

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., March 25, 2005
 PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Frank Dino, Life and Health Product Review, Office of Insurance Regulation, e-mail: frank.dino@fldfs.com

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

DEPARTMENT OF FINANCIAL SERVICES

OIR Insurance Regulation

RULE TITLE: Escrow Agreements and Amendments RULE NO.: 690-193.023

PURPOSE AND EFFECT: This rule is being amended to delete the Office as a “party in interest” and a required signatory to escrow agreements. There is no statutory authority to support the rule, as it currently exists.

SUBJECT AREA TO BE ADDRESSED: Escrow Agreements and Amendments.

SPECIFIC AUTHORITY: 651.015(3) FS.
 LAW IMPLEMENTED: 651.022, 651.023, 651.033 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m., March 23, 2005
 PLACE: Room 142, 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 Office at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gary Mills, Specialty Product Administration, Office of Insurance Regulation, e-mail: gary.mills@fldfs.com

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 EDUCATION

Commission for Independent Education

RULE TITLE: Standards and Procedures for Licensure RULE NO.: 6E-2.004

PURPOSE AND EFFECT: The Commission proposes to clarify the requirements for an institution and its catalog if courses are taught in a language other than English, clarify tuition or fee discounts, and to amend the financial requirements for the various levels of licensure.

SUMMARY: The proposed rule amendment adds language to amend the financial requirements for the various level of licensure, to clarify the requirements for an institution and its catalog if courses are taught in a language other than English, and clarifies discounts for tuition or fees.

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: 1005.22(1)(e), 1005.31(2), 1005.34, 1005.39 FS.

LAW IMPLEMENTED: 1005.04, 1005.31, 1005.33(1), 1005.34, 1005.39 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: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-2.004 Standards and Procedures for Licensure.
Institutions ~~Each institution~~ applying for a license or moving to a new level of licensure or any other Commission action shall provide all required information to the Commission ~~the following specific information~~, in English. Institutions providing information to students in a language other than English must retain a translation certifying the accuracy of the language of the documents in English. All information and documentation submitted pursuant to the provisions of these rules shall be accompanied by certification signed by the chief administrative officer of the institution, affirming that the information and documentation submitted is accurate. Any application or review which is not substantially complete shall be returned to the institution with a request to complete and resubmit the material.

(1) through (5)(b)6. No change.

7. An institution shall not permit the payment of cash or other nonmonetary incentives, such as but not limited to travel gift certificates to any student or prospective student as an inducement to enroll. An institution shall not use the word "free" or its synonyms in reference to any equipment, tuition, books, or other items in conjunction with recruiting or advertising. Tuition or fee discounts are not permissible; any reductions of tuition or fees must comply with subsection 6E-1.0032(7), F.A.C.

8. through (c) No change.

(6) Standard 6: Finances.

(a) No change.

1. ~~Provisional License Approved Applicant Status:~~

a. through b. No change.

c. If the corporation that controls the institution is ongoing, the institution shall provide a financial statement of the parent corporation compiled, reviewed or audited in accordance with Generally Accepted Accounting Principles, prepared by an independent certified public accountant.

d. No change.

2. ~~Provisional License~~, Annual License, Extended Annual License, or Annual Review: Licensed nondegree schools shall provide annually a review or audit, prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. Licensed, and licensed colleges and universities shall provide annually an audit, prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. This annual financial statement shall demonstrate that the current assets of the institution exceed the current liabilities, and that there was a positive net working capital and a profit or surplus for the prior year. If an institution does not meet the above requirements, the Commission shall require an explanation of the financial condition of the institution including a financial improvement plan or teach-out plan; or form of surety guaranteeing that the resources are sufficient to protect the current students. If the Commission determines that the institution does not have sufficient resources, it shall take actions up to and including revocation of licensure.

3. License by Means of Accreditation: All institutions shall submit an annual audit prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. This audit shall demonstrate that the current assets of the institution exceed the current liabilities, and that there was a positive net working capital and a profit or surplus for the prior year. If an institution does not meet the above requirements, the Commission shall require an explanation of the financial condition of the institution including a financial improvement plan or teach-out plan or form of surety guaranteeing that the resources are sufficient to

protect the current students. If the Commission determines that the institution does not have sufficient resources, it shall take actions up to and including revocation of licensure.

(7) through (9) No change.

(10) Standard 10: Student Services. All institutions, regardless of the level of credentials offered, shall comply with the following standards:

(a) through (b) No change.

(c) Placement Improvement Plans. A ~~nonaccredited~~ institution holding provisional or annual licensure shall report its placement rate as defined by the Commission with each license review. If the placement rate falls below 60% one standard deviation from the Florida average as computed for that year, the Commission shall place the institution on a placement improvement plan. This plan shall include actions to be taken to improve the placement rate and shall be submitted to the Commission. A progress report shall be filed with the Commission after a period designated by the Commission, and shall include information on placement personnel, placement activities, job development activities, and additional data as requested by the Commission to show the effectiveness of the plan in improving the placement rate. If the progress report does not show an improvement as accepted by the commission, the Commission shall take actions up to and including revocation of license.

An institution accredited by an agency recognized by the USDOE shall report its placement rate, as required by its respective accrediting agency, with each annual review. If the placement rate does not meet the accrediting agency's requirements, the Commission shall place the institution on a placement improvement plan. This plan shall be developed by the institution and include actions to be taken to improve the placement rate, and shall be submitted to the Commission. A progress report shall be file with the Commission after a period designated by the Commission and shall include information documenting the activities taken by the institution to improve the placement rate. If the progress report does not show improvement as accepted by the Commission, the Commission shall take actions up to and including revocation of license.

(d) Retention Improvement Plans. A ~~nonaccredited~~ institution holding provisional or annual licensure shall report its retention rate as defined by the Commission with each license review. If the rate falls below 50% one standard deviation from the Florida average as computed for that year, the Commission shall place the institution on a retention improvement plan. This plan shall include actions to be taken to improve other retention rate, and shall be submitted to the Commission. A progress report shall be filed with the Commission after a period designated by the Commission, and shall include information documenting the activities taken by the institution to improve the retention rate on retention personnel, retention activities, and additional data as requested by the Commission to show the effectiveness of the plan in

improving the retention rate. If the progress report is not accepted by the Commission, the Commission shall take actions up to and including revocation of license.

An institution accredited by an agency recognized by USDOE shall report its retention rate, as required by its respective accrediting agency, with each annual review. If the retention rate does not meet the accrediting agency's requirements the Commission shall place the institution on a retention improvement plan. This plan shall be developed by the institution and include actions to be taken to improve the retention rate, and shall be submitted to the Commission. A progress report shall be filed with the Commission after a period designated by the Commission and shall include information documenting the activities taken by the institution to improve the retention rate. If the progress report does not show an improvement as accepted by the Commission, the Commission shall take actions up to and including revocation of license.

(11) Standard 11: Publications and Advertising.

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

o. A description of each course offered, including identifying number, title, credit or clock hours awarded, a description of the contents of the course including language of instruction if other than English, and prerequisites, if any;

p. through u. No change.

v. A detailed description of all financial aid offered by the institution. This shall include, but is not limited to, scholarships, in-house loan and grant programs, third-party loan and grant programs, and federal or state financial aid. Any student eligibility standards and conditions shall be stated for each type of financial aid offered. Tuition or fee discounts are not permissible; any reductions of tuition or fees must comply with subsection 6E-1.0032(7), F.A.C. Obligations to repay loans shall be clearly disclosed and explained to students, along with anticipated repayment terms, dates and amounts.

w. through dd. No change.

ee. If the institution offers courses taught in any language other than English, then the catalog must contain the following disclosure:

COMPLETING A COURSE OR PROGRAM IN A LANGUAGE OTHER THAN ENGLISH MAY REDUCE EMPLOYABILITY WHERE ENGLISH IS REQUIRED.

