

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Admission of Animals for Exhibition	5C-4
RULE TITLES:	RULE NOS.:
General Requirements and Limitations	5C-4.001
Definitions	5C-4.0015
Applications, Cards, Forms, Other Official Documents Required and Fees	5C-4.0016
General Requirements, Exemptions and Limitations	5C-4.0017
Cattle or Bison	5C-4.002
Swine	5C-4.003
Poultry, Domestic Fowl and Ratites	5C-4.004
Goats or Sheep	5C-4.005
Horses	5C-4.008

PURPOSE AND EFFECT: The purpose and effect of the rule changes are to update and specify identification, testing and documentation requirements for exhibition of animals in Florida.

SUBJECT AREA TO BE ADDRESSED: The proposed modifications in this rule are to delineate new, and streamline old, requirements for exhibition of animals in Florida.

SPECIFIC AUTHORITY: 585.002(4), 585.08(2)(a), 585.145(1), (2) FS.

LAW IMPLEMENTED: 585.08(2)(a), 585.08(3), 585.145, 585.145(1), (2) FS.

IF REQUESTED 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: 10:00 a.m., December 27, 2005

PLACE: Department of Agriculture and Consumer Services, Division of Animal Industry, Conference Rm. 316, 407 S. Calhoun St., Tallahassee, FL 32399-0800

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Dr. William C. Jeter, Chief, Bureau of Animal Disease Control, Div. of Animal Industry, Rm. 332, 407 S. Calhoun St., Tallahassee, FL 32399-0800; (850)410-0900; Fax: 410-0957

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5C-4.001 General Requirements and Limitations.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History--Amended 7-1-71, 8-7-77, 9-30-80, Formerly 5C-4.01, Amended 4-17-89, 1-19-95, 6-4-95, Repealed \_\_\_\_\_.

5C-4.0015 Definitions.

For the purposes of this Chapter the following definitions shall apply:

(1) Accredited Veterinarian. A ~~licensed~~ veterinarian licensed in the state of origin and accredited by the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA, APHIS) who has been approved to perform certain functions of the federal and cooperative federal-state-federal programs by the Deputy Administrator, United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, in accordance with the provisions of Title 9 Code of Federal Regulations (9 CFR) § 161 (2004) (1993).

(2) Animal or Domestic Animal. The term shall include any animals which are raised for private use or commercial purposes, to include but not be limited to, any animal referred to as livestock or grazing animals such as horse, mule, ass, burro, zebra or other Equidae; any cattle such as bull, steer, ox, cow, heifer, calf, or bovine animal; any goat, sheep, swine, cervidae or other hoofed animal; any domestic cat or dog, reptile or amphibian; any avian such as ratites, poultry, or other domesticated bird or fowl; or any beast, or wild or game animals, for the purpose to effectively control or eradicate dangerous transmissible diseases or pests which threaten the agricultural interests of Florida. This term shall include:

- (a) ~~Livestock including grazing animals, such as cattle, horses, sheep, swine, goats, and other hoofed animals;~~
- (b) ~~Ratites, limited to ostriches, emus, and rheas;~~
- (c) ~~Domesticated fowl which are propagated or maintained for commercial, exhibition, or breeding purposes, or as pets; and~~
- (d) ~~Wild or game animals which may threaten the agricultural interests of the state.~~

(3) Authorized Representative Department. An employee of the state or federal government, or a licensed veterinarian accredited by the USDA, who is authorized to conduct animal disease control and eradication activities Department who is authorized to perform animal health regulatory activities regarding the prevention, control, and eradication of certain infectious or communicable diseases of animals.

(4) Commercial Production Swine. Swine that have been subjected to and found negative on an annual brucellosis and pseudorabies test and have been continuously managed with adequate facilities and practices to prevent exposure to either transitional or feral swine and so recognized by state animal health officials. ~~Exhibition. An assembly of animals for the purpose of competition or public presentation including but not limited to fairs, shows, and rodeo events.~~

(5) Group. One or more animals maintained on the same premises or in direct contact with one another.

(6) Horse. Any horse, mule, ass, zebra or other equidae.

(7) Isolation. Separation of individual animals by a physical barrier in a manner that assures one animal does not have access to the body, excrement, or discharges of another animal; does not share a building with a common ventilation system; and is not within ten feet of another animal.

(8) Market Class. An exhibition class consisting of finished fed animals that all go where all animals in the class go directly to slaughter immediately following the exhibition.

(9) Official Certificate of Veterinary Inspection (OCVI). A legible record or certificate made on an official form from the state of origin or from the USDA, issued and signed by veterinarians licensed and accredited in the state of origin for the purpose of certifying the official individual identification, test requirements, and health status of specific animals for movement, exhibition, and other designated purposes. An official form approved by the senior chief animal health official of the state of origin or an equivalent form from the USDA, which is a complete and legible certificate issued by a veterinarian who is licensed and accredited in the state of origin.

(10) Official Individual Identification. A form of unique individual animal identification including, but not limited to:

(a) Official Eartags. Must be tamper-resistant/tamper evident, approved by APHIS, capable of providing a unique identification number for each animal, and capable of being recorded in a central repository. Such eartags must conform to one of the following number systems:

1. National Uniform Eartagging System;
2. Animal identification number (AIN);
3. Premises-based numbering system; or
4. Any other numbering system approved by APHIS;

(b) Ear, tail-web or flank tattoos, using the National Uniform Tag Code number assigned by APHIS to the state of origin; breed registration tattoos when accompanied by breed registration papers; or an official brand when accompanied by a brand registration certificate;

(c) Official leg or wing bands for poultry;

(d) Color digital images or notarized color photographs of the animal, signed by a state-licensed, USDA-accredited veterinarian; or

(e) Implanted electronic chips that conform to ISO standards with a unique number that is recorded in a single, central database.

~~(11)(10)~~ Official Test. A test conducted by a method approved by Department rules for the specific disease and animal species.

(12) Poultry or Domestic Fowl. Chickens, turkeys, quail, pheasants, chukars, peafowl, guineas, ratites and waterfowl or any member of the Class Aves that is propagated or maintained under control of a person for commercial, exhibition or breeding purposes, or as pets.

~~(13)(11)~~ Segregated. To maintain a the maintenance of one group of animals separate from so as to prevent physical contact with another group of animals in such a manner as to prevent physical contact between animals of the two groups.

~~(12) Materials. Title 9 C.F.R. 161 (1994) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.~~

Specific Authority 585.002(4), 585.08(2), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History—New 1-19-95, Amended 6-4-95, \_\_\_\_\_.

5C-4.0016 Applications, Cards, Forms, Other Official Documents Required and Fees.

(1) USDA. VS Form 10-11. An official USDA, APHIS, VS form required for submitting samples and reporting results of EIA tests.

(2) Division.

(a) Official Certificates of Veterinary Inspection (OCVI). These certificates are provided only to Florida-licensed and USDA-accredited veterinarians and may be obtained as provided in subsection 5C-4.0016(3), F.A.C. Depending on species and purpose (sale or movement), the following are Florida-recognized OCVis:

1. Official Certificate of Veterinary Inspection, DACS-09000; for use with all species, in association with movement or sale. Cost is \$65 per book of 25 certificates.

2. Official Equine Certificate of Veterinary Inspection, DACS-09002; for use with equine, in association with movement or sale. Cost is \$65 per book of 25 certificates.

3. Official Avian Certificate of Veterinary Inspection, DACS-09023; for use with avian/poultry, in association with movement or sale. Cost is \$100 per 100 certificates.

4. Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and other Non-Livestock Species, DACS-09086; for use with companion and non-livestock animals in association with interstate movement. Cost is \$65 per package of 25 certificates.

(b) Equine Interstate Passport Card, DACS-09207, is an official card provided by the Department to the horse owner, which certifies the existence of an official negative EIA test within the previous 12 months and a valid Florida Official Equine Certificate of Veterinary Inspection for interstate movement for exhibition purposes in states which accept the card. The document is valid for six (6) months provided the conditions in paragraphs 5C-3.003(5)(a)-(f), F.A.C., are met. The Equine Interstate Passport Card is not acceptable for change of ownership purposes. It may be applied for by submitting an Application for Equine Interstate Passport Card.

DACS-09219, to the Division with the associated fee of \$15.00 for the first equine and \$5.00 for each additional equine on the same application. Copies may be obtained as provided in subsection 5C-4.0016(3), F.A.C.

(c) Negative EIA Test Verification Card, DACS-09160, is an official document provided by the Department to the horse owner to show proof of a negative EIA test within the previous 12 months, for purposes other than change of ownership. The document is valid for 12 months from the date the blood was drawn and is renewable annually with an associated fee of \$5.00 per application (Card). The Negative EIA Test Verification Card may be applied for by submitting the Application for Negative EIA Test Verification Card DACS-09206. Copies may be obtained as provided in subsection 5C-18.0011(4), F.A.C.

(d) Equine Event Extension(A Permit), DACS-09051, an official document provided by the Department to the horse owner, which certifies the existence of an official negative EIA test within the previous 12 months and a valid Florida Official Certificate of Veterinary Inspection. The document is valid for six (6) months provided the conditions in paragraphs 5C-3.003(5)(a)-(f), F.A.C., are met. It may be applied for by submitting the Application for Equine Event Extension, DACS-09078, to the Division as referred to in subsection 5C-3.003(5), F.A.C., with the associated fee of \$10.00 for the first equine and \$5.00 for each additional equine on the application; copies of which may be obtained as provided in subsection 5C-3.0011(4), F.A.C.

(3) Forms. VS Form 10-11 (APR 90), and previous versions accepted by USDA, APHIS, VS, is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. Official Certificate of Veterinary Inspection, DACS-09000 Rev. 07/03; Official Equine Certificate of Veterinary Inspection, DACS-09002 Rev. 10/05; Official Avian Certificate of Veterinary Inspection, DACS-09023 Rev. 12/03; and Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and other Non-Livestock Species, DACS-09086 Rev. 10/05, Equine Event Extension(A Permit), DACS-09051 Rev. 10/05, Application for Equine Event Extension, DACS-09078 Rev. 10/05, Equine Interstate Passport Card, DACS-09207 Rev. 08/04, Application for Equine Interstate Passport Card, DACS-09219 Rev. 10/05, Negative EIA Test Verification Card, DACS-09160 Rev. 06/05, and Application for Negative EIA Test Verification Card DACS-09206 Rev. 10/05, and previous versions, are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 S. Calhoun St., Tallahassee, FL 32399-0800; (850)410-0900.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History—New

5C-4.0017 General Requirements, Exemptions and Limitations.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. All animals presented for exhibition purposes in Florida, unless specifically exempted, must be accompanied by an OCVI issued by a veterinarian accredited in the state of origin.

(a) The OCVI must be complete including the breed, sex, and registration number, and the official individual identification of each animal.

(b) Results of a specific test requirement or herd accreditation, certification or validation number for each animal must be recorded on the OCVI with the date of the test or herd accreditation, certification or validation.

(2) Expiration of Required OCVI.

(a) For Florida-origin animals an OCVI is valid for 90 days from the date of issue; or until the expiration date of any required tests, whichever is the earliest date.

(b) For animals imported into Florida for exhibition purposes only, the OCVI is valid for 30 days, except that, for equine imported into Florida using a current Equine Interstate Passport Card, DACS-09207, or equivalent of the state of origin signed by the State Veterinarian or chief animal health official, the OCVI will be extended to the date of expiration of the Equine Interstate Passport Card or its equivalent of the state of origin.

(3) Exemption to Required OCVI. An OCVI is not required for animals originating in Florida and entered in market classes provided that animals are segregated from other animals and the pens are occupied only by the animals in a market class. Pens used for market classes must not be reused until after cleaning and disinfecting.

(4) Inspection Required. Prior to immediate acceptance at an exhibition, all animals presented for exhibition must be visually inspected by an authorized representative for:

(a) The required official individual identification of the animal; and

(b) Clinical signs of disease including, but not limited to, caseous lymphadenitis, blisters/ulcers around the mouth, nostrils, coronary band, pinkeye, pox, scabies, lice, ringworm, atrophic rhinitis, or multiple warts that are clearly visible; and

(c) Evidence of compliance with animal tests and OCVI requirements, where required.

(5) Animals Rejected for Exhibition.

(a) Any animal in non-compliance with animal tests and OCVI requirements, or

(b) Any animal not meeting the official individual identification requirements, or

(c) Any animal which is suspected of having or showing clinical signs of dangerous transmissible, contagious or infectious disease on visual inspection, or any animal which is known to be exposed to such diseases must be:

1. Immediately withdrawn from exhibition and returned to the place of origin, or

2. Examined by a Florida-licensed and USDA-accredited veterinarian at the owner's expense within 24 hours, who certifies by a signed, written statement, that the animal is free of dangerous transmissible, contagious or infectious disease and pests.

(6) Forms. Equine Interstate Passport Card, DACS-09207 Rev. 08/04, is hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 S. Calhoun St., Tallahassee, FL 32399-0800.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History—New \_\_\_\_\_.

5C-4.002 Cattle or Bison.

(1) OCVI Required.

