

## Section I Notices of Development of Proposed Rules and Negotiated Rulemaking

### DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Rate Filing Procedures	4-149.003
Form Filing Procedures	4-149.021
Forms Adopted	4-149.022

**PURPOSE AND EFFECT:** To update the standardized data letter that life and health insurers must submit with every rate and form filing made with the Department of Insurance. To eliminate the need for filing multiple copies when filing forms. To provide consistency between the rate filing rule and the form filing rule with regard to disapprovals based on incomplete filings.

**SUBJECT AREA TO BE ADDRESSED:** Life and health insurance rate and form filings.

**SPECIFIC AUTHORITY:** 624.308(1), 627.410(6)(b),(e) FS.

**LAW IMPLEMENTED:** 119.07(1)(b), 624.307, 625.121, 627.410, 627.476, 627.807 FS.

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

**TIME AND DATE:** 9:00 a.m. – 10:30 a.m., November 7, 2001

**PLACE:** Room 143, Larson Building, 200 E. Gaines St., Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Frank Dino, Actuary, Division of Insurer Services, Department of Insurance, 200 E. Gaines Street, Room 312D, Larson Building, Tallahassee, FL 32399-0328, (850)413-5014

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

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

4-149.003 Rate Filing Procedures.

(1)(a) Pooling. For purposes of submitting a rate filing under this part for individual policy forms and for group Medicare supplement and long-term care group policy forms, in order to encourage adequate risk sharing for all generations of policyholders, policy forms, whether open or closed, as defined in Rule 4-149.006(4)(d), F.A.C., providing for similar benefits, as defined in Rule 4-149.006(4)(q), F.A.C., shall be combined. Separate combinations may be used for policy forms defined in Rules 4-149.005(5) and 4-149.005(6), F.A.C.

(b) Credibility. In analyzing the experience of policy forms, the following sequence shall be used: if the Florida experience is comprised of fully credible data, as defined in Rule 4-149.006(4)(e), F.A.C., the Florida experience will be used; if not, then nationwide experience will be used as described in Rule 4-149.006(4)(e), F.A.C. Once policy forms have been combined, they remain so for all rating purposes. When forms have been so combined, a rate revision request shall not differentiate between the experience of the individual forms. Where significant inconsistencies between rate levels exist between forms providing similar benefits, some deviation in rate revision granted shall be allowed to reduce these inconsistencies.

(2) Filing Format for Individual Policies and Group Policies and Certificates.

(a)1. All filings shall be made in accordance with paragraph (b) below.

2. All material submitted shall be legible. A filing which is illegible or which contains illegible material will be disapproved without any further processing ~~and will be either returned to the insurer if the insurer has provided the Department with an envelope large enough to contain the material and with sufficient prepaid postage to ensure its acceptance by the U.S. Postal Service or destroyed.~~

3. For purposes of the rules in this Part and the time periods in Section 627.410, Florida Statutes, a filing is considered “filed” with the Department upon the receipt of the material required by paragraph (b). Further, for purposes of the rules in this Part, the term “filed” does not mean “approved.” The term “filed” refers to the date on which the filing is filed with the Department and is the date on which the approval process of Section 627.410, Florida Statutes, commences. “Filing” with the Department does not constitute approval of the rate filing.

(b) A health insurance rate filing shall consist of one copy of each of the following items ~~two copies of all of the items in subparagraphs 1. through 6. and one of the item in subparagraph 7. below, in addition to the requirements of subsection (1), above:~~

1. A brief letter explaining the type and nature of the filing. The letter shall indicate if the filing is for a new product, a rate revision, or a resubmission. If the filing is a resubmission, the letter shall indicate when the previous filing was submitted, the Florida filing number, and the date of the disapproval. ~~Letters requiring a reference to a Florida filing number will not be processed without the inclusion of the Florida filing number.~~

2. Form “1507, The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter”, rev. 7/01, completely filled out in accordance with Form DI4-1507A, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter

~~Instruction Sheet”, rev. 7/01, Form DI4-562A, “Standardized Data Letter/Florida Department of Insurance/Division of Insurer Services/Health Forms Filing,” rev. 4/91; and Form DI4-562B, “Standardized Data Letter/Florida Department of Insurance/Division of Insurer Services/Health Rates Filing,” rev. 7/91, which are hereby adopted and incorporated by reference, completely filled out, with the company’s bar code label in the upper right hand corner of the forms, including the certifications, both completed in accordance with the instructions contained in Form DI4-562, “Standardized Data Letter/Health Insurance/Instruction Sheet,” rev. 7/91, which is hereby adopted and incorporated by reference. Additional bar code labels may be obtained from the Bureau of Data Control, Insurance Research and Data Analysis, Larson Building, Tallahassee, FL 32399-0300. Requests must be made in writing and must include the company name, the company federal employer identification number, and payment of \$30 for each company.~~

~~3. Form DI4-561, “Health Insurance Filing Requirements Summary,” rev. 7/91, which is hereby adopted and incorporated by reference, completed for all filings, including form and rate filings.~~

~~3.4. The actuarial memorandum, completed as required by Rule 4-149.006, F.A.C., “Actuarial Memorandum and Definitions.”~~

~~4.5. Rate pages that which define all proposed rates, rating factors and methodologies for determining rates applicable in the state. For companies which have a complete rate manual on file with the department, only the pages that are being changed need to be filed, unless requested by the Department.~~

~~5.6. The material described in subsection (5), below, if applicable.~~

~~7. An envelope large enough to contain the material and with sufficient prepaid postage to ensure its acceptance by the U.S. Postal Service if the insurer wishes to have the material returned rather than destroyed as provided in paragraph (a), above.~~

~~(3) Filings, as that term is defined in subsections (1) and (2), above, shall be mailed to: Bureau of Life and Health Forms & Rates, Division of Insurer Services, Department of Insurance, Post Office Box 8040, Tallahassee, FL 32301-8040 32314-5320 or submitted electronically to lhfrbureau@doi.state.fl.us. All filings sent to the Department by Federal Express or any other form of special delivery shall be delivered to: Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 1st Floor, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0328 32301.~~

~~(4) Every insurer submitting a rate filing shall be notified as to whether the filing has been deemed approved, has been affirmatively approved by the Department, or has been disapproved by the Department, including disapprovals for failure of the material to meet the definition of a “filing” or for~~

illegibility, within any statutory review period of the date of receipt of the filing. Every insurer submitting a rate filing which does not comply with the requirements of Rules 4-149.001 through 4-149.006, F.A.C., or for which the Department determines that additional information is necessary for a proper review, will be notified of the additional information necessary deficiencies in the filing within the statutory limit. Every insurer shall submit the required data by a date certain stated in the clarification deficiency letter, to allow the Department sufficient time to perform a proper review. Failure to correct the filing deficiencies by the date certain in the clarification deficiency letter will result in an affirmative disapproval of the filing by the Department.

(5) After April 18, 1994, an insurer ~~that which~~ agrees to administer or ~~that which~~ purchases the business under a policy form from another insurer shall provide calendar year experience since inception of the policy form (or the last 3 ~~three~~ years for a group policy form, with no separation of experience data by issue year required), in the detail presented in Rule 4-149.006(3)(b)23., F.A.C. If the insurer believes that the data is not reasonably available and cannot be reasonably reconstructed at reasonable expense, then the insurer shall consult with the Department in order to address the issue of the required lifetime loss ratio. If, after such consultation, the experience since inception (or the last 3 ~~three~~ years for a group policy form) is still required and is not provided, then any rate adjustment granted will be limited to the change in the Medical CPI for the most recent calendar year.

Specific Authority 624.308(1), 627.410(6)(b),(e) FS. Law Implemented 119.07(1)(b), 627.410 FS. History—New 7-1-85, Formerly 4-58.03, 4-58.003, Amended 8-23-93, 4-18-94, 8-22-95, \_\_\_\_\_.

#### 4-149.021 Form Filing Procedures.

(1)(a)1. All filings shall be made in accordance with paragraph (b) below.

2. All material submitted shall be legible. A file which is illegible or which contains illegible material will be disapproved without any further processing returned unprocessed. No filing will be processed until it is complete. A complete filing consists of the material described in paragraph (b).

3. For purposes of the rules in this Part and the time periods in Section 627.410, Florida Statutes, a filing is considered “filed” with the Department upon the receipt of the material required by paragraph (b). For purposes of the rules in this Part, the term “filed” does not mean “approved.” The term “filed” refers to the date on which the filing is filed with the Department and is the date on which the approval process of Section 627.410, Florida Statutes, commences. “Filing” with the Department does not constitute approval of the form filing.

(b) A ~~complete~~ form filing shall consist of one copy of each of the following items:

1. A brief transmittal letter, ~~in triplicate~~, explaining the type and nature of the filing, including the subject, the purpose, and any unusual features relative to products being sold by other companies. The letter shall also indicate if the filing is new or is a resubmission. If the filing is a resubmission, the letter shall indicate when the previous filing was submitted, the Florida filing number and the date of the ~~approval or~~ disapproval. If the filing is either a group life or a group annuity form, the letter shall indicate the Florida statute number under which the form is to be issued.

2. Form DI4-1507, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter", rev. 7/01, completely filled out in accordance with Form DI4-1507A, "The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet", rev. 7/01. Form DI4-560, "Standardized Data Letter/Florida Department of Insurance/Division of Insurer Services/Forms Filing (Life and Annuities)," rev. 4/91, completely filled out, including the certification in Part III; or Form DI4-562A, "Standardized Data Letter/Florida Department of Insurance/Division of Insurer Services/Health Forms Filing," rev. 4/91, completely filled out, including the certification in Part III, completed in accordance with the instructions contained in Form DI4-562, "Standardized Data Letter/Health Insurance/Instruction Sheet," rev. 7/91. When submitted, both Form DI4-560 and Form DI4-562A shall contain the company's bar code label in the upper right hand corner of the form. Additional bar code labels may be obtained from the Document Processing Section, Division of Administration, Larson Building, Tallahassee, FL 32399-0311. The request must be in writing and must contain the company name, the federal employer identification number, and payment for \$30 for each company.

3. Form DI4-561, "Health Insurance Filing Requirements Summary," rev. 7/91, for all health form filings.

~~3.4.~~ The checklist appropriate for the type of form being filed and any information required by that checklist. All forms and checklists are listed and adopted in Rule 4-149.022, F.A.C.

5. ~~Form DI4-546, "Checklist Certification," rev. 4/91, signed by a company officer or a designated compliance person.~~

~~4.6.~~ Any certifications of ~~readability~~, rates, cost indices, or other items, if required by the appropriate checklist or by rule.

~~5.7.~~ One copy ~~Three copies~~ of the form(s) being filed. Each form must include the name of the company, and each form must have an identifying form number in the lower left hand corner of the first page of the form.

~~6.8.~~ Each filing shall contain an actuarial memorandum, certified and signed by a qualified actuary. The actuarial memorandum for life and annuity product filings shall demonstrate compliance with the Standard Valuation Law. In

addition, filings for life insurance products other than annuities shall demonstrate compliance with the Standard Nonforfeiture Law.

~~9. If the insurer wishes a copy of the form stamped with the Department's approval, the insurer shall include a self-addressed envelope, with sufficient postage affixed, as part of the form filing.~~

(2) Each filing shall contain forms for only one type of coverage, i.e., ordinary life, variable life, major medical, etc. However, a filing may contain more than one form if the forms are for the same type of coverage.

(3) Each filing shall contain forms for only one company.

(4) Combination forms, products that contain both life and health coverages, shall be submitted separately but simultaneously ~~to the address in subsection (5), below. Each submission shall and shall~~ be clearly marked to indicate that they are combination filings, one as life and one as health whether the filing is for life or for health.

(5) Complete filings shall be mailed to: Bureau of Life and Health Forms & Rates, Division of Insurer Services, Department of Insurance, Post Office Box 8040 5320, Tallahassee, FL 32301-8040 32314-5320 or submitted electronically to [lhfrbureau@doi.state.fl.us](mailto:lhfrbureau@doi.state.fl.us). All filings sent to the Department by Federal Express or any other form of special delivery shall be delivered to: Bureau of Life and Health Forms and Rates, Division of Insurer Services, Department of Insurance, 1st Floor, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-032800.

(6) Every insurer submitting a form filing shall be notified as to whether the filing has been affirmatively approved by the Department, or has been disapproved by the Department, including disapprovals for failure of the material to meet the definition of a "filing" or for illegibility, within any statutory review period of the date of receipt of the filing. Every insurer submitting a form filing for which the Department determines that additional information is necessary for a proper review will be notified of the additional information within the statutory limit. Every insurer shall submit the required data by a date certain stated in the clarification letter to allow the Department sufficient time to perform a proper review. Failure to correct the filing by the date certain in the clarification letter will result in an affirmative disapproval of the filing by the Department. Only complete filings in accordance with this rule will be processed. Any filing submitted without all of the required forms or information will be considered incomplete. All incomplete filings will be returned without processing.

(7) Definitions. As used in this rule:

(a) New Filing – A new filing is one that is being submitted for the first time. This includes submission of revisions to a previously approved form.

(b) Resubmission – A filing submission in response to a final disapproval from the Department is a resubmission. It is given a new filing number by the Department. This term does

not apply to ongoing correspondence under the same filing number before an affirmative approval or disapproval by the Department.

Specific Authority 624.308 FS. Law Implemented 624.307, 625.121, 627.410, 627.476, 627.807 FS. History—New 10-29-91, Amended 8-23-93, 4-18-94, 8-22-95, 5-15-96,\_\_\_\_\_.

4-149.022 Forms Adopted.

(1) The forms adopted in subsection (2), below, shall be used, as applicable, by insurers making form filings for life and accident insurance, annuities, and health insurance. All the forms in subsection (2), below, are hereby adopted and incorporated by reference. All forms may be obtained from the Document Processing Section, Division of Administration, Department of Insurance, Larson Building, Tallahassee, FL 32399-0311. Forms are also available and may be printed from the Department’s website: www.doi.state.fl.us. All forms may be reproduced at will.

(2)(a) Form DI4-1507, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter”, rev. 7/01.

(b) Form DI4-1507A, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet”, rev. 7/01.

(a) through (z) renumbered (c) through (bb) No change.

~~(aa) Form DI4-546, “Checklist Certification,” rev. 4/91.~~

(bb) through (ll) renumbered (cc) through (nn) No change.

~~(oo)(mm) Form DI4-560, “Standardized Data letter/Florida Department of Insurance/Division of Insurer Services/Forms Filing (Life and Annuities),” rev. 4/91.~~

~~(nn) Form DI4-561, “Health Insurance Filing Requirements Summary,” rev. 7/91.~~

~~(oo) Form DI4-562A, “Standardized Data Letter/Florida Department of Insurance/Division of Insurer Services/Health Forms Filing,” rev. 4/91.~~

~~(pp) Form DI4-562, “Standardized Data Letter/Health Insurance/Instruction Sheet,” rev. 7/91.~~

Specific Authority 624.308 FS. Law Implemented 627.410 FS. History—New 10-29-91, Amended 5-15-96,\_\_\_\_\_.

