

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gerald Briggs, Department of Health, Bureau of Onsite Sewage Programs, HSES, 4042 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1713

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: Voting System Equipment Regulations

RULE NO.: 1S-5.001

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to revise and update its content as required by Florida Law.

SUMMARY: This rule incorporates by reference the Florida Voting System Standards that set forth the process and minimum standards to be met when applying for certification of a voting system.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 101.015, 101.294 FS.

LAW IMPLEMENTED: 101.5605, 101.5606, 101.56062, 101.5607, 102.141, 102.166, FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 1:00 p.m., June 18, 2004

PLACE: 107 West Gaines Street, Suite 100, Tallahassee, Florida 32399-0250

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should contact Paul Craft, (850)245-6220, at least three days in advance of the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Paul Craft, Division of Elections, Department of State, 107 West Gaines Street, Suite 231, Tallahassee, Florida 32399, (850)245-6220

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-5.001 Voting System Equipment Regulations.

The Department of State, Division of Elections, is required to establish minimum standards for certification and provisional approval of hardware and software for electronic and electromechanical voting systems. The Division shall establish minimum levels of voting systems capability and certify voting system equipment in accordance with the requirements contained in Florida Voting Systems Standards, Form DS DE-101, eff. _____, which is hereby incorporated by reference and available from the Division upon request. The publication contains the minimum standards, procedures for testing to determine if those standards have been met, and procedures for certifying and provisionally certifying compliance with the minimum standards. Where initiated by a county Supervisor of Elections or the Department of State, modifications to previously certified systems which are designed to remedy system anomalies, which do not introduce new functions and do not introduce additional hardware components into the system configuration, may be certified under the Florida Voting Systems Standards, Form DS-DE-101, eff. _____.

Specific Authority 101.015, 101.294 FS. Law Implemented 101.5605, 101.5606, 101.56062, 101.5607, 102.141, 102.166 FS. History--New 3-28-90, Amended 7-28-98, 6-13-02, _____.

The proposed amendments to Form DS DE-101 may be accessed at the Division of Elections' website <http://election.dos.state.fl.us>.

NAME OF PERSON ORIGINATING PROPOSED RULE: Paul Craft, Chief, Bureau of Voting Systems Certification

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Director, Division of Elections, Department of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 19, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 15, 2002, December 20, 2002 and July 25, 2003

DEPARTMENT OF BANKING AND FINANCE

Division of Banking

RULE TITLES:	RULE NOS.:
Definitions	3C-560.103
Records to be Maintained by Deferred Presentment Providers	3C-560.707
Gross Income Test	3C-560.805
Definitions	3C-560.902
Deferred Presentment Transactions	3C-560.903
Transaction Agreement Disclosures and Requirements	3C-560.904
Database Transaction Requirements	3C-560.908

PURPOSE AND EFFECT: The amendments provide clarification as to the calculation of gross income for purposes of determining whether a person is engaged in the business of check cashing for which registration is required. The amendments further provide for additional procedures and requirements necessary for the effective operation of the deferred presentment database.

SUMMARY: The amendments provide a definition for gross income and provide additional procedures and requirements necessary for the effective operation of the deferred presentment database.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 560.105(2), 560.404(23) FS.

LAW IMPLEMENTED: 560.103, 560.118(2), 560.205(3),(4), 560.208, 560.304(2), 560.402, 560.404, 560.407 FS.

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

TIME AND DATE: 10:00 a.m., June 29, 2004

PLACE: Room 547, Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mike Ramsden, Office of Financial Regulation, Fletcher Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

3C-560.103 Definitions.

For the purposes of this chapter, the following definitions shall apply:

(1) "Agent" means an authorized vendor, as that term is defined in Section 560.103(2), F.S.

(2) "Applicant" with respect to the initial application for registration, means the corporation, partnership, association, individual, trust, or other group however organized, on behalf of which the application is being filed. For purposes of renewal, the "Applicant" is the Registrant authorized by the Department to operate pursuant to Chapter 560, F.S.

(3) "Audited Financial Statements" shall be defined as those financial statements prepared by an independent certified public accountant, and shall include at least the following information:

(a) Date of report, manual signature, city and state where issued, and identification with detailed enumeration the financial statements and schedules covered by the report;

(b) Representations as to whether the audit was made in accordance with generally accepted auditing standards and designation of any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which may have been omitted, and the reason for their omission; nothing in this rule however shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit for the purpose of expressing the opinions required under this rule;

(c) Statements of the opinion of the accountant in respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected therein, and as to the consistency of the application of the accounting principles and practices reflected therein, and as to the consistency of the application of the accounting principles, or as to any changes in such principles which would have a material effect on the financial statements;

(d) Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

(4) "Controlling shareholder" means any individual who exercises control as defined by Section 560.127, F.S.

(5) "Correspondent" means the individual designated by the existing or proposed Board of Directors, or other authorized party, to act on its behalf in all matters required to process the application.

(6) "Financial Statements" shall be defined as those reports, schedules and statements, prepared in accordance with Generally Accepted Accounting Principles, which contain at least the following information:

(a) Statement of Financial Condition (Balance Sheet); and

(b) Statement of Income

(7) "Individual" means a natural person.

(8) "Location" means a branch of the registrant or an authorized vendor where business activity regulated by Chapter 560, Florida Statutes occurs.

(9) "Money transmitter" means any person located in or doing business in this state that acts as or performs the activities of a payment instrument seller, foreign currency exchanger, check casher, funds transmitter, or deferred presentment provider.

(10) "Person" means any individual, corporation, partnership, association, trust, or other group, however organized.

(11) "Registrant" means a person registered by the Department pursuant to Part II or Part III of the Money Transmitters' Code.

(12) "Responsible person" means any individual who has principal active management authority over the business as defined by Section 560.103(18), F.S.

(13) "Unaudited Financial Statements" shall be defined as those financial statements prepared in accordance with Generally Accepted Accounting Principles and reviewed by a Certified Public Accountant, but not accompanied by the statements and representations as set forth in subparagraphs (3)(b), (c), and (d) of this Rule.

(14) "Holiday" means such days as are designated by Section 110.117, F.S.

(15) "Gross Income" means Gross Revenue (Sales) – Cost of Goods Sold.

Specific Authority 560.105(2)(3) FS. Law Implemented 560.103, 560.118(2), 560.205(3),(4), 560-208 FS. History--New 9-24-97, Amended 11-4-01, Amended _____.

3C-560.707 Records to be Maintained by Deferred Presentment Providers.

(1) Every deferred presentment provider shall maintain the following records at a location in this state which has been designated to the Department:

(a) A copy of each personal check accepted for each deferred presentment transaction.

(b) A copy of each transaction agreement between the deferred presentment provider and the drawer that meets the requirements of Rule 3C-560.904, F.A.C.

(c) If applicable, a copy of each document relating to any consumer credit counseling services provided for each drawer including:

1. A signed and dated notice from the drawer that he or she is unable to cover the check or to repay the provider on or before the last day of the deferment period, and that he or she agrees to complete consumer credit counseling and comply with a repayment agreement approved by a consumer credit counseling agency;

2. All correspondence received from or sent to the drawer or the consumer credit counseling agency chosen by the drawer; and

3. A copy of the drawer's repayment plan approved by the consumer credit counseling agency including records that substantiate the drawer's compliance with such agreement.

(d) Records relating to all returned personal checks that shall include, if applicable, the following:

1. The date the personal check was returned to the provider;

2. The name and address of the drawer;

3. The check number of the personal check;

4. The dollar amount of the personal check;

5. The date of deposit by the provider;

6. The NSF fees imposed, if applicable, on each drawer;

7. The date on which collection is made from the drawer; and

8. A description of the method by which collection was ultimately achieved.

(e) A daily summary of the business activities including the following documents:

1. Bank deposit receipts;

2. Copies of checks and withdrawal receipts evidencing withdrawal of funds from accounts maintained by the provider; and

3. A daily cash reconciliation summarizing each day's activities and reconciling cash on hand at the close of business.

(f) Bank statements of the provider received and maintained, no less often than monthly, for all accounts from which the provider operates. A complete legible copy of the provider's bank statement will be accepted if the original bank statement is not available.

(g) A copy of the drawer's written authorization to electronically debit the drawer's account if the provider intends to make use of such practice.

(h) The copy of the drawer's personal check shall constitute compliance with the requirements of subparagraphs (d)1. through 4. of this rule. The provider may include the reasonable cost of such copy as part of the verification fee allowed pursuant to Rule 3C-560.801, F.A.C., if such fee is charged to that drawer.

(i) A copy of the drawer's verifiable means of identification and any other documentation the provider collects in order to verify the drawer's identity.

(j) Copies of receipts provided to the drawer, which evidence the termination of the transaction. The drawer shall receive and the provider shall maintain a copy of the receipt for each transaction redeemed in cash or certified funds of the their check or when evidence of clearing has been provided to the provider. The receipt shall include, but is not limited to the date, time, transaction number, and amount.

(k) Copies of documentation presented to the provider as evidence of clearing.

(2) The records referenced in subsection (1) above may be maintained by the provider in accordance with the provisions of Section 560.407(4), F.S.

Specific Authority 560.105(2)(3), 560.404(23) FS. Law Implemented 560.404, 560.407 FS. History--New 12-17-01, Amended _____.

3C-560.805 Gross Income Test.

For purposes of determining whether a person is engaged in the business of check cashing for which registration is required the following formula will be applied:

Compensation for Check Cashing/Foreign
Currency Exchange

Gross Income + Compensation for Check Cashing/Foreign
Currency Exchange

Specific Authority 560.105(2) FS. Law Implemented 560.304(2) FS. History--
New _____.

3C-560.902 Definitions.

(1) The term “provider” means a deferred presentment provider as defined by Section 560.402(5), F.S.

(2) The term “close of business” means the time of day that a provider closes its office to the public for that calendar day.

(3) The term “database” means the Department administered transactional database authorized by Section 560.404(23), F.S.

(4) The term “database vendor” means the vendor, which contracted with the Department for the purpose of developing and administering the daily operations of the database.

(5) The term “registered” means that a deferred presentment provider has provided to the database the information required to identify a valid deferred presentment transaction.

(6) The term “recorded” means that the database has assigned a transaction authorization number to a registered transaction, logged it as an open transaction, and communicated the transaction authorization number to the deferred presentment provider.

(7) The term “consumer credit counseling” means a confidential comprehensive personal money management review, including budget counseling resulting in a written assessment of the client’s financial situation by the consumer credit counselor which includes a suggested client action plan based upon a range of options chosen according to the best interests of the client. The suggested client action plan may include: the client handling their financial concerns on their own; enrollment in a debt repayment plan managed by the credit counseling agency; and/or information about bankruptcy other than legal advice.

(8) The term “notice” means written communication to the last address provided to the Department by regular mail, electronic mail, or facsimile; provided that notice to the Department must be to the DPP Database Contract Manager, Department of Banking and Finance, by mail to 101 East Gaines Street, Tallahassee, Florida 32399-0350, or by electronic mail to electronic_licensing@mail.dbf.state.fl.us, or by facsimile to DPP Database Contract Manager, Department of Banking and Finance, (850)410-9279.

(9) The term “open transaction” or “open” means a transaction which has been registered and recorded but not terminated or pending.

(10) The term “pending transaction” or “pending” means an open transaction that is in the process of clearing the banking system, in the 60-day grace period pursuant to Section 560.404(22)(a), F.S., or returned to the provider pursuant to Section 560.406, F.S.

(11) The term “closed transaction” or “close” means a transaction terminated as provided in subsection 560.903(1), F.A.C.

(12) The term “immediately” means prior to the customer exiting the location in all circumstances except for depositing of checks, processing of ACH items for collection, or grace period related updates. In such instance, the term shall mean not later than 11:59 p.m. on the date that the event creating the need for the database update occurs.

Specific Authority 560.105(2)(3), 560.404(23) FS. Law Implemented 560.402, 560.404 FS. History--New 12-17-01, Amended 4-17-02, _____.

3C-560.903 Deferred Presentment Transactions.

(1)(a) A deferred presentment transaction shall be considered terminated at such time as the check that is the basis of the deferred presentment agreement has been:

1. Redeemed by the drawer by payment to the provider of the face amount of the check in cash;

2. Exchanged by the provider for a cashier’s check or cash from the drawer’s financial institution;

3. Deposited by the provider and such provider has evidence that such check has cleared in accordance with subsection (2);

4. Collected by the provider through any civil remedy available under Part IV of Chapter 560, F.S.; or

5. Collected by means of a repayment plan between the drawer and the provider or as the result of credit counseling where the provider has been paid the amount required under such plan.

6. Deposited by the provider or processed for collection through the ACH system and the provider has not received notice within 14 days that the check has been returned for insufficient funds, stop payment or closed account. The database will automatically close the transaction after 14 days if the provider has updated the transaction status to reflect the deposit and no action has been taken by the provider to update the database to reflect that the check has been returned as discussed above.

(b) Notwithstanding the automatic termination provision of subparagraph 3C-560.903(1)(a)6., F.A.C., providers shall immediately close all transactions in the database when a transaction is terminated as required by subsection 3C-560.908(6), F.A.C.

(c) In the event that the amount collected from the drawer exceeds the face amount of the check, the provider shall notify the drawer that he or she may retrieve such excess at the provider’s location where the initial agreement between the drawer and provider was executed.

(d) Each deferred presentment provider shall develop and implement written policies and procedures relating to the reconciliation of returned items where termination of the existing transaction is accomplished pursuant to subparagraph 3C-560.903(1)(a)6., F.A.C., which clearly supports the timely and accurate update of transactional information on the database.

(2)(a) The drawer shall provide evidence to the provider that his or her check that was the basis of a previous deferred presentment transaction has cleared the drawer's account at least 24 hours prior to entering into a new deferred presentment transaction (except that the provider may obtain such evidence as provided in subparagraph 4. below).

Evidence of a check having cleared the drawer's account may include, but shall not be limited to:

1. A copy of the drawer's bank statement showing the check has cleared;
2. The canceled check or a copy of the canceled check;
3. A copy of any other record provided by the drawer's financial institution or electronic network to which that financial institution subscribes such as an ATM inquiry that shows the check to have cleared; or
4. A verbal representation from the drawer's financial institution to the provider that the drawer's check has cleared, if the drawer's financial institution will provide such representation.

(b) Upon receipt of evidence that a drawer's check that is the basis of a previous deferred presentment transaction has cleared, the provider shall immediately update the database to close the transaction. The provider who deposited the drawer's check is the only provider that can close the transaction on the database.

(c) The provider shall retain a copy of the evidence presented by the drawer which it relies upon to terminate an existing deferred presentment transaction.

Specific Authority 560.105(2)(3), 560.404(23) FS. Law Implemented 560.404 FS. History--New 4-17-02, Amended.

3C-560.904 Transaction Agreement Disclosures and Requirements.

(1)(a) Each deferred presentment transaction agreement must contain the following:

1. The drawer's identification information including name, address, social security or alien registration number, and if provided, the drawer's driver's license number;
2. The name or trade name, registration number, address, and telephone number of the deferred presentment provider and the name and title of the person who signs the agreement on behalf of the deferred presentment provider;
3. The date the deferred presentment transaction was executed;
4. The face amount of the drawer's personal check;
5. The length of the deferment period (in days);

6. The last day of the deferment period.

7. The time of day on the last day of the deferment period for the drawer to either redeem his or her check or request the grace period. Such time shall be the close of business for that calendar day;

8. The address and toll-free telephone number of the Department;

9. A clear description of the drawer's payment obligations under the deferred presentment transaction;

10. The disclosure notice required by Section 560.404(20), F.S.;

11. The transaction number assigned by the Department's database. This provision shall become effective on March 1, 2002;

12. The amount of currency or the amount of any payment instrument provided to the drawer;

13. A listing of all fees charged to the drawer categorized by fee type (i.e., 10% transaction fee and verification fee);

14. The disclosures required by Section 560.404(13), F.S.;

15. The drawer's written signature and date of execution which shall be done in the presence of the provider or an authorized employee of the provider; ~~and~~

16. The provider or its authorized employee's written signature and date of execution.

(b) If the deferred presentment provider (Part II registrants only) intends to provide the drawer with a payment instrument in lieu of currency, the agreement shall also contain the drawer's acknowledgment that he or she has consented to accept the provider's payment instrument in lieu of currency. Such acknowledgment shall clearly state that it is the drawer's choice to obtain such payment instrument, and that the provider may not require a drawer to accept a payment instrument in lieu of currency. This acknowledgment shall be separately initialed by the drawer;

(c) If the provider intends to electronically debit the drawer's account to collect the funds, the agreement shall also contain the drawer's authorization to the provider permitting the electronic debit of the drawer's account. This authorization shall be provided in a separate section of the transaction agreement, in not less than 8 point type, and must be initialed by the drawer. Providers must still adhere to all provisions of Part IV of Chapter 560, F.S., regarding the drawer's payment options under such part;

17. The check number of the drawer's check; and

18. The drawer's date of birth.

(2) through (3) No change.

Specific Authority 560.105(2)(3), 560.404(23) FS. Law Implemented 560.404 FS. History--New 12-17-01, Amended.

3C-560.908 Database Transaction Requirements.

(1) Each deferred presentment transaction shall be registered with the database and receive a transaction authorization number evidencing the transaction as being

recorded in the database prior to a provider giving currency or a payment instrument (Part II registrants only) to the drawer except as set forth in Rule 3C-560.909, F.A.C. The purpose of this database is to:

- (a) Prevent the practice of rollover transactions;
- (b) Prevent simultaneous deferred presentment transactions with multiple providers by an individual drawer; and
- (c) Prevent a new deferred presentment transaction by a drawer within 24 hours of the termination of a prior transaction.

(2) The provider will begin each transaction by:

- (a) Accessing the database using the assigned user identification and password provided to each employee by the security administrator for the provider;
- (b) Conducting a search of the database based upon either a social security number, alien registration number, or ITIN number of the person seeking a new deferred presentment transaction. The database will provide the result of the search indicating whether the person is eligible or ineligible to enter into a new deferred presentment transaction;

(c) If the person is eligible for a new deferred presentment transaction, the provider may submit all of the required information on a person necessary to have the transaction registered on the database;

(d) Once all of the required information has been submitted to the database, the database will re-verify the search. If the drawer's eligibility is confirmed, the deferred presentment transaction will be recorded as open, assigned a transaction authorization number, and the transaction authorization number will be communicated to the provider as evidence that the transaction has been authorized by the database. The provider shall place the transaction authorization number on the deferred presentment agreement; and

(e) Providing a copy of the agreement to the drawer.

(3) Providers may cancel a deferred presentment agreement before the close of business on the date of the transaction without incurring a transaction fee. If a provider elects to cancel a deferred presentment agreement with a drawer, the provider shall not assess either the transaction fee or the verification fee to the drawer. The provider shall immediately update the transaction fields to indicate that no fees were charged to the drawer and close the transaction on the database.

(4) Providers shall immediately update open transactions on the database to ensure that all identifying information regarding both the drawer and the transaction are accurate, including any comments on the transaction which the provider deems relevant. A provider shall also immediately update the database by entering a pending reason when:

(a) The check that is the basis of the deferred presentment agreement has been deposited by the provider, in which case, the date on which the check was deposited shall also be entered;

(b) A drawer has requested the 60-day grace period in accordance with Section 560.404(22)(a), F.S.; ~~and~~

(c) The drawer's check is returned to the provider as not collected; or

(d) The drawer's check is processed for collection via the ACH system.

(5) Providers shall have written procedures for the secure handling of the original check provided by the drawer in the course of a deferred presentment transaction. Such procedures shall include, at a minimum, the following steps, as appropriate: that checks must be endorsed in the name of the provider and deposited into an account maintained by the provider at the provider's financial institution; that checks redeemed by the drawer shall be returned to the drawer; that checks processed for collection via the ACH system shall be returned to the drawer, destroyed, or voided by the provider to ensure that the check cannot be negotiated.

(6)(5) Providers shall be responsible for closing all transactions on the database, except as provided in subparagraph 3C-560.903(1)(a)6., F.A.C., immediately when the transaction has terminated, in which case, the provider shall input the date and time a transaction closes, as well as the payment method, unless the provider has previously entered such payment method. The provider shall also provide a written receipt to the drawer at the time the transaction is redeemed in cash, certified funds, or the drawer provides evidence of clearing.

(7)(6) Any inquiry that results in the person being deemed ineligible by the database will immediately provide a printable message with a description of the reason for the determination together with the name, address, and toll-free support number of the database vendor, 1(877)FLA-DPP1. At a minimum, the description shall state that the person is ineligible because he or she:

- (a) Has an open transaction with the inquiring provider;
- (b) Has an open transaction with another provider; or

(c) Has terminated a prior transaction within 24 hours of the inquiry. A copy of the printable message shall be provided to the person at the time the database renders a determination that the person is not eligible to enter into a new deferred presentment agreement.

Specific Authority 560.105(2)(3), 560.404(23) FS. Law Implemented 560.404 FS. History--New 4-17-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Don B. Saxon, Director, Office of Financial Regulation
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don B. Saxon, Director, Office of Financial Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 2004
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 2004

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Licensing

RULE TITLE: RULE NO.:

School Curriculum; Examinations; 5N-1.140
 Retention of Records

PURPOSE AND EFFECT: The purpose and effect is to incorporate by reference a revised Security Officer Curriculum Guide. The guide is used by schools offering training that is required for those who apply for a security officer license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The cost is limited to the cost of publishing this notice. 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: 493.6303(4), 493.6304(3), 493.6403(2), 493.6406(3) FS.

LAW IMPLEMENTED: 493.6303(4), 493.6304(3), 493.6403(2), 493.6406(3) FS.

IF REQUESTED WITHIN 21 DAYS 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., June 28, 2004
 PLACE: Conference Room, 2520 North Monroe Street, Tallahassee, Florida 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Kristi Reid Bronson, Assistant General Counsel, Department of Agriculture and Consumer Services, Division of Licensing, 2520 North Monroe Street, Tallahassee, FL 32303, (850)488-3492, Fax (850)488-2789

THE FULL TEXT OF THE PROPOSED RULE IS:

5N-1.140 School Curriculum; Examinations; Retention of Records.

(1) Security Officer Schools and Training Facilities.

(a) A security officer school or training facility shall teach, at a minimum, and the students shall attend classes in the subject areas as set forth in the Security Officer Training Curriculum Guide (5/04) (~~Form LC1E186; eff. 7/96~~), incorporated by reference. The security officer curriculum shall be taught in two courses, Course A consisting of 24 hours of instruction and Course B consisting of 16 hours of instruction.

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

Specific Authority 493.6303(4), 493.6304(3), 493.6403(2), 493.6406(3) FS. Law Implemented 493.6303(4), 493.6304(3), 493.6403(2), 493.6406(3) FS. History—New 10-1-91, Amended 2-18-93, 7-6-93, 10-6-93, 12-5-94, 7-31-96, Formerly 1C-3.140, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kristi Reid Bronson, Assistant General Counsel, Department of Agriculture and Consumer Services, Division of Licensing, 2520 North Monroe Street, Tallahassee, FL 32303, (850)488-3492, Fax (850)488-2789

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Gene Bryan, Division Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 13, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 23, 2004

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.”

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:
 Institutional Mail 33-210.104

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete unnecessary language.

SUMMARY: The proposed rule deletes language that is unnecessary and overly detailed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-210.104 Institutional Mail.

(1) Only Department of Corrections mail or mail concerning the activities of the department will be processed by institutional staff. Institutional employees shall not receive personal mail at the institution. Personal mail includes any mail dealing with the personal affairs of the employee not directly related to department matters.

(2) The warden of each institution shall designate mail room staff or employees in each department to inspect staff mail introduced into the confines of the secure perimeter. All incoming mail addressed to staff will be opened and inspected to determine whether it contains contraband or is personal in nature.

(a) Mail marked "personal" or "confidential" will be opened by the designated staff in the presence of the receiving employee.

~~(b) Mail sent to medical departments will be opened by designated health services staff in accordance with (2)(a).~~

~~(b)(e) No change.~~

~~(d) Only the classification supervisor or his or her designee will open mail marked "Substance Abuse Records - Confidential" in the mailroom. The classification supervisor or his or her designee will ensure that the confidentiality of any substance abuser records contained in inmate records that arrive through the mail is maintained in accordance with 42 C.F.R. Part II, Chapter 397, Florida Statutes, and Chapter 65D-30, F.A.C. The name of the inmate or inmates whose records are contained therein will not be identified on the envelope.~~

~~(e) Mail addressed to contract vendors will be opened by a contract vendor's employee in the mailroom in the presence of mailroom staff.~~

~~(3) Personal mail will not be delivered to the employee, but rather will be forwarded to the warden. The warden will give the mail to the employee, but shall instruct the employee to inform the sender of an alternative non department facility address for delivery. The employee shall also be advised that failure to follow these instructions will result in disciplinary action in accordance with 33-208.002 and 33-208.003.~~

~~(3)(4) No change.~~

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 12-7-98, Formerly 33-3.0054, Formerly 33-602.404, Amended 12-4-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19, 2004

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE CHAPTER TITLE: Permitting of Water Use RULE CHAPTER NO.: 40B-2

RULE TITLE: Duration of Permits RULE NO.: 40B-2.321

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to provide an extension of expiration dates for water use permits issued between January 1, 1984 and December 31, 1985. The effect of the proposed rule amendment is to extend the duration of existing water use permits for three years.

SUMMARY: The proposed rule amendment will provide an extension of expiration dates for water use permits issued between January 1, 1984 and December 31, 1985, subject to certain conditions.

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 rule amendment 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 estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.236 FS.

