject to an Industrial Waste (Agricultural Discharge) permit or consent order authorizing operation issued by the Department of Environmental Regulation pursuant to the provisions of former chapter 17-6, F.A.C., renumbered as chapters 62-660 and 62-670, F.A.C., or issued by the District pursuant to the provisions of former chapter 17-6, F.A.C., renumbered as chapters 62-660 and 62-670, F.A.C., and pursuant to subparagraph 62-101.040(12)(a)3., F.A.C., and the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation between the St. Johns River Water Management District and Department of Environmental

Regulation dated January 4, 1988. These permits shall expire on the same month and day in 1994 as they would have expired in 1992 or 1993 but for this extension.

(c) All consumptive use permits issued for cabbage or potato irrigation for land in Putnam, Flagler or St. Johns Counties which will expire after January 1, 1992, but before December 31, 1994, are extended until 1995. These permits shall expire on the same month and day in 1995 as they would have expired in 1992, 1993, or 1994 but for this extension.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.236, 373.243 FS. History--New 1-1-83, Amended 5-31-84, Formerly 40C-2.321, 40C-2.0321, Amended 7-23-91, 11-12-91, 1-20-93, 4-25-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES:	RULE NOS.:
Variances	40C-3.455
Violations of Permits	40C-3.492
Explosives	40C-3.525
Abandoned Well Plugging	40C-3.531
Violations of Well Construction Standards	40C-3.532

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to (1) delete rules that are redundant with other existing rules, (2) delete obsolete rule provisions, (3) correct obsolete or erroneous rule citations, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete the rule on variances in Rule 40C-3.455, F.A.C., because it is redundant to Rule 40C-1.1003, F.A.C., delete the references to Chapter 40C-1, F.A.C., and Rule 40C-3.492, F.A.C., replace the reference to the old Rule 17-21.040, F.A.C., with the current Rule 62-532.400, F.A.C., replace the reference to the old subsection 40C-1.181(8), F.A.C., with the current reference to form number 41.01-410(1), and replace the reference to the incorrect Chapter 62-212, F.A.C., with the correct Chapter 62-532, F.A.C.

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 inwriting within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.309 FS.

LAW IMPLEMENTED: 373.113, 373.303, 373.306, 373.308, 373.309, 373.313, 373.316, 373.319, 373.326, 373.342 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-3.455 Variances.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.303, 373.308, 373.309, 373.313, 373.316, 373.326 FS. History--New 10-14-84, Amended 12-5-85, Formerly 40C-3.501, 40C-3.0501, Amended 9-17-89, Formerly 40C-3.501, Amended 1-22-90, Repealed _____.

40C-3.492 Violations of Permits.

(1) No change.

(2) ~~Actions which may be taken by District staff once a violation is determined to have occurred, are set forth in chapter 40C-1, F.A.C.~~ Violations may be reported by any person, including District staff.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.308, 373.309, 373.342 FS. History--New 10-14-84, Amended 12-5-85, Formerly 40C-3.492, 40C-3.0492. Amended 8-1-89, 9-17-89, _____.

40C-3.525 Explosives.

The use of explosives in well construction or development is prohibited unless specifically approved by the District with the concurrence of the Department pursuant to Rule 62-532.400, F.A.C., ~~in effect on July 1, 1989.~~

Specific Authority 373.044, 373.309 FS. Law Implemented 373.306, 373.308, 373.309, 373.113 FS. History--New 10-14-84. Formerly 40C-3.525, 40C-3.0525, Amended 8-1-89, _____.

40C-3.531 Abandoned Well Plugging.

(1) through (2) No change.

(3) Request to abandon a well shall be submitted on the application form ~~41.10-410(1) 40C-1.181(8)~~, provided by the District unless the well is exempt from permitting under Rule 40C-3.051, F.A.C.

Specific Authority 373.044, 373.309 FS. Law Implemented 373.306, 373.308, 373.309, 373.113 FS. History--New 10-14-84. Formerly 40C-3.531, 40C-3.0531, Amended 9-17-89, _____.

40C-3.532 Violations of Well Construction Standards.

(1) Actions, omissions, or conduct which may be considered as violations for the purposes of this part shall include, but are not limited to, the following:

(a) Failure to comply with any of the construction standards outlined in this part, or Chapters ~~62-532~~ ~~62-212~~ and 62-555, F.A.C., ~~in effect on July 1, 1989.~~

(b) through (2) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.306, 373.308, 373.309, 373.319 FS. History—New 10-14-84, Formerly 40C-3.532, 40C-3.0532, Amended 8-1-89, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES:	RULE NOS.:
Implementation	40C-4.031
Exemptions	40C-4.051
Publications Incorporated by Reference	40C-4.091
Permit Processing Fee	40C-4.201
Limiting Conditions	40C-4.381
Inspection	40C-4.461
Abatement and Abandonment	40C-4.471
Remedial and Emergency Measures	40C-4.481
Enforcement	40C-4.751

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to (1) delete certain unnecessary rule provisions, (2) clarify certain rules by removing unnecessary language and by providing other clarifying information and deleting unnecessary language, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete certain unnecessary rule provisions and would clarify that the exemptions in subsection 40C-4.051(12)(f), F.A.C., include the installation and repair of piers and recreational docking facilities. The rule would also clarify that the permit fee referred to in Rule 40C-4.201, F.A.C., is specified by Rule 40C-1.603, F.A.C. In Rule 40C-4.381, F.A.C., the rule would refer to Rule 40C-1.1006, F.A.C., which sets forth the provisions for formal determination. The proposed rule amendment would clarify section 12.2.2.1(d), A.H., to make clear that the value of the wetland to fish and wildlife is based on the factors listed in subsection 12.2.2.3, Applicant’s Handbook. The rule would also make clear that the provision in 12.2.2.5(c) shall not apply to certain activities specified in the rule. In addition, the rule would amend section 12.3.1.8, Applicant’s Handbook, to make clear that applicants may

propose innovative mitigation proposals, however, to receive District approval, such proposals must offset the adverse impacts to the functions identified in sections 12.2 through 12.3.8.2 caused by regulated activities. The proposed rule amendment would also clarify section 12.3.7.4(a), Applicant’s Handbook, to make clear the form and content of all financial responsibility mechanisms shall be approved by the District only if they satisfy the requirements specified in subsections 12.3.7 through 12.3.7.9, A.H.

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

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

SPECIFIC AUTHORITY: 373.044, 373.046(4), 373.109, 373.113, 373.119, 373.171, 373.413, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421(2), 373.461(3) FS.

LAW IMPLEMENTED: 373.016(2), 373.046, 373.109, 373.113, 373.119, 373.136, 373. 373.406, 373.409, 373.413, 373.4135, 373.4136 373.414, 373.415, 373.416, 373.418, 373.419, 373.421(2)-(6), 373.422, 373.423. 373.426, 373.429, 373.433, 373.436, 373.439, 373.461(3), 373.603, 373.613, 403.813(2) FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

- 40C-4.031 Implementation.
- (1) through (2) No change.

~~(3) If the validity of any provision of Chapter 40C 4, F.A.C., as amended on December 7, 1983 or the application thereof to any person or circumstance is challenged pursuant to Chapter 120, Florida Statutes, or pursuant to any other basis in law, it is the intent of the Governing Board of the St. Johns River Water Management District that neither a challenge to the validity of a provision or application thereof nor the invalidation of a provision or application thereof shall affect the validity or application of other provisions of the rule which can be given effect without the challenged or invalidated provision or application and to this end the provisions of Chapter 40C 4, F.A.C., as amended on December 7, 1983 are declared severable.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416, 373.426 FS. History—New 1-31-77, Formerly 161-4.03, 40C-4.03, Amended 2-3-81, 12-7-83, Formerly 40C-4.031, 40C-4.0031, Amended 8-11-91, 10-3-95, _____.

- 40C-4.051 Exemptions.
- (1) through (11) No change.

(12) No permit shall be required under Chapters 40C-4, 40C-40, 40C-42, 40C-44, or 40C-400, F.A.C., for the following activities:

(a) through (c) No change.

(d) The restoration of less than 100 feet in length of existing insect control impoundment dikes and the connection of such impoundments to tidally influenced waters. Such impoundments shall be connected to tidally influenced waters for at least 6 months each year, beginning September 1 and ending February 28 ~~if feasible, or operated in accordance with an impoundment management plan approved by the District.~~ The connection shall be of sufficient cross-sectional area to allow beneficial tidal influence. Restoration shall involve no more dredging than needed to restore the dike to original design specifications, and the final elevation of the dredge area shall be within two feet of immediately adjacent bottom elevations. For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of insect control impoundments.

(e) The installation, replacement or repair of mooring pilings and dolphins associated with private docking facilities or piers.

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

1. through 3. No change.

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

~~private~~ dock shall include the construction of structures attached to the dock pier which are only suitable for the mooring or storage of boats (i.e., boatlifts). Nothing in this paragraph shall prohibit the Department from taking appropriate enforcement action pursuant to Chapter 403, F.S., to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph, if the Department can demonstrate that the exempted activity has caused water pollution in violation of Chapter 403, F.S.

(g) through (s) No change.

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

1. through 14. No change.

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

(u) No change.

(13) through (15) No change.

Specific Authority 373.044, 373.113, 373.414, 373.415, 373.418 FS. Law Implemented 373.406, 373.413, 373.414, 373.415, 373.416, 373.418, 373.426, 403.813(2) FS. History—New 1-31-77, Formerly 16I-4.05 and 40C-4.06, Amended 2-3-81, 12-7-83, Formerly 40C-4.051, 40C-4.0051, Amended 4-3-91, 8-11-91, 9-25-91, 5-17-94, 10-3-95, 11-25-98, 7-8-01, 10-11-01, _____.

40C-4.091 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference:

(a) Part I “Policy and Procedures,” Part II “Criteria for Evaluation,” subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K “Legal Description Upper St. Johns River Hydrologic Basin,” “Legal Description Ocklawaha River Hydrologic Basin,” “Legal Description of the Wekiva River Hydrologic Basin,” “Legal Description of the Econlockhatchee River Hydrologic Basin,” “Legal Description of the Sensitive Karst Areas Basin, Alachua County,” “Legal Description Tomoka River Hydrologic Basin,” “Legal Description Spruce Creek Hydrologic Basin,” “Legal Description of the Sensitive Karst Areas Basin, Marion County,” and “Legal Descriptions of the Lake Apopka Drainage Basin,” and Appendix M “Regional Watersheds for Mitigation Banking,” of the document entitled “Applicant’s Handbook: Management and Storage of Surface Waters,” effective _____ ~~9-26-02.~~

(b) through (c) No change.

(2) No change.

Specific Authority 373.044, 373.046(4), 373.113, 373.413, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421(2), 373.461(3) FS. Law Implemented 373.016(2), 373.046, 373.413, 373.4135, 373.4136 373.414, 373.415, 373.416, 373.421(2)-(6), 373.426, 373.461(3), 403.813(2) FS. History—New 12-7-83, Amended 10-14-84, Formerly 40C-4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 8-11-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, 8-21-00, 7-8-01, 10-11-01, 4-10-02, 9-26-02, _____.

40C-4.201 Permit Processing Fee.

There shall be a non-refundable permit processing fee as specified by Rule 40C-1.603, F.A.C., Chapter 40C-1, payable to the District at the time that an application for a general or individual permit or for a conceptual approval permit is submitted.