**DEPARTMENT OF INSURANCE**

RULE TITLE: Forms Adopted  
 RULE NO.: 4-149.022

PURPOSE AND EFFECT: The purpose of the proposed rule development is to adopt revised forms that are part of the policy form filing process for life and health insurance companies. The revised forms are checklists of Florida laws and rules that set forth various provisions which insurers are required to include in insurance policies. The checklists aid insurers in complying with Florida laws and rules. The revisions reflect the adoption of new statutes and rules, as well as amendments to existing statutes or rules, which have

changed various policy provision requirements. Copies of the new forms are available and may be printed from the department’s web site: www.doi.state.fl.us

SUBJECT AREA TO BE ADDRESSED: The filling of life and health insurance policy forms with the Department.

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 627.410 FS.

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

TIME AND DATE: 10:30 a.m. – 12:00 p.m., November 7, 2001

PLACE: Room 143, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Frank Dino, Actuary, Division of Insurer Services, Department of Insurance, 200 E. Gaines Street, Room 312D, Larson Building, Tallahassee, FL 32399-0328, (850)413-5014

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

4-149.022 Forms Adopted.

(1) The forms adopted in subsection (2), below, shall be used, as applicable, by insurers making form filings for life and accident insurance, annuities, and health insurance. All the forms in subsection (2), below, are hereby adopted and incorporated by reference. All forms may be obtained from the Document Processing Section, Division of Administration, Department of Insurance, Larson Building, Tallahassee, FL 32399-0311. Forms are additionally available and may be printed from the department’s web site: www.doi.state.fl.us. All forms may be reproduced at will.

(2)(a) Form DI4-1507, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter”, rev. 7/01.

(b) Form DI4-1507A, “The Florida Department of Insurance, Treasurer and Fire Marshal Life and Health Forms and Rates Universal Standardized Data Letter Instruction Sheet”, rev. 7/01.

~~(a) Form DI4-519, “Filing Instructions for Group and Individual Health Insurance,” rev. 4/91.~~

~~(c)(b) Form DI4-520, “Florida Individual Health Application Checklist,” rev. 4/91.~~

~~(d)(e) Form DI4-521, “Florida Individual Health Contract Outline of Coverage Checklist,” rev. 4/91.~~

~~(d)~~ Form DI4-522, "Florida Individual Health Contracts Additional Items for Filings Checklist," rev. 4/91.

~~(d)~~~~(e)~~ Form DI4-523, "Florida Individual Health Contract Checklist," rev. 4/91.

~~(e)~~~~(f)~~ Form DI4-524, "Florida Out-of-State Group Health Checklist," rev. 4/91.

~~(f)~~~~(g)~~ Form DI4-525, "Florida Group Health Application Checklist for Employees, Labor Union and Association Groups," rev. 4/91.

~~(g)~~~~(h)~~ Form DI4-526, "Florida Group Health Checklist for Employees, Labor Unions and Association Groups," rev. 4/91.

~~(h)~~~~(i)~~ Form DI4-527, "Florida Health Application Checklist for Debtor Groups," rev. 4/91.

~~(i)~~~~(j)~~ Form DI4-528, "Florida Additional Information Checklist for Debtor Groups," rev. 4/91.

~~(j)~~~~(k)~~ Form DI4-529, "Florida Group Health Contract Checklist for Debtor Groups," rev. 4/91.

~~(k)~~ Form DI4-530, "Florida Group Health Application Checklist for Additional Groups/F.S. 627.656," rev. 4/91.

~~(m)~~ Form DI4-531, "Florida Group Health Checklist for Additional Groups, Employees and Dependents," rev. 4/91.

~~(n)~~ Form DI4-532, "Florida Franchise Health Contracts/F.S. 627.663/Additional Items for Filing Checklist," rev. 4/91.

~~(o)~~ Form DI4-533, "Optional Coverages/F.S. 627.656/Additional Groups Checklist," rev. 4/91.

~~(p)~~ Form DI4-534, "Florida Additional Groups Additional Information Checklist/F.S. 627.656 (F.S. 627.5565)," rev. 4/91.

~~(k)~~~~(q)~~ Form DI4-535, "Checklist for Blanket Health Contracts/F.S. 627.659," rev. 4/91.

~~(l)~~~~(r)~~ Form DI4-536, "Florida Franchise Health Application Checklist," rev. 4/91.

~~(m)~~~~(s)~~ Form DI4-537, "Florida Franchise Health Contract Outline of Coverage Checklist," rev. 4/91.

~~(n)~~~~(t)~~ Form DI4-538, "Florida Franchise Health Contract Checklist," rev. 4/91.

~~(o)~~~~(u)~~ Form DI4-539, "Florida Excess-Specific and Aggregate Checklist/Florida Statute 624.406," rev. 4/91.

~~(p)~~~~(v)~~ Form DI4-540, "Informational Memorandum Checklist/Florida Excess Specific and Aggregate/F.S. 624.406," rev. 4/91.

~~(q)~~~~(w)~~ Form DI4-541, "Florida Health Application Checklist for Long Term Care Groups," rev. 4/91.

~~(r)~~~~(x)~~ Form DI4-542, "Florida Long Term Care Checklist/Outline of Coverage," rev. 4/91.

~~(s)~~~~(y)~~ Form DI4-543, "Florida Long Term Care Contract Checklist," rev. 4/91.

(t) Form DI4-1353, "Florida Pre-Paid Limited Health Services Contract Checklist," 7/00.

(u) Form DI4-1354, "Florida Individual Medicare Supplement Health Application Checklist," 7/00.

(v) Form DI4-1355, "Florida Medicare Supplement Contract Checklist," 7/00.

(w) Form DI4-1356, "Florida HMO Contract Checklist (Includes Individual, Large, And Small Group)," 7/00.

(x) Form DI4-1357, "Florida Small Group Health Checklist For Indemnity Plans Other Than Standard And Basic," 7/00.

(y) Form DI4-1358, "Florida Pre-Paid Limited Health Services Group Application," 7/00.

(z) Form DI4-1359, "Florida Pre-Paid Limited Health Services Conversion Application," 7/00.

(aa) Form DI4-1360, "Florida Pre-Paid Limited Health Services Individual Application," 7/00.

(bb) Form DI4-1314, "Individual Fraternal Whole Life," 7/00.

(cc) Form DI4-1328, "Out-of-State Group Term Life," 7/00.

(dd) Form DI4-1329, "Out-of-State Group Whole Life," 7/00.

(ee) Form DI4-1330, "Out-of-State Group Universal Life," 7/00.

(ff) Form DI4-1342, "Group Enrollment Application Variable Annuity," 7/00.

(gg) Form DI4-1343, "Out-of-State Group Variable Life," 7/00.

(hh) Form DI4-1345, "Group Universal Life," 7/00.

(ii) Form DI4-1346, "Individual Life Application," 7/00.

(jj) Form DI4-1347, "Individual Fixed Annuity Application," 7/00.

(kk) Form DI4-1348, "Individual Variable Annuity Application," 7/00.

(ll) Form DI4-1349, "Group Enrollment Application (non variable annuity)," 7/00.

(mm) Form DI4-1350, "Master Group Application," 7/00.

(nn) Form DI4-1351, "Industrial Life Policy," 7/00.

(oo) Form DI4-1352, "Individual Non-Variable Annuity Policy," 7/00.

(pp) Form DI4-1363, "Group Non-Variable Annuity Policy," 7/00.

(qq) Form DI4-1364, "Individual Variable Annuity Policy," 7/00.

(rr) Form DI4-1365, "Group Variable Annuity Policy," 7/00.

(ss) Form DI4-1366, "Out-of State Group Annuity Policy," 7/00.

(tt) Form DI4-1367, "Endorsement, Amendments, Riders," 7/00.

(uu) Form DI4-1368, "Accelerated Death Benefit Rider," 7/00.

(vv) Form DI4-1369, "Credit Life and Disability," 7/00.

- (ww) Form DI4-1382, "Individual Fraternal Term Life." 7/00.
- (xx) Form DI4-1383, "Group Fraternal Term Life." 7/00.
- (yy) Form DI4-1384, "Individual Variable Life." 7/00.
- (zz) Form DI4-1485, "Group Fraternal Term Life." 7/00.
- (aaa) Form DI4-1486, "Group Fraternal Whole Life." 7/00.
- (bbb) Form DI4-1487, "Group Fraternal Universal Life." 7/00.
- (ccc) Form DI4-1488, "Group Term Life." 7/00.
- (ddd) Form DI4-1489, "Group Variable Life." 7/00.
- (eee) Form DI4-1490, "Group Whole Life." 7/00.
- (fff) Form DI4-1491, "Individual Fraternal Universal Life." 7/00.
- (ggg) Form DI4-1492, "Individual Fraternal Variable Life." 7/00.
- (hhh) Form DI4-1493, "Individual Term Life." 7/00.
- (iii) Form DI4-1494, "Individual Universal Life." 7/00.
- (jjj) Form DI4-1496, "Individual Whole Life." 7/00.
- ~~(z) Form DI4-545, "Filing Instructions for: Life, Annuities, Credit Life and Credit Disability, Variable Life and Variable Annuity Forms," rev. 4/91.~~
- ~~(bb) Form DI4-547, "Life and Annuity Individual Applications Checklist," rev. 4/91.~~
- ~~(ee) Form DI4-548, "Individual Ordinary Life Policies Checklist," rev. 4/91.~~
- ~~(dd) Form DI4-549, "In State Group Life Policies Checklist," rev. 4/91.~~
- ~~(ee) Form DI4-550, "Out of State Group Life Policies Checklist," rev. 4/91.~~
- ~~(ff) Form DI4-551, "Individual or Group Universal Life Policies and/or Variable Life Policies Checklist," rev. 4/91.~~
- ~~(gg) Form DI4-552, "Individual or Group Credit Life Policies Checklist," rev. 4/91.~~
- ~~(hh) Form DI4-553, "Individual or Group Credit Disability Policies Checklist," rev. 4/91.~~
- ~~(ii) Form DI4-554, "Industrial Life Policies Checklist," rev. 4/91.~~
- ~~(jj) Form DI4-555, "Fixed Annuity Checklist," rev. 4/91.~~
- ~~(kk) Form DI4-556, "Variable Annuity Checklist," rev. 4/91.~~
- ~~(ll) Form DI4-557, "Fixed or Variable Group Annuity Checklist," rev. 4/91.~~
- (mm) through (pp) No change.

Specific Authority 624.308 FS. Law Implemented 627.410 FS. History—New 10-29-91, Amended 5-15-96,\_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE: Florida Nursery Stock and Certification Fees  
 RULE CHAPTER NO.: 5B-2

RULE TITLE: Special Inspection and Certification Fees  
 RULE NO.: 5B-2.010

PURPOSE AND EFFECT: The purpose of this rule revision is to increase the fees charged for phytosanitary export certification and other special inspection and certification programs. The effect will be to increase the inspection charges by the following amounts: inspection and state of origin certificate, phytosanitary export certificate, and phytosanitary reexport certificate is being increased from \$35 to \$50 per inspection. Other special inspections are being increased from \$35 to \$50 per inspection. There will also be a change in the amount charged for each additional phytosanitary export, phytosanitary reexport, inspection and state of origin, and other applicable special inspection certificate written at the same location provided no inspection was made, from \$5 to \$15 per certificate. Phytosanitary export certificate noncommercial (homeowner plants or homeowner plant products) and temporary certificate of inspection is being increased from \$15 to \$25 per inspection. Cut flower and cut fern inspection is being increased from \$5 per acre per crop to \$10 per acre per crop and from a \$15 minimum to a \$25 minimum with no maximum. Import inspection for commercial shipments of plants and plant products from \$35 per hour, per inspector to \$50 per hour per inspector and from a \$35 minimum to a \$50 minimum. Growing season field inspection of bulbs, seed, vegetable, and tobacco transplants from \$5 per acre per crop to \$10 per acre per crop and from a \$15 minimum to a \$25 minimum with no maximum. Vegetable transplants, aquatic, and annual (bedding) plants (greenhouse, hotbeds, or other growing units) from \$15 to \$25 minimum for the first 10,000 square feet of growing unit space or less and from \$2 to \$5 per 1,000 square feet of additional growing space per inspection. Nematode certification from \$20 to \$30 per sample. Fumigation fees for loads exceeding 40 cubic feet from \$240 to \$260. Special diagnostic fees for entomology from \$40 to \$55 per sample. Plant Pathology disease specimens from \$40 to \$55 per sample. Lettuce mosaic samples from \$80 to \$90 per sample. Nematology samples from \$20 to \$25 per sample. Grades and Standards regrading inspections from a system where the charge was based on the number of plants regraded having a range from \$25 to a maximum of \$250 will be changed to a \$50 per hour, per inspector charge. Permits for importing regulated organisms will be changed from \$10 to \$12.50 per species not to exceed \$60 instead of \$50.

SUBJECT AREA TO BE ADDRESSED: The fees being charged for phytosanitary export certification and other special inspection and certification programs will be increasing by the

following amounts: inspection and state of origin certificate, phytosanitary export certificate, and phytosanitary reexport certificate is being increased from \$35 to \$50 per inspection. Other special inspections are being increased from \$35 to \$50 per inspection. There will also be a change in the amount charged for each additional phytosanitary export, phytosanitary reexport, inspection and state of origin, and other applicable special inspection certificate written at the same location provided no inspection was made, from \$5 to \$15 per certificate. Phytosanitary export certificate noncommercial (homeowner plants or homeowner plant products) and temporary certificate of inspection is being increased from \$15 to \$25 per inspection. Cut flower and cut fern inspection is being increased from \$5 per acre per crop to \$10 per acre, per crop and from a \$15 minimum to a \$25 minimum with no maximum. Import inspection for commercial shipments of plants and plant products from \$35 per hour per inspector to \$50 per hour per inspector and from a \$35 minimum to a \$50 minimum. Growing season field inspection of bulbs, seed, vegetable, and tobacco transplants from \$5 per acre per crop to \$10 per acre per crop and from a \$15 minimum to a \$25 minimum with no maximum. Vegetable transplants, aquatic, and annual (bedding) plants (greenhouse, hotbeds, or other growing units) from \$15 to \$25 minimum for the first 10,000 square feet of growing unit space or less and from \$2 to \$5 per 1,000 square feet of additional growing space per inspection. Nematode certification from \$20 to \$30 per sample. Fumigation fees for loads exceeding 40 cubic feet from \$240 to \$260. Special diagnostic fees for entomology from \$40 to \$55 per sample. Plant Pathology disease specimens from \$40 to \$55 per sample. Lettuce mosaic samples from \$80 to \$90 per sample. Nematology samples from \$20 to \$25 per sample. Grades and Standards regrading inspections from a system

where the charge was based on the number of plants regraded having a range from \$25 to a maximum of \$250 will be changed to a \$50 per hour, per inspector charge. Permits for importing regulated organisms will be changed from \$10 to \$12.50 per species not to exceed \$60 instead of \$50.

SPECIFIC AUTHORITY: 570.07(23), 581.031(1),(3),(8) FS.

LAW IMPLEMENTED: 581.031(8),(14),(21),(23), 581.131, 581.141 FS.

