

(17) Form U-4 is incorporated by reference in subsection 69W-301.002(7), F.A.C.

Rulemaking Authority 517.1611(2) FS. Law Implemented 517.12, 517.161 FS. History—New _____.

REQUESTS FOR A RULE DEVELOPMENT WORKSHOP SHOULD BE SUBMITTED BY: September 4, 2009.

AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY

Office of Information Security

RULE NOS.:	RULE TITLES:
71A-1.001	Purpose; Definitions; Applicability; Exceptions
71A-1.002	Agency Information Security Program
71A-1.003	Agency Information Technology Management
71A-1.004	Agency Contracts, Providers, and Partners
71A-1.005	Confidential and Exempt Information
71A-1.006	Minimum Security Requirements for Information and Information Technology Resources

PURPOSE AND EFFECT: To consider development of a new rule chapter to be the Florida Information Technology Resource Security Policies and Standards to:

1. Document a framework of information security policies and practices for state agencies in order to safeguard the confidentiality, integrity, and availability of Florida government data and information technology resources.
2. Define minimum standards to be used by state agencies to categorize information and information technology resources based on the objectives of providing appropriate levels of information security according to risk levels.
3. Define minimum management, operational and technical security controls to be used by state agencies to secure information and information technology resources.

SUBJECT AREA TO BE ADDRESSED: Information Security Policies and Standards.

RULEMAKING AUTHORITY: 282.318(5) FS.

LAW IMPLEMENTED: 282.318(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jean-Maree Phillips at (850)922-7502

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

**Section II
Proposed Rules**

DEPARTMENT OF TRANSPORTATION

RULE NO.:	RULE TITLE:
14-91.007	Selection and Award Process

PURPOSE AND EFFECT: A new subsection (9) is added to Rule 14-91.007, F.A.C., to clarify the compensation of short-listed design-build firms.

SUMMARY: A new subsection(9) is being added to Rule 14-91.007, F.A.C.

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

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

RULEMAKING AUTHORITY: 334.044(2), 337.11(7)(b), 337.11(8) FS.

LAW IMPLEMENTED: 337.025, 337.11(7), 337.11(8) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-91.007 Selection and Award Process.

(1) through (8) No change.

(9) The Department shall pay short-listed design-build firms submitting fully responsive proposals that are not selected a lump sum amount, stipend, as determined by the solicitation in order to stimulate competition and for the work product contained in the firm's responsive proposals. The Department will not pay the selected design-build firm a stipend. An unselected short list design-build firm that submits a responsive proposal in response to and in accordance with the Department request for detailed proposals will receive a stipend in exchange for the work product contained in that proposal. The Department reserves the right to use any of the

concepts, ideas, technologies, techniques, methods, processes, and information that are contained within the proposals without any further compensation therefore.

(a) In order to receive the stipend, the unselected short listed design-build firms must enter into a contract with the Department immediately after short listing. The contract is required to document the terms and conditions for the stipend. The Department shall issue the stipend contract on the Department's Design/Build Stipend Agreement, Form No. 700-011-14, incorporated herein by reference.

(b) The Department's criteria to determine the stipend amount shall include the following: complexity of the project, technical expertise, time and resources required for the proposal, and value of work product contained in the technical proposal. The intent to compensate and the stipulated amount of the stipend will be set forth in the request for proposals package.

(c) A stipend is not intended to compensate the design-build firms for the total cost of preparing the proposal.

Rulemaking Specific Authority 334.044(2), 337.11(7)(b), 337.11(8) FS. Law Implemented 337.025, 337.11(7), 337.11(8) FS. History--New 3-13-88, Amended 6-13-90, 2-20-96, 9-3-96, 10-18-00, 5-3-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Brian Blanchard, Director, Office of Construction
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

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

PURPOSE AND EFFECT: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application Form and the updated form for the Florida Prepaid College Plan Master Covenant.

SUMMARY: This rule change is being made to update the Florida Prepaid College Plan and Florida College Investment Plan New Account Application and the Florida Prepaid College Plan Master Covenant.

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

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

RULEMAKING AUTHORITY: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98(1), FS.

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

DATE AND TIME: September 14, 2009, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: fax a written request for same to Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida at (850)488-3555. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.001 Application.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB ~~2009-10a~~ ~~2009-10~~, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1). The Florida Prepaid College Plan Program Master Covenant, Form No. FPCB ~~2009-02a~~ ~~2009-02~~, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History--New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-3-01, 10-9-01, 11-27-02, 10-1-03, 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07, 12-17-07, 11-18-08, 1-28-09, 4-5-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

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

PURPOSE AND EFFECT: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application.

SUMMARY: This rule change is being made to update the Florida Prepaid College Plan and Florida College Investment Plan New Account Application.

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

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

RULEMAKING AUTHORITY: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.981 FS.

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

DATE AND TIME: September 14, 2009, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: fax a written request for same to Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, FL 32308 at (850)488-3555. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

- 19B-16.002 Application for Participation in the Program.
- (1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2009-10a ~~2009-10~~, is hereby incorporated by reference. The form may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

(3) No change.

Rulemaking Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 11-27-02, Amended 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07 11-18-08, 1-28-09, 4-5-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NOS.: 40B-1.703, 40B-1.709
RULE TITLES: Procedures for Consideration of Permit Applications
Suspension, Revocation, and Modification of District Permits

PURPOSE AND EFFECT: The purpose of the proposed rule is to revise the above sections of Chapter 40B-1, F.A.C., so that they are consistent with changes being proposed to Chapter 40B-2, F.A.C.

SUMMARY: This proposed rule will revise existing rule language for consistency with Chapter 40B-2, F.A.C., to include a new type of water use permit – a general permit by rule. The proposed rule also revises permit suspension, revocation, and modification language for consistency with Chapter 120, Florida Statutes, and Rule 28-106.2015, F.A.C., of the Uniform Rules of Procedure.

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

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

RULEMAKING AUTHORITY: 373.044, 383.083, 373.113, 373.118, 373.171, 373.4141 FS.

LAW IMPLEMENTED: 120.53, 120.57, 120.59, 120.60, 373.084, 373.085, 373.086, 373.106, 373.116, 373.118, 373.119, 373.229, 373.313, 373.413, 373.416, 373.426, 373.429 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

40B-1.703 Procedures for Consideration of Permit Applications.

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

(d) Minor use permits by rule, as defined in Rule 40B-2.041, F.A.C., are a category of general permits for activities which have established standards and conditions for issuance of permits in district rules. A permit application is not required for any use that meets the requirements of Rule 40B-4.041, F.A.C., and is thereby considered to be an existing legal user of water.

(2) through (3) No change.

Rulemaking Specific Authority 373.044, 373.083, 373.113, 373.118, 373.171, 373.4141 FS. Law Implemented 120.57, 120.59, 120.60, 373.084, 373.085, 373.086, 373.106, 373.116, 373.118, 373.229, 373.313, 373.413, 373.416, 373.426 FS. History—New 6-16-88, Amended 12-22-92, 10-3-95, 1-29-01, 12-10-07,_____.

40B-1.709 Suspension, Revocation, and Modification of District Permits.

~~(1) The District may suspend or revoke a permit, in whole or in part, when it determines that the permittee or his agent has:~~

~~(a) Submitted false or inaccurate information on his application or operational report.~~

~~(b) Violated Chapter 373, Florida Statutes, and the rules promulgated thereunder, or any other provision of Florida law related to the operation of the District.~~

~~(c) Failed to comply with an administrative order issued pursuant to Section 373.119, Florida Statutes.~~

~~(d) Violated a condition of the permit.~~

~~(e) Failed to permit inspection of the subject property.~~

~~(2) The District may modify the terms and conditions of the permit when it determines that the modification is necessary to protect the public health, safety, and welfare, prevent a public or private nuisance, or when the continued utilization of the permit becomes inconsistent with the objective of the District. In such instances, due consideration shall be given to the extent to which the permittee has detrimentally relied upon the permit.~~

~~(1)(3) The Executive Director shall initiate proceedings to suspend, revoke, or modify a permit or other authorization by serving a written nNotice rights of Intention upon the permittee by certified mail or by service of process, or by newspaper~~

publication as provided in Section 120.65(5), F.S. The administrative complaint which shall include all of the information required by subsection 28-106.2015(4), F.A.C., of the Uniform Rules of Procedure state the nature of the intended action, and those findings of fact and conclusions of law which support the action.

~~(2)(4) The permittee may request an administrative hearing pursuant to Sections 120.569 and Section 120.57, Florida Statutes, by filing a petition for an administrative hearing with the District within 14 days of receipt of the District's complaint Notice of Intention. Petitions are deemed filed upon receipt by the District Clerk. The petition must contain all of the following information required by subsection 28-106.2015(5), F.A.C., of the Uniform Rules of Procedure.:~~

~~(a) Name and address of the party making the request;~~

~~(b) A reference to the case number of the Notice of Intention; and~~

~~(c) A statement as to whether the party is requesting a formal subsection 120.57(1), Florida Statutes, or informal subsection 120.57(2), Florida Statutes, hearing.~~

~~(d) When a formal hearing is requested, the permittee shall admit or deny each finding of fact contained in the Notice of Intention or state that the permittee is without knowledge as to the same, which shall be deemed to be a denial. The District may decline to hold a formal hearing when there are no disputed issues of material fact.~~

~~(3)(5) Failure to comply with the provisions of subsection (2)(4), shall constitute a waiver of the right to a Section 120.69 or Section 120.57, Florida Statutes, administrative hearing. In such event, the administrative complaint shall become a final order of the District and all findings of fact and conclusions of law contained therein in the Notice of Intention shall be deemed uncontested and true in any further judicial or administrative proceedings.~~

~~(4)(6) The Board shall consider any timely filed the Notice of Intention for which a valid petition for a Sections 120.569 and 120.57, Florida Statutes, hearing has not been timely filed at the next available regulatory meeting following the expiration of the 14-day time period mentioned in subsection (2)(4). The permittee or other affected persons may state their objections to or comment in favor of the intended action, but the appearance shall not constitute grounds for an administrative appeal pursuant to Chapter 120, Florida Statutes.~~

~~(5)(7) In the case of an emergency, the District may take any action necessary to protect the public interest in accordance with Section 120.60(6), F.S. Executive Director may enter an order which suspends or revokes a permit, in whole or in part, or modifies the terms and conditions of the permit. The permittee shall take immediate whatever action is necessary to achieve cause immediate compliance with the~~

emergency order, but shall have the right to request an of administrative hearing in accordance with ~~appeal~~, subject to the provisions of subsections ~~(2)(4)~~ through ~~(4)(7)~~ above.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 120.53(1)(b), (c), 120.60(2), 373.119, 373.429 FS. History—New 9-15-81, Repromulgated 3-17-88, Amended 12-21-88,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2009

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 9, 2008 and July 2, 2009

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NOS.:	RULE TITLES:
40B-2.011	Policy and Purpose
40B-2.021	Definitions
40B-2.025	Processing of Water Use Permit Applications
40B-2.041	Permits Required
40B-2.051	Exemptions
40B-2.101	Content of Application
40B-2.201	Permit Fees
40B-2.301	Conditions for Issuance of Permits
40B-2.311	Competing Applications
40B-2.321	Duration of Permits
40B-2.331	Modification of Permits
40B-2.341	Revocation of Permits
40B-2.351	Transfer of Permits
40B-2.361	Renewal of Permits
40B-2.381	Limiting Conditions
40B-2.441	Temporary Water Use Permits
40B-2.451	Emergency Authorization for Withdrawal or Diversion
40B-2.501	Classification of Permits
40B-2.751	Investigation, Enforcement, and Penalties
40B-2.781	Enforcement

PURPOSE AND EFFECT: The purpose of the proposed rule is to comprehensively update Chapter 40B-2, F.A.C., for consistency with Part II, Chapter 373, F.S., and current state water policy. The proposed rule also incorporates by reference a Water Use Permitting Guide.

The effect of the proposed rule is to provide a permitting program that results in more efficient water uses and specifically includes in Rule 40B-2.041, F.A.C., water

conservation measures for qualifying landscape irrigation uses that are consistent with the current requirements of the St. Johns River and Southwest Florida water management districts.

SUMMARY: Consistent with Chapter 373, F.S., the proposed rule substantively revises the definitions of terms used in Chapter 40B-2, F.A.C.; adds a section regarding the application process; creates a minor permit by rule for certain landscape irrigation activities; creates a new exemption by rule for groundwater remediation activities authorized by FDEP; revises the application information requirements; provides more detailed conditions for issuance and incorporates a permitting guide by reference; adds a permit duration provision; provides more detailed permit modification, revocation, transfer, and renewal provisions; revises the limiting conditions by incorporating by reference new standard and special limiting conditions; adds a section regarding temporary permits; provides more detailed water use classifications; and adds a section regarding enforcement.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: All persons, including local governments, proposing to use water for any purpose other than domestic household purposes will be required to comply with the proposed rule, however, the vast majority of persons will not be required to apply for a permit. Currently, there are 2,905 District-issued water use permits for existing legal uses. Some of the proposed amendments will eventually affect all 2,905 permittees, depending upon whether and when a permit renewal or modification is sought, as well as all new permit applicants. Other proposed changes will affect a smaller subset of permit applicants. For several of the proposed amendments, the District is not able to anticipate the number of persons likely to be affected. The proposed rule is not expected to result in any effect on state or local revenues. A number of the proposed amendments are non substantive in that they merely clarify existing rule language and, therefore, will not result in any increase or decrease in costs. These include changes to the Policy and Purpose, Permit Fees, Competing Applications, and Enforcement provisions. Other proposed amendments are substantive but will not result in any increase or decrease in costs. These include changes to the Definitions, Implementation, and Classification of Permits provisions. Due to a lack of existing data and the uniqueness of each permit application, the majority of the cost increases associated with the proposed rule are difficult to quantify. Therefore, in those instances, the costs have been qualitatively assessed in terms of whether it is a minor, moderate, or major increase. Proposed amendments to the Processing of Water Use Applications, Permits Required, and Modification of Permits provisions are expected to result in minor to moderate cost savings to the District and permit applicants. Proposed amendments to the Exemptions, Duration of Permits, Transfer of Permits, and Temporary Water Use Permits provisions are expected to result in minor cost increases to the District and permit

applicants. Proposed amendments to the Content of Application, Conditions for Issuance, Modification of Permits, Revocation of Permits, and Limiting Conditions provisions are expected to result in moderate cost increases for the District and minor to major cost increases for permit applicants. In the case of permit applicants, most of these costs are transactional costs, as defined in Section 120.541, F.S. The impact of the proposed rule will be the same on small businesses and small cities and counties as it will be for any other similarly situated water user or permit applicant.

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

RULEMAKING AUTHORITY: 120.54(5), 373.044, 373.083, 373.113, 373.116, 373.118, 373.119, 373.129, 373.136, 373.171, 373.219(2) FS.

LAW IMPLEMENTED: 120.60, 373.016, 373.019, 373.023, 373.042, 373.044, 373.0421, 373.083, 373.103, 373.109, 373.116, 373.117, 373.1175, 373.118, 373.129, 373.136, 373.216, 373.219, 373.223, 373.226, 373.227, 373.229, 373.232, 373.233, 373.236, 373.239, 373.243, 373.244, 373.246, 373.250 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

PERMITTING OF CONSUMPTIVE USES OF WATER USE

40B-2.011 Policy and Purpose.

(1) The Suwannee River Water Management District (District) regulates all water uses within its boundaries pursuant to the provisions of Chapter 373, F.S., Part II, Florida Statutes in a manner consistent with Chapter 62-40, F.A.C. State Water Policy, and with the overall policies, goals and objectives of the Suwannee River Water Management District and Chapter 373, Florida Statutes, Water Resources Act.

(2) This chapter implements the comprehensive water use permit system contemplated in Part II of Chapter 373, F.S.

Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.216 FS. Law Implemented 373.016, 373.023, 373.103(4), 373.203, 373.216, 373.219-249 FS. History—New 10-1-82, Amended 5-1-83, _____.

(Substantial rewording of Rule 40B-2.021 follows. See Florida Administrative Code for present text.)

40B-2.021 Definitions.

(1) “Aesthetic Use” means the use of water to augment fountains, waterfalls, and landscape lakes and ponds where such features are entirely ornamental or decorative.

(2) “Agricultural Use” means the use of water for crop production or the growing of farm products including vegetables, pasture, sod, or other cash crops, waste management or water or washing livestock. It includes soil flooding for pest control or soil preservation, and freeze protection and product washing.

(3) “Alternative Water Supplies” means saltwater; brackish surface and ground water; surface water captured primarily during wet-weather flows; sources made available through the addition of new storage capacity for surface or ground water; water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; storm water and any other water supply sources that is designated as non-traditional for a water supply planning region in the applicable regional water supply plan.

(4) “Aquaculture Use” means the use of water for the spawning, cultivating, harvesting, or marketing of fin-fish, shellfish, crustaceans, alligators, or other aquatic organisms that have economic value.

(5) “Augmentation Use” means the addition of water to artificially maintain the level of natural or artificial water bodies to either protect habitat for fish and wildlife or to provide for recreational uses.

(6) “Average Daily Rate of Withdrawal (ADR)” means the volume of water withdrawn during 365 consecutive days divided by 365, expressed in million gallons per day. The total volume may be calculated using historical data or projected based on the best available information.

(7) “Basin,” as used in the context of interbasin transfer, means those major river basin areas delineated on Map Series Number 72, published by the Florida Department of Natural Resources, Bureau of Geology, 1975, down to the accounting unit level of recognition. The best information available shall be used to precisely define basin boundaries.

(8) “Bottled Water” means all water which is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water, as defined in Section 500.03(1)(d), F.S.

(9) “Change in ownership” means transfer of title to real property from the permittee to another person.

(10) “Dewatering” means the removal of ground or surface water to allow construction, excavation, or backfill to be conducted in a dry condition.

(11) “Domestic Use” means the use of water for the individual personal household purposes of drinking, bathing, cooking, and sanitation. All other uses shall not be considered domestic.

(12) “Essential Use” means the use of water for fire-fighting purposes, health and medical purposes, and to satisfy Federal, State, or local public health, safety and welfare requirements.

(13) “Existing Legal Use” means all uses of water which are exempt under Chapter 373, F.S. or Chapter 40B-2, F.A.C., or which have a valid Chapter 373, Part II, F.S., permit.

(14) “Golf Course Use” means water used to irrigate an establishment designed and used for playing golf.

(15) “Landscape Irrigation Use” means outside watering or sprinkling of flora which are not in a commercial nursery or irrigated agricultural crop environment. This use class includes the watering of lawns, shrubs, private gardens, and trees in such diverse settings as residential landscaping, public or commercial recreation areas, or public and commercial business establishments.

(16) “Maximum Daily Rate of Withdrawal (MDR)” means the volume of water which can be withdrawn during a 24-hour period expressed in million gallons per day.

(17) “Minimum Flows and Levels” means the minimum flow for a watercourse or the minimum water level for ground water in an aquifer or the minimum water level for a surfacewater body is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. These levels have been established by the District for designated water bodies in Chapter 40B-8, F.A.C.

(18) “Nursery Use” means the use of water on-premises or in which nursery stock is grown, propagated, or held for sale, distribution, or sold or reshipped.

(19) “Other Outside Uses” means the use of water outdoors for the maintenance, cleaning, or washing of structures and mobile equipment including automobiles, and the washing of streets, driveways, sidewalks, and similar areas.

(20) “Power Production Use” means the use of water for steam generation, cooling, and replenishment of cooling reservoirs.

(21) “Public Interest” means those broad-based interests and concerns that are collectively shared by members of a community or residents of the District or the State.

(22) “Reasonable-beneficial Use” means the use of water in such quantity as is necessary for economic and efficient consumption for a purpose and in a manner which is both reasonable and consistent with the public interest.

(23) “Self-Supplied Residential Use” means any water use associated with the maintenance of a private residence.

(24) “Water” or “Waters in the State” means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

(25) “Water-Based Recreation Use” means water used for public and private swimming and wading pools including water slides. This term does not include pools specifically maintained to provide habitat for aquatic life.