3. through (12) No change.

Specific Authority 1005.22(1)(e), 1005.31(2),(3), 1005.34, 1005.39 FS. Law Implemented 1005.04, 1005.31, 1005.33(1), 1005.34, 1005.39 FS. History—Repromulgated 12-5-74, Formerly 6E-3.01(1), Readopted 11-11-75, Amended 3-7-77, 5-7-79, 10-13-83, Formerly 6E-2.04, Amended 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-2-96, 4-11-00, 1-7-03, 4-5-04, 5-24-04, 7-20-04,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2004

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Medical Clinical Clerkship Programs

RULE NO.: 6E-2.0042

PURPOSE AND EFFECT: The Commission proposes to clarify the criteria for licensure of qualified, accredited foreign medical schools to provide clinical clerkship training in Florida teaching hospitals.

SUMMARY: The proposed rule rewording is to clarify criteria for foreign medical schools to provide clinical clerkship training in Florida teaching hospitals.

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: 1005.22(1)(e)1., 1005.31(2),(3),(11) FS.

LAW IMPLEMENTED: 1005.31(11) 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: Samuel. L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6E-2.0042 follows. See Florida Administrative Code for present text.)

6E-2.0042 Medical Clinical Clerkship Programs.

(1) Purpose. The purpose of this rule is to establish criteria for licensure by the Commission of qualified, accredited foreign medical schools to provide clinical clerkship training in Florida teaching hospitals. Clinical clerkships are a required part of the foreign medical school's education programs, which are not wholly located in Florida. This rule also establishes criteria for students of foreign medical schools who apply for individual approval for an occasional elective clerkship in Florida. This rule is intended to protect the health and welfare of citizens of Florida by limiting participation in such clinical clerkships to students of qualified, accredited foreign medical institutions who demonstrate the capacity to profit from such clinical instruction; to benefit the medical students by establishing standards which will promote the acquisition of a

medical education equivalent to a U.S. medical school education; to protect the students from deceptive, fraudulent or substandard education; and to protect the integrity of medical degrees held by Florida citizens. Terms used in this rule are defined in Rule 6E-1.003, F.A.C.

(2) An applicant for initial licensure of a foreign medical school including its clinical clerkship programs shall submit all the forms and documents, accurately, fully and satisfactorily completed as required for each step of licensure in accordance with Rule 6E-2.004, F.A.C. Additionally, for the applicant foreign medical school to be found qualified for licensure it must comply with the following:

(a) Document to the Commission that it has been determined by the United States Department of Education that the medical accreditation standards used by its chartering nation to evaluate and approve the applicant school were comparable to the standards used to evaluate programs leading to the Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.) degree in the United States.

(b) Document that the applicant medical school has on staff a board-certified clinical chairperson for each core clerkship subject area.

(c) Document that the principal academic officer of the clinical clerkship program has been designated by the chief academic officer of the parent medical school and possesses academic and experiential qualifications appropriate to the assignment.

(d) Ensure that the application contains sufficiently detailed information showing that the educational clinical clerkship program, contains faculty planning, teaching, budgeting and allocation of other educational resources, faculty appointments and student assignments are coordinated and integrated with the overall program of the parent medical school.

(e) Document that the faculty of the clinical clerkship program and of the parent medical school have joint responsibility for developing the curriculum for each clerkship. Copies shall be filed with the Commission of officially adopted policies of the parent medical school, outlining procedures for such faculty involvement and the means of ensuring that such procedures are implemented. The parent medical school shall also describe how it will ensure that the curriculum developed for each clerkship will actually be adhered to at each teaching hospital.

(f) Provide the Foreign Medical School parent hospital affiliation agreement that includes the following elements:

1. A statement of the purposes and objectives of the clerkship program;

2. A statement on the desired outcomes or what the foreign medical school expects its students to learn in each clerkship. This may be specified in the foreign medical school's manual or clerkship course syllabi;

3. The clerkships that will be conducted at the teaching hospital and the length of each clerkship;

4. The maximum number of students who will be engaged in clerkship training per year;

5. The titles and academic rank of the individuals appointed by the foreign medical school who will be responsible for supervising and monitoring the educational program;

6. A statement describing the administration and supervision of the clerkship program by the foreign medical school;

7. The responsibility of the teaching hospital in the administration of the clerkship program;

8. The process by which the students will be selected to perform clerkships at the teaching hospital;

9. The support services that will be available for students, including housing, health care, guidance, insurance, and adequate clinical clerkship library facilities;

10. A statement specifying the responsibility for health care, medical insurance and the treatment and follow-up when students are exposed to infectious or environmental hazards or other occupational injuries;

11. The financial arrangement between the foreign medical school and the teaching hospital.

(g) The application for licensure shall document that all students participating in core clerkship programs meet the following standards:

1. Completed at least three (3) years of undergraduate education at a college or university.

2. Completed a basic science program totaling at least four (4) semesters in length. This program shall include, but is not necessarily limited to, rigorous instruction in the major disciplines of the biological sciences (i.e., anatomy, biochemistry, pharmacology, physiology, pathology, and microbiology), the behavioral sciences, and an introduction to clinical diagnosis. Adequate laboratory facilities for this instruction must be provided.

3. Obtained a passing score on Step I of the United States Medical Licensing Examination within 12 weeks of commencing their third year of medical education.

(h) Demonstrate that the hospital provides access to adequate clinical clerkship library facilities and resources available to the students to support the medical clerkship.

(i) Affirm that the medical school will conduct clinical clerkships only in a teaching hospital as defined in this rule.

(j) Institutions shall document policies addressing student exposure to infectious and environmental hazards including: education of the students about methods of prevention; the procedures for care and treatment after exposure, including definition of financial responsibility; and the effects of infectious and environmental disease or disability on student learning activities.

(3) An application for initial licensure of a foreign medical school shall be reviewed by an expert medical school review committee appointed by the chair of the Commission. The committee members shall include individuals who have expertise and degrees in medical education, institutional governance and evaluation experience in clinical clerkships for medical students. The review committee shall prepare a report that addresses whether or not the applicant for licensure of the foreign medical school has met the standards contained in these rules. The committee report shall be advisory to the Commission, and shall supplement the regular staff review.

(4) The Commission shall require an independent review or audit or any applicant medical school's submission from the school's original records when necessary to verify any or all information provided. Such review or audit shall be at the expense of the applicant school.

(5) Each licensed foreign medical school shall submit an annual report to the Commission, updating any information provided in its last submission. This report shall include a list of the names of students who have studied in Florida, the Florida clinical programs in which they studied, the dates of attendance, and the subject or subjects studied. Any substantive change, as defined in subsection 6E-1.003(47), F.A.C. shall result in medical school receiving a Provisional License pursuant to the provisions of Section 1005.31(5), Florida Statutes and subsection 6E-2.002(1), F.A.C.

(6) Licensed foreign medical schools may provide additional clinical clerkships other than the approved programs for their students at Florida teaching hospitals if the school documents the following conditions to the Commission:

(a) The teaching hospital provides residency programs approved by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA).

(b) The licensed foreign medical school submits to the Commission a written affiliation agreement between the foreign medical school and the teaching hospital that meets the criteria or paragraph 6E-2.0042(2)(f), F.A.C.

(c) The teaching hospital will provide the same facilities, learning opportunities, and supervision as would be provided to U.S. medical schools' students taking clinical training programs in the hospital.

(d) The licensed foreign medical school's appointed faculty will be responsible for providing the same quality in the educational program to the licensed foreign medical school's students as is provided to the students of an United States medical school.