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

Anyone requiring special accommodation to participate in this meeting is requested to advise the District at least five (5) work days before the meeting by contacting Linda Smith at (386)362-1001.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only).

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-2.321 Duration of Permits.

(1) Unless revoked, modified, or specifically identified as a limiting condition pursuant to paragraph 40B-2.381(2)(d), F.A.C., the duration of permits shall be as provided in Section 373.236, Florida Statutes.

(2) The Governing Board hereby extends for three years all water use permits issued between January 1, 1984, and December 31, 1985, subject to the following requirements.

(a) The permit was issued for a duration of twenty years and has received no extensions prior to the effective date of this rule.

(b) The permit has not been renewed prior to the effective date of this rule.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.236 FS. History—New 10-1-82, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Environmental Resource and Works of the District Permits	40B-4
RULE TITLES:	RULE NOS.:
Policy and Purpose	40B-4.1010
Permits Required	40B-4.1040
Recognition of Comparable Regulatory Programs	40B-4.1060
Exemptions	40B-4.1070
Duration of Permits	40B-4.1100
Transfer of Permits	40B-4.1130
Limiting Conditions on Permits	40B-4.1140
General Environmental Resource Permits	40B-4.2010
Content of Environmental Resource Permit Application	40B-4.2020
Conditions for Issuance of Environmental Resource Permits	40B-4.2030
Minimum Operation and Maintenance Standards	40B-4.2040
Adopted Works of the District	40B-4.3000
General Works of the District Development Permits	40B-4.3010
Content of Works of the District Development Permit Applications	40B-4.3020
Conditions for Issuance of Works of the District Development Permits	40B-4.3030
Unlawful Use of Works of the District	40B-4.3040

PURPOSE AND EFFECT: The purpose of the rule development is to update sections of Chapter 40B-4, Florida Administrative Code, based on the regulatory experience of the District since the inception of environmental resources permitting. The effect of the proposed rule amendments will be to provide for more efficient and effective regulation of activities that are subject to regulation and to provide for better comprehension of the subject rules.

SUMMARY: This proposed rule will update rule terminology, change form names and numbers, develop consistency with Chapter 40B-1, Florida Administrative Code, codify additional permit exemptions and delete outdated exemptions, change general permit durations, codify additional criteria for Works of the District permits, and add additional criteria to the noticed general permit for borrow pits.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.117, 373.118, 373.171 FS.

LAW IMPLEMENTED: 120.60, 373.016, 373.019, 373.042, 373.084, 373.085, 373.086, 373.117, 373.406, 373.409, 373.413, 373.416, 373.419, 373.423, 373.426 FS.

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

Anyone requiring special accommodation to participate in this meeting is requested to advise the District at least five (5) work days before the meeting by contacting: Linda Smith, (386)362-1001

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or 1(800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULES IS:

40B-4.1010 Policy and Purpose.

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

4. That new development which occurs in floodprone areas is made flood resistant ~~flood proofed~~ to the greatest extent practical, or that development which cannot be made flood resistant ~~flood proofed~~ is not permitted in floodprone areas.

(b) through (5) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086, 373.409, 373.413, 373.416, 373.426 FS. History—New 9-25-85, Amended _____.

40B-4.1040 Permits Required.

(1) Permits are required as follows:

(a) ~~Environmental resource surfacewater management~~ permit prior to initiating any project which involves draining, developing, or subdividing property, construction of roads or bridges, commercial or industrial developments, and agricultural or forestry activities, including dredging or filling the construction, alteration, maintenance, operation, or abandonment of any dam, impoundment, reservoir, appurtenant works, works, or surfacewater management system.

(b) Works of the district development permit prior to initiating any project as outlined in paragraph (a) above within a regulatory floodway as defined within this chapter connecting with, placing structures or works in or across, discharging to, or other development within a work of the district.

(c) When the need to obtain a works of the district development permit is in conjunction with the requirements for obtaining an environmental resource surfacewater management permit, application shall be made and shall be considered by the district as part of the request for an environmental resource surfacewater management permit application. Otherwise, a separate works of the district development permit must be obtained.

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

(e) Specific procedures, noticing or application requirements, and conditions for issuance of environmental resource surfacewater management permits or works of the district development permits are detailed in Section 40B-1.703, F.A.C., or Part II or Part III of this chapter or Chapter 40B-400, F.A.C., including any materials adopted by reference thereto.

(3) Chapter 93-213, Laws of Florida, amended Chapters 373 and 403, Florida Statutes, to provide for consolidation and streamlining of permitting programs of the district and Department. Chapter 93-213, F.S., ~~required~~ requires a series of rule amendments by the water management districts and Department to accomplish the streamlining and consolidation. The adoption of Chapter 40B-400, F.A.C., was which is scheduled for adoption on or before July 1, 1994, is the first significant rulemaking effort of the district necessary to comply with the provisions of Chapter 93-213, L.O.F. The provisions of Chapter 40B-400, F.A.C., are supplemental to this chapter. Subsequent to the effective date of Chapter 40B-400, F.A.C., permits required by this chapter which have been known as surfacewater management permits will be henceforth titled Environmental Resource Permits. Subsequent to the effective date of Chapter 40B-400, F.A.C., if a provision of this chapter is found to be in conflict with a provision of Chapter 40B-400, F.A.C., the provisions of Chapter 40B-400, F.A.C., shall govern.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086, 373.413, 373.416, 373.426 FS. History—New 9-25-85, Amended 12-22-92, 10-3-95, _____.

40B-4.1060 Recognition of Comparable Regulatory Programs.

The district recognizes that regulatory and permitting programs exist or may be developed in the future by local units of government, state, or federal agencies which may overlap with some or all of the requirements of this chapter. In order to avoid duplication, an applicant may use any forms, plans, specifications, drawings, calculations, or other data developed to support an application for a permit required by a local unit of government, other state, or federal agency, pursuant to any rules which establish requirements equal to or more stringent than these rules in lieu of any such submittals required by Rules 40B-4.2020 or 40B-4.3020, F.A.C., of this chapter subject to provisions of ~~Rule 40B-4.1080(2)(a)2.~~

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.085, 373.413 FS. History—New 9-25-85, Amended _____.

40B-4.1070 Exemptions.

(1) The following activities are exempt from the requirements of obtaining environmental resource surfacewater management permits specified in paragraph 40B-4.1040(1)(a), F.A.C.:

(a) through (b) No change.

(c) Surfacewater management system which will connect to a system permitted and constructed pursuant to this chapter providing the permit for the permitted system anticipated the connection or it is modified to include the connection and the system is functioning as permitted.

(d) through (f) No change.

(g) The construction of the following minor roadway safety projects provided that the capacity of existing swales, ditches, or other storm water management systems is not reduced and the projects are located completely within uplands:

1. Sidewalks that have a width of six feet or less.

2. Turn lanes less than 0.25 miles in length and other intersection improvements.

3. Road widening and shoulder paving projects which do not result in the creation of additional traffic lanes.

(h) Recreational paths that have a width of ten feet or less which do not allow motorized vehicles powered by internal combustion engines, except for maintenance and emergency vehicles.

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

~~(e) Development within a work of the district which complies with a local government ordinance as listed in subparagraph 40B-4.1070(2)(e)1., F.A.C., and meets the conditions in subparagraph 40B-4.1070(2)(e)2., F.A.C.~~

~~1. The following local government ordinances, adopted by the respective local government jurisdictions, have been reviewed by the district and are considered to contain criteria equal to or more stringent than the conditions for issuance of district works of the district development permits:~~

a. Ordinance 88-9, adopted by the Alachua County Board of County Commissioners with an effective date of March 22, 1988, and implemented in the unincorporated areas of Alachua County, Florida;

b. Ordinance 87-14, adopted by the Columbia County Board of County Commissioners with an effective date of December 9, 1988, and implemented in the unincorporated areas of Columbia County, Florida;

e. Ordinances 82-09 and 87-11, adopted by the Suwannee County Board of County Commissioners with effective dates of September 16, 1982, and January 5, 1988, respectively, and implemented in the unincorporated areas of Suwannee County, Florida;

d. Ordinance 14, adopted by the Madison County Board of County Commissioners with an effective date of April 16, 1988, and implemented in the unincorporated areas of Madison County, Florida;

e. Ordinance 89-9 adopted by the Bradford County Board of County Commissioners with an effective date of November 13, 1989, and implemented in the unincorporated areas of Bradford County, Florida;

f. Ordinance 82-04 adopted by the Dixie County Board of County Commissioners with an effective date of August 19, 1982, and implemented in the unincorporated areas of Dixie County, Florida;

g. Ordinance 88-06 adopted by the Gilchrist County Board of County Commissioners with an effective date of August 10, 1988, and implemented in the unincorporated areas of Gilchrist County, Florida;

h. Ordinance 63-87 adopted by the Hamilton County Board of County Commissioners with an effective date of May 21, 1987, and implemented in the unincorporated areas of Hamilton County, Florida;

i. Ordinance 84-1 and 91-4 adopted by the Jefferson County Board of County Commissioners with an effective date of October 17, 1984 and June 19, 1991, respectively, and implemented in the unincorporated areas of Jefferson County, Florida;

j. Ordinance 1-87 adopted by the Lafayette County Board of County Commissioners with an effective date of January 5, 1987, and implemented in the unincorporated areas of Lafayette County, Florida;

k. Ordinance 82-3 adopted by the Levy County Board of County Commissioners with an effective date of July 16, 1991, and implemented in the unincorporated areas of Levy County, Florida;

l. Ordinance 87-4 and 90-5 adopted by the Taylor County Board of County Commissioners with an effective date of May 1, 1987 and July 3, 1990, respectively, and implemented in the unincorporated areas of Taylor County, Florida;

m. Ordinance 88-9 adopted by the Union County Board of County Commissioners with an effective date of August 3, 1988, and implemented in the unincorporated areas of Union County, Florida;

2. This exemption is provided for projects where:

a. The development maintains the minimum setbacks listed in subsection 40B-4.3030(4), F.A.C.;

b. The development will not result in the conversion of wetlands to uplands through drainage, filling, or other means; and

e. The development is associated with the construction, reconstruction, improvement, or maintenance of a single family residence.

(3) The following activities are not subject to the permitting requirements of this chapter:

(a) Construction or maintenance of certain docks, seawalls, bulkheads, mooring pilings, or dolphins which are regulated by Florida Department of Environmental Protection pursuant to the authority in Section 403.813, Florida Statutes.

(b) through (4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086, 373.406, 373.416, 373.426 FS. History—New 9-25-85, Amended 2-1-89, 12-22-92, _____.

40B-4.1100 Duration of Permits.

(1) No change.

(a) Three ~~Two~~ years duration for general permits authorizing the construction or alteration of a surfacewater management system or work unless the construction involves or affects a works of the district development permit. In the latter event, the duration shall be specified as a limiting condition on the permit. When a permit is issued for construction or alteration and the subsequent operation and maintenance, the portion of the permit authorizing construction or alteration shall be limited to three ~~two~~ years from the date of issuance. Upon written request of a permittee, a duration extension for a general permit may be authorized for up to one year in order to complete any work initiated under the terms of the original permit.

(b) through (e) No change.

(2) Permits authorizing the construction, alteration, or abandonment of a system or work shall expire as specified in the permit automatically unless the permittee requests an extension prior to the expiration date.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.084, 373.085, 373.413, 373.416, 373.426 FS. History—New 9-25-85, Amended 12-22-92, _____.

40B-4.1130 Transfer of Permits.

(1) General wWorks of the district development permits shall automatically transfer to the new owner upon his taking title to the lands involved in such a permit. No notice to the district shall be required for such transfer unless specifically required as a limiting condition on the permit.

(2) Environmental resource Surfacewater management permits for operation and maintenance will be transferred to the responsible entity for such operation and maintenance upon completion of all work specified in the permit to construct, alter or abandon, provided the permittee notifies the district in accordance with Section 373.416(2), F.S., within 30 days of the sale or conveyance of the system, work, appurtenant work or works, or the land on which the permitted project is located.

(3) through (4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.413, 373.416 FS. History—New 9-25-85, Amended 12-22-92, _____.

40B-4.1140 Limiting Conditions on Permits.

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

(c) The operational and maintenance phase of an environmental resource surfacewater management permit will not become effective until the owner or his authorized agent certifies that all facilities have been constructed in accordance with the design permitted by the district. If required by the district, such as-built certification shall be made by an engineer or surveyor. Within 30 days after the completion of construction of the system, the permittee shall notify the district that the facilities are complete. If appropriate, the permittee shall request transfer of the permit to the responsible entity approved by the district for operation and maintenance. The district may inspect the system and, as necessary, require remedial measures as a condition of transfer of the permit or release for operation and maintenance of the system.

(d) through (j) No change.

Specific Authority 373.044, 373.113, 373.117, 373.171 FS. Law Implemented 373.084, 373.085, 373.117, 373.409, 373.413, 373.416, 73.419, 373.423, 373.426 FS. History—New 9-25-85, Amended 2-1-89, 12-22-92, _____.

PART II

ENVIRONMENTAL RESOURCE PERMITS
SURFACEWATER MANAGEMENT SYSTEMS

40B-4.2010 General Environmental Resource Permits.

(1)(a) through (c)2.a. No change.

b. Best management practices listed in "Silviculture Best Management Practices Manual" (1993), latest edition, published by the Florida Department of Agriculture and Consumer Services, or listed in the United States Department of Agriculture, Soil Conservation Service "Water Resources Notebook for Florida" shall be used to the extent necessary to minimize erosion, sedimentation or other adverse impacts; and

c. through (2)2. No change.

3. Borrow pits which:

a. Are less than 5 acres excavation area, as measured at natural grade.

b. Are ~~that~~ located entirely upland of waters and wetlands,

c. Do not impound, impede or divert the flow of surface waters, and

d. Do not intercept an aquifer.

(b) No change.

Specific Authority 373.044, 373.118, 373.171 FS. Law Implemented 120.60, 373.084, 373.085, 373.117, 373.413, 373.416, 373.426 FS. History—New 9-25-85, Amended 8-10-86, 2-12-87, 6-16-88, 2-1-89, 12-22-92, 10-3-95, _____.

40B-4.2020 Content of Environmental Resource Surfacewater Management Permit Application.

(Copies of forms incorporated by reference below may be obtained at the district office.)

(1) No change.

(a) Form 40B-1.901(10) 40B-4-1a, "Notice of Intent to Construct a Minor Surface Water Management System Pursuant to subsection 40B-4.2010(1) or paragraph (2)(a), F.A.C. for General Surfacewater Management Permit for Agricultural or Forestry Projects," Suwannee River Water Management District, Effective January 29, 2001 10-1-92.

(b) Form 40B-1.901(17) 40B-4-1b, "Notice of Intent to Construct a Minor Silvicultural Surface Water Management System Pursuant to Rule 40B-400.500, F.A.C. for General Surfacewater Management Permit," Suwannee River Water Management District, Effective January 29, 2001 10-1-92.

(c) Form 40B-1.901(13), "Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit", Effective January 29, 2001.

(2) Applications for general environmental resource surfacewater management permits shall be filed with the district by submitting the following form which is hereby incorporated by reference, and such information specified in paragraph 40B-4.2020(3)(b)(~~a~~), F.A.C., as appropriate for the scope of the project:

Form 40B-1.901(13), "Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit", Effective January 29, 2001. Form 40B-4-2, "Application for General Surfacewater Management Permit", Suwannee River Water Management District, 10-1-92.

(3) Application for individual or conceptual approval environmental resource surfacewater management permits shall be filed with the district and shall contain the following information as may be appropriate to the project. The board encourages applicants to request a pre-application conference with district staff to explore the appropriate items to be included with the application and the level of detail needed. It is the intention of the board that only the information necessary to evaluate the potential impacts of the proposed project be included.

(a) Form 40B-1.901(13), "Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit", Effective January 29, 2001 Form 40B-4-4, "Application for Surfacewater Management System Construction, Alteration, Operation, Maintenance, and/or Works of the District

Development”, Suwannee River Water Management District, 10-1-85, hereby incorporated by reference and which contains the following information:

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

b. A recent (not more than three years prior to the from date of application) aerial photograph encompassing the project area at a scale no smaller than one inch equals 800 feet with the project area and total land area identified;

c. through e. No change.

f. Soils map of the site (existing U.S.D.A. – N.R.S.-C.S. maps adequate);

g. through h. No change.

i. A soil conditions report including a map showing the location of any soils borings or percolation tests. Percolation tests representative of design conditions shall be performed if surfacewater management systems propose to utilize swales, percolation (retention), or exfiltration (detention with filtration) designs.

2. through 4. No change.

(c) ~~Subject to the provisions of subparagraph 40B-4.1080(2)(a)2., F.A.C.,~~ Projects on exclusively agricultural lands may submit an approved conservation plan in lieu of the information specified in paragraph 40B-4.2020(3)(b), F.A.C. Information specified in paragraph 40B-4.2020(3)(a), F.A.C., must be included with the application.

(d) ~~Subject to the provisions of subparagraph 40B-4.1080(2)(a)2., F.A.C.,~~ Projects on exclusively silvicultural lands may submit a forest water management plan which addresses the appropriate elements in “Silvicultural Best Management Practices Manual,” Florida Department of Agriculture and Consumer Services, Division of Forestry, latest edition 1979. Appropriate data utilized to prepare the forest water management plan should be included. The forest water management plan may be submitted in lieu of the information specified in paragraph 40B-4.2020(3)(b), F.A.C. Information specified in paragraph 40B-4.2020(3)(a), F.A.C., must be included with the application.

(4) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.413, 373.416, 373.426 FS. History–New 9-25-85, Amended 2-1-89, 12-22-92, _____.

40B-4.2030 Conditions for Issuance of Environmental Resource Surfacewater Management Permits.

(1) through (10) No change.

(11) The district shall not approve the issuance of permits for new surface water management systems or individual works which result in permanent damage or alteration to a work of the district.

(12) The district shall not approve the issuance of permits for new private roads within a work of the district that are constructed with fill material.

(13) The district shall not approve the issuance of permits for mining, associated mining activities, borrow pits, and other excavations within a work of the district.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.042, 373.084, 373.085, 373.086, 373.117, 373.409, 373.413, 373.416, 373.426 FS. History–New 9-25-85, Amended 2-1-89, 10-3-95, _____.

40B-4.2040 Minimum Operation and Maintenance Standards.

(1) through (2) No change.

(3) Oil and grease separators, skimmers, or collection devices shall be inspected and maintained on a regular basis by the permittee to insure that they are working properly and do not allow the discharge of oils or greases. Oils and greases or other materials removed from such a device during routine maintenance shall be disposed of ~~at a sanitary landfill or by other~~ lawful means.

(4) through (6) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.016, 373.042, 373.084, 373.085, 373.086, 373.117, 373.409, 373.416, 373.426 FS. History–New 2-1-89, Amended _____.

PART III
WORKS OF THE DISTRICT

40B-4.3000 Adopted Works of the District.

(1) through (3) No change.

(4) The Suwannee River and its floodway in Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Levy, Madison, and Suwannee counties, Florida; and

(5) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.019, 373.084, 373.085, 373.086 FS. History–New 9-25-85, Amended _____.

40B-4.3010 General Works of the District Development Permits.

(1) A general works of the district development permit may be granted pursuant to the procedures in Rule 40B-1.703, F.A.C., to any person for a duration not to exceed two years for the development described below:

Construction of a structure for single-family residential or agricultural use including the leveling of land for the foundation and associated private water supply, wastewater disposal, and driveway access which is in compliance with all applicable ordinances or rules of local government, state, and federal agencies, and which meets the requirements of this chapter.

(2) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086 FS. History–New 9-25-85, Amended 3-19-86, 12-22-92, _____.

40B-4.3020 Content of Works of the District Development Permit Applications.

(1) Applications for a general work of the district development permit shall be filed with the district and shall contain the following:

Form ~~40B-1.901(11)~~ ~~40B-4-5~~, "Application for General Work of the District Development Permit," Suwannee River Water Management District, January 29, 2001 ~~4-1-86~~, hereby incorporated by reference and which contains the following:

(a) through (f) No change.

(2) Applications for individual or conceptual approval works of the district development permits shall be filed with the district and shall contain the following:

Form 40B-1.901(13), "Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit", Effective January 29, 2001 Form ~~40B-4-4~~, "Application for Surface Water Management System Construction, Alteration, Operation, Maintenance, and/or Works of the District Development," Suwannee River Water Management District, ~~2-10-1-85~~, hereby adopted by reference and which contains the following:

(a) through (6) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086 FS. History—New 9-25-85, Amended 3-19-86, _____.

40B-4.3030 Conditions for Issuance of Works of the District Development Permits.

(1) The district will not approve the issuance of separate permits for development in a work of the district for any proposed project that requires a district environmental resource surfacewater management permit pursuant to Part II of this chapter. For such projects, development in a work of the district may be authorized as part of any environmental resource surfacewater management permit issued.

(2) The district will not approve the issuance of a works of the district development permit for any work, structures, road, or other facilities which have the potential of individually or cumulatively reducing floodway conveyance or increasing water-surface elevations above the 100-year flood elevation, or increasing soil erosion. ~~The district will presume such a facility will not reduce conveyance or increase water surface elevations above the 100-year flood elevation or increase soil erosion if:~~

~~(3)(a)~~ Roads with public access ~~shall be~~ ~~are~~ constructed and laid out in conformance with the minimum standards of local government. Where roads are not required to be paved, the applicant must provide design specifications for erosion and sediment control. Where roads are required to be paved, swales will generally be considered adequate for erosion and sediment control;

~~(4)(b)~~ Buildings in the floodway ~~shall be~~ ~~are~~ elevated on piles without the use of fill such that the lowest structural member ~~of the first floor~~ of the building is at an elevation at least one foot above the 100-year flood elevation;

~~(5)(e)~~ The area below the first floor of elevated buildings ~~shall be~~ ~~is~~ left clear and unobstructed except for the piles or stairways;

~~(6)(d)~~ A permanent elevation monument ~~shall be~~ ~~is~~ established by a surveyor on the property ~~to be developed by a surveyor~~. The monument shall be adequate to establish land surface and minimum buildup elevations to the nearest 1/100 of a foot;

~~(7)(e)~~ No ~~permanent~~ fill material shall ~~or other~~ ~~obstructions are to be~~ placed above the natural grade of the ground, ~~except for minor obstructions which are less than or equal to 100 square feet of the cross-sectional area of the floodway on any building or other similar structure provided that all such obstruction developed on any single parcel of land after the implementation date of this chapter is considered cumulatively;~~

~~(8)(f)~~ No activities ~~shall be~~ ~~are~~ proposed which would result in the filling or conversion of wetlands.

~~(9)(3)~~ For any structure placed within a floodway ~~which, because of its proposed design and method of construction, may, in the opinion of the district, result in obstruction of flows or increase in the water surface elevation of the 100-year flood,~~ the district ~~shall~~ ~~may~~ require as a condition for issuance of a work of the district development permit that an engineer certify that such a structure will not obstruct flows or increase 100-year flood elevations. Such certification shall include step-backwater calculations using the 100-year flood discharge rate.

~~(10)~~ Boat ramps constructed within a Work of the District shall be designed by a licensed professional engineer.

~~(11)(4)~~ The following conditions shall apply to all works of the district development permits issued for development on lands subdivided after January 1, 1985:

(a) No clearing of trees and vegetation shall occur ~~Clearing of land shall be limited~~ [except as provided in paragraphs ~~(c)(b)~~ and ~~(d)(e)~~ below] other than what is to that necessary to remove diseased vegetation, construct structures, associated water supply, wastewater disposal, and private driveway access facilities, and

(b) ~~No~~ construction, additions or reconstruction shall occur in the front 75 feet of an area immediately adjacent to and including the normally recognized bank of a water, except for facilities to provide reasonable pedestrian access to water dependant structures such as docks.

~~(c)(b)~~ Clearing of vegetation within the front 75 feet immediately adjacent to and including the normally recognized bank of a water shall be limited to that necessary to gain access or remove diseased vegetation.

~~(d)~~(e) Harvest or regeneration of timber or agricultural crops shall not be limited provided the erosion of disturbed soils can be controlled through the use of appropriate best management practices, the seasonal scheduling of such activities will avoid work during times of high-flood hazard, and the 75 feet immediately adjacent to and including the normally recognized bank of a water is left in its natural state as a buffer strip.

~~(e)~~(f) As to those lands subdivided prior to January 1, 1985, the governing board shall, in cases of extreme hardship, issue works of the district development permits with exceptions to the conditions listed in paragraphs 40B-4.3030(4)(a) through ~~(d)~~(e).

~~(f)~~(e) The 75-foot setback in paragraphs (a) through (d) above shall be considered a minimum depth for an undisturbed buffer. The limitations on disturbance and clearing within the buffer as set out in paragraphs (a) through (d) above shall apply, and any runoff through the buffer shall be maintained as unchanneled sheet flow. The actual depth of the setback and buffer for any land use other than single-family residential development, agriculture, or forestry shall be calculated in accordance with the methodology in: "Urban Hydrology for Small Watersheds," U.S. Department of Agriculture, Soil Conservation Service, Engineering Division, Technical Release 55, June 1986; and, "Buffer Zone Study for Suwannee River Water Management District," Dames and Moore, September 8, 1988, such that the post-development composite curve number for any one-acre area within the encroachment line does not exceed;

- 1. through 4. No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086 FS. History—New 9-25-85, Amended 2-12-87, 2-1-89, 12-22-92, _____.

40B-4.3040 Unlawful Use of Works of the District.

- (1) through (2) No change.

(3) It shall be unlawful for any person to cause damage to occur to or within a work of the district by the operation of motorized vehicles. This is not intended to prohibit the lawful use of motorized watercraft.

