

Section II Proposed Rules

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Incorporation by Reference
 RULE CHAPTER NO.: 14-15
 RULE TITLE: Toll Facilities Description and Toll Rate Schedule
 RULE NO.: 14-15.0081

PURPOSE AND EFFECT: The purpose of this notice of rulemaking is to allow the public an opportunity to provide input to changes in the Toll Facilities Description and Toll Rate Schedule resulting from a proposed toll rate increase for cash customers. The facilities affected by the proposed toll rate increase include Florida’s Turnpike Mainline (Southern Coin, Ticket, and Northern Coin Systems, the Homestead Extension of Florida’s Turnpike (HEFT), Bee Line West Expressway), Sawgrass Expressway, Southern Connector Extension, Seminole Expressway, and the Veterans Expressway.

SUMMARY: Using a three-stage approach, the last toll rate increases along the Mainline and Bee Line West were completed by 1993, with the HEFT toll rate increase effective in 1995. In addition, the SunPass® Electronic Toll Collection System Frequent User Toll Discount Pilot Project, pursuant to the amendment to Rule 14-15.0081, F.A.C., on July 29, 1998, has been completed, and the toll discount program will be discontinued. The present average passenger rate is approximately 6 cents per mile on the Mainline components and slightly higher on the expansion projects. The proposed increase will bring the average toll rate to approximately 7.5 cents per mile for cash customers on the Mainline components and slightly higher for the expansion projects, and the average toll rate for SunPass customers will not increase. The total additional revenue in Fiscal Year 2003-04 attributable to the proposed toll rate increase and the discontinuance of the toll discount program is estimated to be \$13,539,000. The proposed toll rate increase will have an effective date of March 7, 2004.

The public will benefit from these additional revenues in that under the Florida Turnpike Enterprise Law (Sections 338.22 - 338.241, Florida Statutes), the Department shall use these funds for repairing, maintaining, and operating the Florida Turnpike System and for supporting the issuance of Turnpike Revenue Bonds to pay the cost of other Turnpike projects to the benefit of the motorist.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement 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: 334.044(2) FS.

LAW IMPLEMENTED: 338.155, 338.222, 338.231 FS.

A PUBLIC HEARING WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

DATE AND TIMES: January 5, 2004, 6:00 p.m. – Informal Open House; Formal Hearing – 6:30 p.m.

PLACE: Florida’s Turnpike Enterprise Headquarters Auditorium, Turnpike Mile Post 263, Building 5315, Ocoee, Florida

DATE AND TIMES: January 6, 2004, 6:00 p.m. – Informal Open House; Formal Hearing – 6:30 p.m.

PLACE: Florida Department of Transportation, District 4 Auditorium, 3400 West Commercial Boulevard, Ft. Lauderdale, Florida

DATE AND TIMES: January 7, 2004, 6:00 p.m. – Informal Open House; Formal Hearing – 6:30 p.m.

PLACE: Wynnebrook Elementary School Cafeteria, 1167 Drexel Road, West Palm Beach, Florida

DATE AND TIMES: January 7, 2004, 6:00 p.m. – Informal Open House; Formal Hearing – 6:30 p.m.

PLACE: Port St. Lucie Community Center, Rooms C & D, 2195 S. E. Airoso Boulevard, Port St. Lucie, FL

DATE AND TIMES: January 8, 2004, 6:00 p.m. – Informal Open House; Formal Hearing – 6:30 p.m.

PLACE: Florida Department of Transportation, District 7 Auditorium 11201 North Malcolm McKinley Drive, Tampa Florida

DATE AND TIMES: January 8, 2004, 6:00 p.m. – Informal Open House; Formal Hearing – 6:30 p.m.

PLACE: South Dade Government Center, 10710 S. W. 211 Street, Miami, Florida

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-15.0081 Toll Facilities Description and Toll Rate Schedule.

The Toll Facilities Description and Toll Rate Schedule, adopted November 15, 1987, and amended on February 8, 1988, August 1, 1988, February 2, 1989, May 10, 1989, July 1, 1991, August 1, 1991, November 6, 1991, July 11, 1993, November 28, 1993, September 18, 1994, June 6, 1995, July 9, 1995, January 1, 1996, March 31, 1996, April 28, 1996, June 2, 1996, July 28, 1996, September 23, 1997, November 24, 1997, February 12, 1998, June 30, 1998, July 29, 1998, January 6, 1999, February 9, 1999, April 29, 1999, June 21, 1999, September 4, 2001, March 26, 2002, April 10, 2003, October 1, 2003, November 30, 2003, and is hereby incorporated by this rule and made a part of the rules of the Department. Copies of this Department of Transportation Toll Facilities Description and Toll Rate Schedule and any amendments thereto are available at no more than cost.

Specific Authority 334.044(2), 338.155(1) FS. Law Implemented 338.222, 338.231, 338.155 FS. History—New 11-15-87, Amended 2-8-88, 8-1-88, 2-2-89, 5-10-89, 7-1-91, 8-1-91, 11-6-91, 7-11-93, 11-28-93, 9-18-94, 6-6-95, 7-9-95, 1-1-96, 3-31-96, 4-28-96, 6-2-96, 7-28-96, 9-23-97, 11-24-97, 2-12-98, 6-30-98, 7-29-98, 1-6-99, 2-9-99, 4-29-99, 6-21-99, 9-4-01, 3-26-02, 4-10-03, 10-1-03, 11-30-03.

NAME OF PERSON ORIGINATING PROPOSED RULE: James Ely, Executive Director, Florida’s Turnpike Enterprise
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 24, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 14, 2003

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: State Highway System Connection Permits
RULE CHAPTER NO.: 14-96

RULE TITLE: Connection Categories and Fees
RULE NO.: 14-96.004

PURPOSE AND EFFECT: Paragraph 14-96.004(2)(b), F.A.C., is being amended as a further clarification in response to Joint Administrative Procedures Committee review of a recent amendment to Rule Chapter 14-96, F.A.C.

SUMMARY: This amendment to paragraph 14-96.004(2)(b), F.A.C., is a follow up amendment for clarification of changes made in response to the Joint Administrative Procedures Committee review of another amendment to Rule Chapter 14-96, 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: 334.044(2), 335.182(2), 335.183, 335.184 FS.

LAW IMPLEMENTED: 334.044(14), 335.18 - 335.187 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: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-96.004 Connection Categories and Fees.

All connections, public or private, shall be determined by the Department to be in one of the following categories:

- (1) No change.
- (2) Special Connection Categories.

(a) “Temporary Connection Category” provides a temporary, time limited connection to the State Highway System for a specific property, use, and estimated traffic volume. Such uses may include forest land clearing and temporary agricultural or construction uses. This category may not be used for permanent construction at a site where it is reasonably expected that the use is the ultimate use of the property. Further, a temporary connection permit does not bind the Department in any way to the future issuance of a permanent connection permit at the temporary connection location. The permittee shall remove, at the permittee’s own cost, the temporary connection at the end of the permit period or shall apply for an extension or a new permit. The fee for this category is \$250 for a six month period. The period will be extended for increments of six months upon written request, payment of a new fee, and a showing of good cause, such as weather delays, natural disasters, governmental entity coordination delays, or other technical problems not within the control of the applicant. However, in no event shall the period extend beyond 24 consecutive months. The Department reserves the right to remove any temporary connection upon expiration of the permit.

(b) A “Government Entity Category” provides for a connection or connection modification for any new or substantially improved public road or connection to a governmental facility. The fee will be waived if the applicant is a governmental entity. ~~If the fee is not waived, then the fee shall be based on the fee schedule in subsection 14-96.004(1), F.A.C., using expected Average Daily Traffic for the Category determination.~~

(c) “Safety Upgrade Category” shall not be used for connections involving significant change. These applications shall be initiated by the applicant and will not require a fee.

- (3) through (4) No change.

Specific Authority 334.044(2), 335.182(2), 335.183, 335.184 FS. Law Implemented 334.044(14), 335.18-.187 FS. History—New 4-18-90, Amended 7-16-95, 1-23-03.