IF REQUESTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, A WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., November 9, 2001

PLACE: Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Gaskalla, Director, Division of Plant Industry, Post Office Box 147100, Gainesville, Florida 32614-7100, Telephone (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

#### 5B-2.010 Special Inspection and Certification Fees.

Special inspection and certification services that may be provided by the division, when requested by farmers, growers or other interested parties may include special treatments, special pest identifications, special plant identifications, special investigations, and special regulatory activities not otherwise specifically provided for by Chapter 581, Florida Statutes (F.S.). Governmental agencies requesting special inspections or permits for research purposes shall be exempt from fees. The prescribed fees for these special inspections and certifications shall be as follows:

TYPE OF CERTIFICATION	CHARGE	FORM
Inspection and state of origin certificate, Phytosanitary export certificate, Phytosanitary reexport certificate. <sup>2</sup>	Mileage <sup>1</sup> and <del>\$50</del> <u>\$35</u> minimum per inspection, <del>or, Mileage and \$25 minimum per certificate issued based on other support documents (fruit and vegetable manifest, etc.).</del>	DACS-08014 <sup>3</sup> , Phytosanitary Export Certificate, revised 10/99. DACS-08050 <sup>3</sup> , Inspection and State of Origin Certificate, revised 7/99. DACS-08166 <sup>3</sup> , Attachment For State Phytosanitary Export Certificate, revised 6/99.
Other special inspections. <sup>2</sup>	Mileage <sup>1</sup> and <del>\$50</del> <u>\$35</u> minimum per inspection, <del>or, Mileage and \$25 minimum per certificate issued based on other support documents (fruit and vegetable manifest, etc.).</del>	DACS-08211 <sup>3</sup> , Blueberry Certificate, revised 8/99. DACS-08212 <sup>3</sup> , Apple Maggot Certificate, revised 8/99. DACS-08046 <sup>3</sup> , Mamey Stamp, revised 5/99. DACS-08213 <sup>3</sup> , Caribfly Fumigation Certificate, revised 10/99. DACS-08240 <sup>3</sup> , Cold Treatment-California Caribbean Fruit Fly Quarantine, revised 12/99. DACS-08221 <sup>3</sup> , California Hydrilla Quarantine, revised 12/99. DACS-08260 <sup>3</sup> , Noxious Weed Certification, revised 9/99.
Phytosanitary export certificate noncommercial (homeowner plants or homeowner plant products), and temporary certificate of inspection.	Mileage <sup>1</sup> and <del>\$25</del> <u>\$15</u> minimum per inspection.	DACS-08214 <sup>3</sup> , Phytosanitary Export Certificate, revised 10/99. DACS-08010 <sup>3</sup> , Temporary Certificate of Inspection, revised 7/99.
Cut flower, cut fern.	<u>\$10</u> \$5 per acre per crop inspection plus mileage, <del>\$25</del> <u>\$15</u> minimum, <del>\$460 maximum.</del>	DACS-08289 <sup>3</sup> , Certificate for Cut Foliage, Flowers & Aquatic Plants, revised 8/99.
Import inspection for commercial shipments of plants or plant products.	Mileage <sup>1</sup> and <del>\$50</del> <u>\$35</u> per hour per inspector from time of arrival to departure, <del>\$50</del> <u>\$35</u> minimum.	DACS-08001 <sup>3</sup> , Nursery, Stockdealer & Special Inspection Report, revised 12/99.
Growing season field inspection of bulbs, seed, vegetable and tobacco transplants.	<u>\$10</u> \$5 per acre per crop inspection plus mileage, <del>\$25</del> <u>\$15</u> minimum, <del>\$460 maximum.</del>	DACS-08159 <sup>3</sup> , Growing Season Inspection Report, revised 11/99. DACS-08237 <sup>3</sup> , Vegetable Inspection Report, revised 10/99.
Witnessing budwood or graftwood cutting.	Mileage <sup>1</sup> and \$5 per 1000 budeyes cut, \$10 minimum, \$25 maximum.	DACS-08172 <sup>3</sup> , Source Tree Bud Cutting Report, revised 10/99. DACS-08111, Certification to Witness Registered Budwood, revised 7/99.
Vegetable transplants, aquatic and annual (bedding) plants (greenhouse, hotbeds, or other growing units).	Mileage <sup>1</sup> and <del>\$25</del> <u>\$15</u> minimum for first 10,000 square feet of growing unit space or less and <del>\$5</del> <u>\$2</u> per 1,000 square feet of additional growing space per inspection.	DACS-08237 <sup>3</sup> , Vegetable Inspection Report, revised 10/99. DACS-08289 <sup>3</sup> , Certificate for Cut Foliage, Flowers & Aquatic Plants, revised 8/99. DACS-08290 <sup>3</sup> , Tomato/Tobacco Plant Certificate, revised 8/99.



Nematode certification.	Mileage <sup>1</sup> and <del>\$30</del> \$20 per sample.	DACS-08038 <sup>3</sup> , Citrus Nursery Stock Inspection Tag, revised 7/99. DACS-08048 <sup>3</sup> , Burrowing Nematode Certificate, revised 2/00. DACS-08049 <sup>3</sup> , Nematode Certificate of Inspection for Shipping Nursery Stock to California, revised 7/99. DACS-08130 <sup>3</sup> , Reniform Nematode Certificate, revised 2/00. DACS-08254 <sup>3</sup> , Nematode Certificate of Inspection For Shipping Nursery Stock to California From Stockdealers, revised 2/00. DACS-08270 <sup>3</sup> , Consolidation Declaration For Florida, revised 12/99.
Fumigation services.	\$150 per fumigation of loads 40 cu. ft. or less, <del>\$300</del> \$240 per fumigation of loads exceeding 40 cu. ft.	DACS-08207 <sup>3</sup> , Request for Fumigation, revised 1/99. DACS-08099 <sup>3</sup> , Certificate of Treatment, revised 1/00.
Irradiation treatment.	\$200 minimum, \$500 per hour.	
Special diagnostic fees		
Entomology	<del>\$55</del> \$40 per sample	DACS-08074 <sup>3</sup> , Entomology Specimen Identification, revised 11/99.
Plant Pathology Disease specimens	<del>\$55</del> \$40 per sample	DACS-08079 <sup>3</sup> , Plant Pathology Specimen Report, revised 1/00.
Lettuce mosaic samples	<del>\$90</del> \$80 per sample ( <del>\$180</del> \$160 if found positive).	
Nematology Roots and soil	<del>\$25</del> \$20 per sample	DACS-08077 <sup>3</sup> , Nematology Specimen Report, revised 9/99.
Caribbean fruit fly protocol participation	\$3.50 per acre per month	DACS-08161 <sup>3</sup> , Application for Participation, revised 12/99. DACS-08233 <sup>3</sup> , Caribfly Certification Program-Establishment of McPhail Traps, revised 12/99.

Grades and Standards Grades and Standards	DACS-08228 <sup>3</sup> , Grades & Standards – Regrading
<u>Mileage<sup>1</sup> and \$50 per hour per inspector from time of arrival to departure, \$50 minimum.</u>	Inspection Report, revised 10/99
<del>1— 50 plants</del>	<del>Mileage<sup>+</sup> and \$25</del>
<del>51— 100 plants</del>	<del>Mileage<sup>+</sup> and \$50</del>
<del>101— 200 plants</del>	<del>Mileage<sup>+</sup> and \$75</del>
<del>201— 300 plants</del>	<del>Mileage<sup>+</sup> and \$100</del>
<del>301— 400 plants</del>	<del>Mileage<sup>+</sup> and \$125</del>
<del>401— 500 plants</del>	<del>Mileage<sup>+</sup> and \$150</del>
<del>501— 1000 plants</del>	<del>Mileage<sup>+</sup> and \$200</del>
<del>Over 1000 plants</del>	<del>Mileage<sup>+</sup> and \$250</del>

Permits for importing regulated organisms.	<del>\$12.50</del> \$40 per species not to exceed \$50 per permit.	DACS-08208 <sup>3</sup> , Application and Permit to Move Regulated Organisms, revised 01/00.
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<sup>1</sup> Mileage shall be based on the prevailing state mileage rate.

<sup>2</sup> There shall be a ~~\$15~~ \$5 charge for each additional phytosanitary export, phytosanitary reexport, inspection and state of origin, and other applicable special inspection certificate written at the same location provided no inspection was made.

<sup>3</sup> All DACS forms referenced above are supplied by the division and are incorporated herein by reference. Copies of any of these forms may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, Post Office Box 147100, Gainesville, Florida 32614-7100.

Specific Authority 570.07(23), 581.031(1),(3) FS. Law Implemented 581.031(8),(14),(23) FS. History—New 6-15-81, Amended 10-28-85, Formerly 5B-2.10, Amended 7-27-86, 5-6-87, 11-19-89, 5-17-92, 11-29-95, 4-9-96, 10-8-96, 6-12-00,\_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Citrus Budwood Protection Program	5B-60

RULE TITLES:	RULE NOS.:
Citrus Budwood Protection Procedure Manual,	
Citrus Budwood Testing Manual, and	
Graft-Transmissible Diseases of Citrus:	
Handbook for Detection and Diagnosis	5B-60.004

Increase Trees	5B-60.010
Source Tree Registration Certificate	5B-60.012

**PURPOSE AND EFFECT:** The purpose of this rule revision is to change the tested increase block use from nine to 12 months and to change the rule to add the form “Statement of Charges For Annual Source Tree Registration” (DACS-08064), that was previously left out of the rule. The current nine-month time frame for tested increase blocks is difficult for the data tracking system to deal with from a record keeping standpoint. There is no evidence that citrus tristeza virus (CTV) is moving into increase blocks and three additional months will make very little difference. The standard CTV test in field scion trees is valid for a period of 12 months, so it is logical for testing in field nurseries to be the same life expectancy. The nurserymen would benefit from an additional three months of budwood harvest time.

**SUBJECT AREA TO BE ADDRESSED:** The time frame of nine months for increase trees tested negatively between the 22nd and the 24th month for severe strains of CTV will be changed to a time frame of 12 months. Also, a billing form, "Statement of Charges For Annual Source Tree Registration" (DACS-80864) will be added and the section subsequently renumbered. This change necessitates updating of the Citrus Budwood Protection Manual, the Citrus Budwood Testing Manual, and the Graft-Transmissible Diseases of Citrus: Handbook for Detection and Diagnosis and, therefore, changing of the rule to reflect the new revision dates of those manuals.

**SPECIFIC AUTHORITY:** 570.07(23), 581.031(1),(3),(8) FS.

**LAW IMPLEMENTED:** 570.07(2),(13), 570.0705, 581.031(1),(14), (17),(23) FS.

**IF REQUESTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, A WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 10:00 a.m., November 9, 2001

**PLACE:** Shaw Building, 3027 Lake Alfred Road, Winter Haven, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Michael Kesinger, Chief, Bureau of Citrus Budwood Registration, Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, Florida 33881-1438, telephone (863)298-7735

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

5B-60.004 Citrus Budwood Protection Procedure Manual, Citrus Budwood Testing Manual, and Graft-Transmissible Diseases of Citrus: Handbook for Detection and Diagnosis.

The regulations, definitions, and standards in Citrus Budwood Protection Procedure Manual, Revised 3/01/01 ~~4/21/00~~, Citrus Budwood Testing Manual, Revised 3/08/01 ~~September 16, 1999~~, and C. N. Rostacher, Graft-transmissible Diseases of Citrus: Handbook for detection and diagnosis. (Food and Agricultural Organization of the United Nations, Rome, 1991) are hereby adopted as regulations and rules under the Division of Plant Industry, pursuant to Chapter 581, F.S. Copies may be obtained by contacting the Secretary of State's Office, Tallahassee, Florida. Copies are available for examination at the Florida Department of Agriculture and Consumer Services, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, Florida 33881, and the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Plant Pathology Section, 1911 S.W. 34th Street, Gainesville, Florida 32608-1201.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(23), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98, 2-1-00, 6-12-00, \_\_\_\_\_.

#### 5B-60.010 Increase Trees.

Increase trees shall be registered on a Certificate of Source Tree Registration (DACS-08072) as specified in 5B-60.012 provided they have been propagated as follows:

(1) through (7) No change.

(8) Trees propagated as increase trees under this rule chapter must only serve as registered sources of budwood with no testing required for a period of up to 24 months from budding. Increase trees can be used for twelve ~~nine~~ more months if tested negatively between the 22nd and 24th month for severe strains of citrus tristeza virus. Test samples must be as follows:

(a) through (d) No change.

(9) through (11) No change

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98, 2-1-00, \_\_\_\_\_.

#### 5B-60.012 Source Tree Registration Certificate.

(1) through (3) No change.

(4) Billing. Annual source tree registration fees shall be billed annually on the Statement of Charges For Annual Source Tree Registration (DACS-08064). Form DACS-08064, Revised 3/01, is hereby adopted and incorporated by reference herein. The form may be obtained by writing or visiting the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Citrus Budwood Registration, 3027 Lake Alfred Road, Winter Haven, FL 33881-1438.

~~(5)(4)~~ Cancellation. Source Tree Registration Certificates (DACS-08072) may be canceled or suspended upon:

(a) through (h) No change.

~~(6)(5)~~ Registration fees will not be refunded if the Certificate of Source Tree Registration (DACS-08072) is canceled.

~~(7)(6)~~ Reinstatement. The Certificate of Source Tree Registration (DACS-08072) canceled or suspended as provided above may be reinstated when:

(a) through (d) No change.

Specific Authority 570.07(23), 581.031(1),(3),(8) FS. Law Implemented 570.07(2),(13), 570.0705, 581.031(1),(14),(17),(23) FS. History--New 9-30-96, Amended 11-4-98, 2-1-00, \_\_\_\_\_.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Entomology – Pest Control Regulations	5E-14
RULE TITLES:	RULE NOS.:
Definitions	5E-14.102
Contractual Agreements in Public’s Interest – Control and Preventive Treatment for Wood-Destroying Organisms	5E-14.105
Fumigation Requirements – General Fumigation	5E-14.108
Responsibilities and Duties – Records, Reports, Advertising, Applications	5E-14.142
Identification Card – Training Verification Application, Issuance, Renewal	5E-14.1421

**PURPOSE AND EFFECT:** The purpose and effect of the rule development is to amend Rule 5E-14 to address Statute changes, to obtain improved consumer protection provisions by modifying pest control contracts and the Wood Destroying Organism reporting form. This rule amendment also adds a new Section 5E-14.1421: Identification Card – Training Verification, to further protect consumers by insuring that operator’s competence through training is verifiable.

**SUBJECT AREA TO BE ADDRESSED:** The subject area to be addressed is the modification of pest control contracts, the Wood Destroying Organism form, and addition of a section to address verification of training for pest control identification card holders.

**SPECIFIC AUTHORITY:** 482.051, 482.071, 482.111, 482.141, 482.155, 482.156, 482.091 FS.

**LAW IMPLEMENTED:** 482.051, 482.071, 482.111, 482.141, 482.151, 482.155, 482.156 FS.

**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:**

**TIME AND DATE:** 10:00 a.m., November 26, 2001

**PLACE:** George Eyster Auditorium, 3125 Conner Blvd., Tallahassee, Florida 32399

**TIME AND DATE:** 10:00 a.m., November 27, 2001

**PLACE:** Hurston South Tower, Conference Room “A” and “B”, 400 West Robinson Street, Orlando, Florida 32810

**TIME AND DATE:** 10:00 a.m., November 28, 2001

**PLACE:** Broward County Cooperative Extension Office, 3245 College Avenue, Davie, Florida 33314

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Steven J. Rutz, Director, Division of Agricultural Environmental Services, Department of Agriculture and Consumer Services, Room 130, 3125 Conner Blvd., Tallahassee, Florida 32399-1650

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

5E-14.102 Definitions.

(1) through (7) No change.

(8) “Spot treatment” – Treatment restricted to specific area(s) of a structure to control or prevent pests, not including complete termiticide barrier treatments that treat an entire structure including all construction elements existing in, on or under the structure at the time of treatment, whole structure fumigation, or other treatment methods that encompass an entire structure.