~~(4)~~(3) Damage to works of the district resulting from violations specified in subsections 40B-4.3040(1) ~~through (3)~~ and ~~(2)~~ above shall be repaired by the violator to the satisfaction of the district. In lieu of making repairs, the violator may deposit with the district a sufficient sum to insure such repair.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086 FS. History—New 9-25-85, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 23, 2004

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
District Land Use Rules	40D-9
RULE TITLES:	RULE NOS.:
Definitions	40D-9.021
Land Acquisition Procedures	40D-9.091
Recreational Land Use Policy	40D-9.101
Scope and Applicability	40D-9.110
Access to and Closures of District Lands	40D-9.111
Commercial Activities	40D-9.120
Recreational Fishing	40D-9.130
Commercial Fishing	40D-9.131
Hiking	40D-9.140
Equestrian Activities; Use of Saddle Animals	40D-9.150
Bicycling	40D-9.160
Hunting	40D-9.170
Trapping	40D-9.171
Swimming	40D-9.180
Diving	40D-9.181
Dogs, Cats, or Other Animals	40D-9.190
Plant or Animal Removal, Destruction or Harassment	40D-9.191
Introduction of Plants and Animals to District Lands	40D-9.192
Archeological or Cultural Resources Removal, Alteration, or Destruction	40D-9.200
Disposal or Discharge of Waste	40D-9.210
Destruction, Removal or Alteration of District Owned Facilities or Equipment	40D-9.220
Firearms and Similar Equipment	40D-9.230
Fireworks and Explosives	40D-9.231
Posting or Distributing Bills	40D-9.240
Fires	40D-9.250
Camping	40D-9.260
Use of Motorized Vehicles, Recreational Vehicles, Boats and Aircraft	40D-9.270
Unauthorized Facilities or Structures	40D-9.280
Other Uses; Use of Alcoholic Beverages on District Lands Prohibited	40D-9.290
Trespass After Notice	40D-9.300
Penalties	40D-9.310
Conflicting Rules	40D-9.320
Special Use Authorization	40D-9.330

PURPOSE AND EFFECT: The purpose of this proposed rulemaking is to implement the District's policies regarding the public use of District owned land.

SUMMARY: Land Resources staff and the Office of General Counsel have developed draft rules, to be codified in Chapter 40D-9, F.A.C., that will govern public use and recreational activities on District-owned lands. Water management districts are authorized to adopt rules for the management of their lands pursuant to subsection 373.1391(6), Florida Statutes (F.S.). Development and adoption of these rules is also consistent with subsection 373.1391(1)(a), FS. The proposed rules will define and inform the general public of which types of activities are allowed, how to obtain permits and other land use authorizations, access restrictions, prohibitions and penalties.

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 Chapter 40D-9, 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: 279.101, 373.016, 373.044, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.113, 373.139, 373.1391, 373.149, 373.171 FS. LAW IMPLEMENTED: 259.101, 373.016, 373.056, 373.083, 373.088, 373.089, 373.093, 373.096, 373.099, 373.103, 373.129, 373.139, 373.1391, 373.1395, 373.140, 373.149, 373.1401, 373.199, 373.59, 373.591, 373.609, 373.613 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-9.021 Definitions.

When used in this part:

(1) "Commercial" activities means selling or offering to sell any merchandise or service including those derived from the consumptive or non-consumptive recreational use of District Lands including, but not limited to, providing guide services or tours, or providing rental vehicles or animals for use on District Lands.

(2) "Camping" means to use a vehicle, tent, or shelter, or to arrange bedding or both with the intent to stay overnight.

(3) "Concession" means the privilege to establish a commercial operation or business on District Land.

(4) "Designated road" means any road, path, land, or trail designated by name or number for public vehicular travel.

(5) "District" means the Southwest Florida Water Management District, operating under the authority of Chapter 373, Florida Statutes.

(6) "District Lands" means any real property in which the District has an equitable or legal interest that allows the District to possess or regulate entry upon the property.

(7) "Entry point" means a designated location or boundary for public access to District Lands.

(8) "Facility" or "Structure" means any object placed on District Lands, which is intended to be permanently attached to the land, or which would be considered a fixture under Florida Law.

(9) "Fireworks" means any device as defined in Chapter 791, Florida Statutes.

(10) "Mobility impaired persons" means a person eligible for a disabled person exemption parking permit pursuant to Section 320.0848, Florida Statutes.

(11) "Motorized Vehicle" means any vehicle, which travels over land and is partially or completely powered by a motor, as well as animal-drawn carriages and buggies.

(12) "Natural resource" means land, water, soils, flora, and fauna.

(13) "On foot" means activities such as hiking and jogging where travel is by foot only and does not involve any type of device, apparatus, or other means of enhancing mobility.

(14) "Recreational purposes" means resource-based outdoor recreational activities including, but not limited to, fishing, hunting, horseback riding, bicycling, swimming, camping, hiking, canoeing, boating, diving, wildlife watching, sailing, and jogging.

(15) "Recreational site" means an improved or unimproved site established to facilitate public use.

(16) "Resource-based" means an activity that depends on natural resources for its occurrence such as fishing, boating, camping, wildlife study, or hunting.

(17) "Special Use Authorization" means the granting of a privilege to go on or use District Lands for a certain purpose without conveying any property or possessory interest.

Specific Authority 373.044, 373.113, 373.139, 373.1391 FS. Law Implemented 259.105, 373.139, 373.1391, 373.59 FS. History—New

40D-9.091 Land Acquisition Procedures.

(1) ~~The necessity for the acquisition of particular land shall be determined by the Governing Board with the advice and concurrence of the Basin Board whenever Basin funds will be utilized for such acquisition.~~

(2) ~~The estate or interest to be acquired shall be determined.~~

~~(3) The land to be acquired shall be described in a manner sufficient to identify it and will be surveyed where appropriate.~~

~~(4) Ownership information shall be obtained and reviewed in order to determine the sufficiency of the title to the land being acquired.~~

~~(5) A written appraisal shall be obtained, reviewed and approved before an offer to purchase is extended.~~

~~(6) A good faith effort shall be made to acquire each parcel through voluntary negotiation prior to commencement of proceedings in eminent domain.~~

~~(7) All contracts to purchase shall be reduced to writing and shall be contingent upon approval by the Governing Board with the advice and concurrence of the Basin Board whenever Basin funds will be utilized for such acquisition.~~

~~(8) Proceedings in eminent domain shall not be commenced until properly authorized by the Governing Board, with the advice and concurrence of the Basin Board, whenever Basin funds will be utilized for such acquisition.~~

Specific Authority 373.016, 373.056, 373.069, 373.0693, 373.073, 373.079, 373.083, 373.103, 373.113, 373.149, 373.171 FS. Law Implemented 373.103, 373.139, 373.149, 373.59 FS. History—New 3-11-82, Repealed _____.

40D-9.101 Recreational Land Use Policy.

(1) Consistent with the legislative directives contained in Sections 373.016, 373.139, 373.59 and 373.045, F.S., the District's policy is to manage and maintain District Lands, to the extent practicable, in such a way as to ensure a balance between public access, general public recreational purposes, and restoration and protection of their natural state and condition. To further this policy, the land management and land use provisions of this Chapter are based on:

(a) Water resource conservation and protection;

(b) Environmental protection, with emphasis on restoration or preservation of ecosystems; and

(c) Public recreation, where compatible with (a) and (b) above.

(2) The District recognizes that a principal tool for ensuring resource protection in land management programs is the control of human activities, in particular, the use of motorized vehicles. Therefore, the District's policy is to limit the use of motorized vehicles to those areas necessary for reasonable access for approved recreational activities or land management purposes.

(3) The District's policy is to make its lands accessible to persons with disabilities to the extent it is consistent with resource protection needs and is economically feasible.

(4) Pursuant to Section 373.1395, Florida Statutes, the District is not responsible for any injury to persons or property caused by an act or omission of a person who goes on District land or park areas provided to the public for recreational purposes. Additionally, the District is not responsible for any

injury to persons or property caused by an act or omission of a person who goes on District lands or water areas leased to the state for outdoor recreational purposes.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History—New _____.

40D-9.110 Scope and Applicability.

District Lands are available to the public for general recreational purposes except as otherwise limited, restricted or prohibited by the rules in this Chapter or unless such use is inconsistent with the purposes for which the lands were acquired, as provided in a specific management plan developed by the District. Nothing in this rule shall prevent other federal, state, or local agencies, including but not limited to, those having management contracts with the District, from requiring compliance with their own rules, regulations or laws to the fullest extent of their lawful authority.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History—New _____.

40D-9.111 Access to and Closures of District Lands.

(1) District Lands shall be open to the public during daylight hours only, unless otherwise posted.

(2) Public Access to District Lands is provided at designated entry points from public roadways. District Lands may be accessed from any adjacent waterway or waterbody at any point, unless otherwise posted.

(3) District Lands may be closed to public use during certain hours or for certain periods of time when such closure is necessary due to emergency conditions such as floods, severe weather events, and wildfires; or during prescribed burns, construction, or other land management activities if such activity presents a danger to the public. If a governmental entity other than the District is conducting the activity, that entity shall close District Lands with the concurrence of the District pursuant to this subsection.

(4) District Lands may be closed to public use in areas undergoing construction or restoration, or subject to other land or water management activities, where necessary to protect the site.

(5) District Lands may be closed to public use when such action is necessary to protect the water, natural or cultural resources of such lands.

(6) District Lands may be closed to public use when necessary to conduct research, studies, or data collection that has been approved or sponsored by the District.

(7) The District shall provide notice by signs when District Lands are closed for public use.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History—New _____.

40D-9.120 Commercial Recreational Activities.

Any entity planning to conduct a commercial recreational activity consistent with these rules on District Lands shall contact the District and provide the following information prior to entry upon District Lands:

- (1) Name of business and owner.
- (2) Address of business and owner.
- (3) Type of activity to be conducted on District Lands.
- (4) Number of participants in the activity, and,
- (5) Duration of the activity.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.130 Recreational Fishing.

Recreational fishing as authorized and regulated by the Florida Fish and Wildlife Conservation Commission is allowed on District Lands except where specifically restricted by signs. The Florida Fish and Wildlife Conservation Commission requires any person engaging in recreational fishing to have appropriate fishing licenses in their possession, unless exempted by the Commission.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.131 Commercial Fishing.

Commercial fishing is prohibited on all District Lands unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.140 Hiking.

Hiking is allowed on District Lands except where specifically restricted by signs. For the purposes of this subsection, hiking shall include jogging, wildlife watching, or any other activity where travel is by foot only and does not involve another activity described in this chapter.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.150 Equestrian Activities; Use of Saddle Animals.

(1) Equestrian activities and the use of saddle animals other than horses are allowed on District Lands, on designated trails or areas.

(2) The responsible party for each saddle animal on District Lands shall carry proof of negative Coggins test administered within the last twelve months for each such saddle animal while on District Lands.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.160 Bicycling.

Bicycling is allowed on District Lands only on designated trails or areas.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.170 Hunting.

Hunting is allowed on District Lands designated by the District. Under cooperative agreements with the District, the Florida Fish and Wildlife Conservation Commission (Commission) regulates and manages recreational hunting on District Lands designated as Type I Wildlife Management Areas. The Commission requires any person engaging in recreational hunting to have a valid hunting license and a wildlife management area stamp in their possession, unless exempted by the Commission. On District Lands not designated as Type I Wildlife Management Areas, the District allows hunting by permit where hunting is part of the site-specific management plan developed or authorized by the District. The District shall issue permits for specifically authorized hunts on District Lands by lottery. Any person engaging in hunting on District Lands during these special hunts must have in their possession a valid hunting license and a District permit.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.171 Trapping.

Trapping on District Lands is prohibited except by Special Use Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.180 Swimming.

Swimming is allowed on District Lands only in designated areas unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.181 Diving.

Scuba diving, or the use of underwater breathing apparatus of a similar nature, is prohibited on District Lands unless authorized by a Special Use Authorization. A person issued a Special Use Authorization to perform a dive from District Lands shall submit a report informing the District of any scientific or archeological evidence discovered during the dive within 30 days after completing the dive. To receive a Special Use Authorization for diving, the applicant must satisfy the requirements contained in Rule 40D-9.360, F.A.C., and must provide reasonable assurances that:

(1) The dive is for a scientific or resource investigation purpose; and

(2) The person performing the dive is certified for the type of dive to be performed.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.190 Dogs, Cats, or Other Animals.

Dogs and horses are allowed on District Lands only in designated areas. Dogs must be leashed or caged at all times unless they are authorized as part of an approved hunting

program or authorized by a Special Use Authorization. Other types of domesticated animals, such as cats, are prohibited on District Lands.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.191 Plant or Animal Removal, Destruction, or Harassment.

All plants and animals on District Lands are protected. Removing, destroying, or harassing animals or plants from or on District Lands is prohibited except for specifically authorized research efforts, hunting and fishing activities authorized by permit or Special Use Authorization, or District initiated removals associated with reforestation, control of exotic or nuisance species, silvicultural timber harvests or other land management activities.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.059 FS. History–New _____.

40D-9.192 Introduction of Plants and Animals to District Lands.

The introduction or release of any plant or animal on District Lands is prohibited unless done pursuant to a District initiated land management or restoration activity.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.200 Archaeological or Cultural Resources Removal, Alteration, or Destruction.

All archaeological and cultural resources on District Lands are protected. Removal, alteration or destruction of archaeological or cultural resources is prohibited on District Lands unless authorized by a Special Use Authorization. The District shall consult the Florida Department of State, Division of Historical Resources, prior to authorizing the removal, alteration or destruction of any archaeological or cultural resources on District Lands. Archaeological or cultural resources means associated physical remnants and features contained in the ground including artifacts, fossils, bones, shell mounds, or primitive culture facilities or items. Any person discovering archaeological or cultural resources on District Lands shall notify the District of such discovery within 24 hours.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.210 Disposal or Discharge of Waste.

The disposal or discharge of any waste outside of designated waste collection facilities is prohibited on District Lands. The disposal of oil, gasoline or other hazardous substances is prohibited on District Lands.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.220 Destruction, Removal, or Alteration of District Owned Facilities or Equipment.

The destruction, removal or alteration of any District owned facilities, vehicles or other equipment is prohibited on District Lands. District owned facilities and equipment include but are not limited to water control structures, scientific study plots, photo points, transect lines, survey markers, public buildings, towers, recorders, gauges, signs, gates, fences and monuments.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.230 Firearms and Similar Equipment.

The possession or use of firearms or similar equipment on District Lands is prohibited except (1) for hunting purposes during specifically authorized hunts; (2) for District initiated land management activities; (3) as authorized by a Special Use Authorization. Firearms and similar equipment includes shotguns, rifles, muzzle loading guns, pistols, revolvers, air guns, gas guns, blow guns, crossbows, spear guns, or other devices capable of mechanically propelling an arrow, spear, or other projectile. The use of paintball guns, paintball markers, and paintball equipment on Districts Lands is prohibited. Paintball equipment includes, but is not limited to: paint balls, paint gun refillable gas tanks, paint gun propellant canisters, and targets.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.231 Fireworks and Explosives.

The possession or discharge of any fireworks or explosives on District Lands is prohibited unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.240 Posting or Distributing Bills.

Distributing any handbills or circulars or posting, placing, or erecting any bills, notices, papers, signs or advertising devices or informational matter of any kind, excluding District or managing agency notices, is prohibited on all District Lands unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.250 Fires.

Igniting any fire on District Lands is prohibited except for District authorized prescribed burns, campfires in designated camping areas, or fires authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.260 Camping.

(1) Camping is allowed on District Lands at designated sites by permit only.

(2) Camping using a motorized vehicle is allowed on District Lands only in camping sites designated for this purpose. The use of a motorized vehicle is subject to Rule 40D-9.270, F.A.C.

(3) The District shall grant a permit for camping on District Lands with or without using motorized vehicles, subject to the following conditions:

(a) The District is given ten days prior written notice of the camp:

(b) The ten day prior written notice is delivered to:
Southwest Florida Water Management District
Land Use and Protection Section, Land Resource
Department

2379 Broad Street
Brooksville, FL 34604-6899;

(c) The campground capacity is not exceeded by the proposed camping activity.

(4) The length of stay for camping authorized by this section shall be no greater than seven continuous days.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.270 Use of Motorized Vehicles, Recreational Vehicles, Boats and Aircraft.

(1) Motorized vehicles that are licensed for Florida highway use are allowed on District Lands in designated areas. Use of all-terrain, off-road, or other motorized vehicles not licensed for Florida highway use is prohibited on District Lands except by a Special Use Authorization for access by mobility impaired persons. Special Use Authorizations for access by mobility impaired persons shall be issued by the Land Resources Director or the Director’s designee pursuant to Rule 40D-9.330, F.A.C.

(2) Motorized vehicles licensed for Florida highway use shall be operated by licensed drivers only on roads designated as open for motorized vehicles.

(3) Motorized vehicles shall not exceed posted speed limits. If no speed limit is posted, the speed limit shall be 20 miles per hour.

(4) Boating is allowed on all District-owned waterways (canals, impoundments, etc.) subject to the following:

(a) Boats traveling within 500 feet of any District structure or levee shall not exceed idle speed unless otherwise indicated by signs.

(b) Boats shall not be operated in a manner which would damage plants, animals or other environmental resources.

(c) Boat use shall be limited to designated boat trails except in areas posted as open for boats.

(d) The District shall prohibit or limit boating in areas for public safety, resource protection, and protection of District facilities or equipment. Boating shall be limited by engine horsepower, speed, or vessel type as necessary for public safety, resource protection, or protection of District facilities or

equipment, and these limitations shall be specific to each water body. Areas closed to boating and boating limitations shall be designated by signs.

(e) The mooring of any boat on any District Lands for more than 24 continuous hours, is prohibited, unless otherwise posted.

(5) Boats on trailers shall only be launched from areas designated by signs.

(6) For the purposes of this section, the term “boating” includes both motorized and non-motorized boats.

(7) Taking off or landing aircraft on District Lands is prohibited unless authorized by a Special Use Authorization.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.280 Unauthorized Facilities or Structures.

(1) Constructing, erecting or maintaining any facility or any other structure of a permanent or semi-permanent nature on District Lands is prohibited unless authorized by a Special Use Authorization.

(2) Any unauthorized facility or structure discovered on District Lands shall be removed according to the following procedure:

(a) Upon discovery of the unauthorized facility or structure, District staff will post a notice on such facility or structure, for a period of 30 days, informing the owner that such facility or structure is not authorized on District Lands and that the owner must remove such facility or structure.

(b) The owner of an unauthorized facility or structure must remove such facility or structure within 30 days after the posting of the District notice.

(c) If the owner of the unauthorized facility or structure fails to remove such facility or structure within 30 days after posting of the District notice, the District will remove such facility or structure from District Lands or claim such facility or structure as District property. The District may seek reimbursement of costs for removal of any unauthorized facility or structure from the owner of such facility or structure.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.290 Other Uses; Use of Alcoholic Beverages on District Lands Prohibited.

(1) Any recreational use of District Lands not authorized by this chapter is prohibited.

(2) The use of alcoholic beverages on District Land is prohibited.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History–New _____.

40D-9.300 Trespass After Notice.

Pursuant to Section 810.09, F.S., any person who, without being authorized, licensed or invited, enters and remains on District Lands as to which notice against entering or remaining

is given, either by actual communication to the offender or by posting or fencing is guilty of a misdemeanor of the first degree punishable as provided in Chapter 775.082 or 775.083, F.S.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History—New _____.

40D-9.310 Penalties.

(1) Pursuant to Section 373.609, F.S., it shall be the duty of every state and county attorney, sheriff, police officer, and the appropriate city and county official to assist the District, and its agents, in the enforcement of the provisions of the rules in this Chapter.

(2) Any person who violates any of the provisions of the rules in this Chapter is subject to eviction from the premises and arrest and prosecution for a second degree misdemeanor, punishable as provided in Section 775.082 or Section 775.083, F.S.

(3) The penalties identified in these rules are in addition to and cumulative to other penalties or options available to the District including civil remedies.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History—New _____.

40D-9.320 Conflicting Rules.

If an agency has entered into a cooperative management agreement with the District regarding specific District Lands, the rules of that agency shall apply if in conflict with these rules. If the cooperative management agreement or management plan does not address a specific recreational use, or if the agency does not have rules addressing a specific recreational use, then the District's rules shall apply.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History—New _____.

40D-9.330 Special Use Authorization.

(1) A person must apply for a Special Use Authorization to use District Lands for activities not specifically provided for in this Chapter.

(2) To receive a Special Use Authorization the applicant must provide reasonable assurance that:

(a) The requested use is natural resource-based.

(b) The requested use will not permanently alter District Lands or involve the placing of any structure or facility on District Lands.

(c) The requested use is consistent with the management plan for the District Lands involved.

(d) The requested use will not harm the environmental or historical resources of the District Lands.

(e) The requested use will not cause unreasonable expense to the District.

(f) The requested use will not create a substantial risk of liability to the District.

(g) The requested use will not harm any dam, impoundment, works, water control structures, roads, or District owned facilities or equipment.

(h) The requested use will not interfere with District water management, leased, licensed, or authorized uses of the land, and

(i) The requested use will not interfere with any other use allowed by the rules in this Chapter.

(3) The District shall impose upon any Special Use Authorization issued pursuant to this Chapter such reasonable conditions as are necessary to assure that the use or activity authorized will meet the criteria set forth in this Chapter.

(4) The Governing Board delegates to the Land Resources Director or a person designated by the Director, the authority to issue or revoke Special Use Authorizations pursuant to this section.

(5) Any person may apply for a Special Use Authorization according to the following procedure:

(a) Submit request to:

Southwest Florida Water Management District

Land Use and Protection Section, Land Resource Department

2379 Broad Street

Brooksville, FL 34604-6899

(b) If the requested use will create a substantial risk of liability to the District, the applicant can mitigate substantial risk of liability by:

1. Providing proof of liability and property damage insurance naming the District as an additional insured in an amount sufficient to cover the cost of the liability which is posed to the District, or

2. Providing waivers or releases of liability sufficient to eliminate the liability, which is posed to the District.

(c) The application shall be reviewed by the Land Resources Department for compliance with the criteria listed in this section and a recommendation regarding the application forwarded to the Land Resources Director.

(d) If the requested use satisfies all of the criteria set forth in this Section, the Land Resources Director, or the Director's designee, shall issue the Special Use Authorization.

(e) If the requested use does not meet the criteria set forth in this section, the Land Resources Director, or the Director's designee, shall deny the Special Use Authorization application.

(f) The District's notices of intent to issue or deny a Special Use Authorization shall be governed by Chapter 28-106, F.A.C., and Rule 40D-1.1010, F.A.C.

(6) Any person receiving a Special Use Authorization from the District must have the Special Use Authorization in their possession at all times while on District Lands.

(7) The Land Resources Director, or the Director's designee, shall revoke a Special Use Authorization if the grantee violates the conditions of the authorization or engages in a use not specifically authorized.

(8) A Special Use Authorization does not eliminate the necessity to obtain any required federal, state, or local approval or permit prior to the start of any authorized use.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.139, 373.59 FS. History--New _____.

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: January 27, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 2004

The District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact Dianne Lee, (352)796-7211, Ext. 4658, TDD only 1(800)231-6103.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: Payment Methodology for Nursing Home Services

RULE NO.:

59G-6.010

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan payment methodology, effective July 1, 2004, to provide the following changes based on a recalculation of the Florida Nursing Home Inflation Index.

1. Effective July 1, 2004, the Agency will adjust a facility's operating and indirect patient care per diem costs, and a facility's direct patient care per diem costs, for the effects of inflation by multiplying these per diem costs by their respective inflation fractions: Florida Nursing Home Cost Inflation Index at midpoint of prospective rate period, divided by the Florida Nursing Home Cost Inflation Index at midpoint of provider's cost report period.
2. Based on a sample size of approximately 35% of the cost reports filed for the rate period beginning July 1, 2003 and approximately 25% of the cost reports filed for the rate period beginning January 1, 1988, the percentage weights for the cost components are estimated as:

Component	Effective July 1, 2004		Prior to July 1, 2004	
	Direct Patient Care	Indirect Patient Care	Operating	All Components
Salaries and Benefits	100.0%	55.75%	55.75%	57.89%
Dietary	0.0%	6.23%	6.23%	5.18%
Others	0.0%	38.02%	38.02%	36.93%

SUMMARY: The proposed amendment to Rule 59G-6.010, F.A.C., incorporates revisions to the Florida Title XIX Long-Term Care Reimbursement Plan. The amendment seeks update the Florida Nursing Home Cost Inflation Index.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory cost has not been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 10:00 a.m., June 22, 2004

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, FL 32308
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Butler, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.010 Payment Methodology for Nursing Home Services.

Reimbursement to participating nursing homes for services provided shall be in accord with the Florida Title XIX Long-Term Care Reimbursement Plan, Version XXVII ~~XXXVI~~ Effective Date _____ ~~February 16, 2004~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary for Medicaid, 2727 Mahan Drive, Mail Stop 8, Tallahassee, Florida 32308. The plan incorporates Provider Reimbursement Manual (CMS Pub. 15-1).