NAME OF PERSON ORIGINATING PROPOSED RULES: Gary Sokolow, Senior Transportation Planner, Systems Planning Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: José Abreu, P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 24, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 7, 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

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
 RESOURCE PERMITS

RULE CHAPTER NO.:
 40D-4

RULE TITLES: Definitions

RULE NOS.:
 40D-4.021

Exemptions

40D-4.051

Conditions for Exemptions

40D-4.053

Publications and Agreements Incorporated
 by Reference

40D-4.091

Additional Conditions for Issuance of Permits

40D-4.302

General Conditions

40D-4.381

PURPOSE AND EFFECT: The purpose and effect of the proposed amendments is to conform District rule language to certain statutory revisions; to clarify and update exemption language regarding phosphate mining, mining related activities, reclamation and restoration, and the conditions for the exemption; and to address concerns expressed by the staff of the Joint Administrative Procedures Committee (JAPC) regarding environmental resource permitting rules.

SUMMARY: The proposed amendments alphabetize the definitions included in Rule 40D-4.021, F.A.C. The amendments to subsections 40D-4.051(4) and (5), F.A.C., combine phosphate mining and related activities into one exemption and delete unnecessary language. The revisions to paragraph 40D-4.051(9)(c), F.A.C., add structures covered by the exemption in accordance with statutory revisions. The revisions to paragraph 40D-4.051(9)(k) and subparagraph (10)(e)15., F.A.C., delete vague or confusing language in accordance with comments provided by JAPC. The revisions to Rule 40D-4.053, F.A.C., clarify and update the conditions that must be met in order for phosphate mining and related activities to continue to be exempt from the District's environmental resource permitting rules pursuant to subsection 40D-4.051(4), F.A.C. The amendment to Rule 40D-4.091, F.A.C., will adopt the proposed revisions to the Basis of Review. The revisions to paragraphs 40D-4.302(1)(a) and (b), F.A.C., add pertinent references to the Sections of the Basis of Review that apply when determining whether the conditions for permit issuance have been met. The revisions to Rule 40D-4.381, F.A.C., delete vague or arbitrary language in accordance with comments provided by JAPC, and add pertinent references to other ERP rules and sections of the Basis of Review.

In addition, the District proposed to amend sections of the Basis of Review in response to comments by JAPC. The revisions are intended to clarify requirements and delete vague or arbitrary language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rules 40D-4.021, 40D-4.051, 40D-4.053, 40D-4.091, 40D-4.302 and 40D-4.381, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.016, 373.044, 373.113, 373.118, 373.149, 373.171, 373.414(9) FS.

LAW IMPLEMENTED: 373.016, 373.042, 373.403, 373.406, 373.409, 373.413, 373.414, 373.414(9), 373.416, 373.416(2), 373.419, 373.426, 403.805 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: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 40D-4.021 follows. See Florida Administrative Code for present text.)

40D-4.021 Definitions.

When used in this Chapter and Chapters 40D-40 and 40D-400, F.A.C.:

(1) "Alteration" means any activity resulting in substantial expansion or change of a surface water management system that will increase or decrease the design discharge of the system, increase pollutant loading, change the point or points of discharge, or intrude into or otherwise adversely impact wetlands by rim ditching, draining, filling or excavation. Routine custodial maintenance and repairs shall not constitute alterations.

(2) "Basis of Review for Environmental Resource Permit Applications within the Southwest Florida Water Management District," or "Basis of Review" is the document incorporated by reference in Rule 40D-4.091, F.A.C., which provides threshold design, administrative and technical criteria for permit applicants.

(3) "Conceptual Permit" means an environmental resource permit issued by the District which approves the concepts of a phased development master plan for a surface water

management system or for a mitigation bank which is binding upon the District and the permittee based upon the rules in effect at the time of filing of the conceptual application and constitutes final District action so that construction and operation permits for each phase will be reviewed under the permitting criteria in effect when the application for the conceptual permit was filed.

(4) "Construction" means any on site activity which will result in the creation of a new surface water management system, or the abandonment or alteration of an existing surface water management system, including the building, assembling, expansion or recontouring of the property; the erection of buildings or other structures, or any part thereof; or land clearing.

(5) "Construction permit" means an environmental resource permit issued by the District authorizing construction, alteration or abandonment of a surface water management system in accordance with the terms and conditions of the permit.

(6) "Embedment" is the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the state by minimal displacement of bottom material and without the creation of a trench, or trough, through the use of techniques such as plowing-in, weighing-in, or non-trenching jets.

(7) "Entrenchment" is the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the state by the creation of a defined trench, or trough, through the use of such devices as clamshells, dredges, trenching jets, or other devices which produce similar results.

(8) "Environmental Resource Permit" means a conceptual, individual or general permit for a surface water management system issued pursuant to Part IV, Chapter 373, F.S.

(9) "General Permit" means an Environmental Resource Permit issued or denied by District staff. General Permits are issued as either Noticed General or Standard General permits.

(10) "Individual Permit" means an Environmental Resource Permit issued by the District Governing Board.

(11) "New surface water management system" means any surface water management system which is not in existence on October 1, 1984, or not authorized to be constructed on October 1, 1984.

(12) "Noticed General Permit" Means an Environmental Resource Permit issued or denied by staff.

(13) "Operation permit" means a phase of an environmental resource permit issued by the District authorizing the operation and maintenance of a surface water management system in accordance with the terms and conditions of the permit.

(14) "Project Area" means the area within the total land area, as defined in subsection 40D-4.021(11), F.A.C., which is or will be served by a surface water management system to be permitted.

(15) "Prospecting" – means activities considered normal and reasonably necessary to retrieve samples of subsurface geologic sediments for the specific purpose of locating, mapping, and determining the quality and quantity of sedimentary strata or natural deposits.

(16) "Site Conditions Assessment Permit" means an environmental resource permit issued by the District as the first phase of construction permitting which identifies and documents the boundaries of certain existing topographic and environmental site conditions within the applicant's project area that are measurably associated with waters.

(17) "Surface waters" are defined in subsection 373.019(10), F.S.

(18) "Surface water management system" or "system" means any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works or any combination thereof. The terms "surface water management system" or "system" include areas created by filling or by dredging as those terms are defined in subsections 373.403(13) and 373.403(14), F.S.

(19) "Surface waters of the state" means those surface waters regulated pursuant to subsection 403.031(13), F.S.

(20) "Total land area" means land holdings under common ownership or control which are contiguous, or land holdings which are served by a common surface water management system.

(21) "Wetlands" means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

(22) The definitions listed in Chapter 40D-400, F.A.C. are also applicable to this Chapter and Chapter 40D-40, F.A.C.

Specific Authority 373.044, 373.113, 373.118, 373.149, 373.171 FS. Law Implemented 373.403, 373.419 FS. History—Readopted 10-5-74, Formerly 16J-4.02, Amended 10-1-84, 3-1-88, 9-11-88, 10-3-95, 7-23-96, 2-27-02,

40D-4.051 Exemptions.

(1) through (3) No change.

(4) Phosphate mining, ~~phosphate and~~ mining related surface water management systems, ~~and reclamation and restoration conducted in accordance with Chapter 62C-16, F.A.C.~~, are exempt from the requirements of this chapter, provided that all conditions for exemption in subsection 40D-4.053, F.A.C., are met. ~~However, nothing in this section is intended to exempt phosphate mining from the Department of Environmental Protection's authority.~~

~~(5) Phosphate mine reclamation and restoration conducted in accordance with Chapter 62C-16, the Mine Reclamation rules of the Florida Department of Environmental Protection, is exempt from the requirements of this chapter provided that all conditions for exemption in subsection 40D-4.053(2) are met.~~

(6) through (9)(b) renumbered (5) through (8)(b) No change.

(c) The installation and repair of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local government 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 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 rule, 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 obligate 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 the 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.

(d) through (j) No change.

(k) 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 such that the final elevation of the dredge area shall be within 2 feet of immediately adjacent bottom elevations. For the purposes of this paragraph, restoration shall not include maintenance of impoundment dikes of insect control impoundments.