(a) Florida-origin cCattle or bison moved for exhibition must be accompanied by an OCVI dated not more than 90 days prior to exhibition presentation and must be accompanied by evidence of completion of the test requirements or certifications listed in subsection 5C-4.002(2), F.A.C.

(b) Animals imported from other states for exhibition must be accompanied by an OCVI dated not more than 30 days prior to exhibition.

(2) Test or Certification Required.

(a) Tuberculosis.

1. Florida-origin cCattle or bison may be entered for exhibition without a tuberculin test provided the OCVI identifies the cattle as originating from a Tuberculosis-Free State as defined in subsection 5C-7.016(3), F.A.C., an Accredited Tuberculosis-Free Herd, as defined in subsection 5C-7.016(1), F.A.C., or a herd not under quarantine in a Modified Accredited Tuberculosis State, as defined in subsection 5C-7.016(23), F.A.C. When accredited, the herd accreditation number must be recorded on the OCVI.

2. Imported dairy Other cattle may be entered for exhibition provided they cattle originate from a herd not under quarantine and have a negative caudal fold tuberculin skin test within 30 days prior to the date of the exhibition; except that, dairy cattle from Accredited Tuberculosis-Free Herds originating in Tuberculosis-Free States, are exempt from this test requirement.

3. Imported beef cattle or bison may be entered for exhibition without a negative caudal fold tuberculin skin test provided they originate from Accredited Tuberculosis-Free States or Herds. Otherwise, they must meet the requirements in subparagraph 5C-4.002(2)(a)2., F.A.C. A positive test on any animal in a designated group, disqualifies all animals of the group from exhibition.

(b) Brucellosis.

1. Test Required. Cattle or bison, six (6) months of age or older, must have evidence of a negative brucellosis test within 30 days prior to the date of exhibition. Vaccination Required. All female dairy cattle four months of age or older born after January 1, 1984 must be officially calfhood vaccinated.

2. Test Required. Cattle from herds not under quarantine in Class A Areas must have evidence of a negative brucellosis test within 30 days prior to the date of exhibition.

23. Exemption from Required Brucellosis Test.

a. Steers and spayed heifers; and are exempt from the brucellosis test requirement.

b. Cattle or bison identified on the OCVI as originating from a Certified Brucellosis-Free Herd, as defined in Rule 5C-6.002, F.A.C., or a Brucellosis Class Free State or Area, as defined in subparagraph 5C-6.0031(4)(c)3., F.A.C., are exempt from the brucellosis test requirement. which wWhen certified, the herd certification number must be recorded on the OCVI; the OCVI must show the certified herd number and the date of the last herd certification test; and-

c. Cattle or bison from non-quarantined herds originating from Class A State or Areas are exempt from brucellosis test requirements provided that the cattle are:

1. Under 18 months of age; or

2. Official calfhood vaccinates of beef breeds under 24 months of age; or

3. Official calfhood vaccinates of dairy breeds under 20 months of age; and

4. Not parturient or post parturient.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History—Amended 7-25-66, 11-15-67, 1-1-70, 7-1-71, 9-1-72, 8-7-77, 8-8-79, 9-30-80, 6-26-83, Formerly 5C-4.02, Amended 4-17-89, 1-19-95, \_\_\_\_\_.

5C-4.003 Swine.

(1) OCVI Required.

(a) All breeding Swine for exhibition must be accompanied by an OCVI dated not more than 90 days prior to presentation for exhibition and must be accompanied by evidence of completion of the test requirements or certifications listed in subsection 5C-4.003(2), F.A.C.

(b) Swine imported for exhibition must be accompanied by an OCVI dated not more than 30 days prior to presentation for exhibition.

(2) Tests or Certification Required for Breeding Swine.

(a) Brucellosis.

1. All breeding Swine over six (6) months of age or older entered for exhibition, excluding barrows and gilts in market classes, must originate from a Validated Brucellosis-Free Herd, as defined in Rule 5C-6.008, F.A.C., or must be recorded negative to an official brucellosis test for brucellosis within 30 days prior to of the date of the exhibition, or

2. Originate from a Validated Brucellosis-Free Swine herd as defined in 9 CFR § 78.1, or

3. Originate from a Commercial Production Swine Herd as defined in subsection 5C-4.0015(4), F.A.C. When validated, the validated herd number must be on the OCVI.

(b) ~~Pseudorabies. All breeding and pet swine over six (6) months of age or older entered for exhibition, excluding barrows and gilts in market classes, must originate from a Qualified Pseudorabies Free Herd as defined in subsection 5C-21.005(2), F.A.C., or be negative to an official pseudorabies test for pseudorabies within 30 days prior to the date of exhibition, or~~

1. Originate from a Qualified Pseudorabies-Free Herd as defined in 9 CFR § 85, or When qualified, the qualified herd number must be recorded on the OCVI.

2. Originate from an Approved Commercial Production Swine Herd.

(3) Exemptions. Swine for exhibition as "market class" swine are exempt from the OCVI requirement provided that all swine in the class go directly to slaughter following the exhibition.

(4)(3) Isolation. Breeding swine returning to the farm from exhibitions must be isolated from other swine at least 30 days before being returned to the herd. Breeding swine for exhibition must be maintained in isolation between exhibitions or move directly between exhibitions.

(4) Materials. 9 CFR § 78 (2004) and § 85 (2004) are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History—Amended 3-21-64, 6-20-68, 1-1-71, 3-1-72, Formerly 5C-4.03, Amended 4-17-89, 1-19-95,\_\_\_\_\_.

5C-4.004 Poultry, Domestic Fowl and Ratites.

(1) OCVI Required. An OCVI is required for domestic fowl and ratites for movement into Florida, but not specifically for exhibition. However, domestic fowl and ratites presented for exhibition without an OCVI, must be inspected as provided in subsection 5C-4.0017(4), F.A.C.

(2) Test or Certification Required. All domestic fowl and ratites entered for exhibition must originate from Pullorum-Typhoid Clean flocks or hatcheries, as provided defined in 9 CFR § 145 (2004) and § 147 (2004) Rule 5C-16.008, F.A.C., or have a negative pullorum-typhoid test within 90 days prior to exhibition.

(3) Materials. 9 CFR § 145 (2004) and § 147 (2004) are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History—Amended 4-20-67, 4-18-84, 4-4-85, Formerly 5C-4.04, Amended 6-21-87, 4-17-89, 1-19-95, 6-4-95,\_\_\_\_\_.

5C-4.005 Goats or Sheep.

(1) OCVI Required.

(a) Florida-origin gGoats or sheep presented for exhibition in Florida must be accompanied by an OCVI dated not more than 90 days prior to presentation.

(b) Goats or sheep imported into Florida for exhibition must be accompanied by an OCVI completed within 30 days prior to exhibition evidence of completion of the test requirements or certifications listed in subsection 5C-4.005(2), F.A.C.

(2) Identification. All goats or sheep entered for exhibition purposes must have an official individual identification in accordance with the National Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-066, June 1, 2005. Test or Certification Required.

(a) Tuberculosis. All goats over six months of age must have a negative tuberculin test within 90 days prior to exhibition or must originate from an Accredited Tuberculosis Free Herd, as defined in subsection 5C-7.016(1), F.A.C. When accredited, the accredited herd number must be recorded on the OCVI.

(b) Brucellosis. All goats over six months of age must be negative to a brucellosis test within 90 days prior to exhibition or must originate from a Certified Brucellosis Free Herd. A Certified Brucellosis Free Goat Herd is a herd which meets the requirements for a Certified Brucellosis Free Herd as set forth in Rule 5C-6.002, F.A.C. When certified, the certified herd number must be recorded on the OCVI.

(3) Tests or Certification Required.

(a) Tuberculosis Test. All dairy goats six (6) months of age or older imported for exhibition purposes must originate from an Accredited Tuberculosis-Free Herd, or have had a negative caudal fold tuberculosis test within 90 days prior to exhibition. When originating from accredited tuberculosis-free herds, the OCVI must show the accredited herd number and the date of the last herd accreditation test.

(b) Brucellosis Test. All dairy goats six (6) months of age or older imported for exhibition purposes must originate from a Certified Brucellosis-Free Herd, or have had a negative brucellosis test within 90 days prior to exhibition. When originating from a certified brucellosis-free herd, the OCVI must show the certified herd number and the date of the last herd certification test.

(c) Exemption From Test Requirements. There are no tuberculosis or brucellosis test requirements for meat type goats or Florida-origin dairy goats.

(4) Materials. National Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-066, June 1, 2005, is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(2)(a), 585.145(1), (2) FS. History—New 11-4-76, Formerly 5C-4.05, Amended 4-17-89, 1-19-95, 6-4-95, \_\_\_\_\_.

5C-4.008 Horses.

(1) OCVI Required. An OCVI or an Equine Interstate Passport Card, DACS-09207, or equivalent of the state of origin, signed by the State Veterinarian or chief animal health official, is required for horses for movement into Florida, but not specifically for exhibition.

(2) Test or Certification Required. All horses presented for exhibition must be accompanied by evidence of a negative official test for equine infectious anemia (EIA), conducted within 12 months prior to exhibition. The negative EIA test must be reported on:

(a) An original owner’s copy of a VS Form 10-11;

(b) A laboratory certified copy of a VS form 10-11;

(c) A legible photocopy of a VS Form 10-11;

(d) An Equine Interstate Passport Card, DACS-09207, or equivalent of the state of origin signed by the State Veterinarian or chief animal health official; which may be applied for by submitting the Application for Equine Interstate Passport Card, DACS-09219 as provided in subsection 5C-4.008(4), F.A.C.;

(e) A Negative EIA Test Verification Card, DACS-09160, or equivalent of the state of origin signed by the State Veterinarian or chief animal health official; which may be applied for by submitting the Application for Negative EIA Test Verification Card, DACS-09206 as provided in subsection 5C-4.008(4), F.A.C., or

(f) A Department-approved electronic EIA form containing clear, color digital images.

(3)(a) Exemption to Test Requirement. A foal under six (6) months of age accompanied by its dam which has met the EIA test requirement is not required to have an EIA test.

(b) The EIA test must be reported on VS Form 10-11 (Apr 90) and must be:

1. An original copy of the official test record; or

2. A copy of the original test record, certified by the laboratory which conducted the test; or

3. A notarized copy of the original test record.

(c) A horse not accompanied by an EIA test record as required by subsection 5C-4.008(2), F.A.C. or which does not correspond to the description on VS Form 10-11 (Apr 90) will be prohibited from exhibition.

Equine Event Extension. An OCVI is required for horses moving interstate to equine events. Upon written request to the Division, the expiration of a Florida Equine OCVI will be extended for up to six months provided that:

(a) The purpose is solely to allow routine movement to equine events such as horse shows or meets, races, trail rides, or fox hunts in the states of Georgia and Alabama; and

1. Florida, Georgia, and Alabama have mutually agreed to recognize such extensions by the other two states; and

2. The Equine OCVI is complete; and

3. The new expiration date will not be later than the expiration date of the EIA test.

(b) This Equine Event Extension does not supersede or replace the requirements of any given event.

(c) A new Equine Event Extension will not be issued for an owner, owner's agent, or horse which has been the subject of an Equine Event Extension which the Department has cancelled.

(4)(d) Forms. VS Form 10-11 (APR April 90), and previous versions accepted by USDA, APHIS, VS, is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. Application for Equine Interstate Passport Card, DACS-09219 Rev. 10/05, Equine Interstate Passport Card, DACS-09207 Rev. 08/04, Application for Negative EIA Test Verification Card, DACS-09206 Rev. 10/05, and Negative EIA Test Verification Card, DACS-09160 Rev. 06/05, and previous versions, are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 S. Calhoun St., Tallahassee, FL 32399-0800.

Specific Authority 585.002(4), 585.08(2)(a), 585.145(1), (2) FS. Law Implemented 585.08(3), 585.145 FS. History—New 1-19-95, Amended 6-4-95, \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE:

RULE NO.:

Implementation of Florida’s System of School

Improvement and Accountability

6A-1.09981

PURPOSE AND EFFECT: The purpose of the rule development is to review the current school grading calculation to explore the inclusion of other criteria and/or make current criteria more rigorous. The effect will be a rule which continues to measure the progress of students and schools in the state.

SUBJECT AREA TO BE ADDRESSED: School improvement and accountability.

SPECIFIC AUTHORITY: 1001.02, 1008.22, 1008.33, 1008.345 FS.

LAW IMPLEMENTED: 1003.63, 1008.33, 1008.34, 1000.03, 1001.42, 1008.345, 1008.36 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: 2:00 p.m. – 4:00 p.m., January 5, 2006

PLACE: 325 West Gaines Street, Room 1703, Tallahassee, Florida 32399-0400

Requests for the rule development workshop should be addressed to Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Hanna Skandera, Deputy Commissioner for Accountability, Research and Measurement, Department 325 West Gaines Street, Room 814, Tallahassee, Florida 32399-0400.

THE PRELIMINARY TEXT OF THE PROPOSED RULE IS NOT AVAILABLE.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: General Requirements for Adult General Education Program  
 RULE NO.: 6A-6.014

PURPOSE AND EFFECT: The purpose of this rule development is to determine what changes to assessment instruments must be made to align with the National Reporting System for adult education. The effect will be updated assessment instruments to properly assess adult speakers of other languages.