(26) “Water Use” means any use of water which reduces the supply from which it is withdrawn or diverted.

(27) “Water Utility Use” means water used for withdrawal, treatment, transmission, and distribution by potable water systems. Water utility uses include community and non-community public water systems as defined in Chapter 62-550, Florida Administrative Code.

(28) All definitions in Section 373.019, F.S., shall apply to this chapter.

Rulemaking Specific Authority 120.54(4)(a), 373.044, 373.113, 373.171 FS. Law Implemented 120.53(4)(a), 373.019, 373.216 Part II FS. History—New 10-1-82, Amended 5-1-83,_____.

40B-2.025 Processing of Water Use Permit Applications.

Water use permit applications will be processed pursuant to Section 120.60, F.S. and Chapter 28-107, F.A.C., Part II of Chapter 373, F.S., and this chapter, and Part VII of Chapter 40B-1, F.A.C.

Rulemaking Authority 120.54(5), 373.044, 373.113, 373.171 FS. Law Implemented 120.60, 373.116, 373.229, 373.239 FS. History—New _____.

40B-2.041 Permits Required.

(1) A water use permit is required prior to the withdrawal or diversion of water for any ~~water consumptive~~ use except those expressly exempted by law or District rule.

(2) The District issues three types of water use permits: minor water use permit by rule, general water use permit, and individual water use permit.

Minor Water Use Permit by Rule

Form 40B-2.041A: Water Use Permit Status Form is hereby incorporated by reference. This form is available at District headquarters and on the District’s website.

(a) Except as provided in paragraphs (b), (c) and (d) below, a minor water use permit by rule is hereby granted for the following withdrawal classes of water uses as referenced in paragraphs 40B-2.501(3)(a) through (e), F.A.C.: ~~agriculture, aquacultural, augmentation, commercial, golf course, landscape irrigation, nursery, power production, water-based recreation, water utility uses, and other outside uses,~~ potable water supply, ~~and~~ augmentation and other uses, provided they meet the criteria specified below:

1. The average daily use is less than 100,000 gallons per day and the maximum daily use is less than 250,000 gallons per day.

2. The water will be either withdrawn from a single well with a uniform casing diameter of four inches or less or from a single withdrawal point with a pipe diameter of four inches or less.

3. The water is not transported across water management district boundaries.

4. All uses shall employ standard water conservation practices for the use type, such as the District's water conservation requirements in the Water Use Permitting Guide.

5. In the event of a water shortage as declared by the Board, the permittee shall adhere to all limitations on withdrawal or use ordered by the District pursuant to Chapter 40B-21, F.A.C.

6. The permittee shall allow District personnel access at reasonable times and at District expense, or with District equipment, to monitor withdrawal rates and volumes authorized by this permit.

(b) Except as provided in paragraphs (d) and (e) below, a minor permit by rule is hereby granted for landscape irrigation uses, provided they meet the criteria specified below:

1. The average daily use is less than 100,000 gallons per day and the maximum daily use is less than 250,000 gallons per day.

2. The source of water will be:

a. Withdrawn from a single groundwater well with a uniform casing diameter of four inches or less; or

b. Withdrawn from a single withdrawal point with a pipe diameter of four inches or less from surface waters; or

c. Withdrawn from a water utility.

d. Irrigation of new landscape is allowed on Sunday through Sunday at any time of day for the initial 30 days following installation and every other day for the following 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.

e. Irrigation of established landscape during Eastern Standard Time shall not occur more than 1 day per week and not between the hours of 10:00 a.m. and 4:00 p.m., at a rate of no more than 3/4 inch application on such irrigation days. Irrigation of established landscape during Daylight Savings Time shall not occur more than 2 days per week and not between the hours of 10:00 a.m. and 4:00 p.m., at a rate of no more application than 3/4 inch of water on such irrigation days. Any landscape irrigation uses that deviate from these criteria shall be required to obtain a permit in accordance with paragraphs (d) and (e) below.

(c)(b) Except as provided in paragraphs (d)(e) and (e)(d) below, a minor water use permit by rule is hereby granted for hydrostatic testing, provided:

1. The permittee provides written notice to the District at least ten (10) business days prior to each hydrostatic test. The written notice shall include a location map showing the pipeline to be tested, volume of water to be pumped, which shall be no greater than two million gallons, test duration and discharge point(s).

2. The water is not transported across water management district boundaries, by the pipeline being tested.

3. The permittee allows District personnel access at reasonable times and at District expense, or with District equipment, to monitor the test.

4. In the event of a water shortage as declared by the Board, the permittee adheres to all limitations on withdrawal or use ordered by the District pursuant to Chapter 40B-21, F.A.C.

5. In the event the use interferes with any existing legal use, the permittee shall obtain a general or individual water use permit.

General Water Use Permit.

(d)(e) Except as provided in paragraphs (a) and (b) above or (d) below, a general water use permit is required under the general permit procedures in paragraph 40B-1.703(1)(c), F.A.C., for all withdrawals or diversions which are less than ten million gallons per day maximum daily rate of withdrawal and less than one two million gallons per day average daily rate of withdrawal. Either the Executive Director, the Assistant Executive Director, or the Deputy Executive Director shall approve general permit applications under this paragraph without a hearing, except that any application recommended for denial shall be presented to the Governing Board for final agency action.

Individual Water Use Permit

(e)(d) An individual water use permit is required under the individual permit procedures in subsection 40B-1.703(2), F.A.C., for all withdrawals or diversions which exceed the limits established in paragraph 40B-2.041(2)(d)(4)(b), F.A.C., and for all bottled water uses regardless of the quantity of the withdrawal or diversion.

(3) In the event the proposed water use is associated with a project that requires a water well permit under Chapter 373, Part III, F.S., and District rules, the water well application will be deemed part of the water use application and processed as one application under the WUP procedures.

Rulemaking Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.103, 373.118, 373.219, 373.226, 373.244 FS. History—New 10-1-82, Amended 5-1-83, 6-16-88, 4-14-08,

40B-2.051 Exemptions.

(4) The following activities are exempt from the requirements of obtaining water use permits specified in Rule 40B-4.041, F.A.C. No permit is shall be required for:

(1)(a) Domestic Withdrawal for domestic uses as defined in subsection s: 373.019(6), F.S.; Florida Statutes;

(2)(b) Water Withdrawals of water used strictly for fire -fighting purposes;:-

(3)(e) Withdrawals made for dewatering activities for a total period not to exceed 180 consecutive days; and

~~(4)(d)~~ Withdrawals or diversions from artificial manmade retention structures when the withdrawal or diversion is needed to facilitate repair or maintenance of the retention structure; and

(5) Groundwater remediation authorized by the Florida Department of Environmental Protection pursuant to Chapter 403, F.S., and Title 62, F.A.C.

~~(e) Withdrawals for self-supplied residential uses.~~

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219 FS. History–New 10-1-82, Amended 5-1-83,_____.

(Substantial rewording of Rule 40B-2.101 follows. See Florida Administrative Code for present text.)

40B-2.101 Content of Application.

Applications for permits required by this chapter shall be filed with the District and shall contain the following:

(1) The information specified in Section 373.229, F.S.;

(2) The appropriate application form hereby incorporated by reference, available at District headquarters and on the District’s website, as follows:

(a) 40B-2.101A Application for Water Use Permit Agricultural Use (DATE);

(b) 40B-2.101B Application for Water Use Permit Augmentation/Other Use (DATE);

(c) 40B-2.101C Application for Water Use Permit Commercial Use (DATE); and

(d) 40B-2.101D Application for Water Use Permit Potable Water Supply Use (DATE).

(3) Best available technical and other supporting information sufficient to demonstrate that the use meets the conditions for issuance as specified in Section 373.223(1), F.S., and Rule 40B-2.301, F.A.C.

(4) Any supporting information or calculations required to be prepared by a profession regulated under Florida law shall bear the certification of such professional.

(5) The relevant information required by section 2.0, Water Use Permitting Guide.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented ~~420.60~~, 373.103, 373.116, 373.117, 373.1175, 373.219, 373.223, 373.229 FS. History–New 10-1-82, Amended _____.

40B-2.201 Permit Fees.

Fees for permits required by this chapter shall be as specified listed in Rule ~~s~~ 40B-1.706, F.A.C.

Rulemaking Specific Authority 373.044, ~~373.109~~ 373.113, 373.171 FS. Law Implemented 373.109 FS. History–New 10-1-82, Amended 5-1-83, 6-16-88,_____.

(Substantial rewording of Rule 40B-2.301 follows. See Florida Administrative Code for present text.)

40B-2.301 Conditions for Issuance of Permits.

(1) To obtain a water use permit, renewal, or modification pursuant to the provisions of this chapter, the applicant must provide reasonable assurances that the proposed use of water:

(a) Is a reasonable-beneficial use;

(b) Will not interfere with any presently existing legal use of water; and

(c) Is consistent with the public interest.

(2) Reasonable assurances must be provided that the following criteria are met in order for a use to be considered reasonable-beneficial:

(a) The use must be in such quantity and quality as is necessary for economic and efficient use.

(b) The use must be for a purpose that is both reasonable and consistent with the public interest.

(c) The source of the water must be capable of producing the requested amounts and appropriate quality of water.

(d) The use will not degrade the source from which it is withdrawn.

(e) The use will not cause or contribute to flooding.

(f) The use will not harm offsite land uses.

(g) The use will not cause harm to wetlands or other surface waters. Harm to wetlands or other surface waters must be mitigated after completion of reduction or elimination of harm in accordance with sections 3.1.8. through 3.1.10. of the Water Use Permitting Guide.

(h) The use will not cause or contribute to a violation of either minimum flows or levels.

(i) The use will not cause or contribute to a violation of state water quality standards in waters of the state as set forth in Chapters 62-301, 62-302, 62-520, and 62-550, F.A.C.

(j) The use is otherwise a reasonable-beneficial use as defined in Section 373.019(2), F.S., with consideration given to the factors set forth in subsection 62-40.410(2), F.A.C.

(k) A permit applicant’s proposed reasonable-beneficial use of an alternative water supply is presumed to be in the public interest.

(3) The standards and criteria set forth in the Water Use Permitting Guide, hereby published by reference and incorporated into this chapter, must be used to provide the reasonable assurances required in this section. A current version of this document is available on the District’s website and at its headquarters.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.219, 373.223, 373.236, 373.227, 373.229, 373.232, 373.236, 373.239, 373.250 FS. History–New 10-1-82, Amended 5-1-83,_____.

40B-2.311 Competing Applications.

Consideration of two or more competing applications shall be made in accordance with Section ~~s~~ 373.233 and subsection 373.236(4), F.S., Florida Statutes.

Rulemaking Specific Authority 373.044, 373.113, 373.171, ~~373.216~~
 FS. Law Implemented 373.233, 373.236 FS. History—New 10-1-82,
 Amended _____.

40B-2.321 Duration of Permits.

(1) Unless revoked, modified, or specifically identified as a limiting condition Pursuant to Section paragraph 40B-2.381(2)(d), the duration of permits shall be as provided in s. 373.236, Florida Statutes, the District shall issue permits with 20-year durations when the applicant requests a 20-year duration as part of its permit application and provides reasonable assurance that the District's conditions for permit issuance will be met for 20 years. The Legislature has established four exceptions to the 20-year maximum permit duration:

(a) The District may issue permits with up to a 50-year duration to a municipality or other governmental body, or to a public works or public service corporation, when required to provide for the retirement of bonds for the construction of waterworks or waste disposal facilities.

(b) The District shall issue permits with at least a 20-year duration when the permit is approved for the development of alternative water supplies.

(c) When a private, rural landowner makes an extraordinary contribution of land or construction funding to enable the expeditious implementation of an alternative water supply development project, the District may issue permits with up to a 50-year duration to a municipality, county, special district, regional water supply authority, multi-jurisdictional water supply entity, and public or private utilities. However, this provision does not apply to public or private utilities created for or by a private landowner after April 1, 2008. An applicant that requests a longer duration permit under this paragraph must have an agreement with the landowner to efficiently pursue an alternative public water supply development project identified in the District's regional water supply plan and meeting the water demands of both the applicant and the landowner. In addition, reasonable assurances must be provided that the District's conditions for issuance will be met for the duration of the permit. All such permits will require submittal of a compliance report every five years to maintain reasonable assurance that the conditions for permit issuance applicable at the time of review of the compliance report are met, following which the Governing Board may modify the permit as necessary to ensure that the use meets the conditions for issuance.

(d) The District shall issue permits with at least a 25-year duration when the permit is approved for a renewable energy generating facility or the cultivation of agricultural products on lands consisting of 1,000 acres or more for use in the production of renewable energy, as defined in Section 366.91(2)(d), F.S. The duration shall be based on the facility's anticipated life provided reasonable assurances are provided that the conditions for issuance will be met for that time period.

Otherwise, the permit will be issued for a shorter duration that reflects the longest period for which such reasonable assurances are provided.

(2) The Governing Board shall require five-year compliance reports for permits with 20-year or longer durations issued pursuant to paragraph (1)(a), (b) or (d) above when necessary to maintain reasonable assurance that the initial conditions for permit issuance will continue to be met for the 20-year or longer duration.

(3) All other permits shall have shorter durations based upon the period of time for which reasonable assurances are provided that the District's conditions for permit issuance are met.

(4) Additional information including the data requirements for the five-year compliance reports and special duration factors are contained in the District's Water Use Permitting Guide.

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

40B-2.331 Modification of Permits.

(1) A permittee may seek modification of any terms of any terms of an unexpired permit as follows and consistent with Rule 40B-1.709, F.A.C.:

(1) A permittee may apply for modification by letter to the District:

(a) If the proposed modification involves an increase of water use of less than 100,000 gallons per day provided that the type of permit required does not change, and such modification does not change the water use class; or

(b) if the proposed modification would result in a more efficient use of water than is possible under the existing permit; or

(c) if the proposed modification is for replacement of the source with an alternative water supply source, and

(d) If the expiration date of the permit is not changed and the location of the withdrawal is not changed pursuant to Section 373.239, Florida Statutes.

Either the Executive Director, the Assistant Executive Director, or the Deputy Executive Director shall approve qualifying proposed letter modifications under this subsection without a hearing, except that any request for modification recommended for denial shall be presented to the Governing Board for final agency action.

(2) All other permit modification applications shall comply with the requirements of Section 373.229, F.S., and shall contain all of the information required by the permit conditions and by Rule 40B-2.101, F.A.C. This shall include all permits that have been previously considered by the Governing Board for issuance.

(3) All requests to modify the terms of an unexpired permit shall be evaluated under the criteria of Rule 40B-2.301, F.A.C., and subject to the limiting conditions in Rule 40B-2.381, F.A.C.

(4) Following the District's review of a five-year compliance report, the Governing Board may modify the permit to ensure that the use meets the conditions for permit issuance.

(5) The Governing Board may issue an order to modify an existing use when conditions warrant such action in order to obtain the most beneficial use of the water resources of the state and to protect the public health, safety, and welfare and the interests of the water users affected. Such order must include a finding by the Governing Board that the use proposed to be modified is detrimental to other water users or to the water resources of the state.

~~(2) The Board may at any time during which a permit is valid modify a permit or delete or modify any limiting conditions on a permit to insure the continued reasonable and beneficial use of water. Such action may be taken only after proper notice to the permittee and notice of the proposed modification pursuant to Section 120.60(7), Florida Statutes.~~

~~Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.175, 373.216, 373.219, 373.246 FS. Law Implemented 120.60, 373.083, 373.171, 373.219, 373.223, 373.229, 373.239, 373.246 FS. History-New 10-1-82, Amended 5-1-83, _____.~~

40B-2.341 Revocation of Permits.

(1) The Governing Board may revoke a permit in whole or in part, permanently or for a lesser period, as provided in Sections 373.243(1), (2) and (3), F.S., for any material false statement, a willful violation of a permit condition, or a violation of any provision of this chapter.

(2) The Governing Board may revoke a permit permanently and in whole for non-use of the water for a period of two years or more, unless the permittee can prove that the non-use was due to extreme hardship caused by factors beyond the permittee's control, unless the permit is for a renewable energy generating facility or the cultivation of agricultural products on lands consisting of 1,000 acres or more for use in the production of renewable energy, as defined in subsection 366.91(2)(d), F.S., in which case the Governing Board may only revoke the permit for non-use of the water for a period of four or more years.

(3) The permittee may formally request, in writing, the Governing Board to revoke the permit permanently and in whole.

(4) The Governing Board may revoke a permit when it finds that the water use has ceased to be reasonable or beneficial as the use is detrimental to other water users or to the water resources of the state.

~~The Board may, at any time after notice and hearing, revoke a permit, in whole or in part, temporarily or permanently pursuant to the provisions of Sections 373.243 and 120.60(7), Florida Statutes.~~

~~Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.216 FS. Law Implemented 120.60, 373.171, 373.243 FS. History-New 10-1-82, Amended _____.~~

~~(Substantial rewording of Rule 40B-2.351 follows. See Florida Administrative Code for present text.)~~

~~40B-2.351 Transfer of Permits.~~

~~Form 40B-2.351A: Water Use Permit Transfer Form is hereby incorporated by reference. This form is available at District headquarters and on the District's website.~~

~~(1) Persons who wish to continue a permitted water use and who have acquired ownership of the land on which facilities are located, shall apply to the District within 90 days of acquiring ownership of such land, to transfer the permit. The applicant shall request such transfer by letter or submittal of the above-referenced form and shall reference the permit number in the letter. The District shall transfer the permit provided the previously permitted use remains the same.~~

~~(2) Notwithstanding the provisions of subsection (1) above, the District will notify the current owner in writing of the need to transfer the permit in order to continue the water use upon discovery of a change in property ownership. The owner must request permit transfer within 90 days of receipt of notification from the District. The permit will be transferred in accordance with this section.~~

~~(3) Persons who apply to transfer a permit under subsection (1) above and propose to change the source, use, or withdrawal quantity or source quality from those specified in the permit, must follow the procedures for modification in Rule 40B-2.331, F.A.C.~~

~~(4) All water use under a transferred permit must comply with the terms and conditions of that permit.~~

~~(5) A permit not transferred as prescribed herein shall be void without any further action by the District.~~

~~Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.239 FS. History-New 10-1-82, Amended _____.~~

~~40B-2.361 Renewal of Permits.~~

~~(1) An application Applications for permit renewal of permits may be made at any time within one year during the last year of the term of the expiration date, unless an unexpired permit and at such other time as the permittee can show good cause for earlier consideration. All permit renewal applications should be submitted to the District at least 90 days prior to the expiration date.~~

(2) All permit renewal applications shall be processed ~~treated~~ in the same manner as the original initial application and shall contain reasonable assurances that the proposed water use meets all of the conditions for issuance in Rule 40B-2.301, F.A.C., and the Water Use Permitting Guide.

(3) If an application and appropriate fee for renewal are not received either prior to or by the permit expiration date, the permit shall expire without any action by the District.

Rulemaking Specific Authority 373.044, 373.113, 373.171, ~~373.216~~ 373.219 FS. Law Implemented 373.219, 373.223, 373.229, 373.239 FS. History–New 10-1-82, Amended _____.

(Substantial rewording of Rule 40B-2.381 follows. See Florida Administrative Code for present text.)

40B-2.381 Limiting Conditions.

(1) The Governing Board may impose such reasonable conditions upon any water use permit as are necessary to assure that the proposed use of water is consistent with the overall objectives, policy, and purpose of the District and will not be harmful to the water resources of the District.

(2) Standard limiting conditions that will be placed on every water use permit are contained in section 3.6.1., Water Use Permitting Guide.

(3) Special limiting conditions for each water use class designated in Rule 40B-2.501, F.A.C., are contained in section 3.6.2., Water Use Permitting Guide.

Rulemaking Specific Authority 373.044, 373.113, 373.171, ~~373.216, 373.219~~ FS. Law Implemented 373.116, 373.216, 373.219, 373.223, 373.227, 373.236, 373.250 FS. History–New 10-1-82, Amended 5-1-83, _____.

40B-2.441 Temporary Water Use Permits.