(7) Application for individual approval of an occasional clerkship elective for a student of an unlicensed foreign medical school can obtain approval for an occasional elective clerkship as defined in subsection 6E-1.003(36), F.A.C., provided the student demonstrates compliance with paragraphs (2)(c), (f), (g), and (h) of this rule. In addition to the

requirements set forth in paragraph (2)(g), the student shall submit a transcript directly from his or her medical school indicating completion of all core rotations, and documentation that the student has obtained a passing score on Step 2 of the United States Medical Licensing Examination. The teaching hospital and the medical school shall sign a written affiliation agreement that meets the criteria of paragraph 6E-2.0042(2)(f), F.A.C.

(8) If an application for an individual occasional clerkship occurs in between regularly scheduled Commission meetings, the materials submitted are complete and in compliance with Commission standards, interim executive approval shall be granted by the Executive Director and reported to the Commission at its next meeting for further action.

(9) Denial, probation, or revocation of licensure of a medical clinical clerkship program or individual approval of an occasional clerkship elective shall follow the procedure provisions of Rule 6E-2.0061, F.A.C.

(10) Penalties. See Section 1005.38, Florida Statutes, and Rule 6E-2.0061, F.A.C., for penalties and due process procedures. In the event any violation of this rule poses an immediate threat to the health or safety of Florida patients, emergency action shall be taken by the Commission to suspend the privileges permitted under the medical school's license until due process has been followed.

Specific Authority 1005.22(1)(e)1., 1005.31(2),(3),(11) FS. Law Implemented 1005.31(11) FS. History--New 12-6-84, Formerly 6E-2.042, Amended 11-27-88, 11-29-89, 10-19-93, 12-11-96, 1-7-03, 10-20-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2004

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE TITLE: Actions Against a Licensee; Penalties
RULE NO.: 6E-2.0061

PURPOSE AND EFFECT: The Commission proposes the rule amendment to delete improper language relating to the procedure for notice of denial of licensure.

SUMMARY: The proposed rule amendment deletes unnecessary language for probable cause determinations by clarifying the procedure.

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: 1005.22(1)(e)1., 1005.32(7), 1005.38 FS.

LAW IMPLEMENTED: 1005.32(7), 1005.34(3), 1005.38 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: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-2.0061 Actions Against a Licensee; Penalties.

(1) through (6) No change.

(7) Probable cause. Determinations of probable cause shall be made as provided in Section 1005.38, F.S. Probable cause panels shall be appointed to consider suspected violations of law and to make findings, which shall be reported to the full Commission. If the probable cause panel makes a determination of probable cause, the Commission shall issue an administrative complaint or notice of denial of licensure, and shall issue a cease and desist order as provided in Section 1005.38, F.S., if necessary to stop the violations. Probable cause panels shall be appointed and shall serve as follows:

(a) through (c) No change.

(8) through (10) No change.

Specific Authority 1005.22(1)(e)1., 1005.32(7), 1005.38 FS. Law Implemented 1005.32(7), 1005.34(3), 1005.38 FS. History—New 10-13-83, Formerly 6E-2.061, Amended 5-20-87, 11-27-88, 11-29-89, 12-10-90, 10-19-93, 1-7-03, 7-20-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Commission for Independent Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Commission for Independent Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 28, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 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.”

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Procedural
RULE CHAPTER NO.: 40D-1

RULE TITLE: Forms and Instructions
RULE NO.: 40D-1.659

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Form No. 04.10 R-025 (8/02), Notification and Request for Transfer of a Water Use Permit, to reflect the recent changes to Rule 40D-2.351, F.A.C., concerning the transfer of Water Use Permits upon a change in ownership or legal control of permitted water withdrawal facilities or the land on which the facilities are located. The amendment to Rule 40D-1.659, F.A.C., incorporates the revised form and changes the form number to LEG-R002.01 (2/05).

SUMMARY: This rulemaking amends Form No. 04.10 R-025 (8/02), Notification and Request for Transfer of a Water Use Permit, to reflect current rule requirements. The amendment to Rule 40D-1.659, F.A.C., incorporates the revised form and changes the form number to LEG-R002.01(2/05).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District’s determination that the proposed revisions to Rule 40D-1.659, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 FS.

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

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.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this Chapter. Copies of these forms may be obtained from the District.

GROUND WATER

(1) through (19) No change.

(20) NOTIFICATION AND REQUEST FOR TRANSFER OF A WATER USE PERMIT

FORM NO. LEG-R002.01 (2/05) 04-10 R-025 (8/02)

SURFACE WATER

Application for Permit – Used for Docks or Piers and Bulkheads.

(1) through (20) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.339, 373.413, 373.414, 373.416, 373.419, 373.421 FS. History–New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-95, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 2-1-05,

NAME OF PERSON ORIGINATING PROPOSED RULE: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Regulation of Wells RULE CHAPTER NO.: 40D-3

RULE TITLE: Location RULE NO.: 40D-3.505

PURPOSE AND EFFECT: The proposed rule amendment will provide the District with a mechanism to review and act upon Well Construction Permit (WCP) applications in areas of known groundwater contamination that have been identified by the Environmental Protection Agency, the Department of Environmental Protection, or local governments.

SUMMARY: The proposed rule amendment will provide the District with a mechanism to review and act upon Well Construction Permit (WCP) applications in areas of known groundwater contamination that have been identified by the Environmental Protection Agency, the Department of Environmental Protection, or local governments. The rule

informs the public that the District will deny a WCP application if use of the well would increase the potential for harm to public health, safety and welfare, or if the proposed well would degrade the water quality of the aquifer by causing pollutants to spread. The rule also advises the public that variances from the rule are available, and of the factors that would be considered in reviewing a variance request.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District’s determination that the proposed revisions to Rule 40D-3.505, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.309, 373.337 FS.

LAW IMPLEMENTED: 373.306, 373.308, 373.309 FS.

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

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.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-3.505 Location.

(1) Wells shall be located so as to not pose a threat of contamination to the water resource and to provide for the protection of the health, safety and welfare of the user.

(2) Minimum spacing between wells and sanitary hazards, including but not limited to, septic tanks, drain fields, and ground water contamination areas, ~~and cesspools~~, shall be as specified by Section 381.0065, F.S., and subsection 62-532.400(7), F.A.C. The District shall increase these distances if necessary to protect the health, safety and welfare of individuals who may be exposed to ground water contamination through ingestion, inhalation, or dermal absorption. ~~This subsection does not relieve the applicant from the responsibility of complying with the requirements of any other regulatory agency with jurisdiction over the applicant’s activities.~~

(3) The District will deny a permit application to construct a water well if use of the well would increase the potential for harm to public health, safety and welfare, or if the proposed well would degrade the water quality of the aquifer by causing pollutants to spread. The District shall increase these distances if necessary to protect the health, safety and welfare of individuals who may be exposed to ground water contamination through ingestion, inhalation, or dermal absorption.

(4) A variance from the above-specified restrictions distances may be obtained from the District as provided in Rule 40D-1.1001, F.A.C. The review of a variance request shall include an evaluation of the following criteria, as applicable: surface and ground water gradients, well location, withdrawal amount, well depth (including depth of casing), natural barriers, impermeable geological strata, water quality sampling, compliance with the requirements of Chapter 62-524, F.A.C., other grouting or protective well construction measures, and the use of treatment systems acceptable by the Department or Department of Health local health unit.

(5) Nothing in this section relieves an applicant of the responsibility to comply with the requirements of any other regulatory agency with jurisdiction over the applicant's activities.

Specific Authority 373.044, 373.113, 373.171, 373.309, 373.337 FS. Law Implemented 373.306, 373.308, 373.309 FS. History—New 7-1-90, Amended 12-31-92, 7-2-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental
 RULE CHAPTER NO.: 40D-4

Resource Permits
 RULE TITLE: Definitions
 RULE NO.: 40D-4.021

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the definitions of the terms “alteration” and “new surface water management system”.