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History--New 7-1-85, Amended 10-1-85, Formerly 10C-7.482, Amended 7-1-86, 1-1-88, 3-26-90, 9-30-90, 12-17-90, 9-15-91, 3-26-92, 10-22-92, 4-13-93, 6-27-93, Formerly 10C-7.0482, Amended 4-10-94, 9-22-94, 5-22-95, 11-27-95, 11-6-97, 2-14-99, 10-18-99 1-11-00, 4-24-00, 9-20-00, 11-20-01, 2-20-02, 7-14-02, 1-8-03, 6-11-03, 12-3-03, 2-16-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Robert Butler

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Steve Grigas

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 19, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2004

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE CHAPTER TITLE: RULE CHAPTER NO.:

General Regulations 60A-1

RULE TITLE: RULE NO.:

Definitions 60A-1.001

PURPOSE AND EFFECT: The purpose of this rule amendment is to update the definitions relevant to the remainder of this chapter, and to remove materials that have been moved to other sections of Chapter 60A-1, F.A.C.

SUMMARY: The rule defines various types of contracts, purchase orders, and requisitions.

SPECIFIC AUTHORITY: 287.042, 287.032 FS.

LAW IMPLEMENTED: 287.001, 287.012, 287.042, 287.057, 287.058 FS.

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

TIME AND DATE: 1:30 p.m. – 5:00 p.m., June 9, 2004

PLACE: Room 101, 4050 Esplanade Way, Tallahassee, Florida 32399-0950

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, State Purchasing, 4050 Esplanade Way, Tallahassee, Florida 32399-0950, (850)488-3049, (850)414-6122 (facsimile), brownr2@dms.state.fl.us (e-mail)

THE FULL TEXT OF THE PROPOSED RULE IS:

60A-1.001 Definitions and Incidental Policies.

This section defines terms and phrases used throughout Chapter 60A-1, F.A.C. In this chapter, terms and phrases shall have the meanings defined in Chapter 287, F.S., or in this section. Terms and phrases not defined by statute or rule shall be construed according to their plain meaning, and in all cases with the objective of advancing the purpose of the rule in which they appear.

(1) ~~A Purchase—A purchase is defined as an acquisition by contracting in any manner, whether by rent, lease, lease/purchase or installment sales contract which may provide for the payment of interest on unpaid portions of the purchase price, or outright purchase, from a source of supply for either commodities or contractual services. All such contracts shall be in writing or through the state’s Purchasing Card Program. Prior to making a purchase, purchasing offices shall review current surplus property certifications to utilize commodities listed therein to the maximum extent practicable.~~

(2) ~~Invitation to Negotiate—Competitive solicitation used when an Invitation to Bid or Request for Proposal is not practicable. Agency shall document file as to conditions and circumstances resulting in this decision.~~

(3) ~~Informal Bid—An informal bid is defined as either a written or oral quotation not requiring a public opening of such bid at a specific time or date. Written evidence of oral quotations shall be maintained.~~

(4) ~~Agency Head—An agency head, within the meaning of Chapter 287, Part I, F.S., is defined as the person or in the case of a collegial body the executive director or chief administrative officer of the agency or other governmental unit who is statutorily responsible for final agency action, or his authorized designee. All designees authorized to sign on behalf of the agency head must have their signature on file with State Purchasing.~~

(1)(5) Contract. With regards to these rules and Chapter 287, F.S., the term “contract” refers to the following:

(a) Definite Quantity Contract. A definite quantity contract is an agreement between an agency and a vendor whereby the vendor agrees to furnish a specific commodity or contractual service, at a specified price, to a specified location.

(b) Term Contract. A term contract is an agreement between an agency and a vendor whereby the vendor agrees to provide an indefinite quantity of commodities or contractual services, on an indefinite delivery schedule, over a specified period of time. Term contracts issued by agencies are referred to as “Agency Term Contracts,” and are reserved for use only by the issuing agency (unless otherwise approved for use by the Department; see Rule 60A-1.047, F.A.C.). Term contracts issued by the Department’s Division of State Purchasing are referred to as “State Term Contracts,” and are available for use by all Eligible Users (see Rule 60A-1.044, F.A.C.). Contracts—Definite Quantity Term Contractual Service.

~~(a) Any contract which binds the state or its executive agencies for purchases for a period continuing beyond the fiscal year shall include the following statement: “The State of Florida’s performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature”. Any contract between an agency and a private contract vendor shall contain the language provided in Section 946.515(6), F.S., if at the time the contract is entered into, any product or service which is the subject of, or required to carry out, the contract has been certified by Department of Management Services commodity number pursuant to that statute, as a correctional work program item.~~

~~(b) Definite Quantity Contract—Definite quantity contract whereby the contractor(s) agrees to furnish a specific quantity of an item or items at a specified price and time to specified locations. Delivery and acceptance of the specific quantity by the agency completes such contract.~~

~~(c) Term Contract—Indefinite quantity contract whereby the contractor(s) agrees to furnish commodity(ies) or contractual service(s) during a prescribed period of time (such as 3, 6, 9, 12 months or a specific date). The specified period of time or date completes such contract. A state term contract is defined as a term contract executed by State Purchasing for use~~

by all agencies and local governments. An agency term contract is defined as a term contract executed by an agency for use only by such agency, and not available for use by other agencies.

(d) ~~Contractual Service Contract~~—A contract for a contractor's time and effort rather than the furnishing of specific commodities. Satisfactory completion of the service and/or a specified period of time or date completes such contract.

(6) ~~Identical (Tie) Bids~~—Identical Bids are two or more responsive bids which are equal in price.

(7) ~~Mutuality of Ownership~~—Only the low bidder of firms mutually owned may be considered in determining an award.

(8) ~~Notice of Decision~~—Agency notice of its decision or intended decision for a bid solicitation, invitation to negotiate or request for proposal shall be sent to vendors and other interested persons by United States mail or by hand delivery. All notices of decision or intended decisions shall contain the protest statement, provided by subsection 28-110.005(3), F.A.C. "Notice of intended awards, including rejection of some or all bids received, shall be given as provided in paragraph 60A-1.001(9)(a), F.A.C. Notice of all other decisions shall be given by certified mail, or other express delivery services, except that State Purchasing's notice of decision or intended decision concerning a request by an agency for approval of an exceptional purchase under Chapter 287, F.S., and the State Purchasing rules shall be given by posting such notice in the office of State Purchasing.

(9) ~~Notice of Intended Award and Award~~

(a) Notice of the intended award, including rejection of some or all of bids or proposals received, or negotiations received or intent to negotiate shall be given by posting the bid, negotiation or proposal tabulations where the bids, negotiations or proposals were opened, or by certified United States mail, return receipt requested, or other express delivery service, whichever is specified in the bid solicitation or the request for proposals or the invitation to negotiate. All notices of decision or intended decisions shall contain the protest statement provided by subsection 28-110.005(3), F.A.C., and show the beginning and ending posting time and dates for the bid or proposal or negotiation posting, or if noticed by certified mail, indicate such action must be taken within 72 hours after receipt of such notice.

(b) The contract shall be awarded by purchase order or other written notice to the responsive and responsible bidder with the lowest price or to the negotiator with the best and final offer or to the proposer with the highest ranking for the commodities or contractual services, except that every procurement of contractual services in excess of threshold Category Two shall be evidenced by a contract conforming to the provisions of Section 287.058, F.S. If the contract is terminated during the initial or renewal contract period, the

award may be made to the next responsive offeror who agrees to hold the prices, terms, and conditions submitted in response to the original solicitation.

(c) ~~Issuance of a written notice of award or a purchase order for the purchase of commodities shall establish a contract between the agency and the supplier on the terms, conditions and prices specified in the invitation to bid or invitation to negotiate or request for proposals and the bidder's or negotiator's or proposer's response.~~

(10) ~~Purchasing Threshold Categories~~—The following threshold categories are established:

(a) ~~Category One: \$15,000.~~

(b) ~~Category Two: \$25,000.~~

(c) ~~Category Three: \$50,000.~~

(d) ~~Category Four: \$150,000.~~

(e) ~~Category Five: \$250,000.~~

The dollar amount for these categories shall be adjusted by State Purchasing after June 30 of each year, based on the April publication of the United States Department of Commerce Survey of Current Business Table 7.11B, using the price index for state and local government. The amounts for the threshold categories will be adjusted as follows:

1. The rate of adjustment applicable to the threshold amounts is the percent increase or decrease in the chain-type price index from the base year value for 1992, which is 97.9, through the year previous to the year of annual adjustment as shown in the United States Department of Commerce Survey of Current Business as referenced above.

2. This rate of adjustment is applied to the base threshold amounts to calculate the threshold amount for the year of annual adjustment. The base threshold category amounts are: a) ~~Category One: \$15,000;~~ b) ~~Category Two: \$25,000;~~ c) ~~Category Three: \$50,000;~~ d) ~~Category Four: \$150,000;~~ e) ~~Category Five: \$250,000.~~ The following formula illustrates this method:

$$\text{Threshold for Year of Adjustment} = \text{Base Threshold} \times \left[\frac{\text{Price Index in April Publication for the Year Prior to the Year of Adjustment}}{97.9} \right]$$

3. The resulting threshold amount is rounded as follows: Category One to the nearest \$500, Category Two to the nearest \$1,000, Category Three to the nearest \$1,000, Category Four to the nearest \$5,000 and Category Five to the nearest \$10,000.

Notwithstanding the point in time in which payment is made for the commodities or services, for the purpose of applying the threshold categories to a purchase, the earliest of the following dates shall govern:

a. ~~The date on which the invitation to bid or invitation to negotiate or request for proposals is issued.~~

b. ~~The date the purchase order is issued.~~

e. ~~The date on which the contract is entered into.~~

(11) ~~Requisition~~—A formal request to procure commodities or services on behalf of a program area.

(2)(12) Purchase Orders.

(a) A purchase order is a written agreement formalizing a transaction between an agency and a vendor. The purchase order may represent (i) a contractual procurement from a vendor, or (ii) a transaction issued pursuant to an agency or state term contract. In either event, the purchase order should contain statements regarding the quantity, description, and price of the commodity or contractual service; applicable terms regarding payment, discount, date of performance, and transportation; and other pertinent information (e.g., a bid or contract number).

(b) A "blanket purchase order," prescribing the term and maximum amount of money which may be spent, allows the agency to order the specified commodity or contractual service on an as-needed basis until the term has elapsed or the maximum dollar amount has been reached. Blanket purchase orders totaling in excess of Category Two shall be awarded in accordance with the requirements of Section 287.057, F.S.

(c) A "field purchase order" is a purchase order issued by an office or facility of an agency that is separate from the agency purchasing office(s).

(3) Requisition. A requisition is a formal request to procure commodities or contractual services on behalf of a program area.

~~Purchase Order — An agency's document to formalize a purchase transaction with a vendor. The purchase orders should be numbered consecutively and contain statements regarding the quantity, description, and price of goods and services ordered; applicable terms as to payment, discount, date of performance, and transportation; and other factors or suitable references pertinent to the purchase such as bid number or contract number and should be signed by the purchaser.~~

~~(13) Blanket Purchase Order (Blanket Order) — An arrangement under which a purchaser contracts with a vendor to provide the agency's requirements for an item(s) or a group of items or a service, ordered on an as needed basis. It prescribes the contract term and the maximum amount of money which may be spent. No purchase may be divided into two or more purchases for the purpose of evading the competitive bidding requirement, and each purchase made under a blanket purchase order must be of the kind that could be made without competitive bidding if there were no blanket purchase order.~~

~~(14) Field Purchase Order — A purchase order issued by an office or facility of an agency that is separate from the agency's purchasing office(s).~~

~~(15) Purchase Order Control and Accountability — It is the responsibility of the chief procurement officer of each agency to:~~

~~(a) Provide for securing all unused purchase orders in a safe place and restricting access to these documents.~~

~~(b) Provide for maintenance of a file and accounting for all consecutive purchase orders issued or voided.~~

~~(e) Maintain a record of persons designated as authorized to issue and sign each type of purchase order.~~

~~(d) Provide for a monitoring and review process for the use of blanket purchase orders and field purchase orders.~~

~~(16) Price Agreement — An agreement which State Purchasing negotiates with a vendor to furnish items at a predetermined price. The agreement involves a minimum number of units, provides for orders to be placed directly with the vendor by the purchasing agency and runs for a limited period of time.~~

~~(17) Minor Irregularity — A variation from the invitation to bid or invitation to negotiate or request for proposal terms and conditions which does not affect the price of the commodities or services, or give the bidder or offeror an advantage or benefit not enjoyed by other bidders or offerors, and does not adversely impact the interests of the agency.~~

~~(18) State Purchasing — formerly the Division of Purchasing, now a part of the Support Program of the Department of Management Services pursuant to Section 20.22(2), F.S.~~

~~(19) State's Purchasing Card Program — A public-private arrangement between the Department of Management Services and a bank under which designated agency employees make purchases by means of purchasing cards, similar to credit cards, with or without requisitions or purchase orders.~~

~~Specific Authority 287.032, 287.042 FS. Law Implemented 45-18, 20-19, 216-345, 229-8331, 283-30(4), 287.001, 287.012, 287.017, 287.042, 287.055, 287.057, 287.058, 287.073, 287.133, 601-10 FS. History—New 5-20-64, Revised 2-6-68, 5-20-71, Amended 5-19-72, 7-31-75, 10-1-78, 11-14-79, 8-6-81, 10-11-81, 4-29-82, 8-26-82, 11-4-82, 10-13-83, 3-1-84, 11-12-84, 2-28-85, 12-17-85, Formerly 13A-1.01, Amended 2-9-87, 11-3-88, 1-18-90, 4-10-91, 9-1-92, Formerly 13A-1.001, Amended 8-24-93, 4-24-94, 1-9-95, 1-1-96, 9-23-96, 7-6-98, 1-2-00, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert Hosay, Deputy Secretary, Department of Management Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: William Simon, Secretary, Department of Management Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 19, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: Pre-licensing Education for Broker and Sales Associate Applicants

RULE NO.: 61J2-3.008

PURPOSE AND EFFECT: The purpose of the proposed rule change is to incorporate the end-of-course item writing guideline relating to pre-licensing education.

SUMMARY: The proposed rule change affects rule provisions relating to distance education.

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

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

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182, 475.183, 475.451 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m., or as soon thereafter as possible, June 15, 2004

PLACE: Zora Neale Hurston Building, Conference Meeting Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THIS NOTICE, AN ADDITIONAL HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.008 Pre-licensing Education for Broker and Sales Associate Applicants.

(1) through (3) No change.

(4)(a) through (c) No change.

(d) The school shall develop at least 2 forms of the end-of-course examination, and submit them for approval as provided in paragraph (4)(b) above. Examinations must test the course material. The answer key must be unique for each form of the examination. The answer key must reference the page number(s) containing the information upon which each question and correct answer is based. At least 70% of the questions on each form of the test shall be application oriented. Application level means the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information. No more than 10% of the questions on each form of the test shall be at the knowledge level. Knowledge level means the recall of specific facts, patterns, methods, terms, rules, dates, formulas, names, or other information that should be committed to memory. A school offering the Commission-prescribed courses must maintain a sufficient bank of questions to assure

examination validity. The sales associate end-of-course examinations shall contain at least 100 items, or 2 items per instruction hour. The broker end-of-course examinations shall contain at least 95 items, of which 5 items are 2 points each, which shall cover closing statements or escrow accounts, or 2 items per instruction hour. All Questions shall be multiple-choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content and the item must not refer the student to the course material. The overall time to complete the end-of-course examination must not exceed the equivalent of 1.8 minutes per item. The end-of-examinations shall follow the guidelines as set in the Item Writing Guidelines which is hereby incorporated by reference, a copy of which may be obtained from the Florida Real Estate Commission's web site at www.MyFlorida.com/dbpr or by contacting the Department of Business and Professional Regulation, Bureau of Education and Testing.

(5) through (9) No change.

Specific Authority 475.05 FS. Law Implemented 475.04, 475.17, 475.182, 475.183, 475.451 FS. History—New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.08, Amended 7-16-86, 10-13-88, 5-20-90, 1-13-91, 7-20-93, Formerly 21V-3.008, Amended 12-13-94, 6-14-95, 8-2-95, 12-30-97, 9-1-99, 1-18-00, 11-6-00, 1-12-04, _____

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 16, 2004.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2004, Section I

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: RULE NO.:

Continuing Education for Active and Inactive Broker and Sales Associates Licensees

61J2-3.009

PURPOSE AND EFFECT: The purpose of the proposed rule change is to incorporate the end-of-course item writing guideline relating to continuing education.

SUMMARY: The proposed rule change affects rule provisions relating to distance education.

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

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

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182, 475.183, 475.451 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, June 15, 2004

PLACE: Zora Neale Hurston Building, Conference Meeting Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, AN ADDITIONAL HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.009 Continuing Education for Active and Inactive Broker and Sales Associate Licensees.

(1) through (3) No change.

(4)(a) No change.

(b) A copy of the distance education course materials and a copy of each form of the end-of-course examinations that will be distributed to students shall be submitted to the Commission for evaluation and approval at least 60 days prior to use. The provider must submit two complete sets, including one blind copy, of course materials and a minimum of five end-of-course examinations for each course to the Commission for evaluation and approval at least 60 days prior to its use. The Commission will issue an acknowledgement of receipt and status report to the course provider within 30 days after submission of the course and examinations. Thereafter, it is the responsibility of the provider offering the Commission-approved courses to keep the course material current and accurate, and notify the Commission at least 60 days before implementing any significant changes to the course during its approval period. Examinations must test the course material. If the Commission does not approve the course, the provider may resubmit the course, with the mandated changes for re-evaluation. The end-of-examinations shall follow the guidelines as set in the Item Writing Guidelines which is hereby incorporated by reference, a copy of which may be obtained from the Florida Real Estate Commission's web site at www.MyFlorida.com/dbpr or by contacting the Department of Business and Professional Regulation, Bureau of Education and Testing.

(c) The objective of the distance education course of study end-of-course examination is to test fairly and reliably whether students have learned essential facts and concepts from the course. The examination shall consist of a minimum of 30 items or, if delivered in smaller modules, the examination shall consist of a minimum of 10 items for courses of 5 hours or less. For courses greater than 5 hours, but less than 14 hours, the examination shall consist of a minimum of 2 items per instruction hour. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. The answer key must be unique for each form of the examination. The answer key must reference the page number(s) containing the information on which each question and correct answer is based. At least 70% of the questions on each form of the test shall be at the application level or higher. No more than 10% of the questions on each form of the test shall be at the knowledge level. The answer key must be unique for each form of the examination. Any school offering the Commission-prescribed continuing education course of study by distance education must maintain a sufficient bank of questions to assure examination validity when administering the examination to licensees from a common source such as a specific business, firm or family. The end-of-examinations shall follow the guidelines as set in the Item Writing Guidelines which is hereby incorporated by reference, a copy of which may be obtained from the Florida Real Estate Commission's web site at www.MyFlorida.com/dbpr or by contacting the Department of Business and Professional Regulation, Bureau of Education and Testing.

1. through 2. No change.

(d) through (7) No change.

Specific Authority 455.2123, 475.01(1)(d),(e),(2), 475.05, 475.42(1)(c) FS. Law Implemented 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS. History--New 1-1-80, Amended 8-24-80, 10-19-83, 9-16-84, Formerly 21V-3.09, Amended 10-13-88, 6-17-91, 12-29-91, 12-8-92, 6-28-93, Formerly 21V-3.009, Amended 2-2-94, 11-13-94, 5-13-96, 12-30-97, 10-25-98, 3-7-99, 1-18-00, 9-17-00, 1-12-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 16, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2004

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: RULE NO.:

Post-licensing Education for Active and

Inactive Broker and Sales

Associates Licensees

61J2-3.020

PURPOSE AND EFFECT: The purpose of the proposed rule change is to make necessary changes which include incorporating the end-of-course item writing guideline relating to post-licensing education.

SUMMARY: The proposed rule change affects rule provisions relating to distance education.

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

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

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.04, 475.17, 475.182, 475.183, 475.451 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, June 15, 2004

PLACE: Zora Neale Hurston Building, Conference Meeting Room 901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, AN ADDITIONAL HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J2-3.020 Post-licensing Education for Active and Inactive Broker and Sales Associate Licensees.

(1) through (2) No change.

(3) No change.

(a) No change.

(b) Providers must demonstrate that the credit hours awarded for distance learning are appropriate to the course offered. The provider may accomplish this objective by demonstrating that students engaged in distance learning have acquired the knowledge, skills, and/or competencies that are at least equivalent to those acquired by students enrolled in classroom studies. Post-licensure courses shall not be offered by correspondence methods, except by reason of a hardship as defined by rule.

1. through 10. No change.

(4) A grade of 75% or higher on the Commission-prescribed end-of-course examination constitutes satisfactory course completion. The provider shall develop at least 2 unique forms of the end-of-course examinations and submit them for approval with a detailed course syllabus. The answer key must be unique for each form of the examination and reference the

page number(s) containing the information on which each question and correct answer is based. Examinations must test the material. At least 70% of the questions on each form of the test shall be application oriented. Application level means the ability to use the learned material in a completely new and concrete situation. It usually involves the application of rules, policies, methods, computations, laws, theories, or any other relevant and available information. No more than 10% of the questions on each form of the test shall be at the knowledge level. Knowledge level means the recall of specific facts, patterns, methods, terms, rules, dates, formulas, names or other information that should be committed to memory. A provider offering the Commission-prescribed courses must maintain a sufficient bank of questions to assure examination validity. End-of-course examinations shall contain at least 100 items. A course that is thirty-hours or less shall contain a minimum of 50 items. All questions shall be multiple choice with 4 answer choices each. The order of the examination questions may not follow the sequence of the course content. The overall time to complete the end-of-course examination must not exceed the equivalent of 1.8 minutes per item. The end-of-examinations shall follow the guidelines as set in the Item Writing Guidelines which is hereby incorporated by reference, a copy of which may be obtained from the Florida Real Estate Commission's web site at www.MyFlorida.com/dbpr or by contacting the Department of Business and Professional Regulation, Bureau of Education and Testing.

(5) through (10) No change.

Specific Authority 475.05, 475.17 FS. Law Implemented 475.04, 475.17, 475.182 FS. History--New 1-1-89, Amended 1-4-90, 6-28-93, Formerly 21V-3.020, Amended 8-2-95, 12-30-97, 2-24-00, 7-23-00, 5-12-04.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 16, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2004

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE TITLE: Curriculum Requirements for Clinical Laboratory Personnel Training Programs

RULE NO.: 64B3-3.003

PURPOSE AND EFFECT: The Board proposes to add new language to the existing rule text.

SUMMARY: The Board is adding curriculum requirements for embryology and andrology technician or technologist level programs to include: maintenance and use of instrumentation, isolation principles and techniques, culture techniques and principles, specimen handling, and quality control.

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: 483.805(4), 483.811(2) FS.

LAW IMPLEMENTED: 483.800, 483.809, 483.811 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-3.003 Curriculum Requirements for Clinical Laboratory Personnel Training Programs.

(1) No change.

(2) All programs not accredited by the National Accrediting Agency for Clinical Laboratory Science (NAACLS), the Council on Accreditation of Allied Health Education Programs (CAAHEP), or the Accrediting Bureau of Health Education Schools (ABHES) except for those in the categories of cytology, cytogenetics, ~~or~~ histocompatibility, embryology or andrology shall adopt the curriculum standards defined in the Florida Department of Education Program Standards as designated in Section 229.565, F.S., for the categories in which training occurs as follows:

(a) through (d) No change.

(3) through (6) No change.

(7) For the category of embryology, technician or technologist level programs shall at a minimum include instruction in the following competencies:

(a) Maintenance and use of instrumentation utilized in the embryology laboratory.

(b) Principles and techniques for isolating specimens.

(c) Appropriate culture techniques of specimens including principles of culture techniques.

(d) Appropriate handling of specimens.

(e) Quality control and quality assurance.

(8) For the category of andrology, technician or technologist level programs shall at a minimum include instruction in the following competencies:

(a) Maintenance and use of instrumentation utilized in the category of andrology testing.

(b) Principles and techniques for isolation specimens.

(c) Appropriate culture techniques of specimens including principles of culture techniques.

(d) Appropriate handling of specimens.

(e) Quality control and quality assurance.

(7) through (8) renumbered (9) through (10) No change.

Specific Authority 483.805(4), 483.811(2) FS. Law Implemented 483.800, 483.809, 483.811 FS. History--New 5-9-95, Amended 12-4-95, 4-24-96, Formerly 590-3.003, Amended 3-19-98, 9-20-98, 1-11-99, 10-30-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 23, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2004

DEPARTMENT OF HEALTH

Board of Optometry

RULE TITLE:

RULE NO.:

Fees

64B13-6.001

PURPOSE AND EFFECT: The Board proposes an amendment to the rule to require a licensee to pay a change of status fee of \$300 when the licensee applies for a change in licensure status.

SUMMARY: The proposed rule sets forth a fee increase for change in status.

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

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

SPECIFIC AUTHORITY: 456.013(2), 456.025(7), 456.036, 463.005, 463.0057, 463.006, 463.007, 463.008 FS.

LAW IMPLEMENTED: 456.013(2), 456.025, 456.036, 463.0057, 463.006, 463.007, 463.008 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: Joe R. Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-6.001 Fees.

The following fees are prescribed by the Board:

(1) through (5) No change.

(6) The fee to be paid for biennial renewal of an initial Branch Office License shall be one hundred dollars (\$100). The fee for renewal of additional Branch Office Licenses shall be twenty-five dollars (\$25) each.

(7) A licensee shall pay a change of status fee of \$300 when the licensee applies for a change in license status at any other time than during licensure renewal. The fee to be paid to place a license in inactive status shall be \$ 300.00.

(8) through (16) No change.