(1) In order for a temporary permit to be necessary prior to final action on the application, there must exist a serious set of unforeseen or unforeseeable circumstances. Temporary permits expire on the day following the next regular meeting of the Governing Board.

(2) The Governing Board hereby delegates to the Executive Director the authority to issue temporary permits in accordance with Section 373.244, Florida Statutes, provided that:

- (a) An application for a water use permit is pending;
- (b) The proposed use appears reasonable-beneficial based on information submitted by the applicant at the time of the request for the temporary water use permit; and
- (c) A temporary permit is necessary prior to final action on the application.

(3) In accordance with Section 373.244, F.S., the Governing Board shall consider the following in determining whether to either extend, modify or terminate a temporary permit:

- (a) The water use appears reasonable-beneficial; or

(b) Adverse effects are occurring as a result of the water use; or

(c) The water use is no longer an emergency.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.223, 373.229, 373.244 FS. History–New _____.

40B-2.451 Emergency Authorization for Withdrawal or Diversion.

Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.216 FS. Law Implemented 120.60(5), 373.113, 373.219, 373.223, 373.229, 373.244 FS. History–New 10-1-82, Repealed _____.

40B-2.501 Classification of Permits.

Each permit ~~Permits~~ for water use ~~at the time of issuance~~ shall be assigned one or more ~~to a~~ classifications according to the source(s) of supply, method(s) of withdrawal extraction, and use(s) of the water. The classifications shall be as follows:

(1) Source of Supply Classes.

(a) Surface Water. Withdrawals from surfacewater bodies shall be classified by the basin or subbasin as specified by rule or the Board. ~~The Board may further classify the permit~~ by the specific surfacewater source.

(b) Ground Water. Withdrawals from groundwater aquifers shall be classified ~~as by the source aquifer~~ either Confined Floridan Aquifer, Unconfined Floridan Aquifer, Secondary Artesian Aquifer, or Surficial Water Table Aquifer as appropriate. ~~Further, the classification for withdrawals from the Floridan Aquifer shall include a reference to the confined or unconfined condition of the aquifer.~~

(c) Alternative Water Supplies.

(2) Method of Withdrawal Classes ~~Extraction.~~

- (a) Pumped
- (b) Diverted

~~Unless otherwise noted in the permit classification, the method of extraction shall be considered mechanical extraction by use of pumps.~~

(3) Water Use Classes and Subclasses. ~~Each water use permit shall be assigned to one or more of the following use classes or subclasses where appropriate:~~

- (a) Agriculture Essential Use
 - 1. Livestock
 - 2. Aquaculture
 - 3. Nursery
 - 4. Crops, Fruits, and Vegetables
 - 5. Forage, Pasture, and Sod
- (b) Commercial Self-supplied Residential Use
 - 1. Industrial
 - 2. Mining
 - 3. Power Plant
 - 4. Hydrostatic Testing
 - 5. Golf Course

- 6. Recreation
- 7. Landscape
- 8. Bottled Water
- 9. Other Commercial
- (c) Potable Water Supply Climate Control Use
- 1. Public Supply
- 2. Private Utility
- 3. Non-Community Water Supply
- (d) Augmentation Water Utility Use
- (e) Other Power Production Use
- (f) Commercial/Industrial Use
- (g) Landscape Irrigation Use
- (h) Golf Course Use
- (i) Agricultural Use
- (j) Nursery Use
- (k) Aquacultural Use
- (l) Water-based Recreation Use
- (m) Aesthetic Use
- (n) Other Outside Uses
- (o) Augmentation Use

These classifications do not establish either reasonable-beneficial use, or any priority ranking of source, withdrawal method, or water use classes.

Rulemaking Specific Authority 373.044, 373.113, 373.171, ~~373.219~~ FS. Law Implemented ~~373.216, 373.216, 373.036, 373.113, 373.246~~ FS. History–New 10-1-82, Amended 5-1-83, _____.

40B-2.751 Investigation, Enforcement, and Penalties.

Rulemaking Specific Authority 373.044, 373.129, 373.219(2) FS. Law Implemented 373.043, 373.044 FS. History–New 10-1-82, Repealed _____.

40B-2.781 Enforcement.

The District is authorized to file an administrative complaint for corrective action or seek an injunction or other relief in the courts of this state when it appears there is either a violation of Chapter 373, F.S., District rules, or permit conditions. The District is further authorized to seek civil penalties and recovery of its investigative costs, court costs, and reasonable attorney’s fees. The Governing Board hereby delegates to the Executive Director the authority to initiate the above described judicial enforcement proceedings, provided the Executive Director reports these actions to the Governing Board at its next regularly scheduled meeting.

Rulemaking Authority 373.044, 373.083, 373.119, 373.129, 373.136, 373.219(2) FS. Law Implemented 373.044, 373.119, 373.129, 373.136, 373.243 FS. History–New _____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2009
DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 29, 2008 and May 1, 2009

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.:	RULE TITLE:
40D-1.139	Americans With Disabilities Act and Discrimination in Federally Funded Programs Public Grievance Procedures

PURPOSE AND EFFECT: The rule is being repealed because it is not necessary for the District to implement its compliance with the referenced federal programs by rule.

SUMMARY: The District adopted by rule a public grievance process under the Americans with Disabilities Act (ADA) and another for the Rehabilitation Act of 1973. The District is repealing the current rule because it is required to comply with the referenced federal laws and rulemaking is not required. The District will meet the requirements of the federal programs by including the processes in the District’s Statement of Agency Organization and Operation, which is required under Rule 28-101.001, F.A.C.

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

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

RULEMAKING AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 286.26, 373.083 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lori.Tetreault@watermaters.org or Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4659

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.139 Americans With Disabilities Act and Discrimination in Federally Funded Programs Public Grievance Procedures.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 286.26, 373.083 FS. History–New 7-29-93, Amended 11-2-93, Formerly 40D-1.202, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Lori Tetreault, Senior Attorney, Office of General Counsel,
 2379 Broad Street, Brooksville, FL 34604-6899,
 (352)796-7211, extension 4659
 NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Southwest Florida Water Management
 District Governing Board
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: July 28, 2009
 DATE NOTICES OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: August 14, 2009

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:
 40D-1.607 Permit Processing Fee

PURPOSE AND EFFECT: To increase each permit application fee authorized under Part IV of Chapter 373, Florida Statutes, (F.S.), to require a minimum fee of \$250 for a Noticed General Permit or Individual permit, to require a minimum fee of \$100 for verification that an activity is exempt from regulation under Section 403.813, F.S. or Part IV of Chapter 373, F.S., and to provide for the periodic adjustment of those fees, in accordance with the requirements of Section 373.109, F.S.

SUMMARY: Legislation enacted in 2008 amended Section 373.109, F.S., requiring certain minimum fees, the adjustment of application fees and the periodic adjustment of those fees authorized under Part IV of Chapter 373, F.S.

Full implementation of the new provisions required the Department of Environmental Protection (DEP) to delegate its authority under the new provisions to the water management districts. The Department’s amended rules delegating its authority under 373.109, F.S., and revising its fees became effective April 21, 2009. The proposed revisions to the fees were developed using the Consumer Price Index for All Urban Consumers (CPI-U), all items, compiled by the United States Department of Labor based on the date each of the fees were originally established or last amended. The proposed rule includes these fees, as well as the new \$250.00 minimum fee for Noticed General Permits and the new \$100.00 minimum fee for verification that an activity is exempt from permitting. The proposed rule language also establishes the inflation index used for the revisions.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule implements application fee increases for Environmental Resource Permit (ERP) applications mandated by the legislature. The Southwest Florida Water Management District (District) processes approximately 3,200 ERP applications per year that require the payment of an application fee. In order of application frequency, the activities covered by the permits are: commercial and industrial buildings; single family residential

and residential subdivisions; county, state and city projects; and multi-family residential. The increased fees will have no significant impact to costs to the District. State and local governments will not incur any costs in implementing or enforcing the proposed rule but will incur the costs of the fee increases for projects they undertake requiring ERP applications. Current application fees range from \$0 to \$2,500. Proposed fees range from \$100 to \$4,550. Small businesses, small counties and small cities will incur the increased costs of the applications fees. Approximately 99% of businesses in the District are small businesses. Small counties and small cities may apply for application fee reductions. No impacts to state or local revenues are anticipated.

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

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

LAW IMPLEMENTED: 373.109, 373.421(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen.West@watermatters.org, or Office of General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.607 Permit Processing Fee.

A permit application processing fee is required and shall be paid to the District when certain applications are filed pursuant to District rules. These fees are assessed in order to defray the cost of evaluating, processing, advertising, mailing, compliance monitoring and inspection, required in connection with consideration of such applications. Fees are non-refundable in whole or part unless the activity for which an application is filed is determined by the District to qualify for a permit with a lower fee or not require a permit. Failure to pay the application fees established herein is grounds for the denial of an application or revocation of a permit. The District’s permit application processing fees are as follows:

(1) Environmental Resource or Management and Storage of Surface Waters Permit Applications.

(a) The fee for a permit application for activities reviewed pursuant to Chapters 40D-4, 40D-40, and 40D-400, F.A.C., are as follows:

1. Application for Conceptual Permit	<u>\$4,550.00</u>	\$2500.00
2. Application for Conceptual Permit Modification	<u>\$2,275.00</u>	\$1250.00
3. Application for Individual Permit	<u>\$4,550.00</u>	\$2500.00

4. Application for Individual Permit and General Permit for Incidental Site Activities	<u>\$3,861.00</u> \$3300.00 <u>\$2,275.00</u> \$1250.00
5. Application for Individual Permit Modification	
6. Application for General Permit pursuant to Chapter 40D-40, F.A.C.	<u>\$2,912.00</u> \$1600.00
7. Application for General Permit Modification	<u>\$1,456.00</u> \$800.00
8. Application for General Permit for Minor Surface Water Systems	<u>\$364.00</u> \$200.00
9. Application for General Permit for Minor Surface Water System Modification	<u>\$182.00</u> \$100.00
10. Application for General Permit for an activity which has less than 10 acres of project area and impacts 5,000 square feet or less of wetlands or other surface waters	<u>\$1,456.00</u> \$800.00
11. Application for permit modification for an activity which has less than 10 acres of project area and impacts 5,000 square feet or less of wetlands or other surface waters	<u>\$728.00</u> \$400.00
12. Application for general permit for a public highway project which has less than 10 acres of project area and has less than two acres of new impervious surface area	<u>\$316.00</u> \$200.00
13. Application for permit modification for a public highway project which has less than 10 acres of project area and has less than two acres of new impervious surface area	<u>\$158.00</u> \$100.00
14. Application for a noticed general permit pursuant to Chapter 40D-400, F.A.C.	<u>\$250.00</u> \$100.00

(b) The fees for permit applications concerning the establishment and operation of a mitigation bank under Chapter 40D-4, F.A.C., are as follows:

1. Individual Mitigation Bank Permit	<u>\$3,632.00</u> \$2500.00
2. Individual Mitigation Bank Permit Modification	<u>\$1,816.00</u> \$1250.00
3. Mitigation Bank Conceptual Permit	<u>\$3,632.00</u> \$2500.00
4. Mitigation Bank Conceptual Permit Modification	<u>\$1,816.00</u> \$1250.00
(c) Transfer of Permit to another entity	<u>\$91.00</u> \$50.00

(d) Verification that an activity is exempt from regulation under Part IV of Chapter 373, F.S. or Section 403.813, F.S. \$100.00

(2) Application fees for proprietary authorization under Chapters 253 and 258, F.S., are in accordance with the fee schedule provided in Chapter 18-21, F.A.C.

(3) The following types of applications are exempt from the fees identified in subsection (1):

(a) APPLICATIONS FOR PERMITS OR PERMIT MODIFICATIONS WHICH INVOLVE:

1. Less than one-half acre of new project area for non-agricultural projects or less than ten acres of new project area for agricultural projects; and

2. No new impacts to wetlands or surface waters or new impacts only to those wetlands less than one-half acre in size, unless such wetlands are regulated pursuant to Chapter 40D-4, 40D-40 or 40D-400, F.A.C.

(b) PERMIT MODIFICATIONS USING MODIFICATION SHORT FORM: Applications for permit modifications using the Modification Short Form authorized pursuant to paragraph 40D-4.331(2)(b) or subsection 40D-40.331(2), F.A.C.

(c) RESUBMITTALS: Any resubmittal of an application that was denied or withdrawn within the preceding twelve months, provided the same type of application with a substantially similar design is resubmitted.

(d) CONCURRENTLY SUBMITTED APPLICATIONS: Any construction permit application submitted concurrently with a conceptual permit application, where the construction application represents a portion of the conceptual permit application.

(e) SINGLE FAMILY DWELLING UNITS: Applications for Chapter 40D-40, F.A.C., General or paragraph 40D-400.475(1)(f), F.A.C., Noticed General Permits for construction of a single family dwelling unit involving wetlands that is not part of a larger common plan of development or sale proposed by the applicant.

(f) OPERATION PERMITS: Applications for operation permits submitted in conjunction with a construction permit for the same surface water management system.

(4) For projects grandfathered pursuant to Section 373.414, F.S., the conceptual, individual or general surface water management permit application fee shall be the same as the conceptual, individual or general environmental resource permit application fees listed in this subsection.

(5) For projects grandfathered pursuant to Section 373.414, F.S., the wetland resource (dredge and fill) permit application fee shall be as follows:

(a) Dredge and fill construction projects up to and including 5 years:

1. Standard form projects including dredge and fill activities that affect 10 or more acres of jurisdictional area, pursuant to Rule 62-312.070, F.A.C.	<u>\$6,138.00</u> \$4000.00
2. Short form construction projects including dredging and filling activities that affect less than 10 acres of jurisdictional area, pursuant to paragraph 62-312.070(2)(a), F.A.C.	<u>\$767.00</u> \$500.00

3. Short form construction projects involving the construction of new docking or boardwalk facilities, pursuant to paragraph 62-312.070(2)(b), F.A.C., that provide:

a. 0-2 new boat slips	\$460.00	\$300.00
b. 3-9 new boat slips	\$767.00	\$500.00
(b) Dredge and fill construction permits in excess of 5 years:		
1. Short form permits from 6 years up to and including 10 years	\$4,604.00	\$3000.00
2. Standard form permits for 6 years	\$9,208.00	\$6000.00
3. Standard form permits for 7 years	\$10,742.00	\$7000.00
4. Standard form permits for 8 years	\$12,277.00	\$8000.00
5. Standard form permits for 9 years	\$13,811.00	\$9000.00
6. Standard form permits for 10 years	\$15,346.00	\$10,000.00
7. Standard form permits for 11 years	\$16,880.00	\$11,000.00
8. Standard form permits for 12 years	\$18,415.00	\$12,000.00
9. Standard form permits for 13 years	\$19,950.00	\$13,000.00
10. Standard form permits for 14 years	\$21,484.00	\$14,000.00
11. Standard form permits for 15 years	\$23,019.00	\$15,000.00
12. Standard form permits for 16 years	\$24,553.00	\$16,000.00
13. Standard form permits for 17 years	\$26,088.00	\$17,000.00
14. Standard form permits for 18 years	\$27,623.00	\$18,000.00
15. Standard form permits for 19 years	\$29,157.00	\$19,000.00
16. Standard form permits for 20 years	\$30,692.00	\$20,000.00
17. Standard form permits for 21 years	\$32,226.00	\$21,000.00
18. Standard form permits for 22 years	\$33,761.00	\$22,000.00
19. Standard form permits for 23 years	\$35,296.00	\$23,000.00
20. Standard form permits for 24 years	\$36,830.00	\$24,000.00
21. Standard form permits for 25 years	\$38,365.00	\$25,000.00

(c) For the purposes of determining the fee for wetland resource management permits, the term of duration for the permit shall be reduced by the period of time (in yearly increments) during which no dredging or filling activity occurs or no reclamation, restoration, or mitigation occurs and only minor monitoring and maintenance activities are required. The fee for the full term shall be submitted with the application. After the District determines the period of time that the term of the permit can be reduced, the excess fee shall be returned.

(d) For permit applications which involve a combination of the project fee categories listed above, the highest fee that applies to the appropriate standard form or short form project, pursuant to Rule 62-312.070, F.A.C., shall be charged.

(e) Variances from permitting standards, permit conditions, or water quality standards associated with a wetland resource permit application:

1. Variances from the prohibition of Rule 62-312.080, F.A.C.	\$153.00	\$100.00
2. Other variances	\$767.00	\$500.00

(f) A single additional fee of ~~\$767.00~~ ~~\$500.00~~ shall be required for projects in which monitoring and evaluation to determine the success of the mitigation will be required beyond the period of time to which the permit fee will ordinarily apply. If it is determined at the time of the permit application that monitoring and evaluation to determine the success of the mitigation will be required beyond the time period to which the permit fee will ordinarily apply, then this single additional fee will be due at this time. If it is determined after the time of the permit application that monitoring and evaluation to determine the success of the mitigation will be required beyond the time

period to which the permit fee will ordinarily apply, then this single additional fee shall be due when it is determined that this monitoring and evaluation is required.

(g) General Permits ~~\$153.00~~ ~~\$100.00~~

(h) Minor modifications of permits that do not require substantial technical evaluation by the District, in conformance with paragraph 62-4.050(4)(s), F.A.C., do not require a new site inspection by the District, and will not lead to substantially different environmental impacts or will lessen the impacts of the original permit:

1. That consist of transfers of permits or time extensions ~~\$77.00~~ ~~\$50.00~~
2. Involving minor technical changes when the existing permit fee is less than \$300.00, except for modifications to permits issued pursuant to Section 403.816, F.S. ~~\$77.00~~ ~~\$50.00~~
3. Involving minor technical changes when the existing permit fee is more than or equal to \$300.00. ~~\$384.00~~ ~~\$250.00~~

(6) Petition for Formal Determination of Wetlands and Other Surface Waters.

(a) The fees for Petitions for Formal Determination of Wetlands and Other Surface Waters are as follows, for:

1. Property less than or equal to 1 acre ~~\$353.00~~ ~~\$250.00~~
2. Property greater than 1 acre but less than or equal to 10 acres ~~\$777.00~~ ~~\$550.00~~
3. Property greater than 10 acres but less than or equal to 40 acres ~~\$1,060.00~~ ~~\$750.00~~
4. Property greater than 40 acres but less than or equal to 120 acres ~~\$2,119.00~~ ~~\$1500.00~~
5. Property greater than 120 acres ~~\$2,119.00~~ ~~\$1500.00~~
For each additional 100 acres or portion thereof ~~\$283.00~~ ~~\$200.00~~
6. Renewal of formal wetland determinations ~~\$353.00~~ ~~\$250.00~~

~~(b) For the validation of informal, non-binding wetland determinations pursuant to Section 373.421(6), F.S., the fees shall be the same as formal determinations listed above.~~

~~(b)(e)~~ Any resubmittal of a petition for formal determination of wetlands and other surface waters that was denied or withdrawn within the preceding twelve months, provided it is substantially similar to the denied or withdrawn petition, is exempt from the fees identified in paragraph (a).

(7) Water use permit application fees shall be as follows:

- | | |
|---|------------|
| (a) Chapter 40D-2, F.A.C., individual permit new | \$1,000.00 |
| (b) Chapter 40D-2, F.A.C., individual permit renewal | \$750.00 |
| (c) Chapter 40D-2, F.A.C., individual permit modification | \$300.00 |
| (d) Chapter 40D-2, F.A.C., individual permit temporary | \$200.00 |
| (e) Chapter 40D-2, F.A.C., general permit new | \$250.00 |
| (f) Chapter 40D-2, F.A.C., general permit renewal | \$185.00 |
| (g) Chapter 40D-2, F.A.C., general permit modification | \$75.00 |

(h) Chapter 40D-2, F.A.C., general permit temporary	\$50.00
(i) Chapter 40D-2, F.A.C., Small General Permit new	\$50.00
(j) Chapter 40D-2, F.A.C., Small General Permit renewal	\$35.00
(k) Chapter 40D-2, F.A.C., Small General Permit modification	\$15.00

(l) For those public supply utilities which are solely wholesale customers of water supplied by another entity and are required to obtain a permit for such activities pursuant to Chapter 40D-2, F.A.C., permit fees shall be one-half of the applicable fee provided in paragraphs (a) through (k) above.