Specific Authority 482.051 FS. Law Implemented 482.051(1) FS. History–New 1-1-77, Amended 6-27-79, 6-22-83, Formerly 10D-55.102, Amended 8-11-93,\_\_\_\_\_.

5E-14.105 Contractual Agreements in Public’s Interest – Control and Preventive Treatment for Wood-Destroying Organisms.

(1) through (3) No change.

(4) In contracts covering spot treatments for wood-destroying organism(s), the requirements of Subsections 5E-14.105(1) and (2) shall apply. In addition to these, a statement shall be made on the front page of the contract, in conspicuous type, that the treatment is a treatment of only specific areas and is not to be considered a treatment of the entire structure. The property owner or authorized agent must initial this statement. The specific areas in, on or under the structure to be treated shall be listed on the front page of the written contract.

(8) Retreatment(s) performed in accordance with the terms of a wood-destroying organisms contract warranty or guarantee shall be performed within a set period of time that is disclosed within the contract, not exceeding (90) days unless authorized by the consumer in writing, following confirmation by the licensee of evidence of infestation of the covered pest organism.

(9) In contracts issued for treatment for control or prevention of wood-destroying organisms, the treatment method used for retreatment(s) as required by contract terms must be disclosed within the contract terms if it differs from the initial treatment method.

(10) In contracts issued for treatment for control or prevention of wood-destroying organisms, any provision that requires the use of third-party arbitration services for the resolution of disputes about the contract shall be printed in conspicuous type, and any provision that requires a payment by the customer for the initiation or use of arbitration shall be bolded and underlined and must be initialed by the customer or authorized agent of the customer.

Specific Authority 482.051 FS. Law Implemented 482.021(15), 482.051(1), 482.161, 482.191, 482.241 FS. History–New 1-1-77, Joint Administrative Procedures Committee Objection Withdrawn – See FAW Vol. 3, No. 30, July 29, 1977, Amended 6-27-79, 10-25-90, Formerly 10D-55.105, Amended 8-11-93,\_\_\_\_\_.

5E-14.108 Fumigation Requirements – General Fumigation.

(1) through (3) No change.

(4) The Department may issue an immediate stop-use or stop-work order, DACS 13659 incorporated by reference, for fumigation performed in violation of fumigant label requirements or Department rules, or in a manner that presents an immediate serious danger to the health, safety or welfare of the public, including, but not limited to, failure to use required personal protective equipment, failure to use required warning agent, failure to post required warning signs, failure to secure a structure’s usual entrances as required, or using a fumigant in a manner that will likely result in hazardous exposure to humans, animals, or the environment. Fumigant use or work cannot be resumed until corrections are made, verified and the release section of the stop order is completed by Department personnel.

Specific Authority 482.051(6) FS. Law Implemented 482.021(6),(20), 482.051(1), 482.152 FS. History–New 1-1-77, Amended 6-22-83, Formerly 10D-55.108, Amended 7-5-95,\_\_\_\_\_.

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(1) No change.

(2) Reports:

(a) through (b) No change.

(c) Termite or other wood-destroying organism inspection report:

Pursuant to Chapter 482.226(1),(2),(4) and (5), F.S., each licensee having a certified operator certified in the category of termite or other wood-destroying organism control and who makes and reports the findings of a wood-destroying organism inspection in writing shall provide the party requesting the inspection with the inspection findings on the Wood-Destroying Organisms Inspection Report form prescribed by the Department and furnished by the licensee, DACS 13645, 09-01 Form 1145-11-92, which is incorporated by reference. The licensee shall not place any disclaimers or additional language on the Wood-Destroying Organisms Inspection Report. The licensee shall inspect for all wood-destroying organisms as defined in Chapter 482.021(28)(27), F.S., in accordance with the following inspection standards:

1. The inspection will include all areas accessible by normal means but does not cover those areas that are enclosed or inaccessible, areas concealed by wall coverings, floor coverings, furniture, equipment, stored articles, insulation or any portion of the structure in which inspection would necessitate removing or defacing any part of the structure.

2. The inspection will be visual but may include probing and sounding of structural members as deemed necessary by the inspector, based upon a preliminary finding of visual evidence of infestation or damage.

(3) through (8) No change.

Specific Authority 482.051 FS. Law Implemented 482.051(1), 482.061, 482.091, 482.111(5),(9), 482.161(1)(g),(h), 482.211, 482.226(1),(6) FS. History–New 1-1-77, Amended 6-27-79, 6-22-83, 1-20-87, 10-25-90, Formerly 10D-55.142, Amended 8-11-93, 5-2-98,\_\_\_\_\_.

5E-14.1421 Identification Card – Training Verification Application, Issuance, Renewal.

(1) The licensee shall maintain written training records on all identification cardholders and make those records available during routine inspection or upon request of the Department. Licensees must maintain the training record for at least a two year period.

(2) The Department will accept any one of the following as verifiable training:

(a) Written record of attendance, on a form prescribed by the Department and furnished by the licensee or trainer (DACs 13662), with a complete copy of all training materials used during the training session that covers at least one of the topics required by 482.091(10), F.S.; or

(b) Passing of the University of Florida, IFAS Core examination; or

(c) Attendance at a Department approved certified operator continuing education course provided the course content covers at least one of the training topics as required by 482.091(10), F.S.

Specific Authority 482.051, 482.091(10) FS. Law Implemented 482.021(9), 482.051(1), 482.091(1),(2),(3),(4) FS. History–New \_\_\_\_\_.

**FLORIDA PAROLE COMMISSION**

RULE TITLE: Conditional Release Definitions  
 RULE NO.: 23-23.006

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to define the terms “Felony Commitment” and “Prior Felony Commitment” found in Section 947.1405(2)(a), Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Correction of deficiencies in the rule by providing definitions of statutory terms.

SPECIFIC AUTHORITY: 947.07, 947.1405(9) FS.

LAW IMPLEMENTED: 947.1405(2)(a) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: William L. Camper, General Counsel, 2601 Blair Stone Road, Bldg. C, Tallahassee, Florida 32399-2450

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

23-23.006 Conditional Release Definitions.  
 (1) through (10) No change.

(11)(a) Felony Commitment – means the incarceration portion of a prison sentence for a felony offense resulting from a Uniform Commitment to Custody of the Department of Corrections or the incarceration portion of a prison sentence for a felony offense served in any other state or federal correctional institution. ~~Prior Felony Commitment – means an offense or offenses which resulted in an adjudication of guilt of a felony and a sentence of incarceration. Both the consummation of the criminal offense(s) and the subsequent conviction(s) and incarceration(s) must obtain at some date earlier in time than the offense(s) resulting in commitment to incarceration for the present offense of conviction.~~

(b) Prior Felony Commitment – means any felony commitment served prior to a subsequent felony commitment even though both may have resulted from the same criminal offense.

(12) through (19) No change.

Specific Authority 947.07, 947.1405(9) FS. Law Implemented 947.1405(2)(a) FS. History–New 10-20-91, Amended 1-6-94,\_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE TITLES: RULE NOS.:  
 Food Services – Definitions 33-204.002  
 Food Services – Standards of Operation 33-204.003

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify issues related to institutional food services operations and to provide for the use of contract food services providers.

SUBJECT AREA TO BE ADDRESSED: Food Services.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 FS., Child Nutrition Act of 1966, 42 USC s. 1773, Richard B. Russell National School Lunch Act, 42 USC s. 1751 et seq.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-204.002 Food Services – Definitions.  
 For the purposes of this chapter:

(1) “Master menu” means the menu which is designed to be served at all facilities to provide uniformity in items served to each inmate. The master menu shall be planned under the direction of the department’s master menu committee. It should be certified nutritionally adequate as determined by a licensed registered dietitian employed by the department. The master menu shall provide all Recommended Dietary Allowances or Dietary Reference Intakes as established by the Food and Nutrition Board of the National Academy of Sciences. The Recommended Dietary Allowances and Dietary Reference Intakes are incorporated by reference in Rule 33-204.003, F.A.C.

(2) through (3) No change.

(4) “Master Menu Committee” consists of the central office’s Bureau of Food Services staff as designated by the bureau chief, the public health nutrition program manager, the field food service ~~coordinators~~ managers, the central office food service managers, and the field public health nutrition consultants. The chief of food services has the authority to invite other staff.

(5) “Centers” refers to work release centers, probation and restitution centers and drug treatment centers.

(6) through (7) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS., Child Nutrition Act of 1966, 42 USC s. 1773, Richard B. Russell National School Lunch Act, 42 USC s. 1751 et seq. History–New 1-18-89, Amended 7-21-97, Formerly 33-30.002, Amended 8-9-00, 11-16-00, 10-2-01,\_\_\_\_\_.

33-204.003 Food Services – Standards of Operation.

(1) General. Inmates in general population shall receive three meals per day, of which at least two shall be hot meals. The meals shall be provided at regular meal times during each 24-hour period, with a period of no more than 14 hours between the end of the evening meal and the beginning of the morning meal, weather and security permitting. The warden, ~~or~~ work release center major or the lieutenant in charge of a probation and restitution center or drug treatment center shall be allowed to authorize an altered meal schedule of two meals for approved holidays listed in the master menu manual, but both must be hot meals. Holiday substitutions that deviate from the master menu must be approved in advance by the chief of food services ~~or the central office food service managers.~~ An alternate meal schedule for therapeutic diets shall provide regular meal times during each 24-hour period with no more than 14 hours between the end of the evening and the beginning of the morning meal.

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

(c) Meals for inmates and staff shall be prepared and served in accordance with the master menu in effect. No specially prepared meals shall be served except those approved therapeutic diets that are prescribed by the attending physician, clinical associate or dentist.

(d) The master menu shall be adhered to except that specific menus and menu items are subject to change by the person in charge of food service at each facility due to production problems, product availability, cost, or security issues. Failure to order a product does not constitute a lack of availability. Substitutions will not be planned to utilize leftovers. When menu substitutions are required, the substitutions will be from the same food group as the original menu item. Menu substitutions will be initially reviewed and approved by the contractor's district manager a field food service manager. If menu substitutions are determined to deviate from the list of approved substitutions, they will be referred by the field food service coordinator manager to the chief of the Bureau of Food Services central office public health nutrition program manager for evaluation and final approval. The master menu manual provides a list of appropriate substitutions within food groups. All inmates shall receive the same food items as specified on the master menu. Adequate amounts of food must be prepared to serve all inmates according to the master menu.

(e) All vegetables shall be prepared without meat, animal meat fat, meat-based broth or margarine or butter so as to be suitable for religious and strict vegetarian diets.

(4) Sanitation.

(a) through (b) No change.

(c) The individual responsible for food service at the institution or facility shall be responsible for the following:

1. Writing instructions for the operation and cleaning of the physical plant, equipment and utensils. A current copy of these instructions shall be forwarded to the regional food service coordinator manager for review to check for compliance with the State Sanitary Code, Department of Health Rule 64E-11.005, F.A.C.

2. No change.

3. Daily inspection of the food service areas, including the recording of the temperatures of coolers, freezers, dishwashers, and hot tap water on the contractor's designated document Master Menu Production Log, Form DC2-404. Form DC2-404 is hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is August 9, 2000.

(d) No change.

(5) Maintenance of Equipment. ~~The person responsible for food service at each institution or facility shall, with the participation of the person in charge of the maintenance department, shall~~ prepare a schedule for periodic, preventative maintenance of the physical plant and equipment. The

preventative maintenance program shall include inspection, lubrication, replacement of parts as necessary, and any other maintenance to extend equipment life as suggested by manufacturer's instructions. The person in charge of responsible for food service shall monitor the program to ensure that preventative maintenance is performed. He or she will ~~also~~ ensure that equipment is utilized properly, abuse of equipment is minimized, and that sanitation standards are maintained. It will be the responsibility of the person in charge of maintenance to ensure that the preventative maintenance program operates effectively. He or she will maintain a file on each piece of major equipment denoting when and what was done and at what cost.

(6) Security. ~~The person in charge of food service and~~ chief of security shall ~~jointly~~ write and post a plan and schedule for supervision of inmates during meals. The chief of security shall be responsible for enforcement of the written plan for control.

(7) through (9) No change.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS., Child Nutrition Act of 1966, 42 USC § 1773, Richard B. Russell National School Lunch Act, 42 USC § 1751 et seq. History—New 1-18-89, Amended 7-21-97, Formerly 33-30.003, Amended 8-9-00, 11-16-00, 10-2-01,\_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Offender Grievance Procedures RULE NO.: 33-302.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to correct titles of staff responsible for administration of the offender grievance process.

SUBJECT AREA TO BE ADDRESSED: Offender Grievances.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.101 Offender Grievance Procedures.

(1) No change.

(2) The following procedures outline the steps to be taken by an offender under field supervision, including an offender in pretrial intervention who has a complaint concerning actions on supervision. Steps for filing complaints are:

(a) through (c) No change.

(d) In the event the issue is not resolved with the circuit administrator, the offender may forward her or his grievance, along with the circuit administrator's response to the regional director of regional community corrections for review. The director of regional community corrections shall provide a written response, which attempts to resolve the issue, within 20 calendar days of receipt of the grievance.

(e) In the event the issue is not resolved with the regional director of regional community corrections, the offender may forward her or his grievance, along with the director of regional community correction's response, to the Bureau of Inmate Grievance Appeals in the Central Office.

(3) through (4) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 5-28-86, Amended 10-1-89, 9-30-91, 2-15-98, Formerly 33-24.005, Amended 3-4-01, 7-30-01.

**DEPARTMENT OF CORRECTIONS**

RULE TITLES: CONDITIONAL MEDICAL RELEASE  
RULE NOS.: 33-401.201  
INMATE DEATHS 33-401.301

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to correct titles of health services staff associated with the conditional medical release recommendation process and to clarify the process for reporting inmate deaths.

SUBJECT AREA TO BE ADDRESSED: Conditional Medical Release; Inmate Deaths.

SPECIFIC AUTHORITY: 20.315, 944.09, 947.149 FS.

LAW IMPLEMENTED: 20.315, 245.06, 245.08, 382, 406, 936, 947.149 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-401.201 Conditional Medical Release.

(1) No change.

(2) The chief health officer of an institution housing an inmate whose health has deteriorated to a point where consideration for conditional medical release may be appropriate shall provide a conditional medical release recommendation to the ~~Director of Assistant Secretary for~~ Health Services. Based upon this ~~his~~ review, the Director of Assistant Secretary for Health Services shall:

(a) through (c) No change.

(3) When requested by the Florida Parole Commission, the ~~Office Bureau~~ of Health Services shall provide additional medical evidence or additional medical examinations for inmates being considered for conditional medical release.

(4) through (5) No change.

Specific Authority 20.315, 947.149 FS. Law Implemented 20.315, 947.149 FS. History--New 12-11-88, Amended 3-23-93, 1-16-96, Formerly 33-19.008, Amended.

33-401.301 Inmate Deaths.

(1) Notice of Death. Upon the death of an inmate while in the custody of the department:

(a) The institution shall immediately notify:

1. through 3. No change.

4. The appropriate prison inspector via management information note/electronic message. The prison inspector shall be provided with a brief statement of currently known facts about the death. ~~The prison inspector shall forward such statement along with notice of the death to the Bureau of Health Services and the Bureau of Offender Records, and, if the death occurred in the absence of an attending physician or from causes other than natural causes, to the secretary, the chief inspector and the regional director;~~ and

5. No change.

(b) through (4) No change.