Specific Authority 456.013(2), 456.025(7), 456.036, 463.005, 463.0057, 463.006, 463.007, 463.008 FS. Law Implemented 456.013(2), 456.025, 456.036, 463.0057, 463.006, 463.007, 463.008 FS. History--New 12-13-79, Amended 2-14-82, 8-18-82, 12-2-82, 5-6-84, 7-29-85, Formerly 21Q-6.01, Amended 11-20-86, 7-21-88, 2-5-90, 5-29-90, 7-10-91, 4-14-92, 7-1-93, Formerly 21Q-6.001, Amended 1-24-94, Formerly 61F8-6.001, Amended 12-22-94, 2-13-95, 4-5-95, 5-29-95, 12-31-95, Formerly 59V-6.001, Amended 12-24-97, 3-21-00, 11-18-01, 5-9-02, 9-10-02, 7-3-03, 10-30-03.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 2004

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Continuing Education for Biennial Renewal 64B15-13.001

RULE NO.:

PURPOSE AND EFFECT: The proposed the rule amendment is intended to specify the five most mis-diagnosed medical conditions, as recently required by legislation.

SUMMARY: The proposed rule amendment specifies the five most mis-diagnosed medical conditions, as recently required by legislation.

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

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

SPECIFIC AUTHORITY: 459.005, 459.008(4) FS.

LAW IMPLEMENTED: 456.013, 459.008 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: Pamela King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-13.001 Continuing Education for Biennial Renewal.

(1) through (2) No change.

(3)(a) through (e) No change.

(f) For purposes of this rule, a two hour Prevention of Medical Errors course shall include a study of root cause analysis, error reduction and prevention, and patient safety. The course shall address medication errors, surgical errors, diagnostic inaccuracies, and system failures, and shall provide recommendations for creating safety systems in health care organizations. The course must include information relating to the five most mis-diagnosed conditions during the previous biennium, as determined by the Board. The following areas have been determined as the five most mis-diagnosed conditions: wrong-site/patient surgery; cancer; cardiac; timely diagnosis of surgical complications and failing to diagnose pre-existing conditions prior to prescribing contraindicated medications.

(4) through (8) No change.

Specific Authority 459.005, 459.008(4) FS. Law Implemented 456.013(5),(6),(7), 459.008, 459.008(4) FS. History--New 10-23-79, Amended 1-29-86, Formerly 21R-13.01, Amended 12-5-89, 4-8-91, 2-16-92, Formerly 21R-13.001, Amended 1-10-94, Formerly 61F9-13.001, Amended 10-25-95, Formerly 59W-13.001, Amended 1-19-98, 6-3-98, 4-14-99, 5-26-02.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 3, 2004

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLE: Income and Resource Criteria

RULE NO.: 65A-1.716

PURPOSE AND EFFECT: This proposed rule amendment updates federal poverty income guidelines used in determining Medicaid eligibility. The amendment revises life expectancy tables based on data from the Social Security Administration, Office of the Chief Actuary.

SUMMARY: This rule amendment will bring federal poverty standards in the rule to 2004 levels and revise life expectancy tables.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: An estimate of the regulatory cost was not prepared for this rule.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.919 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: 9:00 a.m. – 10:00 a.m., June 21, 2004

PLACE: Building 3, Room 439, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robi Olmstead, Government Operations Consultant II, 1317 Winewood Boulevard, Building 3, Room 449, Tallahassee, FL 32399-0700, (850)414-2908

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.716 Income and Resource Criteria.

(1) The monthly federal poverty level figures based on the size of the filing unit are as follows:

Filing Unit Size	88% of Poverty Guideline	100% of Poverty Guideline	120% of Poverty Guideline	133% of Poverty Guideline
1	\$ 683 659	\$ 776 749	\$ 931 898	\$ 1032 996
2	916 889	1041 1010	1249 1212	1385 1344
3		1306 1272		1737 1692
4		1571 1534		2090 2040
5		1836 1795		2442 2388
6		2101 2057		2795 2736
7		2366 2319		3147 3084
8		2631 2580		3500 3432
9		2896 2842		3852 3780
10		3161 3104		4204 4128
11		3426 3365		4557 4476
12		3691 3627		4909 4824
Add each add. person		\$ 265 262		\$ 353 349

Filing Unit Size	135% of Poverty Guideline	185% of Poverty Guideline	200% of Poverty Guideline
1	\$ 1048 1011	\$ 1436 1385	\$ 1552 1497
2	1406 1364	1926 1869	2082 2020
3		2416 2353	2612 2544
4		2907 2837	3142 3067
5		3397 3321	3672 3590
6		3887 3805	4202 4114
7		4377 4289	4732 4637
8		4868 4773	5262 5160
9		5358 5258	5792 5684
10		5848 5742	6322 6207
11		6338 6226	6852 6730
12		6829 6710	7382 7254
Add each add. person		\$ 491 485	\$ 530 524

(2) through (5)(d) No change.

(e) The following life expectancy tables are compiled from information published by the Office of the Chief Actuary of the Social Security Administration:

LIFE EXPECTANCY TABLE – FEMALES

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	79.24 78.79	40	40.80 40.61	80	8.92 9.11
1	78.77 78.42	41	39.85 39.66	81	8.37 8.58
2	77.81 77.48	42	38.92 38.72	82	7.85 8.06
3	76.83 76.51	43	37.99 37.78	83	7.34 7.56
4	75.85 75.54	44	37.06 36.85	84	6.86 7.08
5	74.86 74.56	45	36.13 35.92	85	6.40 6.63
6	73.88 73.57	46	35.21 35.00	86	5.96 6.20
7	72.89 72.59	47	34.29 34.08	87	5.54 5.79
8	71.90 71.60	48	33.38 33.17	88	5.15 5.41
9	70.91 70.61	49	32.47 32.27	89	4.78 5.05
10	69.91 69.62	50	31.56 31.37	90	4.44 4.71
11	68.92 68.63	51	30.66 30.48	91	4.12 4.40
12	67.93 67.64	52	29.77 29.06	92	3.83 4.11
13	66.94 66.65	53	28.88 28.72	93	3.56 3.84
14	65.95 65.67	54	28.00 27.86	94	3.31 3.59
15	64.97 64.68	55	27.13 27.00	95	3.09 3.36
16	63.99 63.71	56	26.27 26.15	96	2.89 3.16
17	63.01 62.74	57	25.41 25.31	97	2.72 3.97
18	62.04 61.77	58	24.57 24.48	98	2.55 2.80

19	<u>61.07</u>	60.80	59	<u>23.73</u>	23.67	99	<u>2.40</u>	2.64
20	<u>60.09</u>	59.83	60	<u>22.90</u>	22.86	100	<u>2.26</u>	2.48
21	<u>59.12</u>	58.86	61	<u>22.08</u>	22.06	101	<u>2.12</u>	2.34
22	<u>58.15</u>	57.89	62	<u>21.28</u>	21.27	102	<u>1.99</u>	2.20
23	<u>57.18</u>	56.92	63	<u>20.48</u>	20.49	103	<u>1.87</u>	2.06
24	<u>56.20</u>	55.95	64	<u>19.70</u>	19.72	104	<u>1.75</u>	1.93
25	<u>55.23</u>	54.98	65	<u>18.93</u>	18.96	105	<u>1.63</u>	1.81
26	<u>54.26</u>	54.02	66	<u>18.18</u>	18.21	106	<u>1.52</u>	1.69
27	<u>53.29</u>	53.05	67	<u>17.44</u>	17.48	107	<u>1.42</u>	1.58
28	<u>52.31</u>	52.08	68	<u>16.71</u>	16.76	108	<u>1.32</u>	1.48
29	<u>51.34</u>	51.12	69	<u>16.00</u>	16.04	109	<u>1.23</u>	1.38
30	<u>50.37</u>	50.15	70	<u>15.29</u>	15.35	110	<u>1.14</u>	1.28
31	<u>49.40</u>	49.19	71	<u>14.59</u>	14.66	111	<u>1.05</u>	1.19
32	<u>48.44</u>	48.23	72	<u>13.91</u>	613.99	112	<u>0.97</u>	1.10
33	<u>47.47</u>	47.27	73	<u>13.23</u>	13.33	113	<u>0.90</u>	1.02
34	<u>46.51</u>	46.31	74	<u>12.57</u>	12.68	114	<u>0.82</u>	0.96
34	<u>45.55</u>	45.35	75	<u>11.92</u>	12.05	115	<u>0.76</u>	0.89
36	<u>44.59</u>	44.40	76	<u>11.29</u>	11.43	116	<u>0.71</u>	0.83
37	<u>43.64</u>	43.45	77	<u>10.67</u>	10.83	117	<u>0.65</u>	0.77
38	<u>42.69</u>	42.50	78	<u>10.07</u>	10.24	118	<u>0.60</u>	0.71
39	<u>41.74</u>	41.55	79	<u>9.49</u>	9.67	119	<u>0.55</u>	0.66

LIFE EXPECTANCY TABLE – MALES

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	<u>73.90</u>	40	<u>36.39</u>	80	<u>7.23</u>
1	<u>73.50</u>	41	<u>35.49</u>	81	<u>6.78</u>
2	<u>72.54</u>	42	<u>34.59</u>	82	<u>6.35</u>
3	<u>71.57</u>	43	<u>33.69</u>	83	<u>5.94</u>
4	<u>70.59</u>	44	<u>32.08</u>	84	<u>5.55</u>
5	<u>69.60</u>	45	<u>31.92</u>	85	<u>5.18</u>
6	<u>68.62</u>	46	<u>31.04</u>	86	<u>4.84</u>
q	<u>67.63</u>	47	<u>30.17</u>	87	<u>4.52</u>
8	<u>66.64</u>	48	<u>29.31</u>	88	<u>4.21</u>
9	<u>65.65</u>	49	<u>28.45</u>	89	<u>3.93</u>
10	<u>64.66</u>	50	<u>27.60</u>	90	<u>3.67</u>
11	<u>63.67</u>	51	<u>26.75</u>	91	<u>3.42</u>
12	<u>62.68</u>	52	<u>25.90</u>	92	<u>3.20</u>
13	<u>61.69</u>	53	<u>25.07</u>	93	<u>2.99</u>
14	<u>60.71</u>	54	<u>24.24</u>	94	<u>2.80</u>
15	<u>59.74</u>	55	<u>23.42</u>	95	<u>2.63</u>
16	<u>58.78</u>	56	<u>22.61</u>	96	<u>2.48</u>
17	<u>57.82</u>	57	<u>21.81</u>	97	<u>2.34</u>
18	<u>56.88</u>	58	<u>21.03</u>	98	<u>2.21</u>
19	<u>55.94</u>	59	<u>20.25</u>	99	<u>2.10</u>
20	<u>55.00</u>	60	<u>19.48</u>	100	<u>1.99</u>
21	<u>54.07</u>	61	<u>18.73</u>	101	<u>1.88</u>
22	<u>53.15</u>	62	<u>17.98</u>	102	<u>1.78</u>
23	<u>52.22</u>	63	<u>17.25</u>	103	<u>1.68</u>
24	<u>51.30</u>	64	<u>16.54</u>	104	<u>1.58</u>
25	<u>50.37</u>	65	<u>15.84</u>	105	<u>1.49</u>
26	<u>49.44</u>	66	<u>15.16</u>	106	<u>1.40</u>
27	<u>48.50</u>	67	<u>14.50</u>	107	<u>1.32</u>

28	<u>47.56</u>	45.88	68	<u>13.86</u>	13.09	108	<u>1.24</u>	1.41
29	<u>46.62</u>	44.97	69	<u>13.23</u>	12.50	109	<u>1.16</u>	1.33
30	<u>45.68</u>	44.06	70	<u>12.61</u>	11.92	110	<u>1.09</u>	1.25
31	<u>44.74</u>	43.15	71	<u>12.01</u>	11.35	111	<u>1.02</u>	1.17
32	<u>43.80</u>	42.24	72	<u>11.42</u>	10.80	112	<u>0.95</u>	1.10
33	<u>42.87</u>	41.33	73	<u>10.84</u>	10.27	113	<u>0.89</u>	1.02
34	<u>41.93</u>	40.23	74	<u>10.28</u>	9.27	114	<u>0.82</u>	0.96
34	<u>41.00</u>	39.52	75	<u>9.73</u>	9.24	115	<u>0.76</u>	0.89
36	<u>40.07</u>	38.62	76	<u>9.20</u>	8.76	116	<u>0.71</u>	0.83
37	<u>39.14</u>	37.73	77	<u>8.68</u>	8.29	117	<u>0.65</u>	0.77
38	<u>38.22</u>	36.83	78	<u>8.18</u>	7.83	118	<u>0.60</u>	0.71
39	<u>37.31</u>	35.94	79	<u>7.69</u>	7.40	119	<u>0.55</u>	0.66

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History—New 10-8-97, Amended 12-9-99, 2-15-01, 11-26-01, 7-28-02, 4-1-03, 9-10-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robi Olmstead, Government Operations Consultant II

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Connie B. Reinhardt, Acting Director, Economic Self-Sufficiency

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 11, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2004

FISH AND WILDLIFE CONSERVATION COMMISSION

Manatees

RULE TITLES:	RULE NOS.:
Hillsborough County Zones	68C-22.013
Manatee County Zones	68C-22.014
Pinellas County Zones	68C-22.016
Hillsborough County – Big Bend Zones Established	68C-22.022

PURPOSE AND EFFECT: The purpose of the proposed rulemaking action is to improve protection of manatees and manatee habitat in the Tampa Bay area by establishing regulations that limit allowable motorboat speed and operation in portions of Hillsborough, Manatee, and Pinellas counties. The effect of the action would be to limit allowable motorboat speed in portions of the three counties and to prohibit all activities in one small area in Hillsborough County (in the discharge canal area of the Tampa Electric Big Bend power plant) during the winter months; however, all activities in this area are already prohibited by an existing federal manatee sanctuary.

SUMMARY: The existing manatee protection zones in the vicinity of the Tampa Electric Big Bend power plant would be amended, with the amended zones incorporated into the Hillsborough County rule (68C-22.013) and Rule 68C-22.022 repealed. New warm season zones (April 1 – November 15) would be established in part of northern Old Tampa Bay, while year-round zones would be established in part of eastern Old

Tampa Bay, eastern Tampa Bay, the Little Manatee River, and portions of Manatee County. Within the regulated areas, speeds up to 25 mph would be allowed in most of the marked channels and throughout the Little Manatee River. In most areas of Manatee County, the proposed zones are very similar or identical to zones that were approved by Manatee County in March 2004 through its ordinance process. The existing zones in the Alafia River and Terra Ceia Bay areas would not be substantively affected, although the descriptions of some of these zones would be updated based on more accurate shoreline data.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Costs (SERC) has been prepared.

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

SPECIFIC AUTHORITY: 370.12(2)(g),(n),(o) FS.

LAW IMPLEMENTED: 370.12(2)(d),(g),(k),(n),(o) FS.

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

TIME AND DATE: 6:00 p.m., Tuesday, June 22, 2004

PLACE: A. P. Leto Comprehensive High School Auditorium, 4409 West Sligh Avenue, Tampa, Florida

The focus of this hearing will be on the proposed zones in Hillsborough and Pinellas counties. Both spoken and written comments will be accepted at the hearing. Written comments received by the Commission on or before the date of the final public hearing will also be considered and made a part of the rulemaking record.

TIME AND DATE: 6:00 p.m., Wednesday, June 23, 2004

PLACE: Manatee County Convention and Civic Center, One Haben Boulevard, Palmetto, Florida

The focus of this hearing will be on the proposed zones in Manatee County. Both spoken and written comments will be accepted at the hearing. Written comments received by the Commission on or before the date of the final public hearing will also be considered and made a part of the rulemaking record.

TIME AND DATES: Wednesday through Friday, September 22, 2004-September 24, 2004

PLACE: Tampa Bay area – Specific location yet to be determined

Another notice will be published in the F.A.W. to confirm the date of the final hearing and to provide the location information. The Commission's agenda for this meeting will indicate the specific day when this item is scheduled to be addressed.

If accommodation for a disability is needed to participate in any of the above hearings, please notify the contact person listed below at least five days before the hearing.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Scott Calleson, Environmental Specialist III, Florida Fish and Wildlife Conservation Commission, Bureau of Protected Species Management (DOW-BPS), 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68C-22.013 Hillsborough County Zones.

(1) The Commission hereby designates the waters within Hillsborough County, as described below, as areas where manatee sightings are frequent and where the best available information supports the conclusion it can be assumed that manatees inhabit these areas on a regular or periodic or continuous basis. ~~The Commission has further determined that a likelihood of threat to manatees exists in these waters as a result of manatees and motorboats using the same areas.~~ The primary purpose of this rule is to protect manatees from harmful collisions with motorboats and from harassment by regulating the speed and operation of motorboats within these designated areas. A secondary purpose is to protect manatee habitat. In consideration of balancing the rights of fishers, boaters, and water skiers to use the waters of the state these waterways for recreational and commercial purposes (as applicable under Section 370.12(2)(k), F.S.) with the need to provide manatee protection, the Commission has examined the need for limited lanes, corridors, or unregulated areas that allow higher speeds unregulated areas or higher speed travel corridors through or within regulated areas. Such lanes, corridors, or areas or corridors are provided in those locations where the Commission determined that they are consistent with manatee protection needs, on the basis of all available information, that (1) there is a need for the area or corridor and (2) the area or corridor will not result in serious threats to manatees or their habitat. Unregulated areas or higher speed corridors are not provided in locations where both of the above findings were not made.

(2) The following zones are established, which shall include all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, and boat basins unless otherwise designated or excluded.

(a) NO ENTRY (November 15 – March 31) Apollo Beach Area: All waters of the discharge canal of the Tampa Electric Company Big Bend Electric Generating Station east of a line bearing 193.6° from a point (approximate latitude 27° 47' 37.9" North, approximate longitude 82° 24' 42.7" West) on the northern shoreline of the discharge canal to a point (approximate latitude 27° 47' 33.8" North, approximate longitude 82° 24' 43.7" West) in the water along the existing fence line on the southern side of the discharge canal. The southern boundary is the southern shoreline of the discharge canal and a line bearing 271.6° for a distance of approximately 3039 feet from a point (approximate latitude 27° 47' 33.3"

North, approximate longitude 82° 24' 9.9" West) on the southern shoreline to the aforementioned point on the existing fence line.

(b) IDLE SPEED (November 15 – March 31) Apollo Beach Area: Those waters south of the Apollo Beach No Entry zone, generally east of the hammerhead portion of Apollo Beach, and north of Apollo Beach Boulevard, excluding the waters of Newman Branch and the canal system southeast of Dolphin Cove Drive. The northern boundary is the southern boundary of the No Entry zone described in paragraph (2)(a) and a line following the existing fence line beginning at a point (approximate latitude 27° 47' 33.8" North, approximate longitude 82° 24' 43.7" West) in the water on the fence line and bearing 301.7° to another point (approximate latitude 27° 47' 34.9" North, approximate longitude 82° 24' 45.8" West) on the fence line and then bearing 271.6° to the line's terminus at a point (approximate latitude 27° 47' 35.1" North, approximate longitude 82° 24' 53.8" West) at the western end of the fence line. The western boundary is a line bearing 180° from the aforementioned point at the western end of the existing fence line to a point (approximate latitude 27° 47' 33.5" North, approximate longitude 82° 24' 53.8" West) on the northern shoreline of the hammerhead portion of Apollo Beach and then following the northern and eastern shorelines of the hammerhead portion of Apollo Beach to a point (approximate latitude 27° 46' 57.4" North, approximate longitude 82° 25' 4.2" West) on the shoreline of the peninsula that contains Dolphin Cove Drive. The eastern boundary is the general contour of the eastern shoreline of Tampa Bay south of the Apollo Beach No Entry zone to a point (approximate latitude 27° 46' 58.6" North, approximate longitude 82° 25' 2.5" West) on the southwestern shoreline of the mangrove peninsula west of Newman Branch and a line bearing 232.0° from said point on the mangrove peninsula to the aforementioned point on the shoreline of the peninsula that contains Dolphin Cove Drive.

(c)(a) SLOW SPEED (All Year, except as otherwise designated)

1. Alafia River: All waters in the Alafia River outside of the main marked channel east of a line bearing 360° from a point (approximate latitude 27° 51' 10.0" North, approximate longitude 82° 23' 54.2 55.2" West) on the southern shoreline of the Alafia River at the river's confluence with Hillsborough Bay, and west of the centerline of the U.S. Highway 41 Bridge.

2. Apollo Beach Area: Those waters of Tampa Bay west of the Apollo Beach No Entry zone described in paragraph (2)(a) and bounded on the north and south by existing Hillsborough County zones and on the west by a line connecting the western boundaries of said Hillsborough County zones. The northern boundary is a line bearing 254.8° from a point (approximate latitude 27° 47' 37.9" North, approximate longitude 82° 24' 42.7" West) on the northern shoreline of the discharge canal of the Tampa Electric Company Big Bend Electric Generating Station to a point (approximate latitude 27° 47' 37.2" North,

approximate longitude 82° 24' 44.9" West) on the southeastern shoreline of the unnamed island west of the generating station and then following the southern and western shorelines of said island to a point (approximate latitude 27° 47' 53.8" North, approximate longitude 82° 25' 3.8" West) on the northwestern shoreline of the island and then bearing 271.6° for a distance of approximately 1174 feet to a point (approximate latitude 27° 47' 53.9" North, approximate longitude 82° 25' 16.9" West) in the water at the southwestern boundary of an existing Hillsborough County zone. The southern boundary is a line beginning at a point (approximate latitude 27° 47' 33.5" North, approximate longitude 82° 24' 53.8" West) on the northern shoreline of the hammerhead portion of Apollo Beach and then following the northern and western shorelines of the hammerhead portion of Apollo Beach to a point (approximate latitude 27° 47' 35.1" North, approximate longitude 82° 25' 8.0" West) on the northwestern shoreline and then bearing 296.3° for a distance of approximately 1440 feet to a point (approximate latitude 27° 47' 41.4" North, approximate longitude 82° 25' 22.5" West) in the water at the northwestern boundary of an existing Hillsborough County zone. The western boundary is a line bearing 202.1° from the aforementioned point in the water at the southwestern boundary of an existing Hillsborough County zone to the aforementioned point in the water at the northwestern boundary of an existing Hillsborough County zone.

3. Little Manatee River/Bahia Beach: Those waters in the basin south and west of Bahia Beach Boulevard, including the seagrass area and entrance channel southwest of the basin. The southern and western boundary is a line bearing 323.6° for a distance of approximately 290 feet from a point (approximate latitude 27° 43' 19.1" North, approximate longitude 82° 28' 44.7" West) on the eastern shoreline of a canal on Shell Point to a point (approximate latitude 27° 43' 21.4" North, approximate longitude 82° 28' 46.7" West) in the water near the edge of the seagrass area, then bearing 338.1° for a distance of approximately 568 feet to a point (approximate latitude 27° 43' 26.5" North, approximate longitude 82° 28' 49.0" West) in the water, and then bearing 48.4° for a distance of approximately 864 feet to a point (approximate latitude 27° 43' 32.4" North, approximate longitude 82° 28' 41.9" West) on the southwestern shoreline of Bahia Beach.

4. Old Tampa Bay Area:

a. South of the Howard Frankland Bridge: All waters north of the Gandy Boulevard Bridge, south of the Howard Frankland Bridge, and east of a line beginning at a point (approximate latitude 27° 53' 24.0" North, approximate longitude 82° 32' 43.4" West) in the water under the westbound lane of Gandy Boulevard (approximately 1015 feet southwest of where Gandy Boulevard crosses the eastern shoreline of Old Tampa Bay) and then bearing 348.7° for a distance of approximately 475 feet to a point (approximate latitude 27° 53' 28.6" North, approximate longitude 82° 32' 44.5" West) in the

water, then bearing 11.5° for a distance of approximately 700 feet to a point (approximate latitude 27° 53' 35.4" North, approximate longitude 82° 32' 43.1" West) in the water, then bearing 19.7° for a distance of approximately 4590 feet to a point (approximate latitude 27° 54' 18.3" North, approximate longitude 82° 32' 26.4" West) in the water, then bearing 15.2° for a distance of approximately 3155 feet to a point (approximate latitude 27° 54' 48.6" North, approximate longitude 82° 32' 17.6" West) in the water, then bearing 8.2° for a distance of approximately 1855 feet to a point (approximate latitude 27° 55' 6.8" North, approximate longitude 82° 32' 14.9" West) in the water, then bearing 11.7° for a distance of approximately 1660 feet to a point (approximate latitude 27° 55' 22.9" North, approximate longitude 82° 32' 11.4" West) in the water, then bearing 3.1° for a distance of approximately 617 feet to a point (approximate latitude 27° 55' 29.2" North, approximate longitude 82° 32' 11.1" West) in the water, then bearing 347.3° for a distance of approximately 919 feet to a point (approximate latitude 27° 55' 37.9" North, approximate longitude 82° 32' 13.5" West) in the water, then bearing 334.8° for a distance of approximately 1735 feet to a point (approximate latitude 27° 55' 53.4" North, approximate longitude 82° 32' 22.0" West) in the water, then bearing 298.0° for a distance of approximately 2315 feet to a point (approximate latitude 27° 56' 3.9" North, approximate longitude 82° 32' 44.9" West) in the water, then bearing 290.2° for a distance of approximately 998 feet to a point (approximate latitude 27° 56' 7.2" North, approximate longitude 82° 32' 55.4" West) in the water, then bearing 313.6° for a distance of approximately 526 feet to a point (approximate latitude 27° 56' 10.7" North, approximate longitude 82° 32' 59.7" West) in the water, then bearing 333.6° for a distance of approximately 884 feet to a point (approximate latitude 27° 56' 18.4" North, approximate longitude 82° 33' 4.2" West) in the water, and then bearing 349.0° for a distance of approximately 645 feet to the line's terminus at a point (approximate latitude 27° 56' 24.7" North, approximate longitude 82° 33' 5.7" West) on the southern shoreline of the causeway for the Howard Frankland Bridge (approximately 1289 feet southwest of where Interstate 275 crosses the eastern shoreline of Old Tampa Bay), except as otherwise designated under sub-subparagraph (2)(d)4.a.

b. Rocky Point Area: All waters north of the Howard Frankland Bridge and northeast of a line bearing 321.6° from a point (approximate latitude 27° 56' 26.6" North, approximate longitude 82° 33' 6.2" West) on the northern shoreline of the causeway for the Howard Frankland Bridge to a point (approximate latitude 27° 57' 42.8" North, approximate longitude 82° 34' 16.0" West) on the southwestern shoreline of Rocky Point.

c. North of Courtney Campbell Causeway (April 1-November 15): All waters north of the Courtney Campbell Causeway and east of a line bearing 360° from a point (approximate latitude 27° 58' 24.5" North, approximate longitude 82° 35' 57.2" West) on the northern shoreline of the Courtney Campbell Causeway to a point on the northeastern shoreline of Old Tampa Bay east of the mouth of Rocky Creek, except as otherwise designated under sub-subparagraph (2)(d)4.b.