(l) through (o) No change.

(9)(a) through (e)13. No change.

14. This exemption shall apply only to a maximum of 2 crossings on any a given total land area of property with a minimum distance of 500 feet between crossings.

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 this section.~~

(f) through (13) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.414(9) FS. Law Implemented 373.406, 373.413, 373.414(9) FS. History-Readopted 10-5-74, Formerly 16J-4.05, Amended 10-1-84, 10-1-86, 3-1-88, 1-24-90, 10-3-95, 4-18-01, 5-17-01, 4-9-02, _____.

40D-4.053 Conditions for Exemptions.

~~(4)~~ The exemption for phosphate mining and related activities provided in subsection Rule 40D-4.051(4), F.A.C., is subject to the following conditions:

(1) Activities associated with mining operations as defined by and subject to Sections 378.201-378.212, F.S., and included in a conceptual reclamation plan or modification application submitted prior to July 1, 1996, shall continue to be exempt under subsection 40D-4.051(4), F.A.C.

~~(2)(a)~~ No change.

~~(3)(b)~~ The operator shall submit to the District a copy of each Annual Report submitted to the Department of Environmental Protection Natural Resources (DNR) in accordance with Rule 62C-16.0091, F.A.C.

(4)(e) For mines that have already received a permit under the rules of the Department of Environmental Protection adopted pursuant to Sections 403.91-403.929, 1984

Supplement to the Florida Statutes 1983, the ~~The~~ operator shall provide documentation of such permit to the District. For mines that qualify under the provision of subsection 373.414(15), F.S., the operator shall submit to the District a copy of the ~~each~~ application for a permit required under subsection 373.414(15) and Sections 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, ~~to the DER for a dredge and fill permit concurrent with the its~~ submittal of any such application made to the Department of Environmental Protection in accordance with the "operating Agreement concerning Regulation Under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., Between Southwest Florida Water Management District and Department of Environmental Protection", dated October 27, 1998, ~~DER~~, and shall fulfill the requirements of subsection Rule 40D-4.053(2)(1)(a), F.A.C., that apply to such application specific to the dredge and fill project prior to issuance by the Department of Environmental Protection ~~DER~~ of its proposed agency action.

~~(5)(d)~~ The location of any ~~An~~ existing permitted point of discharge authorized in a previous permit issued by the Department of Environmental Regulation, the Department of Environmental Protection, or the District shall not be changed, and the volume and frequency of such discharge shall not be exceeded. The volume and frequency designated by its DER discharge permit unless a lesser discharge is calculated in accordance with Rule 40D-4.301(2) and submitted to the District to be the maximum allowable discharge.

~~(e)~~ A new point of discharge shall be designed to the standards of Rule 40D-4.301(2) so that the volume and frequency of discharge specified in its DEP discharge permit is equivalent to maximum allowable discharge, which is not to be exceeded.

~~(6)(f)~~ Natural drainage from off-site up gradient areas shall not be interrupted so as to cause damage to off-site property or the public, and natural drainage patterns on undisturbed lands shall be maintained to the maximum extent achievable without adversely altering the time, stage, volume and point or manner of discharge or dispersion.

~~(2)~~ The exemption for phosphate mine reclamation and restoration provided in subsection 40D-4.051(9) is subject to the following conditions:

~~(a)~~ The operator shall certify to the District, beginning with the first annual or biannual Department of Natural Resources (DNR) reclamation plan required to be filed after January 1, 1987, and provide sufficient information to demonstrate that each reclamation and restoration program is designed, and will be constructed and operated to avoid damage to off-site property or the public caused by:

- ~~1.~~ floodplain development, encroachment or other alteration;
- ~~2.~~ retardance, acceleration or diversion of flowing water;
- ~~3.~~ reduction of natural water storage areas;

- ~~4.~~ excessive discharge or facility failure, or
- ~~5.~~ other actions adversely impacting off-site water flows or levels.

~~(b)~~ The operator shall submit to the District a copy of its approved or pending Conceptual Reclamation Plans or any amendments thereto, under Rule 62C-16.0041, F.A.C.

~~(c)~~ The operator shall submit to the District a copy of its annual or biannual application to the DNR for approval of a reclamation and restoration program required by Rule 62C-16.0032, and fulfill the requirements of paragraph 40D-4.053(2)(a), F.A.C. specific to the program under consideration prior to issuance by the DNR of its proposed agency action.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.406, 373.413 FS. History-New 10-1-86, Amended _____.

40D-4.091 Publications and Agreements Incorporated by Reference.

The following documents are hereby incorporated into this chapter and Chapters 40D-40 and 40D-400, F.A.C.:

- (1) "Basis of Review for Environmental Resource Permit Applications with the Southwest Florida Water Management District, _____ August 3, 2003". This document is available from the District upon request.
- (2) through (4) No change.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History-New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-99, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-23-03, 8-3-03, _____.

40D-4.302 Additional Conditions for Issuance of Permits.

(1) In addition to the conditions set forth in Rule 40D-4.301, F.A.C., in order to obtain a general, individual, or conceptual permit under this chapter an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal and abandonment of a system:

(a) Located in, on, or over wetlands or other surface waters as delineated pursuant to the methodology authorized by subsection 373.421(1), F.S., will not be contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the activity will be clearly in the public interest, as determined by balancing the following criteria as set forth in subsections 3.2.3 through 3.2.37 of the Basis of Review for Environmental Resource Permit Applications within the Southwest Florida Water Management District adopted by reference in Rule 40D-4.091, F.A.C.:

1. through 7. No change.
- (b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters, as set forth in subsections 3.2.8 through 3.2.8.2 of the Basis of Review for Environmental Resource Permit Applications within the Southwest Florida

Water Management District adopted by reference in Rule 40D-4.091, F.A.C. as delineated pursuant to the methodology authorized by subsection 373.421(1), F.S.

(c) through (2) No change.

Specific Authority 373.016, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.042, 373.409, 373.413, 373.414, 373.416, 373.426 FS. History—New 10-3-95, Amended 9-26-02, _____.

40D-4.381 General Conditions.

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

(a) through (b) No change.

(c) Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and a pollution control to prevent violation of state water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

(d) through (f) No change.

(g) Off site discharges during construction and development shall be made only through the facilities authorized by this permit. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream stages. ~~Stages may be subject to operating schedules satisfactory to the District.~~

(h) No change.

(i) The following shall be ~~properly~~ abandoned ~~and/or~~ removed ~~in accordance with the applicable regulations:~~

(j) through (l) No change.

(m) Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required Statement of Completion and Request for Transfer to Operation Entity form ~~adopted by reference in Rule 40D-1.659 identified Chapter 40D-4, F.A.C.~~ Additionally, if deviation from the approved drawings are discovered during the certification process the certification must be accompanied by a copy of the approved permit drawings with deviations noted.

(n) This permit is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the permit application. Any substantial deviation from the approved drawings, exhibits, specifications or permit conditions, including construction within the total land area but outside the approved project area(s), may constitute grounds for revocation or enforcement action by the District, unless a modification has been applied for and approved pursuant to Rule 40D-4.331, F.A.C. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.

(o) The operation phase of this permit shall not become effective until the permittee has complied with the requirements of the conditions ~~in subsection (1) above herein,~~ the District in accordance with subsections 2.6 through 2.6.3 of the Basis of Review for Environmental Resource Permit Applications within the Southwest Florida Water Management District adopted by reference in Rule 40D-4.091, F.A.C., determines the system to be in compliance with the permitted plans, and the entity approved by the District accepts responsibility for operation and maintenance of the system. The permit may not be transferred to the operation and maintenance entity approved by the District until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible operation and maintenance entity approved by the District, if different from the permittee. Until the permit is transferred pursuant to subsection 2.6.1 of the Basis of Review for Environmental Resource Permit Applications within the Southwest Florida Water Management District adopted by reference in Rule 40D-4.091, F.A.C., a transfer is approved by the District, the permittee shall be liable for compliance with the terms of the permit.