Specific Authority 944.09 FS. Law Implemented 245.06, 245.08, 382, 406, 936 FS. History--New 10-8-76, Amended 9-24-81, Formerly 33-3.09, Amended 6-2-88, 2-18-90, 2-12-97, Formerly 33-3.009, Amended.

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: COMMUNICABLE DISEASE EXPOSURE AND TESTING  
RULE NO.: 33-401.501

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement the provisions of s. 945.35, F.S.

SUBJECT AREA TO BE ADDRESSED: Communicable diseases.

SPECIFIC AUTHORITY: 945.35 FS.

LAW IMPLEMENTED: 945.35 FS.

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

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



THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-401.501 Communicable Disease Exposure and Testing.

(1) In the event of possible exposure to a communicable disease by a correctional officer, employee, inmate, or any unincarcerated person lawfully present in a correctional facility, the person exposed is authorized by s. 944.35, F.S., to request the testing of himself or herself and the inmate who caused the exposure.

(a) If the request is made by a correctional officer or other employee, testing of the individual and access to counseling, health care, and support services shall be provided through the workers compensation program. The inmate who is the source of the exposure shall be tested as provided in subsection (2) below.

(b) If the request is made by an unincarcerated person lawfully present in the correctional facility, he or she shall be referred to his or her health care provider or local health department for testing and access to counseling, health care and support services. The inmate who is the source of the exposure shall be tested as provided in subsection (2) below.

(c) If the request is made by an inmate, the inmate shall be referred to health services staff at the facility for testing in accordance with subsection (2) below.

(2) When a request has been made for testing, health services staff shall first determine whether there is reason to believe that risk of exposure has occurred. If not, the requestor shall be so advised. If so, health services staff shall order such testing of the source inmate as is clinically appropriate for the type of exposure involved.

(3) Upon receipt of the test results of the source inmate, health services staff shall provide the results to the requestor and the source inmate. These results are confidential and shall only be communicated to the person requesting the test and the inmate tested. Confidentiality of HIV test results shall be maintained in accordance with s. 381.004, F.S.

(4) The source inmate shall be provided with counseling, health care and support services in conjunction with communication of the test results.

Specific Authority 944.35 FS, Law Implemented 944.35, 381.004 FS, History--New \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE:

Variances from Specified Review Criteria for Environmental Resource Permits

RULE NO.:

40E-0.113

PURPOSE AND EFFECT: The SFWMD is amending the existing variances rule to be consistent with the statutory timeframes imposed upon agencies to grant or deny petitions for variances or waivers.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendment provides specificity as to timeframes set forth in Section 120.542(8), F.S., (the "90 day timeclock").

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373,414(17) FS.

LAW IMPLEMENTED: 403.210 FS.

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:30 p.m., November 6, 2001

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District's Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-0.113 Variances from Specified Review Criteria for Environmental Resource Permits.

(1) through (4) No change.

(5) The District shall grant or deny a petition for variance or waiver within 90 days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition.

~~(6)(5)~~ The District shall prepare a notice of proposed agency action regarding the petition for a variance. The District shall publish this notice one time in the Florida Administrative Weekly, and one time in a newspaper of general circulation, as defined in Section 50.031, F.S., in the county in which the property for which the variance is sought is located.

~~(7)~~(6) Renewals of variances shall be applied for in the same manner as the initial variance.

Specific Authority 373.044, 373.113, 373.171, 373.414(17) FS. Law Implemented 403.201 FS. History—New 9-2-98, Amended 6-12-00,\_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**  
**South Florida Water Management District**

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

PURPOSE AND EFFECT: The SFWMD is amending the existing forms and instructions rule to add and incorporate by reference a “Performance Bond to Demonstrate Financial Assurances” and an “Irrevocable Letter of Credit to Demonstrate Financial Assurance.” The rule is also being amended to update the SFWMD’s regional service center addresses.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendments provide two new forms to be utilized by the regulated community and updates SFWMD regional service center addresses.

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.113 FS.

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:30 p.m., November 6, 2001

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District’s Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-1.659 Forms and Instructions.

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

Form No.	Date	Title
0050A	7-89	Application to the South Florida Water Management District Utilization of District Works and Modification of Existing Permit Works of the District No.
0108	3-91	Application for Release of Mineral, Canal, and Road Reservations Reserved Under Chapters 6456, 6957, 7305, 9131, 14717 and 20658, Laws of Florida
0113	8-95	Surface Water Management Permit No.
0115	8-95	Surface Water Management Permit Modification No.
0119	8-95	Wetland Resource Permit No.
0122	4-93	Application to the South Florida Water Management District for Authority to Utilize Works or Land of the District
0123	8-90	Well Construction Permit Application
0124	11-90	Well Completion Report
0145	8-95	Environmental Resource Permit No.
0157	8-95	Environmental Resource Permit Modification No.
0195	6-91	Public Water Supply Well Information and Classification
0196	10-89	Water Well Inspection Scheduling Card
0299	1-90	Water Use Permit No.
0444	8-95	Application for a Standard General Permit for Incidental Site Activities
0445	7-87	Notice of Intent to Short-term Dewater
0483	8-95	Request for Environmental Resource, Surface Water Management, Water Use, or Wetland Resource Permit Transfer
0645	8-95	Water Use Permit Application
0659	3-94	Notice of Intent to Use Water in Conjunction with Oil Well Drilling in Lee, Collier and Hendry Counties
0779	5-92	Guidance for Preparing an Application for a “Works of the District” Permit in the Everglades/Application for a Works of the District Permit
0830	4-94	Special Use Application and License
0881	8-95	Environmental Resource/Surface Water Management Permit Construction Completion/Construction Certification
0889	8-95	Transfer of Permit to the Operating Entity

- 0938 8-95 Mitigation Construction Commencement Notice
- 0941 8-95 Environmental Resource Standard/Noticed General Permit No.
- 0942 8-95 Surface Water Management General Permit No.
- 0960 8-95 Environmental Resource/Surface Water Management Permit Construction Commencement Notice
- 0961 8-95 Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction
- 0970 8-95 Applicant Transmittal Form for Requested Additional Information
- 0971 8-95 Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit
- 0972 8-95 Petition for a Formal Wetland and Surface Water Determination
- 0973 8-95 Above Ground Impoundment Inspection/Certification Report
- 0974 8-95 Notice of Intent to Construct a Minor Silvicultural System
- 0980 8-95 Notice of Intent to Use a Noticed General Environmental Resource Permit
- XXXX X-XX Performance Bond to Demonstrate Financial Assurance
- XXXX X-XX Irrevocable Letter of Credit to Demonstrate Financial Assurance

(2) The forms and instructions listed in subsection (1) are available without cost from the following District Service Centers upon request:

- (a) Florida Keys Service Center, 80431 Old Hwy., Islamorada, FL 33036 ~~Big Pine Key Service Center, Marshall Building, Unit 9, Route 5 Box 183-H, Big Pine Key, FL 33043;~~
- (b) Ft. Myers Service Center, 2301 McGregor Blvd., Ft. Myers, FL 33901 ~~Ft. Myers Service Center, Key West Professional Center, 1342 Colonial Blvd., Suite 81, Ft. Myers, FL 33907;~~
- (c) Okeechobee Service Center, 205 North Parrott Ave., Suite 201, P. O. Box 2033, Okeechobee, FL 34973-2033 ~~Okeechobee Service Center, 305 East North Park Street, Suite A, Okeechobee, FL 349973-2033;~~
- (d) Orlando Service Center, 1707 Orlando Central Parkway, Suite 200, Orlando, FL 32809 ~~Orlando Service Center, Lake Eleanor Center, 1756 Orlando Central Parkway, Orlando, FL 32809;~~

(e) Miami/Dade Regional Service Center, 172A W. Flagler Street, Miami, FL 33130 ~~Miami Service Center, Kendar Building, 1550 Mandruga Avenue, Suite 412, Coral Gables, FL 33146;~~

(f) Big Cypress Basin, 6089 Janes Lane, Naples, FL 34109 ~~Naples Service Center, 6167 Janes Lane, Naples, FL 33942;~~ and

(g) No change.

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

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Permit Thresholds  
 RULE NO.: 40E-4.0415

PURPOSE AND EFFECT: The SFWMD is amending the existing environmental resource permit thresholds rule to specify that ditches and wholly owned ponds constructed in uplands and any isolated wetlands with a surface area of less than 0.5 acres will not be included in the calculation of acreage of “impacts to wetlands and other surface waters” for purposes of determining whether a project exceeds the one acre impact threshold for Standard General Permits. Additionally, the SFWMD is creating a new section in the environmental resource permit thresholds rule (40E-4.0415(b)(3)) to allow phases of a project that have a valid environmental resource/surface water management conceptual permit to be permitted at the staff level provided that the specific phase is constructed and operated consistently with the original conceptual approval.

SUBJECT AREA TO BE ADDRESSED: The proposed rule amendments will amend the existing permit thresholds that are a determinative factor in size threshold calculations and eliminate the need for subsequent phased projects to be approved by the Governing Board provided that the original Conceptual Approval permit was issued by the Governing Board and the phased project is consistent with the Conceptual Permit.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.406(5) FS.  
 LAW IMPLEMENTED: 373.118(1), 373.413(1) FS.

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:30 p.m., November 6, 2001

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District’s Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

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

**40E-4.0415 Permit Thresholds.**

(1) No change.

(a) No change.

(b) Construction or alteration of the system, including dredging or filling, is proposed in, on, or over a total of one acre or more of wetlands or other surface waters; however, calculation of the one acre area shall not include: ~~or~~

1. Ditches and wholly owned ponds that were constructed in uplands;

2. Any isolated wetlands with a surface area of less than 0.5 acres.

(c) No change.

(2) No change.

(3) Notwithstanding the provisions of subsection (1);

(a) The Governing Board may designate specific geographic areas within which individual or standard general environmental resource permits shall be required for the construction, alteration, operation, maintenance, removal or abandonment of surface water management systems which fall below any thresholds or activities set forth in this rule.

(b) Phases within a conceptually approved project shall be processed as standard general permits provided:

1. The proposed activity is consistent with the conceptual approval permit;

2. The approved conceptual plan includes the location and acreage of wetlands onsite, an assessment of wetland impacts, and a conceptual mitigation plan (if required); and

3. The approved conceptual plan includes the approximate size, location, and discharge points of the proposed stormwater management system.

Specific Authority 373.044, 373.113, 373.406(5) FS. Law Implemented 373.118(1), 373.413(1) FS. History—New 9-3-81, Formerly 16K-4.021(1)(a),(2), 16K-4.022(1)(a),(b), Amended 12-1-82, 7-26-87, 11-15-92, 4-20-94, 10-3-95, 5-28-00,\_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

**RULE TITLE:** Publications, Rules and Interagency Agreements **RULE NO.:**

Incorporated by Reference

40E-4.091

**PURPOSE AND EFFECT:** The proposed rule is to amend the specific criteria of Section 4.2.2.2 “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – January 2001” (ERP BOR) incorporated by reference in Rule 40E-4.091(1)(a), F.A.C., concerning the exemption from mitigation for ponds constructed in uplands. For the mitigation exemption to apply, the ponds must be “wholly owned” and “completely” constructed in uplands and less than one acre in size.

**SUBJECT AREA TO BE ADDRESSED:** The proposed amendments to section 4.2.2.2, ERP BOR clarify that ponds must be wholly owned, completely constructed in uplands, and be less than one acre in order for the exemption from mitigation requirements to apply.

**SPECIFIC AUTHORITY:** 373.044, 373.113, 373.171, 373.413, 373.441 FS.

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

**RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:**

**TIME AND DATE:** 1:30 p.m., November 6, 2001

**PLACE:** South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

**TIME AND DATE:** 10:30 a.m., November 9, 2001

**PLACE:** South Florida Water Management District’s Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

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

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41, and 40E-400, F.A.C.:

(a) "Basis or Review for Environmental Resource Permit Applications Within the South Florida Water Management District – ~~January 2001~~".

(b) through (j) No change.

(2) No change.

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

(The following represents proposed amendments to Section 4.2.2.2 of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001" incorporated by reference in Rule 40E-4.091(1)(a), F.A.C.)

**4.2.2.2 Fish, Wildlife, Listed Species and their Habitats**

Alterations in wholly owned livestock watering ponds that were completely constructed in uplands and which are less than one acre in area and alterations in drainage ditches that were constructed in uplands will not be required to comply with the provisions of subsections 4.2.2 – 4.2.2.3, 4.2.3 – 4.2.3.7, 4.2.5 – 4.3.8 unless those ponds or ditches provide significant habitat for threatened or endangered species. This means that, except in cases where those ponds or ditches provide significant habitat for threatened or endangered species, the only environmental criteria that will apply to those ponds or ditches are those included in subsections 4.2.4 – 4.2.4.5 and 4.2.2.4. This provision shall only apply to those ponds and ditches which were constructed before a permit was required under Part IV, Chapter 373, F.S., or were constructed pursuant to a permit under Part IV, Chapter 373, F.S. This provision does not apply to ditches constructed to divert natural stream flow.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE:

RULE NO.:

Publications, Rules and Interagency Agreements

Incorporated by Reference

40E-4.091

PURPOSE AND EFFECT: The proposed rule is to amend the specific criteria of Section 4.2.8 "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – January 2001" (ERP BOR) incorporated by reference in Rule 40E-4.091(1)(a), F.A.C., to reflect legislative revisions to the cumulative impact

statute. Specifically, amendments to section 4.2.8, ERP BOR, specify that if an applicant mitigates within the same drainage basin as the impacts, and the mitigation fully offsets the impacts, then the project will have no unacceptable cumulative impacts.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment to section 4.2.8, ERP BOR reflects the legislative revisions to the cumulative impact statute.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413, 373.441 FS.

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

**RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:**

TIME AND DATE: 1:30 p.m., November 6, 2001

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District's Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

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

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41, and 40E-400, F.A.C.:

(a) "Basis or Review for Environmental Resource Permit Applications Within the South Florida Water Management District – ~~January 2001~~".

(b) through (j) No change.

(2) No change.

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

(The following represents proposed amendments to Section 4.2.8 of the document entitled “Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001” incorporated by reference in Rule 40E-4.091(1)(a), F.A.C.)

4.2.8 Cumulative Impacts

Pursuant to paragraph 4.1.1(g), an applicant must provide reasonable assurances that a regulated activity will not cause unacceptable cumulative impacts upon wetlands and other surface waters within the same drainage basin as the regulated activity for which a permit is sought. The impact on wetlands and other surface waters shall be reviewed by evaluating the impacts to water quality as set forth in subsection 4.1.1(c) and by evaluating the impacts to functions identified in subsection 4.2.2. If an applicant proposes to mitigate these adverse impacts within the same drainage basin as the impacts, and if the mitigation fully offsets these impacts, the District will consider the regulated activity to have no unacceptable cumulative impacts upon wetlands and other surface water, and consequently the condition for issuance in paragraph xxx, will be satisfied. The drainage basins within the District are identified on Figure 4.2.8-1.

When adverse impacts to water quality or adverse impacts to the functions of wetlands and other surface water, as referenced in the paragraph above, are not fully offset within the same drainage basin as the impacts, then aAn applicant must provide reasonable assurance that the proposed system, when considered with the following activities, will not result in unacceptable cumulative impacts to water quality or the functions of wetlands and other surface waters, within the same drainage basin:

- (a) through (b) No change.