(8) The following types of applications are exempt from the fees identified in subsection (7):

(a) **PERMIT MODIFICATIONS USING MODIFICATION SHORT FORM:** Applications for permit modifications using the Modification Short Form authorized pursuant to paragraph 40D-2.331(2)(b), F.A.C.

(b) **RESUBMITTALS:** Any resubmittal of an application that was denied or withdrawn within the preceding twelve months, provided the same type of application with substantially similar quantities is resubmitted.

(9) Permit application fees for water well construction or repair shall be as follows:

(a) Chapter 40D-3, F.A.C., non-public supply water wells	\$50.00
(b) Chapter 40D-3, F.A.C., public supply water wells or other wells constructed to public supply standards	\$130.00
(c) Chapter 40D-3, F.A.C., non-public supply potable water wells in Chapter 62-524, F.A.C., delineated areas	\$100.00
(d) Chapter 40D-3, F.A.C., public supply water wells in Chapter 62-524, F.A.C., delineated areas	\$500.00

(10) The following type of application is exempt from the fees identified in subsection (9): **ABANDONMENT PERMIT APPLICATIONS:** Applications for permits to abandon water wells.

(11) Chapter 40D-40, F.A.C., general site conditions assessment permit:

(a) Within a contiguous project area of 100 acres or more, and/or with more than one acre of wetlands on site, basic fee	\$1,250.00 <u>\$1,715.00</u>
(b) Within a contiguous project area of less than 100 acres, and with one acre or less of wetlands on site, basic fee	\$800.00 <u>\$1,098.00</u>

(c) Application for formal modification of an existing site conditions assessment permit by adjustment, expansion, transfer, extension, or conversion to Chapter 40D-4 or 40D-40, F.A.C., construction and operation permit:

1. For adjustment, expansion, transfer or extension of contiguous project area and permitting of the same or additional site condition boundaries, one-half the basic fee applicable to a new application;

2. Modification to convert to Chapter 40D-4 or 40D-40, F.A.C., construction permit:

a. When the construction permit applicant is the original permittee for a valid site conditions assessment permit, the processing fee amount due shall be the full application fee for a Chapter 40D-4, F.A.C., individual construction permit or a Chapter 40D-40, F.A.C., general construction permit, as applicable; if a construction permit is issued, a credit equal to the basic fee amount paid in connection with the site conditions assessment permit shall be reimbursed after submittal of the project Statement of Completion and as-built information by the original permittee, and operation approval by the District.

b. When the construction permit applicant is not the original permittee, and the applicant has a valid site conditions assessment permit that was transferred, the processing fee amount due shall be the full application fee for a Chapter 40D-4, F.A.C., individual construction permit or a Chapter 40D-40, F.A.C., general construction permit, as applicable; but the permit application processing fee credit in sub-subparagraph 2.a. shall not apply.

(12) The District will use the Consumer Price Index for All Urban Consumers (CPI-U), all items, compiled by the United States Department of Labor for revising fees under Part IV of Chapter 373, F.S., pursuant to Section 373.109, F.S.

Rulemaking Specific Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.109, 373.421(2) FS. History—Readopted 10-5-74, Amended 12-31-74, 10-24-76, 7-21-77, Formerly 16J-0.111, Amended 10-1-88, 1-22-90, 12-27-90, 11-16-92, 1-11-93, 3-23-94, Formerly 40D-0.201, Amended 12-22-94, 10-19-95, 3-31-96, 7-23-96, 10-16-96, 10-26-00, 3-15-01, 9-26-02, 8-7-03, 6-5-05, 2-6-07, 5-12-08, 12-30-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen E. West, Deputy General Counsel, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

SPACE FLORIDA

RULE NOS.:	RULE TITLES:
57-50.001	General
57-50.002	Approval of Travel and Entertainment Expenses
57-50.003	Authority of the President to Make Advance Payments for Travel

PURPOSE AND EFFECT: To promulgate rules regarding Space Florida’s travel and entertainment expense policies.

SUMMARY: Providing for Space Florida’s travel and entertainment expense policies

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

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

RULEMAKING AUTHORITY: 331.310(1)(j), (2)(a), (d), 331.3101 FS.

LAW IMPLEMENTED: 331.310(1)(j), (2)(a), (d), 331.3101 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Desiree Mayfield, Space Florida (321)730-5301. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Desiree Mayfield

THE FULL TEXT OF THE PROPOSED RULES IS:

TRAVEL AND ENTERTAINMENT
EXPENSE REIMBURSEMENT

57-50.001 General.

This chapter establishes the rules regarding the reimbursement of business clients, guests, and authorized persons as defined in Section 112.061(2)(e), Florida Statutes, and direct payments to third-party vendors:

(1) For travel expenses of such business clients, guests, and authorized persons incurred in connection with the performance of Space Florida’s statutory duties, and for travel expenses incurred by Space Florida officers, as defined in Section 112.061(2)(c), Florida Statutes, and Space Florida employees, as defined in Section 112.061(2)(d), Florida Statutes, while accompanying such business clients, guests, or authorized persons or when authorized by the Board of Directors or its designee.

(2) For entertainment expenses of such guests, business clients, and authorized persons incurred in connection with the performance of Space Florida’s statutory duties.

Rulemaking Authority 331.310(1)(j), (2)(a), (d), 331.3101 FS. Law Implemented 331.310(1)(j), (2)(a), (d), 331.3101 FS. History–New _____.

57-50.002 Approval of Travel and Entertainment Expenses.

(1) All travel and entertainment expenses must be authorized and approved by the President, Chief Financial Officer of Space Florida, or their designees. Paid receipts, or copies thereof, must be attached to the request for reimbursement

(2) Travel and entertainment expenses of guests, business clients, and authorized persons shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by Space Florida.

(3) The reimbursement policy for travel and entertainment expenses shall be in accordance with Sections 112.061 and 331.3101, Florida Statutes.

Rulemaking Authority 331.310(1)(j), (2)(a), (d), 331.3101 FS. Law Implemented 331.310(1)(j), (2)(a), (d), 331.3101 FS. History–New _____.

57-50.003 Authority of the President to Make Advance Payments for Travel.

The President, Chief Financial Officer of Space Florida, or their designees, may make, or authorize the making of, advances to cover anticipated costs of travel to guests, business clients, and authorized persons. Such advancements may include the costs of subsistence and travel of any person transported in the care or custody of the guests, business clients, and authorized persons in the performance of public purpose authorized by law to be performed by Space Florida. The guest, business client, or authorized person shall refund any unused portion of the advancement within 15 days after the expense is incurred or the travel is completed. If the advancement is made solely for travel expenses, paid receipts shall be submitted and any unused portion of the advancement shall be refunded within 30 days after completion of the travel.

Rulemaking Authority 331.310(1)(j), (2)(a), (d), 331.3101 FS. Law Implemented 331.310(1)(j), (2)(a), (d), 331.3101 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Desiree Mayfield

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank DiBello

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: 59A-20.0085
RULE TITLE: Licensure Standards

PURPOSE AND EFFECT: The Agency proposes to repeal Rule 59A-20.0085, F.A.C., Licensure Standards. The statutory authority for this rule, Section 455.239, F.S., was repealed and no statutory authority exists for licensing of Radiation Therapy Centers. This rule was inadvertently omitted from the earlier repeal of the other rules in Chapter 59A-20, F.A.C.

SUMMARY: The proposed repeal will remove the only remaining rule in Chapter 59A-20, F.A.C.

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

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

RULEMAKING AUTHORITY: 455.239, 455.25(2) FS.

LAW IMPLEMENTED: 455.236, 455.239, 455.241, 455.25 FS.

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

DATE AND TIME: September 15, 2009, 2:00 p.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kaylyn Boles, Bureau of Health Facility Regulation, Building 1, MS 28A, 2727 Mahan Drive, Tallahassee, FL 32308, (850)922-0791. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill McCort, Bureau of Health Facility Regulation, Building 1, MS 28A, 2727 Mahan Drive, Tallahassee, FL 32308, (850)487-0641

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-20.0085 Licensure Standards.

~~Rulemaking Specific~~ Authority 455.239, 455.25(2) FS. Law Implemented 455.236, 455.239, 455.241, 455.25 FS. History—New 3-10-94, Amended 9-15-96, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill McCort

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2009

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NOS.: 59G-11.001
59G-11.003
RULE TITLES: Purpose
Agency Certification Process and Requirements

59G-11.004 Revocation of a 211 Number

PURPOSE AND EFFECT: To repeal Chapter 59G-11, F.A.C., Florida 211 Network Provider Certification requirements, that is obsolete. AHCA no longer has regulatory responsibility of these rules.

SUMMARY: The proposed repeal eliminates an obsolete rule. The rule reflects an obsolete program.

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

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

RULEMAKING AUTHORITY: 409.918 FS.

LAW IMPLEMENTED: 409.918 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Stephen Bradley, Medicaid Quality Management Bureau, 2727 Mahan Drive, Mail Stop 48, Tallahassee, Florida 32308-5407, (850)414-6606

THE FULL TEXT OF THE PROPOSED RULES IS:

59G-11.001 Purpose.

~~The purpose of this rule is to develop certification criteria for entities to become certified by the Agency as Florida 211 Network Providers as directed in subsection (2) of Section 408.918, Florida Statutes.~~

~~Rulemaking Specific~~ Authority 408.918 FS. Law Implemented 408.918 FS. History—New 4-24-03, Repealed.

59G-11.003 Agency Certification Process and Requirements.

~~(1) The Agency shall certify a single Florida 211 Network Provider for each county. This shall not preclude the Florida 211 Network Provider from serving multiple counties. To ensure the maximum use of the 211 number for information~~

and referral services, the certified Florida 211 Network Provider shall be required to coordinate with all other information and referral services and the telecommunications companies within the designated county or counties. If the Agency receives more than one application for Florida 211 Network Provider certification from organizations representing the same county, the Agency will notify the organizations by certified mail that the Agency shall only accept one collaborative designation application per county.

(2) In order to become a Florida 211 Network Provider candidates shall submit to the Agency a Florida 211 Network Provider Certification Application Form 5700-0001 dated September 2002, which is incorporated herein by reference. Candidates shall also provide the Agency with written documentation verifying that the organization meets the following criteria:-

(a) Provides 24-hour coverage, 7 days a week either on-site or through written arrangements with organizations for after hours coverage, that shall be provided by personnel monitoring the 211 phone line and shall not be answered through an answering service or answering machine;

(b) Adheres to the Alliance of Information and Referral Systems, Incorporated *Standards for Professional Information and Referral*, 4th edition, revised October, 2002, which is incorporated herein by reference, and is AIRS accredited, or has initiated the written application process and shall become accredited within three years;

(c) Has 25 percent or more of eligible staff with AIRS certification as information and referral specialists or resource specialists;

(d) Works collaboratively and has written agreements with specialized information and referral systems which shall include crisis centers, child care resource and referral programs, elder help lines, homeless coalitions, designated emergency management systems, 911 and 311 systems;

(e) Has an established automated information tracking system that maintains call center data that shall include the following statistics: call volume, number of abandoned calls, average speed of answering, and average call length;

(f) Maintains a computerized information and referral system database that has up to date information and resource data and the capacity to collect caller information;

(g) Uses the Alliance of Information and Referral Systems and AIRS/INFO LINE Taxonomy and has incorporated the taxonomy into its resource data base;

(h) Publicizes 211 services through a written public awareness, marketing, advertising, and education plan to inform the public regarding available services;

(i) Provides teletyping (TTY) services for speech and hearing impaired individuals and multi lingual accessibility either on site, or through access to translators;

(j) Has formal agreements with clearinghouse agencies that provide volunteer or donation management services;

(k) Ensures quality of service and caller and customer satisfaction through follow up and written outcome evaluations;

(l) Shares resource database information with other Florida 211 Network Providers;

(m) Tracks information on inquirer needs, unmet needs, and barriers to services and shares this data with other Florida 211 Network Providers, and local and state organizations;

(n) Uses a method common to all Florida 211 Network Providers to measure and evaluate outcomes for the operation of a 211 call center;-

(o) Submits to the Agency an annual report documenting the information and referral services provided. The annual report shall include: geographical areas served, call volume, number of abandoned calls, average speed of answering, average call length, information on inquirer needs, unmet needs, and barriers to services. This report shall cover the previous year's activities and shall follow the state's fiscal year from July 1st through June 30th. The report shall be due to the Division of Medicaid in the Agency on or before August 1st of each year; and

(p) Adheres to the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(3) Candidates with AIRS accreditation that submit a Florida 211 Network Provider Certification Application Form 5700-0001 dated September 2002, with accompanying written documentation that verifies compliance with the Agency's certification criteria shall be certified for three years as a Florida 211 Network Provider-

(4) Candidates that have applied for, but have not yet received AIRS accreditation and that submit a Florida 211 Network Provider Certification Application Form 5700-0001 dated September 2002, with accompanying written documentation that verifies compliance with the Agency's certification criteria, shall be certified by the Agency for one year as a Florida 211 Network Provider. Prior to certifying a candidate who does not have AIRS accreditation, the Agency shall conduct an on site visit to review the candidate's compliance with the Agency's certification criteria-

(5) Within 45 days of the receipt of the initial Florida 211 Network Provider Certification Application Form 5700-0001 dated September 2002, the Agency shall notify a candidate of whether the candidate is in compliance with the Agency's certification requirements. Such notification shall include a statement of deficiencies for candidates that are determined not in compliance with the certification requirements. Candidates determined by the Agency to not be in compliance with the certification requirements, shall submit a plan of correction to the Agency within 21 calendar days of receipt of the statement of deficiencies. The plan of correction shall include a list of corrective actions the candidate will take to remedy identified deficiencies and shall include the date by which each action shall be completed. Plans of correction shall be reviewed by

the Agency for approval. The Agency shall notify candidates by certified mail of whether their plan of corrections has been approved. Candidates shall conform to the certification criteria within 45 days of receipt of the Agency's notification of approval of the plan of correction, or shall be ineligible for certification by the Agency. Candidates that fail to submit and adhere to an approved plan of correction shall not be certified by the Agency as a Florida 211 Network Provider. Candidates shall be eligible to re-apply for Agency certification after one year from the date of notification by the Agency.

~~(6) If a Florida 211 Network Provider loses AIRS accreditation, yet is in compliance with the Agency's certification criteria, the provider shall be granted a one year provisional certification by the Agency as a Florida 211 Network Provider, if after consulting with AIRS it is deemed that the provider is eligible to reapply for re accreditation. The Agency shall notify the provider by certified mail that it has one year from the date of loss of accreditation by AIRS to obtain re accreditation. Within 45 days of notification, the provider shall submit to the Agency for approval a plan to secure AIRS accreditation within the provisional time frame.~~

~~(7) If the Agency determines that a Florida 211 Network Provider is not in compliance with the Agency's certification criteria, the provider shall be notified by certified mail that it shall conform to the standards within 45 calendar days of receipt of the certified letter or lose certification by the Agency.~~

~~(8) If the Agency receives a written complaint that a Florida 211 Network Provider is in violation of the Agency's certification criteria, the Agency shall initiate an investigation of the complaint within 21 calendar days of notification.~~

~~(9) The Agency shall renew a Florida 211 Network Provider's certification which has AIRS accreditation for an additional 3 years, if the provider submits a new Florida 211 Network Provider Certification Application Form 5700-0001 dated September 2002, with accompanying written documentation that verifies compliance with the Agency's certification criteria 60 days prior to the termination of the certification.~~

~~(10) The Agency shall renew the certification of a Florida 211 Network Provider which does not have AIRS accreditation, if the provider submits the following by at least 60 calendar days prior to the termination of the certification period: a new 211 Florida Network Provider Certification Application Form 5700-0001 dated September 2002; written documentation that verifies compliance with the remainder of the Agency's certification criteria; and a written plan of how the provider intends to obtain AIRS accreditation. Prior to re-certifying a provider who does not have AIRS accreditation, the Agency shall conduct an on-site visit to review the provider's compliance with the Agency's certification criteria. The Agency shall renew certification for 1 year for a provider that does not have AIRS accreditation if the Agency finds that~~

~~the provider is in compliance with the certification criteria subsequent to an on-site visit. Subsequent to the on-site visit the Agency shall notify a provider by certified mail if it is in violation of the Agency's certification criteria. The provider shall have 45 days from receipt of the notification to become compliant. Providers who become compliant with the certification criteria within 45 days shall be granted an additional year of certification.~~

~~(11) Dispute resolution. Any dispute related to the Agency's certification of a Florida 211 Network Provider shall be resolved pursuant to Chapter 120, Florida Statutes.~~

~~Rulemaking Specific Authority 408.918 FS. Law Implemented 408.918 FS. History-New 4-24-03, Repealed _____.~~

~~59G-11.004 Revocation of a 211 Number.~~

~~The Agency shall request the Federal Communications Commission to direct the local exchange company to revoke the use of the 211 dialing code from any entity that leases a 211 number from a local exchange company but is not certified by the Agency. Prior to requesting revocation by the Federal Communications Commission and the local exchange company, the Agency shall notify the entity leasing the 211 number by certified mail that it has 30 days from receipt of the notification to submit the Florida 211 Network Provider Certification Application Form 5700-0001 dated September 2002, and accompanying documentation. If the entity leasing the 211 number fails either to submit a completed application and certification form within 30 days of receipt of the certified letter or become certified by the Agency, the Agency shall, after consultation with the local exchange company and the Public Service Commission, request that the Federal Communications Commission direct the local exchange company to revoke use of the 211 number.~~

~~Rulemaking Specific Authority 408.918 FS. Law Implemented 408.918 FS. History-New 4-24-03, Repealed _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephen Bradley, Medicaid Quality Management Bureau
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-19.010
 RULE TITLE: Criteria for Investigators and Consultants

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify the criteria for investigators and consultants.

SUMMARY: The criteria for investigators and consultants will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.203(8) FS., Ch. 81-302, § 27, Laws of Florida.

LAW IMPLEMENTED: 455.203(8) FS., Ch. 81-302, § 27, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-19.010 Criteria for Investigators and Consultants.

Except for investigation of non-technical matters, all investigators and consultants hired by the Department of ~~Business and Professional Regulation~~ who undertake the investigation of certified public accountants ~~Florida CPA's~~ shall be active Florida certified public accountants with a minimum of five (5) years of active licensure in the area of public accountancy. Non-technical matters are defined as those not encompassing the technical proficiency of a certified public accountant ~~licensee~~ in the practice of public accountancy.

Rulemaking Specific Authority 455.203(8) FS., Ch. 81-302, § 27, Laws of Florida. Law Implemented 455.203(8) FS., Ch. 81-302, § 27, Laws of Florida. History—New 11-2-81, Formerly 21A-19.10, 21A-19.010, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NOS.:	RULE TITLES:
61H1-20.003	Client
61H1-20.004	Enterprise
61H1-20.0051	Assembled Financial Statements
61H1-20.0052	Offer to Perform or Perform Services Involving Assembled Financial Statements
61H1-20.0053	Standards for Assembled Financial Statements
61H1-20.007	Generally Accepted Accounting Principles
61H1-20.008	Generally Accepted Auditing Standards
61H1-20.009	Standards for Accounting and Review Services
61H1-20.0092	Government Auditing Standards
61H1-20.0093	Rules of the Auditor General
61H1-20.0095	Standards for Consulting Services
61H1-20.0096	Services for Tax Practice
61H1-20.0097	Standards for Personal Financial Planning
61H1-20.0099	Standards for Attestation Engagements
61H1-20.010	Engagement
61H1-20.013	Employee
61H1-20.016	Non-CPA Shareholders, Partners, and Members

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify the definitions of client and enterprise; to provide the correct citation for “assembled financial statements;” to update language concerning the certified public accountant; to clarify and edit punctuation errors; to update generally accepted accounting principles from the GASB to the FASB; to update the auditing standards; to provide a website by which to obtain the Standards for Accounting and Review Services; to provide a website by which to obtain the Government Auditing Standards; to update the effective dates and rules of the Auditor General; to update the standards for consulting services; to update the standards for tax practice by providing the updated standards; to provide the updated standards for personal financial planning and to provide the updated standards for attestation engagements.