Specific Authority 373.044, 373.109, 373.113, 373.171 FS. Law Implemented 373.109, 373.413, 373.416, 373.426 FS. History--New 1-31-77, Formerly 16I-4.10 and 40C-4.20, Amended 2-3-81, 12-7-83, Formerly 40C-4.201, 40C-4.0201, Amended 10-1-87, 8-1-89, _____.

40C-4.381 Limiting Conditions.

(1) The following general conditions shall be a part of all permits issued pursuant to this chapter and Chapter 40C-40, F.A.C., unless ~~waived or modified by the Governing Board upon a determination that~~ the conditions are inapplicable to the activity authorized by the permit.

(a) through (n) No change.

(o) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under Rule 40C-1.1006, F.A.C., section 373.421(2), F.S., provides otherwise.

(p) through (s) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.409, 373.413, 373.416, 373.419, 373.422, 373.423, 373.426 FS. History--New 12-7-83, Formerly 40C-4.381, 40C-4.0381, Amended 8-1-89, 10-19-89, 3-14-90, 2-27-94, 10-3-95, 1-4-96, 1-11-99, _____.

40C-4.461 Inspection.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.423, 373.429 FS. History--New 2-3-81, Amended 12-7-83, Formerly 40C-4.461, 40C-4.0461, Repealed _____.

40C-4.471 Abatement and Abandonment.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.433, 373.426 FS. History--New 1-31-77, Formerly 16I-4.47, 40C-4.47, Amended 2-3-81, 12-7-83, Formerly 40C-4.471, 40C-4.0471, Repealed _____.

40C-4.481 Remedial and Emergency Measures.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.436, 373.439 FS. History--New 2-3-81, Amended 12-7-83, Formerly 40C-4.481, 40C-4.0481, Repealed _____.

40C-4.751 Enforcement.

~~(1) Enforcement actions shall be taken in accordance with the provisions of Chapter 373, Florida Statutes and Chapter 40C-1, F.A.C.~~

~~(2) A system which is constructed or altered without a permit and which requires a permit and the permit, when applied for after the initiation of construction, is denied, must be restored to its pre-construction condition.~~

Specific Authority 373.119, 373.113 FS. Law Implemented 373.119, 373.113, 373.136, 373.603, 373.613 FS. History--New 2-3-81, Amended 12-7-83, Formerly 40C-4.751, 40C-4.0751, Amended _____.

APPLICANT’S HANDBOOK SECTION:

12.2.2.1 Compliance with subsections 12.2.2 – 12.2.3.7, 12.2.5 – 12.3.8 will not be required for regulated activities in isolated wetlands less than one half acre in size, unless:

(a) through (c) No change.

(d) The District establishes that the wetland to be impacted is, or several such isolated wetlands to be impacted are cumulatively, of more than minimal value to fish and wildlife based on the factors in subsection 12.2.2.3.

12.2.5 The special value and importance of shellfish harvesting waters to Florida’s economy as existing or potential sites of commercial and recreational shellfish harvesting and as a nursery area for fish and shellfish is recognized by the District. In accordance with paragraph 12.1.1(d), the District shall:

(a) through (b) No change.

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

12.3.1.8 Innovative mitigation proposals which deviate from the standard practices described in sections 12.3-12.3.6 may be proposed by an applicant; however to receive District approval they must offset the adverse impacts to the functions identified in section 12.2-12.3.8.2 caused by regulated activities shall be considered on a case-by-case basis. The donation of money is not considered to be an acceptable method of mitigation, unless cash payments are specified for use in a District or Department of Environmental Protection endorsed environmental preservation, enhancement or restoration project and the payments initiate a project or supplement an ongoing project. The project or portion of the project funded by the donation of money must offset the impacts of the proposed system.

12.3.7.4 General Terms for Financial Responsibility Mechanisms.

In addition to the specific provisions regarding financial responsibility mechanisms set forth in subsection 12.3.7.6 below, the following, as they relate to the specific mechanism proposed, shall be complied with:

(a) The form and content of all financial responsibility mechanisms shall be approved by the District if they satisfy the requirements specified in subsections 12.3.7 – 12.3.7.9.

12.5.4 Duration.

The formal determination shall be binding for five years provided physical conditions on the property do not change so as to alter the wetlands and other surface waters during that

period. Changes in surface water or wetland boundaries resulting from work authorized by a permit pursuant to Part IV, Chapter 373, F.S., will not be considered as altering the boundary for the purposes of this subsection. ~~The Governing Board may revoke a formal determination upon a finding that the petitioner has submitted inaccurate information to the District.~~

12.5.5 Formal Determinations for Properties with an Existing Formal Determination.

Within sixty days prior to the expiration of a formal determination, the property owner, an entity that has the power of eminent domain, or any other person who has a legal or equitable interest in the property may petition for a new formal determination for the same parcel of property and such determination shall be issued, approving the same extent of surface waters and wetlands in the previous formal determination, as long as physical conditions on the property have not changed, other than changes which have been authorized by a permit pursuant to this part, so as to alter the boundaries of surface waters or wetlands and the methodology for determining the extent of surface waters and wetlands authorized by Section 373.421(1), F.S., has not been amended since the previous formal determination. ~~The application fee for such a subsequent petition shall be less than the application fee for the original determination.~~

12.5.6 Nonbinding Determinations.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES:	RULE NOS.:
Declaring a Water Shortage Emergency	40C-21.331
Implementing a Water Shortage Emergency Declaration	40C-21.391

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to delete citations to certain rules which are obsolete because the referenced rules have been repealed, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete the reference to Rule 40C-2.0531, F.A.C., in Rule 40C-21.331, F.A.C., and would delete the reference to Rule 40C-2.0541, F.A.C., in Rule 40C-21.391, F.A.C.

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 inwriting within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.119, 373.175, 373.246 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-21.331 Declaring a Water Shortage Emergency.

(1) through (3) No change.

~~(4) Declaration of a water shortage emergency will be conducted in accordance with Section 40C 2.0531, Florida Administrative Code.~~

~~(4)(5) No change.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.119, 373.175, 373.246 FS. History–New 1-1-84, Amended _____.

40C-21.391 Implementing a Water Shortage Emergency Declaration.

~~(1) Declaration of a water shortage emergency shall be conducted in accordance with Section 40C 2.0541, Florida Administrative Code.~~

(2) through (5) renumbered (1) through (4) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New 1-1-84, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Incentive Program – Qualifying
 RULE NO.: 40C-24.020

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to delete an obsolete rule citation and replace it with a correct citation, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete the obsolete reference to section 12.4.5.1, of the Applicant’s Handbook: Consumptive Uses of Water, with the correct citation of 12.2.5.1, Applicant’s Handbook: Consumptive Uses of Water, in Rule 40C-24.020, F.A.C.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.185 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-24.020 Incentive Program – Qualifying.

- (1) No change.
- (2) The District’s Xeriscape Landscaping Incentive Program consists of the following:
 - (a) through (c) No change.

(d) For those local governments which own or operate water supply utilities, or otherwise are required to obtain a consumptive use permit, the District will allow these local governments to include adoption of a xeriscape landscape ordinance as part of their Water Conservation Plan which is required pursuant to Rule 40C-2.301, F.A.C., and section ~~12.2.5.1~~ ~~12.4.5.1~~ of the Applicant’s Handbook: Consumptive Uses of Water adopted by reference in Rule 40C-2.101, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.185 FS. History—New 11-30-92, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES: Implementation 40C-40.031
 Revocation of Permits 40C-40.351
 Limiting Conditions 40C-40.381

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to delete certain rule provisions which are unnecessary or redundant of statutes cited, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete unnecessary language in Rules 40C-40.031, 40C-40.351, and 40C-40.381, F.A.C. The proposed rule amendment would also make clear that the limiting conditions for general permits in Rule 40C-40.381, F.A.C., shall be subject to other reasonable conditions as are necessary to assure that the permitted work will meet the conditions for issuance in Rules 40C-4.301 and 40C-4.302, F.A.C.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 120.60, 373.413, 373.416, 373.419, 373.423, 373.426, 373.429 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-40.031 Implementation.

(1) This rule specifies the effective dates for standard environmental resource permits granted in this chapter. If the surface water management system meets the conditions of this chapter, the effective date is December 7, 1983.

(2) ~~If the validity of any provision of chapter 40C-40, F.A.C., or the application thereof to any person or circumstance is challenged pursuant to chapter 120, F.S., or pursuant to any other basis in law, it is the intent of the Governing Board of the St. Johns River Water Management District that neither a challenge to the validity of a provision or application thereof nor the invalidation of a provision or~~

~~application thereof shall affect the validity or application of other provisions of the chapter which can be given effect without the challenged or invalidated provision or application and to this end the provisions of chapter 40C-40, F.A.C., are declared severable.~~

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.423, 373.426 FS. History--New 12-7-83, Amended 2-27-94, 10-3-95, 10-11-01, _____.

40C-40.351 Revocation of Permits.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.60, 373.429 FS. History--New 12-7-83, Amended 10-11-01, Repealed.

40C-40.381 Limiting Conditions.

(1) No change.

(2) The permit shall be subject to other reasonable conditions as are necessary to assure that the permitted works will meet the conditions for issuance in Rules 40C-4.301 and 40C-4.302, F.A.C. not be inconsistent with the overall objectives of the District and will not be harmful to the water resources of the District.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.423, 373.426 FS. History--New 12-7-83, Amended 2-27-94, 10-11-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLE: Implementation RULE NO.: 40C-41.033

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to delete unnecessary rule language, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete the unnecessary language currently contained in subsection 40C-41.033(2), F.A.C.

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 inwriting within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.415 FS.

LAW IMPLEMENTED: 373.413, 373.415, 373.416, 373.426 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-41.033 Implementation.

(+) The effective date of this chapter is December 7, 1983, for the criteria of subsections 40C-41.063(1) and (2), F.A.C.; May 17, 1987, for the standards of paragraphs 40C-41.063(3)(a) and (b), F.A.C.; August 30, 1988, for the standards and criteria of paragraphs 40C-41.063(3)(c), (d) and (e), F.A.C.; April 3, 1991, for the standards and criteria in subsection 40C-41.063(5), F.A.C.; and September 25, 1991 for the criteria of subsections 40C-41.063(7), F.A.C., 11-25-98 for the criteria of subsection 40C-41.063(6), F.A.C., and March 7, 2003, for the standards and criteria in subsection 40C-41.063(8), F.A.C.

~~(2) If the validity of any provision of chapter 40C 41, F.A.C., as amended on December 7, 1983, May 17, 1987, August 30, 1988, April 3, 1991, September 25, 1991, and November 25, 1998 or the application thereof to any person or circumstance is challenged pursuant to chapter 120, F.S., or pursuant to any other basis in law, it is the intent of the Governing Board of the St. Johns River Water Management District that neither a challenge to the validity of a provision or application thereof nor the invalidation of a provision or application thereof shall affect the validity or application of other provisions of the rule which can be given effect without the challenged or invalidated provision or application and to this end the provisions of chapter 40C 41, F.A.C., as amended on December 7, 1983, May 17, 1987, August 30, 1988, April 3, 1991, September 25, 1991, and November 25, 1998 are declared severable.~~

Specific Authority 373.044, 373.113, 373.171, 373.415 FS. Law Implemented 373.413, 373.415, 373.416, 373.426 FS. History--New 12-7-83, Amended 5-17-87, 8-30-88, 4-3-91, 9-25-91, 11-25-98, 3-7-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES: PERMITS REQUIRED IMPLEMENTATION
RULE NOS.: 40C-42.022 40C-42.033

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to (1) delete rule provisions that are obsolete, and (2) delete certain unnecessary rule provisions, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete the obsolete rule provision in subsection 40C-42.022(5), F.A.C., and would delete the unnecessary rule provision in subsection 40C-42.033(3), F.A.C.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.404, 373.406, 373.418, 373.429 FS.