~~Only~~ Those activities listed in paragraphs (a) and (b) which have similar types of adverse impacts to those which will be caused by the proposed system will be considered. (All citations in paragraphs (a) and (b) refer to provisions of Florida Statutes.)

Whenever mitigation located within the same drainage basin fully offsets the proposed impacts to wetland functions as described in section 4.2.2 and to water quality, then the regulated activity does not result in unacceptable cumulative impacts within the same drainage basin.

The cumulative impact evaluation is conducted using an assumption that reasonably expected future applications with like impacts will be sought, thus necessitating equitable distribution of acceptable impacts among future applications.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: RULE NO.:

Publications, Rules and Interagency Agreements

Incorporated by Reference 40E-4.091

PURPOSE AND EFFECT: The proposed rule is to amend the specific criteria of Section 4.2.8.1 “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – January 2001” (ERP BOR) incorporated by reference in Rule 40E-4.091(1)(a), F.A.C., to reflect legislative revisions to the cumulative impact statute. Specifically, amendments to section 4.2.8.1, ERP BOR, specify that if an applicant mitigates within the same drainage basin as the impacts, and the mitigation fully offsets the impacts, then the project will have no unacceptable cumulative impacts.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment to section 4.2.8.1, ERP BOR reflects the legislative revisions to the cumulative impact statute.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413, 373.441 FS.

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

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:30 p.m., November 6, 2001

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District’s Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41, and 40E-400, F.A.C.:

(a) "Basis or Review for Environmental Resource Permit Applications Within the South Florida Water Management District – ~~January 2001~~".

(b) through (j) No change.

(2) No change.

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

(The following represents proposed amendments to Section 4.2.8.1 of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001")

4.2.8.1 Cumulative Impacts

Cumulative impacts are considered unacceptable when the proposed system, considered in conjunction with the past, present, and future activities as described in 4.2.8, as set forth in subsection 4.1.1(c), would result in a violation of state water quality standards or significant adverse impacts to functions of wetlands or other surface waters, identified in subsection 4.2.2, within the same drainage basin when considering the basin as a whole. However, whenever mitigation located within the same drainage basin fully offsets the proposed impacts to wetland functions as described in section 4.2.2 and to water quality, then the regulated activity does not result in unacceptable cumulative impacts within the same drainage basin.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: \_\_\_\_\_ RULE NO.:

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

PURPOSE AND EFFECT: The proposed rule is to amend the specific criteria of Section 4.2.8.2 "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – January 2001" (ERP BOR) incorporated by reference in Rule 40E-4.091(1)(a), F.A.C., to reflect legislative revisions to the cumulative impact statute. Specifically, amendments to section 4.2.8.2, ERP BOR, specify that if an applicant mitigates within the same drainage basin as the impacts, and the mitigation fully offsets the impacts, then the project will have no unacceptable cumulative impacts.

SUBJECT AREA TO BE ADDRESSED: The proposed amendment to section 4.2.8.2, ERP BOR reflects the legislative revisions to the cumulative impact statute.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413, 373.441 FS.

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

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

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TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District's Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

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

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41, and 40E-400, F.A.C.:

(a) "Basis or Review for Environmental Resource Permit Applications Within the South Florida Water Management District – ~~January 2001~~".

(b) through (j) No change.

(2) No change.

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

(The following represents proposed amendments to Section 4.2.8.2 of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001")

4.2.8.2 Applicants may propose measures such as preservation to prevent cumulative impacts. Such preservation shall comply with the land preservation provisions in subsection 4.3.8. If unacceptable cumulative impacts are expected to occur, the applicant may propose mitigation measures as provided for in sections 4.3 through 4.3.8. Whenever mitigation located within the same drainage basin fully offsets the proposed impacts to wetland functions as described in section 4.2.2 and to water quality, then the regulated activity does not result in unacceptable cumulative impacts within the same drainage basin.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Publications, Rules and Interagency Agreements  
RULE NO.: 40E-4.091  
Incorporated by Reference

PURPOSE AND EFFECT: The proposed newly created Section 4.2.8.3 "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – January 2001" (ERP BOR) incorporated by reference in Rule 40E-4.091(1)(a), F.A.C., reflects legislative revisions to the cumulative impact statute. Specifically, the proposed creation of new section 4.2.8.3, ERP BOR, specifies that if an applicant mitigates within the same drainage basin as the impacts, and the mitigation fully offsets the impacts, then the project will have no unacceptable cumulative impacts.

SUBJECT AREA TO BE ADDRESSED: The proposed creation of new section 4.2.8.3, ERP BOR reflects the legislative revisions to the cumulative impact statute.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171, 373.413, 373.441 FS.

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

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:30 p.m., November 6, 2001

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District's Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District,

MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

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

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

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41, and 40E-400, F.A.C.:

(a) "Basis or Review for Environmental Resource Permit Applications Within the South Florida Water Management District – ~~January 2001~~".

(b) through (j) No change.

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

(The following represents the proposed creation of new Section 4.2.8.3 of the document entitled "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District – January 2001")

4.2.8.3 Mitigation Within the Same Drainage Basin as the Proposed Project Whenever mitigation located within the same drainage basin fully offsets the proposed impacts to wetland functions as described in section 4.2.2 and to water quality, then the regulated activity does not result in unacceptable cumulative impacts within the same drainage basin.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE TITLE: Permit Thresholds  
RULE NO.: 40E-40.041

PURPOSE AND EFFECT: The SFWMD is amending the existing permit thresholds for environmental resource standard general permits rule to specify that ditches and wholly owned ponds constructed in uplands and any isolated wetlands with a surface area of less than 0.5 acres will not be included in the calculation of acreage of "impacts to wetlands and other surface waters" for purposes of determining whether a project exceeds the one acre impact threshold for Standard General



Permits. Additionally, the SFWMD is creating a new section in the existing permit thresholds for environmental resource standard general permits rule (40E-40.041(b)(3)) to allow phases of a project that have a valid environmental resource/surface water management conceptual permit to be permitted at the staff level provided that the specific phase is constructed and operated consistently with the original conceptual approval.

**SUBJECT AREA TO BE ADDRESSED:** The proposed rule amendments will amend the existing permit thresholds for environmental resource standard general permits that are a determinative factor in size threshold calculations and eliminate the need for subsequent phased projects to be approved by the Governing Board provided that the original Conceptual Approval permit was issued by the Governing Board and the phased project is consistent with the Conceptual Permit.

**SPECIFIC AUTHORITY:** 373.044, 373.113 FS.

**LAW IMPLEMENTED:** 373.406(5), 373.413(1), 373.416 FS.

**RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:**

**TIME AND DATE:** 1:30 p.m., November 6, 2001

**PLACE:** South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

**TIME AND DATE:** 10:30 a.m., November 9, 2001

**PLACE:** South Florida Water Management District's Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at [pbell@sfwmd.gov](mailto:pbell@sfwmd.gov).

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, at (561)682-6206 at least two business days in advance to make appropriate arrangements.

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

40E-40.041 Permit Thresholds.

(1) No change.

(2) Threshold conditions are as follows:

(a) the construction or alteration of a surface water management system, including dredging and filling, is proposed in, on, or over a total of one acre or more of wetlands or other surface waters; however, calculation of the one acre area shall not include: ~~or~~

1. Ditches and wholly owned ponds that were constructed in uplands;

2. Any isolated wetlands with a surface area of less than 0.5 acres.

(b) No change.

(c) No change.

(3) Notwithstanding the provisions of subsection (2), phases within a conceptually approved project shall be processed as standard general permits provided:

1. The proposed activity is consistent with the conceptual approval permit;

2. The approved conceptual plan includes the location and acreage of wetlands onsite, an assessment of wetland impacts, and a conceptual mitigation plan (if required);

3. The approved conceptual plan includes the approximate size, location, and discharge points of the proposed stormwater management system.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.406(5), 373.413(1), 373.416 FS. History—New 4-20-94, Amended 10-3-95, 5-28-00, \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

**RULE TITLE:**

**RULE NO.:**

General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Activities Within Existing FDOT Rights-of-Way or Easements

40E-400.447

**PURPOSE AND EFFECT:** The SFWMD is amending the existing noticed general permit for work within FDOT rights-of-way to allow for the stabilization and repair of certain ditch stabilization projects. The stabilization of eroded sections of ditches currently requires a standard general or individual permit if materials such as riprap, concrete, or geotechnical textiles are utilized. Mitigation is not normally required for this type of activity. Permitting of these types of projects will be more appropriately regulated under a noticed general permit.

**SUBJECT AREA TO BE ADDRESSED:** The proposed rule amendments will amend the existing noticed general permit to governmental entities for the construction of minor activities in existing rights-of-way or easements to include ditch stabilization projects in 40E-400.447, F.A.C.

**SPECIFIC AUTHORITY:** 373.044, 373.113, 373.118 FS.

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

**RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:**

**TIME AND DATE:** 1:30 p.m., November 6, 2001

PLACE: South Florida Water Management District Headquarters, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406

TIME AND DATE: 10:30 a.m., November 9, 2001

PLACE: South Florida Water Management District's Ft. Myers Service Center, 2301 McGregor Blvd, Ft. Myers, FL 33901

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Penelope Bell, Office of Counsel, South Florida Water Management District, MSC 1410, 3301 Gun Club Road, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, Extension 6320 or (561)682-6320, or via email at pbell@sfwmd.gov.

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

Persons with disabilities or handicaps who need assistance may contact Tony Burns, District Clerk, (561)682-6206, at least two business days in advance to make appropriate arrangements.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

40E-400.447 General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Activities Within Existing FDOT Rights-of-Way or Easements.

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

(g) Ditch bank and bottom stabilization necessary to repair erosion damage to restore previously existing ditch configurations. Authorized repair methods are placement of riprap, sand cement toe walls, clean fill material, poured concrete, geotechnical textiles and other similar stabilization materials. The placement of riprap or other lining materials shall be limited to a length of 500 feet along the axis of the ditch and must not diminish permitted water quality treatment capacity. This general permit shall not be applicable within one-quarter mile along the length of an area, within the same ditch, which has been stabilized under this general permit within a three year period.

(2) through (3) No change.

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

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE CHAPTER TITLE: Clinical Laboratory Standards  
 RULE CHAPTER NO.: 59A-7

RULE TITLES: Laboratory Licensure – Qualifications, Licensure, Operation and Application  
 RULE NOS.: 59A-7.021, 59A-7.036

Fees

PURPOSE AND EFFECT: Chapter 59A-7, Florida Administrative Code, is being amended to address matters pertaining to the assessment, collection, and refund of clinical laboratory licensure fees.

SUBJECT AREA TO BE ADDRESSED: The assessment, collection and refund of clinical laboratory licensure fees.

SPECIFIC AUTHORITY: 483.051, 483.172 FS.

LAW IMPLEMENTED: 483.172 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 IS: Patricia L. James, Health Services and Facilities Consultant Supervisor, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308, (850)487-3109

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59A-7.021 Laboratory Licensure – Qualifications, Licensure, Operation and Application.

(1) No change.

(2) A check for the correct amount of the fee must accompany the application, ~~or that application will be held in abeyance until the fee is received. Failure to submit a sufficient fee amount shall result in the return of the licensure application to the applicant.~~

(3) through (7) No change.

(8) A license shall be valid for the period specified on the current license.

~~(a) In no event shall a license be issued for more than a 24 month period. In the event that specialties and subspecialties are added to an existing license, the expiration of the additional specialties/subspecialties shall be the date of the current license. The licensure period will begin October, 1993, the effective date of Chapter 483, Part I, F.S., and shall be renewable on a biennial basis thereafter.~~

(b) Continued operation of a clinical laboratory that has not submitted a completed application or the required fee after the date of expiration of its license or after the date of sale in the event of a change of ownership shall be a criminal offence under s. 483.23, F.S., and shall result in administrative action up to and including an administrative fine charged to the laboratory in the amount of \$100.00 per day, each day constituting a separate violation as authorized under s. 483.221, F.S.

(9) through (13) No change.

Specific Authority 483.051 FS. Law Implemented 483.051, 483.091, 483.101, 483.106, 483.111, 483.172, 483.181, 483.191, 483.221, 483.23 FS. History—New 11-20-94, Amended 7-4-95, 12-27-95, \_\_\_\_\_.

59A-7.036 Fees.

(1) ~~Each~~ ~~The~~ license fee shall be assessed as stipulated in ~~s. section~~ 483.172, F.S., and the rules promulgated thereunder. These fees are separate from any applicable federal Clinical Laboratory Improvement Amendment (CLIA) certification fees.

(2) General.

(a) Fees are due at the time of application.

(b) Payments shall be made payable to the Agency for Health Care Administration.

(c) Payment shall be by check, money order or other method acceptable to the agency.

(d) If the information submitted to the agency regarding the specialties/subspecialties and volume of testing performed is determined by the agency to be incorrect, the agency shall require the submission of the applicable additional fee in compliance with s. 483.172, F.S. The agency is also authorized to take administrative action in accordance with s. 483.201(1), F.S.

(e) The calculation of the annual volume of testing shall be determined in the following manner:

1. Each test performed shall be counted individually.

2. Test profiles composed of multiple tests on the same patient sample, each individual measured analyte shall be counted as one test.

3. Calculated test results, quality control samples, proficiency, and calibration/calibration verification testing shall not be counted as tests.

4. Tests defined as waived pursuant to s. 483.041(10), F.S., shall not be counted as tests.

5. Tests referred to another laboratory shall not be counted as tests.

6. For microbiology each sample shall be counted as one test, regardless of the number of organisms isolated or identified. Each organism for which an antibiotic sensitivity testing is performed shall be counted as one test.

7. For histopathology, each block shall be counted as one test, regardless of the number of slides prepared. Each special stain is counted as one test.

8. For cytology, each cytology slide shall be counted as one test.

9. For histocompatibility, each HLA typing, antibody screen, and crossmatch shall be counted as one test each.

10. For allergen testing, each allergen shall be counted as one test.

11. For urinalysis, each non-waived macroscopic examination shall be counted as one test and each urinalysis microscopic examination shall be counted as one test each.

12. For immunohematology, each ABO grouping, Rh typing, antibody detection, antibody identification, and cross match shall be counted as one test each.

13. For cytogenetics, each separate specimen type tested is counted as one test for each different specimen type.

14. Out-of-state laboratories shall be allowed to count only those tests performed on specimens received from clinical laboratories licensed in Florida. Counting of such tests shall be in compliance with Rule 59A-7.036(2)(f)1. through 13.

(f) Determination of Specialties and Subspecialties.

1. For the purposes of this part, the term “categories of procedures” as found in s. 483.172, F.S., means the specialties and subspecialties as found in Rule 59A-7.020(16)(a)-(i), F.A.C., and shall be used to determine the applicable licensure fee in accordance with s. 483.172, F.S.

2. For the purposes of fee assessment, multiple subspecialties under a single specialty shall be considered one specialty.

(g) It is the licensee’s responsibility to ensure that the volume of testing and the number of specialties/subspecialties in which testing is performed is correctly submitted to the agency.

(h) Once a license has been issued to the licensee no refund shall be due if the licensee relinquishes the license or the license is revoked before the expiration date of the license.

(3) Fees for Initial Licensure.

(a) Certificate of Exemption.