SUMMARY: The proposed rule amendment clarifies two definitions in the District’s environmental resource permitting rules. The changes are consistent with the District’s long-term interpretation and application of the terms to narrowly restrict

exemptions from permitting requirements, and will clarify the meaning of the terms for the public. The definition of “alteration” is being modified to remove the term “design”, in order to clarify that it is the alteration of what is currently in existence, not what was planned, that requires a permit. The definition of “new surface water management system” is being modified to add the phrase “by the District”, to clarify that only systems previously authorized by the District are exempt from permitting requirements, not systems approved by other entities.

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

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

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113, 373.118, 373.149, 373.171 FS.

LAW IMPLEMENTED: 373.403, 373.419 FS.

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

The 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.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.021 Definitions.

When used in this chapter and chapters 40D-40 and 40D-400, F.A.C.:

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

(2) through (10) No change.

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

(12) through (22) No change.

Specific Authority 373.044, 373.113, 373.118, 373.149, 373.171 FS. Law Implemented 373.403, 373.419 FS. History--Readopted 10-5-74, Formerly 16J-4.02, Amended 10-1-84, 3-1-88, 9-11-88, 10-3-95, 7-23-96, 2-27-02, 9-26-02, 2-19-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Individual Environmental Resource Permits
 RULE CHAPTER NO.: 40D-4

RULE TITLES: Publications and Agreements Incorporated
 by Reference 40D-4.091

Transfer of Permits 40D-4.351

PURPOSE AND EFFECT: The proposed amendment to Rule 40D-4.091, F.A.C., will incorporate proposed changes to subsection 3.3.7.6 of the District's Environmental Resource Permitting Basis of Review (ERP Basis of Review). The proposed changes to the ERP Basis of Review delete references to impractical or nonexistent methods for demonstrating the financial responsibility necessary to conduct certain wetland mitigation activities.

The proposed amendment to Rule 40D-4.351, F.A.C., clarifies that a Formal Determination of Wetlands and Other Surface Waters issued pursuant to Rule 40D-4.042, F.A.C., may be transferred to a successor in interest to the party who originally petitioned for the determination.

SUMMARY: This proposed rulemaking covers two issues. The first issue is financial assurances. A permit applicant proposing mitigation for wetland impacts is required by paragraph 40D-4.301(1)(j), F.A.C., to provide the District with assurances that the applicant is financially able to conduct the mitigation activities, including monitoring and any necessary corrective action. The Environmental Resource Permitting Basis of Review (ERP Basis of Review) presently lists eight acceptable forms of financial assurances that an applicant may provide. Four of the listed forms are unduly complex, or are not available. The proposed amendments to the ERP Basis of

Review delete references to the impractical or nonexistent forms of financial responsibility. The amendment to Rule 40D-4.091, F.A.C., incorporates these revisions to the ERP Basis of Review into the District's rules.

The second issue covered in this rulemaking is an amendment to Rule 40D-4.351, F.A.C., clarifying that a Formal Determination of Wetlands and Other Surface Waters issued pursuant to Rule 40D-4.042, F.A.C., may be transferred to a successor in interest to the party who originally petitioned for the determination. The amendment indicates that the transfer shall be subject to the conditions of the original determination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rules 40D-4.091 and 40D-4.351, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS.

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

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.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Margaret M. Lytle, Senior Attorney, 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-4.091 Publications and Agreements Incorporated by Reference.

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

(1) "Basis of Review for Environmental Resource Permit Applications" with the Southwest Florida Water Management District, _____ ~~February 1, 2005~~. This document is available from the District upon request.

(2) through (4) No change.

Specific Authority 373.044, 373.046, 373.113, 373.171, 373.414 FS. Law Implemented 373.0361, 373.114, 373.171, 373.403, 373.413, 373.414, 373.416, 373.429, 373.441 FS. History--New 4-2-87, Amended 3-1-88, 9-11-88, 10-1-88, 4-1-91, 11-16-92, 1-30-94, 10-3-95, 12-26-95, 5-26-96, 7-23-96, 4-17-97, 4-12-98, 7-2-98, 12-3-98, 7-28-99, 8-3-00, 9-20-00, 6-12-01, 10-11-01, 2-27-02, 7-29-02, 3-26-03, 7-23-03, 8-3-03, 3-11-04, 6-7-04, 2-1-05,_____.

40D-4.351 Transfer of Permits.

(1) Transfer of Ownership.

(a) through (c) No change.

(d) A Formal Determination of Wetlands and Other Surface Waters issued pursuant to Rule 40D-4.042, F.A.C., to a real property owner or other person who has a legal or equitable interest in real property may be transferred to a successor in interest to the party who originally petitioned for the determination. Such transfer shall be subject to the existing terms and conditions of the original determination.

(2) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(2), 403.805 FS. History--New 10-1-84, Amended 6-29-93, 10-3-95, 7-23-03, 2-1-05,_____.

ENVIRONMENTAL RESOURCE PERMITTING

INFORMATION MANUAL

BASIS OF REVIEW

3.3.7.4 General Terms for Financial Responsibility Mechanisms.

In addition to the specific provisions regarding financial responsibility mechanisms set forth in subsection 3.3.7.6 below, the proposed financial mechanism must comply with the following conditions, as they relate to the specific mechanism proposed, shall be complied with:

(a) through (b) No change.

(c) The financial responsibility mechanisms shall be established with a state or national bank, savings and loan association, or other financial institution, licensed in this state. In the case of letters of credit, the letter of credit must be issued by an entity which has authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. In the case of a performance surety bond, the performance surety bond must be issued by a surety company registered with the State of Florida.

(d) through (f) No change.

1.1.06 Financial Responsibility Mechanisms

Financial responsibility for the mitigation, monitoring and corrective action for each phase of the project may be established by any of the following methods, at the discretion of the applicant.

(a) Performance bond;

(b) Irrevocable letter of credit;

(c) Trust fund agreement; or

(d) Deposit of cash or cash equivalent into an escrow account,;

~~(e) A demonstration that the applicant meets the financial test and corporate guarantee requirements set forth in 40 C.F.R. Section 264.143(f) incorporated herein by reference. Where the referenced test is used to provide evidence of financial resources necessary to conduct mitigation activities the term "closure and post-closure cost estimates" as set forth therein, shall be construed to mean "mitigation cost estimates."~~

~~(f) Guarantee bond;~~

~~(g) Insurance certificate;~~

~~(h) A demonstration that the applicant meets the self bonding provisions set forth at 30 C.F.R. Section 800.23 incorporated herein by reference. Where the referenced provisions are used to provide evidence of financial responsibility to conduct mitigation activities, the term "surface coal mining and reclamation operations," as set forth therein, shall generally be construed as meaning "mitigation activities."~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

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

RULE TITLE: RULE NO.:
General Conditions 40D-40.381

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revision is to include a new limiting general condition in all General Environmental Resource Permits for Minor Surface Water Management Systems. The proposed permit condition emphasizes that the permit was issued based upon the applicant's certification that the project meets all applicable rules and specifications, and informs the applicant that the applicant will be required to correct any later discovered deficiencies in the project design or construction.

SUMMARY: The proposed rule revisions provide a new limiting general condition for inclusion in all General Environmental Resource Permits for Minor Surface Water Management Systems. In accordance with the provisions of Rule 40D-40.301, F.A.C., an applicant for a General

Environmental Resource Permit for a Minor Surface Water Management System must certify that the application meets the conditions for issuance of such permits. It has been general staff practice since 1988 that applications for this type of permit only receive administrative staff review for completeness. Due to the need for engineering staff to work on larger and higher priority applications, these applications are for the most part not subject to engineering review. The permits are issued based on administrative completeness and the certification of the applicant's design Engineer of Record that technical conditions for issuance are met. After completion of construction, the District receives and reviews as-built construction drawings for the project. Occasionally, deficiencies in the engineering design or other related problems result in a project that does not meet District rule requirements. The proposed permit condition emphasizes that the permit was issued based upon the applicant's certification that the project meets all applicable rules and specifications, and informs the applicant that the applicant will be required to correct any later discovered deficiencies in the project design or construction.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.
LAW IMPLEMENTED: 373.117, 373.413, 373.414, 373.416, 373, 419 FS.