SUBJECT AREA TO BE ADDRESSED: Assessment instruments for adult education students.

SPECIFIC AUTHORITY: 1011.80(10), 1008.405 FS.

LAW IMPLEMENTED: 1008.405 FS.

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

Requests for the rule development workshop should be addressed to Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Nancy Cordill, Director, Career and Technical Adult Education, Adult Migrant and Apprenticeship Programs, 325 West Gaines Street, Suite 714, Tallahassee, Florida, (850)245-9898

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Basic Skills Requirements for Postsecondary Career Certificate Education  
 RULE NO.: 6A-10.040

PURPOSE AND EFFECT: The purpose of this rule development is to align the rule with Section 1004.91, Florida Statutes, and to update the list of assessment instruments available. The effect will be a rule which is consistent with implementing statute.

SUBJECT AREA TO BE ADDRESSED: Assessment instruments for career education programs.

SPECIFIC AUTHORITY: 1004.91(1) FS.

LAW IMPLEMENTED: 1004.91 FS.

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

Requests for the rule development workshop should be addressed to Lynn Abbott, Agency Clerk, Department of Education, 325 West Gaines Street, Room 1514, Tallahassee, Florida 32399-0400.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Nancy Cordill, Director, Career and Technical Adult Education, Adult Migrant and Apprenticeship Programs, 325 West Gaines Street, Suite 714, Tallahassee, Florida, (850)245-9898

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

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE TITLE: Definition of Terms  
 RULE NO.: 6E-1.003

PURPOSE AND EFFECT: The purpose of the amendment is to add the terms "Address of Record" and "Costs" to the terms defined for use within the rules.

SUBJECT AREA TO BE ADDRESSED: Definitions.

SPECIFIC AUTHORITY: 1005.22(1)(e), 1005.31(1)(b) FS.

LAW IMPLEMENTED: 1005.22, 1005.31 FS.

A RULE DEVELOPMENT WORKSHOP WAS NOTICED ON NOVEMBER 18, 2005 IN THE FLORIDA ADMINISTRATIVE WEEKLY VOL. 31, NO. 46 TO BE HELD ON NOVEMBER 30, 2005.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 W. Gaines St., Suite 1414, Tallahassee, Florida 32399

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

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE TITLE: Approved Applicant Status  
 RULE NO.: 6E-2.001  
 PURPOSE AND EFFECT: This rule is being amended to clarify the criteria and process for approved applicant status.  
 SUBJECT AREA TO BE ADDRESSED: Approved applicant status.  
 SPECIFIC AUTHORITY: 1005.31(2), (3) FS.  
 LAW IMPLEMENTED: 1005.31(2), (3), (4) FS.  
 A RULE DEVELOPMENT WORKSHOP WAS NOTICED ON NOVEMBER 18, 2005 IN THE FLORIDA ADMINISTRATIVE WEEKLY VOL. 31, NO. 46 TO BE HELD ON NOVEMBER 30, 2005.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 W. Gaines St., Suite 1414, Tallahassee, Florida 32399  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

RULE TITLE: Institutional Licensure  
 RULE NO.: 6E-2.002  
 PURPOSE AND EFFECT: This rule is being amended to clarify the criteria and process for Institutional Licensure.  
 SUBJECT AREA TO BE ADDRESSED: Institutional Licensure.  
 SPECIFIC AUTHORITY: 1005.22(1)(e), 1005.31(2),(3) FS.  
 LAW IMPLEMENTED: 1005.22(1)(o), (2)(d), 1005.31, 1005.32, 1005.33 FS.  
 A RULE DEVELOPMENT WORKSHOP WAS NOTICED ON NOVEMBER 18, 2005 IN THE FLORIDA ADMINISTRATIVE WEEKLY VOL. 31, NO. 46 TO BE HELD ON NOVEMBER 30, 2005.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 W. Gaines St., Suite 1414, Tallahassee, Florida 32399  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF EDUCATION**

**Commission for Independent Education**

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

PURPOSE AND EFFECT: This rule is being amended to clarify Placement Improvement Plans and Retention Improvement Plans.  
 SUBJECT AREA TO BE ADDRESSED: Placement Improvement Plans and Retention Improvement Plans.  
 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.  
 A RULE DEVELOPMENT WORKSHOP WAS NOTICED ON NOVEMBER 18, 2005 IN THE FLORIDA ADMINISTRATIVE WEEKLY VOL. 31, NO. 46 TO BE HELD ON NOVEMBER 30, 2005.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 W. Gaines St., Suite 1414, Tallahassee, Florida 32399  
 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: This rule is being amended to add grounds for disciplinary action, add the exemption for the disciplinary process from the investigation to the 10 days after the finding of probable cause, add the range that can be imposed for an administrative fine, notify institutions of costs as well as the time limit for paying the administrative fine and costs. Additionally, the citation process will be added designating the violations to which a citation can be issued.  
 SUBJECT AREA TO BE ADDRESSED: Actions Against A Licensee: Penalties.  
 SPECIFIC AUTHORITY: 1005.32(7), 1005.31(1)(b), 1005.38(6), (8) FS.  
 LAW IMPLEMENTED: 1005.32(7), 1005.34(3), 1005.38 FS.  
 A RULE DEVELOPMENT WORKSHOP WAS NOTICED ON NOVEMBER 18, 2005 IN THE FLORIDA ADMINISTRATIVE WEEKLY VOL. 31, NO. 46 TO BE HELD ON NOVEMBER 30, 2005.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 W. Gaines St., Suite 1414, Tallahassee, Florida 32399  
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.



**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**

**South Florida Water Management District**

RULE TITLES:	RULE NOS.:
Definitions	40E-1.021
Publication of Notice of Agency Decision or Intended Agency Decision	40E-1.5095
Point of Entry Into Proceedings	40E-1.511
Application Procedures for Conceptual Approval, Individual and General Permits	40E-1.603
Publication and Requests for Notification of Permit Applications or Notices of Intent	40E-1.6058
Consideration of Intended Agency Decision on Permit Applications	40E-1.6065
Notification of Transfer of Interest in Real Property	40E-1.6105
Transfer of Environmental Resource, Surface Water Management, or Water Use Permit	40E-1.6107
Coordinated Agency Review Procedures for the Florida Keys Area of Critical State Concern	40E-1.615
Forms and Instructions	40E-1.659

**PURPOSE AND EFFECT:** The proposed amendments incorporate provisions to allow delivery and receipt of documents through electronic media.

**SUBJECT AREA TO BE ADDRESSED:** Rules currently providing for delivery and/or receipt of documents.

**SPECIFIC AUTHORITY:** 120.53, 120.53(1), 120.54(5), 218.075, 373.044, 373.113, 373.413, 373.4136, 380.051 FS.

**LAW IMPLEMENTED:** 120.53, 120.53(1), 120.54(5), 120.54(17), 120.57, 120.60, 120.60(3), 218.075, 373.083, 373.107, 373.109, 373.113, 373.116, 373.171, 373.229, 373.309, 373.413, 373.4135, 373.4136, 373.416, 373.417, 373.421, 373.422, 373.426, 373.429, 373.436, 380.051 FS.

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

**TIME AND DATE:** 2:00 p.m. – 4:00 p.m., January 6, 2006  
**PLACE:** South Florida Water Management District, Bill Storch Room, B-1 Building, 3301 Gun Club Road, West Palm Beach, Florida 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence

upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact the South Florida Water Management District Clerk's Office, (561)682-2087 at least two business days in advance to make appropriate arrangements.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Ronda Wise, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone (800)432-2045, extension 6500 or (561)682-6500 (internet: [rwise@sfwmd.gov](mailto:rwise@sfwmd.gov)).

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

40E-1.021 Definitions.

When used in this chapter, Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F.A.C.:

(1) “E-Permitting website” means the District’s web address for e-permitting at \_\_\_\_\_.

(2) “Electronic filing” means filing or submission of an Environmental Resource, Surface Water Management Permit or Consumptive Use Permit Application; Response to Request for Additional Information; or Request for Permit Transfer at the District's e-permitting website. Electronic filing is available to applicants who have executed Electronic Transaction Agreement Form No. \_\_\_\_\_ . Electronic filing is governed by the provisions of Chapter 668, F.S., and the Electronic Transaction Agreement. If the applicant or sender of electronic data inhibits the ability of the District to store or print the electronic data, it shall not be considered filed with or received by the District. Filings received by the District after 5:00 p.m. shall be deemed filed on the next regular business day.

(3) “Electronic mail” means an electronic or computer file that is transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. Electronic mail received after 5:00 p.m. shall be deemed received on the next regular business day.

(4) “Electronic record” means information that is stored in an electronic medium and is retrievable in a perceivable form, including public records as defined in Section 119.011, Florida Statutes.

(5) “Electronic signature” means an electronic sound, symbol, or process attached to an electronic record and executed or adopted by a person with the intent to sign the record.

(6) “Electronic Transaction Agreement” means Form No. \_\_\_\_\_, which is incorporated by reference in Rule 40E-1.659, F.A.C. The electronic transaction agreement is a legally

binding contract between the applicant and the District and evidences the applicant's acceptance of the terms and conditions of the agreement.

Specific Authority 373.044, 373.113 FS. Law Implemented 668.50 FS. History--New \_\_\_\_\_.

40E-1.5095 Publication of Notice of Agency Decision or Intended Agency Decision.

In cases where a project is determined to be of heightened public concern, or where there is the likelihood of a request for an administrative hearing, where the proposed activity is potentially harmful to the water resources of the District or contrary to the overall objectives of Chapter 373, F.S., as outlined in Section 373.016, F.S., or if objection(s) to the application has been received, the District shall publish, or require the permit applicant to publish notice of agency decision or intended agency decision in the Florida Administrative Weekly or newspapers of general circulation in the area affected by such decisions as required by Chapter 50, F.S., and shall post notice and send by regular United States mail ~~mail~~ or electronic mail copies of its notice to applicants and interested groups. Such publication may be used as evidence of constructive and sufficient notice.

Specific Authority 120.54(5), 373.413 FS. Law Implemented 120.54(5), 373.413 FS. History--New 7-2-98, Amended 6-12-00,\_\_\_\_\_.

40E-1.511 Point of Entry Into Proceedings.

Procedures regarding point of entry into proceedings determining substantial interests and mediation are set forth in the Uniform Rules of Procedure Rule 28-106.111, F.A.C. The following exceptions are applied in combination with the applicable Uniform Rules of Procedure.

(1)(a) "Receipt of written notice of agency decision" as set forth in Rule 28-106.111, F.A.C., means receipt of either written notice through regular United States mail, electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action.

(b) No change.

(2) through (3) No change.

Specific Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53(1), 120.54(17), 120.57, 373.113 FS. History--New 9-3-81, Amended 7-26-87, 5-11-93, 10-3-95, 7-2-98, 6-12-00,\_\_\_\_\_.

40E-1.603 Application Procedures for Conceptual Approval, Individual and General Permits.

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

(2) No change.

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

(e) Noticed general permits under Chapter 40E-400, F.A.C., may be utilized by the applicant 30 days after the District receives the notice of intent, unless a notice that the project does not qualify for the noticed general permit is sent by regular United States mail or electronic mail ~~mailed~~ by the District within 30 days, in accordance with Rule 40E-400.211,

F.A.C. If notice that the proposed project does not qualify for the noticed general permit is sent by regular United States mail or electronic mail ~~mailed~~ by the District to the applicant, the review process under subsection (1) shall be initiated or the applicant shall be required to apply for the appropriate permit if the requested activity is not covered by the noticed general permit rule.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.107, 373.109, 373.116, 373.229, 373.417, 373.421, 373.422 FS. History--New 9-3-81, Formerly 16K-1.08(1)-(8), Amended 7-1-86, 7-26-87, 11-21-89, 5-11-93, 10-3-95, 4-1-96, 7-2-98, 6-12-00,\_\_\_\_\_.

40E-1.6058 Publication and Requests for Notification of Permit Applications or Notices of Intent.

(1) ~~Written~~ Notice of Receipt of Permit Application or Notice of Intent.

(a) Persons who wish to be notified in writing or by electronic mail of any permit application or notice of intent which affects a designated geographic area shall notify the District in writing or by electronic mail and shall specify their area of interest by county. Requests must be renewed every 6 months. The District shall provide ~~written~~ notice in writing or by electronic mail of receipt of application or notice of intent to all persons who have filed in the preceding 6 months a written or electronic request for notification of any application or notice of intent affecting the designated geographic area in which the proposed activity is to occur.

~~(b) Notices of intent for general permits shall be posted in the District Service Center responsible for reviewing the notice of intent.~~

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

(3) No change.

(4) Persons who wish to be advised of the proposed agency action regarding a particular permit application shall file a written or electronic request for further notice within 14 days of receipt of the notice of application.

(5) The governing board may charge a subscription fee for information requested in accordance with this section to any person who has filed a written or electronic request for notification of any pending applications, pursuant to Rule 40E-1.125, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.53(1), 120.60(3) FS. History--New 10-3-95, Amended 7-2-98, 6-12-00,\_\_\_\_\_.

40E-1.6065 Consideration of Intended Agency Decision on Permit Applications.

(1) No change.