(d)(b) 25 MPH (All Year, except as otherwise designated)

1. Alafia River, West of U.S. Highway 41: All waters in the main marked channel of the Alafia River east of a line bearing 360° from a point (approximate latitude 27° 51' 10.0" North, approximate longitude 82° 23' 54.2 55.2" West) on the southern shoreline of the Alafia River at the river's confluence with Hillsborough Bay, and west of the centerline of the U.S. Highway 41 Bridge.

2. Alafia River, U.S. Highway 41 to Interstate 75: All waters of the Alafia River east of the centerline of the U.S. Highway 41 Bridge and west of the centerline of the Interstate 75 Bridge.

3. Little Manatee River: All waters of the Manatee River and the portion of Tampa Bay south and east of a line beginning at a point (approximate latitude 27° 43' 32.4" North, approximate longitude 82° 28' 41.9" West) on the southwestern shoreline of Bahia Beach and then bearing 288.8° for a distance of approximately 576 feet to a point (approximate latitude 27° 43' 34.1" North, approximate longitude 82° 28' 48.0" West) in the water, then bearing 220.7° for a distance of approximately 1503 feet to a point (approximate latitude 27° 43' 22.7" North, approximate longitude 82° 28' 58.8" West) in the water, then bearing 207.3° for a distance of approximately 661 feet to a point (approximate latitude 27° 43' 16.9" North, approximate longitude 82° 29' 2.1" West) in the water, then bearing 226.5° for a distance of approximately 483 feet to a point (approximate latitude 27° 43' 13.5" North, approximate longitude 82° 29' 5.9" West) in the water, then bearing 199.8° to a point (approximate latitude 27° 43' 13.5" North, approximate longitude 82° 29' 5.9" West) on the northeastern shoreline of Tropical Island, then following the eastern shoreline of said island to a point (approximate latitude 27° 42' 59.0" North, approximate longitude 82° 28' 53.0" West) on the eastern shoreline of said island, then bearing 140.1° to a point (approximate latitude 27° 42' 50.4" North, approximate longitude 82° 28' 44.7" West) on the northeastern shoreline of Whiskey Key, then following the northeastern shoreline of said key to a point (approximate latitude 27° 42' 46.0" North, approximate longitude 82° 28' 42.6" West) on the eastern shoreline of the key, and then bearing 152.2° to the line's terminus at a point (approximate latitude 27° 42' 38.8" North, approximate longitude 82° 28' 38.2" West) on the southern shoreline of the Manatee River.

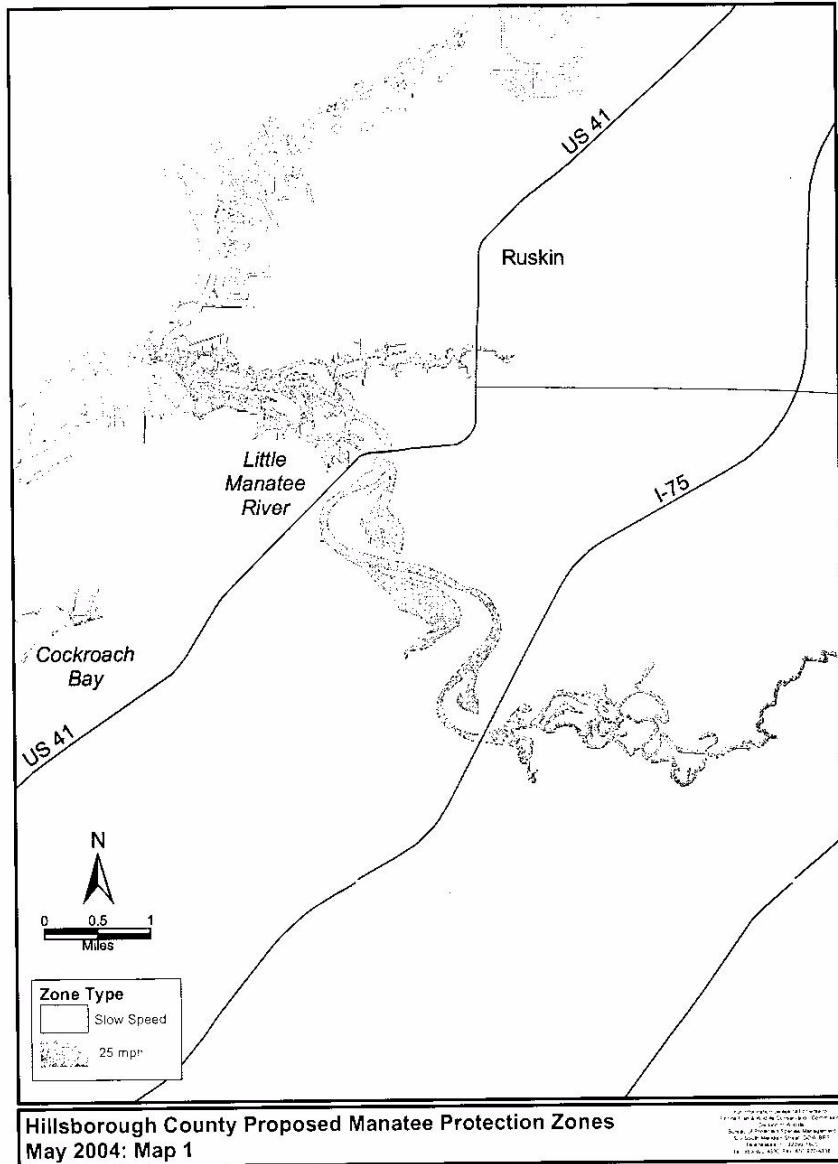
4. Old Tampa Bay Area: Those waters in the portions of the following marked channels east of the western boundary of the Slow Speed zone designated in sub-subparagraph (2)(c)4.a.:

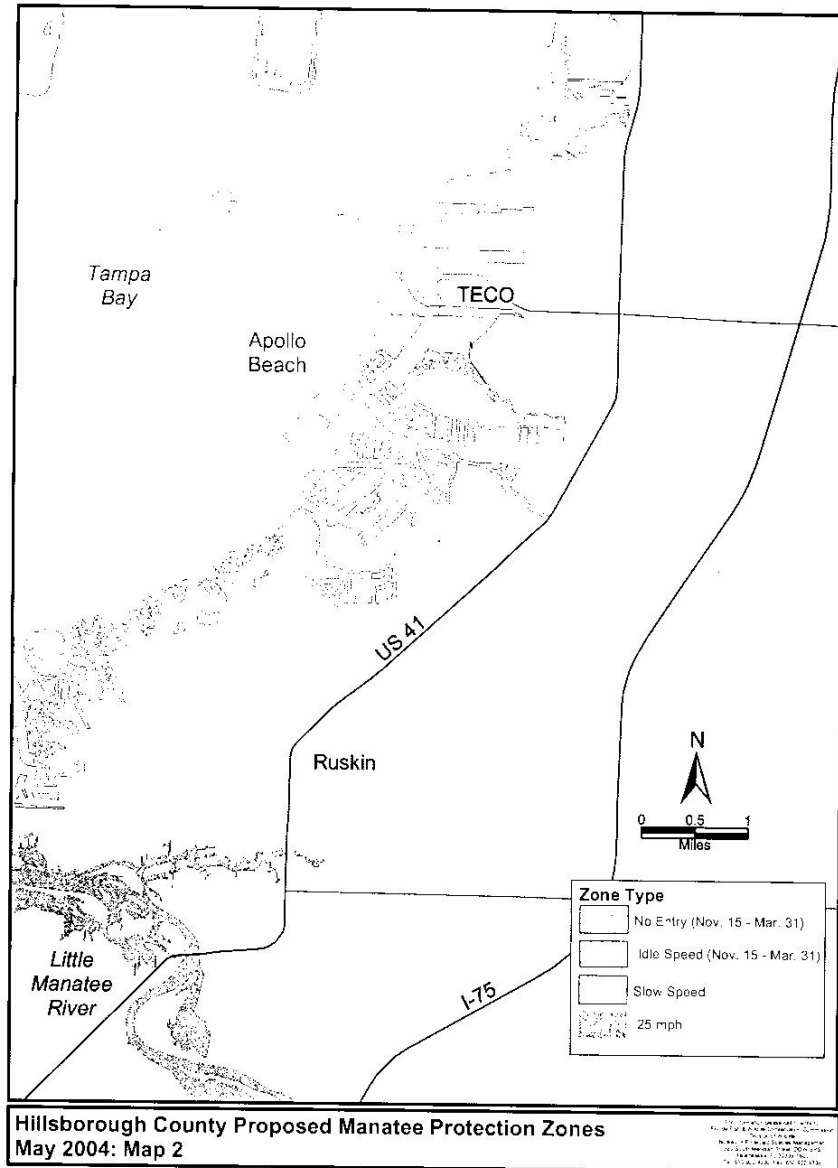
a. South of the Howard Frankland Bridge: Those waters in the marked channel leading to Culbreath Bayou west of channel marker "9" (approximate latitude 27° 56' 13.1" North, approximate longitude 82° 31' 56.4" West); and those waters in the portion of the marked channel south of the Howard Frankland Bridge (south of Mariner Drive) west of channel marker "12" (approximate latitude 27° 56' 25.4" North, approximate longitude 82° 32' 17.9" West), but excluding the north-south portion of the channel between channel marker "12" and channel marker "16."

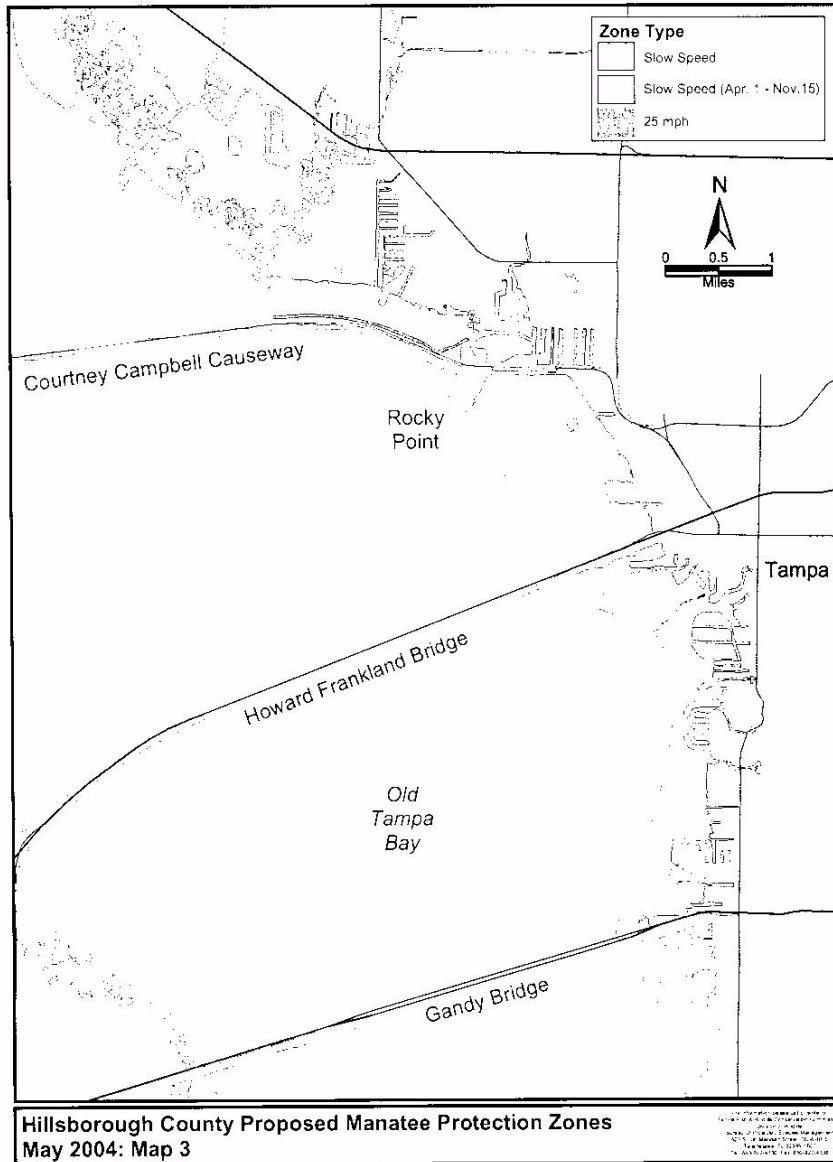
b. North of Courtney Campbell Causeway (April 1 – November 15): Those waters in the portion of the marked east-west channel east of the western boundary of the Slow Speed zone designated in sub-subparagraph (2)(c)4.c. (generally east of channel marker "5") and west of channel marker "23" (approximate latitude 27° 58' 18.8" North, approximate longitude 82° 34' 10.0" West).

(3) The zones described in subsection 68C-22.013(2), F.A.C., are depicted on the following maps, labeled "Hillsborough County Manatee Protection Zones." The ~~map~~ maps are intended to ~~depict as a depiction~~ depict of the above-described zones. In the event of conflict between the maps and descriptions, the descriptions shall prevail.

(4) The amendments to Rule 68C-22.013, F.A.C., as approved by the Commission on _____ ~~September 12, 2002,~~ shall take effect as soon as the regulatory markers are posted.







Specific Authority 370.12(2)(g),(n) FS. Law Implemented 370.12(2)(d),(g),(k),(n),(o) FS. History—New 3-19-79, Formerly 16N-22.13, 16N-22.013, 62N-22.013, Amended _____.

68C-22.014 Manatee County Zones.

(1) The Commission hereby designates the waters within Manatee County, as described below, as areas where manatee sightings are frequent and where the best available information supports the conclusion it can be assumed that manatees inhabit these areas on a regular or periodic or continuous basis. The Commission has further determined that a likelihood of threat to manatees exists in these waters as a result of manatees and motorboats using the same areas. The primary purpose of this rule is to protect manatees from harmful collisions with motorboats and from harassment by regulating the speed and operation of motorboats within these designated areas. A secondary purpose is to protect manatee habitat. In consideration of balancing the rights of fishers, boaters, and water skiers to use the waters of the state these waterways for recreational and commercial purposes (as applicable under Section 370.12(2)(k), F.S.) with the need to provide manatee protection, the Commission has examined the need for limited lanes, corridors, or unregulated areas that allow higher speeds unregulated areas or higher speed travel corridors through or within regulated areas. Such lanes, corridors, or areas of corridors are provided in those locations where the Commission determined that they are consistent with manatee protection needs, on the basis of all available information, that (1) there is a need for the area or corridor and (2) the area or corridor will not result in serious threats to manatees or their habitat. Unregulated areas or higher speed corridors are not provided in locations where both of the above findings were not made.

(2) The following zones are established, which shall include all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, and boat basins unless otherwise designated or excluded. As used in this rule, ICW means the Intracoastal Waterway.

(a) IDLE SPEED (All Year) Snead Cut: All waters of the waterway commonly referred to as “Snead Cut” (connecting Terra Ceia Bay and the Manatee River) northeast of the northern shoreline of the Manatee River and southwest of the southwestern shoreline of Terra Ceia Bay.

(b) SLOW SPEED (All Year)

1. Bishop Harbor Area: All waters of Bishop Harbor and those nearshore waters of Tampa Bay generally north of Bishop Harbor and south of Port Manatee. The southern boundary is the southern shoreline of Bishop Harbor. The western boundary is a line beginning at a point (approximate latitude 27° 36' 25.9" North, approximate longitude 82° 34' 15.4" West) on the southern shoreline of Bishop Harbor and then bearing 346.5° for a distance of approximately 405 feet from to a point (approximate latitude 27° 36' 29.8" North, approximate longitude 82° 34' 16.6" West) in the water, then

bearing 320.9° for a distance of approximately 330 feet to a point (approximate latitude 27° 36' 32.3" North, approximate longitude 82° 34' 18.9" West) in the water, then bearing 317.6° for a distance of approximately 410 feet to a point (approximate latitude 27° 36' 35.3" North, approximate longitude 82° 34' 22.0" West) in the water, then bearing 348.3° for a distance of approximately 1100 feet to a point (approximate latitude 27° 36' 45.9" North, approximate longitude 82° 34' 24.6" West) in the water, then bearing 325.8° for a distance of approximately 538 feet to a point (approximate latitude 27° 36' 50.3" North, approximate longitude 82° 34' 28.0" West) in the water, then bearing 42.3° for a distance of approximately 1208 feet to a point (approximate latitude 27° 36' 59.3" North, approximate longitude 82° 34' 19.1" West) in the water, and then bearing 7.4° for a distance of approximately 3368 feet to the line's terminus at a point (approximate latitude 27° 37' 32.4" North, approximate longitude 82° 34' 15.0" West) in the water. The northern boundary is a line bearing 126.0° for a distance of approximately 2500 feet from a point (approximate latitude 27° 37' 32.4" North, approximate longitude 82° 34' 15.0" West) in the water to a point on the eastern shoreline of Tampa Bay south of Port Manatee.

2. Miguel Bay: Those waters along the eastern side of Miguel Bay generally between Flounder Pass and the embayment in northeastern Miguel Bay. The southwestern boundary is a line bearing 325.6° from a point (approximate latitude 27° 33' 37.0" North, approximate longitude 82° 36' 15.2" West) on the southern shoreline of Miguel Bay (northeast of Flounder Pass) to a point (approximate latitude 27° 33' 40.4" North, approximate longitude 82° 36' 17.9" West) on the southwestern shoreline of an unnamed mangrove island to the north. The western boundary is a line following the southeastern shoreline of the aforementioned unnamed mangrove island from said point on its southwestern shoreline to a point (approximate latitude 27° 33' 42.7" North, approximate longitude 82° 36' 16.1" West) on the island's northern shoreline, then bearing 12.0° to a point (approximate latitude 27° 33' 44.5" North, approximate longitude 82° 36' 15.7" West) on the southwestern shoreline of the unnamed mangrove island to the northeast, then following the southeastern shoreline of said island to a point (approximate latitude 27° 33' 49.0" North, approximate longitude 82° 36' 8.3" West) on the island's northern shoreline, then bearing 56.5° for a distance of approximately 607 feet to a point (approximate latitude 27° 33' 52.4" North, approximate longitude 82° 36' 2.7" West) in the water, then bearing 75.7° for a distance of approximately 646 feet to a point (approximate latitude 27° 33' 54.1" North, approximate longitude 82° 35' 55.7" West) in the water, and then following a line 300 feet northwest of and parallel with the eastern shoreline of Miguel Bay to the line's terminus at a point (approximate latitude 27° 34' 19.4" North, approximate longitude 82° 35' 40.9" West) in the water. Within the

embayment in northeastern Miguel Bay, the outer boundary is a line beginning at a point (approximate latitude 27° 34' 19.4" North, approximate longitude 82° 35' 40.9" West) in the water and then bearing 38.9° for a distance of approximately 260 feet to a point (approximate latitude 27° 34' 21.5" North, approximate longitude 82° 35' 39.1" West) in the water, then bearing 76.0° for a distance of approximately 365 feet to a point (approximate latitude 27° 34' 22.4" North, approximate longitude 82° 35' 35.2" West) in the water, then bearing 117.7° for a distance of approximately 750 feet to a point (approximate latitude 27° 34' 19.0" North, approximate longitude 82° 35' 27.8" West) in the water, then following a line 300 feet out from and parallel with the southern and eastern shorelines of said embayment to a point (approximate latitude 27° 34' 27.0" North, approximate longitude 82° 35' 12.5" West) in the water, and then bearing 272.2° to the line's terminus at a point (approximate latitude 27° 34' 27.2" North, approximate longitude 82° 35' 20.7" West) on the northern shoreline. The two canals on either side of Burns Road are also included in this zone.

3.4. Western Terra Ceia Bay Area: All waters within 500 feet of the general contour of the following shorelines:

a. South Side of Rattlesnake Key: North and east of a line bearing 110° from a point (approximate latitude 27° 32' 55.9 54.8" North, approximate longitude 82° 37' 46.5 46.9" West) on the eastern shoreline of Terra Ceia Point and west and northwest of a line bearing 221° from the easternmost point (approximate latitude 27° 33' 20.5 19.4" North, approximate longitude 82° 36' 13.4 13.9" West) of Rattlesnake Key at Flounder Pass.

b. North Side of Sned Island: All shorelines of the unnamed mangrove island immediately north of Sned Island and, on the northern and eastern sides of Sned Island, north and then east of a line bearing 270° 23° from a point (approximate latitude 27° 31 32' 54.9 49.5" North, approximate longitude 82° 38' 47.6 04.3" West) on the western northern shoreline of Sned Island west of Emerson Bayou and north and west of Sned Cut, except as otherwise designated under paragraph (2)(a) and sub-paragraph (2)(b)4.b. (2)(b) 2.b.

4.2. Terra Ceia Bay Area:

a. All waters within 500 feet of the general contour of all shorelines of Bird Key, the northern shoreline of Terra Ceia Bay east of Flounder Pass and north of a line bearing 90° from the southwesternmost point (approximate latitude 27° 33' 22.4 21.1" North, approximate longitude 82° 36' 10.7 10.9" West) of the peninsula at the southeastern end of Flounder Pass, and the southeastern and eastern shorelines of Terra Ceia Bay east and north of Sned Cut, except as otherwise designated under paragraph (2)(a) and sub-paragraph (2)(b)4.b. (2)(b) 2.b.

b. All waters of Terra Ceia Bay south of a line bearing 296° from a point (approximate latitude 27° 31' 51.8 50.5" North, approximate longitude 82° 35' 47.6 48.5" West) on the southeastern shoreline of Terra Ceia Bay; All waters of Terra

Ceia Bay north of a line bearing 320° from a point (approximate latitude 27° 33' 41.3 40.5" North, approximate longitude 82° 34' 11.5 12.2" West) on the northeastern shoreline of Terra Ceia Bay and south of Terra Ceia Bayou, and; All waters of Peterson Bayou.

5.3. Terra Ceia Bayou: All waters within 500 feet of the general contour of the shorelines of Terra Ceia Bayou, including those waters of Frog Creek southeast of the centerline of the Terra Ceia Road Bridge and those waters of McMullen Creek west of the centerline of the Bayshore Road Bridge.

6. Manatee River (North Side): All waters within 500 feet of the general contour of the shoreline, west of the eastern edge of the I-75 Bridge, except as otherwise designated under sub-paragraphs (2)(b)6.a. and (2)(b)6.b., and excluding the waters east of the eastern edge of the US 41 / US 301 Bridge and west of a line bearing 168.8° from a point (approximate latitude 27° 30' 29.7" North, approximate longitude 82° 33' 35.4" West) on the northern shoreline approximately 1000 feet east of the US 41 / US 301 Bridge. The eastern boundary is a line bearing 270° from a point (approximate latitude 27° 31' 54.9" North, approximate longitude 82° 38' 47.6" West) on the western shoreline of Sned Island.

a. Sned Cut Area: All waters north of a line beginning at a point (approximate latitude 27° 31' 16.9" North, approximate longitude 82° 37' 13.9" West) in the water and then bearing 90.0° for a distance of approximately 2482 feet to a point (approximate latitude 27° 31' 17.1" North, approximate longitude 82° 36' 46.5" West) in the water, then bearing 135.0° for a distance of approximately 3866 feet to a point (approximate latitude 27° 30' 50.4" North, approximate longitude 82° 36' 15.7" West) in the water, then bearing 76.5° for a distance of approximately 2449 feet to a point (approximate latitude 27° 30' 56.3" North, approximate longitude 82° 35' 49.4" West) in the water, then bearing 134.7° for a distance of approximately 2241 feet to a point (approximate latitude 27° 30' 40.9" North, approximate longitude 82° 35' 31.4" West) in the water, and then bearing 79.0° for a distance of approximately 701 feet to the line's terminus at a point (approximate latitude 27° 30' 42.5" North, approximate longitude 82° 35' 23.8" West) in the water. The eastern and western boundaries are the eastern and western ends of the aforementioned line.

b. Riverside Park to US 41/US 301 Area: All waters north of a line beginning at a point (approximate latitude 27° 30' 36.9" North, approximate longitude 82° 34' 38.1" West) in the water west of Riverside Park and then bearing 129.2° for a distance of approximately 970 feet to a point (approximate latitude 27° 30' 31.0" North, approximate longitude 82° 34' 29.7" West) in the water, then bearing 101.9° for a distance of approximately 780 feet to a point (approximate latitude 27° 30' 29.4" North, approximate longitude 82° 34' 21.2" West) in the water, then bearing 76.0° for a distance of approximately 487

feet to a point (approximate latitude 27° 30' 30.6" North, approximate longitude 82° 34' 16.0" West) in the water, then bearing 101.4° for a distance of approximately 1469 feet to a point (approximate latitude 27° 30' 28.0" North, approximate longitude 82° 33' 59.9" West) in the water, then bearing 128.7° for a distance of approximately 619 feet to the line's terminus at a point (approximate latitude 27° 30' 24.2" North, approximate longitude 82° 33' 54.5" West) in the water.