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

The 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.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-40.381 General Conditions.

The general permits issued pursuant to this chapter shall be subject to the following limiting conditions;

(1) through (3) No change.

(4) For general permits for minor surface water management systems issued pursuant to Rule 40D-40.301, F.A.C., the following limiting general condition shall also apply:

This permit is issued based upon the permittee's certification that the surface water management system meets all applicable rules and specifications, including the conditions for issuance of general permits for minor surface water management systems described in subsection 40D-40.301(1), F.A.C. If at any time it is determined by the District that the conditions for issuance have not been met, and upon written notice by the District, the permittee shall obtain a permit modification and perform any construction necessary thereunder to correct any deficiencies in the system design or construction necessary to bring the system into compliance with District rule criteria. The permittee is advised that the correction of deficiencies may require re-construction of the surface water management system.

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

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.117, 373.413, 373.414, 373.416, 373.419 FS. History--New 10-1-84, Amended 3-1-88, 10-3-95, 7-23-96, 9-26-02, 8-3-03, 2-19-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE: Environmental Resource Permits
RULE CHAPTER NO.: 40D-400

RULE TITLE: General Permit for Construction, Operation, Maintenance, Alteration, Abandonment or Removal of Minor Silvicultural Surface Water Management Systems
RULE NO.: 40D-400.500

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to adopt the 2003 version of the Silviculture Best Management Practices Manual published by the Division of Forestry, Florida Department of Agriculture and Consumer Services into Rule 40D-400.500, F.A.C.

SUMMARY: Rule 40D-400.500, F.A.C., which describes Noticed General Permits for silvicultural surface water management systems, references the Silviculture Best Management Practices Manual published by the Division of Forestry, Florida Department of Agriculture and Consumer

Services in 1993. An updated manual was published in 2003. The District has reviewed the 2003 manual, and proposes to amend the rule to adopt the updated document.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being prepared based on the District's determination that the proposed revisions to Rule 40D-400.500, F.A.C., will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.413, 373.414, 373.416, 373.419 FS.

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

The 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.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-400.500 General Permit for Construction, Operation, Maintenance, Alteration, Abandonment or Removal of Minor Silvicultural Surface Water Management Systems.

(1) through (4) No change.

(5) In order to qualify for this general permit, the systems identified in subsection (4) of this section must meet the following performance standards:

(a) through (g) No change.

(h) In addition to the performance standards set forth in paragraphs (a)-(g) above, the applicant, in undertaking the activities authorized herein, must utilize the best management practices set forth in the "Silviculture Best Management Practices Manual" (2003 ~~1993~~) published by the Division of Forestry, Florida Department of Agriculture and Consumer Services, which is incorporated herein by reference.

(i) No change.

(6) No change.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.413, 373.414, 373.416, 373, 419 FS. History—New 10-3-95, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Margaret M. Lytle, Senior Attorney, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 25, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

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 Chiropractic Medicine

RULE TITLE: Application for Certification as a Chiropractic Physician's Assistant **RULE NO.:** 64B2-18.002

PURPOSE AND EFFECT: The Board proposes to update the existing language in this rule.

SUMMARY: The proposed rule amendment is to amend the qualifications requirements for certification as a Chiropractic Physician's Assistant.

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: 460.405, 460.4165(6),(9) FS.

LAW IMPLEMENTED: 460.4165(3),(5),(6),(9) 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 Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-18.002 Application for Certification as a Chiropractic Physician's Assistant.

(1) through (2) No change.

(3) Applicants may qualify for certification as a chiropractic physician's assistant by either:

~~(a) Successfully completing an educational and training program of two academic years (60 academic hours or its equivalent in classroom hours) in duration at a chiropractic college maintaining a standard and reputability approved by the Board or at a college or university which is accredited by, or has status with an agency or its successor which is recognized and approved by the United States Office of Education or the Council on Post Secondary Accreditation;~~

~~(a)(b) Successfully completing a Board approved program approved pursuant to subsection 64B2-18.003(2), F.A.C., for the education and training of certified chiropractic physician's assistants, or~~

~~(b)(e) Graduating from a chiropractic college which is accredited by, or has status with the Council on Chiropractic Education or its predecessor agency, provided that the applicant has never had a license to practice as a chiropractic physician subject to disciplinary action in this or any other jurisdiction.~~

(4) through (6) No change.

Specific Authority 460.405, 460.4165(6),(9) FS. Law Implemented 460.4165(3),(5),(6),(9) FS. History--New 11-25-81, Formerly 21D-18.02, 21D-18.002, 61F2-18.002, 59N-18.002, Amended 6-7-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 18, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 30, 2004

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Licensee Requirements for Dental Hygiene Applicants from Unaccredited Dental Schools or Colleges

RULE NO.:

64B5-2.0144

PURPOSE AND EFFECT: The Board proposes the rule amendments to first remove the requirement regarding the national written examination and only require dental hygiene licensure applicants to have passed the national licensure examination within a prescribed time and second, in order to assure the competency of applicants, adds the requirement to meet the course curricula of an accredited dental hygiene program.

SUMMARY: The proposed rule amendment requires applicants to submit proof of passing the national licensure examination and adds a requirement that applicants complete courses that lead to a degree from an accredited dental hygiene program.

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

Any person who wishes to provide information regarding the statement of estimated 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: 466.004, 466.007 FS.

LAW IMPLEMENTED: 466.007 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.0144 Licensure Requirements for Dental Hygiene Applicants from Unaccredited Dental Schools or Colleges.

Applicants for licensure as dental hygienists who have graduated from an unaccredited dental school or college shall submit the following:

(1) through (6) No change.

~~(7) Proof received directly from the American Dental Association, that the National Board of Dental Examiners Written Examination has been successfully completed within 10 years prior to application; or that the National Board of Dental Hygiene Examination has been successfully completed within 10 years prior to application. Applicants who successfully completed the dental examination more than 10 years prior to application shall submit proof of having successfully completed Part II of the examination within 10 years prior to application and in no more than three attempts to successfully complete it, prior to application;~~

(8) Complete the courses leading to a degree from an American Dental Association accredited dental hygiene program.

(8) through (10) renumbered (9) through (11) No change.

Specific Authority 466.004, 466.007 FS. Law Implemented 466.007 FS. History--New 1-18-95, Formerly 59Q-2.0144, Amended 8-19-97, 8-20-97, 5-20-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2004

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: RULE NO.:

Limited License as Allowed in Section 456.015, F.S. 64B5-7.007

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the application fee that will be waived upon meeting the requirements of paragraph (1)(e).

SUMMARY: The proposed rule amendment adds the word "fee" after application in paragraph (1)(e).

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: 456.015, 466.004 FS.

LAW IMPLEMENTED: 456.015, 466.006, 466.007, 466.011 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-7.007 Limited License as Allowed in Section 456.015, F.S.

(1) A limited license shall be issued by the Board of Dentistry to an applicant who has retired or intends to retire from the practice of dentistry or dental hygiene and intends to practice only pursuant to the restrictions of the limited license granted pursuant to Section 456.015, F.S., if the applicant:

(a) through (d) No change.

(e) Pays a fee of \$300. If the applicant for a limited license submits a notarized statement from the employer stating the applicant will not receive monetary compensation for any service involving the practice of dentistry or dental hygiene, the application fee and all licensure fees shall be waived.