SUMMARY: The definitions of client and enterprise will be clarified; the correct citation for “assembled financial statements” will be provided; language concerning the certified public accountant will be updated; punctuation errors will be edited and clarified; generally accepted accounting principles will be updated from the GASB to the FASB; auditing standards will be updated; a website by which to obtain the Standards for Accounting and Review Services will be

provided; the effective dates and rules of the Auditor General will be updated; the standards for consulting services will be updated; the standards for tax practice will be updated; and the updated standards for personal financial planning and attestation engagements will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.203(8), 473.304, 473.314, 473.315, 473.317, 473.323 FS., Ch. 81-302, § 27, §1, Ch. 97-35, Laws of Florida.

LAW IMPLEMENTED: 455.203(8), 473.302, 473.304, 473.309(1)(b), 473.314, 473.315, 473.317, 473.318, 473.319, 473.322, 473.3101 FS., Ch. 81-302, § 27, §1, 12, Ch. 98-340, §1, Ch. 97-35, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULES IS:

61H1-20.003 Client.

“Client” shall be deemed and construed to mean the person(s) or entity which retains a certified public accountant or firm ~~licensee~~ for the performance of public accounting services.

Rulemaking Specific Authority 473.304, 473.323 FS. Law Implemented 473.317, 473.318, 473.319 FS. History–New 12-4-79, Formerly 21A-20.03, 21A-20.003, Amended.

61H1-20.004 Enterprise.

“Enterprise” shall be deemed and construed to mean any person(s) or entity, whether organized for profit or not, for which a certified public accountant or firm ~~licensee~~ provides public accounting services.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 12-4-79, Formerly 21A-20.04, 21A-20.004, Amended.

61H1-20.0051 Assembled Financial Statements.

(1) No change.

(2) The term “assembled financial statements” refers to any financial statements included in Section 473.302(8)(7)(c), F.S.

(3) No change.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented ss. 1, 12, Ch. 98-340, Laws of Florida. History–New 10-28-98, Amended.

61H1-20.0052 Offer to Perform or Perform Services Involving Assembled Financial Statements.

The term “offer to perform or perform services involving assembled financial statements” as used in Rule 61H1-20.0053, F.A.C., applies to an actively licensed ~~c~~Certified ~~p~~Public ~~a~~Accountant who performs one or more types of services involving the preparation of assembled financial statements including:

(1) through (3) No change.

(4) Being the only certified public accountant ~~licensee~~ involved with providing services involved in the preparation of financial statements.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented ss. 1, 12, Ch. 98-340, Laws of Florida. History–New 10-28-98, Amended.

61H1-20.0053 Standards for Assembled Financial Statements.

A ~~c~~Certified ~~p~~Public ~~a~~Accountant holding an active license may offer to perform or perform services involving assembled financial statements so long as the ~~c~~Certified ~~p~~Public ~~a~~Accountant complies with the standards for assembled financial statements, which are as follows:

(1) Understanding with the Entity – The ~~c~~Certified ~~p~~Public ~~a~~Accountant shall establish a written understanding with the entity regarding the services to be performed. This written understanding shall include a description of the nature and limitations of the services to be performed. The understanding shall also provide:

(a) No change.

(b) Disclose whether or not the entity preparing the financial statement is or is not licensed by the Florida Board of Accountancy. An example engagement letter is provided for illustrative purposes:

(Appropriate Salutation)

This letter is to confirm our understanding of the terms and objectives of our engagement to provide accounting services during (date), the output of which will be in the form of (monthly/quarterly/other frequency) assembled financial statements.

- We will perform the following services (selected illustrations):
- Assist you in recording transactions on a (monthly/quarterly/other frequency) basis.
- Prepare a trial balance from your accounts and journals.
- Assemble that information in the form of financial statements.
- Provide comments of a business advisory nature.

We do not undertake to, and will not, provide any opinion or form of assurance on the financial statements we assemble in connection with these services and, accordingly, we do not undertake to make inquiries or perform other procedures to verify, corroborate, or review information supplied by you. In addition, those statements may (will) contain departures from generally accepted accounting principles or another comprehensive basis of accounting.

Our engagement to assemble financial statements cannot be relied upon to disclose errors, fraud, or illegal acts, including fraud or defalcations that may exist. These assembled financial statements are prepared by an entity that is (is not) licensed by the Florida Board of Accountancy.

Our fees for these services. . . .

We shall be pleased to discuss this letter with you at any time.

If the foregoing is in accordance with your understanding, please sign the copy of this letter in the space provided and return it to us.

Sincerely yours,

(Signature of ~~C~~ertified ~~P~~ublic ~~A~~ccountant)

Accepted and agreed to:

XYZ Company

President

Date

(2) Any ~~c~~ertified ~~p~~ublic ~~a~~ccountant who offers to perform or performs assembled financial statements must comply with the provisions of Rule 61H1-22.001, F.A.C.

(3) Language or style similar to that used in reports as defined in Rule 61H1-20.009, F.A.C., shall be avoided to reduce any possible risk of misunderstanding.

(4) Assembled financial statements are not prepared with an expression of any form of opinion or assurance.

(5) Assembled financial statements shall be accompanied by a transmittal letter. See example standard transmittal letter following subsection (12) below.

(6) Before issuing the transmittal letter, the ~~c~~ertified ~~p~~ublic ~~a~~ccountant shall read the assembled financial statements and consider whether such financial statements appear to be free from obvious material errors. In this context, the term error refers to mistakes in the assembly of financial statements, including arithmetical or clerical mistakes.

(7) The date of completion of the assembled financial statement(s) shall be used as the date of the transmittal letter.

(8) The transmittal letter shall include the name and license number of the ~~c~~ertified ~~p~~ublic ~~a~~ccountant who offers to perform or performs services involving assembled financial statements. If more than one ~~c~~ertified ~~p~~ublic

~~a~~ccountant offers to perform or performs such services, then the name and license number of the ~~c~~ertified ~~p~~ublic ~~a~~ccountant who assumes responsibility for the statements shall be included. If a Licensed Audit Firm or Public Accounting Firm offers to perform or performs such services, the name and license number of the firm may be utilized instead of the name and license number of an individual ~~c~~ertified ~~p~~ublic ~~a~~ccountant.

(9) The following language shall be included in the transmittal letter and on each page of the assembled financial statements: These assembled financial statements are not prepared with an expression of any form of opinion or assurance and they are prepared by an entity that is (is not) licensed by the Florida Board of Accountancy.

(10) If the Licensed Audit Firm, ~~c~~ertified ~~p~~ublic ~~a~~ccountant or the ~~c~~ertified ~~p~~ublic ~~a~~ccountant employer's is not independent, as defined in Rule 61H1-20.001, F.A.C., the transmittal letter shall disclose the lack of independence.

(11) Transmittal letters may include comments of a business advisory nature to which the ~~c~~ertified ~~p~~ublic ~~a~~ccountant wishes to draw the client's attention.

(12) An example standard transmittal letter is provided for illustrative purposes:

(Date)

These assembled financial statements for XYZ Company as of (date) are prepared without an expression of any form of opinion or assurance and they are prepared by an entity that is (is not) licensed by the Florida Board of Accountancy.

(Comments of a business advisory nature may be included in a separate paragraph(s).

(Signature of Licensed Audit Firm), or

(Signature of Active Certified Public Accountant) ~~L~~icensee

(State of Issuance and License Number)

~~Rulemaking Specific~~ Authority 473.304, 473.315 FS. Law Implemented 473.302, 473.322 FS. History—New 10-28-98, Amended 9-20-00, 8-28-06,_____.

61H1-20.007 Generally Accepted Accounting Principles. Non-governmental generally accepted accounting principles in the United States of America shall be deemed and construed to mean the principles and standards as promulgated by the Financial Accounting Standards Board (FASB) Accounting Standards Codification™, published on July 1, 2009 and effective for interim and annual periods ending after September 15, 2009. The FASB Accounting Standards Codification™, is available from FASB at 401 Merritt 7, P. O. Box 5116, Norwalk, CT 06856-5116, telephone (203)847-0700 or at its website at <http://asc.fasb.org/>.

Governmental generally accepted accounting principles in the United States of America shall be deemed and construed to mean the principles and standards as promulgated by the Governmental Accounting Standards Board (GASB) Summary of Statement No. 55

The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments (Issued 03/09) and available from GASB at 401 Merritt 7, P. O. Box 5116, Norwalk, CT 06850-5116, telephone: (203)847-0700 or at its website at <http://www.gasb.org/>, for state and local governments or the principles and standards as promulgated by the Federal Accounting Standards Advisory Board (FASAB), available from FASAB, 750 First Street, Suite 1001, Washington, D.C. 20002, telephone (202)512-7350 or at its website at <http://www.fasab.gov/index.html> for federal governmental entities.

~~“Generally Accepted Accounting Principles” shall be deemed and construed to mean accounting principles generally accepted in the United States of America in effect as of June 30, 2002, including, but not limited to, Accounting Principles Board Opinions Nos. 1 to 31 as published by the American Institute of Certified Public Accountants, and statements of accounting standards and interpretations thereof, as published by the Financial Accounting Standards Board (FASB), the Governmental Accounting Standards Board (GASB) and the Federal Accounting Standards Advisory Board (FASAB). The FASB materials are entitled Original Pronouncements 2001/2002 Edition, vols. I, II, & III, dated 12/31/00, and available from FASB, 401 Merritt 7, P. O. Box 5116, Norwalk, CT 06856 5116, 1(888)777 7077, <http://www.cpa2biz.com>. The GASB materials are entitled Governmental Accounting and Financial Reporting Standards, (Statement 34 Edition), available from GASB, 401 Merritt 7, P. O. Box 5116, Norwalk, CT 06850 5116. The FASAB materials are entitled FASAB Statements 1-22, dated 12/31/00, and are available from FASAB, 750 First Street, Suite 1001, Washington, D.C. 20002, (202)512 7350.~~

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 12-4-79, Amended 2-3-81, 3-16-81, 1-25-82, 7-6-82, 12-9-82, 7-27-83, 3-22-84, 7-2-85, Formerly 21A-20.07, Amended 9-23-86, 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.007, Amended 10-19-94, 9-30-97, 9-29-02, _____.

61H1-20.008 Generally Accepted Auditing Standards.

Non-issuer ((non-issuers are (1) all entities who are not issuers as that term is defined by the Sarbanes-Oxley Act of 2002, and (2) entities whose audits are not required by Securities & Exchange Commission (SEC) rules to be conducted in accordance with the standards of the Public Company Accounting Oversight Board (PCAOB)) “Generally Accepted Auditing Standards” shall be deemed and construed to mean auditing standards generally accepted in the United States of America in effect as of June 30, 2009,

including, but not limited to, general, field work and reporting standards approved and adopted by the membership of the American Institute of Certified Public Accountants (AICPA); as amended by the AICPA Auditing Standard Board (ASB) and standards promulgated by the ASB in the form of Statements on Auditing Standards (entitled Codification of Statements on Auditing Standards, (including Statements on Standards for Attestation Engagements) Numbers 1 to 93, dated 2001, available from the AICPA’s Resource Online at www.cpa2biz.com or by telephonic request at call 1(888)777-7077).

Issuer (issuer means an issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), the securities of which are registered under section 12 of that Act (15 U.S.C. 78l), or that is required to file reports under section 15(d) (15 U.S.C. 78o(d)), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn), generally accepted auditing standards shall be deemed and construed to mean auditing and attest standards generally accepted in the United States of America in effect as of July 1, 2009 as published by the PCAOB and available at its website at www.pcaob.org.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 12-4-79, Amended 3-16-81, 7-6-82, 12-9-82, 7-27-83, 3-22-84, 7-2-85, Formerly 21A-20.08, Amended 9-23-86, 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.008, Amended 10-19-94, 9-30-97, 9-29-02, _____.

61H1-20.009 Standards for Accounting and Review Services.

“Standards for Accounting and Review Services” shall be deemed and construed to mean Statements on Standards for Accounting and Review Services published by the American Institute of Certified Public Accountants in effect as of June 30, 2008, 2. (Entitled Codification of Statements on Standards for Accounting and Review Services, Numbers 1-8, dated 4/1/02, available from the AICPA’s Resource Online at www.cpa2biz.com or by telephonic request at call 1(888)777-7077).

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 12-4-79, Amended 3-16-81, 1-25-82, 7-6-82, 12-9-82, 7-27-83, 3-22-84, 7-2-85, Formerly 21A-20.09, Amended 9-23-86, 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.009, Amended 10-19-94, 9-30-97, 9-29-02, _____.

61H1-20.0092 Government Auditing Standards.

“Government Auditing Standards” shall be deemed and construed to mean Government Audit Standards issued by the Comptroller General of the United States, in effect as of July 2007 June 30, 2002. (Entitled Government Auditing Standards, July 2007 Revision (GAO-07-731G)) 1994 Revision, and its Amendments entitled Government Auditing Standards Amendment No. 1, Documentation Requirements When

~~Assessing Control Risk at Maximum for Controls Significantly Dependent Upon Computerized Information Systems, GAO/A-GAGAS-1, revised May 1999, and Amendment No. 2, Auditor Communication, GAO/A-GAGAS-2, revised July 1999, available from the United States General Accounting Office, Washington, D.C. 20548-0001) or from its website at <http://www.gao.gov/govaud/ybk01.htm>.~~

~~Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.304, 473.315 FS. History–New 10-28-86, Amended 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.0092, Amended 10-19-94, 9-30-97, 9-29-02,_____.~~

61H1-20.0093 Rules of the Auditor General.

“Rules of the Auditor General” shall be deemed and construed to mean the following Rules of the Auditor General of the State of Florida (~~effective 9-30-01~~), in effect as follows of June 30, 2002:

Chapter	Title
10.550	Local Government Entity Audits, <u>effective 9/30/2007</u>
10.650	State Single Audits Non-profit and For-profit Organizations, <u>effective 9/30/2007</u>
10.700	<u>Audits of Certain Nonprofit Organizations, effective 6/30/2008</u> Audits of Direct Support Organizations and Citizen Support Organizations
10.800	District School Board Audits, <u>effective 6/30/2008</u>
10.850	Charter School Audits, <u>effective 6/30/2008</u>

These rules are available from the State of Florida, Auditor General’s Office or from the website <http://www.state.fl.us/audgen>, under the Rules and Guidelines section.

~~Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 10-22-86, Amended 5-22-88, 4-8-90, 4-21-91, Formerly 21A-20.0093, Amended 9-30-97, 9-29-02,_____.~~

61H1-20.0095 Standards for Consulting Services.

“Standards for Consulting Services” shall be deemed and construed to mean ~~Statements on Standards for Consulting Services, aka CS Section 100, Consulting Services: Definitions and Standards from the AICPA Professional Standards~~ the Statement on Standards for Consulting Services No. 1, as published by the ~~AICPA, American Institute of Certified Public Accountants~~ in effect as of June 30, 2002, available from the AICPA’s Resource Online at www.cpa2biz.com or by telephonic request at call 1(888)777-7077.

~~Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 5-20-91, Formerly 21A-20.0095, Amended 9-30-97, 9-29-02,_____.~~

61H1-20.0096 Services for Tax Practice.

“Standards for Tax Services” shall be deemed and construed to mean ~~Statements on Standards for Tax Services, dated August 2000~~, as published by the American Institute of Certified

Public Accountants, and in effect as of December 31, 2003, available from the AICPA’s Resource Online at www.cpa2biz.com or by telephonic request at 1(888)777-7077 ~~June 30, 2002~~.

~~Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 5-20-91, Formerly 21A-20.0096, Amended 9-30-97, 9-29-02,_____.~~

61H1-20.0097 Standards for Personal Financial Planning.

“Standards for Personal Financial Planning” shall be deemed and construed to mean Basic Personal Financial Planning Engagement Functions and Responsibilities First Issued October 1992; Revised January 1996, aka Statements on Responsibilities in Personal Financial Planning Practice, as published by the American Institute of Certified Public Accountants, ~~in effect as of June 30, 2002~~, available from the AICPA’s Resource Online at www.cpa2biz.com or by telephonic request call at 1(888)777-7077.

~~Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 11-8-95, Amended 9-30-97, 9-29-02,_____.~~

61H1-20.0099 Standards for Attestation Engagements.

“Standards for Attestation Engagements” shall be deemed and construed to mean Statements on Standards for Attestation Engagements published by the American Institute of Certified Public Accountants, (entitled Codification of Statements on Standards for Attestation Engagements, Numbers 1 to 14, dated ~~December 2006~~ January 1, 2002, available from the AICPA’s Resource Online at www.cpa2biz.com or by telephonic request at call 1(888)777-7077), ~~in effect as of June 30, 2002~~.

~~Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History–New 9-29-96, Amended 6-22-98, 9-29-02,_____.~~

61H1-20.010 Engagement.

“Engagement” shall be deemed and construed to mean the association between a client and a certified public accountant or firm licensee relative to the performance of public accounting services by the certified public accountant or firm licensee for the client.

~~Rulemaking Specific Authority 473.304, 473.314, 473.315, 473.317 FS. Law Implemented 473.314, 473.315, 473.317 FS. History–New 12-4-79, Formerly 21A-20.10, 21A-20.010, Amended _____.~~

61H1-20.013 Employee.

A certified public accountant licensee would be considered an employee of a ~~CPA~~ firm for purposes of Chapter 473 if the certified public accountant licensee has the status of an employee under the usual common law rules applicable in determining the employer-employee relationship. A certified public accountant licensee may be leased ~~licensed~~ to a ~~CPA~~ firm through an employee leasing company as defined in

Section 443.036(16), F.S., as long as the CPA firm has the power to hire and fire, has complete supervision and control over the certified public accountant's licensee's work product, and accepts the certified public accountant licensee as its responsibility for purposes of complying with Rule 61H1-26.002, F.A.C.

Rulemaking Specific Authority 473.304, FS. Law Implemented 473.302, 473.309(1)(b), 473.3101 FS. History--New 10-17-90, Formerly 21A-20.013, Amended _____.

61H1-20.016 Non-CPA Shareholders, Partners and Members.

(1) No change.

(2) Non-CPA shareholders, partners, and members shall not hold themselves out as Certified Public Accountants or Public Accountants.

Rulemaking Specific Authority 473.304 FS., s. 1, Chapter 97-35, Laws of Florida. Law Implemented s. 1, Chapter 97-35, Laws of Florida. History--New 2-5-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NOS.:	RULE TITLES:
61H1-21.001	Independence
61H1-21.002	Integrity and Objectivity
61H1-21.005	Contingent Fees
61H1-21.006	Communication with Client of Another Certified Public Accountant

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant.

SUMMARY: Language concerning the certified public accountant will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 473.304, 473.315, 473.319 FS., s. 2, Chapter 97-35, Laws of Florida.

LAW IMPLEMENTED: 473.315 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Voloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULES IS:

61H1-21.001 Independence.

(1) A licensed firm shall not express an opinion on financial statements (as that term is defined in the Standards for Independence) of an enterprise or on the reliability of an assertion by one party for use by another (third) party unless the firm is active licensed and independent with respect to such enterprise or the party making the assertion. A licensed firm is also precluded from expressing such an opinion if the firm is aware that an individual in the firm is not independent and that individual is a covered certified public accountant licensee or is otherwise required to be independent. A certified public accountant licensed individual shall not express such an opinion unless the certified public accountant individual is independent with respect to such enterprise or the party making the assertion. A certified public accountant licensed individual is also precluded from expressing such an opinion if he or she is aware that an individual in the firm is not independent and that individual is a covered certified public accountant licensee or is otherwise required to be independent. All covered certified public accountants licensees and all other individuals who are required to be independent are required to disclose to the firm that they are not independent prior to the issuance of such an opinion; failure to do so is a violation of this rule. All firms are required to adopt appropriate policies to implement the disclosure requirement and to monitor compliance therewith.