7. Manatee River (South Side): All waters within 500 feet of the general contour of the shoreline east of a line bearing 59.3° from a point (approximate latitude 27° 31' 15.6" North, approximate longitude 82° 38' 31.4" West) on the southern shoreline and west of the eastern edge of the I-75 Bridge, except as otherwise designated under subparagraphs (2)(b)8. and (2)(c)2.

8. Braden River: All waters south of a line bearing 90° from a point (approximate latitude 27° 30' 6.5" North, approximate longitude 82° 32' 52.6" West) on the western shoreline of the Braden River, except as otherwise designated under subparagraph (2)(c)2. The southern boundary is the dam located south of SR 70 (53rd Avenue East) and west of 55th Drive East.

9. Anna Maria Sound (North of SR 64):

a. All waters within 300 feet of the northeastern shoreline of Anna Maria Island, west of a line bearing 335.9° from a point (approximate latitude 27° 31' 35.0" North, approximate longitude 82° 43' 4.8" West) on the northwestern shoreline of School Key (near the west end of Key Royale Drive) and east of a line bearing 58.5° from a point (approximate latitude 27° 32' 21.0" North, approximate longitude 82° 44' 31.7" West) on the northern shoreline of Anna Maria Island, including all waters in Bimini Bay and the other interior waterways of Anna Maria Island north of SR 64.

b. Those waters generally between School Key and SR 64, except as otherwise designated under subparagraph (2)(c)3. The northern boundary is a line beginning at a point (approximate latitude 27° 31' 35.5" North, approximate longitude 82° 43' 3.0" West) on the northern shoreline of School Key (near the west end of Key Royale Drive), then bearing 20.0° for a distance of approximately 434 feet to point (approximate latitude 27° 31' 39.5" North, approximate longitude 82° 43' 1.4" West) in the water, then bearing 53.7° for a distance of approximately 518 feet to point (approximate latitude 27° 31' 42.6" North, approximate longitude 82° 42' 56.8" West) in the water, then bearing 65.8° for a distance of approximately 2259 feet to point (approximate latitude 27° 31' 52.1" North, approximate longitude 82° 42' 34.1" West) in the water, then bearing 80.6° for a distance of approximately 912 feet to point (approximate latitude 27° 31' 53.7" North, approximate longitude 82° 42' 24.1" West) in the water, then bearing 117.1° for a distance of approximately 1261 feet to ICW channel marker "63" (approximate latitude 27° 31' 48.1" North, approximate longitude 82° 42' 11.6" West), then

following the western boundary of the ICW for approximately 7700 feet to ICW channel marker "59" (approximate latitude 27° 30' 43.2" North, approximate longitude 82° 41' 27.8" West), and then bearing 90° to the line's terminus on the northeastern shoreline of Perico Island. The southern boundary is the southern edge of the SR 64 Bridge. The western boundary is the shoreline of Anna Maria Island and the eastern boundary is the shoreline of Perico Island.

10. Anna Maria Sound (SR 64 to Cortez Road): All waters of Anna Maria Sound south of SR 64 (Manatee Avenue West) and north of Cortez Road (44th Avenue West) as described below:

a. West of ICW: All waters west of a line beginning at a point (approximate latitude 27° 29' 48.3" North, approximate longitude 82° 41' 49.2" West) in the water under the southern edge of the SR 64 Bridge, and then bearing 202.4° for a distance of approximately 1264 feet to a point (approximate latitude 27° 29' 36.6" North, approximate longitude 82° 41' 54.5" West) in the water, then bearing 195.2° for a distance of approximately 1336 feet to a point (approximate latitude 27° 29' 23.8" North, approximate longitude 82° 41' 58.0" West) in the water, then bearing 184.8° for a distance of approximately 871 feet to a point (approximate latitude 27° 29' 15.2" North, approximate longitude 82° 41' 58.7" West) in the water, then bearing 182.0° for a distance of approximately 1025 feet to a point (approximate latitude 27° 29' 5.1" North, approximate longitude 82° 41' 59.0" West) in the water, then bearing 178.4° for a distance of approximately 655 feet to a point (approximate latitude 27° 29' 58.6" North, approximate longitude 82° 41' 58.6" West) in the water, then bearing 171.6° for a distance of approximately 599 feet to a point (approximate latitude 27° 29' 52.7" North, approximate longitude 82° 41' 57.6" West) in the water, then bearing 161.4° for a distance of approximately 1273 feet to a point (approximate latitude 27° 29' 41.0" North, approximate longitude 82° 41' 52.9" West) in the water, then bearing 159.2° for a distance of approximately 2534 feet to a point (approximate latitude 27° 29' 17.5" North, approximate longitude 82° 41' 42.6" West) in the water, then bearing 172.3° for a distance of approximately 1062 feet to the line's terminus at a point (approximate latitude 27° 29' 17.5" North, approximate longitude 82° 41' 42.6" West) in the water.

b. East of ICW: All waters of Anna Maria Sound east and north of a line beginning at a point (approximate latitude 27° 29' 47.5" North, approximate longitude 82° 41' 37.3" West) in the water under the southern edge of the SR 64 Bridge, and then bearing 197.5° for a distance of approximately 2874 feet to a point (approximate latitude 27° 29' 20.2" North, approximate longitude 82° 41' 46.4" West) in the water, then bearing 175.2° for a distance of approximately 3153 feet to a point (approximate latitude 27° 28' 49.2" North, approximate longitude 82° 41' 43.0" West) in the water, then bearing 118.8° for a distance of approximately 286 feet to a point

(approximate latitude 27° 28' 47.8" North, approximate longitude 82° 41' 40.2" West) in the water, then bearing 79.3° for a distance of approximately 1147 feet to a point (approximate latitude 27° 28' 50.1" North, approximate longitude 82° 41' 27.8" West) in the water, then bearing 96.6° for a distance of approximately 983 feet to a point (approximate latitude 27° 28' 49.1" North, approximate longitude 82° 41' 16.9" West) in the water, then bearing 104.7° for a distance of approximately 1087 feet to the line's terminus at a point (approximate latitude 27° 28' 46.5" North, approximate longitude 82° 41' 5.2" West) in the water near channel marker "3" in Palma Sola Bay; and all waters within 300 feet of the general contour of the shoreline west of a point (approximate latitude 27° 28' 33.9" North, approximate longitude 82° 41' 5.2" West) on the southern shoreline of Palma Sola Bay and north of Cortez Road.

11. Palma Sola Bay:

a. Those waters in western Palma Sola Bay generally north of the east-west entrance channel, except as otherwise designated under subparagraph (2)(c)4. The southern and eastern boundary is a line beginning at a point (approximate latitude 27° 28' 46.5" North, approximate longitude 82° 41' 5.2" West) in the water near channel marker "3" in Palma Sola Bay, then running in an easterly direction along the northern boundary of the marked east-west channel to channel marker "19" (approximate latitude 27° 28' 46.1" North, approximate longitude 82° 39' 36.4" West), then bearing 57.8° for a distance of approximately 859 feet to a point (approximate latitude 27° 28' 50.8" North, approximate longitude 82° 39' 28.4" West) in the water, then bearing 24.2° for a distance of approximately 1344 feet to a point (approximate latitude 27° 29' 3.0" North, approximate longitude 82° 39' 22.4" West) in the water, then bearing 338.4° for a distance of approximately 3128 feet to a point (approximate latitude 27° 29' 31.6" North, approximate longitude 82° 39' 35.6" West) in the water, and then bearing 305.9° to the line's terminus at a point (approximate latitude 27° 29' 31.6" North, approximate longitude 82° 39' 35.6" West) on the eastern shoreline of the Flamingo Cay development.

b. All waters in western Palma Sola Bay within 300 feet of the southern shoreline, west of a line bearing 21.4° from a point (approximate latitude 27° 28' 10.1" North, approximate longitude 82° 39' 34.0" West) on the southern shoreline of Palma Sola Bay in the San Remo Shores development.

c. Those waters near the southern and eastern shores of Palma Sola Bay and south of the causeway for SR 64, inshore of a line beginning at a point (approximate latitude 27° 28' 10.1" North, approximate longitude 82° 39' 34.0" West) on the southern shoreline of Palma Sola Bay in the San Remo Shores development, then bearing 21.4° for a distance of approximately 338 feet to a point (approximate latitude 27° 28' 13.2" North, approximate longitude 82° 39' 32.7" West) in the water, then bearing 345.7° for a distance of approximately 1261 feet to a point (approximate latitude 27° 28' 25.3" North,

approximate longitude 82° 39' 36.3" West) in the water, then bearing 21.4° for a distance of approximately 691 feet to a point (approximate latitude 27° 28' 31.6" North, approximate longitude 82° 39' 33.6" West) in the water, then bearing 63.1° for a distance of approximately 1362 feet to a point (approximate latitude 27° 28' 37.8" North, approximate longitude 82° 39' 20.1" West) in the water, then bearing 84.4° for a distance of approximately 775 feet to a point (approximate latitude 27° 28' 38.7" North, approximate longitude 82° 39' 11.7" West) in the water, then bearing 134.4° for a distance of approximately 900 feet to a point (approximate latitude 27° 28' 32.6" North, approximate longitude 82° 39' 4.5" West) in the water, then bearing 168.3° for a distance of approximately 1873 feet to a point (approximate latitude 27° 28' 14.5" North, approximate longitude 82° 39' 0.1" West) in the water, then bearing 189.3° for a distance of approximately 686 feet to a point (approximate latitude 27° 28' 7.8" North, approximate longitude 82° 39' 1.2" West) in the water, then bearing 66.5° for a distance of approximately 1673 feet to a point (approximate latitude 27° 28' 14.6" North, approximate longitude 82° 38' 44.2" West) in the water, then bearing 48.5° for a distance of approximately 1284 feet to a point (approximate latitude 27° 28' 23.1" North, approximate longitude 82° 38' 33.7" West) in the water, then bearing 29.9° for a distance of approximately 565 feet to a point (approximate latitude 27° 28' 28.0" North, approximate longitude 82° 38' 30.6" West) in the water, then bearing 327.3° for a distance of approximately 758 feet to a point (approximate latitude 27° 28' 34.3" North, approximate longitude 82° 38' 35.2" West) in the water, then bearing 315.5° for a distance of approximately 1624 feet to a point (approximate latitude 27° 28' 45.6" North, approximate longitude 82° 38' 48.1" West) in the water, then bearing 359.3° for a distance of approximately 2270 feet to a point (approximate latitude 27° 29' 8.1" North, approximate longitude 82° 38' 48.7" West) in the water, then bearing 21.8° for a distance of approximately 1129 feet to a point (approximate latitude 27° 29' 18.5" North, approximate longitude 82° 38' 44.2" West) in the water, then running in a northerly and then westerly direction 300 feet offshore of and parallel with the eastern shoreline of Palma Sola Bay and the southern shoreline of the causeway for SR 64, then in a southerly direction to a point (approximate latitude 27° 29' 31.6" North, approximate longitude 82° 39' 35.6" West) in the water, and then bearing 305.9° to the line's terminus at a point (approximate latitude 27° 29' 31.6" North, approximate longitude 82° 39' 35.6" West) on the eastern shoreline of the Flamingo Cay development.

d. All waters within 300 feet of shore in the portion of Palma Sola Bay north of SR 64, including within 300 feet of the causeway for SR 64, and all waters north of a line beginning at a point (approximate latitude 27° 29' 59.6" North, approximate longitude 82° 39' 30.7" West) in the water, then

bearing 55.5° for a distance of approximately 1107 feet to a point (approximate latitude 27° 30' 5.9" North, approximate longitude 82° 39' 20.7" West) in the water, then bearing 73.7° for a distance of approximately 1690 feet to a point (approximate latitude 27° 30' 10.8" North, approximate longitude 82° 39' 2.8" West) in the water, then bearing 89.5° for a distance of approximately 1243 feet to the line's terminus at a point (approximate latitude 27° 30' 11.1" North, approximate longitude 82° 38' 49.0" West) in the water.

12. Sarasota Bay (Anna Maria Island and Jewfish Key Area):

a. All waters within 300 feet of the eastern shoreline of Anna Maria Island south of Cortez Road (44th Avenue West) and all shorelines of Leffis Key, excluding those waters south of Leffis Key that are offshore of a line beginning at a point (approximate latitude 27° 27' 3.1" North, approximate longitude 82° 41' 15.9" West) in the water, then bearing 267.4° for a distance of approximately 574 feet to a point (approximate latitude 27° 27' 2.8" North, approximate longitude 82° 41' 22.3" West), then bearing 198.4° for a distance of approximately 125 feet to a point (approximate latitude 27° 27' 1.6" North, approximate longitude 82° 41' 22.7" West), then bearing 158.7° for a distance of approximately 771 feet to a point (approximate latitude 27° 26' 54.5" North, approximate longitude 82° 41' 19.5" West), then bearing 74.4° to the line's terminus at a point (approximate latitude 27° 26' 55.1" North, approximate longitude 82° 41' 17.0" West) in the water. The southern and western boundary is the centerline of the SR 789 Bridge over Longboat Pass.

b. All waters adjacent to Jewfish Key inshore of a line beginning at a point (approximate latitude 27° 26' 44.9" North, approximate longitude 82° 40' 55.2" West) on the northern shoreline of Jewfish Key, then bearing 349.2° for a distance of approximately 252 feet to a point (approximate latitude 27° 26' 47.3" North, approximate longitude 82° 40' 55.8" West) in the water, then bearing 78.5° to a point on the western boundary of the ICW, then running in a southerly direction along the western boundary of the ICW to a point (approximate latitude 27° 26' 22.8" North, approximate longitude 82° 40' 34.4" West) in the water, then bearing 259.4° to the line's terminus at a point (approximate latitude 27° 26' 22.6" North, approximate longitude 82° 40' 35.7" West) on the southeastern shoreline of Jewfish Key.

13. Sarasota Bay (Longboat Key Area): All waters within 300 feet of the eastern shoreline of Longboat Key and all shorelines of the Sister Keys, including all waters of the areas designated under sub-subparagraphs (2)(b)13.a. and b., except as otherwise designated under subparagraph (2)(c)5. The northern boundary is a line bearing 90° from a point (approximate latitude 27° 26' 20.5" North, approximate longitude 82° 40' 50.2" West) on the northeastern shoreline of Longboat Key and the southern boundary is the Sarasota County line.

a. All waters generally between Longboat Key and the Sister Keys, except as otherwise designated under subparagraph (2)(c)5. The northern boundary is a line beginning at a point (approximate latitude 27° 26' 6.7" North, approximate longitude 82° 40' 46.7" West) on the eastern shoreline of Longboat Key, then bearing 30.0° for a distance of approximately 536 feet to a point (approximate latitude 27° 26' 11.3" North, approximate longitude 82° 40' 43.9" West) in the water, then bearing 343.3° for a distance of approximately 267 feet to a point (approximate latitude 27° 26' 13.8" North, approximate longitude 82° 40' 44.8" West) in the water, then bearing 55.6° for a distance of approximately 181 feet to a point (approximate latitude 27° 26' 14.8" North, approximate longitude 82° 40' 43.1" West) in the water, then bearing 91.5° for a distance of approximately 1460 feet to a point (approximate latitude 27° 26' 14.6" North, approximate longitude 82° 40' 26.9" West) in the water, and then bearing 151.0° to the line's terminus at a point on the northwestern shoreline of the Sister Keys. The southern boundary is a line beginning at a point (approximate latitude 27° 25' 41.5" North, approximate longitude 82° 39' 44.0" West) on the southern shoreline of the Sister Keys, then bearing 130.8° for a distance of 489 feet to a point (approximate latitude 27° 25' 38.4" North, approximate longitude 82° 39' 39.9" West) in the water, and then bearing 207.3° to the line's terminus at a point on the eastern shoreline of Longboat Key.

b. All waters adjacent to Longboat Key south and west of a line beginning at a point (approximate latitude 27° 24' 51.2" North, approximate longitude 82° 39' 16.0" West) on the eastern shoreline of Longboat Key, then bearing 90.0° for a distance of approximately 300 feet to a point (approximate latitude 27° 24' 51.2" North, approximate longitude 82° 39' 12.5" West) in the water, then bearing 163.2° for a distance of approximately 1583 feet to a point (approximate latitude 27° 24' 36.1" North, approximate longitude 82° 39' 7.1" West) in the water, then bearing 137.2° for a distance of approximately 5500 feet to a point (approximate latitude 27° 23' 56.8" North, approximate longitude 82° 38' 25.2" West) in the water, then bearing 119.3° for a distance of approximately 2604 feet to a point (approximate latitude 27° 23' 44.4" North, approximate longitude 82° 37' 59.7" West) in the water, then bearing 130.1° for a distance of approximately 1971 feet to a point (approximate latitude 27° 23' 32.0" North, approximate longitude 82° 37' 42.8" West) in the water, then bearing 189.0° to the line's terminus at a point on the Sarasota County line.

14. Sarasota Bay (East Side): All waters within 300 feet of the eastern shoreline of Sarasota Bay and within 300 feet of all shorelines of the small islands in the vicinity of the eastern shoreline, including all waters east of the following line, except as otherwise designated under subparagraph (2)(c)5.: Beginning at a point (approximate latitude 27° 27' 58.5" North, approximate longitude 82° 41' 13.7" West) on the eastern shoreline of Sarasota Bay, then bearing 210.8° for a distance of approximately 321 feet to a point (approximate latitude 27° 27'

55.7" North, approximate longitude 82° 41' 15.5" West) in the water, then bearing 142.2° for a distance of approximately 1569 feet to a point (approximate latitude 27° 27' 43.6" North, approximate longitude 82° 41' 4.6" West) in the water, then bearing 133.3° for a distance of approximately 9058 feet to the line's terminus at a point (approximate latitude 27° 26' 42.9" North, approximate longitude 82° 39' 50.5" West) in the water. The southern boundary is the Sarasota County line.

(c) 25 MPH (All Year)

1. Western Terra Ceia Bay/Flounder Pass Area: All waters of Flounder Pass south of a line bearing 106° from a point (approximate latitude 27° 33' ~~39.2~~ ~~38.1~~" North, approximate longitude 82° 36' ~~24.5~~ ~~24.7~~" West) on the northeastern shoreline of Rattlesnake Key; All waters of Terra Ceia Bay east of a line bearing 203.7° from a point (approximate latitude 27° 32' ~~55.0~~ ~~52.2~~" North, approximate longitude 82° 37' ~~47.3~~ ~~49.6~~" West) on the southeastern shoreline of Terra Ceia Point and west of a line beginning at a point (approximate latitude 27° 32' ~~34.6~~ ~~33.3~~" North, approximate longitude 82° 36' ~~21.2~~ ~~22.0~~" West) on the eastern shoreline of the unnamed mangrove island immediately north of Snead Island and bearing 44° to a point (approximate latitude 27° 33' ~~5.7~~ ~~05.0~~" North, approximate longitude 82° 35' ~~48.4~~ ~~48.9~~" West) in Terra Ceia Bay east of Bird Key, and then bearing 360° to the line's terminus at a point (approximate latitude 27° 33' ~~33.3~~ ~~31.8~~" North, approximate longitude 82° 35' ~~48.8~~ ~~48.9~~" West) on the northern shoreline of Terra Ceia Bay, except as otherwise designated under subparagraph (2)(b)3, ~~(2)(b)1~~, and sub-subparagraph (2)(b)4.a, ~~(2)(b)2-a~~.

2. Braden River: Those waters in the main marked channel of the Braden River from the northern boundary of the Slow Speed zone designated under subparagraph (2)(b)8, to a point 300 feet north of the centerline of SR 64 Bridge, and from a point 300 feet south of the centerline of SR 64 Bridge to a point (approximate latitude 27° 29' 33.4" North, approximate longitude 82° 30' 47.0" West) in the river approximately 4600 feet upstream from the SR 64 Bridge.

3. Anna Maria Sound: Those waters in the portions of the following marked channels south and west of the northern boundary of the Slow Speed zone designated in sub-subparagraph (2)(b)9.b.:

a. Those waters in the marked east-west channel immediately south of School Key, east a point (approximate latitude 27° 30' 56.8" North, approximate longitude 82° 42' 34.4" West) in the channel where it enters Anna Maria Sound.

b. Those waters in the marked channel south of 56th Street, east of a point (approximate latitude 27° 30' 27.9" North, approximate longitude 82° 42' 42.1" West) in the channel. The centerline of the channel runs in an easterly direction from said point for a distance of approximately 2000 feet, then runs in a northerly direction until it intersects the channel designated under sub-subparagraph (2)(c)3.a.

c. Those waters in the marked ICW channel north of the southern edge of the SR 64 Bridge.

d. Those waters in the marked east-west channel that runs from the ICW channel to the Kingfish Boat Ramp on the north side of SR 64.

4. Palma Sola Bay: Those waters in the marked channel that runs from Perico Bayou into Palma Sola Bay, south of channel marker "13" (approximate latitude 27° 29' 35.7" North, approximate longitude 82° 40' 6.6" West) and north of the southern boundary of the Slow Speed zone designated under sub-subparagraph (2)(b)11.a.

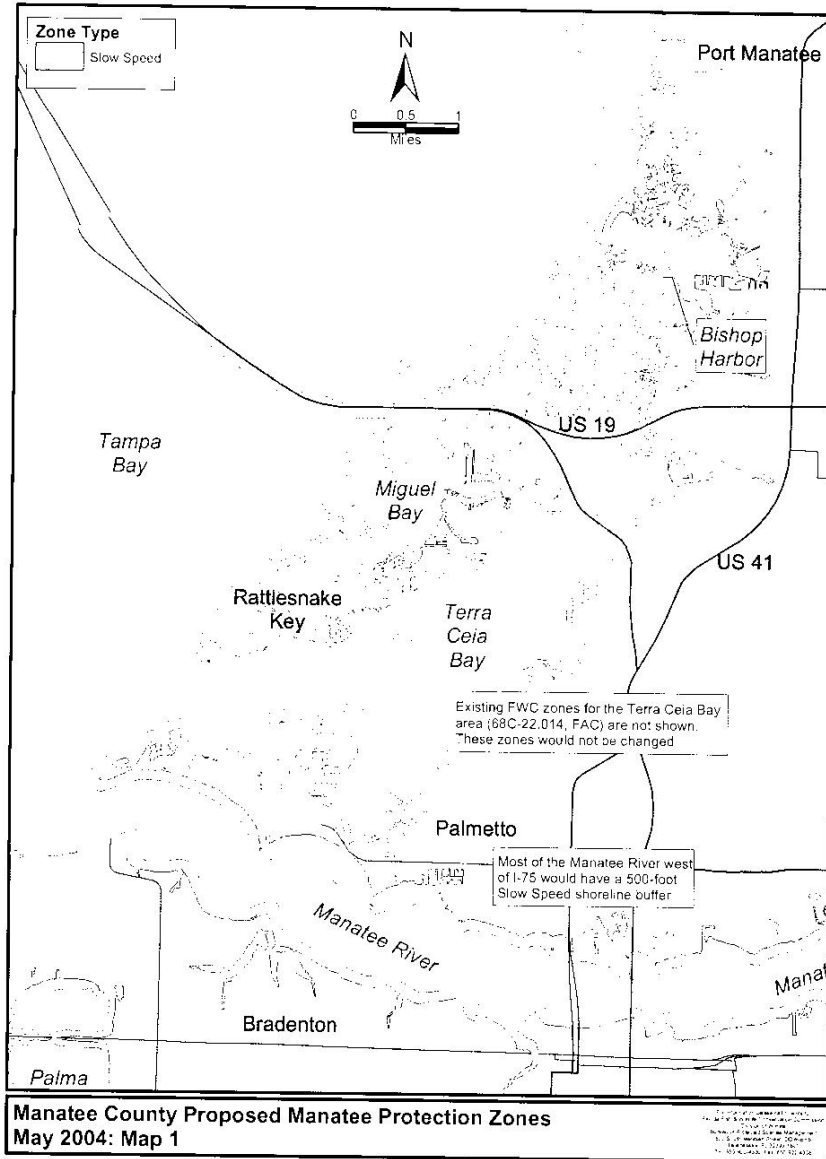
5. Sarasota Bay:

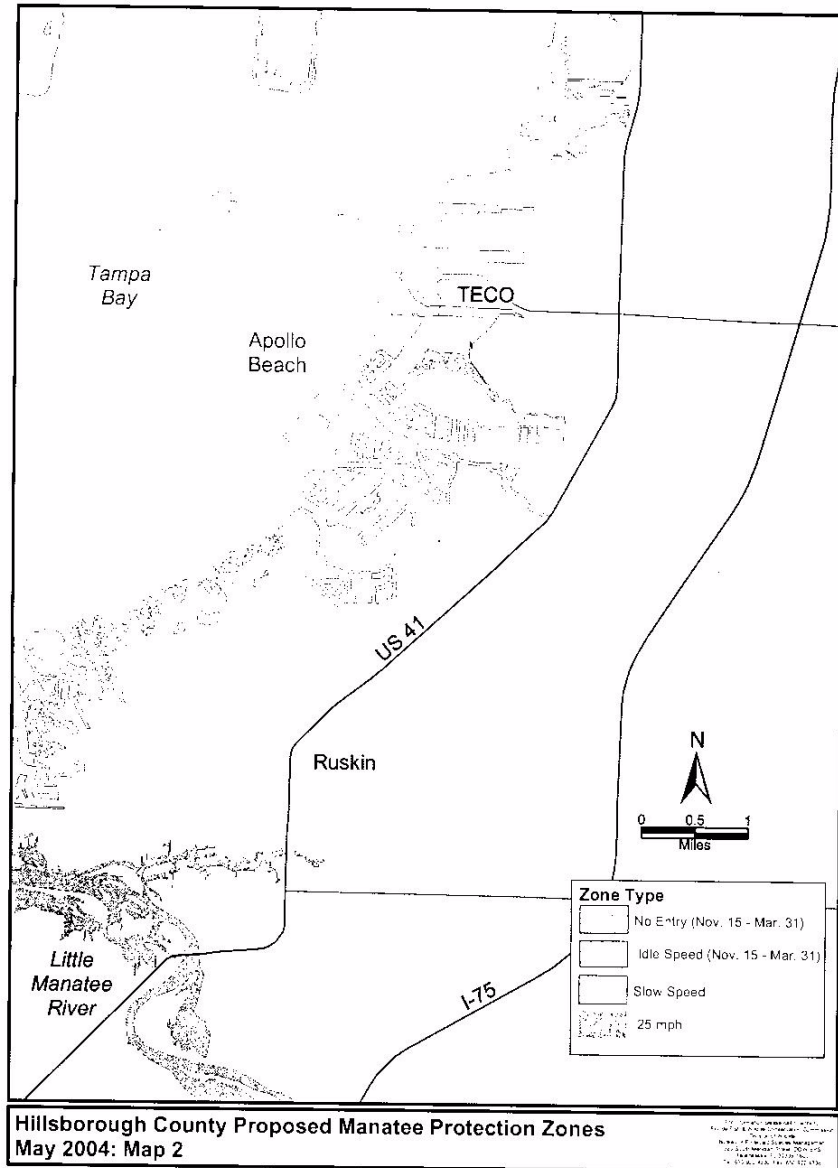
a. Tidy Island Area: Those waters in the marked channel immediately north of Tidy Island and in the marked channel that runs in a southwesterly direction from the vicinity of 103rd Street Court West. The western boundary for both channels is the western boundary of the Slow Speed zone designated under subparagraph(2)(b)14.