(2) No change.

Specific Authority 456.015, 466.004 FS. Law Implemented 456.015, 466.006, 466.007, 466.011 FS. History—New 7-19-01, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 28, 2005

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: RULE NO.:

Courses Required of Licensees for Renewal and Reactivation 64B5-12.020

PURPOSE AND EFFECT: The Board proposes the rule amendment to remove the biennial requirement for continuing education instruction in laws, rules and ethics governing the practice of dentistry.

SUMMARY: The proposed rule amendment deletes subsection (2) in its entirety regarding continuing education in laws, rules and ethics.

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: 466.004 FS.

LAW IMPLEMENTED: 456.013(6),(7),(8), 466.0135, 466.014, 466.017(4) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-12.020 Courses Required of Licensees for Renewal and Reactivation.

Licensed dentists and dental hygienists are required to complete the following continuing education during each license renewal biennium.

(1) No change.

~~(2) Instruction in laws, rules and ethics governing the practice of dentistry and dental hygiene consisting of at least 2 hours of instruction in relevant topics including: Chapters 456 and 466, F.S., Rule Chapter 64B5, F.A.C., professional responsibility and competence; legal standards; confidentiality; professional relationships; recordkeeping; common malpractice complaints; commonly reported violations reported to the Department; and relevant case studies. The requirements of this paragraph may be met by completion of a correspondence course.~~

~~(2)(3)~~ No change.

Specific Authority 466.004 FS. Law Implemented 456.013(6),(7),(8), 466.0135, 466.014, 466.017(4) FS. History—New 4-11-94, Amended 7-18-94, Formerly 61F5-12.020, 59Q-12.020, Amended 1-23-01, 6-7-01, 9-27-01, 12-23-02, 10-8-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Dentistry
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Dentistry
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 23, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 28, 2005

DEPARTMENT OF HEALTH

Board of Dentistry

RULE TITLE: Delinquency Fee
RULE NO.: 64B5-15.011
PURPOSE AND EFFECT: The Board proposes the rule amendments to lower delinquent license renewal fees in order to encourage licensees to keep their licenses current.
SUMMARY: The proposed rule amendments decrease delinquent status license fees.
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: 456.036, 466.004(4), 466.013, 466.015 FS.
LAW IMPLEMENTED: 456.036, 466.015 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-15.011 Delinquency Fee.

The fee for delinquent status of a dental license shall be \$50 for renewals postmarked no later than March 31 of the even numbered years. The fee for delinquent status of a dental license renewal postmarked after March 31 of the even numbered years shall be \$150 ~~\$300~~. The fee for delinquent status of a dental hygiene license shall be \$25 for renewals postmarked no later than March 31 of the even numbered years. The fee for delinquent status of a dental hygiene license renewal postmarked after March 31 of the even numbered years shall be \$75 ~~\$135~~.

Specific Authority 456.036, 466.004(4), 466.013, 466.015 FS. Law Implemented 456.036, 466.015 FS. History—New 7-12-95, Amended 5-6-96, Formerly 59Q-15.011, Amended 9-27-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Dentistry
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Dentistry
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 23, 2004
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 28, 2005

DEPARTMENT OF HEALTH

Board of Medicine

RULE TITLE: Citations
RULE NO.: 64B8-44.005
PURPOSE AND EFFECT: The Council finds it necessary to amend this rule to clarify that citations will include the requirement that violations be corrected within 60 days and to add additional violations.
SUMMARY: This rule sets out citations which may be utilized in lieu of disciplinary procedures. This amendment sets limits on the time to pay the citations and adds additional offences which can be punishable by a fine.
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: 456.077, 468.507 FS.
LAW IMPLEMENTED: 456.077, 468.517, 468.518 FS.
IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD).
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Medicine, Dietetics and Nutrition Practice Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-44.005 Citations.

(1) No change.

(2) In lieu of the disciplinary procedures contained in Section 456.073, F.S., the Department may issue a citation to the subject within six months after the filing of the complaint which is the basis for the citation. All citations will include a requirement that the respondent correct the violation, if remediable, within 60 days.

(3) No change.

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

- (j) Practicing on an inactive license for more than 90 days.
- (k) Practicing on a delinquent license for more than 90 days.
- (l) Failure to respond timely to a continuing education audit.
- (5) through (6) No change.

Specific Authority 456.077, 468.507 FS. Law Implemented 456.077, 468.517, 468.518 FS. History--New 1-1-92, Formerly 21M-50.005, 61F6-50.005, 59R-44.005, Amended 9-26-01, 3-25-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Board of Medicine Dietetics and Nutrition Council
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine Dietetics and Nutrition Council
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 2004

DEPARTMENT OF HEALTH

Division of Health Access and Tobacco

RULE CHAPTER TITLE: RULE CHAPTER NO.:
 Brain and Spinal Cord Injury
 Program (BSCIP) General
 Program and Central Registry 64I-1
 RULE TITLE: RULE NO.:
 Definitions 64I-1.001

PURPOSE AND EFFECT: To implement statutory provisions of Chapter 381, Florida Statutes.
 SUMMARY: Defining the term "Legal Resident" as used in Section 381.76, Florida Statutes, for purposes of eligibility for the Brain and Spinal Cord Injury Program.
 STATEMENT OF ESTIMATED REGULATORY COSTS: None 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: 381.0011 FS.
LAW IMPLEMENTED: 381.76 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Arnold, Program Specialist, Department of Health, 4052 Bald Cypress Way, Bin #C23, Tallahassee, Florida 32399-1743

THE FULL TEXT OF THE PROPOSED RULE IS:

64I-1.001 Definitions.

(1) Definitions for terms used in Sections 381.739-79, F.S., and this rule, consistent with Section 381.745, F.S.

(2) Legal Resident: A person who currently lives in Florida, has the present intent to remain in Florida indefinitely, and has lawful permanent presence in the United States of America.

Specific Authority 381.0011 FS. Law Implemented 381.76 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Donna Arnold, Senior Human Services Program Specialist
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil E. Williams, Division Director
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 17, 2005
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 14, 2005
 P.O. # D064853

DEPARTMENT OF FINANCIAL SERVICES

Division of Consumer Services

RULE TITLE: RULE NO.:
 Alternative Procedures for Resolution of
 Disputed Personal Lines Insurance
 Claims Arising From Hurricane
 and Tropical Storm Damage 69J-2.001

PURPOSE AND EFFECT: This rule implements Section 627.7015, Florida Statutes, by establishing a special mediation program for personal lines residential insurance claims resulting from Hurricanes Charley, Frances, Ivan and Jeanne and Tropical Storm Bonnie. The proposed rule will allow homeowners and insurers to resolve property insurance claims in an effective, fair, and timely manner and in a nonadversarial and informal setting. This rule also addresses construction pricing guidelines to be used by the mediators for determining reasonable and fair prices for the quality repair of residential property damaged by Hurricanes Charley, Frances, Ivan and Jeanne and Tropical Storm Bonnie.

SUMMARY: The rule creates procedures for notice of the right to mediation, request for mediation, assignment of mediators, payment for mediation, scheduling mediation conferences, and the conduct of mediation. This rule also sets forth construction pricing guidelines for the quality repair of residential property damage based on data from the construction and insurance industries.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None 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: 624.308, 626.9611, 627.7015(4) FS.
LAW IMPLEMENTED: 624.307(1),(2),(4),(5), 624.316,
624.3161, 624.317, 624.318, 624.320, 624.324, 624.418(2)(a),
624.4211, 626.859, 626.874, 626.877, 626.9541(1)(a),
626.9541(1)(e), 626.9541(1)(i), 626.9541(1)(u), 626.9561,
626.9641(1)(g), 627.7015 FS.

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

TIME AND DATE: 10:00 a.m., March 28, 2005

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tom Terfinko, Assistant Director, Division of Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0320, (850)413-5802

THE FULL TEXT OF THE PROPOSED RULE IS:

69J-2.001 Alternative Procedures for Resolution of Disputed Personal Lines Insurance Claims Arising From Hurricane and Tropical Storm Damage.

(1) Purpose and Scope. This rule implements Section 627.7015, Florida Statutes, by setting forth a non-adversarial alternative dispute resolution procedure for a facilitated claim resolution conference prompted by the critical need for effective, fair, and timely handling of personal lines insurance claims arising out of damages to residential property caused by hurricanes and tropical storms during the 2004 hurricane season (June 1, 2004 through November 30, 2004). This rule also addresses guidelines for the quality repair of residential property damaged by Hurricanes Charley, Frances, Ivan and Jeanne and Tropical Storm Bonnie at reasonable and fair prices. Before resorting to these procedures, insureds and insurers are encouraged to resolve claims as quickly and fairly as possible. The procedure established by this rule is available to all first party claimants who have personal lines claims resulting from damage to residential property occurring in the State of Florida. This rule does not apply to commercial insurance, private passenger motor vehicle insurance or to liability coverage contained in property insurance policies.

(2) Definitions. The following definitions apply to the terms of this rule as used herein.

(a) “Administrator” means the Department or its designee, and the term is used interchangeably with regard to the Department’s duties under this rule.

(b) “Claim” means any matter on which there is a dispute or for which the insurer has denied payment. Unless the parties agree to mediate a claim involving a lesser amount, a “claim” involves the insured requesting \$500 or more to settle the dispute, or the difference between the positions of the parties is

\$500 or more, in either case, notwithstanding any applicable deductible. “Claim” does not include a dispute with respect to which the insurer has reported allegations of fraud, based on an investigation by the insurer’s special investigative unit, to the Department’s Division of Insurance Fraud.

(c) “Department” means the Department of Financial Services or its designee. Reporting to the Department shall be directed to: Department of Financial Services, Mediation Section, Bureau of Insurance Consumer Assistance, Tallahassee, Florida 32399-0322; or by facsimile to (850)488-2349.

(d) “Mediator” means an individual selected by the Department to mediate disputes pursuant to this rule. The mediators will be selected from a panel of Circuit Court – Civil mediators approved by the Florida Supreme Court pursuant to the Florida Rules of Certified and Court Appointed Mediators or from the list of approved mediators pursuant to Rule 69B-166.031, Florida Administrative Code.

(e) “Party” or “Parties” means the insured and his or her insurer, including Citizens Property Insurance Corporation, when applicable.

(3) Notification of Right to Mediate. The insurer shall mail a notice of the right to mediate disputed claims to the insured within 5 days of the time the policyholder or the Department notifies an insurer of a dispute regarding the policyholder’s claim. If the insurer has not been notified of a disputed claim prior to the time an insurer notifies the insured that a claim has been denied in whole or in part, the insurer shall mail a notice of the right to mediate disputed claims to the insured in the same mailing as a notice of denial. However, the insurer is not required to send a notice of the right to mediate disputed claims if a claim is denied because the amount of the claim is less than the policyholder’s deductible. For disputed claims identified prior to October 11, 2004, Rule 69BER04-18 required insurers to send the notice to insureds no later than October 25, 2004. This requirement is not negated by this rule and therefore any insurer that failed to do so is subject to administrative penalty for violation of a Department rule. The mailing that contains the notice of the right to mediate may include the Department’s consumer brochure on mediation but no other materials, forms or documents may be included. Notification shall be in writing and shall be legible, conspicuous, and printed in at least 12-point type. The first paragraph of the notice shall contain the following statement: “Tom Gallagher, Chief Financial Officer for the State of Florida, has adopted an emergency rule to facilitate fair and timely handling of residential property insurance claims arising out of the hurricanes that have recently devastated so many homes in Florida. The emergency rule gives you the right to attend a mediation conference with your insurer in order to settle any dispute you have with your insurer about your claim. You can start the mediation process 21 days after the date of this notice by calling the Department of Financial

Services at 1(800)227-8676 (1(800)22-Storm). An independent mediator, who has no connection with your insurer, will be in charge of the mediation conference.” The notice shall also:

(a) Include detailed instructions on how the insured is to request mediation, including name, address, and phone and fax numbers for requesting mediation through the Department;

(b) State that the parties have 21 days from the date of the notice within which to settle the claim before the insured may request mediation;

(c) Include the insurer’s address and phone number for requesting additional information; and

(d) State that the Department or the Administrator will select the mediator.

(4) Request for Mediation. After 21 days from the date of the notice of the right to mediation, an insured may request mediation by contacting the insurer or by writing to the Department of Financial Services, Mediation Section, Bureau of Insurance Consumer Assistance, Tallahassee, Florida 32399-0322; by calling the Department at 1(800)22-Storm (1(800)227-8676); or by faxing a request to the Department at (850)488-2349. If an insured requests mediation prior to receipt of the notice of the right to mediation or if the date of the notice cannot be established, the insurer shall be notified by the Department of the existence of the dispute 21 days prior to the Administrator processing the insured’s request for mediation. If an insurer receives a request for mediation, the insurer shall fax the request to the Mediation Section within 48 hours of receipt of the request. The Department will forward requests to the Administrator within 24 hours of receipt of the requests. The Administrator shall notify the insurer within 48 hours of receipt of requests filed with the Department. The insured should provide the following information if known:

(a) Name, address, and daytime telephone number of the insured and location of the property if different from the address given;

(b) The claim and policy number for the insured;

(c) A brief description of the nature of the dispute; and

(d) The name of the insurer and the name, address and phone number of the contact person for scheduling mediation.

(e) Information with respect to any other policies of insurance that may provide coverage of the insured property for named perils such as flood or windstorm.

(5) Mediation Costs. Within 5 days of receipt of the request for mediation from the insured or receipt of notice of the request from the Department or immediately after receipt of notice from the Administrator pursuant to subsection (4) that mediation has been requested, whichever occurs first, the insurer shall pay a non-refundable administrative fee, not to exceed \$100, as determined by the Department, to the Administrator to defer the expenses of the Administrator and the Department. The insurer shall pay \$250 to the Administrator for the mediator’s fee not later than 5 days prior to the date scheduled for the mediation conference. However, if

the mediation is cancelled for any reason more than 120 hours prior to the scheduled mediation time and date, the insurer shall pay \$50 to the Administrator for the mediator’s fee instead of \$250. No part of the fee for the mediator shall be refunded to the insurer if the conference is cancelled within 120 hours of the scheduled time.

(6) Scheduling of Mediation. The Administrator will select a mediator and schedule the mediation conference. The Administrator will attempt to facilitate reduced travel and expense to the parties and the mediator when selecting a mediator and scheduling the mediation conference. The Administrator shall confer with the mediator and all parties prior to scheduling a mediation conference. The Administrator shall notify each party in writing of the date, time and place of the mediation conference at least 10 days prior to the date of the conference and concurrently send a copy of the notice to the Department. The insurer shall notify the Administrator as soon as possible after settlement of any claim that is scheduled for mediation pursuant to this rule.

(7) Conduct of the Mediation Conference.

(a) Section 627.7015, Florida Statutes, provides that mediation is a non-adversarial process held in an informal, non-threatening forum intended to bring the parties together for a settlement conference without the trappings or drawbacks of an adversarial process. As such, it is not necessary to involve a private attorney and participation by private attorneys is discouraged by the Department. If the insured elects to have an attorney participate in the conference, the insured shall provide the name of the attorney to the Administrator at least six days before the date of the conference. Parties and their representatives must conduct themselves in the cooperative spirit of the intent of the law and this rule. Parties and their representatives must refrain from turning the conference into an adversarial process. Both parties must negotiate in good faith. A party will be determined to have not negotiated in good faith if the party, or a person participating on the party’s behalf, continuously disrupts, becomes unduly argumentative or adversarial, or otherwise inhibits the negotiations as determined by the mediator. The mediator shall terminate the conference if the mediator determines that either party is not negotiating in good faith or if the mediator determines that the conference should be terminated under the provisions of Rule 10.420(b) of the Florida Rules for Certified and Court-Appointed Mediators. The party responsible for causing termination shall be responsible for paying the mediator’s fee and the administrative fee for any rescheduled mediation.

(b) Upon request of the insured or the mediator, a representative of the Department will be available to help insureds prepare for the mediation conferences. A representative of the Department will be present at and participate in the conference if requested at least 5 days prior to the scheduled mediation by a party or the mediator to offer

guidance and assistance to the parties. The Department will attempt to have a representative at the conference if the request is received less than 5 days prior to the scheduled mediation. Representatives of the Department that participate in the conference shall not assume an advocacy role but shall be available to provide legal and technical insurance information.

(c) The representative of the insurer attending the conference must bring a copy of the policy and the entire claims file to the conference. The representative of the insurer attending the conference must know the facts and circumstances of the claim and be knowledgeable of the provisions of the policy. An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle the full amount of the claim or lacks the ability to disburse the settlement amount at the conclusion of the conference.

(d) The mediator will be in charge of the conference and will establish and describe the procedures to be followed. Mediators shall conduct the conference in accordance with the standards of professional conduct for mediation under the Florida Rules of Certified and Court-Appointed Mediators. Each party will be given an opportunity to present their side of the controversy. In so doing, parties may utilize any relevant documents and may bring any individuals with knowledge of the issues, such as adjustors, appraisers, or contractors, to address the mediator. The mediator may meet with the parties separately, encourage meaningful communications and negotiations, and otherwise assist the parties to arrive at a settlement. For purposes of this claims settlement process, mediators shall be deemed agents of the Department and shall have the immunity from suit provided to mediators in Section 44.107, Florida Statutes. All statements made and documents produced at a settlement conference shall be deemed settlement negotiations in anticipation of litigation.

(e) A party may move to disqualify a mediator for good cause at any time. The request shall be directed to the Department if the grounds are known prior to the mediation conference. Good cause consists of conflict of interest between a party and the mediator, inability of the mediator to handle the conference competently, or other reasons that would reasonably be expected to impair the conference.

(f) If the insured fails to appear, without good cause as determined by the Department, the insured may have the conference rescheduled only upon the insured's payment of the mediation fees for the rescheduled conference. If the insurer fails to appear at the conference, without good cause as determined by the Department, the insurer shall pay the insured's actual expenses incurred in attending the conference and shall pay the mediator's fee whether or not good cause exists. Failure of a party to arrive at the mediation conference within 30 minutes of the conference's starting time shall be considered a failure to appear. Good cause shall consist of severe illness, injury, or other emergency which could not be

controlled by the insured or the insurer and, with respect to an insurer, could not reasonably be remedied prior to the conference by providing a replacement representative or otherwise. If an insurer fails to appear at conferences with such frequency as to evidence a general business practice of failure to appear, the insurer shall be subject to penalty, including suspension, revocation, or fine for violating Section 626.9541(1)(i), Florida Statutes.

(8) Guidelines for the Quality Repair of Residential Property at a Reasonable and Fair Price.

(a) The provisions of insurance policies and applicable statutes require claims payments made by insurers to be sufficient to effectuate required repairs. Further, misrepresentation by any person regarding the cost of repairs is also prohibited. The Department of Financial Services has developed construction pricing guidelines based upon information provided by the construction industry, the insurance industry and nationally recognized vendors that compile and sell construction pricing guidelines. Insurers and policyholders participating in mediations conducted pursuant to this rule shall use Form DFS-II-1610 Guidelines for Quality Repair of Residential Property At A Reasonable and Fair Price, rev. 12/04, hereby incorporated and adopted by reference, as guidelines for repairs to residential property arising in any county of this state in which a state of emergency was declared as a result of a hurricane or tropical storm in 2004. These guidelines are not intended to be used in the context of civil litigation. The guidelines reflect data from both the construction and insurance industries and the ranges take into consideration price differentials between geographic areas of the state.

(b) The guidelines adopted herein do not apply to any portion of repairs necessary to fulfill the insurer's contractual obligation to restore the insured residence to pre-hurricane condition where, as of the effective date of this rule, there is an executed repair contract to effectuate such repairs for an agreed price and the insurer has tendered full payment for the repair contract amount for those repairs.

(9) Post Mediation. If the parties reached a settlement, the mediator shall provide a copy of the settlement agreement to the Department and the Administrator within 5 days of the conclusion of the conference. Mediation is non-binding. However, if a settlement is reached, the insured shall have 3 business days within which he or she may rescind any settlement agreement provided that the insured has not cashed or deposited any check or draft disbursed to him or her for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it shall act as a release of all specific claims that were presented in the conference. Any additional claims under the policy shall be presented as separate claims. However, the release shall not constitute a final waiver of rights of the insured with respect to

claims for damages or expenses if circumstances that are reasonably unforeseen arise resulting in additional costs that would have been covered under the policy but for the release.

(10) If the insured decides not to participate in this claim resolution process or if the parties are unsuccessful at resolving the claim, the insured may choose to proceed under the appraisal process set forth in the insured's insurance policy, by litigation, or by any other dispute resolution procedure available under Florida law.

(11) If as a result of mediation it is determined that the only coverage applicable is provided under the National Flood Insurance Program, the administrative fee and mediator's fee paid by the insurer for the mediation shall be refunded to the insurer or credited to the insurer's account with the Administrator.

(12) The Department is authorized to designate an entity or person as its Administrator to carry out any of the Department's duties under this rule.

(13) If a court holds any subsection or portion of a subsection of this rule or the applicability thereof to any person or circumstance invalid, the remainder of the rule shall not be affected thereby.

(14) The applicable provisions of Rule 69B-166.031, Florida Administrative Code, shall govern issues relating to mediation that are not addressed in this rule. The provisions of this rule shall govern in the event of any conflict with the provisions of Rule 69B-166.031, Florida Administrative Code.

(15) This mediation program will expire on December 31, 2005.

Specific Authority 624.308, 626.9611, 627.7015(4) FS. Law Implemented 624.307(1),(2),(4),(5), 624.316, 624.3161, 624.317, 624.318, 624.320, 624.324, 624.418(2)(a), 624.4211, 626.859, 626.874, 626.877, 626.9541(1)(a), 626.9541(1)(e), 626.9541(1)(i), 626.9541(1)(u), 626.9561, 626.9641(1)(g), 627.7015 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Terfinko, Assistant Director, Division of Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Marta Arrington, Director, Division of Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 4, 2005

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.: 6E-2.002
RULE TITLE: Institutional Licensure

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 39, September 24, 2004, Florida Administrative Weekly has been withdrawn.

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 BUSINESS AND PROFESSIONAL REGULATION

RULE NO.: 61-20.0025
RULE TITLE: Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 27, July 2, 2004, issue of the Florida Administrative Weekly. These changes are being made in response to comments received from the Joint Administrative Procedures Committee.

The rule now reads as follows:

61-20.0025 Exemption of Spouses of Members of Armed Forces from Licensure Renewal Provisions.

A licensee who is the spouse of a member of the Armed Forces of the United States and was caused to be absent from the State of Florida because of the spouse's duties with the armed forces shall be exempt from all licensure renewal provisions during such absence. The licensee must show proof to the Board of the absence and the spouse's military status.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Regulatory Council of Community Association Managers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750