1. The biennial fee for a Certificate of Exemption is \$100.

2. This fee and licensure certificate are applicable only for those entities performing tests defined as waived pursuant to s. 483.041(10), F.S. If licensure for non-waived testing is requested after the issue of a Certificate of Exemption, the entire applicable non-waived licensure fee is due. No refund of the previously issued Certificate of Exemption fee shall be due.

(b) The initial fee for laboratories accredited under the provisions of Rule 59A-7.033, F.A.C., is \$100 biennially.

If a facility requests accreditation status at initial licensure, the \$100 biennial licensure fee is applicable only if the applicant provides acceptable proof to the agency that the laboratory has been granted accreditation before the application process is completed. If such proof is not provided, the laboratory will not be considered accredited, and the applicable non-accredited licensure fee shall be assessed.

(c) The initial fee for laboratories that are accredited in some but not all specialties/subspecialties in which the laboratory will be licensed shall be determined by estimating the number of tests performed annually in the non-accredited specialties/subspecialties and the number of non-accredited specialties/subspecialties in which the laboratory will be performing testing as declared by the applicant on AHCA Form 3004, REV, MAR 95, AHCA Form 3170-2004, Mar 95 and as specified in s. 483.172 and Rule 59A-7.036(2)(c), F.A.C.

(d) The initial fee for non-accredited licensure for laboratories performing tests beyond the scope of a Certificate of Exemption shall be determined by the estimated number of tests performed annually and the number of specialties/subspecialties in which the laboratory will be performing testing as declared by the applicant on AHCA Form 3004, REV. MAR 95, AHCA Form 3170-2004, Mar 95 and as specified in s. 483.172 and Rule 59A-7.036(2)(c), F.A.C.

(4) Fees for Renewal Licensure.

(a) Certificate of Exemption.

1. The biennial fee for a Certificate of Exemption renewal is \$100.

2. If licensure for non-waived testing is requested during the renewal period for a Certificate of Exemption, the non-waived licensure fee applicable in accordance with s. 483.172, F.S., shall be due.

(b) The fee for renewal of licensure for a laboratory accredited under the provisions of Rule 59A-7.033, F.A.C., is \$100 biennially. If one or more specialties/specialities are added to the license after the current license has been issued an additional fee shall be due if the accreditation organization does not perform the addition of specialty inspection. This additional fee shall be based on the volume of testing and number of specialties/subspecialties added in accordance with s. 483.172, F.S., as applicable.

(c) Fees for renewal of a non-accredited laboratory license performing tests beyond the scope of a Certificate of Exemption.

1. The renewal licensure fee for a laboratory for which there are no changes in volume, and specialties/subspecialties during the previous licensure period, shall be assessed based on the provisions of s. 483.172, F.S.

2. If the laboratory indicates that the volume of testing and/or specialties/subspecialties being performed has increased to the extent that it changes the fee category, the renewal fee shall be based on the new fee category, as applicable in s. 483.172, F.S.

3. If the laboratory indicates that it wants to add or delete one or more specialties/subspecialties, the renewal fee shall be based on the fee category as applicable in s. 483.172, F.S.

4. If the laboratory indicates that only waived testing is being performed, the renewal fee shall be the \$100 Certificate of Exemption fee.

5. If the laboratory indicates that it obtained accreditation status, the \$100 biennial licensure fee is applicable only if the applicant provides the agency with verification that it has been granted accreditation before the expiration date of the current license. If this verification cannot be provided, the laboratory cannot be considered accredited, and the applicable non-accredited licensure fee will be assessed. No refund of the

non-accredited licensure fee shall be due if the laboratory subsequently obtains accreditation status after the license has expired.

(5) Addition or deletion of specialties/subspecialties, or change in accreditation status after an initial or renewal license has been issued.

(a) If the laboratory indicates that it has ceased testing in one or more particular specialty/subspecialty, or has limited testing to tests defined as waived under s. 483.041(11), F.S., no fee or refund shall be due.

(b) If the laboratory voluntarily withdraws its accreditation status, no additional fee will be due unless the laboratory applies for a Certificate of Exemption to perform waived testing, or wishes to add a specialty/subspecialty. If the accreditation organization rescinds the laboratory's accreditation, the laboratory shall be assessed a licensure fee based on the provisions of s. 483.172, F.S. No refund of the previously paid accreditation fee will be given.

(6) If the laboratory applies for the addition of one or more specialties/subspecialties to an existing license, an additional fee will be due if the addition of such specialties/subspecialties results in a change in the applicable fee category. This additional fee shall be due at the time of application for the addition of the specialties/subspecialties.

(a) The additional fee shall be calculated by subtracting any new applicable licensure fee pursuant to s. 483.172, F.S., from the licensure fee already paid for the existing license.

(b) If the request for such an addition to the licensure specialties/subspecialties occurs within 90 days of the expiration date of the current license the renewal fee will be adjusted as applicable to include the additional specialties/subspecialties requested.

(c) If a facility requests accreditation status after a current license has been issued no refund shall be due.

(7) If a facility is not accredited in all specialties in which it is licensed, the fee shall be calculated using the applicable fee for the non-accredited specialties/subspecialties, plus a single accreditation fee of \$100 for all those specialties/subspecialties that are accredited.

(8)(2) Refunds.

(a) Laboratory licensure application fees are non-refundable except as provided in Rule 59A-7.036(8)(2)(b).

(b) Refunds are authorized pursuant to provisions of s. section 215.26, F.S., and shall be approved only if a payment is made when no fee is due. in the following instances:

1. Overpayment of a fee;
2. A payment where no fee is due; and
3. Any payment made into the State Treasury in error.

(c) Applications for refund shall be on Form DBF-AA4, REV. 7/1/87, incorporated by reference, which shall be provided by the agency and shall be filed with the Comptroller within 3 years from the date of payment into the State treasury or else such right shall be barred.

(d) Refund claims shall not be otherwise barred under the laws of this state.

Specific Authority 483.051 FS. Law Implemented 483.051, 483.172 FS. History—New 11-20-94, Amended \_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Attendance at Board Meetings, RULE NO.:

Unexcused Absences 61G15-18.0071

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Attendance at board meetings, unexcused absences.

SPECIFIC AUTHORITY: 455.207(3) FS.

LAW IMPLEMENTED: 455.207(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Foreign Degrees RULE NO.:

61G15-20.007

PURPOSE AND EFFECT: The Board proposes to review this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Foreign degrees.

SPECIFIC AUTHORITY: 471.008 FS.

LAW IMPLEMENTED: 471.013, 471.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Natalie Lowe, Administrator, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32303-5267  
THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**DEPARTMENT OF HEALTH**

**Board of Chiropractic Medicine**

RULE TITLE: RULE NO.:

Certification for Examination and Licensure 64B2-11.0015

PURPOSE AND EFFECT: The Board proposes to add test site conduct requirements to the existing rule.

SUBJECT AREA TO BE ADDRESSED: Certification for Examination and Licensure.

SPECIFIC AUTHORITY: 460.405 FS.

LAW IMPLEMENTED: 460.406, 456.013(1),(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Board Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B2-11.0015 Certification for Examination and Licensure.

Upon certifying applicants for the licensure examination, the Board shall also certify applicants for licensure, contingent and effective upon successful completion of required examinations and no discovery of disqualifying factors prior to licensure.

With regard to examinations administered by the Department, the conduct at the test site shall be that specified in Rule 64B-1.004, F.A.C.

Specific Authority 460.405 FS. Law Implemented 460.406, 456.013(1),(2); ~~456.017(1)(d)~~ FS. History—New 7-15-91, Formerly 21D-11.0015, 61F2-11.0015, 59N-11.0015, Amended \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Chiropractic Medicine**

RULE TITLE: RULE NO.:

Continuing Education Course Required for 64B2-13.0045

Initial Licensure, Renewal, or Reactivation

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

SUBJECT AREA TO BE ADDRESSED: Continuing Education Course Required for Initial Licensure, Renewal, or Reactivation.

SPECIFIC AUTHORITY: 456.033(6), 460.408(3) FS.

LAW IMPLEMENTED: 456.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND FOR A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B2-13.0045 Continuing Education Course Required for Initial Licensure, Renewal, or Reactivation.

(1) No license shall be granted and no license shall be renewed or reactivated by ~~July 1, 1989~~, unless the applicant or licensee submits confirmation to the Board, on a form approved by the Board, that he or she has successfully completed a Board-approved course on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS).

~~(2) All licensees shall by December 31, 1989, submit confirmation to the Board, on a form approved by the Board, that they have successfully completed a Board-approved course on HIV/AIDS.~~

~~(2)(3)~~ To receive Board approval, courses on HIV/AIDS shall consist of at least 3 hours of classroom instruction.

~~(3)(4)~~ For the purpose of compliance with this rule, a licensee may submit confirmation of having taken a course which complies with Rule 64B2-13.004(3), F.A.C., ~~and is subsequently approved by the Board, if the course was completed after July 1, 1988 for continuing education credit for 1989 renewal period.~~

~~(4)(5)~~ HIV/AIDS hours ~~Hours~~ completed to satisfy the requirement of this rule may be used by the licensee for purposes of satisfying the 40 hour requirement of Rule 64B2-13.004(1), F.A.C.

(5) Each applicant for licensure shall attend and certify attending a Board-approved two hour course relating to the prevention of medical errors. Each licensee shall attend and certify attending a Board-approved two hours continuing education course relating to the prevention of medical errors. For licensees, the two hour course shall count toward the total number of continuing education hours required for license renewal.

Specific Authority 456.033(6), 460.408(3), 456.013 FS. Law Implemented 456.033, 456.013(7) FS. History--New 5-2-89, Amended 1-28-90, Formerly 21D-13.0045, Amended 10-26-93, Formerly 61F2-13.0045, 59N-13.0045, Amended \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE TITLE: Manner of Application

RULE NO.: 64B3-6.001

PURPOSE AND EFFECT: The Board proposes to update the social security disclosure language, the application form, and the examination information.

SUBJECT AREA TO BE ADDRESSED: Manner of Application.

SPECIFIC AUTHORITY: 456.013, 483.805(4) FS.

LAW IMPLEMENTED: 456.013, 483.815, 483.823 FS.

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

TIME AND DATE: 9:30 a.m., October 19, 2001

PLACE: Hilton Jacksonville Riverfront, 1201 Riverplace Blvd., Jacksonville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe R. Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B3-6.001 Manner of Application.

(1) through (4) No change.

~~(5) Under the Federal Privacy Act, disclosure of a social security number is voluntary. They are requested~~ With regard to persons who have been issued a social security number by the Federal Government, disclosure of a social security number is mandatory pursuant to Sections 456.004(9), 409.2577 and 409.2598, Florida Statutes, and are used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations.

(6) No change.

Specific Authority 456.013, 483.805(4) FS. Law Implemented 456.013, 483.815, 483.823 FS. History--New 12-29-93, Formerly 61F3-6.001, Amended 5-29-95, 8-1-95, Formerly 59O-6.001, Amended 8-27-97, 9-20-98, 1-5-00, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Formulary

RULE NO.: 64B8-30.008

PURPOSE AND EFFECT: The Board proposes a substantial rewording of the formulary rule intended to convert the current physician assistant formulary to a negative formulary in response to recent legislation as set forth in Section 458.347(4)(f)1.

SUBJECT AREA TO BE ADDRESSED: Physician assistant formulary.

SPECIFIC AUTHORITY: 458.309, 458.347(4)(f)1. FS.

LAW IMPLEMENTED: 458.347(4)(e),(f) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Tanya Williams, Executive Director, Board of/MQA, 4052 Bald Cypress Way, Bin #03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 64B8-30.008 follows. See Florida Administrative Code for present text.)

64B8-30.008 Formulary.

(1) PHYSICIAN ASSISTANTS APPROVED TO PRESCRIBE MEDICINAL DRUGS UNDER THE PROVISIONS OF SECTIONS 458.347(4)(e) OR 459.022(4)(e), FLORIDA STATUTES, ARE NOT AUTHORIZED TO PRESCRIBE THE FOLLOWING MEDICINAL DRUGS, IN PURE FORM OR COMBINATION:

- (a) Controlled substances, as defined in Chapter 893, F.S.
- (b) Antipsychotics.
- (c) General, spinal or epidural anesthetics.
- (d) Radiographic contrast materials.

(e) Any parenteral preparation except insulin and epinephrine. Parenteral includes: intravenous, subcutaneous, intramuscular, and any route other than the alimentary canal; however, it does not include topical or mucosal application. Nothing in this formulary prohibits a physician assistant from administering a parenteral drug under the direction or supervision of the supervising physician.

(2) A supervising physician may delegate to a prescribing physician assistant only such authorized medicinal drugs as are used in the supervising physician's practice.

(3) Subject to the requirements of this subsection, Section 458.347 and 459.022, F.S., and the rules enacted thereunder, drugs not appearing on this formulary may be delegated by a supervising physician to a prescribing physician assistant to prescribe.

(4) Nothing herein prohibits a supervising physician from delegating to a physician assistant the authority to order medicinal drugs for a hospitalized patient of the supervising physician, nor does anything herein prohibit a supervising physician from delegating to a physician assistant the administration of a medicinal drug under the direction and supervision of the physician.

Specific Authority 458.309, 458.347(4)(f)1,3 FS. Law Implemented 458.347(4)(e),(f) FS. History--New 3-12-94, Formerly 61F6-17.0038, Amended 11-30-94, 2-22-95, 1-24-96, 11-13-96, 3-26-97, Formerly 59R-30.008, Amended 11-26-97, 1-11-99, 12-28-99, 6-20-00, 11-13-00,

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Procedure for Approval of Attendance at Continuing Education Courses  
 RULE NO.: 64B8-52.003

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

SUBJECT AREA TO BE ADDRESSED: Procedure for Approval of Attendance at Continuing.

SPECIFIC AUTHORITY: 478.43(1),(4), 478.50(2),(4)(a),(b) FS.

LAW IMPLEMENTED: 456.013, 456.033, 478.43(4), 478.50(2),(4)(a),(b) 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 IS: Kaye Howerton, Executive Director, Electrolysis Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

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

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Equipment and Devices; Protocols for Laser and Light-Based Devices  
 RULE NO.: 64B8-56.002

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

SUBJECT AREA TO BE ADDRESSED: Equipment and Devices; Protocols for Laser and Light-Based Devices.

SPECIFIC AUTHORITY: 478.43 FS.

LAW IMPLEMENTED: 458.33(1)(v), 458.348(3), 478.42(5), 478.43(4) 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 IS: Kaye Howerton, Executive Director, Electrolysis Council, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

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

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE TITLES: RULE NOS.:  
 Disciplinary Proceedings 64B9-8.005

Disciplinary Guidelines; Range of Penalties;  
 Aggravating and Mitigating Circumstances 64B9-8.006

PURPOSE AND EFFECT: The Board proposes to review these rules to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Disciplinary proceedings and disciplinary guidelines; range of penalties; aggravating and mitigating circumstances.

SPECIFIC AUTHORITY: 456.072, 456.079, 464.006 FS.

LAW IMPLEMENTED: 456.072, 456.079, 464.018 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Dr. Ruth Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

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

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLE: RULE NO.:  
 Optical Establishment Inspections 64B12-8.023

PURPOSE AND EFFECT: The Board proposes a new rule that establishes inspection criteria for optical establishments.

SUBJECT AREA TO BE ADDRESSED: Optical establishment inspections.

SPECIFIC AUTHORITY: 484.015 FS.