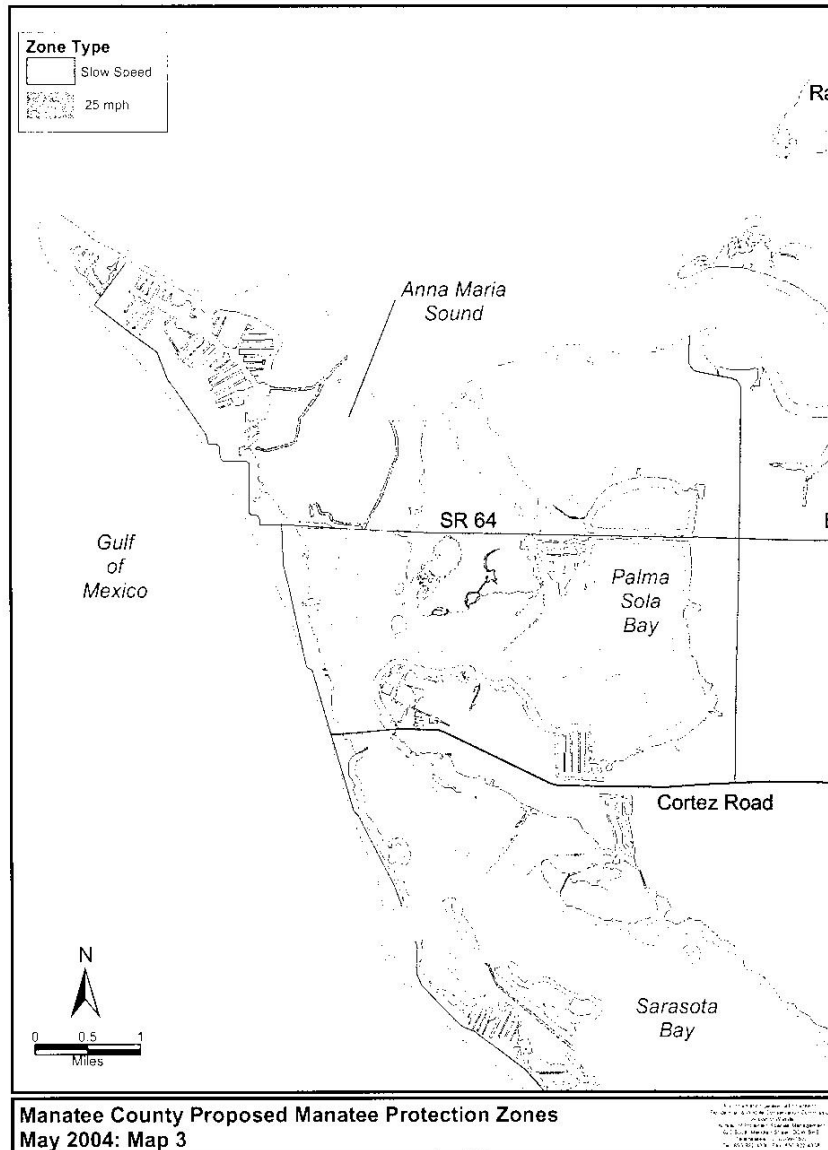
b. Sister Keys Area: Those waters in the marked ICW channel within the Slow Speed zone designated under sub-subparagraph (2)(b)13.a.

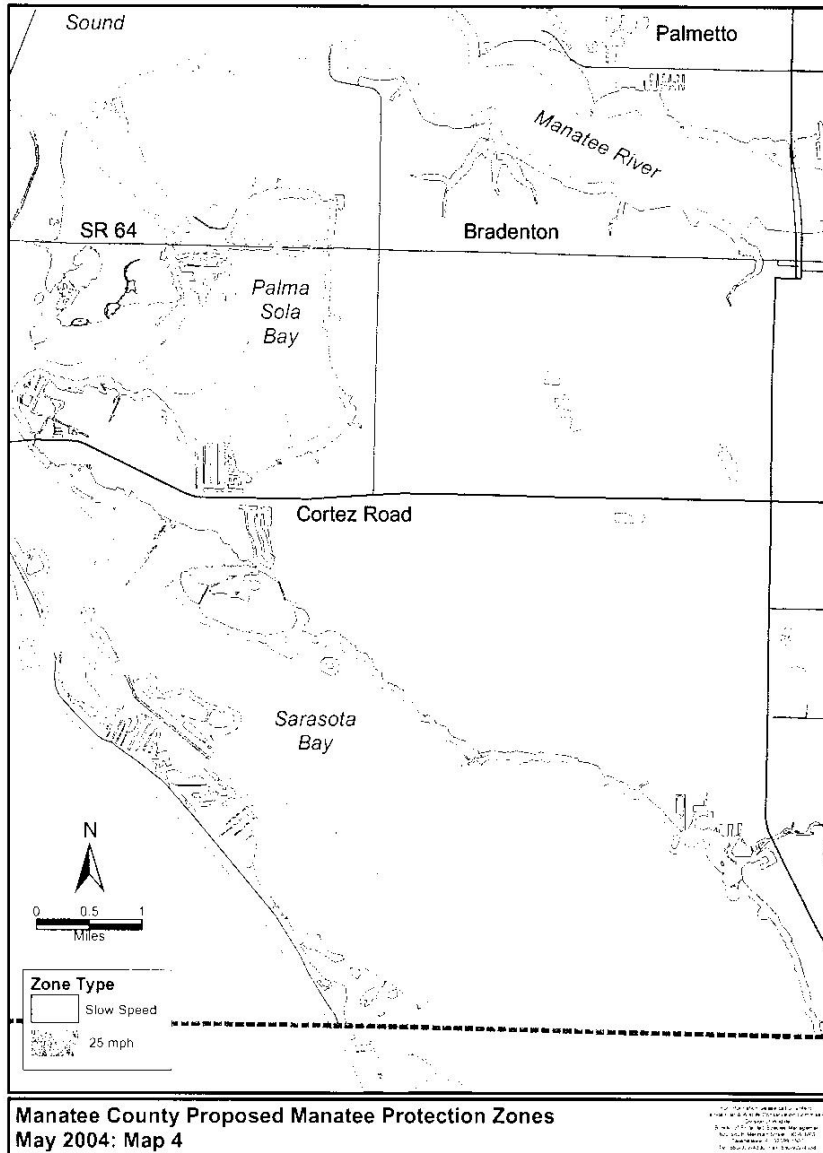
(3) The zones described in subsection 68C-22.014(2), F.A.C., are depicted on the following maps, labeled "Manatee County Manatee Protection Zones." The ~~maps are map~~ is intended to depict as a depiction of the above-described zones. In the event of conflict between the maps and descriptions, the descriptions shall prevail.

(4) The amendments to Rule 68C-22.014, F.A.C., as approved by the Commission on ~~September 12, 2002~~, shall take effect as soon as the regulatory markers are posted.









Specific Authority 370.12(2)(g),(n) FS. Law Implemented 370.12(2)(d),(g),(k),(n) FS. History--New 12-12-02, Amended _____.

68C-22.016 Pinellas County Zones.

(1) The Commission hereby designates the waters within Pinellas County, as described below, as areas where manatee sightings are frequent and where the best available information supports the conclusion that manatees inhabit these areas on a regular or periodic basis. The primary purpose of this rule is to protect manatees from harmful collisions with motorboats and from harassment by regulating the speed and operation of motorboats within these designated areas. A secondary purpose is to protect manatee habitat. In consideration of balancing the rights of fishers, boaters, and water skiers to use the waters of the state for recreational and commercial purposes (as applicable under Section 370.12(2)(k), F.S.) with the need to provide manatee protection, the Commission has examined the need for limited lanes, corridors, or unregulated areas that allow higher speeds through or within regulated areas. Such lanes, corridors, or areas are provided in those locations where the Commission determined that they are consistent with manatee protection needs.

(2) The following seasonal SLOW SPEED (April 1 – November 15) zones are established, which include all associated and navigable tributaries, lakes, creeks, coves, bays, backwaters, canals, and boat basins unless otherwise designated or excluded.

(a) Safety Harbor Area: All waters inshore of a line beginning at a point (approximate latitude 28° 0' 8.0" North, approximate longitude 82° 40' 43.4" West) on the western shoreline of Old Tampa Bay, then bearing 81.1° for a distance of approximately 1642 feet to a point (approximate latitude 28° 0' 10.8" North, approximate longitude 82° 40' 25.3" West) in the water, then bearing 13.9° for a distance of approximately 1242 feet to a point (approximate latitude 28° 0' 22.8" North, approximate longitude 82° 40' 22.2" West) in the water, then bearing 334.5° for a distance of approximately 1054 feet to a point (approximate latitude 28° 0' 32.1" North, approximate longitude 82° 40' 27.4" West) in the water, then bearing 324.2° for a distance of approximately 2911 feet to a point (approximate latitude 28° 0' 55.0" North, approximate longitude 82° 40' 46.8" West) in the water, then bearing 333.8° for a distance of approximately 1973 feet to a point (approximate latitude 28° 1' 12.6" North, approximate longitude 82° 40' 56.7" West) in the water, then bearing 349.1° for a distance of approximately 1645 feet to a point (approximate latitude 28° 1' 28.6" North, approximate longitude 82° 41' 0.4" West) in the water, then bearing 42.7°

for a distance of approximately 1561 feet to a point (approximate latitude 28° 1' 40.0" North, approximate longitude 82° 40' 48.9" West) in the water, then bearing 80.1° for a distance of approximately 2130 feet to a point (approximate latitude 28° 1' 44.0" North, approximate longitude 82° 40' 25.5" West) in the water, then bearing 102.0° for a distance of approximately 905 feet to a point (approximate latitude 28° 1' 42.4" North, approximate longitude 82° 40' 15.6" West) in the water, then bearing 140.5° for a distance of approximately 1280 feet to a point (approximate latitude 28° 1' 32.5" North, approximate longitude 82° 40' 6.3" West) in the water, then bearing 173.2° for a distance of approximately 636 feet to a point (approximate latitude 28° 1' 26.2" North, approximate longitude 82° 40' 5.4" West) in the water, then bearing 191.4° for a distance of approximately 1748 feet to a point (approximate latitude 28° 1' 9.2" North, approximate longitude 82° 40' 8.9" West) in the water, then bearing 202.3° for a distance of approximately 553 feet to a point (approximate latitude 28° 1' 4.2" North, approximate longitude 82° 40' 11.2" West) in the water, then bearing 184.2° for a distance of approximately 1033 feet to a point (approximate latitude 28° 0' 54.0" North, approximate longitude 82° 40' 12.0" West) in the water, then bearing 169.2° for a distance of approximately 702 feet to a point (approximate latitude 28° 0' 47.1" North, approximate longitude 82° 40' 10.3" West) in the water, then bearing 144.1° for a distance of approximately 716 feet to a point (approximate latitude 28° 0' 41.5" North, approximate longitude 82° 40' 5.6" West) in the water, then bearing 165.5° for a distance of approximately 1606 feet to a point (approximate latitude 28° 0' 26.2" North, approximate longitude 82° 40' 0.9" West) in the water, then bearing 175.3° for a distance of approximately 1202 feet to a point (approximate latitude 28° 0' 14.4" North, approximate longitude 82° 39' 59.5" West) in the water, then bearing 89.8° for a distance of approximately 877 feet to the line's terminus at a point on the eastern shoreline of Safety Harbor. The northwestern boundary is the centerline of the SR 580 Bridge.

(b) North of Courtney Campbell Causeway: All waters inshore of a line beginning at a point (approximate latitude 27° 57' 46.1" North, approximate longitude 82° 41' 8.4" West) on the northern shoreline of the Courtney Campbell Causeway, then bearing 14.4° for a distance of approximately 2827 feet to a point (approximate latitude 27° 58' 13.2" North, approximate longitude 82° 41' 0.9" West) in the water, then bearing 29.7° for a distance of approximately 1995 feet to a point (approximate latitude 27° 58' 30.4" North, approximate longitude 82° 40' 50.1" West) in the water, then bearing 353.8°

for a distance of approximately 442 feet to a point (approximate latitude 27° 58' 34.8" North, approximate longitude 82° 40' 50.9" West) in the water, then bearing 317.1° for a distance of approximately 927 feet to a point (approximate latitude 27° 58' 41.6" North, approximate longitude 82° 40' 57.9" West) in the water, then bearing 351.7° for a distance of approximately 1164 feet to a point (approximate latitude 27° 58' 52.8" North, approximate longitude 82° 41' 0.1" West) in the water, then bearing 344.8° for a distance of approximately 1677 feet to a point (approximate latitude 27° 59' 8.9" North, approximate longitude 82° 41' 5.0" West) in the water, then bearing 6.5° for a distance of approximately 678 feet to a point (approximate latitude 27° 59' 15.4" North, approximate longitude 82° 41' 4.4" West) in the water, then bearing 36.4° for a distance of approximately 2905 feet to a point (approximate latitude 27° 59' 39.0" North, approximate longitude 82° 40' 45.4" West) in the water, then bearing 38.3° for a distance of approximately 1504 feet to a point (approximate latitude 27° 59' 50.8" North,

approximate longitude 82° 40' 35.3" West) in the water, then bearing 31.0° for a distance of approximately 1363 feet to a point (approximate latitude 28° 0' 2.3" North, approximate longitude 82° 40' 27.5" West) in the water, then bearing 14.7° for a distance of approximately 869 feet to a point (approximate latitude 28° 0' 10.8" North, approximate longitude 82° 40' 25.3" West) in the water, then bearing 261.1° to the line's terminus at a point (approximate latitude 28° 0' 8.0" North, approximate longitude 82° 40' 43.4" West) on the western shoreline of Old Tampa Bay.

(3) The zones described in subsection 68C-22.016(2), F.A.C., are depicted on the following map, labeled "Pinellas County Manatee Protection Zones." The map is intended to depict the above-described zones. In the event of conflict between the map and descriptions, the descriptions shall prevail.

(4) Rule 68C-22.016, F.A.C., as approved by the Commission on _____ shall take effect as soon as the regulatory markers are posted.

Specific Authority 370.12(2)(n) FS. Law Implemented 370.12(2)(d),(k),(n) FS. History—New _____.

68C-22.022 Hillsborough County – Big Bend Zones Established.

Specific Authority 370.021(2) FS. Law Implemented 370.12(2)(i),(j),(n) FS. History—New 12-30-86, Formerly 16N-22.022, 62N-22.022, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Frank Montalbano, Director of the Division of Wildlife
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2004

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE TITLE: Effect of Law Enforcement Records on Applications for Licensure
 RULE NO.: 69B-211.042

PURPOSE AND EFFECT: To discuss amending paragraph 69B-211.042(21)(aa), F.A.C., to insert the words “with intent to defraud” after “passing worthless check(s)” in the list of class A crimes. This is to explicitly conform the rule to case law construing the meaning of “moral turpitude” in the context of writing a bad check; e.g., *The Florida Bar v. Davis*, 361 So2d 159. Also, to insert the new words “passing worthless check(s) without intent to defraud in the list of class B crimes, to avoid creating a gap in the lists by the narrowing of paragraph (21)(aa) with the qualification, “with intent to defraud.”

SUMMARY: Paragraph 69B-211.042(21)(aa), F.A.C., is amended to insert the words “with intent to defraud” after “passing worthless check(s).” Subsection 69B-211.042(22), F.A.C., is amended to add “(i.) passing worthless check(s) without intent to defraud.”

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.207, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641 FS.

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

TIME AND DATE 9:30 a.m., June 22, 2004

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Audrey Huggins, Chief, Bureau of Agent and Agency Licensing, Division of Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850)413-5405

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-211.042 Effect of Law Enforcement Records on Applications for Licensure.

(1) through (20) No change.

(21) Class “A” Crimes include all those listed in this subsection, where such crimes are felonies, and all are of equal weight notwithstanding from which subparagraph they are drawn. The Department finds that each felony crime listed in this subsection is a crime of moral turpitude.

(a) through (z) No change.

(aa) Passing worthless check(s) with intent to defraud.

(bb) through (ll) No change.

(22) Class “B” Crimes include the following felony crimes:

(a) through (h) No change.

(i) Passing worthless check(s) without intent to defraud.

(23) through (24) No change.

Specific Authority 624.308 FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.207, 626.211, 626.291, 626.601, 626.611(7),(14), 626.621(8), 626.631, 626.641 FS. History—New 10-17-02, Formerly 4-211.042, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Audrey Huggins, Bureau Chief of Agent and Agency Licensing, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Alice Palmer, Director of Agent and Agency Services, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 4, 2002

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE TITLES: Actively engaged in Business; Place Suitably
 RULE NOS.: 69B-221.051

Designated; Accessible to Public 69B-221.051

Notice of Change of Address 69B-221.060

PURPOSE AND EFFECT: The purposes of the proposed rule development are to define "full-time" employment for temporary bail bond agents and set forth the minimum number of hours per week that the employer must allow the bond agent to work; to adopt a form for notification of changes of address by bail bond agents; to revise requirements pertaining to the suitability of agent offices; and to make corrections to citations to the laws being implemented.

SUMMARY: This rule amendment eliminates the requirement that the entrance to a bail bond agency be "separate and distinct." It also eliminates the requirement that the sign at the entrance to a bail bond agency contains the name of every individually licensed bail bond agent and temporary bail bond agent employed at the location. Also the definition of "full time" is clarified to mean 1,540 hours during 12 months as opposed to 30 hours per week. The rule amendment compels employers of bail bond agents to employ temporary bail bond agents at least 30 hours a week. The amendment also incorporates a notice of change of address form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No substantial regulatory costs are expected to result from the proposed rules.

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: 648.26 FS.

LAW IMPLEMENTED: 626.318(2), 648.25, 648.33, 648.34, 648.355, 648.36, 648.365, 649.387, 648.421, 648.44(6), 648.48 FS.

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

TIME AND DATE: 9:30 a.m., June 23, 2004

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jerry Whitmore, Chief, Bureau of Agent and Agency Investigations, Division of Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0320, (850)413-5600

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-221.051 Actively Engaged in Business; Place Suitably Designated; Accessible to Public.

Every bail bond agent must be actively engaged in the bail bond business; in a building suitably designated as a bail bond agency, which must be maintained open and accessible to the public to render service during reasonable business hours.

(1) No change.

(2) Each bail bond agency and each branch office shall have ~~an a separate and distinct~~ entrance easily accessible to the public and used by the bail bond agent in the regular course of their business dealings with the public. As used in this rule, "accessible to the public means ~~the entrance shall be suitably designated by a sign or other display, readable from a reasonable distance, which provides at a minimum the agency name and the name of every individually licensed bail bond agent, and temporary bail bond agent employed at that agency location.~~ Additionally, if a bail bond agency is located in a building which maintains a uniform office directory on its premises, the directory shall provide at a minimum the current name of that bail bond agency.

(3) No change.

(4)(a) A temporary bail bond agent must be employed ~~at least 30 hours per week, which is considered working~~ full-time and shall be physically accompanied by the supervising bail bond agent or bail bond agent from the same agency as required by Sections 648.25(8) and 648.355(8), Florida Statutes. As used in this rule, the term "full-time" means that the temporary bail bond agent must work at least 1,540 hours during 12 months of employment as a temporary bail bond agent. This will result in an average of slightly less than 30 hours per week. Each employer of a temporary bail bond agent must provide the temporary bail bond agent the opportunity to work at least 30 hours a week during the period of employment and may allow the temporary bail bond agent to work more than 30 hours per week.

(b) through (c) No change.

Specific Authority 648.26, 648.355(1)(e) FS. Law Implemented 648.25, 648.34, 648.355, 648.387 648.44(6) FS. History—Repromulgated 12-24-74, Amended 7-27-78, 12-23-82, Formerly 4-1.04, 4-1.004, Amended 4-14-97, 7-2-98, 1-22-03, _____.

69B-221.060 Notice of Change of Address.

Each licensee under Chapter 648, Florida Statutes, shall notify in writing the Department of ~~Financial Services Insurance~~, Bail Bond Section, Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0320, insurer, managing general agent and the clerks of each court in which they are registered, of a change of each business address, telephone number, or name of each agency or firm for which they write bonds within ten (10) working days of such change. Each licensee shall use Form DFS-H2-1564, entitled "Bail Bond Agent Notice of Change of Address," which is hereby incorporated and adopted

by reference, to comply with the notice requirements of this rule. This form may be obtained from the address listed above or from the Department's website: www.fldfs.com.

Specific Authority 648.26 FS. Law Implemented 648.421 FS. History--New 12-23-82, Formerly 4-1.17, Amended 9-10-91, Formerly 4-1.017, Amended 4-14-97, 1-22-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jerry Whitmore, Chief, Bureau of Agent and Agency Investigations, Division of Agent and Agency Services, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Glenda Ostreich, Management Review Specialist, Bureau of Agent and Agency Investigations, Division of Agent and Agency Services, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 16, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2004

DEPARTMENT OF FINANCIAL SERVICES

Division of Workers' Compensation

RULE TITLE: Subcontractors Requirement Regarding Proof of Coverage

RULE NO.: 69L-6.024

PURPOSE, EFFECT AND SUMMARY: To provide consistency between Sections 440.05(14) and 440.10(1)(c), Florida Statutes. The effect will be that where a subcontractor is a corporation and has an officer or officers who elect to be exempt and has no employees who may recover benefits under Chapter 440, Florida Statutes, the subcontractor shall provide a copy of the certificate of exemption for the exempt officer or officers to the contractor, and is not required to provide the contractor with evidence of workers' compensation insurance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 440.05(9), 440.591 FS.

LAW IMPLEMENTED: 440.02(15), 440.05(14), 440.10(1)(c) FS.

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

TIME AND DATE: 1:30 p.m., June 21, 2004

PLACE: Room 104J, Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Andrew Sabolic, Policy Coordinator, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)413-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-6.024 Subcontractors Requirement Regarding Proof of Coverage.

(1) Under Section 440.05(14), Florida Statutes, an officer of a corporation who elects to be exempt from Chapter 440, Florida Statutes, may not recover benefits or compensation under Chapter 440, Florida Statutes, and a carrier may not consider any officer of a corporation who holds a valid certificate of election to be exempt for purposes of determining the appropriate premium for workers' compensation coverage. In order to be consistent with the provisions of Section 440.05(14), Florida Statutes, in instances where a subcontractor is a corporation and has an officer or officers who elect to be exempt, and the subcontractor provides a copy of the officer's or officers' certificate of election to be exempt to a contractor pursuant to Section 440.10(1)(c), Florida Statutes, the subcontractor is not required to also provide evidence of workers' compensation insurance to the contractor if the subcontractor has no employees who may recover benefits under Chapter 440, Florida Statutes, at any time during the life of the contract or project for which evidence of exemption or coverage is required. If a subcontractor hires one or more employees at any time during the life of a contract, that subcontractor must provide the contractor with evidence of workers' compensation insurance before any such employee or employees can perform any work related to that contract.

Specific Authority 440.05(9), 440.591 FS. Law Implemented 440.02(15), 440.05(14), 440.10(1)(c) FS. History--New 1-1-04, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dan Sumner, Deputy Division Director, Division of Workers' Compensation, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2003

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