(2) In order to delineate the standards against which a certified public accountant's licensee's independence or lack thereof is to be judged, the Board has created a document entitled "Standards for Determining Independence in the Practice of Public Accountancy for CPAs Practicing Public Accountancy in the State of Florida" (effective 5-1-2003, revised 12-31-2004) (hereinafter "Standards for Independence") which document is hereby incorporated by reference in this Rule. The standards contained in the "Standards for Independence" are similar to those contained in the Code of Professional Conduct promulgated by the American Institute of Certified Public Accountants.

(3) In order to be considered independent a certified public accountant licensee must comply with the requirements set out in the "Standards for Independence" and the requirements of this rule.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 2-3-81, 10-28-85, Formerly 21A-21.01, Amended 10-20-86, Formerly 21A-21.001, Amended 5-21-03, 1-31-05, _____.

61H1-21.002 Integrity and Objectivity.

A certified public accountant shall not knowingly misrepresent facts, and, when engaged in the practice of public accounting, shall not subordinate his/her judgment to others including but not limited to clients, employers or other third parties. In tax practice, a certified public accountant licensee may resolve doubt in favor of his/her client as long as there is reasonable support for his/her position.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Formerly 21A-21.02, Amended 6-4-86, Formerly 21A-21.02, 21A-21.002, Amended _____.

61H1-21.005 Contingent Fees.

(1) No certified public accountant or firm A-licensee shall ~~not~~ accept a fee contingent upon the findings or results of such services if the service is of the type for which a commission or referral fee could not be accepted (See Rule 61H1-21.003, F.A.C.).

(2) No certified public accountant or firm A-licensee shall ~~not~~ accept a contingent fee for tax filings with the federal, state, or local government unless the findings are those of the tax authorities and not those of the certified public accountant or firm licensee. Unless the certified public accountant or firm licensee has specific reason to know that the filing will be reviewed in detail by the taxing authorities, the findings will be presumed to be those of the certified public accountant or firm licensee and a contingent fee is not permissible. An original or amended federal tax return or a claim for refund cannot be prepared for a contingent fee since the findings are not considered to be those of the taxing authority. If the taxing authority has begun an audit, any findings will be considered those of the taxing authority and a contingent fee may be accepted. Fees to be fixed by courts or other public authorities, which are of an indeterminate amount at the time a public accounting service is undertaken, shall not be regarded as contingent fees for the purposes of this rule. However, a certified public accountant's or firm's licensee's fee may vary depending, for example, on the complexity of the service rendered.

Rulemaking Specific Authority 473.304, 473.319 FS., s. 2, Chapter 97-35, Laws of Florida. Law Implemented 473.319 FS., s. 2, Chapter 97-35, Laws of Florida. History—New 12-4-79, Formerly 21A-21.05, 21A-21.005, Amended 11-30-93, 2-23-98, _____.

61H1-21.006 Communication with Client of Another Certified Public Accountant Licensee.

If a client of one certified public accountant or firm licensee requests a second certified public accountant or firm licensee to provide professional advice on accounting or auditing matters in connection with an expression of opinion, the second certified public accountant or firm licensee must consult with the first certified public accountant or firm licensee, after obtaining the client's consent, to make certain that the (the second certified public accountant or firm licensee) is aware of all the relevant facts.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New 12-4-79, Amended 2-3-81, Formerly 21A-21.06, 21A-21.006, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: RULE TITLE:

61H1-23.002 Records Disposition Responsibility

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant.

SUMMARY: Language concerning the certified public accountant will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 473.304, 473.315 FS.

LAW IMPLEMENTED: 473.315, 473.318 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-23.002 Records Disposition Responsibility.

(1) A certified public accountant licensee shall furnish to a client or former client within a reasonable time after request of the document the following if they are in the certified public accountant's licensee's possession or control at the time of the request: Any accounting or other records belonging to the client which the certified public accountant licensee may have had occasion to remove from client's premises, or to receive for the client's account, including records prepared as part of the service to the client which would be needed to reconcile to the financial statements or tax return prepared and issued by the certified public accountant. If the tax return or financial statement has not been issued, the certified public accountant must only return records received from the client, but this shall not preclude the certified public accountant licensee from making copies of such documents when same form the basis of work done by the certified public accountant licensee.

(2) This rule shall not preclude a certified public accountant licensee from making reasonable charges for costs incurred. A certified public accountant licensee shall not withhold those items contemplated above under any circumstances following a demand for same from the client.

(3) Provisions of this rule apply to Licensed Audit Firms and to all Certified Public Accountants practicing public accounting.

Rulemaking Specific Authority 473.304, 473.315 FS. Law Implemented 473.315, 473.318 FS. History--New 12-4-79, Amended 12-11-83, Formerly 21A-23.02, Amended 9-1-87, Formerly 21A-23.002, Amended 10-28-98, _____ .

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NOS.: RULE TITLES:
61H1-24.001 Advertising
61H1-24.002 Solicitation

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant.

SUMMARY: Language concerning the certified public accountant will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 473.304, 473.315, 473.323 FS.

LAW IMPLEMENTED: 473.315, 473.318, 473.323 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Voloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULES IS:

61H1-24.001 Advertising.

(1) No certified public accountant licensee shall disseminate or cause the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading, if it, among other things:

- (a) Contains a misrepresentation of facts; or
- (b) Makes only a partial disclosure of relevant facts; or
- (c) Creates false or unjustified expectations of beneficial assistance; or
- (d) Appeals primarily to a layperson's fears, ignorance, or anxieties regarding his state of financial well-being; or
- (e) Contains any representation or claims, as to which the certified public accountant licensee, referred to in the advertising, does not expect to perform; or
- (f) Contains any other representation, statement, or claim which misleads or deceives; or
- (g) In the event that a certified public accountant licensee uses the term "specialty" or "specialist" or any other term tending to indicate an advanced standing in any aspect of the practice of public accountancy, in any advertisement or offering to the public, the advertisement must state that the use of the term is a self-designation and is not sanctioned by the state or federal government. This requirement shall not apply to any statement indicating the certified public accountant licensee has received any bona fide formal recognition or attainment; or
- (h) Represents that professional services can or will be competently performed for a stated fee when this is not the case, or makes representations with respect to fees for professional services that do not disclose all variables affecting the fees that will in fact be charged; or

(2) As used in Section 473.302(6), F.S., and the rules of the Board, the terms “advertisement,” “advertising” and “advertising as a part of a certified public accountant’s licensee’s business activities” shall mean:

(a) Any statements, oral or written, disseminated to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling public accounting services, or offering to perform public accounting services, or including members of the public to enter into any obligation relating to such public accounting services. For purposes of this rule, oral or written statements include:

1. Business cards;
2. Letterhead;
3. Signs;
4. Listings in telephone and other media or communication directories;
5. Display of certificate or license from this or any other state;
6. Business reports;
7. Transmittal letters or other written communication issued or associated with accompanying financial statements;
8. Brochures;
9. Forms filed with state and federal regulatory agencies;
10. Press releases;
11. Paid promotional listing in any media;
12. Display of membership in CPA associations;
13. Listings in professional directories;
14. Presentation during court proceedings;
15. Website, e-mail, or any other electronic communication.

(b) “Advertisement,” “advertising” and “advertising as a part of a certified public accountant’s licensee’s business activities” as defined terms by this rule does not include:

1. Verbal statements in a social context
2. Use of the designation by faculty members in an educational institution when functioning in the capacity of a faculty member, and
3. Use of the designation by authors when used only for identification as authors of books, articles or other publications, provided that such publications, do not offer the performance of services or the sale of products (other than books, articles or other publications).

Rulemaking Specific Authority 473.304, 473.323 FS. Law Implemented 473.323(1)(f) FS. History–New 12-4-79, Amended 2-3-81, 12-29-83, Formerly 21A-24.01, Amended 5-20-91, Formerly 21A-24.001, Amended 2-12-95, 5-7-96, 10-8-97, 11-18-07,_____.

61H1-24.002 Solicitation.

(1) A certified public accountant licensee may respond to any request for a proposal to provide public accounting services and may provide such services to those requesting same.

(2) A certified public accountant licensee may solicit an engagement to perform public accounting services provided the certified public accountant licensee complies with Rule 61H1-24.001, F.A.C., and provided the certified public accountant licensee does not use coercion, duress, compulsion, intimidation, threats, or conduct that is overreaching, or vexatious or harassing.

(3) No change.

Rulemaking Specific Authority 473.304, 473.323 FS. Law Implemented 473.323 FS. History–New 12-4-79, Amended 2-3-81, Formerly 21A-24.02, 21A-24.002, Amended 11-30-93,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-25.001 RULE TITLE: Responsibility for Other Persons

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant.

SUMMARY: Language concerning the certified public accountant will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 473.304, 473.323 FS.

LAW IMPLEMENTED: 473.322, 473.323 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-25.001 Responsibility for Other Persons.

A certified public accountant licensee shall not permit others to carry out on his/her behalf, either with or without compensation, acts which, if carried out by the certified public accountant licensee would place him/her in violation of Chapters 455 and 473, F.S., or rules promulgated thereto.

Rulemaking Specific Authority 473.304, 473.323 FS. Law Implemented 473.322, 473.323 FS. History-New 12-4-79, Formerly 21A-25.01, 21A-25.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-27.005 RULE TITLE: Educational Advisory Committee

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant.

SUMMARY: Language concerning the certified public accountant will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 120.53(1), 473.304 FS.

LAW IMPLEMENTED: 120.53(1), 473.306 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Voloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-27.005 Educational Advisory Committee.

The Board shall appoint an Educational Advisory Committee which shall be composed of one (1) member of the Board, two (2) Florida certified public accountants licensees in public practice, and four (4) academicians on faculties of universities within the State of Florida. The Board member shall be appointed by the Chairman and serve at his or her pleasure. The other members of the Committee will be selected by the Chairman of the Committee for terms of two (2) years, with the potential for reappointment for one (1) additional two (2) year term. Any member appointed to fill a vacated, partial term, can serve two (2) full terms. In addition, the Committee shall consist of expert staff retained by the Department of Business and Professional Regulation. Said staff shall be individuals who have knowledge and experience with educational curricula and national accreditation standards for accounting and business programs. The Educational Advisory Committee shall assist the Board and Board staff with any educational matters or issues brought to the Committee, including but not limited to questions regarding academic qualification for applications for examination and licensure by endorsement. The Committee may also bring educational issues it deems of importance to the Board.

Rulemaking Specific Authority 120.53(1), 473.304 FS. Law Implemented 120.53(1), 473.306 FS. History-New 7-7-85, Formerly 21A-27.05, Amended 12-2-92, Formerly 21A-27.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-28.0011 RULE TITLE: Examinations

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to remove outdated language and update the requirements for the CPA examination.

SUMMARY: Outdated language will be removed from the rule. The requirements for the CPA examination will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 455.217(1), 473.304, 473.306 FS.

LAW IMPLEMENTED: 455.217(1), 473.306 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-28.0011 Examinations.

(1) The Board adopts the Uniform CPA Examination "CPA Examination" prepared by the Board of Examiners of the American Institute of Certified Public Accountants ~~and the examination approved by the Board on Chapters 455 and 473, F.S., and the related administrative rules "Law and Rules Examination"~~ as its licensure examinations.

(2) As used in Chapter 61H1-28, F.A.C., ~~the following terms are hereby defined:~~

(a) "Examination window" means a three-month period in which candidates have an opportunity to take the CPA Examination (comprised of two months in which the examination is available to be taken and one month in which the examination will not be offered while routine maintenance is performed and the item bank is refreshed). Thus candidates will be able to test two out of the three months within each examination window.

~~(b) "Special examination window" means the period from April 5, 2004 to September 30, 2004 during which a candidate may have the opportunity to take the CPA Examination and during which the examination may be available for a period of time more than two months due to the unique circumstances surrounding the initial administration of the CPA Examination. The special examination window shall count as one examination window. During the special examination window a candidate may retake a failed section(s) one time.~~

(3) For purposes of the ~~Uniform~~ CPA Examination:

(a) A first-time candidate is defined as a candidate who is required to file an application in order to qualify to sit for all sections of an examination.

(b) A re-examination candidate is defined as a candidate who has not received credit for all sections within the time frame allotted, as set out in Rule 61H1-28.0052, F.A.C.

(c) Candidates cannot retake a failed test section(s) in the same examination window.

~~Rulemaking Specific Authority 455.217(1), 473.304, 473.306 FS. Law Implemented 455.217(1), 473.306 FS. History-New 1-1-04, Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-29.005 RULE TITLE: CPA Education/CPE Credit

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant.

SUMMARY: Language concerning the certified public accountant will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 473.304, 473.3101, 473.323(2) FS.

LAW IMPLEMENTED: 473.311, 473.312 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-29.005 CPA Education/CPE Credit.

The CPE reestablishment period for new Florida certified public accountants licensees begins on the date of certification, which is printed on the license. Only courses completed after that date may be used for CPE credit. Accordingly, no courses which count as education for obtaining the CPA license may be used for CPE credit.

~~Rulemaking Specific Authority 473.304, 473.3101, 473.323(2) FS. Law Implemented 473.311, 473.312 FS. History-New 11-2-95, Amended _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NOS.:	RULE TITLES:
61H1-33.002	Organization and Administration
61H1-33.0031	Continuing Professional Education/Ethics
61H1-33.0033	Obligations of CPA Ethics Course Continuing Education Providers
61H1-33.0065	Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to clarify language concerning the certified public accountant and to update the requirements for ethics continuing professional education.

SUMMARY: Language concerning the certified public accountant will be clarified and the requirements for ethics continuing professional education will be updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 120.55(1)(a)4., 455.02(2), 455.213(6), 455.2178, 455.2179, 473.304, 473.312 FS.

LAW IMPLEMENTED: 455.02(2), 455.213(6), 455.2178, 455.2179, 473.312 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULES IS:

61H1-33.002 Organization and Administration.
There is created the Committee on Continuing Professional Education. Subject to the approval of the Board, said Committee shall:

(1) Evaluate and determine, either prospectively or retrospectively, whether specific courses, programs, education and training qualify as formal programs of learning which contribute directly to professional competency of an individual following licensure to practice public accounting, and the credit to be granted therefore;

(2) Determine in individual cases whether professional knowledge and competency have been reestablished by virtue of the completion of such programs; and

(3) Audit the continuing professional education records of Florida certified public accountants licensees on a sample basis from time to time.

Rulemaking Specific Authority 473.304, 473.312 FS. Law Implemented 473.312 FS. History–New 12-4-79, Amended 2-3-81, 7-2-85, Formerly 21A-33.02, 21A-33.002, Amended _____.

61H1-33.0031 Continuing Professional Education/Ethics.
~~Effective with the CPE reporting period ending June 30, 2006:~~

(1) A Florida certified public accountant licensee must complete no less than four of the total hours required for any reestablishment period in ethics from a provider approved pursuant to Rule 61H1-33.0032, F.A.C.

~~(2) Licensees shall attain a certificate of course completion prior to completing the exam requirements in Rule 61H1-28.007, F.A.C.~~

~~(2)(3)~~ In the event the four hours course is completed taken in two modules, Florida certified public accountants licensees must complete the four-hour requirement with the same provider.

Rulemaking Specific Authority 120.55(1)(a)4., 473.304, 473.312 FS. Law Implemented 455.213(6), 455.2178, 455.2179, 473.312(1)(a), (c) FS. History–New 5-18-05, Amended _____.

61H1-33.0033 Obligations of CPA Ethics Course Continuing Education Providers.

To maintain an approved status as an ethics course continuing education provider, the provider must:

(1) Retain documentation that the course instructor is a certified public accountant ~~licensed by a state or territory of the United States~~ who has practiced in a public accounting firm for five of the last ten years, whose background, training, education or experience makes it appropriate for the person to teach the course.

(2) Require each Florida certified public accountant licensee to complete the entire four-hour certified public accountant ethics course requirement in order to receive a certificate of attendance. Offer the four-hour certified public accountant ethics course in one module of four credit hours or two modules of two credit hours.

(3) No change.

(4) Ensure that all promotional material for courses or seminars offered to Florida certified public accountant licensee for credit contain the certified public accountant ethics course provider number and course title.

(5) through (6) No change.

(7) Provide a written examination to each participating Florida certified public accountant licensee in correspondence study courses. In order to complete the course, the Florida certified public accountant licensee must sign and date the examination and receive a minimum grade of eighty percent (80%). If a Florida certified public accountant licensee fails the examination, the Florida certified public accountant licensee will be permitted to take the examination again in order to achieve a passing grade.

(8) through (10) No change.

Rulemaking Specific Authority 120.55(1)(a)4., 455.213(6), 455.2178, 455.2179, 473.304, 473.312 FS. Law Implemented 455.213(6), 455.2178, 455.2179, 473.312(1)(a), (c) FS. History—New 5-18-05, Amended_____.

61H1-33.0065 Exemption from Renewal Requirements for Spouses of Members of the Armed Forces of the United States.

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

Rulemaking Specific Authority 455.02(2) FS. Law Implemented 455.02(2) FS. History—New 7-13-04, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

RULE NO.: 64B-9.001
RULE TITLE: Biennial Licensing

PURPOSE AND EFFECT: The purpose and effect would be to repeal a portion of the rule that is difficult to administer.

SUMMARY: The Department is removing from the rule a requirement that licensees not be allowed to renew their licenses to practice if they owe money or have outstanding obligations to the department. These licensees will continue to be referred to the department’s enforcement section.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The agency has determined that this rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.004(1) FS.

LAW IMPLEMENTED: 456.004(1), 456.013, 456.036(5), 456.039, 456.0391, 456.077 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lola Pouncey, Bureau Chief, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-9.001 Biennial Licensing.

(1) through (5) No change.

~~(6) Renewal:~~

~~(a) Licensees who renew to an active status license and are subsequently found to be out of compliance with the requirements for that renewal or the requirements set forth in a citation final order shall not be permitted to renew during the subsequent renewal cycle or thereafter until they have:~~

~~1. Satisfied any deficiencies in continuing education requirements, financial responsibility requirements, and any other conditions for renewal set forth in statute or rule; and~~

~~2. Paid any money owed for a citation in which a final order has been issued.~~

~~(b) A licensee who disputes the continuing existence of a deficiency in fact or as a matter of law may request a Section 120.57, F.S., hearing within 21 days of receipt of notification of denial of the renewal application.~~

Rulemaking Authority 456.004(1) FS. Law Implemented 456.004(1), 456.013, 456.036(5), 456.039, 456.0391, 456.077 FS. History—New 11-5-00, Amended 11-24-05, 11-8-07, 7-30-08, 7-19-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lola Pouncey
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 11, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 1, 2009

Additionally, interested parties may participate by dialing 1(888)808-6959. When prompted, enter Conference Code 3884197 followed by the # key.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert Dearduff, SHIP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329; telephone number: (850)488-4197

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-37.002	Definitions
67-37.005	Local Housing Assistance Plans
67-37.006	Review of Local Housing Assistance Plans and Amendments
67-37.007	Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans
67-37.008	Local Housing Assistance Trust Fund
67-37.010	Local Affordable Housing Advisory Committees and Incentive Strategies
67-37.019	Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds

PURPOSE AND EFFECT: This rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the State Housing Initiatives Partnership (SHIP) Program which provides funds to Local Governments as an incentive to create Partnerships to produce and preserve affordable housing.

SUMMARY: Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

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

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

RULEMAKING AUTHORITY: 420.907 FS.

LAW IMPLEMENTED: 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9079 FS.

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

DATE AND TIME: September 15, 2009, 11:00 a.m.

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301-1329

THE FULL TEXT OF THE PROPOSED RULES IS:

67-37.002 Definitions.

As used in this rule chapter, the following definitions shall apply:

(1) No change.

(2) “Annual Gross Income” means Annual Gross Income as defined in Section 420.9071(4), F.S.

(3)(2) “Annual Report” or “Form SHIP-AR/07” means a report required to be completed and submitted to the Corporation by September 15 of each year pursuant to Section 420.9075(10), F.S. Form SHIP-AR/07 is adopted and incorporated herein by reference with an effective date of 4-24-08. A copy of Form SHIP-AR/07 may be obtained at <http://www.floridahousing.org/Home/HousingPartners/LocalGovernments/>.