LAW IMPLEMENTED: 373.118, 373.406, 373.413, 373.414, 373.416, 373.418, 373.426 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-42.022 Permits Required.

(1) through (4) No change.

~~(5) Applications received by the District for which a permit has not been issued prior to the rule revisions effective April 11, 1994, and which do not require a permit pursuant to sections (1) or (2), above, may be withdrawn by the applicant.~~

~~(5)(6) No change.~~

Specific Authority 373.044, 373.113, ~~373.171~~, 373.404, 373.406, 373.414, 373.418, ~~373.417~~ FS. Law Implemented 373.118, 373.406, 373.413, 373.414, 373.416, 373.418, 373.426 FS. History—New 9-25-91, Amended 4-11-94, 11-22-94, 10-11-01, _____.

40C-42.033 Implementation.

(1) through (2) No change.

~~(3) If the validity of any provisions of chapter 40C-42, F.A.C., or the application thereof to any person or circumstance is challenged pursuant to Chapter 120 or 373, F.S., or pursuant to any other basis in law, it is the intent of the Governing Board of the St. Johns River Water Management District that neither a challenge to the validity of a provision or~~

~~application thereof nor the invalidation of a provision or application thereof shall affect the validity or application of other provisions of the rule which can be given effect without the challenged or invalidated provision or application and to this end the provisions of chapter 40C-42, F.A.C., are declared severable.~~

Specific Authority 373.044, 373.113, 373.171, 373.429 FS. Law Implemented 373.416 FS. History—New 9-25-91, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE TITLES: IMPLEMENTATION
RULE NOS.: 40C-44.031 40C-44.071

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to (1) delete certain unnecessary rule provisions, and (2) to replace an obsolete rule citation with a correct citation, in accordance with Section 120.74, F.S.

SUMMARY: The proposed rule amendment would delete unnecessary language in subsection 40C-44.031(2), F.A.C., and would replace the obsolete citation to section 10.7.2, A.H., in subsection 40C-44.071(2), F.A.C., with the correct citation of section 12.2.2, A.H.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.416, 373.418, 373.429 FS.

LAW IMPLEMENTED: 373.416 FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, (386)329-4459, Suncom 860-4459

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-44.031 Implementation.

(1) This chapter shall become effective on 8-11-91.

(2)(a) Permits and consent orders which authorize operation of agricultural operations, issued by the Department of Environmental Regulation, or pending on June 1, 1991, pursuant to the provisions of former Chapter 17-6, F.A.C., renumbered as Chapters 62-660 and 62-670, F.A.C., shall remain valid after 8-11-91, subject to all limiting conditions contained therein, until final District action on a timely filed permit application made pursuant to this chapter. Ninety days prior to the expiration date of the permit or consent order, an application for the modification of a permit issued pursuant to Chapter 40C-4, F.A.C., and prior to June 1, 1988, or for a general or individual permit, as appropriate, pursuant to this chapter, must be submitted to the District.

(3)(b) Permits and consent orders which authorize operation of agricultural operations, issued by the District or executed by all parties to the consent order by 8-11-91, pursuant to the provisions of former Chapter 17-6, F.A.C., renumbered as Chapters 62-660 and 62-670, F.A.C., and pursuant to subparagraph 62-101.040(12)(a)3., F.A.C., and the Operating Agreement Concerning Stormwater Discharge Regulation and Dredge and Fill Regulation between the St. Johns River Water Management District and Department of Environmental Regulation dated January 4, 1988, shall remain valid after 8-11-91, subject to all limiting conditions therein, until final District action on a timely filed permit application made pursuant to this chapter. Ninety days prior to the expiration date of the permit or consent order, an application for the modification of a permit issued pursuant to Chapter 40C-4, F.A.C., and prior to June 1, 1988, for a general or individual permit, as appropriate, pursuant to this chapter must be submitted to the District.

(4)(e) Any permit application received prior to 8-11-91, will be processed and evaluated pursuant to the provisions of the chapters and Operating Agreement referenced in paragraph (2)(b) above.

~~(2) If the validity of any provisions of chapter 40C-44, F.A.C., or the application thereof to any person or circumstance is challenged pursuant to Chapter 120 or 373, F.S., or pursuant to any other basis in law, it is the intent of the Governing Board of the St. Johns River Water Management District that neither a challenge to the validity of a provision or application thereof nor the invalidation of a provision or application thereof shall affect the validity or application of other provisions of the rule which can be given effect without the challenged or invalidated provision or application and to this end the provisions of chapter 40C-44, F.A.C., are declared severable.~~

Specific Authority 373.044, 373.113, 373.171, 373.429 FS. Law Implemented 373.416 FS. History—New 8-11-91, Amended 10-20-92,_____.

40C-44.071 Relationship to Other Permitting Requirements.

(1) No change.

(2) Alterations of existing agricultural surface water management systems, which would otherwise require permits pursuant to Rule 40C-4.041, F.A.C., will be considered minor alterations and will qualify for a standard general or individual environmental resource agricultural system permit, as appropriate, pursuant to this chapter, provided they do not increase the peak discharge rate and total discharge volume, when applicable (Applicant’s Handbook: Management and Storage of Surface Waters, section 10.3 and 10.4), or alter off-site storage and conveyance capabilities of the water resource (Applicant’s Handbook: Management and Storage of Surface Waters, section 10.5), or adversely affect wetland functions, (Applicant’s Handbook: Management and Storage of Surface Waters, section 12.2.2) or increase the off-site pollutant loading (Applicant’s Handbook: Management and Storage of Surface Waters, section 10.7.2).

(3) through (6) No change.

Specific Authority 373.044, 373.113, 373.171, 373.416, 373.418 FS. Law Implemented 373.416 FS. History—New 8-11-91, Amended 10-20-92, 10-3-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Angelo, Sr. Asst. General Counsel, St. Johns River Water Management District, P. O. Box 1439, Palatka, Florida 32178-1429, (386)329-4838, Suncom 860-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2003

DATE NOTICE OR PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Year-Round Water Conservation

RULE CHAPTER NO.:

Measures 40D-22

RULE TITLES: RULE NOS.:

Policy and Purpose 40D-22.011

Definitions 40D-22.101

Year-Round Water Conservation Measures 40D-22.201

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) recognize the need for, and in some cases the desirability of, variances 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 to promote long-term sustainability of the water resources of the District through water use efficiency by regulatory means during times when no water shortage has been declared. The measures contained in this Chapter are intended to reduce wasteful irrigation practices and encourage lawn and landscape drought conditioning. In addition to these measures, the District also uses Chapter 40D-2, Florida Administrative Code, provisions and education and incentive programs to promote water conservation. These measures are intended to increase water use efficiency for all irrigation uses. The measures prevent irrigation during periods of the day when water loss is highest.

(2) This Chapter applies to all water sources as provided herein and all water users as defined herein engaged in irrigation, including those not subject to permitting pursuant to Chapter 40D-2, Florida Administrative Code. This Chapter

applies to all water users and sources, including those not subject to permitting pursuant to Chapter 40D-2, Florida Administrative Code.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171 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) "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. Plant nurseries and Turfgrass production ("sod farming") are agriculture; however, the care of new or Existing Lawns, non-edible Landscapes, Cemeteries, Golf Courses and Athletic Play Areas are not classified as Agriculture for the purpose of this Chapter.

(3) "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. A turfgrass area in a public park, when used for a festival or other scheduled event that includes heavy foot traffic, is also considered an athletic play area for a period ending two weeks after the event.

(4) "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.

(5) "Domestic" and Other Sanitary Uses" means the use of water for the individual personal household purposes of drinking, bathing, cooking, laundry, household cleaning, or

other sanitation. Other uses often associated with domestic activities, such as Lawn Irrigation are classified elsewhere in this Chapter within appropriate use classes.

(6) "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.

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

(8) "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.

(9) "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.

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

(11) "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.

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

(13) "Landscape" means a section of ground adorned or improved by flowering plants (whether annual or perennial), vines, shrubs, palms, trees, ferns, ornamental grasses and groundcover other than Lawn.

(14) "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, Cemeteries, non-play areas of Golf Courses, public and private right-of-ways and medians but excluding Athletic Play Areas.

(15) "Lawn" means a plot of Turfgrass, usually tended or mowed, surrounding homes, commercial or industrial buildings, government or other non-commercial buildings, parks, recreational areas, Cemeteries, and public or private rights-of-way and medians, but excludes Athletic Play Areas, whether such areas are free-standing or within a park or other setting.

(16) "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.

(17) "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.

(18) "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.

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

(20) "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.

(21) "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.

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

(23) "Sprigs" means individual stems of grass with one to four nodes (joints) from which roots can develop. Sprigs may also be called runners, rhizomes, or stolons. 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.

(24) "Syrringing" 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.

(25) "Turfgrass" means a dense growth of grass (any of numerous plants of the botanical family Gramineae) being used as a ground cover to provide one or more of the following benefits: erosion control, dust reduction, beautification, or as a playing surface for sports or recreation. Common turfgrasses in Florida include, but are not limited to: Bahiagrass, Bermudagrass, and St. Augustinegrass.

(26) "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 groundwater wells and private or public utility systems.

(27) "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.

(28) "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, specifically including water withdrawn from wells, but excluding seawater.

(29) "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 Sections 373.175 or 373.246, F.S. or Chapter 40D-21, F.A.C.

(30) "Water Use Permit" (WUP) means a permit issued pursuant to Chapter 40D-2, F.A.C., authorizing the use of water.

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, including end Users served by public or private water systems. 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 Board or Executive Director order 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.

(2) Wasteful and Unnecessary – In addition to the specific restrictions enumerated below, the following wasteful and unnecessary water uses are prohibited:

(a) Allowing water to flow from an unattended hose, unless that water is discharge from a functional water-to-air air conditioning unit, residential reverse osmosis treatment system, or similar device.

(b) Handwatering a Lawn on an otherwise restricted day or more than once a day, except when used for Spot Treatment or other practices specified in this Rule.

(c) Hosing-down a driveway or other impervious surface to remove grass clippings or other debris that can be removed with a broom or other dry methods.

(d) Hosing-down a building or other structure to remove cobwebs or other material that can be removed with a broom or other dry methods.

(e) Allowing water to flow from a broken sprinkler head, outdoor faucet, or other malfunctioning plumbing or irrigation system component, after receiving verbal or written notice of the malfunction from the District, water utility, or local government.

(3) Irrigation Uses – The following requirements shall apply to all Irrigation except Agriculture, for example: Lawns, Landscapes, Golf Courses, and other Athletic Play Areas.

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

(b) 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. 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 10 minutes.

(c) Irrigation for the purpose of watering-in fertilizers, 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 when associated with a Lawn or Landscape: In the absence of specific alternative instructions from the manufacturer, such watering-in shall be limited to one application of one-quarter inches; and, such watering-in shall be accomplished during allowable watering times unless a professional applicator has posted a temporary sign containing the date of application and the date(s) of needed watering-in activity.