(p) Should any other regulatory agency require changes to the permitted system, the District shall be notified in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

(q) through (s) No change.

(t) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Rule 40D-4.042, F.A.C. and subsections 3.4 through 3.4.6 of the Basis of Review for the Environmental Resource Permit Applications within the Southwest Florida Water Management District adopted by reference in Rule 40D-4.091, F.A.C. 373.421(2), F.S., provides otherwise.

(u) through (x) No change.

(2) In addition to those general conditions set forth in subsection (1), the Governing Board, the Executive Director or delegated district staff shall ~~may~~ impose on any permit granted under this chapter and Chapter 40D-40, F.A.C., such reasonable project-specific conditions as are necessary to assure that the permitted system will be consistent 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, 373.149, 373.171 FS. Law Implemented 373.042, 373.403, 373.409, 373.413, 373.414, 373.416, 373.426 FS. History—Readopted 10-5-74, Amended 12-31-74, 6-7-78, Formerly 16J-4.06(7), 16J-4.11, 16J-4.10(3), Amended 10-1-84, 3-1-88, 10-3-95, 10-16-96, 10-11-01, _____.

ENVIRONMENTAL RESOURCE PERMITTING
INFORMATION MANUAL
BASIS OF REVIEW

CHAPTER TWO – ADMINISTRATIVE CRITERIA

2.6.3 Future Operation and Maintenance – The operation and maintenance entity is required to provide for the inspection of the surface water management system by a Florida registered Professional Engineer to ensure that the system is properly operated and maintained. Inspection schedules will be specifically stated in the permit. For those systems utilizing effluent filtration or exfiltration, the inspections shall be performed 18 months after operation is authorized and every 18 months thereafter. A written report of the findings of the inspection shall be filed with the District within 30 days of the date of the inspection, utilizing the Statement of Inspection for Proper Operation and Maintenance form identified and adopted by reference in Rule 40D-1.659, F.A.C. The permit shall be subject to additional reasonable conditions as are necessary, including performance bonds, to ensure future operation and maintenance of the surface water management system. The District shall supply the form necessary for this. ~~The District may impose additional permit requirements to insure future operation and maintenance including, but not limited to, performance bonds or the development of operation and maintenance plans and schedules.~~

2.7 Statement of Completion – When a system permitted by the District is constructed, a Florida registered Professional Engineer or person under their responsible supervision, direction or control must be on the construction site as needed to certify that the system was constructed as permitted. The owner, authorized agent or engineer must certify that the system was constructed as permitted and, if applicable, in compliance with Rule 40D-40.301, F.A.C., prior to issuance of the operation authorization or any transfer of operation and maintenance responsibility utilizing the Statement of Completion and Request for Transfer to Operation Entity form identified and adopted by reference in Rule 40D-1.659, F.A.C. ~~The District will supply the form necessary for this.~~

CHAPTER THREE – ENVIRONMENTAL

3.2.2.1 Compliance with subsections 3.2.2 through 3.2.3.7 and 3.2.5 through 3.3.8 will not be required for regulated activities in isolated wetlands less than one half acre in size, unless:

- (a) The wetland is used by threatened or endangered species, or
- (b) The wetland is located in an area of critical state concern designated pursuant to Chapter 380, F.S., or
- (c) The wetland is connected by standing or flowing surface water at seasonal high water level to one or more wetlands, and the combined wetland acreage so connected is greater than one half acre, or
- (d) The District establishes that the wetland to be impacted is, or several such wetlands to be impacted are cumulatively, of more than minimal value to fish and wildlife based on the factors in subsection 3.2.2.3.

3.2.5 Class II Waters; Waters approved for shellfish harvesting

(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:

3.3.1.8 Innovative mitigation proposals which deviate from the standard practices described in subsections 3.3 through 3.3.6 may be proposed by an applicant; however to receive District approval they must offset the adverse impacts to the functions identified in subsections 4.2 through 4.2.8.2. ~~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.

3.3.2.2 Preservation

(a) Preservation of important ecosystems can provide an improved level of protection over ~~the~~ current regulatory programs. ~~The District may consider as mitigation the~~ Preservation shall be, by donation, conservation easement or other comparable land use restriction, of wetlands, other surface waters, or uplands. Conservation easements or restrictions must be consistent with the requirements of

subsection 3.3.8. In many cases it is not expected that preservation alone will be sufficient to offset adverse impacts. Preservation will most frequently be approved in combination with other mitigation measures.

3.3.6 Mitigation Success

Mitigation success will be measured in terms of whether the objectives of the mitigation can be realized. The success criteria to be included in permit conditions will specify the minimum requirements necessary to attain a determination of success. The mitigation shall be deemed successful by the District when all applicable water quality standards are met, the mitigation area has achieved viable and sustainable ecological and hydrological functions and the specific success criteria contained in the permit are met. If success is not achieved within the a time frame specified within the permit, remedial measures shall be required. Monitoring and maintenance requirements shall remain in effect until success is achieved.

3.3.7.4 General Terms for Financial Responsibility Mechanisms.

In addition to the specific provisions regarding financial responsibility mechanisms set forth in subsection 3.3.7.6 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 3.3.7 through 3.3.7.9.

(b) through (c) No change.

(d) Prior written consent from the District shall be obtained before withdrawing or transferring any portion of the funds therein pursuant to subsections 3.3.7.7.1 and 3.3.7.7.2.

(e) No change.

(f) The financial responsibility mechanisms shall provide that they cannot be revoked, terminated or canceled without first providing an alternative financial responsibility mechanism which meets the requirements of subsections 3.3.7 through 3.3.7.9. Within 90 days of receipt by the permittee of actual or constructive notice of revocation, termination or cancellation of a financial responsibility mechanism or other actual or constructive notice of cancellation, the permittee shall provide an alternate financial responsibility mechanism which meets the requirements of subsections 3.3.7 through 3.3.7.9.

3.3.8 Real property conveyances.

(a) All conservation easements shall be granted in perpetuity without encumbrances, unless such encumbrances do not adversely affect the ecological viability of the mitigation. All liens against the conservation easement site shall release, be subordinated to, or joined with the conservation easement. All conservation easements shall, be consistent with ~~the~~ Section 704.06, F.S., ~~and; however, the~~ District shall contain ~~require further~~ restrictions that in the conservation easement if necessary to ensure the ecological viability of the site.

(b) All real property conveyances shall be in fee simple and by statutory warranty deed, special warranty deed, or other deed, without encumbrances that adversely affect the integrity of the preservation. The District may also accept a quit claim deed for the purpose of clearing minor title defects or otherwise resolving boundary questions.

3.4.4 Duration

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

3.4.6 Nonbinding Determinations

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

CHAPTER FOUR – WATER QUANTITY

4.5 Minimum drainage

Commercial and industrial projects to be subdivided for sale are required to install a minimum drainage system as described in a. and b. below. Projects permitted in such a manner shall ~~may~~ require deed restrictions which notify lot or tract purchasers of the amount of additional on-site storm water management system necessary to provide flood attenuation and any additional retention/detention required for water quality purposes.

a. The required water quality system must have treatment capacity for one inch of runoff if wet detention is used, or one-half inch of runoff if retention, effluent filtration or exfiltration is used, from the total developed site and contributing offsite area.

b. A storm water collection and conveyance system must be provided to interconnect the retention/detention system with the project outfall, including access points to the system available to each individual lot or tract. The system shall be sized to limit discharge under full build-out design conditions to the allowable discharge.

~~e. Exceptions to the requirements of a. and b. above can be made, provided a conceptual permit is obtained for the total project area.~~

4.8 Offsite Lands – The application shall include provisions ~~Adequate provisions shall be made to allow drainage from off-site upgradient areas to downgradient areas without adversely altering the time, stage, volume, point or manner of discharge or dispersion and without degrading water quality.~~

CHAPTER FIVE – WATER QUALITY

5.1 Projects shall be designed so that discharges will meet applicable state water quality standards.

The following design and performance standards are established for the purpose of determining compliance with storm water discharge requirements. ~~However, in certain~~

~~instances a design meeting those standards may not result in compliance with the state water quality standards referenced above. Unless an applicant has provided reasonable assurance that a design will not cause or contribute to a violation of state water quality standards, the District may apply more stringent design and performance standards than are otherwise required by this chapter.~~

Projects designed to the criteria found in this section shall be presumed to provide reasonable assurance of compliance with the state water quality standards referenced above. The applicant may propose ~~The District will consider~~ other methods that utilize a combination of treatment practices that will provide equivalent treatment as compared to the systems listed in this section. If the applicant chooses to propose a design that does not address the specific criteria listed herein, the applicant must provide the District with reasonable assurance based on plans, test results and other information specific to the design proposed that the construction, alteration or operation of the system will not discharge, emit, or cause pollution in contravention of the standards referenced above.

5.2 Retention, detention criteria – The volume of runoff to be treated from a site shall be determined by the type of treatment system, i.e., wet detention, detention with effluent filtration, on-line treatment system, or off-line treatment system. If off-site run-off is not prevented from combining with on-site runoff prior to treatment, then treatment must be provided for the combined off-site/project runoff.

3. a. 1., 2. and 3.(a) No change.

(b) The treatment volume cannot adversely impact the wetland so that it fluctuates beyond the range of natural water levels. The available volume is determined based on site-specific conditions and an a case by case basis through analysis of the isolated wetland to be used.

3.(c) through a. 5. No change.

b. through f. No change.

5.4 Sewage treatment percolation ponds – Above ground pond dikes shall not be located within 200 feet of water bodies or 100 feet of dry retention areas. The applicant may propose specific alternative measures that are equivalent to these criteria in their effectiveness to protect the water resources and adjacent property. The applicant shall provide the District with reasonable assurance based on the plans, calculations and other information specific to the design proposed. Additional calculations by the applicant may be necessary in unusual cases requiring deviations from these dimensions.

5.10 General conditions related to water quality monitoring by permittees.

a. If the applicant utilizes design criteria found in this chapter, monitoring ~~normally~~ will not be required.

b. Monitoring shall ~~may~~ be required when the applicant proposes design criteria not found in this chapter, and does not have specific test data or other data to support that state water quality standards will be met.

c. No change.

5.11 The reason for the monitoring requirement ~~normally~~ will be stated in the staff report for each permit, along with the monitoring schedule and the parameters of interest. ~~Although~~ specifies may vary from project to project, S~~samples will normally~~ be collected at discharge locations unless other locations are identified in the monitoring schedule. Monitoring A typical sampling schedules will require the collection of samples once per month during the wet season, ~~however this may vary among projects. Some P~~ permittees will also ~~may~~ be required to collect samples during storm events in addition to monthly sampling, provide the R~~Rate of discharge at the time of sample collection,~~ and provide the total monthly discharge each month for the duration of the permit, if necessary to ensure that state water quality standards will be met ~~may also be required.~~

5.12 ~~As a general rule, M~~ monitoring required of permittees will be confined to points within the project ~~their~~ boundaries. If additional sampling is needed to assess off-site impacts of the projects, such sampling ~~normally~~ will be conducted by the District.

5.13 Staff reports and permits for projects not requiring monitoring at the time of permit issuance will include a statement that water quality monitoring will ~~may~~ be required in the future if necessary to ensure that state water quality standards are being met. This should not be construed as an indication that the District is contemplating the implementation of a program of intensive water quality monitoring by all permittees. ~~If water quality problems develop in specific areas, however, permittees are hereby put on notice that they may have to determine the quality of the water which they are discharging.~~

CHAPTER SIX – CONSTRUCTION

6.1 Discharge structures

a. The construction design for all surface water systems shall be adequate to meet all design criteria and performance standards referred to in this rule ~~and any applicable standards or criteria required by local governments.~~ Provision shall ~~should~~ be made for the controlled release of water volumes in excess of that caused by the design storm event to ensure ~~insure~~ adequate performance of the system and its continued safe operation. Construction designs shall ~~should~~ include adequate provisions to allow ~~permit~~ operation and maintenance activities and to prevent unauthorized operation of operable structures.

b. All design discharges shall be made through structural discharge facilities. Discharge structures shall be fixed so that discharge cannot be made below the control elevation, except that emergency operation devices may be designed and installed with secure locking mechanisms ~~devices.~~ ~~Exceptions to this requirement may be made for some agricultural systems and mining reclamation activities.~~

c. through e. No change.

f. Direct discharges, such as through culverts, stormdrains, weir structures, etc., will normally be allowed to receiving waters which by virtue of their large capacity, configuration, etc. are easily able to absorb concentrated discharges. Examples of such receiving waters might include existing storm sewer systems and man-made ditches, canals and lakes.

6.4.1 Dimensional Criteria (as measured at or from the control elevation).

a. Width – Wet detention water quality treatment systems normally shall be designed with a 100 foot minimum width for linear areas in excess of 200 feet in length. Area and width requirements will ~~can~~ be waived for projects to be operated by single owner entities, or entities with full time maintenance staffs with a particular interest in maintaining the area, e.g., golf courses. ~~Further consideration will be given to~~ Treatment areas not meeting the above width to length ratio will be approved if the permittee can demonstrate it can be shown that the design of the system will maximize circulation by location of inflow and outflow points.

6.7 Stagnant water conditions – configurations which create stagnant water conditions such as dead end canals are ~~prohibited to be avoided~~, regardless of the type of development.

CHAPTER SEVEN – DESIGN INFORMATION

7.6 Runoff – the usual methods of computation are as follows:

d. Other alternative methods and criteria proposed by the applicant that are functionally equivalent to the criteria in District rules. The applicant shall provide the District with reasonable assurance of such equivalency based on the submitted plans, calculations and other information. Others as approved by the District.

7.8.1 Allowable Discharges – peak discharge, for purposes of meeting maximum allowable discharges, ~~is may normally be~~ computed as the maximum average discharge over a time period equal to the time of concentration of the contributory area.

APPENDIX 4

BASIS OF REVIEW FOR THE ESTABLISHMENT AND USE OF MITIGATION BANKS

5.(h) Any additional information which may be necessary to evaluate whether the proposed Mitigation Bank meets the criteria of Section 373.4136, F.S. and Appendix 4 this chapter.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 2002 and July 29, 2003
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 2003

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: General Environmental
RULE CHAPTER NO.: 40D-40

Resource Permits 40D-40

RULE TITLES: RULE NOS.:

Content of Application for General Permits 40D-40.112

Conditions for Issuance of General Permits 40D-40.302

General Conditions 40D-40.381

PURPOSE AND EFFECT: The purpose and effect of the proposed amendments is to conform District rule language to certain statutory revisions and to address concerns expressed by the staff of the Joint Administrative Procedures Committee (JAPC) regarding environmental resource permitting rules.

SUMMARY: The proposed amendments will provide a pertinent rule reference in subsection 40D-40.112(1), F.A.C.; clarify language in the introductory paragraph of Rule 40D-40.302, F.A.C.; and delete arbitrary language from subsection 40D-40.381(3), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rules 40D-40.112, 40D-40.302 and 40D-40.381, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.016, 373.044, 373.113, 373.118, 373.149, 373.171, 373.414(9) FS.

LAW IMPLEMENTED: 373.016, 373.042, 373.403, 373.406, 373.409, 373.413, 373.414, 373.414(9), 373.416, 373.416(2), 373.419, 373.426, 403.805 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: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-40.112 Content of Application for General Permits.

(1) To ~~apply~~ Apply for a general permit, including an application for a general permit for minor surface water management systems, the applicant shall file with the District the ~~Application form identified and adopted by reference in Rule 40D-1.659, Chapter 40D-1, F.A.C. and other required documents, information and fees.~~

(2) through (5) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 10-1-84, Amended 3-1-88, 10-3-95, 7-23-96, 10-16-96, 9-26-02, _____.

40D-40.302 Conditions for Issuance of General Permits.