(4) “Assisted Housing” or “Assisted Housing Development” means Assisted Housing as defined in Section 420.9071(29), F.S.

(5)(3) “Catalyst” means the Affordable Housing Catalyst Program as described in Section 420.531, F.S.

(6)(4) “Debt Service” means the amount required in any fiscal year to pay the principal of, redemption premium, if any, and interest on bonds and any amounts required by the terms of the documents authorizing, securing, or providing liquidity for bonds necessary to maintain in effect any such liquidity or security arrangements.

(7)(5) “Default” means the failure to make required payments on a financial loan secured by a first mortgage which may lead to foreclosure and loss of property ownership.

(8)(6) “Deferred Payment Loan” means Funds provided to a borrower under terms that calls for repayment to be delayed for a certain length of time, until certain circumstances change, or a certain threshold is met.

(9) “Eligible Housing” means as defined in Section 420.9071(8), F.S.

(10)(7) “Encumbered” means that deposits made to the local affordable housing trust fund have been committed by contract, or purchase order, letter of commitment or award in a manner that obligates the county, eligible municipality, or interlocal entity to expend the amount upon delivery of goods, the rendering of services, or the conveyance of real property by a vendor, supplier, contractor, or owner.

~~(11)(8)~~ “Essential Service Personnel” means pursuant to Chapter 2006-69, Laws of Florida, persons in need of affordable housing who are employed in occupations or professions in which they are considered essential service personnel, as defined by each county and eligible municipality within its respective local housing assistance plan pursuant to Section 420.9075(3)(a), F.S.

~~(12)(9)~~ “Expended” or “Spent” means the affordable housing activity is complete and funds deposited to the local affordable housing trust fund have been transferred from the local housing assistance trust fund account to pay for the cost of the activity.

~~(13)(10)~~ “Extremely Low Income Household” or “ELI” means one or more natural persons or a family that has a total annual gross household income that does not exceed 30 percent of the area median income adjusted for family size for households within the metropolitan statistical area, the county, or the non-metropolitan median for the state, whichever is greatest.

~~(14)(11)~~ “Foreclosure” means the legal action by a mortgage holder to require repayment of a Loan through the sale of the subject property.

~~(15)(12)~~ “Forgivable Loan” means a loan with no repayment obligation if program requirements are met for a specified period of time.

~~(16)(13)~~ “Grant” means Grant as defined in Section 420.9071(12), F.S.

~~(17)(14)~~ “Home Ownership Activities” means the use of the local affordable housing trust fund moneys for the purpose of providing owner-occupied housing. Such uses include construction, rehabilitation, purchase, and lease-purchase financing where the primary purpose is the eventual purchase of the housing by the occupant within twenty-four months from initial execution of a lease agreement or within twenty-four (24) months of the applicable fiscal year, whichever occurs first, to meet the requirement of subsection (8).

~~(18)(15)~~ “Interlocal Entity” means an entity created pursuant to the provisions of Chapter 163, Part I, F.S., for the purpose of establishing a joint local housing assistance plan pursuant to the provisions of Section 420.9072(5), F.S.

~~(19)(16)~~ “Loan” means Loan as defined in Section 420.9071(13), F.S.

~~(20)~~ “Local Housing Incentive Strategies” means Local Housing Incentive Strategies as defined in Section 420.9071(16), F.S.

~~(21)~~ “Persons Who Have Special Housing Needs” means individuals who have incomes not exceeding moderate-income and, because of particular social, economic, or health-related circumstances, have greater difficulty acquiring or maintaining affordable housing. Such persons include: those who have encountered resistance to their residing in particular communities; suffered increased housing costs resulting from

their unique needs and high risk of institutionalization; persons with developmental disabilities; persons with mental illnesses or chemical dependency; persons with Acquired Immune Deficiency Syndrome (“AIDS”) and Human Immunodeficiency Virus (“HIV”) disease; runaways and abandoned youth; public assistance recipients; migrant and seasonal farm workers; refugees and entrants; the elderly; and disabled adults.

~~(22)~~ “Preservation” means Preservation as defined in Section 420.9071(30), F.S.

~~(23)~~ “Recaptured Funds” means Recaptured Funds as defined in Section 420.9071(25), F.S.

~~(24)(17)~~ “Rehabilitation” means repairs or improvements which are needed for safe or sanitary habitation, correction of substantial code violations, or the creation of additional living space.

~~(25)(18)~~ “Review Committee” means the committee established pursuant to Section 420.9072(3)(a), F.S.

~~(26)(19)~~ “SHIP” or “SHIP Program” means the State Housing Initiatives Partnership Program created pursuant to the State Housing Initiative Partnership Act, Sections 420.907-9079, F.S.

~~(27)(20)~~ “State” means the State of Florida.

~~(28)(21)~~ “Sub Recipient” means a person or non-state organization contracted by a SHIP eligible local government and compensated with SHIP funds to provide administration of any portion of the SHIP program.

~~(29)(22)~~ “Welfare Transition Program” means a program pursuant to the provisions of Section 445.006, F.S.

Rulemaking Specific Authority 420.9072(9) F.S., Ch. 2000-69, Laws of Florida. Law Implemented 420.9072 FS. History–New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.002, Amended 12-26-99, 9-22-03, 1-30-05, 11-5-06, 2-24-08,_____.

67-37.005 Local Housing Assistance Plans.

(1) To be eligible for SHIP funding for a state fiscal year, a county or eligible municipality shall submit and receive approval of its local housing assistance plan and amendments thereto as provided in Rule 67-37.006, F.A.C. Plans must be submitted to the Corporation by May 2 preceding the end of the fiscal year in which the current plan expires. New Plans must be submitted utilizing the LHAP Template 2009 (6-06), adopted and incorporated herein by reference with an effective date of 11/09 4-5-06. A copy of the LHAP Template 2009 (6-06) may be obtained at <http://www.floridahousing.org/Home/HousingPartners/LocalGovernments/>. In the case of new eligible municipalities, plans must be submitted to the Corporation by May 2 of the state fiscal year prior to the state fiscal year they are eligible for funding. No SHIP local housing distribution funds shall be distributed in any fiscal year to any county or eligible municipality unless and until an approved plan is in place with respect to such fiscal year.

(2) through (5) No change.

(a) through (c) No change.

(d) The maximum sales price of new and existing units. For community land trust purposes the value of the land is not included in the purchase price. The information required for paragraphs (a) through (d) shall be included on the "Housing Delivery Goals Chart #2002," and is adopted and incorporated herein by reference with an effective date of 9-22-03, which is required to be completed for each fiscal year. A copy of the "Housing Delivery Goals Chart #2002 may be obtained at www.floridahousing.org. Click on: Housing Partners; then Local Governments (SHIP); then on Local Housing Assistance Plans <http://www.floridahousing.org/Home/HousingPartners/LocalGovernments/>;

(e) The statement that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of an amount representing the percentage of the area's median ~~Annual~~ Gross Income for the household as indicated in Section 420.9071(19), (20) or (28), F.S. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing. Housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark and in the case of rental housing does not exceed those rental limits adjusted for bedroom size established by the Corporation;

(f) through (i) No change.

(6)(b)2. No change.

3. A description of the selection criteria for each strategy; or

4. The maximum housing value limitation for each strategy; ~~or~~

~~5. A statement that SHIP local housing distribution may not be used to purchase, rehabilitate, or repair mobile homes.~~

(c) through (d) No change.

(e) Certifies that the staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility throughout the 15 year compliance period as described at subsection 67-37.007(11)(10), F.A.C.

(f) No change.

(g) Has established a procedure for the tracking and expenditure of program income and ~~Recaptured~~ Funds from loan repayments, reimbursements, Foreclosures or other repayments, and interest earnings on the local housing distribution funds. Such provision shall evidence compliance with the provisions of Rule 67-37.007, F.A.C.;

(h) through (i) No change.

(7) through (10) No change.

(11) Each county and eligible municipality may develop a strategy within its local housing assistance plan that emphasizes the recruitment and retention of Essential Service

Personnel pursuant to Section 420.9075(3)(b), F.S. If a county or eligible municipality creates a strategy as referenced above before the current plan expires, an amendment shall be submitted to the Corporation in underline and strikethrough format as provided in subsection 67-37.005(17)(9), F.A.C.

(12) A county or eligible municipality may use SHIP funds for persons or families whose total annual household income does not exceed one hundred forty percent of the area median income, adjusted for family size; ~~or one hundred and fifty percent of the area median income, adjusted for family size, in areas designated as areas of critical concern, when the funds are allocated to a development that has been awarded funds under the Community Workforce Housing Innovation Pilot Program.~~ This use of funds does not relieve the local government from meeting the requirements of Section 420.9075(5)(d), (2), F.S.

(13) No change.

(14) Each county and eligible municipality shall include initiatives in the local housing assistance plan identifying current and emerging green building and design techniques and explain how these techniques are to be integrated into its housing strategies both for sustainability and promote greater affordability pursuant to Section 420.9075(3)(d), F.S.

(15) Each county and eligible municipality may develop a strategy within its local housing assistance plan for the Preservation of assisted rental housing.

(16) A county or eligible municipality may develop a strategy within its local housing assistance plan to provide a one-time relocation Grant up to \$5,000 to eligible households who are subject to eviction from rental property due to foreclosure of the rental property. At the time of application, eligible households must submit a notice of eviction; and proof that rent was paid at least 3 months before the date of eviction, including the month the eviction notice was served. This subsection expires July 1, 2010.

~~(17)(14)~~ For plans adopted prior to the effective date of this rule, the Corporation shall not require submission of an amendment to include a strategy for Essential Service Personnel unit such time as the current plan expires. If a county or eligibility municipality creates a strategy as referenced above before the current plan expires, an amendment must be submitted to the Corporation in underline and strikethrough format as provided in subsection 67-37.005(18)(15), F.A.C.

~~(18)(15)~~ A copy of the local housing assistance plan shall be submitted to the Corporation, via electronic submission. The local housing assistance plan's certification and resolution pages shall be mailed to the Corporation and shall bear the original signature of the authorized official which includes: Mayor, Commissioner, County Manager or City Manager or the authorized official's designee and a certification that the document being submitted is the county's, eligible municipality's or interlocal entity's local housing assistance plan and that all provisions of the plan conform to the

requirements of Section 420.9072, F.S., et seq., and Rule Chapter 67-37, F.A.C. Each local housing assistance plan shall contain a table of contents or checklist, which specifies exactly where in the documentation required items shall be located. Each local housing assistance plan amendment shall be written with text which is being deleted shown in strikethrough format and text which is being added shown in underlined format. Within two weeks after receipt of final approval letter, the local government shall provide to the Corporation, via electronic submission, a complete clean copy (no strike through or underline) for Corporation files.

~~(19)~~(16) Any recently hired staff or new entity employed or contracted to administer any portion of the SHIP program having no previous experience with the SHIP program shall receive on site, telephonic and e-mail training through the Catalyst program.

Rulemaking Specific Authority 420.9072(9) FS., Ch. 2006-69, Laws of Florida. Law Implemented 420.9072(2), 420.9075 FS. History—New 11-26-92, Amended 5-2-93, 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.005, Amended 12-26-99, 9-22-03, 1-30-05, 11-5-06, 2-24-08,_____.

67-37.006 Review of Local Housing Assistance Plans and Amendments.

(1) Local housing assistance plans and amendments shall be reviewed and approved by a Review Committee appointed by the Executive Director. In the event that a quorum is not convened for the review of a plan or an amendment to a plan, action can be taken with a simple majority vote of those members present for the review.

(2) through (4) No change.

Rulemaking Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2) FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.006, Amended 12-26-99, 9-22-03, 2-24-08,_____.

67-37.007 Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans.

(1) SHIP local housing distribution funds shall be used to implement the local housing assistance plan. The benefit of assistance provided through the SHIP program must accrue to eligible persons occupying Eeligible Housing. This provision shall not be construed to prohibit use of the local housing distribution deposited into the local housing assistance trust fund for a mixed-income rental development. SHIP local housing distribution funds may be used:

(a) through (e) No change.

(2) No change.

(3) At least seventy-five percent of a local government's SHIP local housing distributions must be used for construction, rehabilitation or emergency repairs of affordable, Eeligible Housing. Construction, rehabilitation, or emergency repairs must be completed either within one year immediately

preceding the date of conveyance of title (i.e., closing) or within 24 months of the close of the applicable State fiscal year to satisfy this requirement, unless otherwise extended as provided at paragraph 67-37.005002(6)(i), F.A.C. The expenditure of program income is exempt from this requirement. For purposes of this rule, SHIP recipients may rely on the following expenditures to be considered construction, rehabilitation or emergency repair costs:

(a) through (f) No change.

(4) A county or eligible municipality may spend up to 20 percent of the funds made available in each county and eligible municipality from the local housing distribution for manufactured housing as referenced in Section 420.9075(5)(c), F.S.

(a) through (f) No change.

~~(5)~~(4) The Corporation shall review and approve expenditures for the following categories as Administrative Expenditures:

~~(6)~~(5) The balance of the local housing distribution funds and other funds deposited into the local housing assistance trust fund must be used for housing production and finance activities, including: financing preconstruction activities, financing the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan.

~~(7)~~(6) The sales price or value of new or existing homes which are sold or rehabilitated under the SHIP Program shall not exceed 90 percent of the average area purchase price in the statistical area in which the housing is located. The local government at its discretion may set the sales price or value below the 90 percent benchmark. The maximum area purchase price shall not exceed the limit established by the United States Department of Treasury or that calculated in accordance with Section 420.9075(5)(d)~~(e)~~, F.S.

~~(8)~~(7) Loans issued using local housing distribution funds deposited to the local housing assistance trust fund may not have terms exceeding 30 years, except for Deferred Payment Loans or Forgivable Loans that extend beyond 30 years which continue to serve eligible persons.

~~(9)~~(8) All units constructed, rehabilitated, or otherwise assisted with local housing distributions provided from the local housing assistance trust fund must be occupied by eligible persons as required by Section 420.9075(4)(e)~~1(d)2~~, F.S. The remainder may be reserved for eligible persons or eligible sponsors that will serve eligible persons.

~~(10)~~(9) Monthly mortgage payments, including taxes and insurance, and monthly rental payments must be affordable for very low-, low- and moderate-income persons and households.

~~(11)~~(10) Rental units constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund must be monitored at least annually for 15 years or the term of assistance, whichever is longer, for compliance with tenant

income and affordability requirements, except as referenced in Section 420.9075(4)(e), F.S. In determining the maximum allowable rents, 30 percent of the applicable income category divided by 12 months shall be used based on the number of bedrooms. A one-person household shall be used for an efficiency unit, and for units with separate bedrooms, one and one-half persons per bedroom shall be used. A rental limit chart based on the above calculation adjusted for bedroom size will be provided to the local governments by the Corporation annually.

~~(12)~~(11) All Loans and Grants for houses constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund shall be subject to recapture requirements as described by the county or eligibility municipality in its local housing assistance plan. Any strategy proposed that will award funds as a Grant without any recapture requirements shall be submitted to the Corporation denoted as a Grant as part of the local housing assistance plan for approval by the Review Committee.

~~(13)~~(12) Developers receiving assistance from both SHIP and the Low-Income Rental Housing Tax Credit (LIHTC) Program shall be required to comply with the income, affordability and other LIHTC requirements. Similarly, any units receiving assistance from SHIP and other federal, State or local programs shall be required to comply with any requirements specified by the other program in addition to SHIP program requirements. In the event both programs have restrictions on the same issue, the more restrictive regulation shall take precedence. If one program is silent on an issue, the program with a regulation on the issue shall apply.

~~(14)~~(13) The local government may require that housing units receiving assistance from local housing distribution funds deposited to the local housing assistance trust fund be located within the boundaries of the local government's jurisdiction which has been approved for receipt of local housing distribution funds.

~~(15)~~(14) Local housing distribution funds deposited to the local housing assistance trust fund shall not be used as a pledge of the debt service on bonds or as rent subsidies.

~~(16)~~ Pursuant to Section 420.9073(5), F.S. in the event of a disaster declared by an Executive Order of the Governor, counties and eligible municipalities may request funding for activities described in its local housing assistance plan or under the disaster strategy. Requests for additional funds shall be submitted in writing and shall include the name of the local government and amount of funds requested and a schedule of when the funds being requested are to be expended. The request shall also include the number of households to be assisted, addresses, damage assessment performed by FEMA, the Department of Emergency Management, or other local agency performing disaster assessments and dollar estimate of repairs. Disaster funds shall be disbursed to local governments based on demonstrated need on a first come, first-served basis

pending availability of funds. Counties and eligible municipalities receiving additional funds for disaster that have unencumbered funds shall expend the unencumbered funds before requesting disaster funds. Disaster activities shall be included in the Annual Report submitted by local jurisdictions by September 15 following the close of the fiscal year.

(17) Pursuant to Section 420.9073(6), F.S. counties and eligible municipalities may request funds to be used for the purchase of properties subject to a SHIP lien on which foreclosure proceedings have been initiated. Counties and eligible municipalities receiving these funds shall repay these funds to the Corporation no later than the expenditure deadline for the fiscal year in which the funds were expended. Any funds not repaid shall be withheld from the subsequent year's distribution. Requests for these funds shall be submitted in writing and shall include the name of the local government, amount of funds requested, address of property(ies) being acquired, cost of purchase, amount of existing SHIP subsidy and a schedule of when the funds being requested are to be expended. These funds will be disbursed to local governments on a first come, first served basis pending availability of funds.

Rulemaking Specific Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History--New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 9I-37.007, Amended 12-26-99, 9-22-03, 11-5-06, 2-24-08,_____.

67-37.008 Local Housing Assistance Trust Fund.

(1) through (3) No change.

(a) No change.

(b) Administrative Expenditures separately stated for the costs of the local government and any Sub Recipients administering the program.

(c) Total Recaptured Funds and program income separately stated for event type (Foreclosure, sale of property, refinance).

(d) No change.

(e) Tracking of persons with disabilities and any other additional program information needed by the Corporation.

(f) Annual reports shall be submitted to the Corporation via the internet using "Form SHIP AR/2009". "Form SHIP AR/2009" is adopted and incorporated herein by reference with an effective date of 11/2009. A copy of "Form SHIP AR/2009" may be obtained at www.floridahousing.org. Click on Housing Partners; then Local Governments (SHIP); then click on SHIP Annual Reports.

(4) through (5) No change.

Rulemaking Specific Authority 420.9072(9) FS. Law Implemented 420.9075(5) FS. History--New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 9I-37.008, Repromulgated 12-26-99, Amended 9-22-03, 1-30-05, 11-5-06, 2-24-08,_____.

67-37.010 Local Affordable Housing Advisory Committees and Incentive Strategies.

(1) The affordable housing advisory committee, as established in Section 420.9076(3)(2), F.S., must approve the local affordable housing incentive strategy recommendations at a public hearing by affirmative vote of a majority of the membership of the advisory committee.

(2) through (5) No change.

Rulemaking Specific Authority 420.9072(9) FS. Law Implemented 420.907, 420.9076 FS. History—New 2-9-94, 1-6-98, Formerly 91-37.010, Amended 12-26-99, Repromulgated 9-22-03, Amended 2-24-08, _____.

67-37.019 Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.

(1) No change.

(2) The combined household Annual Gross Income of an applicant who is applying as an owner/occupant of a residence shall be verified and certified by the SHIP program administrator or designee using one of the following methods:

(a) through (c) No change.

(3) Income shall be calculated by annualizing verified sources of income for the household as the amount of income to be received in a household during the 12 months following the effective date of the determination. Whichever income verification and certification method is used, the Annual Gross Income, as defined in Section 420.9071(4), F.S., must be used and the SHIP Program income limits cannot be exceeded. SHIP funds Expended on households that are determined to not be income qualified through a compliance monitoring or audit shall be repaid in full to the local housing trust fund from non-SHIP funds to be reallocated to an eligible SHIP activity. In this circumstance, the local government or administrative entity may be required to receive technical assistance through the Affordable Housing Catalyst Program.

(4) through (11) No change.