(2) The Governing Board shall consider the application for a conceptual approval, individual environmental resource, individual surface water management, or individual water use permit application at its next available regularly scheduled regulatory meeting following the mailing or electronic mailing

of notice of intended agency decision, unless an administrative hearing is requested and granted pursuant to Section 120.569, F.S.

(3) No change.

(4) Because the Governing Board may take a final agency action which materially differs from the noticed intended agency action, applicants and other interested persons should be prepared to defend their position regarding the permit application when it is considered by the Governing Board. If the Governing Board takes final agency action which materially differs from the intended agency decision, the District shall mail by regular United States mail or electronic mail a notice of the final agency action to all persons who were notified of the intended agency decision.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.107, 373.109, 373.116 FS. History–New 7-2-98, Amended 6-12-00, \_\_\_\_\_.

40E-1.6105 Notification of Transfer of Interest in Real Property.

Within 30 days of any transfer of interest or control of the real property at which any permitted facility, system, consumptive use, or activity is located, the permittee must notify the District, in writing, or electronically at the District's e-permitting website, of the transfer giving the name and address of the new owner or person in control and providing a copy of the instrument effectuating the transfer. Notification of a transfer shall not constitute a permit transfer pursuant to Rule 40E-1.6107, F.A.C.

Specific Authority 373.044, 373.113, FS. Law Implemented 373.083, 373.171, 373.309, 373.416, 373.426, 373.429, 373.436 FS. History–New 5-11-93, Amended \_\_\_\_\_.

40E-1.6107 Transfer of Environmental Resource, Surface Water Management, or Water Use Permit.

(1) To transfer an environmental resource, surface water management, or water use permit, the permittee, in addition to satisfying the applicable provisions in Rules 40E-2.351 and 40E-4.351, F.A.C., must provide information required in Rule 40E-1.6105, F.A.C., and file a together with a written statement from the proposed transferee in writing or at the District's e-permitting website that it has reviewed the District permit and project design and will be bound by all terms and conditions of the permit, including all compliance requirements, for the duration of the permit.

(2) through (4) No change.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 373.083, 373.171, 373.309, 373.416, 373.426, 373.429, 373.436 FS. History–New 5-11-93, Amended 10-3-95, \_\_\_\_\_.

40E-1.615 Coordinated Agency Review Procedures for the Florida Keys Area of Critical State Concern.

(1) No change.

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

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

(d) If the applicant waives the time limits required by Chapter 120 and Section 380.051, F.S., as set forth in Rule 9J-19.007, F.A.C., the District shall delay initiation of substantive review until ~~written~~ notice is received by electronic mail at the District's e-permitting website or in writing from the Permit Coordinator indicating that substantive review should begin, as provided in subsection 9J-19.007(3) (Coordination of Time for Sufficiency Review), F.A.C. If the applicant does not waive the time limits, the District shall begin substantive review when the Coordinated Review Application is complete.

(e) through (f) No change.

Specific Authority 373.044, 373.113, 380.051 FS. Law Implemented 380.051 FS. History–New 9-22-87, Amended 10-3-95, \_\_\_\_\_.

40E-1.659 Forms and Instructions.

(1) The following forms and instructions are hereby incorporated by reference into this chapter:

Form No.	Date	Title
0050A	7-89	Application to the South Florida Water Management District for a Permit for Utilization of District Works or Modification of Existing Permit Works of the District No.
0108	3-91	Application for Release of Mineral, Canal, and Road Reservations Reserved Under Chapters 6456, 6957, 7305, 9131, 14717 and 20658, Laws of Florida
0113	8-95	Surface Water Management Permit No.
0115	8-95	Surface Water Management Permit Modification No.
0119	8-95	Wetland Resource Permit No.
0122	4-93	Application to the South Florida Water Management District for Authority to Utilize Works or Land of the District
0123	4-95	Well Construction Permit Application
0124	11-90	Well Completion Report
0145	8-95	Environmental Resource Permit No.
0157	8-95	Environmental Resource Permit Modification No.
0188-QMQ	8-03	Quarterly Report of Withdrawals
0188-MDQ	8-03	Monthly Report of Daily Withdrawals
0188-QASR	8-03	Quarterly Report of Injections and Withdrawals for Aquifer Storage and Recovery (ASR) Wells]
0188-QMON	8-03	Quarterly Report of Monitoring Requirements

0188-QMQF	8-03	Quarterly Report of Withdrawals from Wells and Surface Water Pumps	0881B	9-03	Environmental Resource/Surface Water Management Permit Construction Completion Certification – For Projects Permitted Prior to October 3, 1995
0188-QCROP	8-03	Report of Planting and Harvest of Seasonal Crops			
0188-QBWDR	8-03	Quarterly Report of Bulk Water Delivered and Received	0889	9-04	Certification of Waiver of Permit Application Processing Fee
0195	6-91	Public Water Supply Well Information and Classification	0920	9-04	Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity
0196	10-89	Water Well Inspection Scheduling Card			
0299	1-90	Water Use Permit No.			
0444	8-95	Application for a Standard General Permit for Incidental Site Activities	0941	8-95	Environmental Resource Standard/Noticed General Permit No.
0445	8-03	Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G)	0942	8-95	Surface Water Management General Permit No.
0483	9-04	Request for Environmental Resource, Surface Water Management, Water Use or Wetland Resource Permit Transfer	0960	9-04	Environmental Resource/Surface Water Management Permit Construction Commencement Notice
0645-W01	8-03	Water Use Permit Application (RC-1A, RC-1W, RC-1G)	0961	9-04	Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction
0645-G60	8-03	Table A Descriptions of Wells			
0645-G61-1	8-03	Table B Description of Surface Water Pumps			
0645-G61-2	8-03	Table C Description of Culverts	0970	8-95	Applicant Transmittal Form for Requested Additional Information
0645-G65	8-03	Table D Crop Information			
0645-G74	8-03	Table E Water Received From or Distributed to Other Entities	0971	8-95	Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit
0645-G69	8-03	Table F Past Water Use & Table G Projected Water Use			
0645-G70	8-03	Table H Projected Water Use (For Per Capita Greater than 200 GPD)	0972	8-95	Petition for a Formal Wetland and Surface Water Determination
0645-G71	8-03	Table I Water Treatment Method and Losses	0973	8-95	Above Ground Impoundment Inspection/Certification Report
0645-G72	8-03	Table J Aquifer Storage and Recovery	0974	8-95	Notice of Intent to Construct a Minor Silvicultural System
0645-G73	8-03	Table K Water Supply System Interconnections	0980	8-95	Notice of Intent to Use a Noticed General Environmental Resource Permit
0779	5-92	Guidance for Preparing an Application for a “Works of the District” Permit in the Everglades/Application for a Works of the District Permit	1019	9-04	Mitigation Bank Performance Bond to Demonstrate Construction/Implementation Financial Assurance
0830	4-94	Special Use Application and License	1020	9-04	Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance
0881A	9-03	Environmental Resource/Surface Water Management Permit Construction Completion Certification			

1021	9-04	Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance
1022	9-04	Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance
1023	9-04	Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance
1024	9-04	Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance
1105	6-02	Performance Bond to Demonstrate Financial Assurance
1106	6-02	Irrevocable Letter of Credit to Demonstrate Financial Assurance
1109	8-03	Water Use General Permit
_____	_____	<u>Electronic Transaction Agreement</u>

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

Specific Authority 120.53, 218.075, 373.044, 373.113, 373.4136, FS. Law Implemented 120.53, 218.075, 373.113, 373.4135, 373.4136, FS. History—New 9-3-81, Amended 12-1-82, 3-9-83, Formerly 16K-1.90, Amended 7-26-87, 11-21-89, 1-4-93, Formerly 40E-1.901, Amended 5-11-93, 4-20-94, 10-3-95, 6-26-02, 8-14-02, 8-31-03, 9-16-03, 9-20-04,\_\_\_\_\_.

**ELECTRONIC TRANSACTION AGREEMENT**

By creating this account for the electronic submission of permit applications and compliance data, you agree to the following terms and conditions for conducting such electronic transactions. By creating an account, you are not required to conduct future transactions electronically. If you do not agree with the following terms and conditions, then you will need to apply for a permit by paper and physically submit responses to requests for additional information and compliance data.

**a. Payment Required Upfront**

Electronic payment is required at the time of submittal of the electronic permit application. Electronic payment shall be made by electronic transfer of funds, Visa or Mastercard. The electronic application shall not be deemed received by the District until the electronic payment is received.

**b. Required Information**

All required fields of the application must be filled in to submit an electronic permit application or compliance data.

**c. Receipt of Application or Compliance Data**

An electronic transaction will not be completed until the electronic permit application or compliance data is received by the District in a manner capable of being stored and printed by the District. If you inhibit the ability of the District to store or print the electronic application or compliance data or if there is an error in its transmission, then the submittal will not be

considered to have been received by the District. Upon submittal, the District will send you a submittal confirmation number. The District recommends that you keep the submittal confirmation number until you receive a receipt of application. Upon the District’s successful receipt of the electronic application or compliance data, the District will send you a receipt with a summary of the information received by the District (including the permit application number where appropriate). The District recommends that you keep the receipt for future communications with the District.

**d. District’s Business Hours**

The District’s regular business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, Submittals received after the District’s regular business hours will be deemed received on the District’s next regular business day.

**e. Errors in Submittals**

By electing to submit a permit application or compliance data electronically, you are responsible for any delay, disruption, or interruption of the electronic signals and readability of the document, and accept the full risk that the District may not receive the submittal or may receive the submittal with errors.

You are responsible for preventing and correcting all errors in your submittal. Please note that both before and after submitting an application, response to request for additional information, compliance data, or other submittal, you will have an opportunity to review a summary of the information and data. After receiving the submittal confirmation, the District strongly recommends that you print out and review the summary of your submittal to ensure that all the submitted information and data is correct. You must promptly notify the District of all errors in your submittal.

**f. Change in Address Information**

You are responsible for promptly notifying the District of any changes to your telephone number, mailing address, or e-mail address. If you fail to notify the District of changes in your telephone number or addresses and the District is unable to contact you, then your permit application may become subject to denial.

**g. E-mail Correspondence Regarding Application or Compliance Data**

Any e-mail correspondence regarding your application, including, but not limited to, submittal of additional information, must be addressed to: \_\_\_\_\_. Any e-mail correspondence regarding your submittal of compliance data must be addressed to: \_\_\_\_\_.

**h. Electronic Signature**

Electronic signatures are legally valid and recognized by law. Typing in your name in the signature block and clicking “submit” is the electronic equivalent of signing your name. When more than one signature is required on an application, the person electronically submitting the application must attach a PDF of the scanned application form page containing the other required handwritten signatures.

i. Public Records

Anything submitted or saved on the District's E-Permitting website is subject to the public records law in Chapter 119, Florida Statutes, and therefore made available to the public and media upon request.

j. Acceptance

The terms and conditions of the permit application comprise a legally binding contract between the Applicant and the District. If you do not accept these terms, you may not submit or file electronically.

To accept these terms, simply click "I accept." Clicking "I accept" is the equivalent of signing your name.

I accept

I do not accept

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLES:	RULE NOS.:
Definitions	40E-4.021
Content of Permit Applications	40E-4.101
Duration of Permits	40E-4.321
General Conditions	40E-4.381

PURPOSE AND EFFECT: The proposed amendments incorporate provisions to allow delivery and receipt of documents through electronic media.

SUBJECT AREA TO BE ADDRESSED: Rules currently providing for delivery and/or receipt of documents.

SPECIFIC AUTHORITY: 373.016, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.016, 373.044, 373.113, 373.116, 373.171, 373.229, 373.413, 373.416, 373.419, 373.421, 373.422, 373.426, 668.50 FS.

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

TIME AND DATE: 2:00 p.m. – 4:00 p.m., January 6, 2006

PLACE: South Florida Water Management District, Bill Storch Room, B-1 Building, 3301 Gun Club Road, West Palm Beach, Florida 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact the South Florida Water Management District Clerk's Office, at (561) 682-2087 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ronda Wise, South Florida Water Management District, Post Office Box 24680,

West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6500 or (561)682-6500 (internet: rwise@sfwmd.gov).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-4.021 Definitions.

When used in this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(1) through (11) No change.

(12) "E-Permitting website" means the District's web address for e-permitting at \_\_\_\_\_.

(13) "Electronic filing" means filing or submission of an Environmental Resource, Surface Water Management Permit or Consumptive Use Permit Application; Response to Request for Additional Information; or Request for Permit Transfer at the District's e-permitting website. Electronic filing is available to applicants who have executed Electronic Transaction Agreement Form No. \_\_\_\_\_. Electronic filing is governed by the provisions of Chapter 668, F.S., and the Electronic Transaction Agreement. If the applicant or sender of electronic data inhibits the ability of the District to store or print the electronic data, it shall not be considered filed with or received by the District. Filings received by the District after 5:00 p.m. shall be deemed filed on the next regular business day.

(14) "Electronic mail" means an electronic or computer file that is transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. Electronic mail received after 5:00 p.m. shall be deemed received on the next regular business day.

(15) "Electronic record" means information that is stored in an electronic medium and is retrievable in a perceivable form, including public records as defined in Section 119.011, Florida Statutes.

(16) "Electronic signature" means an electronic sound, symbol, or process attached to an electronic record and executed or adopted by a person with the intent to sign the record.

(17) "Electronic Transaction Agreement" means Form No. \_\_\_\_\_, which is incorporated by reference in Rule 40E-1.659, F.A.C. The electronic transaction agreement is a legally binding contract between the applicant and the District and evidences the applicant's acceptance of the terms and conditions of the agreement.

(18)(12) "Embedment" means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the State by minimal displacement of

bottom material and without the creation of a trench, or trough, through the use of techniques such as plowing-in, weighing -in, or non-trenching jets.

~~(19)(13)~~ “Endangered species” means those animal species which are listed as endangered in Rule 68A-27.003, F.A.C., and those plant species which are listed in 50 Code of Federal Regulations 17.12, when such plants are found to be located in a wetland or other surface water.

~~(20)(14)~~ “Entrenchment” means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the State by the creation of a defined trench, or trough, through the use of such devices as clamshells, dredges, trenching jets, or other devices which produce similar results.

~~(21)(15)~~ “Environmental resource permit” means a conceptual approval, individual or general permit for a surface water management system issued pursuant to Part IV, Chapter 373, F.S. Environmental resource permit also means a conceptual or individual permit for the establishment and operation of a mitigation bank.

~~(22)(16)~~ “Estuary” means a semi-enclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

~~(23)(17)~~ “Filling” means the deposition, by any means, of materials in surface waters or wetlands, as delineated by Section 373.4211, F.S.

~~(24)(18)~~ “General Permit” means a no notice, noticed or standard general environmental resource permit issued by District staff. However, staff recommendations for denial of noticed or standard general permit applications shall be considered by the Governing Board.

~~(25)(19)~~ “Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth’s surface and having a discernible shoreline.

~~(26)(20)~~ “Incidental site activities” means those certain site activities in uplands which may be conducted in conjunction with the work proposed in an environmental resource permit application such as: land clearing in uplands; minimal earthwork, lake construction; road subgrade construction; foundation construction; utility installation; fence installation; construction trailer installation; unconnected drainage facility construction; or other similar activities.

~~(27)(21)~~ “Individual Permit” means an environmental resource permit issued by the District Governing Board.

~~(28)(22)~~ “Isolated Wetland” means any wetland without a direct hydrologic connection to a lake, stream, estuary, or marine water.

~~(29)(23)~~ “Lagoon” means a naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier.

~~(30)(24)~~ “Listed Species” means those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C., and those plant species listed in 50 Code of Federal Regulations 17.12.

~~(31)(25)~~ “Maintenance” or “Repairs” means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance.

~~(32)(26)~~ “Operation Permit” means a permit issued by the District authorizing the operation and maintenance of a surface water management system in accordance with the terms and conditions of the permit.

~~(33)(27)~~ “Other Surface Waters” means surface waters as described and delineated pursuant to Rule 62-340.600, F.A.C., as ratified by Section 373.4211, F.S., other than wetlands.

~~(34)~~ “Posting” means placing notice on the District’s website or on one of the District’s official posting bulletin boards.

~~(35)(28)~~ “Riprap” means a sustaining wall made to reduce the force of waves and to protect the shore from erosion and consists of unconsolidated boulders, rocks, or clean concrete rubble with no exposed reinforcing rods or similar protrusions.

~~(36)(29)~~ “Species of Special Concern” means those animal species listed in Rule 68A-27.005, F.A.C.

~~(37)(30)~~ “State Water Quality Standards” means water quality standards adopted pursuant to Chapter 403, F.S.

~~(38)(31)~~ “Stormwater Management System” means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.

~~(39)(32)~~ “Surface Water Management Permit” means a permit issued pursuant to Chapter 40E-4 or 40E-40, F.A.C., prior to October 3, 1995, or that is grandfathered pursuant to Sections 373.414(11)-(16), F.S.

~~(40)(33)~~ “Surface Water Management System” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work or works, or any combination thereof. The terms “surface water management system” or “system” includes areas of dredging or filling as defined by Section 373.403(13) and (14), F.S., respectively.

~~(41)~~~~(34)~~ “Threatened Species” means those animal species listed in Rule 68A-27.004, F.A.C., and those plant species which are listed as threatened in 50 Code of Federal Regulations 17.12.

~~(42)~~~~(35)~~ “Total Land Area” means land holdings under common ownership which are contiguous or land holdings which are served by common surface water management facilities.

~~(43)~~~~(36)~~ “Vertical Seawall” is a seawall the waterward face of which is at a slope greater than 75 degrees to the horizontal. A seawall with sloping riprap covering the waterward face to the mean high water line shall not be considered a vertical seawall.

~~(44)~~~~(37)~~ “Watershed” means the land area which contributes to the flow of water into a receiving body of water.

~~(45)~~~~(38)~~ “Wetlands” means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological or reproductive adaptation, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The landward extent of wetlands is delineated pursuant to Rules 62-340.100 through 62-340.550, F.A.C., as ratified by Section 373.4211, F.S.

~~(46)~~~~(39)~~ “Wetland Resource Permit” means a permit issued pursuant to Chapter 62-312, F.A.C., prior to October 3, 1995, or that is grandfathered pursuant to Sections 373.414(11)-(16), F.S.

~~(47)~~~~(40)~~ “Works” means all artificial structures, including but not limited to ditches, canals, conduits, channels, culverts, pipes, and other construction that connects to, draws water from, drains water into, or is placed in or across the waters in the state.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.019, 373.403-443, 403.031, ~~668.50~~, 704.06 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-1.05(1), Amended 7-1-86, 4-20-94, 10-3-95, 4-1-96,\_\_\_\_\_.

40E-4.101 Content of Permit Applications.

(1) Applications for permits required by this chapter shall be filed with the District Service Center which will review the application as set forth in Rule 40E-1.6025, F.A.C., or filed electronically at the District's e-permitting website. The application shall contain:

(a) No change.

(b) One original and four copies of Joint Water Management District/Department of Environmental Protection/U.S. Army Corps of Engineers Environmental Resource Permit Application Form No. 0971 and five copies of drawings, calculations, environmental information, and engineering details sufficient to define the nature, scope, intent and functioning of the work proposed. This information must include at a minimum: flood protection, water quality, environmental impacts, proposed mitigation, water supply, and water conservation elements. Applicants who file an application electronically are not required to submit copies.

(2) through (4) No change.

Specific Authority 373.016, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.117, 373.413, 373.416, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 5-28-00, 4-14-03, 8-14-03,\_\_\_\_\_.

40E-4.321 Duration of Permits.

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

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made by electronic mail at the District's e-permitting website or in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. The Governing Board takes action on an application for extension of an individual permit, or

2. Staff takes action on an application for extension of a standard general permit.

(b) No changes

(3) through (7) No change.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00,\_\_\_\_\_.

40E-4.381 General Conditions.

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

(g) The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (f) above, has submitted a Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity Form No. 0920, incorporated by reference in Rule 40E-1.659, F.A.C.; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by



the District in accordance with Sections 9.0 and 10.0 of the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District—April 2003," accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Rule 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

(h) No change.

(i) For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District—April 2003," prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

(j) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District by electronic mail at the District's e-permitting website or in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

(k) through (o) No change.

(p) The permittee shall notify the District by electronic mail at the District's e-permitting website or in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

(q) through (r) No change.

(s) The permittee shall immediately notify the District by electronic mail at the District's e-permitting website or in writing of any previously submitted information that is later discovered to be inaccurate.

(2) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.116, 373.229, 373.413, 373.416, 373.421, 373.422, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(3), 16K-4.38, Amended 7-1-86, 4-20-94, 10-3-95, 1-7-97, 4-14-03, 9-16-03, \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Publications, Rules and Interagency

RULE NO.: 40E-4.091

PURPOSE AND EFFECT: To incorporate by reference an Agreement of the Department of Environmental Protection, the South Florida Water Management District and Miami-Dade County for delegation of a portion of the Environmental Resource Permitting Program. Miami-Dade County will be delegated authority to review and issue environmental resource permits in uplands and wetlands within the designated boundaries of delegation within the County. Authority for compliance and enforcement of these projects will also be delegated. Projects that are within CERP project boundaries, include sovereign submerged lands, and certain other activities will not be delegated to the County and will remain with the Department of Environmental Protection or the South Florida Water Management District.

SUBJECT AREA TO BE ADDRESSED: Agreement for Delegation of a Portion of the Environmental Resource Permitting Program Between the Florida Department of Environmental Protection, the South Florida Water Management District and Miami-Dade County.

SPECIFIC AUTHORITY: 373.044, 373.103(8), 373.113, 373.171, 373.413, 373.441 FS.

LAW IMPLEMENTED: 373.413, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441 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.

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact the South Florida Water Management District Clerk's Office, at (561)682-2087 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE AGREEMENT IS: Damon Meiers, P.E., Deputy Director, Environmental Resource Regulation Department, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6876 or (561) 682-6876 (internet: dmeiers@sfwmd.gov).

For procedural questions – Jan Sluth, Paralegal, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6299 or (561)682-6299, (internet: jsluth@sfwmd.gov).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-4.091 Publications, Rules and Interagency Agreements Incorporated by Reference.

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

(l) “Agreement for Delegation of a Portion of the Environmental Resource Permitting Program between the Florida Department of Environmental Protection, the South Florida Water Management District and Miami-Dade County ( \_\_\_\_\_ (date) )”.

(2) No change.

Specific Authority 373.044, 373.103(8), 373.113, 373.171, 373.413, 373.441 FS. Law Implemented 373.413, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 6-26-02, 4-6-03, 4-14-03, 9-16-03, 12-7-04, \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLES: RULE NOS.:

Processing Procedures for Noticed General Permits 40E-400.211

General Permit for Minor Activities 40E-400.475

PURPOSE AND EFFECT: The proposed amendments incorporate provisions to allow delivery and receipt of documents through electronic media.

SUBJECT AREA TO BE ADDRESSED: Rules currently providing for delivery and/or receipt of documents.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.118 FS.

LAW IMPLEMENTED: 373.109, 373.118, 373.413, 373.416, 373.426 FS.

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

TIME AND DATE: 2:00 p.m. – 4:00 p.m., January 6, 2006

PLACE: South Florida Water Management District, Bill Storch Room, B-1 Building, 3301 Gun Club Road, West Palm Beach, Florida 33406

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact the South Florida Water Management District Clerk's Office, at (561)682-2087 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Ronda Wise, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6500 or (561)682-6500 (internet: rwise@sfwmd.gov).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-400.211 Processing Procedures for Noticed General Permits.

(1) through (2) No change.

(3) If the District determines that the system does not qualify for a noticed general permit, the District shall so notify the applicant by regular United States mailing or electronic mail a notification within 30 days of receiving Form No. 0980. For the purposes of this subsection, District mailing or electronic mailing of notification shall be deemed to occur when the notice is sent electronically or is properly addressed, stamped, and deposited in the United States mail, and the postmark date shall be the date of mailing. When the District notifies the applicant that the system does not qualify for a noticed general permit due to an error or omission in the original notice to the District, the applicant shall have 60 days from the date of the notification to amend the notice to use the general permit and submit additional information to correct such error or omission. If the applicant amends the notice to use a noticed general permit and submits additional information correcting the error or omission within the 60 day time limit, no additional application fee will be required for the noticed general permit. If the District does not mail the notice informing the applicant that the system does not qualify for a noticed general permit within 30 days of receipt of the original notice to use the general permit, or receipt of amended notice to use the general permit, the applicant may conduct the activity authorized by the noticed general permit, except as otherwise provided in Rules 40E-400.475 and 40E-400.500, F.A.C.

(4) through (9) No change.

(10) At the time that the District has received the notice of intent, it will provide public notice that the notice of intent has been filed. Such public notice shall be sent by regular United States mail or electronic mail to those people who have previously filed a written or electronic request for notification

of pending applications within the affected area. The notice of intent for a noticed general permit shall be posted in the District Service Center responsible for reviewing the notice of intent.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426 FS. History--New 10-3-95, Amended 7-2-98, \_\_\_\_\_.

40E-400.475 General Permit for Minor Activities.

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

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

(3) Persons wishing to qualify for this general permit must file a written or electronic request at the District's e-permitting website, describing the proposed activities and providing plans and other information necessary to evaluate the potential for adverse impacts from the proposed activities. Any persons proposing a system described in paragraph (1)(f) above, shall submit tax parcel information or other documentation, sufficient to establish that the property is not part of a tract of land that was divided into two or more parcels after July 1, 1994. The District will provide ~~written~~ notification in writing or by electronic mail to the applicant whether the proposed activity qualifies for this general permit within 30 days of submittal of the written or electronic request. The proposed activity may not commence until the District has provided ~~written~~ notice in writing or by electronic mail that the applicant qualifies for the general permit.

(4) through (6) No change.

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Certificate of Need**

RULE TITLE: Definitions  
 RULE NO.: 59C-1.002

PURPOSE AND EFFECT: The agency is proposing to amend the rule that defines terms used in Rule 59C-1, F.A.C. due to recent statutory changes. A preliminary draft of the rule amendments is included in this Notice.

SUBJECT AREA TO BE ADDRESSED: Revisions to the rule that defines terms used in Chapter 59C-1, F.A.C.

SPECIFIC AUTHORITY: 408.034(6), 408.15(8) FS.

LAW IMPLEMENTED: 408.033(1)(a), 408.036(1)-(3), 408.037(1), 408.039(2), 651.118 FS

IF REQUESTED IN WRITING AND DEEMED NECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m. (EST), January 10, 2006

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, MS 28, Tallahassee, Florida 32308

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.002 Definitions.

(1) "Acute care bed" means a patient accommodation or space licensed by the agency pursuant to Chapter 395, Part I, F.S., and regulated under Rule 59C-1.038, F.A.C. Acute care beds exclude neonatal intensive care beds, comprehensive medical rehabilitation beds, beds used to provide mental health services as defined under subsection (29) of this section, ~~hospital inpatient psychiatric beds, hospital inpatient substance abuse beds,~~ beds in distinct part skilled nursing units, and beds in long term care hospitals licensed pursuant to Chapter 395, Part I, F.S.

(2) "Applicant" means any individual, partnership, corporation, or governmental entity which has filed an application for a ~~Certificate of Need~~ or Certificate of Need Exemption with the agency.

(3) "Application" means the forms supplied by the agency to an applicant which are to be completed in order to be eligible to be considered for a ~~Certificate of Need~~ in the case of comparative and expedited Certificate of Need reviews pursuant to Section 408.036(1) or (2), F.S. or a written communication requesting exemption to Certificate of Need review pursuant to Section 408.036(3), F.S. and Rule 59C-1.005, F.A.C.

(4) No change.

(5) "Batching cycle" means the grouping for comparative review of Certificate of Need applications submitted for beds, services or programs having a like Certificate of Need need methodology or licensing category in the same planning horizon and the same applicable service planning area, district, service area, or subdistrict.

(6) through (11) No change.

(12) "Comprehensive medical rehabilitation inpatient beds" means beds designated for the exclusive use for comprehensive medical rehabilitation inpatient services regulated under Rule 59C-1.005 and Rule 59C-1.039, F.A.C.

(13) "Conversion from one type of health care facility to another" means the reclassification of one licensed facility type to another licensed facility type, including reclassification from a ~~general acute care hospital to a long term care hospital or specialty hospital, or from a long term care hospital or specialty hospital to a general acute care hospital,~~ or from a general acute care hospital to a long term care hospital or specialty hospital provided the specialty hospital is not subject to Section 395.003(9), F.A.C.

(14) "Conversion of beds" means the reclassification of licensed beds from one category to another, for facilities licensed under Chapter 395, F.S., including conversion to or from acute care beds, neonatal intensive care beds, beds that provide hospital mental health services ~~inpatient psychiatric beds~~, comprehensive medical rehabilitation beds, ~~hospital inpatient substance abuse beds~~, distinct part skilled nursing facility beds, or beds in a long term care hospital; and, for facilities licensed under Chapter 400, Part I, F.S., conversion to or from sheltered beds and community beds.

(15) No change.

(16) "Established program" means a program for the provision of a Certificate of Need regulated institutional health service which has a valid Certificate of Need or Certificate of Need Exemption for the program or existed prior to the requirement for a Certificate of Need or Certificate of Need Exemption and has been continuously in operation, and has performed at least one institutional health service.

(17) "Exemption" means the Certificate of Need review process by which a proposal that would otherwise require a batched or expedited review ~~certificate of need review~~ may proceed without such a review ~~certificate of need~~.

(18) through (21) No change.

(22) "Hospital inpatient psychiatric beds" means beds designated for the exclusive use of hospital inpatient psychiatric services regulated under Rule 59C-1.005, F.A.C. and Rule 59C-1.040, F.A.C.

(23) "Hospital inpatient substance abuse beds" means beds designated for the exclusive use of hospital inpatient substance abuse services regulated under Rule 59C-1.005, F.A.C. and Rule 59C-1.041, F.A.C.

(24) through (27) No change.

(28) "Long term care hospital" means a hospital licensed under Chapter 395, ~~Part I, F.S.~~, which meets the requirements of 42 (C.F.R.) Part 412, subpart B, paragraph 412.23(e), Code of Federal Regulations (1994), and seeks exclusion from the acute care Medicare prospective payment system for inpatient hospital services.

(29) through (31) No change.

(32) "Nursing home" means a health care facility licensed under Chapter 400, Part II, F.S.

(33) through (35) No change.

(36) "Sheltered nursing home beds" mean nursing home beds configured into a nursing home facility licensed pursuant to Chapter 400, Part II, F.S., which are located within a continuing care retirement community certified under Chapter 651, F.S., for which a certificate of need has been issued as sheltered beds, and which are regulated under Rule 59C-1.037, F.A.C.

(37) "State Agency Action Report" means the single written document prepared by the agency after reviewing a Certificate of Need comparative or expedited application, or applications where more than 1 Certificate of Need application

is accepted by the agency in the same batching cycle, which sets forth the evaluation of the agency with respect to the application or applications.

(38) No change.

(39) "Substantial change in health services" means:

(a) The offering by a health care facility, through conversion of beds or other means, of a new institutional health service or a health service which has not been offered on a continuing basis by or on behalf of the health care facility within the 12-month period prior to the time such service would be offered, excluding obstetrical services; or

~~(b) The designation of acute care beds in a health care facility as beds regulated under Rule 59C-1.036, F.A.C., or the redesignation of such beds back to acute care beds; or~~

~~(b)(e)~~ The conversion of a general acute care or specialty hospital licensed under Chapter 395, ~~Part I, F.S.~~, to a long term care hospital.

(40) "Termination of an inpatient health service" means the cessation of a health service which currently requires a Certificate of Need or Certificate of Need Exemption. It does not include the temporary cessation of a service lasting 6 months or less.

<sup>1</sup>(41) "Tertiary health service" means a health service which, due to its high level of intensity, complexity, specialized or limited applicability, and cost, should be limited to, and concentrated in, a limited number of hospitals to ensure the quality, availability, and cost effectiveness of such service. Examples of such service include, but are not limited to, pediatric cardiac catheterization, pediatric open heart surgery, organ transplantation, specialty burn units, neonatal intensive care units, comprehensive rehabilitation, and medical or surgical services which are experimental or developmental in nature to the extent that the provision of such services is not yet contemplated within the commonly accepted course of diagnosis or treatment for the condition addressed by a given service. The types of tertiary services to be regulated under the Certificate of Need Program in addition to those listed in Florida Statutes include:

(a) Heart transplantation;

(b) Kidney transplantation;

(c) Liver transplantation;

(d) Bone marrow transplantation;

(e) Lung transplantation;

(f) Pancreas and islet cells transplantation; and

(g) Heart/lung transplantation;

(h) Adult open heart surgery;

(i) Long term care hospitals, Neonatal and pediatric cardiac and vascular surgery; and

~~(j) Pediatric oncology and hematology. In order to determine whether services should be added or deleted, the listing shall be reviewed annually by the agency.~~

(42) through (43) No change.

Specific Authority 408.034(6)(5), 408.15(8) FS. Law Implemented 408.033(1)(a), 408.036(1), (2), (3), 408.037(1), 408.039(1), (2), 651.118 FS. History—New 1-1-77, Joint Administrative Procedures Committee Objection Filed See F.A.W. Vol. 3 No. 10, March 11, 1977, Amended 11-1-77, 9-1-78, 6-5-79, 4-25-80, 2-1-81, 3-31-82, 7-29-82, 12-23-82, Formerly 10-5.02, Amended 11-17-87, 12-5-90, 1-31-91, 1-1-92, Formerly 10-5.002, Amended 12-14-92, 2-27-94, 6-23-94, 10-18-95, 10-8-97, 12-12-00,\_\_\_\_\_.

<sup>1</sup>Note.— Health services not defined as Tertiary in (41) shall be reviewable pursuant to Section 408.0361(2), F.S.

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Certificate of Need

RULE TITLE:

Certificate of Need Penalties

RULE NO.:

59C-1.021

PURPOSE AND EFFECT: The agency is proposing to amend the rule that outlines assessment of administrative fines for noncompliance with conditions placed on a Certificate of Need (CON) or Certificate of Need Exemption. The amendment adds a formula to be used in calculating the dollar amount of the fine for noncompliance.

SUBJECT AREA TO BE ADDRESSED: Revisions the rule that to assessment of administrative fines for failure to comply with conditions placed on a Certificate of Need (CON) or Certificate of Need Exemption.

SPECIFIC AUTHORITY: 408.034(6), 408.15(8) FS.

LAW IMPLEMENTED: 408.040(1)(b),(1)(d), (2)(a), 408.061(6), 408.08(2), 408.044 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: 2:00 p.m. (EST), January 10, 2006

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, MS 28, Tallahassee, Florida 32308

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.021 Certificate of Need Penalties.

(1) through (2) No change.

(3) Penalties for Failure to Comply with Certificate of Need or Certificate of Need Exemption Conditions. The agency shall review the annual compliance report submitted by the health care providers who are licensed and operate the facilities or services and other pertinent data to assess compliance with certificate of need or certificate of need exemption conditions. Providers who are not in compliance with certificate of need or certificate of need exemption conditions may be subject to a fine pursuant to paragraph 408.040(1)(d), Florida Statutes shall be fined. Failure to report

compliance with any condition upon which the issuance of the certificate of need or certificate of need exemption was predicated constitutes noncompliance. For community nursing homes or hospital-based skilled nursing units certified as such by Medicare, the first compliance report on the status of conditions must be submitted 30 calendar days following the eighteenth month of operation or the first month where an 85 percent occupancy is achieved, whichever comes first. The schedule of fines is as follows:

(a) Facilities failing to comply with any conditions or failing to provide the certificate of need office with a report on its compliance with conditions set forth on the certificate of need or certificate of need exemption, will be assessed a fine, not to exceed \$1,000 per failure per day. In assessing the penalty the agency shall take into account the degree of noncompliance. Fines for non-compliance with an indigent care condition may be assessed using the following formula unless the provider profited from that non-compliance in an amount that exceeded the fine amount calculated for any given reporting year:

CAGP = the service condition agreed to by certificate of need or certificate of need exemption holder

ACTP = the actual percentage of service provided by the certificate of need or the certificate of need exemption holder during the reporting year

FAMT = dollar amount of the fine

FAMT = \$365,000 x (CAGP – ACTP) / CAGP

Indigent care includes charity care and Medicaid. Charity care is defined, for purposes of condition compliance, as the portion of the facility charges reported to the Agency for Health Care Administration for which there is no compensation, other than restricted or unrestricted revenues provided to a facility by local governments or tax districts regardless of the method of payment, for care provided to a patient whose family income for the twelve months preceding the determination is less than or equal to 200 percent of the federal poverty level unless the amount of charges due from the patient exceed 25 percent of the annual family income. However, in no case shall the facility charges for a patient whose family income exceed four times the federal poverty level for a family of four be considered charity. Medicaid patient days is defined, for purposes of condition compliance, as the patient days reimbursed by Medicaid.

(b) A provider who profited from its non-compliance in an amount that exceeds the fine amount calculated under the formula in paragraph (3)(a) of this rule may be assessed the fine calculated in paragraph (3)(a) plus the profit derived from non-compliance but the total fine shall not exceed \$365,000.

(c) Mitigating factors to be considered before assessing a fine may include but are not limited to the following:

1. The CON or CON exemption holder's history of condition compliance.

2. The CON or CON exemption holder’s overall indigent care service.

3 The CON or CON exemption holder’s level of indigent care relative to all other similar providers in the relevant planning area.

4. The conditioned facility showing an operating loss or negative total margin on its most recent audited financial statement.

(3)(b) renumbered (d) No change.

(4) No change.

Specific Authority 408.15(8), 408.034(6)(5) FS. Law Implemented 408.040(1)(b), (d), (2)(a), 408.061(6), 408.08(2), 408.044 FS. History—New 7-25-89. Amended 12-13-04, Formerly 10-5.021, Amended \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Certificate of Need**

RULE TITLE: Hospice Programs  
RULE NO.: 59C-1.0355

PURPOSE AND EFFECT: The agency intends to amend the rule used in certificate of need (CON) review of proposals to establish hospice programs. The proposed rule amendments amends projects subject to review, the definitions used in the current rule, the hospice service areas, the review criteria, and the hospice utilization reporting requirements. A preliminary draft of the rule is included in this Notice.

SUBJECT AREA TO BE ADDRESSED: Definitions used in the hospice rule, the review criteria, and hospice utilization reporting.

SPECIFIC AUTHORITY: 408.15(8), 408.034(6) FS.

LAW IMPLEMENTED: 408.034(3), 408.036(1)(b)(d)(e), 408.043(2) FS.

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

TIME AND DATE: 2:00 p.m. (EST), January 11, 2006

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Rommel Bain, Certificate of Need, 2727 Mahan Drive, Building 1, Tallahassee, Florida 32308

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59C-1.0355 Hospice Programs

(1) Agency Intent. This rule implements the provisions of subsection 408.034(3), paragraphs 408.036(1) (d) and (e), and subsection 408.043(2), Florida Statutes. It is the intent of the agency to ensure the availability of hospice programs as defined in this rule to all persons requesting and eligible for hospice services, regardless of ability to pay. This rule regulates the establishment of new hospice programs and; the construction of freestanding inpatient hospice facilities as defined in this rule, and a change in licensed bed capacity of a

freestanding inpatient hospice facility. A separate certificate of need application shall be submitted for each service area defined in this rule. Projects for new hospice programs will not be comparatively reviewed with projects for free standing inpatient hospice facilities.

(2) Definitions.

(a) “Admission.” Consistent with Section 400.6095(2), Florida Statutes, a person is considered admitted to a hospice following a physician’s diagnosis and prognosis of a terminal illness and upon the person’s expressed request and informed consent. For the purposes of utilization reporting, a person may be counted as an admission one time. Any readmission may not be counted by the same hospice program.

(a) through (c) renumbered (b) through (d) No change.

~~(e)(4)~~ “Fixed Need Pool.” The fixed need pool defined in Rule subsection 59C-1.002(20), Florida Administrative Code. The agency shall publish a fixed need pool for hospice programs twice a year.

~~(f)(e)~~ “Freestanding Inpatient Hospice Facility.” For purposes of this rule, a facility that houses inpatient beds licensed exclusively to the hospice ~~program~~ but does not house any inpatient beds licensed to a hospital or nursing home.

(g) “Hospice.” A corporation eligible for licensure as a hospice consistent with the provisions in Chapter 400, Part VI, Florida Statutes. Hospices are licensed to serve a specified county or group of counties, and may provide hospice programs in one or more of the service areas defined in this rule. A hospice licensed to serve any county in a service area may serve all other counties in that area without further certificate of need approval.

~~(h)(f)~~ “Hospice Program.” A program provided by a hospice in a service area defined in this rule ~~described in subsections 400.601(2), 400.602(5), 400.609, and 400.6095(1), Florida Statutes, that provides a continuum of palliative and supportive care for the terminally ill patient and his family.~~ As provided in Section 400.609, Florida Statutes, a hospice program includes a continuum of palliative and supportive care for the terminally ill patient and their family. Hospice programs ~~services~~ must be available 24 hours a day, 7 days a week, and must be available to all terminally ill persons and their families within the service area, and available without regard to age, gender, national origin, sexual orientation, disability, diagnosis, cost of therapy, ability to pay, or life circumstances.

~~(i)(g)~~ “Inpatient Bed.” Inpatient beds located in a freestanding inpatient hospice facility, a hospital, or a nursing home and available for hospice inpatient care. Inpatient beds located in a freestanding inpatient hospice facility are licensed to the hospice. Inpatient hospice beds in a hospital are licensed to the hospital, and remain licensed as acute care beds; inpatient hospice beds in a nursing home are licensed to the nursing home, and remain licensed as skilled nursing beds.

~~(h)~~ “Local Health Council.” The council referenced in Section 408.033(1), Florida Statutes.

(j) “New Patient.” A patient admitted to a hospice program for the first time.

(2)(i) renumbered (k) No change.

~~(l)(j)~~ “Residential Facility.” For purposes of this rule, a facility operated by a licensed hospice program to provide a residence for hospice patients, as defined in Section 400.601~~(5)(4)~~, F.S. A residential facility is not subject to regulation under this rule. Provided, however, that a proposal to convert such a residence to a freestanding inpatient hospice facility is subject to regulation under this rule.

~~(m)(k)~~ “Service Area.” The geographic area consisting of a specified county or counties, as follows:

1. Service Area 1 consists of Escambia, Okaloosa, Santa Rosa, and Walton Counties.
2. Service Area 2A consists of Bay, Calhoun, Gulf, Holmes, Jackson, and Washington Counties.
3. Service Area 2B consists of Franklin, Gadsden, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties.
4. Service Area 3A consists of ~~Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, and Lafayette, Levy, Putnam, Suwannee, and Union~~ Counties.
5. Service Area 3B consists of Marion County.
6. Service Area 3C consists of Citrus County.
7. Service Area 3D consists of Hernando County.
8. Service Area 3E consists of Lake and Sumter Counties.
9. Service Area 3F consists of Alachua, Bradford, Dixie, Gilchrist, Lafayette, Levy, and Union Counties.
10. Service Area 3G consists of Putnam County.

(k)9. through 27. renumbered (m)11. through 29. No change.

(n) “Service Area of Residence.” The service area in which the patient is located at the time of hospice admission.

~~(o)(j)~~ “Terminally Ill.” As defined in subsection 400.601~~(10)(9)~~, Florida Statutes, terminally ill refers to a medical prognosis that a patient's life expectancy is 1 year or less if the illness runs its normal course.

(3) General Provisions.

(a) Quality of Care. Hospices programs shall comply with the standards for program licensure described in Chapter 400, Part VI, Florida Statutes, and Chapter 59A-2, Florida Administrative Code. Applicants proposing to establish a new hospice program shall demonstrate how they will meet the standards.

(b) Conformance with Statutory Review Criteria. A certificate of need for the establishment of a new hospice program, or construction of a freestanding inpatient hospice facility, ~~or change in licensed bed capacity of a freestanding inpatient hospice facility,~~ shall not be approved unless the applicant meets the applicable review criteria in sections 408.035 and 408.043(2), F.S., and the standards and need determination criteria set forth in this rule. Notification to the

agency of a change in licensed bed capacity of a freestanding inpatient hospice facility is required under Section 480.036(5), F.S. Applications to establish a new hospice program shall not be approved in the absence of a numeric need indicated by the formula in paragraph (4)(a) of this rule, unless other criteria in this rule and in Sections 408.035 and 408.043(2), F.S., outweigh the lack of a numeric need.

(4) Criteria for Determination of Need for a New Hospice Program.

(a) Numeric Need for a New Hospice Program. Numeric need for an additional hospice program for a service area is demonstrated if the projected number of unserved patients who would elect a hospice program is 350 or greater. The net need for a new hospice program in a service area is calculated as follows:

$$(HPH) - (HP) > 350$$

where:

(HPH) is the projected number of patients electing a hospice program in the service area during the 12 month period beginning at the planning horizon. (HPH) is the sum of (U65C x P1) + (65C x P2) + (U65NC x P3) + (65NC x P4)

where:

U65C is the projected number of service area resident cancer deaths under age 65, and P1 is the projected proportion of U65C electing a hospice program.

65C is the projected number of service area resident cancer deaths age 65 and over, and P2 is the projected proportion of 65C electing a hospice program.

U65NC is the projected number of service area resident deaths under age 65 from all causes except cancer, and P3 is the projected proportion of U65NC electing a hospice program.

65NC is the projected number of service area resident deaths age 65 and over from all causes except cancer, and P4 is the projected proportion of 65NC electing a hospice program.

The projections of U65C, 65C, U65NC, and 65NC for a service area are calculated as follows:

$$U65C = (u65c/CT) \times PT$$

$$65C = (65c/CT) \times PT$$

$$U65NC = (u65nc/CT) \times PT$$

$$65NC = (65nc/CT) \times PT$$

where:

u65c, 65c, u65nc, and 65nc are the service area's current number of resident cancer deaths under age 65, cancer deaths age 65 and over, deaths under age 65 from all causes except cancer, and deaths age 65 and over from all causes except cancer.

CT is the service area's current total of resident deaths, excluding deaths with age unknown, and is the sum of u65c, 65c, u65nc, and 65nc.

PT is the service area's projected total of resident deaths for the 12-month period beginning at the planning horizon.

“Current” deaths means the number of deaths during the most recent calendar year for which data are available from the Department of Health’s ~~and Rehabilitative Services~~’ Office of Vital Statistics at least 3 months prior to publication of the fixed need pool.

“Projected” deaths means the number derived by first calculating a 3-year average resident death rate, which is the sum of the service area resident deaths for the three most recent calendar years available from the Department of Health’s ~~and Rehabilitative Services~~’ Office of Vital Statistics at least 3 months prior to publication of the fixed need pool, divided by the sum of the July 1 estimates of the service area population for the same 3 years. The resulting average death rate is then multiplied by the projected total population for the service area at the mid-point of the 12-month period which begins with the applicable planning horizon. Population estimates for each year will be the most recent population estimates published by the Office of the Governor at least 3 months prior to publication of the fixed need pool.

The projected values of P1, P2, P3, and P4 are equal to current statewide proportions calculated as follows:

$$P1 = (Hu65c/Tu65c)$$

$$P2 = (H65c/T65c)$$

$$P3 = (Hu65nc/Tu65nc)$$

$$P4 = (H65nc/T65nc)$$

where:

Hu65c, H65c, Hu65nc, and H65nc are the current 12-month statewide total admissions of hospice cancer patients under age 65, hospice cancer patients age 65 and over, hospice patients under age 65 admitted with all other diagnoses, and hospice patients age 65 and over admitted with all other diagnoses. The current totals are derived from reports submitted under subsection (9) of this rule.

Tu65c, T65c, Tu65nc, and T65nc are the current 12-month statewide total resident deaths for the four categories used above.

(HP) is the number of patients admitted to hospice programs serving an area during the most recent 12-month period ending on June 30 or December 31. The number is derived from reports submitted under subsection ~~(8)~~(9) of this rule.

350 is the targeted minimum 12-month total of patients admitted to a hospice program.

(b) Licensed Hospice Programs. Regardless of numeric need shown under the formula in paragraph (4)(a), the agency shall not normally approve a new hospice program for a service area unless each hospice program serving that area has been licensed and operational for at least 2 years as of 3 weeks prior to publication of the fixed need pool.

(c) Approved Hospice Programs. Regardless of numeric need shown under the formula in paragraph (4)(a), the agency shall not normally approve another hospice program for any service area that has an approved hospice program that is not yet licensed.

(d) Approval Under Special Circumstances. In the absence of numeric need identified in paragraph (4)(a), and in context with other applicable statutory and rule criteria, the agency may approve an additional hospice program for a service area under the circumstances described in subparagraph 1. or 2.:

1. ~~An~~ the applicant ~~must~~ demonstrates that circumstances exist to justify the approval of a new hospice program for that service area. Evidence submitted by the applicant must document one or more of the following:

~~a.1.~~ That a specific terminally ill population is not being served in the service area.

~~b.2.~~ That a county or counties within the service area of a licensed hospice program are not being served.

~~c.3.~~ That there are persons referred to hospice programs who are not being admitted within 48 hours (excluding cases where a later admission date has been requested); ~~or—The applicant shall indicate the number of such persons.~~

2. The area is served by a single hospice program.

(e) Preferences for a New Hospice Program. The agency shall give preference to an applicant meeting one or more of the criteria specified in subparagraphs 1. through 5.:

1. Preference shall be given to an applicant who has a commitment to serve populations with unmet needs.

2. Preference shall be given to an applicant who proposes to provide services beyond the required core services listed in 42 CFR part 418, subpart D. ~~the inpatient care component of the hospice program through contractual arrangements with existing health care facilities, unless the applicant demonstrates a more cost-efficient alternative.~~

~~3. Preference shall be given to an applicant who has a commitment to serve patients who do not have primary caregivers at home; the homeless; and patients with AIDS.~~

(4)(e)4. renumbered 3. No change.

5. ~~Preference shall be given to an applicant who proposes to provide services that are not specifically covered by private insurance, Medicaid, or Medicare.~~

(5) Consistency with Plans. An applicant for a new hospice program shall provide evidence in the application that the proposal is consistent with the needs of the community ~~and other criteria contained in local health council plans and the State Health Plan~~. The application for a new hospice program shall include letters from health organizations, social services organizations, and other entities within the proposed service area that endorse the applicant's development of a hospice program. The applicant shall provide evidence of its ability to obtain contractual arrangements for inpatient services in acute care hospitals and/or skilled nursing facilities in the service area.

(6) Required Program Description. An applicant for a new hospice program shall provide a detailed program description in its certificate of need application, including:

(a) Proposed staffing, including use of volunteers.



(b) Expected sources of patient referrals.

(c) Projected number of admissions, by payer type, including Medicare, Medicaid, private insurance, self-pay, and indigent care patients for the first 2 years of operation.

(d) Projected number of admissions, by type of terminal illness, for the first 2 years of operation.

(e) Projected number of admissions by two age groups, under 65 and 65 or older, for the first 2 years of operation.

(f) Identification of the services that will be provided directly by hospice staff and volunteers and those that will be provided through contractual arrangements.

(g) Proposed arrangements for providing inpatient care (e.g., construction of a freestanding inpatient hospice facility; contractual arrangements for dedicated or renovated space in hospitals or nursing homes).

(h) Proposed number of inpatient beds that will be located in a freestanding inpatient hospice facility, in hospitals, and in nursing homes.

(i) Circumstances under which a patient would be admitted to an inpatient bed.

(j) Provisions for serving persons without primary caregivers at home and the homeless.

(k) Arrangements for the provision of bereavement services.

(l) Proposed community education activities concerning hospice programs.

(m) Fundraising activities.