In order to qualify for a general permit for construction and operation under this chapter, the applicant must give reasonable assurances that the surface water management system meets all conditions of subsection 40D-40.302(1), F.A.C., all thresholds ~~in~~ of subsection 40D-40.302(2), F.A.C., and the additional conditions of at least one other subsection of this rule. To obtain a general site conditions assessment permit under this chapter, the applicant must provide reasonable assurances that all conditions of subsection 40D-40.302(5), F.A.C., are met. To obtain a permit for construction of incidental site activities under this chapter, the applicant must provide reasonable assurance that all conditions of subsections 40D-40.302(1) and 40D-40.302(6), F.A.C., are met.

(1) through (6) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 10-1-84, Amended 3-1-88, 5-10-88, 9-13-88, 10-3-95, 7-23-96, 7-16-02, 9-26-02, 8-3-03, _____.

40D-40.381 General Conditions.

(1) through (3)(b) No change.

(4) All general permits shall be subject to other reasonable conditions as are necessary to ~~ensure assure~~ ensure that the permitted system will meet the conditions for issuance in Rules 40D-4.301 and 40D-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, 373.118 FS. Law Implemented 373.117, 373.413, 373.414, 373.416, 373.419 FS. History—New 10-1-84, Amended 3-1-88, 10-3-95, 7-23-96, 9-26-02, 8-3-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 2003

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Environmental Resource Permits	40D-400
RULE TITLES:	RULE NOS.:
Definitions	40D-400.021
General Permit for the Installation of Fences	40D-400.437
General Permit for the Construction or Maintenance of Culverted Driveway or Roadway Crossings and Bridges of Artificial Waterways	40D-400.439
General Permit to the Florida Department of Transportation, Counties, and Municipalities For Minor Bridge Alteration, Replacement, Maintenance and Operation	40D-400.443
General Permit for Minor Activities	40D-400.475

PURPOSE AND EFFECT: The purpose and effect of the proposed amendments is to conform District rule language to certain statutory revisions and to address concerns expressed by the staff of the Joint Administrative Procedures Committee (JAPC) regarding environmental resource permitting rules.

SUMMARY: The proposed amendments will alphabetize the definitions in Rule 40D-400.021, F.A.C.; and make minor clarifications to language in subsection 40D-400.437(2), paragraph 40D-400.439(1)(b), 40D-400.443(2)(k) and subsection 40D-400.475(5), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-400.021, subsection 40D-400.437(2), paragraph 40D-400.439(1)(b), 40D-400.443(2)(k) and subsection 40D-400.475(5), F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.419 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: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 40D-400.021 follows. See Florida Administrative Code for present text.)

40D-400.021 Definitions.

The definitions set forth in section 40D-4.021, F.A.C., shall apply to this chapter. Additionally, as used in this chapter:

(1) “Aquatic Preserves” means those areas designated in Part II, Chapter 258, F.S.

(2) “Canal” means a trench, the bottom of which is normally covered by water, with the upper edges of its two sides normally above water.

(3) “Channel” means a trench, the bottom of which is normally covered entirely by water, with the upper edges of one or both of its sides normally below water.

(4) “Coral” means living stoney coral and soft coral.

(5) “Department” means the Florida Department of Environmental Protection.

(6) “Drainage ditch” or “irrigation ditch” means a man-made trench which is dug for the purpose of draining water from the land or for transporting water for use on the land and which is not built for navigational purposes.

(7) “Dredging” means the excavation, by any means, in surface waters or wetlands. It also means the excavation, or creation, of a water body which is, or is to be, connected to any surface waters or wetlands directly or via an excavated water body or series of excavated water bodies.

(8) “Endangered species” means those animal species which are listed in Rule 68A-27.003, F.A.C., and those plant species which are listed in 50 Code of Federal Regulations 17.12.

(9) “Estuary” means a semi-enclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

(10) “Filling” means the deposition, by any means, of materials in surface waters or wetlands.

(11) “Forested wetlands” means those wetlands where the canopy coverage by trees with a diameter at breast height of greater than 4 inches is greater than 10 percent, as well as those areas required to be planted with tree species to establish or reestablish forested wetlands pursuant to a permit issued or enforcement action taken, under rules adopted under Part IV of Chapter 373, F.S., or Sections 403.91-403.929, F.S. (1984 Supp.) as amended, and those areas where the canopy has been temporarily removed but are expected to revegetate to a forested wetland if use of the area would remain unchanged.

(12) “Herbaceous wetlands” means those wetlands dominated by non-woody vegetation that have less than a 10 percent canopy coverage of trees with a diameter at breast height of greater than 4 inches.

(13) “Insect control impoundment dikes” means artificial structures, including earthen berms, constructed and used to impound wetlands or other surface waters for the purpose of insect control.

(14) “Lagoon” means a naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier.

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

(16) “Riprap” is a sloping retaining or stabilizing structure made to reduce the force of waves and to protect the shore from erosion, and consists of unconsolidated boulders, rocks, or clean concrete rubble with no exposed reinforcing rods or similar protrusions.

(17) “Seawall” means a man-made wall or encroachment, except riprap, which is made to break the force of waves and to protect the shore from erosion.

(18) “Species of Special Concern” means those species listed in Rule 68A-27.005, F.A.C.

(19) “Submerged grassbeds” means any native, herbaceous, submerged vascular plant community that is growing on the bottoms of surface waters waterward of the mean high water line or ordinary high water line.

(20) “Swale” means a man-made trench which:

(a) Has a top width-to-depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical;

(b) Contains contiguous areas of standing or flowing water only following a rainfall event;

(c) Is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and

(d) Is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

(21) “Threatened species” means those animal species listed in Rule 68A-27.004, F.A.C.

(22) “Vertical seawall” is a seawall the waterward face of which is at a slope greater than 75 degrees to the horizontal. A seawall with sloping riprap covering the waterward face to the mean high water line shall not be considered a vertical seawall.

(23) “Water Management District” or “District” means a water management district created pursuant to Section 373.069, F.S.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 10-3-95, _____.

40D-400.437 General Permit for the Installation of Fences.

(1) No change.

(2) No fence shall be installed ~~in the into~~ open waters (areas of water bodies not supporting emergent vegetation) of any navigable river, stream, canal, or tributary ~~thereof thereto~~, a distance of more than 25 feet, or more than twenty percent of the width of the open water, whichever is less, and ~~no fence in any lake~~ shall ~~not~~ extend more than 15 feet waterward of the landward extent of ~~any the~~ lake, including contiguous wetlands;

(3) through (5) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 10-3-95, Amended _____.

40D-400.439 General Permit for the Construction or Maintenance of Culverted Driveway or Roadway Crossings and Bridges of Artificial Waterways.

(1)(a) No change.

(b) A culvert or culverts shall be ~~are~~ placed under the roadway or driveway;

(c) through (5) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 10-3-95, Amended _____.

40D-400.443 General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Bridge Alteration, Replacement, Maintenance and Operation.

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

(2)(a) through (j) No change.

(k) The permittee shall use erosion and sediment control best management practices, including turbidity curtains or similar devices, in strict adherence to these practices as described in Chapter 6, the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation, 1988), incorporated herein by reference, to prevent violations of state water quality standards;

(l) through (m) No change.

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

40D-400.475 General Permit for Minor Activities.

(1) through (4) No change.

(5) A determination that an activity qualifies for a General Permit for a minor activity applies only to ~~the actual circumstances involving~~ the site specific activity, location, method of construction or operation of the specific activity and the other design and operation features of the specific activity.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373.419 FS. History—New 10-3-95, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 17, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: Operation of the Association

RULE NO.: 61B-23.002

PURPOSE AND EFFECT: To develop a procedure and form for condominium associations to report fire safety retrofitting information to the Division of Florida Land Sales, Condominiums and Mobile Homes, establish a date for reporting this information to the Division of State Fire Marshal of the Department of Financial Services, and clarify voting procedures regarding the waiver of fire safety retrofitting, pursuant to Chapter 2003-14, Laws of Florida.

SUMMARY: To provide guidance to condominium associations regarding voting and reporting of fire safety retrofitting.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs 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: 718.501(1)(f) FS.