Rulemaking Specific Authority 420.9072(9) FS. Law Implemented 420.907, 420.9075(3)(e) FS. History—New 2-24-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Darlene Raker, SHIP Program Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Robert Dearduff, SHIP Program Administrator

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 26, 2009

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-38.002	Definitions
67-38.0026	General Program Requirements and Restrictions
67-38.003	Application Submission Procedures
67-38.004	Incomplete Applications and Rejection Criteria
67-38.005	Application Evaluation and Award Guidelines
67-38.007	Terms of the PLP Loan
67-38.008	Eligible Uses for the Loan
67-38.010	Credit Underwriting Procedures
67-38.011	Fees
67-38.014	Disbursement Procedures

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-38, Florida Administrative Code (F.A.C.) is to establish the procedures by which the Florida Housing Finance Corporation shall administer the Predevelopment Loan Program (PLP) which helps to fund the initial and up front costs associated with the building or rehabilitation of affordable housing. These funds may be requested by any unit of government, public housing authority established pursuant to Chapter 421, F.S., community-based or not-for-profit organization, for-profit entity wholly owned by one or more qualified not-for-profit organizations, or limited partnership with the community-based or not-for-profit organization that holds at least 51% of the ownership not owned by a for-profit entity and must materially participate in the development and operation of the Development. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness for program service delivery and will provide greater clarification of the program.

SUMMARY: The Corporation reviewed the contents of this rule chapter to ensure that the language contained herein is still in line with the Statute, current goals of the Corporation and reflects any material changes that have taken place within the structure or application process of the Predevelopment Loan Program.

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

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

RULEMAKING AUTHORITY: 420.528 FS.

LAW IMPLEMENTED: 420.507, 420.521-.529 FS.

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

DATE AND TIME: September 17, 2009, 10:00 a.m.

PLACE: Florida Housing Finance Corporation, Formal Conference Room, Fifth Floor, 227 North Bronough Street, Tallahassee, Florida 32301

Additionally, interested parties may participate by dialing 1(888)808-6959. When prompted, enter Conference Code 3884197 followed by the # key.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Robert Dearduff, Special Programs Administrator, (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Robert Dearduff, Special Programs Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

THE FULL TEXT OF THE PROPOSED RULES IS:

67-38.002 Definitions.

(1) through (4) No change.

(5) "Application Package" means the forms and instructions obtained from the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 or from the Corporation's Website, which shall be completed and submitted to the Corporation in order to apply for a specific Florida Housing program. With respect to PLP, Form PLP 1115 (Rev 11/09 ~~10/07~~) is hereby adopted and incorporated herein by reference. Copies of such may be obtained by contacting the Special Programs Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(6) through (15) No change.

(16) "Development Plan" or "Form TAP 1215" (Rev 11/09 ~~02/05~~) means the written description of the proposed Development submitted to the Corporation by the Technical Assistance Provider, with the concurrence of the Applicant, in the form created and approved by Corporation. Form TAP 1215 is hereby adopted and incorporated herein by reference. Copies of such may be obtained by contacting the Special Programs Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(17) through (36) No change.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History--New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.0026 General Program Requirements and Restrictions.

(1) No change.

(a) through (d) No change.

(e) A limited liability company or limited partnership if its managing member or general partner is a Community-Based or Not-For-Profit Organization that holds at least 51% of the ownership interest in the Development held by the managing member or general partner entity. The Not-For-Profit entity shall own an interest in the Development, either directly or indirectly; shall not be affiliated with or controlled by a for-profit corporation; and shall materially participate in the development and operation of the Development throughout the Compliance Period as stated in the Land Use Restriction Agreement.

(2) In order to close on the PLP Loan, the Applicant entity approved by the Board shall have site control and the ability to secure the loan through a mortgage or other collateral.

(3)(2) PLP Loans shall be limited to eligible predevelopment and site acquisition costs approved for the Development by the TAP and the Corporation and are limited to:

(a) \$500,000 ~~when no funds are being requested for non-site acquisition; and or~~

(b) \$500,000 ~~\$750,000 when funds are being requested for site acquisition of which funds for the site acquisition cost (including good faith deposits applied to the sales price).~~ The total PLP Loan amount shall not exceed \$750,000. shall be limited to \$500,000

(4)(3) All funds from the PLP loan shall be expended on the eligible expenses outlined in Rule 67-38.008, F.A.C.

(5)(4) Site acquisition cost shall be subject to approval of an assigned Credit Underwriter.

(6)(5) The Corporation shall limit the PLP Loan to an amount which can be secured through a mortgage on the Development Site, the pledging of capital fund finance program funds as approved by HUD or other collateral approved by the Corporation. Such determination shall require written recommendation by the TAP or Credit Underwriter and be based on the following: mortgages, liens, or both currently on the Development Site, and shall be based on the ~~or~~ value of the Development Site as determined by appraisal dated within 12 months of receipt of the Application.

(7)(6) For rental Developments:

(a) The Applicant must commit to Set-Aside a minimum of 20% ~~60%~~ of the completed rental units to be rented to persons or households whose income does not exceed 50% ~~60%~~ of the area median income, as determined by HUD and adjusted by household size, for the metropolitan statistical area or county in which the Development is located, and

(b) No change.

(8)(7) For home ownership Developments:

(a) through (b) No change.

(9)(8) Applicants are required to work with a Technical Assistance Provider (TAP) as assigned and directed by the Corporation until repayment of the PLP Loan, withdrawal of

the Application, de-obligation of the PLP Loan, or termination from the PLP. The Corporation shall pay all fees required by the TAP.

~~(10)(9)~~ If the Applicant is utilizing PLP funds to purchase the PLP Development Site, including good faith deposits applied to the sales price of the land, Credit Underwriting will be required by a Credit Underwriter assigned by the Corporation. The Applicant is responsible for paying all ~~the~~ Credit Underwriting fees, which is an eligible PLP expense.

~~(11)(10)~~ If awarded a PLP Loan, the proceeds of such may only be used for PLP eligible expenses as outlined in Rule 67-38.008, F.A.C.

~~(12)(11)~~ The Development must be consistent with the purposes of the Predevelopment Loan Program and conform to the requirements specified in the Act or this rule chapter.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.003 Application Submission Procedures.

(1) through (4) No change.

(5) Applications shall be accompanied by the non-refundable Application fee as set forth in the Application Package. Applications shall be submitted on the forms provided in the Application Package and shall be bound in three ring binders and shall have tabs for each form and exhibit. Exhibits shall be placed behind the form to which they refer. Failure to comply with any of the requirements set forth in this rule chapter shall result in the determination that the Application has not met Threshold Requirements.

(6) No change.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.004 Incomplete Applications and Rejection Criteria.

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

(vi) Application is submitted for a Development which an application has previously been submitted and not withdrawn.

(vii) Application is submitted for an ineligible purpose.

(3) through (4) No change.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.005 Application Evaluation and Award Guidelines.

(1) through (6) No change.

(7) The Technical Assistance Provider shall work with the Applicant to formulate a Development Plan and PLP budget. The Development Plan and PLP budget shall clearly set forth in detail the Applicant's anticipated predevelopment tasks and

activities, timeline, itemized budget, sources to fund all anticipated predevelopment expenses, including those in excess of the amounts to be requested under the Predevelopment Loan Program, and the anticipated sources and uses of construction and permanent financing. The anticipated activities and expenses shall be those necessary prior to closing on construction or permanent financing for the Development. The Development Plan shall also set forth the exact number of units to be set aside, including the number of units set-aside for Farmworkers if priority was given for meeting the Farmworker Set-Aside.

(8) The Applicant shall be given up to six months from the Technical Assistance Provider's date of assignment Applicant's date of execution of the Invitation to Participate letter to complete and submit the Development Plan and PLP budget unless prior written approval of an extension is received from the Corporation. The Invitation to Participate letter shall be canceled if the Development Plan and PLP budget are ~~is~~ not submitted within the six-month period. All PLP Loan documents, if any, shall be cancelled. Any commitment fees paid shall be retained by the Corporation. With the prior approval of the TAP, the Applicant may request an extension for submitting the Development Plan and PLP budget in writing to the Corporation at least 30 calendar days prior to the end of the original six-month period.

(9) No change.

(10) Following the TAP and Corporation staff's approval of the Development Plan and PLP budget, the PLP Loan request shall be submitted to the Board for approval. Amendments to the Development Plan and PLP budget shall be allowed upon a favorable recommendation of the Technical Assistance Provider. Board approval shall not be required on PLP budget line item adjustments that do not exceed 10% of the approved non-site acquisition costs.

(11) If an increase to the PLP Loan is requested ~~or an Applicant name change is requested~~, Board approval is required. Any increase to the PLP Loan amount must comply with limits set forth in subsection 67-38.0026(3), F.A.C.

(12) If an Applicant or Developer change is requested after the Board approves a PLP Loan, the change shall be approved by the Board. Development name changes do not require Board approval.

~~(13)(11)~~ Following approval of the PLP Loan, the Applicant will receive written notice of such approval in the form of a commitment letter issued by the Corporation. The Applicant shall submit the final commitment fee and return the executed acceptance of commitment to the Corporation within 20 calendar days from the date of the commitment letter.

~~(14)(12)~~ If the Board does not approve the PLP Loan request, no funds shall be disbursed other than for expenses incurred for services of the Technical Assistance Provider. Any commitment fees paid by the Applicant shall be retained by the Corporation.

~~(15)~~(13) In the event the Development Plan receives approval and the Applicant is unable to proceed to completion of Predevelopment Loan Program activities or obtain permanent or construction financing, any commitment fees paid shall be retained by the Corporation.

~~(16)~~(14) Following receipt of the final commitment fee, the Applicant shall be given up to six months from the date of the Commitment letter to execute such loan documents, as appropriate for such circumstances, including a mortgage, loan agreement, promissory note, LURA and any other customary loan documentation as may be required by the Corporation and will be provided to the Applicant. With the prior written approval of the Technical Assistance Provider, the Applicant may request a written extension on the loan closing to the Corporation at least 30 calendar days prior to the end of the original six-month period. The loan must close in the name of the entity that has site control of the Development. Upon execution of all loan documents by both the Applicant and the Corporation, funds will be available for disbursement for eligible predevelopment activities as specified in this rule chapter.

~~(17)~~(15) A positive Credit Underwriting Report is required for closing on any portion of the PLP Loan that has been approved by the Board for site acquisition costs including good faith deposits applied to the sales price. The Applicant shall be given up to six months from the date of the second Commitment letter to execute a mortgage, loan agreement, promissory note, LURA and any other customary loan documentation provided to the Applicant. With the prior written approval of the Technical Assistance Provider, the Applicant may request a written extension on the site acquisition closing to the Corporation at least 30 calendar days prior to the end of the original six-month period. Upon execution of all loan documents by both the Applicant and the Corporation, funds will be available for disbursement for site acquisition activities as specified in this rule chapter.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.007 Terms of the PLP Loan.

~~(1) If the Applicant entity is comprised of a 100% ownership interest by a Not For Profit Organization or a for-profit entity wholly owned by one or more Not For Profit Organizations, or if the Applicant is a Public Housing Authority, the PLP Loan shall bear an interest rate of 1%. Otherwise, the PLP Loan shall bear an interest rate of 3%.~~

(2) The PLP Loan shall be secured by such customary documents and collateral as are necessary to ensure repayment in accordance with the terms and conditions approved by the Corporation.

(3) through (4) No change.

(5) With respect to rental Developments, the PLP Loan’s Maturity Date shall be on the earlier of:

(a) The date of closing on the first source of permanent or construction loan for the Development; or

~~(b) The date of closing on the tax credit partnership and receipt of the initial disbursement; or~~

~~(c)~~(b) Three years from the date of execution of the loan documents by the Corporation or other such extended loan Maturity Date approved by the Board.

(6) through (10) No change.

(11) The Applicant shall submit electronic progress reports evidencing successful completion of the requisite tasks and activities set forth in the Development Plan to the Technical Assistance Provider twice annually on not more than a quarterly basis as determined by the Corporation. The Technical Assistance Provider shall submit the reports to the Corporation. Reports are due to the Corporation by the 15th ~~10th~~ day of ~~April, July, October,~~ and January for so long as funds are outstanding.

(12) through (16) No change.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.008 Eligible Uses for the Loan.

(1) No change.

(2) The Corporation shall monitor all predevelopment activity expenditures through the designated Technical Assistance Provider and shall deny disbursements which have not been approved by the Technical Assistance Provider prior to submission to the Corporation. Draw requests shall not be processed without the Technical Assistance Provider’s written approval. All draw requests are submitted by the TAP to the Corporation.

(3) No change.

(a) through (c) No change.

(d) Legal fees, except those associated with application preparation and submissions;

(e) No change.

(f) Administrative expenses such as phone charges, travel related to the Development, copying, printing, and postage fees. Other expenses requested under this subsection shall be pre-approved by the Corporation. Salaries ~~of employees of the applicant~~ are not an eligible expense.

(g) Development consultant fees. Consultant fees incurred in connection with the submission or preparation of the PLP Application or for any other activities which can be provided by the Technical Assistance Provider shall not be eligible predevelopment expenses. The consultant shall demonstrate appropriate experience in affordable housing Development projects and shall be approved by the TAP. No person,

corporation, partnership, or entity having an identity of interest in the Development, or the Applicant, or any employee of such may act as a third party consultant;

(h) through (t) No change.

(u) Capital needs assessment;

(w)(+) Other fees as approved by Florida Housing.

(4) through (5) No change.

(6) An applicant that applies for a PLP Loan for the acquisition and preservation of an affordable housing development shall:

(a) Be allowed to access PLP funding, not to exceed \$20,000 per Development, for the purpose of conducting a capital needs assessment (CNA) to determine the feasibility of preserving the Development after the Board has approved the Development plan and PLP budget. The CNA funding shall be secured by a loan agreement.

(b) Be required to repay the funds, according to this Rule chapter, if the CNA determines that the Development is feasible for preservation. If the Applicant pursues the remainder of the approved PLP loan, the funding for the CNA shall be included in the Loan agreement for the non site acquisition portion of the loan and be secured by a mortgage or other collateral.

(c) Be eligible to have the CNA funds forgiven if the results of the CNA determine that the Development is not feasible for preservation. If this occurs, no additional PLP funds will be made available for the Development.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.010 Credit Underwriting Procedures.

(1) If an Applicant requests funds for site acquisition or if the Corporation deems Credit Underwriting necessary to determine the feasibility of a development or the eligibility of the Applicant or its' Affiliates on a Development that does not include a request for acquisition funds, ~~or requests an extension of the term of the PLP Loan,~~ the Corporation will assign a Credit Underwriter to perform the Credit Underwriting Report.

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

(e) Make a determination as to the eligibility and competence of the Applicant entity and all Principals of the Applicant.

(3) through (6) No change.

(7) It is the responsibility of the Applicant with the assistance of the Technical Assistance Provider to comply with each part of this rule chapter and to request in writing and provide evidence acceptable to the Corporation of extenuating circumstances for any requested waiver or extension. A failure to comply with any part of this rule chapter without the prior written approval of the TAP and written permission of the

Corporation shall result in the disqualification of the Development, loan de-obligated or application withdrawn by the Corporation.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.011 Fees.

(1) No change.

(a) No change.

(b) If PLP funds are to be used for site acquisition and the Applicant requests an extension of the PLP Loan Maturity Date, a credit underwriting fee pursuant to the contract between the Corporation and the Credit Underwriter shall be paid. If a Development involves scattered sites, a single credit underwriting fee shall be charged for the first site. This fee may be paid from the PLP Loan proceeds;

(c) No change.

(d) Following approval an additional commitment fee shall be paid within 20 calendar days of written notice to the Applicant that the Development Plan has been approved. In the event the Development Plan does not receive approval, the commitment fee paid at the time of acceptance of the Invitation to Participate letter shall be retained by the Corporation. In the event the Applicant successfully completes the Predevelopment Loan Program activities and obtains permanent or construction financing, the Applicant's PLP Loan repayment amount will be reduced by the full commitment fees paid provided the Applicant is in compliance with the PLP Rule;

(e) through (f) No change.

(2) through (3) No change.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History–New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07,_____.

67-38.014 Disbursement Procedures.

After the PLP Loan has successfully closed, the PLP Loan shall be disbursed in partial payments by the Corporation to the Applicant, title company or third party contractors subsequent to compliance with the following conditions for either home ownership or rental Developments:

(1) No change.

(2) All draw ~~Any disbursement~~ requests shall set forth the Predevelopment activities and expenses which have been paid or will be paid to the contractors, sub-contractors, professionals, and consultants. Draw requests ~~amount requested by the Applicant and~~ shall be accompanied by invoices, cancelled checks or other such documentation to evidence the amount of the draw request and eligible Predevelopment activities. ~~kind of work or labor that has been~~

or is to be performed; the value of the same; the identification of the portion of the Development Site on which the work has been performed; and that such contractors, sub-contractors, material men, laborers, professionals, consultants and all persons employed by the Applicant to work on the Development have been paid for work performed or will be paid. Lien waivers or receipts for work or labor which has been completed shall be submitted along with requests for disbursement. Lien waivers or receipts for work which will be paid from the requested disbursement shall be submitted prior to receiving Additional draw requests shall not be processed until all required documentation on previous draw disbursements is received by the Corporation;

(3) through (4) No change.

(5) In the event that the Applicant receives PLP funding for site acquisition, the Applicant shall ~~must~~ provide a Mortgage on the Development Site as collateral for the loan subject only to such encumbrances approved by the Corporation; however, if the Applicant is offering a subordinate Mortgage or other collateral for the PLP Loan, the same shall be subject to a favorable recommendation of the Credit Underwriter and the approval of the Corporation.

Rulemaking Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03, 2-3-05, 11-21-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Dearduff, Special Programs Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Nancy Muller, Policy Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 19, 2009

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Historical Resources

RULE NOS.:	RULE TITLES:
1A-39.002	Definitions
1A-39.003	Grant Funding
1A-39.004	Grant Programs
1A-39.005	Non-Allowable Costs
1A-39.007	Application Procedures

1A-39.008	Application Review
1A-39.009	Grant Award Agreement
1A-39.010	Reporting Requirements
1A-39.011	Restrictive Covenant
1A-39.012	Preservation Agreement

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 25, June 26, 2009 issue of the Florida Administrative Weekly.

Copies of the proposed rule incorporating these changes may be obtained by contacting David Ferro by mail at R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250, by phone at (800)847-7278, or by email at dferro@dos.state.fl.us.

Paragraph 1A-39.002(41) is amended to read:

(41) "Religious Property" means any real property and associated improvements owned by a religious institution (examples include churches, schools, meeting halls and parish houses) and any real property, regardless of ownership, that is used as a place of worship a building or portion of a building used as a place of worship. School facilities and residential buildings owned by religious institutions, except those portions of such buildings that may be used as places of worship, are not religious properties for the purpose of state funded grant awards

The last sentence in paragraph 1A-39.002(46) is amended to read:

For the purpose of this grant program, historic significance is evaluated on the basis of the Criteria for Evaluation for the National Register of Historic Places as set forth in 36 CFR 60.4, as revised July 1, 2008, which are incorporated by reference and are available from the Bureau.

Paragraph 1A-39.003(3) is amended to read:

(3) The use of federal funds provided by the U.S. Department of the Interior for historic preservation grants-in-aid is subject to the policies, procedures, and guidelines set forth by that agency in Chapters 8 (Subgrants, Contracts and Third Party Agreements), 9 (Certified Local Governments), and 17 (Procurement Standards) of the July 2007 most recent edition of the Historic Preservation Fund Grants Manual, incorporated by reference, and to any special conditions required by the U.S. Department of the Interior. The A copy of the federal Historic Preservation Fund Grants Manual is available online at <http://www.nps.gov/history/hps/hpg/downloads/June2007HPFManual.pdf>. may be obtained by writing or calling the Bureau and paying the cost of photocopying.

Sub-subparagraph 1A-39.004(1)(a)2.c. is amended to read:

c. Main Street projects include those providing technical support to the statewide Florida Main Street Program and a one-time start-up grant to newly designated Florida Main Street communities pursuant to Chapter 1A-36 1A-38, F.A.C.;