(d) Landscape may be watered using Low-Volume Irrigation methods on an as-needed basis instead of being restricted to certain days or times.

(e) Lawns may be Spot Treated without regard to the normally allowable watering days or times. Lawns may only be Spot Treated by Hand-Watering or other targeted, manual means.

(f) In order to promote necessary rhizome 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 rhizome repair watering if the zone in question is for an area that contains at least 50% Turfgrass recovering from Vertical Mowing. If a zone contains less than 50% recovering Turfgrass, or if the recovering Turfgrass area is typically not watered by an Irrigation system, only the recovering Turfgrass is eligible for this 14-day exemption. Targeted watering may be accomplished by Hand Watering, or any appropriate method which isolates and waters only the recovering Turfgrass.

(g) New Plant Material shall only be irrigated as follows:

1. 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.

2. 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. If a zone contains less than 50% New Plant Material, or if the New Plant Material is in an area that will be typically not be watered by an Irrigation system, only the New Plant Material is eligible for this 60-day exemption. Targeted watering may be accomplished by Hand Watering, or any appropriate method which isolates and waters only the New Plant Material.

3. 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.

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

5. Irrigation of new Turfgrass areas or other New Plant Material associated with a public works 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.

6. Landscape may continue to be irrigated on an as-needed basis without regard to the normally allowable watering days or times after the establishment period ends if Low-Volume Irrigation technology is used, pursuant to paragraph 40D-22.201(1)(d), F.A.C.

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

(h) Irrigation using Reclaimed Water shall not be restricted except 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 not irrigating between the hours of 10:00 a.m. and 4:00 p.m. In addition, if Irrigation is done with a source that contains a blend of Reclaimed Water and potable water, ground water, pond water or some other supply, the use of this blended water shall be subject to the restrictions that apply to that other supply, except for the following circumstances:

1. The other supply is incidental stormwater runoff that enters a Reclaimed Water storage pond;

2. The other supply is a withdrawal regulated by a District Water Use Permit, provided that the quantity being blended with the Reclaimed Water is specifically authorized for

blending purposes. For example, this other supply may be withdrawals from an un-augmented stormwater system or water recovered from a permitted ASR well that stores seasonal diversions from a surface water body, including ASR well testing authorized in preparation for permit issuance;

3. The other supply is water recovered from a Reclaimed Water ASR well permitted by the Florida Department of Environmental Protection, including Reclaimed Water ASR well testing authorized in preparation for permit issuance; or

4. The applicable Reclaimed Water provider is implementing a District-authorized variance from the provisions of Rule 40D-22.201, F.A.C., which addresses use of the reclaimed water blend.

(i) 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.

(j) Irrigation of established Turfgrass and Landscape associated with a public works project, when and where conducted using tanker trucks or other vehicles, is allowable without regard to the normally allowable watering days and times, except that Irrigation of Turfgrass by this method is limited to a maximum of two applications of 3/4 inches of water in any seven-day period after conclusion of the establishment period exemption specified above.

(4) Lawn and Landscape Use – The following additional requirements or exceptions to subsections 40D-22.201(1)-(3), F.A.C., shall apply to the Irrigation of Lawns and Landscape.

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

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

(c) Cemeteries and other Users irrigating property two acres or greater may water one-half of the property on the days allowed for Even Numbered Addresses and may water the remaining one-half on the days allowed for Odd Numbered Addresses. Each such User is required to maintain a map or sketch on site that indicates which days each part of the property will be watered, and the District or applicable local government may require that a copy of this same map or sketch be provided for verification or enforcement purposes. 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.

(5) Golf Courses – The following additional requirements or exceptions to subsections 40D-22.201(1)-(3), 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 subsections 40D-22.201(2)-(5), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(5)(a), F.A.C., all individual Users for Golf Course Irrigation shall use:

1. Best Management Practices For Florida Golf Courses, University of Florida, Institute of Food and Agricultural Sciences, Cooperative Extension Service, Department of Environmental Horticulture, 1993, as amended; or

2. The following measures:

a. Irrigation shall be limited to the times specified in subsection 40D-22.201(3), F.A.C.

b. Fairways, roughs and Driving Ranges, shall be watered no more than two times per week.

c. Tees and greens shall be watered no more than three times per week.

d. The Irrigation of tees and greens shall not be restricted when such Irrigation is for plant protection, including Frost/Freeze or Heat Stress, except as limited by subsection 40D-22.201(2), F.A.C.

e. Spot Treatment and Syringing are not restricted.

f. 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.

(6) Other Athletic Play Area Irrigation – The following additional requirements or exceptions to subsections 40D-22.201(1)-(3), F.A.C., shall apply to the play areas of Athletic Play Areas:

(a) 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 subsection 40D-22.201(2), F.A.C.;

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

(c) 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.

(d) Spot Treatment and Syringing are not restricted.

(e) 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. A map or sketch shall be maintained on site that indicates which days each part of the property will be watered, and the District or applicable local

government may require that a copy of this same map or sketch be provided for verification or enforcement purposes. 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) Agriculture – The following additional requirements or exceptions to subsection 40D-22.201(1), F.A.C., shall apply to Agriculture 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 subsections 40D-22.201(1)-(2) and (7), F.A.C.

(b) Except as excluded by paragraph 40D-22.201(7)(a), F.A.C., all individual Users for Agricultural Irrigation shall follow these measures:

1. Use of Micro-irrigation and other Low-Volume Irrigation methods shall not be restricted.

2. Operation of an Irrigation system for plant protection, including Frost/Freeze or Heat Stress prevention, shall not be restricted.

3. Irrigation for the purpose of watering-in fertilizers, insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted.

4. All other Irrigation shall be prohibited daily between the hours of 10:00 a.m. and 4:00 p.m.

5. The variance process may be used to register an alternative Irrigation program acceptable to the District, such as the ability to irrigate in accordance with a published document detailing Best Management Practices for the applicable crop or commodity.

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

40D-22.303 Variances and Waivers.

(1) 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 Numbered Addresses at the same time.

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

(c) A local government providing water to Users or a Reclaimed Water provider providing Reclaimed Water blend to Users that desires to sponsor an alternative year-round irrigation conservation plan approved by the District.

(d) A public or private water system experiencing, or anticipating, pressure problems associated with subsection 40D-22.201(4), 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 alternative year-round Irrigation conservation plan approved by the District 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, 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 order that is more restrictive than a water conservation measure contained within this Chapter, shall supersede the water conservation measures contained in this Chapter 40D-22, F.A.C. for the duration of the applicable water shortage declaration. This Chapter shall be effective year round. 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 or other appropriate local government official shall assist the District in enforcing this Chapter. 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. The District shall continue to only request assistance with address-specific or location-specific violation complaints that do not involve a Water Use Permit holder and constitute either an emergency or a repeat violation situation. It is the policy of the District to seek the cooperation of state, county and municipal officials, law enforcement officials, and police officers in the enforcement of the Year Round Water Conservation Measures contained within this Chapter.

(3) Irrigation of Lawns and Landscapes, as described in this Chapter, 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. Irrigation of established lawns and landscaping, as established above, may be further restricted by local governments. In the event that any county or city within the District adopts or implements such measures, the measures contained therein shall be at least as restrictive as those imposed by this Chapter. 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: June 24, 2003

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

LAND AND WATER ADJUDICATORY COMMISSION

Tomoka Community Development District

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Tomoka Community Development 42LL-1
 District

RULE TITLES: RULE NOS.:

Establishment 42LL-1.001

Boundary 42LL-1.002

Supervisors 42LL-1.003

PURPOSE, EFFECT AND SUMMARY: The purpose of this proposed rule is to establish a community development district (“CDD”), the Tomoka Community Development District (“Tomoka CDD”), pursuant to Chapter 190, F.S. The petition to establish the District, filed by ICI Homes, Inc., on behalf of PlanMore, Inc., collectively referenced as (“Petitioner”), requests that the Florida Land and Water Adjudicatory Commission establish by rule the Tomoka CDD. A Notice of Receipt of Petition for the Tomoka CDD was published in the May 2, 2003, edition of the Florida Administrative Weekly. The land area proposed to be served by the District will consist of approximately 2,100 acres, located in an area west of Interstate 95, northeast of U.S. Highway 1, south of Old Dixie Highway, and bounded on the east by the Florida Power and Light utility easement. The effected property comprises only Westlake Phases I & II. All the lands in the proposed Tomoka CDD are within the unincorporated area of Flagler County, Florida. There are two (2) out-parcels located within the external boundaries of the proposed Tomoka CDD which are to be excluded from the District. The out-parcels are a school site and agricultural lands. The proposed land uses within the proposed Tomoka CDD are subject to the approved Plantation Bay Development of Regional Impact Development Approval issued by Flagler and Volusia Counties. Approximately 2,500 residential units are planned for development within the Tomoka CDD. There is no commercial or retail development planned. The Petitioner either owns or has written consent to establish the Tomoka CDD from the owners of 100% of the real property located within the proposed Tomoka CDD. The Tomoka CDD, if established, intends to participate in the construction of certain road and entranceway improvements. The Tomoka CDD is also expected to provide certain stormwater and recreational amenity improvements for the lands within the District, as well as wetland restoration and funding for roadway planning, development, and engineering study.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Petitioner has prepared a Statement of Estimated Regulatory Costs (SERC) in compliance with Section 120.541, Florida Statutes. The complete text of the SERC is contained in Exhibit 9 to the petition to establish the District. The Petitioner, ICI Homes, Inc., presently intends for the District to participate in the construction of certain road and entranceway improvement as

contemplated in the Plantation Bay Development of Regional Impact Development Order. The District is also expected to provide certain stormwater, utility and recreation improvements for the lands within the District, as well as wetland restoration and funding for a roadway planning, development, and engineering study. The District intends to finance these infrastructure improvements through special assessment or other revenue bonds. Repayment of those bonds will be through non-ad valorem assessments levied against all benefitted properties within the District. The current and future property owner will be responsible for payment of these assessments on the basis of the amount of benefitted property owned. In exchange for payment of these special assessments, there are substantial potential benefits to be derived by the property owners. All of the current and future landowners within the boundaries of the proposed District will be required to comply with the administrative rule. The cost of implementing this rule to Flagler County, its residents and to all applicable state agencies for processing the documents is nominal. Flagler County was paid a \$15,000.00 processing fee to offset the cost of review of the petition to establish the district. Administrative costs will be incurred by the Florida Land and Water Adjudicatory Commission, the Division of Administrative Hearings, the Bureau of Accounting/Florida Department of Financial Services, and the Florida Department of Community Affairs. Other than administrative costs, no costs will be incurred by the State of Florida or the general citizenry from the establishment or operations of the District. Adoption of the proposed administrative rule will have no negative impact on state or local revenues. The impact of District establishment and function on competition and the employment market is marginal and generally positive, as is the impact on small business. None of the reasonable public or private alternatives, including an assessment of less costly and less intrusive methods and of probable costs and benefits of not adopting the rule, is as economically viable as establishing the District. Creation of the District should not have a negative impact on small counties. Analysis provided by the SERC is based on a straightforward application of economic theory, especially as it relates to tracking the incidence of regulatory costs and benefits. Inputs were received from the Developer’s Engineer and other professionals associated with the Developer.

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 twenty-one (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 (IF NOT REQUESTED, A HEARING WILL NOT BE HELD):

TIME AND DATE: 2:00 p.m. – 4:00 p.m., Thursday, August 7, 2003

PLACE: Room 1802M, The Capitol, Tallahassee, Florida
 Any person requiring a special accommodation to participate in the workshop because of a disability should contact Barbara Leighty, (850)487-1884, at least five (5) business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Leighty, Senior Policy Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1802, Tallahassee, Florida 32399-0001, (850)487-1884

THE FULL TEXT OF THE PROPOSED RULE IS:

TOMOKA COMMUNITY DEVELOPMENT DISTRICT

42LL-1.001 Eshishment.

The Tomoka Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004 and 190.005 FS. History—New _____.

42LL-1.002 Boundary.

The boundaries of the district are as follows:

A portion of sections, 3, 4, 5, 8, 9, 10, 15, 16, 21, and 22, Township 13 south, range 31 east, Flagler County, Florida, and a portion of Bunnell Development Company Subdivision, as recorded in plat book 1, page 1, of the Public Records of Flagler County, Florida, and a portion of sections 14, 22 and 23, Township 13 south, range 31 east, Volusia County, Florida, described as follows:

From the southwest corner of said section 3, run north 01 degrees 46 minutes 36 seconds west along the west line of said section 3 a distance of 451.12 feet to the point of beginning; thence continue north 01 degrees 46 minutes 36 seconds west along said line a distance of 535.72 feet; thence departing said line, run north 87 degrees 27 minutes 53 seconds east a distance of 150.00 feet; thence north 01 degree 46 minutes 33 seconds west a distance of 1287.05 feet to the southerly right of way line of Old Dixie Highway, a 66 foot right of way; thence north 89 degrees 28 minutes 05 seconds east along said right of way line a distance of 1181.54 feet; thence departing said right of way line, run south 01 degree 48 minutes 15 seconds east along the east line of lot 4, block C, section 3, said Bunnell Development Company subdivision a distance of 1287.00 feet; thence north 89 degrees 28 minutes 22 seconds east along the north line of lot 10, block C, section 3, said Bunnell Development Company subdivision a distance of 110.00 feet; thence departing said line, run south 01 degree 48 minutes 15 seconds east along the easterly line of a 110 foot Florida Power & Light Company easement as recorded in deed book 116, page 128, of the Public Records of Flagler County, Florida, and the boundary of Plantation Bay phase I-A, as recorded in plat book 29, pages 40-48, of the Public Records of Flagler County, Florida, a distance of 782.92 feet; thence

departing said line, run south 89 degrees 35 minutes 22 seconds west a distance of 236.07 feet; thence north 01 degree 48 minutes 15 seconds west a distance of 399.99 feet; thence south 82 degrees 12 minutes 14 seconds west a distance of 1212.70 feet to the point of beginning.

Together with the following:

From the southwest corner of said section 3, as the point of beginning, run south 02 degrees 08 minutes 04 seconds east along the east line of said section 9 a distance of 473.67 feet; thence departing said line, run south 62 degrees 28 minutes 42 seconds west a distance of 334.23 feet to a point on the arc of a curve, concave westerly, having a radius of 1380.00 feet, central angle of 40 degrees 46 minutes 36 seconds, and a chord bearing of south 06 degrees 49 minutes 43 seconds west; thence run southerly along the arc of said curve a distance of 982.13 feet; thence south 27 degrees 13 minutes 01 seconds west a distance of 704.67 feet to the p.c. of a curve, concave easterly, having a radius of 571.65 feet and a central angle of 34 degrees 23 minutes 14 seconds; thence run southerly along the arc of said curve a distance of 343.09 feet to the p.r.c. of a curve, concave northwest, having a radius of 658.75 feet and a central angle of 32 degrees 59 minutes 14 seconds; thence run southerly along the arc of said curve a distance of 379.27 feet; thence south 25 degrees 49 minutes 00 seconds west a distance of 502.83 feet to the p.c. of a curve, concave southeast, having a radius of 670.00 feet and a central angle of 39 degrees 19 minutes 27 seconds; thence run southerly along the arc of said curve a distance of 459.84 feet; thence south 13 degrees 30 minutes 26 seconds east a distance of 180.63 feet to the p.c. of a curve, concave northeast, having a radius of 25.00 feet and a central angle of 88 degrees 29 minutes 15 seconds; thence run easterly along the arc of said curve a distance of 38.61 feet to the p.r.c. of a curve, concave southwest, having a radius of 2058.75 feet, central angle of 33 degrees 31 minutes 32 seconds, and a chord bearing of south 85 degrees 13 minutes 55 seconds east; thence run easterly along the arc of said curve a distance of 1204.64 feet; thence south 02 degrees 08 minutes 04 seconds east along the east line of said section 9 a distance of 1175.28 feet to the southeast corner thereof; thence south 02 degrees 02 minutes 03 seconds east along the east line of said section 16 a distance of 3104.20 feet; thence departing said line, run north 87 degrees 57 minutes 57 seconds east a distance of 860.71 feet to a point to be reference as point "A"; thence south 13 degrees 56 minutes 20 seconds west a distance of 973.88 feet to the p.c. of a curve, concave easterly, having a radius of 2550.00 feet and a central angle of 31 degrees 08 minutes 05 seconds; thence run southerly along the arc of said curve a distance of 1385.68 feet; thence south 17 degrees 11 minutes 45 seconds east a distance of 731.09 feet to the p.c. of a curve, concave northwest, having a radius of 625.00 feet and a central angle of 61 degrees 22 minutes 11 seconds; thence run westerly along the arc of said curve a distance of 669.44 feet; thence south 44 degrees 10 minutes 26 seconds west a distance of 234.53 feet to the p.c. of a curve, concave

northerly, having a radius of 25.00 feet, central angle of 90 degrees 16 minutes 05 seconds, and a chord bearing of south 89 degrees 33 minutes 29 seconds west; thence run northerly along the arc of said curve a distance 39.61 feet to the p.c.c. of a curve, concave northeast, having a radius of 5619.59 feet, central angle of 03 degrees 58 minutes 40 seconds, and a chord bearing of north 43 degrees 04 minutes 09 seconds west; said point being on the easterly right of way line of U.S. Highway No. 1, a 160 foot right of way; thence northerly along said right of way line and the arc of said curve a distance of 390.13 feet; thence north 48 degrees 55 minutes 11 seconds east a distance of 35.00 feet to a point on the arc of a curve, concave northeast, having a radius of 5584.59 feet, central angle of 1 degree 40 minutes 40 seconds, a chord bearing of north 40 degrees 14 minutes 29 seconds west; thence run northerly along the arc of said curve a distance of 163.53 feet; thence north 39 degrees 24 minutes 09 seconds west a distance of 276.47 feet; thence south 50 degrees 35 minutes 51 seconds west a distance of 35.00 feet; thence north 39 degrees 24 minutes 09 seconds west a distance of 7995.87 feet; thence departing said right of way line, run north 89 degrees 11 minutes 58 seconds east along the south line of lots 8 and 9, block C, section 9, said Bunnell Development Company subdivision, a distance of 999.49 feet; thence north 02 degrees 00 minutes 32.5 seconds west along the east line of lot 9, block C, said section 9 a distance of 1320.83 feet; thence north 89 degrees 12 minutes 05 seconds east along the north line of lots 10 and 12, block C, said section 9 a distance of 1325.60 feet; thence north 02 degrees 04 minutes 45 seconds west along the west line of lots 5 and 6, block D, said section 9 a distance of 1320.83 feet; thence south 89 degrees 12 minutes 11 seconds west along the south line of lots 10 and 11, block B, said section 9 a distance of 1323.99 feet; thence south 02 degrees 00 minutes 32.5 seconds east along the east line of lot 4, block C, said section 9 a distance of 1320.83 feet; thence south 89 degrees 12 minutes 05 seconds west along the south line of lot 4, block C, said section 9 a distance of 662.80 feet; thence north 01 degree 58 minutes 26 seconds west along the west line of lot 4, block C, and lot 9, block D, said section 9 a distance of 19381.25 feet; thence south 89 degrees 12 minutes 14 seconds west along the south line of lot 7, block B, said section 9, and the south line of lot 12, block A, said section 8 and the westerly extension thereof, a distance of 1396.16 feet; thence north 07 degrees 21 minutes 09.5 seconds west a distance of 442.07 feet; thence south 72 degrees 34 minutes 37 seconds west a distance of 267.61 feet to the easterly right of way line of said U.S. Highway No. 1; thence north 17 degrees 23 minutes 09 seconds west along said right of way line a distance of 311.39 feet; thence departing said line, run north 89 degrees 14 minutes 31 seconds east along the northly line of lot 12, block A, said section 8, and the westerly extension thereof a distance of 310.90 feet; thence north 17 degrees 18 minutes 16 seconds west a distance of 690.36 feet; thence north 01 degree 07 minutes 55 seconds west a distance of 235.10 feet; thence

south 89 degrees 19 minutes 05 seconds west a distance of 280.00 feet; thence north 01 degree 07 minutes 55 seconds west a distance of 425.00 feet to the north line of said section 8; thence south 89 degrees 19 minutes 05 seconds west along said north line a distance of 152.45 feet; thence north 01 degree 02 minutes 20 seconds west along the west line of lots 3 and 10, block D, said section 5, a distance of 2338.83 feet; thence north 89 degrees 18 minutes 57 seconds east along the north line of lots 2 and 3, block D, said section 5 a distance of 1328.19 feet; thence north 89 degrees 33 minutes 19 seconds east along the north line of lot 5, block C, said section 4 a distance of 668.21 feet; thence south 02 degrees 54 minutes 51 seconds east along the east line of lot 5, block C, said section 4 a distance of 660.00 feet; thence south 89 degrees 33 minutes 49 seconds west along the south line of lot 5, block C, said section 4 a distance of 666.05 feet; thence south 03 degrees 06 minutes 06 seconds east along the east line of lots 1, 11 and 12, block D, said section 5, being the east line of said section 5, a distance of 1680.93 feet; thence north 89 degrees 09 minutes 34 seconds east along the north line of lots 4 and 5, block B, said section 9, being the north line of said section 9, a distance of 1320.73 feet; thence north 02 degrees 43 minutes 34 seconds west along the west line of lot 10, block C, said section 4, a distance of 1011.14 feet; thence north 89 degrees 33 minutes 56 seconds east along the north line of lots 10 and 12, block C, and lots 7 and 9, block D, said section 4 a distance of 2657.49 feet; thence south 02 degrees 04 minutes 00 seconds east along the east line of lot 9, block D, said section 4 a distance of 994.19 feet; thence north 89 degrees 15 minutes 13 seconds east along the north line of lots 2 and 3, block A, said section 9, being the north line of said section 9, a distance of 1324.71 feet to the point of beginning.

Together with the following:

From previously reference point "A", run south 84 degrees 30 minutes 42 seconds east a distance of 101.10 feet to the point of beginning; thence north 87 degrees 57 minutes 57 seconds east a distance of 2815.27 feet to a point on the boundary of Eagle Rock Ranch subdivision, as recorded in map book 26, pages 51 and 52, of the Public Records of Flagler County, Florida; thence south 40 degrees 11 minutes 55 seconds west along said boundary a distance of 640.75 feet; thence south 88 degrees 27 minutes 37 seconds west along said boundary a distance of 45.18 feet; thence south 40 degrees 11 minutes 55 seconds west along said boundary a distance of 2189.93 feet; thence south 49 degrees 47 minutes 54 seconds east along said boundary a distance of 1171.20 feet; thence south 40 degrees 14 minutes 04 seconds west along said boundary a distance of 2222.60 feet to the easterly right of way line of U.S. Highway No. 1; thence along said right of way line, run north 49 degrees 47 minutes 21 seconds west a distance of 637.20 feet to the p.c. of a curve, concave northeast, having a radius of 5619.59 feet and a central angle of 3 degrees 11 minutes 42 seconds; thence run northerly along the arc of said curve a distance of 373.37 feet to the p.c. of a curve, concave southeast, having a radius

of 25.00 feet and a central angle of 90 degrees 46 minutes 05 seconds; thence departing said right of way line, run easterly along the arc of said curve a distance of 39.61 feet; thence north 44 degrees 10 minutes 26 seconds east a distance of 234.53 feet to the p.c. of a curve, concave northwest, having a radius of 725.00 feet and a central angle of 61 degrees 22 minutes 11 seconds; thence run northerly along the arc of said curve a distance of 776.55 feet; thence north 17 degrees 11 minutes 45 seconds west a distance of 731.09 feet to the p.c. of a curve, concave southeast, having a radius of 2450.00 feet and a central angle of 31 degrees 08 minutes 05 seconds; thence run northerly along the arc of said curve a distance of 1331.34 feet; thence north 13 degrees 56 minutes 20 seconds east a distance of 163.86 feet to the point of beginning.

Together with the following:

From the southeast corner of said section 22, run south 89 degrees 26 minutes 56 seconds west along the south line of said section 22 a distance of 757.21 feet to the easterly right of way line of U.S. Highway No. 1, a 160 foot right of way, thence north 49 degrees 48 minutes 44 seconds west along said right of way line a distance of 509.05 feet to the point of beginning; thence continue along said right of way line north 49 degrees 46 minutes 07 seconds west a distance of 100.10 feet; thence departing said right of way line, run north 42 degrees 47 minutes 46 seconds east, parallel with the southerly line of Eagle Rock Ranch subdivision, as recorded in map book 26, pages 51 & 52 of the Public Records of Flagler County, Florida, a distance of 2222.97 feet; thence north 49 degrees 46 minutes 12 seconds west a distance of 428.53 feet; thence north 40 degrees 11 minutes 55 seconds east a distance of 5473.32 feet to the westerly right of way line of Interstate No. 95, a 300 foot right of way; thence south 20 degrees 43 minutes 11 seconds east along said right of way line a distance of 5003.89 feet to the east line of said section 23; thence south 01 degree 50 minutes 39 seconds east along said east line a distance of 1773.40 feet to the southeast corner of said section 23; thence south 89 degrees 46 minutes 01 seconds west along the south line of said section 23 a distance of 2661.49 feet; thence departing said line, run north 49 degrees 46 minutes 12 seconds west a distance of 3006.16 feet; thence south 42 degrees 47 minutes 46 seconds west a distance of 2222.97 feet to the point of beginning.

Excepting therefrom the plat of Plantation Bay School site, as recorded in plat book 29, page 49 of the Public Records of Flagler County, Florida.

And excepting the following:

A portion of section 9 and 16, Township 13 south, range 31 east, Flagler County, Florida, described as follows; from the northeast corner of said section 16, run south 89 degrees 11 minutes 50 seconds west along the north line of said section 16, a distance of 4981.16 feet to the east right of way line of U.S. 1, a 160 foot right of way; thence south 39 degrees 24 minutes 09 seconds east, along said right of way line a distance

of 1525.00 feet to and the p.c. of a curve, concave northerly, having a radius of 25.00 feet and a central angle of 90 degrees 00 minutes 00 seconds; thence departing said right of way line, run easterly along the arc of said curve a distance of 39.27 feet; thence north 50 degrees 35 minutes 51 seconds east a distance of 353.91 feet to the p.c. of a curve, concave southeast, having a radius of 425.24 feet, central angle of 37 degrees 57 minutes 36 seconds, and a chord bearing of north 69 degrees 34 minutes 39 second east; thence run easterly along the arc of said curve a distance of 281.73 feet to the P.R.C. of a curve, concave northerly, having a radius of 390.67 feet and a central angle of 54 degrees 14 minutes 32 seconds; thence run easterly along the arc of said curve a distance of 369.83 feet to the P.C.C. of a curve, concave northerly, having a radius of 2818.85 feet, central angle of 2 degrees 04 minutes 29 seconds; and a chord bearing of north 33 degrees 16 minutes 41 second east; thence run easterly along the arc of said curve a distance of 102.00 feet; thence south 49 degrees 15 minutes 56 second east a distance of 142.40 feet to the P.C. of a curve, concave easterly, having a radius of 25.00 feet, central angle of 80 degrees 21 minutes 26 seconds, and a chord bearing of north 08 degrees 00 minutes 29 seconds west, thence run northerly along the arc of said curve a distance of 35.06 feet to the P.R.C. of a curve, concave northwest, having a radius of 2938.85 feet, central angle of 8 degrees 19 minutes 23 seconds, and a chord bearing of north 28 degrees 00 minutes 33 second east; thence run northerly along the arc of said curve a distance of 126.91 feet; thence north 23 degrees 50 minutes 51 seconds east a distance of 125.00 feet; to the point of beginning; thence continue north 23 degrees 50 minutes 51 seconds east a distance of 227.35 feet to the north line of said section 16; thence continue north 23 degrees 50 minutes 51 seconds east a distance of 123.65 feet; thence south 76 degrees 52 minutes 06 seconds was a distance of 462.98 feet to the north line of said section 16; thence continue south 76 degrees 52 minutes 06 seconds east a distance of 216.11 feet; thence south 48 degrees 20 minutes 31 seconds east a distance of 1737.34 feet; thence south 04 degrees 12 minutes 29 seconds east a distance of 450.94 feet; thence north 60 degrees 12 minutes 29 seconds west a distance of 698.75 feet; thence north 79 degrees 12 minutes 29 seconds west a distance of 393.78 feet; thence north 31 degrees 58 minutes 15 seconds west a distance of 463.90 feet; thence north 64 degrees 20 minutes 47 seconds west a distance of 474.24 feet; thence north 48 degrees 09 minutes 28 seconds west a distance of 628.10 feet to the point of beginning.

Also less and except the property described in Official Records Book 561, page 358; Official Records Book 318, page 1002, 1007; Official Records Book 276, page 61; Official Records Book 595, page 196; and Official Records Book 600, page 52, all of the public records of Flagler County, Florida.

Specific Authority 190.005 FS, Law Implemented 190.004, 190.005 FS, History—New _____.

42LL-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: Mark Ambach, Doug Ross, Andy Hagen, Dick Smith, and Jean Trindler.

Specific Authority 190.005 FS, Law Implemented 190.004, 190.005 FS, History–New _____.

NAME OF PERSON ORIGINATING THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission, Room 1802, The Capitol, Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: July 3, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE TITLE: HMO and PHC Penalty Categories

RULE NO.: 59A-12.0073

PURPOSE AND EFFECT: The purpose and effect of the rule to be developed is to establish penalty categories that specify varying ranges of monetary fines for willful and nonwillful violations of applicable provisions of Chapter 641, Parts II and III, or applicable rules promulgated thereunder.

SUMMARY: The creation of this rule will establish penalty categories that specify specific varying ranges of fines for willful and nonwillful violations of applicable provisions of Chapter 641, Parts II and III, F.S., or rules promulgated under Chapter 641, Parts II and III.

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 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: 641.56 FS.

LAW IMPLEMENTED: 641.52, 641.511, 641.55, 641.58 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: Hazel Greenberg, Medical Health Care Program Analyst, Agency for Health Care Administration, Bureau of Managed Health Care, Data Analysis Unit, 2727 Mahan Drive, Mail Stop Code 26, Tallahassee, FL 32308, (850)414-9444

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-12.0073 HMO and PHC Penalty Categories.

(1) Purpose. The purpose of this rule is to establish penalty categories that specify varying ranges of monetary fines for willful and nonwillful violations of applicable provisions of Chapter 641, Parts II and III, or rules promulgated thereunder.

(2) Scope. This rule developed by the Agency for Health Care Administration governs the issuance of penalties against health maintenance organizations and prepaid health clinics pursuant to the authority set forth in Chapter 641, F.S. It applies to all violations of the provisions of Chapter 641, Parts II and III, F.S., or rules promulgated thereunder.

(3) Definitions. All terms defined in the Health Maintenance Organization Act, Chapter 641, F.S., which are used in this rule shall have the same meaning as in the act:

(a) "Action" means an event or events leading to the commission of a violation.

(b) "Harm" means any physical or economic damages to a subscriber, member, covered person, or provider.

(c) "HMO" means a health maintenance organization as defined in Section 641.19(13), F.S., and licensed pursuant to the provisions of Chapter 641, F.S.

(d) "Investigation", "examination", "inspection" means any official Agency review, analysis, inquiry, or research into referrals, complaints, or inquiries to determine the existence of a violation pursuant to Section 641.515, F.S.

(e) "Knowing and willful" means any act or omission, which is committed intentionally as opposed to accidentally and which is committed with knowledge of the act's unlawfulness or with reckless disregard as to the unlawfulness of the act.

(f) "Mitigating Factors" means a condition that moderates, lessens, or alleviates a determination of penalties for violations not listed in this rule.

(g) "PHC" means a prepaid health clinic as defined in Section 641.02(5), F.S., and licensed pursuant to the provisions of Chapter 641, F.S.

(h) "Provider" means any physician, hospital, or other institution, organization, or person that furnishes health care services and is licensed or otherwise authorized to practice in the state.

(i) "Repeat Violations" means a second or subsequent offense of any given violation under this rule within the preceding four years.

(j) "Subscriber" means an individual who has contracted, or on whose behalf a contract has been entered into, with a HMO or PHC for health care services.

(k) "Violation" means any finding by the Agency of noncompliance by a HMO or PHC with any applicable provisions of Chapter 641, Parts II and III, F.S., rules or orders of the Agency governing HMOs or PHCs.

(4) General Provisions:

(a) Rule Not All-Inclusive. This rule contains illustrative violations. This rule does not, and is not intended to, encompass all possible violations of statute or Agency rule that might be committed by a HMO or PHC. The absence of any violation from this rule shall in no way be construed to indicate that the HMO or PHC is not subject to penalty. In any instance wherein the violation is not listed in this rule, the penalty shall be determined by consideration of:

1. The aggravating and mitigating factors specified in this rule; and

2. Any similar or analogous violation that is listed in this rule, if applicable.

(b) Rule and Statutory Violations Included. This rule applies whether the violation is of an applicable statute or Agency rule, or an order implementing such a statute or rule.

(c) Relationship to Other Rules. The provisions of this rule shall be subordinated in the event that any other rule more specifically addresses a particular violation or violations.

(d) Other Licensees. The imposition of a penalty upon any HMO or PHC in accordance with this rule shall in no way be interpreted as barring the imposition of a penalty upon any agent, or other licensee in connection with the same conduct.

(5) Aggravating Factors. The following aggravating factors are considered in determining penalties for violations not listed in this rule, and, as to listed violations, the placement of the penalty within the range specified. The factors are not necessarily listed in order of importance:

(a) Willfulness and knowledge of the violation.

(b) Actual harm or damage to any recipient, subscriber, claimant, applicant, or other person or entity caused by the violation, as determined by the Agency's examination, inspection, or investigation.

(c) Degree of harm to which any recipient, subscriber, claimant, applicant, or other person or entity was exposed by the violation, as determined by the Agency's examination, inspection, or investigation.

(d) Whether the HMO or PHC reasonably should have known of the action's unlawfulness.

(e) Financial gain or loss to the HMO or PHC or its affiliates from the violation.

(f) Whether the violation is a repeat violation.

(g) The number of occurrences of a violation found during an examination, inspection, or investigation.

(6) Mitigating Factors. Examples of mitigating factors are as follows:

(a) Whether corrective activities were actually and substantially initiated (not just planned) and implemented by the HMO or PHC before the violation was noted by or brought to the attention of the Agency and before the HMO or PHC was made aware that the Agency was investigating the alleged violation. Such corrective activities must be implemented to assure that the violation does not recur and include but not be

limited to the following: personnel changes, reorganization or discipline, and making any injured party whole as to harm suffered in relation to the violation.

(b) Destruction of records by fire, hurricane, or other natural disaster.

(c) Sudden unexpected death or incapacitation of key personnel.

(d) Error ratios of less than 5%.

(7) Penalty Categories and Fines Assessed. Violations are divided into three categories. Category I violations are the most serious and Category III violations are the least serious. Category I violations are violations that will cause harm; Category II violations are violations that have the potential to cause harm; and, Category III violations are violations that would cause no harm. The Agency will use the factors in subsections (5) and (6) above, and any similar or analogous violation listed in this rule, if applicable, to determine, within the penalty ranges specified below, the fine for each violation within a category. The penalty amount does not include any examination or investigative costs that may be assessed in addition to the fine.

(a) CATEGORY I. When a fine is imposed within this category for a knowing and willful violation, the amount shall not exceed \$20,000 per violation. Additionally, fines for knowing and willful violations may not exceed an aggregate amount of \$250,000 for all such violations arising out of the same action. When a fine is imposed for a nonwillful violation within this category, the fine shall not exceed \$2,500 per violation. Additionally fines for non-willful violations may not exceed an aggregate amount of \$25,000 for all such violations arising out of the same action.

1. Violation by the HMO or PHC of any lawful rule or order of the Agency.

2. Failure by the HMO or PHC to acquire a health care provider certificate from the Agency pursuant to Section 641.49, F.S.

3. Failure by the HMO or PHC to notify the Agency at least 60 days prior to the date it plans to begin providing health care services in a new geographic area pursuant to Section 641.495, F.S.

4. Failure of the HMO or PHC to provide health care services to subscribers as required by Sections 641.495 and 641.51, F.S.

5. Failure by the HMO or PHC to provide referrals to out-of-network specially qualified providers or for ongoing specialty care to subscribers pursuant to Sections 641.51(6) and (7), F.S.

6. Failure by the HMO or PHC to allow subscribers access to a grievance process for the purpose of addressing complaints and grievances pursuant to Section 641.511, F.S.

7. Failure by the HMO or PHC to notify subscribers of appeal rights under the plan's grievance process pursuant to Section 641.511(10), F.S.

8. Failure of the HMO or PHC to provide or otherwise cover emergency services and care to subscribers pursuant to Section 641.513, F.S.

(b) CATEGORY II. If the violation is knowing and willful, the fine assessed shall not exceed \$10,000 per violation. If the violation is nonwillful, the fine assessed shall not exceed \$1,000 per violation.

1. Failure by the HMO or PHC to provide to the subscriber the right to a second medical opinion pursuant to Section 641.51(5), F.S.

2. Failure by the HMO or PHC to take appropriate action as prescribed by the written policies and procedures of the HMO or PHC whenever inappropriate or substandard services have been provided or services that should have been provided have not been provided as determined under the quality assurance program pursuant to Section 641.51, F.S.

3. Failure by the HMO or PHC to investigate and analyze as prescribed by the written policies and procedures of the HMO or PHC, the frequency and causes of adverse incidents causing injury to patients pursuant to Section 641.55, F.S.

4. Failure by the HMO or PHC to analyze patient grievances relating to patient care and quality of medical services pursuant to Section 641.55, F.S.

5. Failure by the HMO or PHC to pay a claim pursuant to Section 641.513, F.S. Assignment by the HMO or PHC of claim processing and/or payment to a third party administrator or other entity does not relieve the managed care plan of its responsibilities to pay claims.

(c) CATEGORY III. If the violation is knowing and willful, the fine assessed shall not exceed \$2,500 per violation. If the violation is nonwillful, the fine assessed shall not exceed \$500 per violation.

1. Failure by the HMO or PHC to timely and accurately submit data to the Agency pursuant to Section 641.51(9), F.S., and Chapter 59B-13.001, Florida Administrative Code. The penalty period will begin on the first day following the due date at \$200 a day for purposes of penalty assessments.

2. Failure by the HMO or PHC to resolve a grievance within the statutory requirements pursuant to Section 641.511, F.S.

3. Failure by the HMO or PHC to file with the Agency a copy of the quarterly grievance report pursuant to Section 641.511(7), F.S. The penalty period will begin on the first day following the due date at \$200 a day for purposes of penalty assessments.

4. Failure by the HMO or PHC to report to the Agency any adverse or untoward incident within the mandated time frames pursuant to Section 641.55(6), F.S. In addition to any penalty imposed the Agency may impose an administrative fine not to exceed \$5,000 per violation pursuant to Section 641.55(7), F.S.

5. Failure by the HMO or PHC to timely pay the regulatory assessment as required by Section 641.58, F.S., by April 1. The penalty period will begin on the first day

following the due date and continue until such time as the assessment is received by the Agency. During such penalty period the HMO or PHC shall be penalized at a rate of \$200 per day for each calendar day during the penalty period. The failure to timely pay will be classified as non-willful for the first 30 days that payment has not been received. Starting with day 31, the failure to pay will be classified as a willful violation.

Specific Authority 641.56 FS. Law Implemented 641.52(5) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Hazel Greenberg

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Warring, Bureau Chief

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLE: RULE NO.:

Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances 61G1-12.004

PURPOSE AND EFFECT: The proposed rule amendments are intended to address additional violations of the practice act and set forth penalties for said violations.

SUMMARY: The proposed rule amendments set forth additional violations and set forth the penalties accompanying said violations.

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

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

SPECIFIC AUTHORITY: 455.2273 FS.

LAW IMPLEMENTED: 455.227(1), 455.2273 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: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-12.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) No change.

(2) The following disciplinary guidelines shall be followed by the board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
(a) through (b) No change.		
(c) "Plan stamping" (481.221(4), (5), F.S.)		
First Offense	Reprimand and \$1000 <u>\$2000</u> fine	\$1000 fine <u>\$5000</u> and one (1) year suspension followed by two (2) years probation
Second Offense	\$2000 <u>\$5000</u> fine, <u>1 year suspension followed by and two (2) years probation</u>	\$3000 <u>\$5000 fine and revocation</u> and two (2) years suspension followed by two (2) years probation
Third Offense	\$5000 <u>\$5000</u> fine and <u>revocation one (1) year suspension followed by two (2) years probation</u>	\$5000 <u>\$5000</u> fine and <u>revocation</u>
(d) Plans not sufficiently detailed (481.221(6), (7), F.S.)		
First Offense	Reprimand, two (2) years <u>probation</u> and \$1000 fine	\$1000 fine and one (1) year suspension followed by two years probation
Second Offense	\$2000 fine and one (1) year suspension followed by two (2) years probation	\$5000 fine, two (2) years suspension followed by two (2) years probation
Third Offense	\$5000 fine and two (2) years suspension followed by two (2) years probation	\$5000 fine and revocation
(e) through (i) No change.		
(j) Practice on revoked <u>license</u> (481.225(1)(k), F.S.)	Refer to State Attorney for criminal prosecution	
(k) through (u) No change.		
(v) <u>Failure to perform statutory or legal obligation</u> (481.225(1)(j), 481.2251(1)(g), or 455.227(1)(k), FS.)		
First Offense	Reprimand and <u>\$2000 fine</u>	<u>\$5000 fine and one (1) year suspension followed by two (2) years probation</u>
Second Offense	<u>\$5000 fine, one (1) year suspension followed by two (2) years probation</u>	<u>\$5000 fine and revocation</u>
Third Offense	<u>\$5000 fine and revocation</u>	

(w) <u>Improper use of seal (61G1-16.003)</u>		
First Offense	<u>Reprimand</u>	<u>\$250 fine</u>
Second Offense	<u>\$500 fine</u>	<u>Probation and \$500 fine</u>
Third Offense	<u>Probation and \$1000 fine</u>	<u>Suspension and \$5000 fine</u>
(x) <u>Improper title block (61G1-16.004)</u>		
First Offense	<u>Reprimand</u>	<u>\$250 fine</u>
Second Offense	<u>\$500 fine</u>	<u>Probation and \$500 fine</u>
Third Offense	<u>Probation and \$1000 fine</u>	<u>Suspension and \$5000 fine</u>
(y) <u>Failure to exercise responsible supervisory control (61G1-23.010 and 61G1-23.040)</u>		
First Offense	<u>Reprimand and \$2000 fine</u>	<u>\$5000 fine and one (1) year suspension followed by two (2) years probation</u>
Second Offense	<u>\$5000 fine, one (1) year suspension followed by two (2) years probation</u>	<u>\$5000 fine and revocation</u>
Third Offense	<u>\$5000 fine and revocation</u>	
(z) <u>Failure to notify Board of qualifier change (481.219(10))</u>		
First Offense	<u>Reprimand</u>	<u>\$5000 fine</u>
Second Offense	<u>\$5000 fine</u>	<u>Revocation of the certificate</u>
Third Offense	<u>Revocation of the certificate</u>	
<u>Individual Architect or Interior Design License</u>		
First Offense	<u>Reprimand</u>	<u>\$5000 fine</u>
Second Offense	<u>\$5000 fine</u>	<u>Suspension</u>
Third Offense	<u>Suspension</u>	<u>Revocation</u>
(aa) <u>Failure to comply with Final Order (481.225(1)(j), 481.2251(1)(k), 455.227(1)(q))</u>		
First Offense	<u>Suspension</u>	<u>Revocation</u>
Second Offense	<u>Revocation</u>	

(3) No change.

Specific Authority 455.2273 FS. Law Implemented 455.227(1), 455.2273 FS. History--New 12-11-86, Formerly 21B-12.004, Amended 5-16-94, 10-20-96, 10-7-99, 6-8-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 10, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE TITLES:	RULE NOS.:
Responsible Supervising Control for Documents for Exempt Buildings Which Require an Architect's Seal and Signature for Building Permit Purposes	61G1-23.025
Standards for Architectural Supervision in Construction or Marketing Offices	61G1-23.030
Responsible Supervising Control Over Interior Design Practice in the Interior Designer's Office	61G1-23.040
Standard's for Interior Design Supervision in Field or Marketing Offices	61G1-23.060

PURPOSE AND EFFECT: The Board has recently reviewed its rules and made changes to said rules for the purpose of clarifying architecture and interior standards of practice.

SUMMARY: The proposed rule amendments provide clarification with regard to standards of practice and appropriate supervision and control as they relate to architecture and interior design.

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

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

SPECIFIC AUTHORITY: 481.2055 FS.

LAW IMPLEMENTED: 481.223, 481.229, 481.221(5), 481.225, 481.2251 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: Juanita Chastain, Executive Director, Board of Architecture and Interior Desing, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G1-23.025 Responsible Supervising Control for Documents for Exempt Buildings Which Require an Architect's Seal and Signature for Building Permit Purposes. The procedures set forth in Rule ~~61G1-23.015~~ ~~61G1-23.020~~, F.A.C., shall also be followed when an architect is required by local building ordinance to sign and seal plans for buildings which unlicensed persons are authorized to design under the exceptions contained in subsections 481.229(1)(a)-(c), F.S.

Specific Authority 481.2055 FS. Law Implemented 481.221(4), 481.223, 481.225, 481.229 FS. History--New 11-21-94, Amended _____.

61G1-23.030 Standards for Architectural Supervision in Construction or Marketing Offices.

(1) An architectural office which is a construction ~~or~~ field ~~or project~~ office, ~~or is part of an expanded area for the production of architectural documents~~, is not considered as offering architectural services to the public, and therefore, does not need a separate architect assigned directly to such office.

(2) An architect shall not be required to be assigned to a marketing office. A marketing office is defined as an office of an architectural firm wherein no production of drawings, specifications, reports or other professional work occurs and is intended solely for the purpose of advertising or marketing an architectural firm's services to the public. The client contact permitted as a marketing office by non-registered persons shall only include marketing a firm's qualifications and capabilities. No other professional activities shall be performed at this office. ~~Any other activities, including the entering into contracts between the architect and the client or the beginning of conceptual drawings shall require the full time assignment of a registered architect at the office site.~~

(3) Any architect or architectural firm can advertise in any medium, including the telephone directory yellow pages, even if no office is physically present in the area of the advertisement. Such advertisement or listing, however, shall not mislead the public into believing that the phone number and address given is capable of offering architectural services to the public if in fact the phone or address listed is not an architectural office and shall be clearly listed or designated as a marketing office only or a construction ~~or~~ field ~~or project~~ office, as applicable.

(4) No change.

~~(5) All firms shall notify the Board Office of the location of all full service offices and the name of the architect assigned to serve within sixty (60) days of the opening of the office and the assignment of the architect as well as a change of the architect to be assigned to the office. The same architect cannot be assigned to a main office and branch office at the same time.~~

Specific Authority 481.2055 FS. Law Implemented 481.221(4), 481.223, 481.225, 481.229 FS. History--New 11-21-94, Amended _____.

61G1-23.040 Responsible Supervising Control Over Interior Design Practice in the Interior Designer's Office.

(1) Each interior design office maintained for the preparation of drawings, specifications, reports and other professional work shall have an interior designer duly registered with the Board of Architecture and Interior Design within that office with full authority and in responsible charge, having direct knowledge and supervising control over such work. This rule (61G1-23.040) does not address the procedures required of an interior designer in sealing and signing work which falls within the definition of "interior design" as that term is defined in Section 481.203(8), F.S. The responsible supervising control which is required of interior designers prior to sealing and signing interior design documents as that term is used in Section 481.221(5), F.S., shall mean:

~~(a)(1)~~ Personal supervision by the interior designer exercised throughout the preparation of documents, instruments of service, specifications, reports or other work which requires the seal and signature of a licensed interior designer; ~~or~~

~~(b)(2)~~ Review, approval, modification, or adoption, as the interior designer's work of any documents, instruments of service, specifications, reports or other work, so long as the aforesaid were prepared in the interior designer's offices by an employee of the interior designer, or by an agent of the interior designer under a written agreement with the interior designer to assist in the preparation of such documents.

(2) The interior designer providing responsible supervisory control must be a full time employee within that office location in responsible control for projects in that office. Therefore an interior designer can only provide responsible supervisory control over one location.

(3) An interior designer may be the qualifier of several business entities but can only be the interior designer providing responsible supervisory control over one business location pursuant to subsection (2) of this rule. Every office offering interior design services must have a resident full time interior designer meeting the requirements of this rule.

Specific Authority 481.2055 FS. Law Implemented 481.221(5), 481.2251 FS. History--New 8-21-95, Amended.

61G1-23.060 Standards for Interior Design Supervision in Field or Marketing Offices.

(1) An interior design office which is a marketing field or project office, or is part of an expanded area for the production of interior design documents, is not considered as offering interior design services to the public, and therefore, does not need a separate interior designer assigned directly to such office.

(2) An interior designer shall not be required to be assigned to a marketing office. A marketing office is defined as an office of an interior design firm wherein no production of drawings, specifications, reports or other professional work occurs and is intended solely for the purpose of advertising or

marketing an interior design firm's services to the public. The client contact permitted as a marketing office by non-registered persons shall only include marketing a firm's qualifications and capabilities. No other professional activities shall be performed at this office. Any other activities, including the entering into contracts between the interior designer and the client or the beginning of conceptual drawings shall require the full time assignment of a licensed interior designer at the office site.

(3) Any interior designer or interior designing firm can advertise in any medium, including the telephone directory yellow pages, even if no office is physically present in the area of the advertisement. Such advertisement or listing, however, shall not mislead the public into believing that the phone number and address given is capable of offering interior design services to the public if in fact the phone or address listed is not an interior design office and must be clearly listed or designated as a marketing office only ~~or a field or project office.~~

(4) All firms shall notify the Board of Architecture and Interior Design of the location of all marketing offices and the individuals who will be assigned to such office within sixty (60) days of such an assignment.

~~(5) All firms shall notify the Board of Architecture and Interior Design of the location of all full service offices and the name of the interior designer assigned to serve within sixty (60) days of the opening of the office and the assignment of the interior designer as well as a change of the interior designer to be assigned to the office. The same interior designer cannot be assigned to a main office and branch office, at the same time.~~

Specific Authority 481.2055 FS. Law Implemented 481.229, 481.221(5), 481.2251 FS. History--New 8-21-95, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 23, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 10, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Building Code Administrators and Inspectors Board

RULE TITLE: Voluntary Certification Categories

RULE NO.: 61G19-6.016

PURPOSE AND EFFECT: The proposed rule amendment is intended to clarify criteria for the one and two family dwelling plans examiner.

SUMMARY: The proposed rule amendment clarifies criteria for the one and two family dwelling plans examiner.

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

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

SPECIFIC AUTHORITY: 468.606, 468.609(10) FS.

LAW IMPLEMENTED: 468.609(10) 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: Anthony Spivey, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-6.016 Voluntary Certification Categories.

The following voluntary certification categories are created. All specialty licenses require a standard certification.

(1) through (5) No change.

(6) One and Two Family Dwelling Plans Examiner. One and Two Family Dwelling Plans Examiner means a person who is qualified to determine that the plans submitted for the purpose of obtaining building and other permits, for one and two family dwellings and accessory structures, comply with the building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other applicable building codes. In order to obtain this voluntary certification, the applicant must hold standard certification as one and two family dwelling inspector; must have passed the State principles and practices examination ~~within two (2) years of the application~~; hold a standard certificate as a plans examiner (any category); and hold a Southern Building Code Congress International, Inc. (SBCCI) certification as a Coastal Construction Inspector.

Specific Authority 468.606, 468.609(10) FS. Law Implemented 468.609(10) FS. History--New 7-5-95, Amended 7-7-96, 8-6-97, 6-25-98, 12-28-00, 2-28-02, 4-7-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5-6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 16, 2003

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Development Services Program

RULE CHAPTER TITLE: Supported Living
 RULE CHAPTER NO.: 65B-11

RULE TITLE: Selection of Housing
 RULE NO.: 65B-11.005

PURPOSE AND EFFECT: This rule amendment will repeal sections identified in Rule 65B-11, F.A.C., for which the Department does not have sufficient rule making authority. The repeal of these rules will have no affect on supported living programs funded by the Medicaid Home and Community Based waiver as identical rules are provided for in the Agency for Health Care Administration's Developmental Disabilities Medicaid Waiver Coverage and Limitations Handbook.

SUMMARY: This amendment removes (repeals) the criteria limiting the size and location of such housing found in paragraphs 65B-11.005(2)(a) and (d), F.A.C. The size and location criteria for the Developmental Disabilities Supported Living programs are, however, included in the Agency for Health Care Administration's (AHCA) Coverage and Limitations Handbook. Therefore, the repeal of this rule will have no effect to the existing program as all the necessary criteria is referenced in the AHCA rule. No further repeals or amendments are made.

SPECIFIC AUTHORITY: 393.501(1) FS.

LAW IMPLEMENTED: 393.066, 393.063(50) FS.

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.

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., August 5, 2003

PLACE: Building 3, Room 313, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ed Rousseau, Building 3, Room 302, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE FULL TEXT OF THE PROPOSED RULE IS:

65B-11.005 Selection of Housing.

(1) The individual shall select a home available for lease or sale to any member of the community based on the individual's own choice and personal financial resources with assistance from the supported living coaching provider as needed.

(2) The following criteria identify an eligible supported living setting:

~~(a) No more than three (3) persons who have developmental disabilities live together in a single housing unit;~~

~~(a)(b)~~ The name of the individual appears on the lease or mortgage either singularly, with a roommate(s), or with a guarantor;

~~(b)(e)~~ Neither the supported living provider nor the immediate family of the supported living provider shall serve as landlord or have any interest in the ownership of the housing unit; and

~~(d) The homes of individuals receiving supported living services shall account for no more than ten (10) percent of the housing in the smallest identifiable geographical area in which the homes are located, which may be a city block, subdivision, neighborhood, apartment complex, or mobile home park. The individuals' homes shall be scattered, noncontiguous, and dispersed throughout that area.~~

(3) Waivers of item (d) above shall be granted by the district developmental services program administrator when the waiver is desired by the individuals involved in order to live more closely together.

(4) As part of the housing search, the supported living coaching provider shall assist the individual to complete a survey of the housing being considered. This survey shall be based on the Housing and Urban Development housing quality standards found in 24 C.F.R., Chapter VIII, Subpart F, Section 887.251. The supported living coaching provider shall also assist the individual in a quarterly update of the housing survey based upon the same standards as the initial survey.

(5) The supported living coaching provider shall forward a copy of the completed survey for the housing that was selected by the individual to the individual's support coordinator within ten (10) working days of the selection, and shall make a copy of the quarterly housing survey update available to the support coordinator at the time of the support coordinator's quarterly home visit provided for in subsection 65B-11.009(3), F.A.C.

(6) If the housing selected by the individual does not meet the housing quality standards identified in subsection 65B-11.005(4), F.A.C., a waiver shall be granted by the district developmental services program administrator when the selection is based on the individual's choice and the standard waived does not compromise the client's health and safety.

Specific Authority 393.501(1) FS. Law Implemented 393.066, 393.063(50) FS., 42 USC 1396u. History--New 1-18-95, Formerly 10F-11.005, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Ed Rousseau

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Shelly Brantley, Director, Developmental Disability Program

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 25, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.: 6F-1.001 RULE TITLE: General Requirements

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 44, November 1, 2002, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NOS.:	RULE TITLES:
6F-2.001	Certificate of License for Schools
6F-2.0015	Change in Ownership
6F-2.0016	Change in Control
6F-2.0017	Student Protection Fund
6F-2.002	Minimum Standards for Licensure of Schools
6F-2.0024	Fair Consumer Practices
6F-2.0026	Fee Schedule
6F-2.003	School Descriptive Inventory
6F-2.004	Advertising

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules, as noticed in Vol. 28, No. 44, November 1, 2002, Florida Administrative Weekly have been withdrawn.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NOS.:	RULE TITLES:
6F-3.001	Agents; License Required
6F-3.002	Agents; Qualifications, Training, Limitation of Authority, Responsibilities of Schools, Agents, and Applicants