LAW IMPLEMENTED: 484.015 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: Sue Foster, Executive Director, Board of Opticianry, Division of Medical Quality Assurance, Department of Health, 4052 Bald Cypress Way, BIN #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLE: RULE NO.:  
 Delinquent License 64B12-12.009

PURPOSE AND EFFECT: The Board proposes a new rule concerning delinquent license and the requirements for reactivation of a delinquent license.

SUBJECT AREA TO BE ADDRESSED: New rule concerning delinquent license for the Board of Opticianry.

SPECIFIC AUTHORITY: 456.036, 484.008 FS.

LAW IMPLEMENTED: 456.036, 484.008 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 IS: Sue Foster, Executive Director, Board of Opticianry, Division of Medical Quality Assurance, Department of Health, 4052 Bald Cypress Way, BIN #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B12-12.009 Delinquent License.

(1) The failure of any licensee to elect active or inactive status before the license expires shall cause the license to become delinquent.

(2) The delinquent licensee must affirmatively apply for active or inactive status during the biennium in which the license becomes delinquent. The failure by the delinquent licensee to cause the license to become active or inactive before the expiration of the biennium in which the license became delinquent shall render the license null and void without further action by the board or the Department.

(3) The delinquent licensee who applies for active or inactive license status shall:

(a) Submit to the Board a written request for either active status or inactive status.

(b) If active is requested, demonstrate compliance with the continuing education requirements set forth in Rule 64B12-15.001, F.A.C..

(c) Pay to the Board the delinquent fee as set forth in Rule 64B12-11.0095, F.A.C..

(d) Pay to the Board either the active status or inactive status renewal fee, and

(e) If applicable, pay to the Board the change of status fee as set forth in Rule 64B12-11.0105, F.A.C.

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History—New



**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE TITLE: Standards for Continuing Professional Education  
 RULE NO.: 64B12-15.003

PURPOSE AND EFFECT: The Board proposes a revision of the rule to include the requirement for continuing education for prevention of medical errors and continuing education of contact lens.

SUBJECT AREA TO BE ADDRESSED: Requirements for continuing education for renewal of license.

SPECIFIC AUTHORITY: 456.013(7), 484.005, 484.008(3) FS.

LAW IMPLEMENTED: 456.013(7), 484.008(3) 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 IS: Sue Foster, Executive Director, Board of Opticianry, Division of Medical Quality Assurance, Department of Health, 4052 Bald Cypress Way, BIN #C08, Tallahassee, Florida 32399-3258

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B12-15-003 Standards for Continuing Professional Education.

- (1) through (2) No change.
- (3)(a) through (b) No change.

(c) One (1) hour must be instruction on Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (HIV/AIDS); ~~and~~

(d) One (1) hour must be in contact lens theory and practice;

(e) Effective August 1, 2002, a two (2) hour continuing education course relating to the prevention of medical errors. The course must be approved by the Board and shall include a study of root-cause analysis, error reduction and prevention, and patient safety; and

(f)(d) Two (2) hours ~~Four (4) hours~~ shall be electives consisting of courses in one or more of the subjects of categories (a) through (c) above or subjects relating to management of a practice from a business perspective including sales and marketing, business and finance, and personnel management, stress management, risk management, fire prevention or disaster planning.

- (4) through (7) No change.

Specific Authority 456.013(7), 484.005, 484.008(3) FS. Law Implemented 456.013(7), 484.008(3) FS. History—New 10-12-80, Formerly 21P-15.03, Amended 3-5-87, 8-10-87, 1-6-88, 6-11-92, Formerly 21P-15.003, Amended 4-17-94, Formerly 61G13-15.003, Amended 3-14-95, Formerly 59U-15.003, Amended 4-20-99, 12-31-00,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Optometry**

RULE TITLE: Hours Requirement  
 RULE NO.: 64B13-5.001

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address continuing education hours for the biennium ending in February, 2003.

SUBJECT AREA TO BE ADDRESSED: Continuing education requirements.

SPECIFIC AUTHORITY: 463.005(1), 463.007(3),(4) FS.

LAW IMPLEMENTED: 463.007 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Joe Baker, Jr., Executive Director, Board of Optometry/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B13-5.001 Hours Requirement.

(1) As a condition to the renewal of a biennial license, each licensed practitioner shall be required to maintain professional competency by completing 30 clock hours of continuing education in subjects relating to optometry that have been approved by the Board. Licensed practitioners shall not be required to complete the continuing education requirements during the biennium in which they receive initial licensure. Credit will be allowed on the basis of an hour for hour. To receive one hour credit, a licensed practitioner must attend not less than 50 minutes. There will be no fractional hour credits. For certified optometrists, at least 6 of those 30 hours must be of "transcript quality". For purpose of this rule, the phrase "transcript quality" refers to coursework in ocular and systemic pharmacology and the diagnosis, treatment and management of ocular and systemic conditions and diseases. Transcript quality CE must be sponsored by a school or college of optometry or equivalent educational entity as approved by the Board and which requires a test and passing grade. Attendance at a continuing education program must be certified by the lecturer or someone in charge of the program. An instructor of a course may credit the hours taught towards completion of the required continuing education; provided, however, that an instructor may only credit a course once, regardless of the number of times the course is taught. In

addition, the instructor of a course may not credit the hours taught towards completion of the "transcript quality" portion of the continuing education requirement. For the biennium ending at the end of February 2003, each licensed practitioner may count hours of continuing education obtained between January of 2001 and the end of February 2001, so long as the licensed practitioner did not count those hours for the March 1, 1999 – February 28, 2001, biennium. However, effective March 1, 2003, continuing education hours must be obtained during the biennium preceding licensure.

(2) through (7) No change.

Specific Authority 463.005(1), 463.007(3),(4) FS. Law Implemented 463.007 FS. History–New 11-13-79, Amended 5-28-80, 9-16-80, 1-13-81, 2-14-82, Formerly 21Q-5.01, Amended 12-16-86, 12-11-88, 4-19-89, 12-20-89, 9-22-92, 10-28-92, Formerly 21Q-5.001, Amended 8-31-93, Formerly 61F8-5.001, Amended 11-29-94, 7-5-95, 8-18-96, Formerly 59V-5.001, Amended 3-21-00, 10-2-01,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE TITLE: Formulary  
 RULE NO.: 64B15-6.0038

PURPOSE AND EFFECT: The Board proposes a substantial rewording of the formulary rule intended to convert the current physician assistant formulary to a negative formulary as set forth in subsection 459.022(4)(e), F.S.

SUBJECT AREA TO BE ADDRESSED: Physician assistant formulary.

SPECIFIC AUTHORITY: 458.347, 459.022(4)(e) FS.

LAW IMPLEMENTED: 459.022(4)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Karen Eaton, Executive Director, Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

(Substantial rewording of Rule 64B15-6.0038 follows. See Florida Administrative Code for present text.)

64B15-6.0038 Formulary.

(1) PHYSICIAN ASSISTANTS APPROVED TO PRESCRIBE MEDICINAL DRUGS UNDER THE PROVISIONS OF SECTIONS 458.347(4)(e) OR 459.022(4)(e), FLORIDA STATUTES, ARE NOT AUTHORIZED TO PRESCRIBE THE FOLLOWING MEDICINAL DRUGS, IN PURE FORM OR COMBINATION:

- (a) Controlled substances, as defined in Chapter 893, F.S.
- (b) Antipsychotics.
- (c) General, spinal or epidural anesthetics.

(d) Radiographic contrast materials.

(e) Any parenteral preparation except insulin and epinephrine. Parenteral includes: intravenous, subcutaneous, intramuscular, and any route other than the alimentary canal; however, it does not include topical or mucosal application. Nothing in this formulary prohibits a physician assistant from administering a parenteral drug under the direction or supervision of the supervising physician.

(2) A supervising physician may delegate to a prescribing physician assistant only such authorized medicinal drugs as are used in the supervising physician's practice.

(3) Subject to the requirements of this subsection, Section 458.347 and 459.022, F.S., and the rules enacted thereunder, drugs not appearing on this formulary may be delegated by a supervising physician to a prescribing physician assistant to prescribe.

(4) Nothing herein prohibits a supervising physician from delegating to a physician assistant the authority to order medicinal drugs for a hospitalized patient of the supervising physician, nor does anything herein prohibit a supervising physician from delegating to a physician assistant the administration of a medicinal drug under the direction and supervision of the physician.

Specific Authority 458.347, 459.022(4)(e) FS. Law Implemented 459.022(4)(e) FS. History–New 3-12-94, Formerly 61F9-6.0038, Amended 11-30-94, 4-17-95, 8-27-95, 11-13-96, Formerly 59W-6.0038, Amended 5-12-98, 3-10-99, 3-9-00, 6-19-00, 11-23-00,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE TITLE: Licensure Without Examination  
 RULE NO.: 64B17-3.003

PURPOSE AND EFFECT: The Board proposes to clarify the existing rule with regard to minimum standards.

SUBJECT AREA TO BE ADDRESSED: Licensure Without Examination.

SPECIFIC AUTHORITY: 486.025, 486.081 FS.

LAW IMPLEMENTED: 486.081 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B17-3.003 Licensure Without Examination.

An applicant demonstrating that he meets the requirements of Rule 64B17-3.001, F.A.C., may be licensed to practice physical therapy without examination by presenting evidence satisfactory to the Board that he has passed an examination before a similar, lawful, authorized examining board in physical therapy in another state, the District of Columbia, a territory or a foreign country if their standards for licensure are as high as those maintained in Florida. The standard for determining whether the standards of another state, the District of Columbia, a territory, or a foreign country are as high as the standards in Florida shall be whether the written examination taken for licensure in such other jurisdiction by applicants meeting Florida's minimum educational qualifications was an examination prepared under the auspices of the Profession Examination Services.

Specific Authority 486.025, 486.081 FS. Law Implemented 486.081 FS. History--New 8-6-84, Formerly 21M-7.26, Amended 5-18-86, Formerly 21M-7.026, 21MM-3.004, 61F11-3.004, 59Y-3.004, Amended.

**DEPARTMENT OF HEALTH**

**Board of Respiratory Care**

RULE TITLE: RULE NO.:

Procedures for Approval of Attendance at Continuing Education Courses 64B32-6.004

PURPOSE AND EFFECT: The Board proposes to add error course.

SUBJECT AREA TO BE ADDRESSED: Procedures for Approval of Attendance at Continuing Education Courses.

SPECIFIC AUTHORITY: 468.353(1), 468.361(2) FS.

LAW IMPLEMENTED: 468.361(2) FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B32-6.004 Procedures for Approval of Attendance at Continuing Education Courses.

(1) through (4) No change.

(5) Each licensee should attend and certify attending a Board approved two hour continuing education course relating to the prevention of medical errors. The two-hour course shall count toward the total number of continuing education hours required for each license renewal.

Specific Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361(2) FS. History--New 4-29-85, Formerly 21M-38.04, Amended 9-29-86, 11-29-88, 9-24-92, 10-15-92, Formerly 21M-38.004, Amended 1-2-94, 7-10-94, Formerly 61F6-38.004, Amended 11-1-94, 3-14-95, 7-18-95, 4-24-96, 8-27-96, Formerly 59R-75.004, 64B8-75.004, Amended 6-8-00, 5-7-01, \_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Division of Environmental Health and Statewide Programs**

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Biomedical Waste 64E-16

PURPOSE AND EFFECT: The purpose of this rule development is to incorporate forms for the implementation of section 381.0098, F.S. Incorporation of these forms will facilitate permitting of regulated facilities.

SUBJECT AREA TO BE ADDRESSED: The subject to be addressed is the incorporation of forms required for permitting.

SPECIFIC AUTHORITY: 381.0098(3) FS.

LAW IMPLEMENTED: 381.0098(4),(5),(6),(7) FS.

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

TIME AND DATE: 1:00 p.m., Friday, November 2, 2001

PLACE: Conference Room 240P, Building 4042, Capital Circle Office Complex, 4042 Bald Cypress Way, Tallahassee, Florida

The forms to be included in the proposed rule can be obtained without cost by contacting: Edward J. Golding, at the address above.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edward J. Golding, Environmental Specialist III, 4052 Bald Cypress Way, Bin A08, Tallahassee, FL 32399-1710, (850)245-4277

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

**DEPARTMENT OF HEALTH**

**Division of Environmental Health and Statewide Programs**

RULE CHAPTER TITLE:               RULE CHAPTER NO.:  
 Body Piercing                               64E-19

PURPOSE AND EFFECT: The purpose of this rule development is to incorporate standards and procedures to fulfill the intent of Section 381.0075, F.S. The incorporated language will correct inaccurate references to a federal agency.  
 SUBJECT AREA TO BE ADDRESSED: The subjects to be addressed are use of both liquid chemical sterilants and pre-surgical scrubs.

SPECIFIC AUTHORITY: 381.0075(10) FS.

LAW IMPLEMENTED: 381.0075(10),(11) FS.

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

TIME AND DATE: 10:00 a.m., Friday, November 2, 2001

PLACE: Conference Room 240P, Building 4042, Capital Circle Office Complex, 4042 Bald Cypress Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Edward J. Golding, Environmental Specialist III, 4052 Bald Cypress Way, Bin #A08, Tallahassee, FL, 32399-1710, (850)245-4277

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

Section II  
 Proposed Rules

**DEPARTMENT OF STATE**

**John and Mable Ringling Museum of Art**

RULE CHAPTER TITLE:               RULE CHAPTER NO.:

Organization                               1K-1

RULE TITLE:                               RULE NO.:

Members Council                               1K-1.013

PURPOSE AND EFFECT: The rules to be repealed relate to the John and Mable Ringling Museum of Art. In 2000, the Legislature transferred oversight of the museum to Florida State University. Accordingly, the rules no longer serve a purpose for the Department of State and the Department seeks to repeal them. Furthermore, statutory authority no longer exists for these rules.

SUMMARY: The Department of State proposes repeal of rules governing various aspects of the John and Mable Ringling Museum of Art.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 265.26(4) FS. (Repealed by ch. 2000-258, § 67, Laws of Florida, eff. July 1, 2000)

LAW IMPLEMENTED: 265.26 FS. (Repealed by ch. 2000-258, § 67, Laws of Florida, eff. July 1, 2000)

IF REQUESTED IN WRITING 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: Heidi Hughes, Assistant General Counsel, Florida Department of State, The Capitol, LL-10, Tallahassee, FL 32399, (850)245-6536

THE FULL TEXT OF THE PROPOSED RULE IS:

1K-1.013 Members Council.

Specific Authority 265.26(4) FS. Law Implemented 265.26 FS. History--New 9-22-86, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Heidi Hughes, Assistant General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dave Mann, Assistant Secretary, Florida Department of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2001

**DEPARTMENT OF STATE**

**John and Mable Ringling Museum of Art**

RULE CHAPTER TITLE:               RULE CHAPTER NO.:

Collections                               1K-2

RULE TITLES:                               RULE NOS.:

Acquisitions                               1K-2.001

Accessioning                               1K-2.002

Deaccessioning                               1K-2.003

Loans of Objects of Art                               1K-2.010

PURPOSE AND EFFECT: The rules to be repealed relate to the John and Mable Ringling Museum of Art. In 2000, the Legislature transferred oversight of the museum to Florida State University. Accordingly, the rules no longer serve a purpose for the Department of State and the Department seeks to repeal them. Furthermore, statutory authority no longer exists for these rules.

SUMMARY: The Department of State proposes repeal of rules governing various aspects of the John and Mable Ringling Museum of Art.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.