LAW IMPLEMENTED: 718.112(2)(l) FS.

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

TIME AND DATE: 10:00 a.m., December 29, 2003

PLACE: Warren Building, Meeting Room #B03, 202 Blount Street, Tallahassee

Those persons who cannot attend in person may submit their comments in writing to: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-23.002 Operation of the Association.

(1) through (2) No change.

(3) Each association that votes to forego retrofitting of the common elements or units of a residential condominium with a fire sprinkler system or other engineered life safety system by the affirmative vote of two-thirds of all voting interests in the affected condominium, shall report the voting results and certification information for each affected condominium to the division on DBPR Form CO 6000-8, FIRE SAFETY RETROFITTING REPORT FOR CONDOMINIUMS, incorporated herein by reference and effective . The form may be obtained by writing the division at 1940 North Monroe Street, Tallahassee, Florida 32399-1030. If retrofitting has been undertaken by a residential condominium, the association shall report the per-unit cost of such work to the division using DBPR Form CO 6000-8, FIRE SAFETY RETROFITTING REPORT FOR CONDOMINIUMS. The division shall prepare a report of information obtained from associations and deliver the report to the Division of State Fire Marshal of the Department of Financial Services no later than August 1 of each year. DBPR Form CO 6000-8, FIRE SAFETY RETROFITTING REPORT FOR CONDOMINIUMS must be filed with the division within 60 days of recordation of the retrofitting waiver certificate in the public records where the condominium is located or upon commencement of the retrofitting project.

(4)(a) As provided for by Section 718.112(2)(l), Florida Statutes, any vote to waive a fire safety retrofitting requirement shall be held at a duly called meeting of the membership, with members voting live and in person, or may be conducted without a membership meeting by written consents, or may be conducted by a combination of the two with the association counting written consents received along with votes cast live and in person at a duly called meeting of the membership.

(b) The written consent form utilized by the association must contain a space for the authorized voter to sign and must identify the unit owned. Voting by written consents or written

agreements may be utilized by an association regardless of whether the bylaws or the declaration specifically permit voting by written consents or written agreements.

(c) There is no limitation on the number of times an association may conduct a vote to waive a fire safety retrofitting requirement. However, in order to be effective, the affirmative vote of not less than two-thirds of the total voting interests must be obtained, and a certificate attesting to such vote must be recorded in the public records, not later than December 31, 2014.

(d) In the case of an association that operates more than one condominium, in order for a waiver to be effective as to a particular condominium and the buildings located within that condominium, two-thirds of the total voting interests of that condominium must affirmatively vote in favor of waiving the retrofitting requirements.

Specific Authority 718.112(2)(d)3., 718.501(1)(f) FS. Law Implemented 718.111(12), 718.112(2)(b)2.,(c),(d)3.,4., 718.117, 718.501(2)(a), 718.504 FS. History—New 7-22-80, Amended 8-31-83, 10-1-85, Formerly 7D-23.02, Amended 1-27-87, 7-10-88, 3-21-89, 2-18-92, Formerly 7D-23.002, Amended 11-23-93, 2-20-97, 4-14-99, 12-23-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ross Fleetwood, Director, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2003

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: Association Fee; Mailing Address; RULE NO.:

Fire Safety Retrofitting

61B-78.001

PURPOSE AND EFFECT: To develop a procedure and form for cooperative associations to report fire safety retrofitting information to the Division of Florida Land Sales, Condominiums and Mobile Homes, establish a date for reporting this information to the Division of State Fire Marshal of the Department of Financial Services, and clarify voting procedures regarding the waiver of fire safety retrofitting, pursuant to Chapter 2003-14, Laws of Florida.

SUMMARY: To provide guidance to cooperative associations regarding voting and reporting of fire safety retrofitting.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs 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: 719.501(1)(f) FS.

LAW IMPLEMENTED: 710.1055(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW. IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD.

TIME AND DATE: 10:00 a.m., December 29, 2003

PLACE: Warren Building, Meeting Room #B03, 202 Blount Street, Tallahassee, FL

Those persons who cannot attend in person may submit their comments in writing: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-78.001 Association Fee; Mailing Address: Fire Safety Retrofitting.

(1) through (2) No change.

(3) Each association that votes to forego retrofitting of the common areas or units of a residential cooperative with a fire sprinkler system or other engineered life safety system by the affirmative vote of two-thirds of all voting interests in the affected cooperative, shall report the voting results and certification information for each affected cooperative to the division on DBPR Form CP 6000-1, FIRE SAFETY RETROFITTING REPORT FOR COOPERATIVES, incorporated herein by reference and effective _____. The form may be obtained by writing the division at 1940 North Monroe Street, Tallahassee, Florida 32399-1030. If retrofitting has been undertaken by a residential cooperative, the association shall report the per-unit cost of such work to the division using DBPR Form CP 6000-1, FIRE SAFETY RETROFITTING REPORT FOR COOPERATIVES. The

division shall prepare a report of information obtained from associations and deliver the report to the Division of State Fire Marshal of the Department of Financial Services no later than August 1 of each year. DBPR Form CP 6000-1, FIRE SAFETY RETROFITTING REPORT FOR COOPERATIVES must be filed with the division within 60 days of recordation of the retrofitting waiver certificate in the public records where the cooperative is located or upon commencement of the retrofitting project.

(4)(a) As provided for by Section 719.1055, Florida Statutes, any vote to waive a fire safety retrofitting requirement shall be held at a duly called meeting of the membership, with members voting live and in person, or may be conducted without a membership meeting by written consents, or may be conducted by a combination of the two with the association counting written consents received along with votes cast live and in person at a duly called meeting of the membership.

(b) The written consent form utilized by the association must contain a space for the authorized voter to sign and must identify the unit owned. Voting by written consent may be utilized by an association regardless of whether the cooperative documents specifically permit voting by written consent.

(c) There is no limitation on the number of times an association may conduct a vote to waive a fire safety retrofitting requirement. However, in order to be effective, the affirmative vote of not less than two-thirds of the total voting interests must be obtained, and a certificate attesting to such vote must be recorded in the public records, not later than December 31, 2014.

(d) In the case of an association that operates more than one cooperative, in order for a waiver to be effective as to a particular cooperative and the buildings located within that cooperative, two-thirds of the total voting interests of that cooperative must affirmatively vote in favor of waiving the retrofitting requirements.

Specific Authority 719.501(1)(f) FS. Law Implemented 719.1055(5), 719.501(1),(2) FS. History—New 2-17-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ross Fleetwood, Director, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2003

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLE: Certification and Registration of Business Organizations

RULE NO.: 61G4-15.0021

PURPOSE AND EFFECT: The Board proposes to amend the language relating to certification and registration of business organizations.

SUMMARY: Certification and Registration of Business Organizations.

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: 489.108 FS.

LAW IMPLEMENTED: 489.105, 489.107, 489.115, 489.119, 489.1195, 489.143 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: Timothy Vaccaro, Executive Director, Construction Industry Licensing Board, 1940 N. Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-15.0021 Certification and Registration of Business Organizations.

(1)(a) A licensee may have his license(s) issued in his name as an individual or may be the qualifying agent for a partnership, corporation, d/b/a (unless operating only as an individual) or other business organization.

(b) No change.

(c) A certificate or registration issued to a business organization authorizes the business organization to contract only in the name of the business on the certificate of authority (license) and only within the scope of work of the qualifying contractor's certificate or registration.

(d) For purposes of compliance with Section 489.119(5), F.S., all advertising must bear either the qualifying contractor's individual license number or the business organization's license number, and must be in the name of the business as it appears on the business organization's license.

(e) No change.

(2) No change.

(3) The Board shall comply with its responsibility to determine the financial responsibility, credit worthiness and business reputation of applicants by examining the information submitted for the qualifying contractor or financially responsible officer, the business entity presently qualified (if any), any additional business entity to be qualified, and business owners will be examined. The existence of an unfavorable credit report or history, bankruptcy, history of late payments, unsatisfied liens, lawsuits (particularly those arising from contracting) and criminal history which evidences dishonesty, are among the items which may result in an unfavorable determination based upon unacceptable financial responsibility. This list is provided for information only, it is not intended to preclude consideration of other factors.

(a) A qualifying contractor shall complete the Financial Responsibility Acknowledgment Statement, contained in DPR/CILB/017 or DPR/CILB/025, as applicable as set forth in Rule 61G4-12.006, F.A.C. The Board has determined that in order to protect the public and to be adequately responsible for more than one business entities' financial obligation, a qualifying contractor must be invested in the success of the additional business. The Board has determined that the same dollars used to qualify the first business are insufficient to protect the public from business difficulties of more than one entity. To that end, the qualifying contractor shall demonstrate a personal ownership interest in the additional business of at least 25%, to be evidenced by a partnership, stock certificate, corporate minutes and/or other legal document to be provided to the board with the additional business entity application. In addition, the additional business entity shall meet the net worth requirements set forth in Rule 61G4-15.005, F.A.C., regardless of the category of contractor's license held by any other qualifier for the business organization. In lieu of the above, the additional business entity must apply for a financially responsible officer.

(b) through (d) No change.

(4) through (7) No change.

Specific Authority 489.108 FS. Law Implemented 489.105, 489.107, 489.115, 489.119, 489.1195, 489.143 FS. History—New 12-6-83, Formerly 21E-15.021, Amended 3-29-88, 8-8-88, 9-24-92, 12-28-92, Formerly 21E-15.0021, Amended 7-18-94, 7-5-95, 11-12-95, 2-6-96, 7-1-96, 9-3-96, 11-27-96, 11-13-97, 9-15-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Construction Industry Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLE: Fees
 RULE NO.: 61H1-31.001

PURPOSE AND EFFECT: The rule sets forth fees for computer-based testing of Applicants sitting for the Uniform CPA Examination as first-time candidates or candidates transferring partial credit from another state.

SUMMARY: This rule sets forth fees to be charged for examination, re-examination, and renewal of licensure.

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: 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS.

LAW IMPLEMENTED: 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE OF HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John W. Johnson, Executive Director, Board of Accountancy, 240 N. W. 76 Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-31.001 Fees.

(1) ~~For the Applicants to sit for the Uniform CPA Examination, as a first time candidate or for candidates transferring partial credits from another state, a fifty dollar (\$50.00) application fee will be owed prior to processing the application. Once the applicant has been approved to sit for the exam as a Florida candidate; the following initial examination fee will be charged to take each section of the exam: Auditing \$134.50, Accounting \$126.00, Regulation \$109.00, and Business E & C \$100.50, thirty five dollars (\$35.00) and sixty dollars (\$60.00) per part; sixty dollars (\$60.00) per part for extended/conditioned candidates. The Department will defer the fee until the next examination if the applicant is unable to sit for the examination due to illness, death in the immediate family, military service, or jury duty provided the applicant's illness is supported by a notarized statement of a physician, or absence, by reason of military service is supported by a copy of military order or a letter from the Commanding Officer or death in immediate family is supported by a notarized statement by the applicant and a copy of the death certificate or~~

~~obituary, or jury duty is supported by evidence from the appropriate court. Such request must be made in writing within sixty (60) days from the last day of the examination.~~

~~(2) In addition to the examination fee charged to take each section of the exam set forth in subsection (1), re-examination candidates will be charged a re-examination administration fee covering the costs of administration of the re-examination, which will vary depending on the number of examination sections the candidate applies to take per application: For initial licensure the fee shall be Twenty five Dollars (\$25.00). However, in no event will an initial license be issued if the initial licensure fee and all required documents are not received within 12 months of the date of certification by the Board. In such a case, the certification expires and the individual affected must reapply and requalify for licensure based on the laws and rules in effect at the time of the new application.~~

- ~~(a) Four sections of the examination – \$105.00.~~
- ~~(b) Three sections of the examination – \$90.00.~~
- ~~(c) Two sections of the examination – \$75.00, or~~
- ~~(d) One section of the examination – \$60.00.~~

~~(3) For individual active and inactive status licenses, biennial renewal fee provided in Section 473.305, F.S., ninety-five dollars (\$95.00).~~

~~(4) For change of status other than during the renewal period, fifty dollars (\$50.00); for reactivation of an inactive status license to active status, fifty dollars (\$50.00); for reactivation of a delinquent status license to active or changing a delinquent status license to inactive status fifty dollars (\$50.00).~~

~~In all cases completion of the requirements of Rule 61H1-33.006, F.A.C., and passage of the examination on Chapters 455 and 473, F.S., and related rules shall be required for reactivation.~~

~~(5) The biennial renewal fee provided in Section 473.305, F.S., for partnerships, corporations, and limited liability companies licensed in Section 473.3101, F.S., one hundred fifty dollars (\$150.00). The penalty for late renewal for partnerships, corporations, and limited liability companies shall be fifty dollars (\$50.00). The biennial renewal fee provided in Section 473.305, F.S., for sole proprietor firms and other legal entities owned by a sole proprietor licensed in Section 473.3101, F.S., twenty-five (\$25.00). The penalty for late renewal for sole proprietor firms and other legal entities owned by a sole proprietor shall be twenty-five dollars (\$25.00).~~

~~(6) Persons, partnerships and corporations licensed in the first year of the biennial period, as established by the Department, shall pay the fees established above. Those persons, partnerships and corporations licensed in the second year of the biennial period, as established by the Department, shall pay one half of the fees established above.~~

(7) For application for license by endorsement provided in Section 473.308, F.S., One Hundred Fifty Dollars (\$150.00) per person. If such application is withdrawn or denied, no portion of the fee will be refunded by the Department.

(8) The fee for the examination is refundable in the amount of fifty dollars per part if the applicant is found to be ineligible to sit for the examination.

(9) For fees relating to the Foreign Language Examination refer to Section 455.11, F.S.

(10) The scan sheet for the Laws and Rules Examination must be postmarked by or on July 15. No Laws and Rules Examination scan sheet will be accepted if it is postmarked after December 1.

(11) The CPE reporting form must be postmarked by or on July 15. If it is postmarked after July 15 but by or on December 1, a \$50 delinquency fee will be imposed by the Board. No CPE reporting form will be accepted if it is postmarked after December 1.

(12) Duplicate licensee fee – If a licensee requests a duplicate license, the Board will issue the duplicate if the request is made in writing and is accompanied by a payment of \$25.

Specific Authority 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS. Law Implemented 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS. History–New 12-4-79, Amended 2-3-81, 3-4-82, 11-6-83, 3-29-84, Formerly 21A-31.01, Amended 6-4-86, 9-16-87, 2-1-88, 8-30-88, 2-6-89, 12-18-89, 12-28-89, 8-16-90, 4-8-92, 12-2-92, Formerly 21A-31.001, Amended 11-4-93, 2-14-95, 11-3-97, 6-22-98, 10-28-98, 7-15-99, 4-3-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 7, 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.”

**Section III
Notices of Changes, Corrections and
Withdrawals**

**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.”

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE NO.: 19B-4.001
RULE TITLE: Application

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 44, October 31, 2003, issue of the Florida Administrative Weekly:

19B-4.001 Application.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB ~~2003-1~~ ~~2002-1~~, is hereby incorporated by reference and may be obtained by calling 1-800-552-GRAD (4723) (prompt 1). ~~The effective date of the form is October 21, 2002.~~ The Florida Prepaid College Plan Program Master Covenant, Form No. FPCB ~~2003-2~~ ~~2002-2~~ is hereby incorporated by reference ~~with an effective date of October 21, 2002.~~

Specific Authority 1009.971(1),(4),(6) FS. Law Implemented 1009.98 FS. History–New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-7-01, 10-9-01, 11-27-02, 10-1-03, _____.

STATE BOARD OF ADMINISTRATION

Florida Prepaid College Board

RULE NO.: 19B-16.002
RULE TITLE: Application for Participation in the Program

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 44, October 31, 2003, issue of the Florida Administrative Weekly: