

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Agricultural Water Policy

RULE TITLE: Approved Best Management Practices
 RULE NO.: 5M-3.003

PURPOSE AND EFFECT: The Department proposes an amendment to incorporate revisions to the Water Quality/Quantity BMPs for Indian River Area Citrus Groves manual.

SUBJECT AREA TO BE ADDRESSED: The addition of a Best Management Practice covering the decommissioning of wells.

SPECIFIC AUTHORITY: 403.067(7) FS.

LAW IMPLEMENTED: 403.067(7) FS.

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

If an accommodation is needed for a disability in order to participate in this meeting, please notify the Bureau of Personnel Management, Department of Agriculture and Consumer Services, (850)488-1806, at least seven days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mark Jennings, Environmental Specialist III, Office of Agricultural Water Policy, 1203 Governor’s Square Blvd., Suite 200, Tallahassee, Florida 32399-1650, (850)488-6249, Fax (850)921-2153

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

DEPARTMENT OF EDUCATION

Commission for Independent Education

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

PURPOSE AND EFFECT: The purpose of this amendment is to clarify who may serve on the panel and review reconsideration of probable cause.

SUBJECT AREA TO BE ADDRESSED: Actions Against a Licensee; Penalties.

SPECIFIC AUTHORITY: 1005.37(1)(e), 246.071 FS.

LAW IMPLEMENTED: 1005.32(7), 1005.34(3), 1005.38 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

6E-2.0061 Actions Against a Licensee; Penalties.

(1) through (6) No change.

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

(c) Reconsideration of probable cause in any given case shall be performed by the members of the panel who initially found probable cause in that case. Whenever an original panel member is not available, current member(s) shall hear the reconsideration. ~~If a Commission member has reviewed a case as a member of the probable cause panel, that member, if available, shall be on the panel for reconsideration of that case if reconsideration is necessary.~~

(8) through (10) No change.

Specific Authority 1005.37(1)(e), 246.071 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, 1-27-88, 11-29-89, 12-10-91, 10-19-93, 1-7-03, 5-4-04, 5-26-04, 7-20-04, 3-11-05, _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE TITLE: Mandatory Literacy Program
 RULE NO.: 33-501.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to limit mandatory education to that required by statute, thereby allowing use of limited resources to provide services to interested and motivated inmates, providing inmates with equal access to education services, and improving security in academic education facilities by allowing inmates with no interest to discontinue participation.

SUBJECT AREA TO BE ADDRESSED: Inmate Education.

SPECIFIC AUTHORITY: 944.09, 944.801 FS.

LAW IMPLEMENTED: 944.09, 944.801 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Perri King Dale, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-501.101 Mandatory Literacy Academic Education Program Services.

(1) Upon arrival at a Department of Corrections' reception center for initial processing, each inmate shall be screened and assessed to determine if the inmate meets the department's criteria for mandated academic education program services participation.

(2) Criteria for mandated academic education program services shall be based upon:

(a) Lack basic functional literacy skills as defined in s. 239.105, F.S., and

(b) Needs assessment profile in which the inmate's needs for academic education, vocational education, work experience, and substance abuse treatment are assessed and prioritized to ensure security and optimal program placement.

(1)(3) When, in accordance with Section 944.801, F.S. criteria established in (2), it is determined that an inmate is required to attend 150 hours of sequential instruction in a correctional adult basic education program to attain functional literacy as defined in Section 1004.02, F.S. in need of academic education program services, he or she shall be assigned a priority ranking for services based upon these criteria and shall be placed into available programs or placed on a waiting list for future assignment to a program.

(4) Priority ranking for assignment shall be maintained for all inmates and updated at least monthly. Prioritization ranking shall also be based upon length of sentence remaining to be served and readiness for program services.

(2)(5) If an inmate refuses to participate in the mandatory literacy academic education program services, the classification officer shall ensure that this refusal is documented on Form DC6-119, Inmate Refusal to Participate in Mandatory Program. Form DC6-119 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 10-31-01. Inmates who refuse to participate in the mandatory literacy mandated academic education program services shall be subject to disciplinary action.

(3)(6) Inmates discharged from the mandatory literacy academic education program services due to program rule violations, violation of institutional rules, or behavior management problems shall be subject to disciplinary action.

(7) Inmates who refuse to participate in mandated academic education program services shall be removed from the priority listing until such time as the inmate agrees to participate in the academic education program mandated.

(4)(8) Inmates shall only be subject to disciplinary action when a program slot is available and the inmate refuses to enter or participate in the program.

(a) If an inmate recants an earlier refusal to participate in a mandatory program, he or she shall be returned to the priority listing and the priority ranking shall be recalculated.

(b) When a program slot becomes available, the inmate shall be considered for placement when a program slot becomes available into the academic education program. Inmates entering a mandatory literacy an academic education program after refusal or who are re-admitted to a program after administrative discharge per subsection (3)(6) of this rule shall be eligible at the time of program entry to request restoration of incentive gain time in accordance with Rule 33-601.105, F.A.C.

(9) Inmates shall not be denied access to academic education program services on the basis of race, gender, ethnicity, age, sexual preference, human immunodeficiency virus status, prior program departure against professional advice, or disability.

Specific Authority 944.09, 944.801 FS. Law Implemented 944.09, 944.801 FS. History New 10-31-01, Amended _____.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Procedural	40D-1
RULE TITLES:	RULE NOS.:
Permits Required	40D-1.602
Bonds	40D-1.604
Permit Processing Fee	40D-1.607
Permit Fee Reduction for Certain Counties and Municipalities	40D-1.608
Forms and Instructions	40D-1.659
Emergency Authorization for Works of the District Permits	40D-1.1023

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to delete references contained within Chapter 40D-1, F.A.C., regarding references to Works of the District permits. The Works of the District rule Chapter 40D-6, F.A.C., was repealed in its entirety on December 10, 2004.

SUBJECT AREA TO BE ADDRESSED: Deletion of references to Works of the District contained with Chapter 40D-1, F.A.C.

SPECIFIC AUTHORITY: 120.54(5), 373.044, 373.113, 373.118, 373.149, 373.171, 373.4136, 373.414, 373.418 FS.

LAW IMPLEMENTED: 120.54(5), 218.075, 373.084, 373.085, 373.106, 373.109, 373.116, 373.118, 373.171, 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, 373.4136, 373.414, 373.416, 373.418, 373.419, 373.421, 373.421(2), 373.426, 380.06(9) FS.

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

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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen E. West, Deputy General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4651

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

DEPARTMENT OF MANAGEMENT SERVICES

State Technology Office

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Information Resource	
Security Policies and Standards	60DD-2
RULE TITLES:	RULE NOS.:
Purpose; Definitions; Policy; Applicability;	
Agency Security Programs; Roles and	
Responsibilities; Risk Management	60DD-2.001
Control of Computers and	
Information Resources	60DD-2.002
Physical Security and Access to	
Data Processing Facilities	60DD-2.003
Logical and Data Access Controls	60DD-2.004
Data and System Integrity	60DD-2.005
Network Security	60DD-2.006
Backup and Disaster Recovery	60DD-2.007
Personnel Security and Security Awareness	60DD-2.008
Systems Acquisition, Disposal, Auditing,	
and Reporting	60DD-2.009
Standards Adopted	60DD-2.010

PURPOSE AND EFFECT: To consider development of potential amendments to the existing rule chapter on agency best practices on minimum security standards for the protection of state information resources, in light of new

guidelines and standards published by the National Institute of Standards and Technology in the areas of electronic authentication and personal identity verification.

SUBJECT AREA TO BE ADDRESSED: Purpose; Definitions; Policy; Applicability; Departmental Security Programs; Responsibilities; Risk Management; Control of Computers and Information Resources; Physical Security and Access to Data Processing Facilities; Logical and Data Access Controls; Data and System Integrity; Network Security; Backup and Recovery; Personnel Security and Security Awareness; Systems Acquisition, Auditing and Reporting; Adoption of Federal Standards.

SPECIFIC AUTHORITY: 282.102(2),(6),(16) FS.

LAW IMPLEMENTED: 282.318 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:00 a.m. – 12:00 Noon, April 25, 2005

PLACE: Betty Easley Conference Center, Room 166, 4075 Esplanade Way, Tallahassee, Florida 32399

Pursuant to the Americans with Disabilities Act, persons needing special accommodations to participate in this meeting should advise the State Technology Office at least 2 calendar days before the workshop, by contacting: Matthew Kimball, (850)922-5511.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kris Palmer, State Technology Office, 4030 Esplanade Way, Suite 160i, Tallahassee, Florida 32399, (850)414-7671, e-mail: Kris.Palmer@MyFlorida.com

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Examination and Licensure
 RULE NO.: 61G18-11.002
 PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments may be necessary.
 SUBJECT AREA TO BE ADDRESSED: The number of examinations required for licensure.
 SPECIFIC AUTHORITY: 474.206, 474.2065, 474.207, 455.217 FS.
 LAW IMPLEMENTED: 455.217, 474.2065, 474.207 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Juanita Chastain, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Veterinary Medicine

RULE TITLE: Examination and Reexamination Fees
 RULE NO.: 61G18-12.002

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments may be necessary.

SUBJECT AREA TO BE ADDRESSED: Costs of fees for examination or reexamination.

SPECIFIC AUTHORITY: 474.206, 474.207(2)(a), 474.2065, 455.217, 455.219 FS.

LAW IMPLEMENTED: 474.207(2), 474.2065, 455.217(2), 455.219 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Juanita Chastain, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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DEPARTMENT OF HEALTH

Board of Pharmacy

RULE CHAPTER TITLE: Animal Control Shelter Permits
 RULE CHAPTER NO.: 64B16-29

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: General Requirements – Permits.

SPECIFIC AUTHORITY: 465.005, 465.0155, 828.055 FS.

LAW IMPLEMENTED: 465.022, 465.019, 465.026, 828.055, 893.07 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

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

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE CHAPTER TITLE: Disciplinary Guidelines
 RULE CHAPTER NO.: 64B16-30

PURPOSE AND EFFECT: The Board proposes to review this rule chapter to determine whether any amendments are necessary or if any new rules should be promulgated.

SUBJECT AREA TO BE ADDRESSED: General Requirements – Permits.

SPECIFIC AUTHORITY: 456.073(3), 456.077, 456.078, 465.005 FS.

LAW IMPLEMENTED: 456.073(3), 456.077, 456.078 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Danna Droz, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

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

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: Citations
 RULE NO.: 64B17-7.002

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether the amendment is necessary.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment adds an additional fine of \$150 for failure to pay required fees and fines in a timely manner.

SPECIFIC AUTHORITY: 456.077, 486.025 FS.

LAW IMPLEMENTED: 456.077 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B17-7.002 Citations.

(1) through (2) No change.

(3) The Board designates the following as citation violations:

(a) through (g) No change.

(h) Failure to pay required fees and/or fines in a timely manner (Rule 64B17-7.0025, F.A.C.) – A fine of \$150.

(4) through (5) No change.

Specific Authority 456.077, 486.025 FS. Law Implemented 456.077 FS. History—New 1-19-92, Formerly 21MM-7.003, Amended 10-28-93, Formerly 61F11-7.003, 59Y-7.003, Amended 1-6-99, 1-6-02, 4-18-04, _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of Consumer Services

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Multiple Hurricane Deductible Reimbursement Program	69J-1
RULE TITLES:	RULE NOS.:
Purpose and Scope	69J-1.001
Definitions	69J-1.002
Forms Adopted	69J-1.003
Acquiring Forms	69J-1.004
Notice Process	69J-1.005
Collection of Data by the Office of Insurance Regulation	69J-1.006
Claim Submission Process	69J-1.007
Aggregation of Deductibles	69J-1.008
Processing of Claims	69J-1.009
Buden to Justify Reimbursement is on the Policyholder	69J-1.010
Determination of Claim Validity	69J-1.012
Valuation of Loss	69J-1.013
Special Rule for Condominium Association Claims	69J-1.020
Impact of Variations Among Deductibles	69J-1.025
Assignment of Rights Under the Program	69J-1.030
Death of Policyholder	69J-1.031

PURPOSE AND EFFECT: This proposed permanent rule provides procedures and standards for the multiple hurricane deductible reimbursement program pursuant to Chapter Law 2004-480. Rules 69J-1.001, 69J-1.002, 69J-1.003, 69J-1.004, 69J-1.005, 69J-1.006, 69J-1.007, paragraph 69J-1.008(1), Rules 69J-1.009, 69J-1.030, F.A.C., largely just perpetuate the provisions of the emergency rule that established the program. Other sections address specific issues as follows:

Subsection 69J-1.008(2), F.A.C., provides that deductibles must have been applied to claims from more than one hurricane in order to be a basis for eligibility.

Rule 69J-1.010, F.A.C., provides that the burden to justify a reimbursement is on the policyholder applying for reimbursement.

Rule 69J-1.012, F.A.C., provides that the validity of a claim will be based of coverage as stated in the applicable insurance policy, but if the policy form is not known the standard HO-3 will be used.

Rule 69J-1.013, F.A.C., provides standards for valuation of loss, including a system by which evidence of value will be weighted in the justification of the claim. It provides that if the valuation of the claim received by the Department from the insurer is less than the amount for which the policyholder applies, or no valuation information is provided from the insurer, then other documentation will be necessary to justify the additional amount for which application has been made. That documentation will be weighted as follows:

Supporting documentation that is produced by a person without a direct interest in the prospective reimbursement, who has expertise in valuation of the type of loss sustained, and who has inspected the property will be given high weight. Supporting documentation that is provided by the policyholder with a direct interest in the prospective reimbursement, or by a witness without expertise in insurance adjusting or construction will be given low weight. For reimbursement applications totaling \$1,000 or less, the application file must contain at least one piece of low weight documentation. For reimbursements over \$1,000, but no more than \$2500, the application file must contain at least one piece of high weight documentation or two pieces of low weight documentation. For all reimbursements over \$1,000, but no more than \$2500 which do not contain any pieces of high evidence, an affidavit form as incorporated in Rule 69J-1.003, F.A.C., will be sent to the consumer for signature and notarization. That form must be returned signed and notarized for the request to be processed. For reimbursements over \$2,500 the application file must contain at least two pieces of high weight documentation or one piece of high and two pieces of low weight documentation. Rule 69J-1.020, F.A.C., addresses issues specific to condominium association claims. The rule interprets the applicability of the reimbursement limits applying to condominium associations.

Rule 69J-1.025, F.A.C., clarifies the impact of variations among deductibles.

Rule 69J-1.031, F.A.C., addresses the situation in which a policyholder is deceased.

SUBJECT AREA TO BE ADDRESSED: The Multiple Hurricane Deductible Reimbursement Program.

SPECIFIC AUTHORITY: Chapter Law 2004-480 FS.

LAW IMPLEMENTED: Chapter Law 2004-480 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: 9:30 a.m., April 21, 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 Department 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: Tom Terfinko, Assistant Director, Division of Consumer Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0320, (850)413-5800

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

MULTIPLE HURRICANE DEDUCTIBLE REIMBURSEMENT PROGRAM

69J-1.001 Purpose and Scope.

The purpose of this rule is to establish procedures and adopt forms for the implementation of the program for reimbursement of multiple hurricane deductibles on residential property claims as mandated by Chapter Law 2004-480, (HB 9A).

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History–New _____.

69J-1.002 Definitions.

(1) Application File: The term, “application file” as used in this rule shall mean all documentation timely received by the Department, from the policyholder or insurer pursuant to this rule and any additional information acquired by the Department relating to the application.

(2) Condominium: The term, “condominium” as used in this rule and Chapter Law 2004-480, (HB 9A) has the meaning as defined in Section 718.103(11), Florida Statutes.

(3) Department: The term, “Department” as used in this rule shall mean the Florida Department of Financial Services.

(4) Eligible: The term, “eligible” as used in this rule shall mean meeting the requirements for reimbursement established in Chapter Law 2004-480, (HB 9A).

(5) Insurer: The term “insurer” as used in this rule includes surplus lines insurance carriers as well as authorized insurance carriers. Actions mandated by this rule to be performed by insurers may at the insurers’ discretion, be performed by representatives acting on the insurers’ behalf.

(6) Hurricane Deductible: The term “hurricane deductible” as used in this rule and Chapter Law 2004-480 shall mean any deductible applied to a loss proximately caused by a hurricane.

(7) Properly Completed: The phrase “properly completed” as used in this rule means, as to an application, that the Department has received all information necessary to determine whether an application is eligible, including whether the underlying claim is valid and reasonable.

(8) Reasonable: The term, “reasonable” as used in this rule shall mean that the amount of a claim approximates the monetary compensation to which policyholders would have been entitled under their insurance policy, but for the application of a second or subsequent hurricane deductible.

(9) Valid: The term, “valid” as used in this rule shall mean that a policyholder would have been entitled to payment under their insurance policy, but for the application of a second or subsequent hurricane deductible.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History–New _____.

69J-1.003 Forms Adopted.

The Department of Financial Services hereby adopts and incorporates by reference the following forms:

(1) Multiple Hurricane Deductible Reimbursement Application – Residential, Form DFS-II-1612, (rev. 1/05).

(2) Multiple Hurricane Deductible Reimbursement Application – Condominium Association, DFS-II-1614, (rev. 1/05).

(3) Notice of Multiple Hurricane Deductible Reimbursement Program – Residential, Form DFS-II-1611, (rev. 1/05), and

(4) Notice of Multiple Hurricane Deductible Reimbursement Program – Condominium Association, Form DFS-II-1613, (rev.1/05).

(5) Multiple Hurricane Deductible Reimbursement Program Affidavit Form, DFS-10-1645 (rev. 2/05).

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History–New _____.

69J-1.004 Acquiring Forms.

(1) The Department shall provide the forms listed in Rule 69J-1.003, F.A.C., above to the Department of Financial Services, Division of Consumer Services disaster contact for each insurer. The forms will also be available to insurers at FLDFS.com/deductible.

(2) The forms listed in paragraph (3) above shall be acquired by policyholders from their insurer.

(3) If a policyholder does not receive an application form from their insurer, policyholders may acquire an application form from the Department from fldfs.com.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.005 Notice Process.

(1) Insurers, which applied multiple hurricane deductibles, shall mail both the notice and application forms incorporated in subsection (3) above to all residential property insurance policyholders who filed claims with the insurer for two or more of the 2004 hurricanes and to whom the insurer applied more than one hurricane deductible, whether there was a claim payment or not. Forms DFS-II-1611 and DFS-II-1612 are to be sent to residential policyholders. Forms DFS-II-1613 and DFS-II-1614 are to be sent to policyholders who are condominium associations.

(2) The insurer shall include, as part of its mailing of the notice and application forms, either on the application or a separate document, data which shall serve as documentation from the insurer that an insurance claim was not paid in full or in part, due to application of a deductible. That data shall consist of the following items:

(a) Policyholder name(s);

(b) Policy number;

(c) Address of covered property;

(d) Claim numbers of policy holder's hurricane claims;

(e) Florida Company Code;

(f) Amount of hurricane deductible applied under the policy to the claims, if the insurer has that information;

(g) Amount of the payment made, as of the date of the notice, for each hurricane claim;

(h) Any additional information and documentation that the insurer is reasonably able to provide, without manual review of its claim information, which would show that an insurance claim was not paid in full or in part, due to application of a deductible.

(3) If an insurer receives, and denies a claim for an amount which falls below the amount of a second or subsequent hurricane deductible established by the policy, the insurer shall provide documentation to the policyholder that the claim is denied based on application of the deductible, and shall mail the notice and application forms referenced in subsection (3) above to the policyholder within 10 business days of its determination that a second hurricane deductible is applicable. Forms DFS-II-1611 and DFS-II-1612 are to be sent to residential policyholders. Forms DFS-II-1613 and DFS-II-1614 are to be sent to policyholders who are condominium associations.

(4) If an insurer is contacted by a policyholder relative to a loss in an amount which, based on the policyholder's representation, falls below the amount of a deductible established by the policy, the insurer is not required to open a claim or verify the value of the loss. In such cases the documentation provided pursuant to paragraph (c) above may, at the election of the insurer, indicate that no loss or claim was paid based on the policyholder's valuation of the loss and that the insurer has not verified such valuation.

(5) This subsection is not applicable to insurers that did not apply more than one deductible to claims resulting from the 2004 hurricanes.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.006 Collection of Data by the Office of Insurance Regulation.

(1) Pursuant to Chapter Law 2004-480, (HB 9A), the Office of Insurance Regulation shall collect data from residential property insurers regarding claims that were filed by policyholders for two or more hurricanes for the 2004 hurricane season.

(2) Within five calendar days of sending the notice and applications pursuant to Rule 69J-1.005, F.A.C., above, all insurers making such mailings shall submit the following information, if in the insurer's records, to the Office of Insurance Regulation:

(a) Insured's full name as it appears on policy;

(b) Address of insured property;

(c) Policyholder's mailing address;

(d) Florida Company Code;

(e) Company Name;

(f) Policy Number;

(g) Number of residential units insured under policy as to which the claim was filed;

(h) Number of insured locations under policy;

(i) Claim number;

(j) Date of Loss;

(k) Name of hurricane;

(l) Amount of claim paid, if any, up to the date the information is provided;

(m) Deductible amount per insured location;

(n) Amount of the claim to which the deductible was applied;

(3) Insurers must contact the Florida Department of Financial Services, Division of Information Systems' Help Desk at (850)410-9340 to obtain instructions for making the required filings.

(4) Within five calendar days of receiving a request from the Department and, verification from the Department of the policyholder's claim and authorization to release information, the insurer shall submit any information in the insurer's files

that would assist the Department in determining the validity and reasonableness of a claim, to the Department of Financial Services as requested.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.007 Claim Submission Process.

(1) Those policyholders who meet the eligibility requirements of Chapter Law 2004-480, (HB 9A) shall complete the application form as indicated on that form. Form DFS-II-1612 is to be submitted by policyholders with residential property claims. Form DFS-II-1614 is to be submitted by policyholders who are condominium associations.

(2) The eligible policyholders shall mail the application form to Florida Department of Financial Services, 200 E. Gaines St, Rm. 529, Tallahassee, FL 32399-4213. The mailing must be postmarked or actually received by March 1, 2005 to maintain eligible status.

(3) Policyholders whose property was damaged by two or more hurricanes in 2004, who would have been entitled to compensation under their policy, but for the existence of a multiple deductible, and who did not file a claim because of the existence of a hurricane deductible, shall contact their insurer and shall acquire an application as specified in subsection (4), paragraph (b) above and complete and submit the application as described in paragraph (b) above, along with documentation from the insurer that the insurer did not pay the loss or claim in full or in part, due to application of the deductible.

(4) Application in an incorrect form will not result in a denial of an application, provided that all information needed to process the request is timely received by the Department.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.008 Aggregation of Deductibles.

(1) If the property was covered by an insurer during one hurricane and as a result of nonrenewal, cancellation or otherwise was covered by another insurer during a subsequent hurricane, the deductibles applied by the separate insurers shall be aggregated to achieve eligibility for the reimbursement program. Under no other circumstances will deductibles under multiple policies be aggregated to achieve eligibility.

(2) Multiple deductibles applied to only one hurricane will not be sufficient to achieve eligibility. Deductibles must have been applied to claims from more than one hurricane in order to be a basis for eligibility.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.009 Processing of Claims.

(1) For the purposes of processing, claims will be divided into two categories: Priority One and Priority Two. Priority One Claims are those of policyholders who received claims

payments from their insurer for two or more hurricanes for which at least two payments were reduced by the full amount of the deductible. The entire reimbursement request will be considered as a Priority One Claim even if in addition the two deductibles a partial deductible was also applied. Priority Two claims are all claims other than Priority One claims of policyholders who meet the eligibility criteria in Chapter Law 2004-480, (HB 9A).

(2) All valid and reasonable Priority One claims shall be paid before Priority Two claims.

(3) Valid and reasonable Priority One claims shall be paid in the order that properly completed applications are received. If a timely filed application is not properly completed until additional information is received by the Department, its placement in the order of processing among Priority One claims will be based on the date and time the additional information is received by the Department.

(4) After all properly completed, valid and reasonable Priority One claims have been paid, the Department shall calculate the reimbursement amounts for all valid and reasonable Priority Two Claims. If the total of those amounts does not exceed what is left of the appropriated funds, all properly completed, valid and reasonable Priority Two Claims shall be reimbursed in full. If the total of the reimbursement amount for Priority Two Claims exceeds the remainder of appropriated funds, reimbursement shall be made on a *pro rata* basis so that each policyholder with a Priority Two claim receives an equal percentage of the amount of the reimbursement claim approved.

(5) Determination of eligibility and the amount of reimbursement shall be made in accordance with the provisions and methods set forth in Chapter Law 2004-480, (HB 9A), this rule and the forms incorporated in Rule 69J-1.003, F.A.C.

(6) For an application to be eligible for reimbursement the applicant must have submitted documentation from the insurer that the insurance claim was not paid, in full or in part, due to application of the deductible.

(7) Subsequent to the filing of an application, upon request by the Department, a policyholder will be allowed 10 calendar days from the date of the Department's request, to provide additional information necessary for the application to be properly completed.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.010 Burden to Justify Reimbursement is on the Policyholder.

The burden to justify a reimbursement is on the policyholder applying for reimbursement.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.012 Determination of Claim Validity.

(1) If the documentation in the file of the applicant includes a copy the insurance policy or information from the insurer as to the extent of the coverage upon which application is based, the department will look to the terms of that policy or the information from the insurer to determine if a loss is subject to coverage under the policy.

(2) If the documentation in the file of the applicant does not include a copy the insurance policy or information from the insurer as to the extent of the coverage upon which application is based, the department will look to Form HO-3, which is hereby incorporated by reference, as a basis to determine claim validity.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History—New _____

69J-1.013 Valuation of Loss.

(1) The valuation of the loss upon which the deductible reimbursement is calculated will be based on documentation that was received by the Department pursuant to Emergency Rule 69JER05-1, filed January 6, 2005, which is hereby incorporated by reference. A copy of that emergency rule can be obtained from fldfs.com.

(2) If the valuation of the claim included with the policyholder's application and the valuation of the information received by the Department from the insurer are equal, then no additional documentation is required to verify that amount.

(3) If the valuation of the claim received by the Department from the insurer is less than the amount for which the policyholder applies, or no valuation information is provided from the insurer, then other documentation will be necessary to justify the additional amount for which application has been made. That documentation will be weighted as follows:

(a) High Weight Documentation. Supporting documentation that is produced by a person without a direct interest in the prospective reimbursement, who has expertise in valuation of the type of loss sustained, and who has inspected the property is considered the strongest type of documentation to evidence the valuation of a loss. This documentation will be given high weight. Examples of this type are:

1. A damage report from a governmental agency such as FEMA, or a county building department.
2. Engineering or other licensed expert's damage assessment report.
3. Licensed building contractor estimate or invoice.
4. Public adjuster's damage loss report.

(b) Low Level Documentation. Supporting documentation that is provided by the policyholder with a direct interest in the prospective reimbursement, or by a witness without expertise in insurance adjusting or construction will be given low weight. Examples of this type are:

- a. Photographs of damage;

b. Receipts for materials purchased for repairs;

c. Written statement from a disinterested witness without expertise in insurance adjusting or construction.

(4) The level of justification required for a claim will vary with the projected reimbursement amount as follows:

(a) For reimbursement applications totaling \$1,000 or less, the application file must contain at least one piece of low weight documentation.

(b) For reimbursements over \$1,000, but no more than \$2500, the application file must contain at least one piece of high weight documentation or two pieces of low weight documentation. For all reimbursements over \$1,000, but no more than \$2500 which do not contain any pieces of high evidence, an affidavit form DFS-10-1645, as incorporated in Rule 69J-1.003, F.A.C., will be sent to the consumer for signature and notarization. That form must be returned signed and notarized for the request to be processed.

(c) For reimbursements over \$2,500 the application file must contain at least two pieces of high weight documentation or one piece of high and two pieces of low weight documentation.

(5) Multiple photographs, receipts, or other kinds on documentation will be aggregated by kind to constitute a "piece" for purposes of this rule. For example six photographs and eight receipts are two pieces of evidence.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History—New _____

69J-1.020 Special Rule for Condominium Association Claims.

(1) Chapter Law 2004-480 treats condominium associations differently than other policyholders. Apartment building owners, and homeowner associations, will not be treated as condominium associations for purposes of the reimbursement program.

(2) Interpretation of the \$3,000 Per Unit Limit.

(a) Condominium associations are limited by Section 2., (4)(b) of Chapter Law 2004-480, to reimbursements of the greater of:

1. \$3,000 per residential condominium unit covered under a policy
2. \$10,000 if a deductible was applied for two hurricanes.
3. \$20,000 if a deductible was applied for three or more hurricanes, or
4. \$10,000 per structure damaged.

(b) Commercial units such as stores, business offices, and restaurants shall not be counted as units to be multiplied by \$3000 for the limit calculation.

(c) The number of residential condominium units used for the limit calculation is limited, by the number of residential units in the condominium, and the number of residential units in structures covered by the policy from which the deductibles were applied. The number of structures damaged, and the

number of structures in the condominium do not impact the calculation, of the limit. Residential units of undamaged buildings will be counted in the limit calculation if they are in the same condominium as the damaged property, and covered under the same insurance policy as the damaged property.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.025 Impact of Variations Among Deductibles.

(1) If deductible amounts vary among claims, the first deductible applied will be used as the standard to determine if the eligibility requirement that one full deductible be paid has been met.

(2) In the reimbursement calculation, the deductibles applied to claims based on hurricanes subsequent to the hurricane to which the first deductible applied, will be totaled to determine the reimbursable amount subject to deductions and limitations imposed by Chapter Law 2004-480.

(3) For a subsequent deductible to be eligible for reimbursement, it must be a deductible of the same type as that applied to a claim from a prior hurricane. Also such a deductible will not count toward the requirement of meeting a full deductible for reimbursement of a subsequent deductible of a different type. For example, if a separate deductible is applied for food spoilage, or for association assessments, the application of that deductible to a claim from the prior hurricane will not serve as a basis for reimbursement of a subsequent deductible for property damage.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.030 Assignment of Rights Under the Program.

(1) The program created by Chapter Law 2004-480 is for the benefit of policyholders only. Therefore, no assignment of rights to reimbursement under the program is permitted.

(2) Notwithstanding subsection (1) above a right to reimbursement may be passed through an estate by devise or inheritance, or may be acquired by a lender pursuant to terms of a mortgage agreement secured by the real property to which the application for reimbursement relates.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

69J-1.031 Death of Policyholder.

If a named policyholder dies a successor in interest may apply as the policyholder subject to documentation that the applicant is the legal successor in interest to the proceeds of the insurance policy upon which the application is made.

Specific Authority Chapter Law 2004-480 FS. Law Implemented Chapter Law 2004-480 FS. History--New _____.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Historical Resources

RULE TITLES:	RULE NOS.:
Definitions	1A-35.002
Grant Funding	1A-35.005
Application Requirements	1A-35.007

PURPOSE AND EFFECT: The proposed amendment will revise and update the rule to be in conformance with Chapter 267, F.S., and changes in administrative procedure. Provide for the waiver of the financial matching requirements on Historic Preservation grants for rural communities the have been designated in accordance with Section 288.0656, Florida Statutes; and to update obsolete terms and references.

SUMMARY: To comply with Chapters 267.0612 and 267.0617, F.S., the definitions have been updated and expanded. Proposed revisions also include further delineation of the Division's administration procedure for the Historic Grants-in-Aid program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The proposed revisions do not incur any regulatory costs.

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: 267.031(1), 267.0617(5) FS.

LAW IMPLEMENTED: 267.0617(2) FS.

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

TIME AND DATE: 9:00 a.m., May 2, 2005

PLACE: Third Floor Conference Room, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert C. Taylor, Division of Historical Resources, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6333

THE FULL TEXT OF THE PROPOSED RULES IS:

1A-35.002 Definitions.

The following words and terms shall have the following meanings:

(1) through (2) No change.

(3) "Division" means the Division of Historical Resources of the Department of State.

~~(4)~~ "Florida Master Site File" means the list or catalog, maintained by the Division, of all recorded historical and archaeological sites and properties in the State of Florida.