(7) Construction of a Freestanding Inpatient Hospice Facility. The agency will not normally approve a proposal for construction of a freestanding inpatient hospice facility unless the applicant demonstrates that the freestanding facility will be more cost-efficient than contractual arrangements with existing hospitals or nursing homes in the service area. The applicant must be in conformance with applicable physical plant requirements for a freestanding inpatient hospice facility. In addition to demonstrating that the project is more cost-efficient than contracting for inpatient beds in a hospital or nursing home, the application shall include the following:

(a) A description of any advantages that the hospice program will achieve by constructing and operating its own inpatient beds.

(b) Existing contractual arrangements for inpatient care at hospitals and nursing homes; ~~or, in the case of a proposed new hospice program, contacts made with hospitals and nursing homes regarding contractual arrangements for inpatient care.~~

(c) Anticipated sources of funds for the construction.

(d) If the freestanding hospice will be located with another separately licensed healthcare facility such as a hospital, skilled nursing facility or assisted living facility, the applicant must include evidence of compliance with Rule 58A-2.025, Florida Administrative Code Physical Plant Requirement for an Inpatient Facility.

(e) Programs applying to establish additional freestanding inpatient hospice facilities within a service area shall demonstrate that adding beds to the existing inpatient hospice facility or facilities is not a more cost effective option.

~~(8) Change in Licensed Bed Capacity of a Freestanding Inpatient Hospice Facility. A hospice program proposing to change the licensed bed capacity of its freestanding inpatient hospice facility shall indicate in its application:~~

~~(a) The annual occupancy rate for the freestanding inpatient hospice facility beds for the most recent 12-month period preceding the application submission.~~

~~(b) The extent to which the number of contracted beds in hospitals and nursing homes will be modified as a result of the change in licensed capacity of the freestanding inpatient hospice facility.~~

~~(8)(9) Semi-Annual Utilization Reports. Each hospice program shall report utilization information to the agency or its designee on or before July 20 of each year and January 20 of the following year. A hospice program licensed to operate in multiple service areas shall provided a separate utilization report for each service area in which it is licensed. The July report shall indicate the number of new patients admitted during the 6-month period composed of the first and second quarters of the current year, the census on the first day of each month included in the report, and the number of patient days of care provided during the reporting period. The January report shall indicate the number of new patients admitted during the 6-month period composed of the third and fourth quarters of the prior year, the census on the first day of each month included in the report, and the number of patient days of care provided during the reporting period. Semi-annual utilization reports shall include the following information; detail shall also be provided.~~

~~(a) The number of new patients admitted by zip code for each quarter of the reporting period. For the number of new patients admitted by zip code, the following details shall be provided:~~

~~1. The quarterly 6-month total of admissions under age 65 and age 65 and over for the diagnosis listed; by type of diagnosis (e.g., cancer; AIDS);~~

~~a. Cancer;~~

~~b. Illness due to Acquired Immune Deficiency Syndrome (AIDS);~~

~~c. Chronic Obstructive Pulmonary Disease (COPD);~~

~~d. End-Stage Renal Disease (ESRD);~~

~~e. Congestive Heart Failure;~~

~~f. Other;~~

~~2. The number of admissions during each of the 6 months covered by the report, by zip code service area of residence.~~

~~(b) The census on the first day of each month of the reporting period and For the patient census on April 1 or October 1, as applicable, the number of patients receiving hospice care in:~~

- 1. A private home.
- 2. An adult congregate living facility.
- 3. A hospice residential unit.
- 4. A nursing home, in contracted skilled nursing beds.
- 5. A hospital, in contracted acute care beds.
- 6. A freestanding hospice facility or unit, in licensed hospice beds.

(c) The number of patient days for each quarter of the reporting period. For the number of patient days the following details shall be given:

- 1. Number of patient days by diagnosis list in subsection (8)(a)1. of this rule.
- 2. Number of patient days by location diagnosis list in subsection (8)(b) of this rule.

(d) Payer type for the reporting period. For the payer type the following details shall be given:

- 1. Number of patients by payer type:
  - a. Medicare
  - b. Medicaid
  - c. Third party insurance
  - d. Sliding fee scale
  - e. Self-pay
  - f. Charitable
  - g. Non-billable;

~~(9)(10)~~ Grandfathering Provisions. A hospice program licensed as of the effective date of this rule is authorized to continue to serve all counties in the service area where its principal place of business is located. A hospice program whose certificate of need or current license permits hospice services in a county or counties in an adjacent service area may continue to serve those adjacent counties. Any expansion to provide service to other counties in an adjacent service area is subject to regulation under this rule.

Specific Authority 408.15(8), 408.034~~(6)(3)~~ and ~~(5)~~ FS. Law Implemented 408.034(3), 408.035, 408.036(1)(c),(e),(f), 408.043(2), 400.606(4), (5) FS. History—New 4-17-95, Amended 7-30-95,\_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE TITLES:	RULE NOS.:
Definitions	61D-11.001
Prohibitions	61D-11.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to amend or repeal various sections of these rules to conform to a Final Order of the Division of Administrative Hearings declaring various sections of these rules invalid.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are definitions of terms and prohibitions contained in rules declared to be invalid.

SPECIFIC AUTHORITY: 550.0251(12), 849.086(4) FS.

LAW IMPLEMENTED: 849.086 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: 10:00 a.m. – 11:00 a.m., January 5, 2006  
PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Veterinary Medicine**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Fee Schedule	61G18-12

PURPOSE AND EFFECT: The Board proposes to review the rule chapter to determine whether a new fee rule is needed.

SUBJECT AREA TO BE ADDRESSED: The proposed new rule would set a fee for reinstatement of a null and void license.  
SPECIFIC AUTHORITY: 474.206, 455.219, 474.2065 FS.

LAW IMPLEMENTED: 474.2065 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AND ANNOUNCED 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**

**Building Code Administrators and Inspectors Board**

RULE TITLE: Disciplinary Guidelines  
 RULE NO.: 61G19-5.002

PURPOSE AND EFFECT: The Board proposes to review the rule to determine whether amendments are necessary in response to Chapter 2005-147, Laws of Florida, relating to building safety.

SUBJECT AREA TO BE ADDRESSED: The Board proposes to set forth new guidelines addressing violations and penalties relating to licensee requirements under the Florida Building Code.

SPECIFIC AUTHORITY: 455.227, 455.2273, 468.606 FS.

LAW IMPLEMENTED: 455.227, 455.2273, 468.607, 468.621, 468.629 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AND ANNOUNCED 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: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G19-5.002 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.569 and 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION	RECOMMENDED RANGE OF PENALTY
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(a) through (t) No change.

(u) Failing to lawfully execute the duties and responsibilities specified in this part and in Sections 553.73, 553.781, 553.79 and 553.791, F.S. and probation to denial; in the case of a licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to \$1,000.

(u)1. Unless otherwise specified in this rule, in the case of an applicant, the usual action of the Board shall be from licensure with an administrative fine

(u)2. After the first offense, a minimum of one year's probation to revocation or denial of licensure, and a fine of up to \$3,000 depending on the underlying offense and the magnitude of the violation.

(2)(v) Performing building code inspection services under s. 553.791, F.S., without satisfying the insurance requirements of said section.

(v)1. Unless otherwise specified in this rule, in the case of an applicant, the usual action of the Board shall be from licensure with an administrative fine and probation to denial; in the case of a licensee, the usual action of the Board shall be to impose a penalty from reprimand to probation and a fine of up to \$1,000.

(v)2. After the first offense, a minimum of one year's probation to revocation or denial of license, and a fine of up to \$3,000 depending on the underlying offense and the magnitude of the violation.

(3) through (5) No change.

Specific Authority 455.227, 455.2273, 468.606 FS. Law Implemented 455.227, 455.2273, 468.607, 468.621, 468.629 FS. History--New 5-23-94, Amended 8-14-96, 8-3-97, 11-2-00,\_\_\_\_\_.

**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."

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Fishwater Fish and Wildlife**

RULE TITLE: RULE NO.:

Use of Tracked Vehicles in the South Region 68A-11.005

PURPOSE AND EFFECT: The purposes and effects of the proposed rule development are to establish or revise procedures related to registration and inspection of tracked vehicles used in the South Region during the 2006 calendar year.

SUBJECT AREA TO BE ADDRESSED: Subject areas covered in the proposed rules include the requirements for tracked vehicles, their inspection, registration and transfer of registrations.

SPECIFIC AUTHORITY: Art. IV, Sec. 9, Florida Constitution; 372.021 FS.

LAW IMPLEMENTED: Art. IV, Sec. 9, Florida Constitution. IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED IN THIS PUBLICATION.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Col. Julie Jones, Division of Law Enforcement, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE PRELIMINARY TEXT OF THE RULE BEING DEVELOPED IS NOT AVAILABLE AT THIS TIME. FUTURE DRAFTS OF THE PROPOSED RULES MAY BE OBTAINED FROM: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLES: RULE NOS.:

Approval Procedures 690-144.002

Credit for Reinsurance 690-144.005

PURPOSE AND EFFECT: Update and change form numbers;

Updates and changes name of Bureau to Financial Oversight;

Adopts the NAIC model forms for 2005.

SUBJECT AREA TO BE ADDRESSED: Change in form numbers and adoption of NAIC model forms for 2005.

SPECIFIC AUTHORITY: 624.308, 624.610(14) FS.

LAW IMPLEMENTED: 624.307(1), (2), (3), (5), 624.316, 624.317, 624.318, 624.321, 624.324, 624.34, 624.401, 624.404, 624.407, 624.413, 624.424, 624.501(20)(c), 624.5091, 624.610, 628.051, 628.061, 628.801, 629.081 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., January 5, 2006  
PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Claude Mueller, Property & Casualty Financial Oversight, Office of Insurance Regulation, E-mail: claude.mueller@fldfs.com.

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 above.

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

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLE: RULE NO.:

Reasonable Degree of Competition 690-170.020

Criteria – Monroe County  
PURPOSE AND EFFECT: To establish criteria to be utilized by the Office of Insurance Regulation to determine whether a reasonable degree of competition exists for personal lines residential policies in Monroe County.

SUBJECT AREA TO BE ADDRESSED: Criteria for determining a reasonable degree of competition.

SPECIFIC AUTHORITY: 624.308(1), 627.351(6)(d)4. FS.

LAW IMPLEMENTED: 627.351(6)(d)4. 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: 2:00 p.m., December 28, 2005.  
PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Ray Spudeck, Business Development and Market Research, Office of Insurance Regulation, E-mail: ray.spudeck@fldfs.com.

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 above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT MAY BE OBTAINED FROM THE CONTACT PERSON WHEN AVAILABLE.

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Title Insurance Rates	69O-186.003
Premium Schedule Applicable to “Truth in Lending” and Other Endorsements	69O-186.005
Title Insurance Limited to Coverage of Real Property	69O-186.007

**PURPOSE AND EFFECT:** Chapter 2005-154, Section 4, Laws of Florida, requires the Office to approve the title insurance form and corresponding rate for the insurance described in Section 624.608(2), U.C.C. title insurance. The rule to be developed will be responsive to that statutory mandate. The Office is soliciting input from the industry and the public, as required by Chapter 120, F.S., to assist it in approving the form and setting the rate.

**SUBJECT AREA TO BE ADDRESSED:** U.C.C. Title Insurance.

**SPECIFIC AUTHORITY:** 624.308, 626.9611, 627.777, 627.782, 627.7825 FS.

**LAW IMPLEMENTED:** 624.307(1), 624.608, 626.9541(1)(h)3.a., 627.777, 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845, 697.04(1) 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., December 28, 2005

**PLACE:** Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Lee Roddenberry, Director, Property and Casualty Product Review, Office of Insurance Regulation, E-mail: lee.roddenberry@fldfs.com.

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 above.

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

**Section II  
Proposed Rules**

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

<b>RULE TITLE:</b>	<b>RULE NO.:</b>
Definitions	59G-1.010

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to update the following definitions, which are applicable to the Florida Medicaid program, in accordance with Sections 409.901 through 409.9201, F.S.: abuse; active treatment plan; administrative sanctions; audit; bribe, kickback, or illegal solicitations; erroneous payment; investigation; lock-in; monitor; overpayment; peer; peer review; peer review committee; and recipient. The effect will be to update the definitions in Rule 59G-1.010, F.A.C.

**SUMMARY:** The purpose of this rule amendment is to update the definitions, which are applicable to the Florida Medicaid program, in accordance with Sections 409.901 through 409.9201, F.S. The effect will be to update the definitions in Rule 59G-1.010, F.A.C.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of regulatory costs has been prepared.

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

**SPECIFIC AUTHORITY:** 409.919 FS.

**LAW IMPLEMENTED:** 409.901-.9201 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:** 2:00 p.m., Tuesday, January 3, 2006

**PLACE:** Agency for Health Care Administration, 2727 Mahan Blvd., Bldg. 3, Conference Room B, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Kelly Bennett, Medicaid Services, 2727 Mahan Drive, Mail Stop 6, Tallahassee, Florida 32308-5407, (850)921-1802

**THE FULL TEXT OF THE PROPOSED RULE IS:**

59G-1.010 Definitions.

The following definitions are applicable to all sections ~~Sections~~ of Chapter 59G, F.A.C., unless specifically stated otherwise in one of those sections ~~Sections~~. These definitions do not apply to any Agency for Health Care Administration (Agency), Medicaid program rules other than those in Chapter 59G, F.A.C.: