

(6) Conservation and management decisions shall be derived through processes which are fair and accessible to all the people of the state and which are consistent with the procedures in Rule 68-1.001, F.A.C.

(7) When applicable, federal fish and wildlife management plans and management plans of other states or interstate commissions should be considered when developing state hunting and fishing rules.

(8) This rule shall apply to rules and rule amendments relating to hunting and fishing proposed after July 1, 2006.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE NOS.: 69O-143.041
69O-143.042
RULE TITLES: Definitions
Custody Agreement; Requirements
PURPOSE AND EFFECT: To allow insurers to utilize modern systems for holding and transferring securities without physical delivery of securities certificates.

SUBJECT AREA TO BE ADDRESSED: Insurer Assets.
SPECIFIC AUTHORITY: 624.308(1), 628.511(4) FS.
LAW IMPLEMENTED: 624.307(1), 625.55, 628.511 FS.

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

DATE AND TIME: May 12, 2006, 9:30 a.m.
PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Steve Szygula, Product and Casualty Financial Oversight, Office of Insurance Regulation, E-mail: steve.szygula@fldfs.com

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

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

**Section II
Proposed Rules**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Agricultural Water Policy

RULE CHAPTER NO.: 5M-3
RULE CHAPTER TITLE: Best Management Practices (Bmps) for Citrus, Cow/calf, Dairies and Other Agriculture in the Lake Okeechobee Priority Basins (S-191, S-154, S65 D and E)

RULE NOS.: 5M-3.001
5M-3.002
5M-3.003
5M-3.004
5M-3.005
5M-3.006
5M-3.007
5M-3.008
5M-3.009
RULE TITLES: Purpose
Definitions
Approved Best Management Practices
Notice of Intent to Implement
Presumption of Compliance
Land Application of Animal Wastes
Record Keeping
Land Use Changes
Preservation of Authority

PURPOSE AND EFFECT: The purpose of this rule amendment is to increase the geographic scope of the rule, and to incorporate changes to definitions and record keeping details. New and updated reference documents will be adopted by reference. Details concerning record keeping and timing of implementation of Best Management Practices will be modified.

SUMMARY: The rule establishes a procedure for submitting a "Notice of Intent to Implement," that, when filed with the Florida Department of Agriculture and Consumer Services (FDACS), and implemented, provides a presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S. for those pollutants addressed by the practices. Once filed with FDACS, the Notice of Intent shall enable the applicant to apply for assistance with implementation as identified in Section 403.067(7)(c)2., F.S. This rule also provides that records maintained by the applicant confirming implementation of non-regulatory and incentive-based programs are subject to FDACS inspection.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 403.067(7)(c)2. FS.

LAW IMPLEMENTED: 403.067(7)(c)2. FS.

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

DATE AND TIME: May 15, 2006, 1:00 p.m.

PLACE: Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy Conference Room, Magnolia Center, 1203 Governors Square Blvd., Ste. 200, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Clegg Hooks, Environmental Administrator, Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700 or FAX (850)617-1701

THE FULL TEXT OF THE PROPOSED RULES IS:

BEST MANAGEMENT PRACTICES (BMPS) FOR AGRICULTURE IN THE LAKE OKEECHOBEE WATERSHED CITRUS, COW/CALF, DAIRIES AND OTHER PRIORITY BASINS (S-191, S-154, S65 D AND E)

5M-3.001 Purpose.

The purpose of this rule chapter is to effect pollutant reduction through the implementation of non-regulatory and incentive based programs, which may be determined to have minimal individual or cumulative adverse impacts to the water resources of the state. The rule chapter defines the phosphorus management requirements of agricultural producers necessary to receive a presumption of compliance with state water quality standards, including those established by the Total Maximum Daily Load (TMDL) program, pursuant to Section 403.067, F.S., and the South Florida Water Management District’s (SFWMD) Works of the District Program contained in Chapter 40E-61, F.A.C. Implementation of this rule chapter is part of a comprehensive program to achieve water quality standards. Reasonable assurance for achieving water quality standards is enhanced through verification monitoring at representative sites and subsequent identification of additional or modified control measures where needed. Where it is determined that despite proper assessment, BMP design, or BMP implementation, additional or modified BMP control measures are necessary to achieve compliance with water quality standards, established phosphorus reduction targets or total maximum daily loads, the implementation of these measures will be achieved through a modification of this rule.

Specific Authority 373.4595(3)(7)(c)1.a., 403.067(7)(c)2(d)1. FS. Law Implemented 373.4595(3)(7)(c)1.a., 403.067(7)(c)2(d)1. FS. History—New 10-23-03, Amended _____.

5M-3.002 Definitions.

(1) “Agricultural Nutrient Management ~~Assessment and Plan~~” (“ANMAP”) means a site-specific plan establishing the rates at which nutrients containing materials (~~manure, litter, waste bedding and process wastewater~~) can be land applied so as to meet crop nutrient needs while minimizing the amount of

pollutant discharged to waters of the State. The ANMAP shall include site-specific Best Management Practices to address all relevant operation and maintenance activities. The ANMAP shall be consistent with the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS) Field Office Technical Guide and the USDA’s Comprehensive Nutrient Management Planning Technical Guidance (CNMP) located in Part 600.5 of the National Planning Procedures Handbook Amendment 4, which may be viewed or copied by going to <http://www.floridaagwaterpolicy.com/links.html>, <http://www.nrcs.usda.gov/programs/af/> or obtained from USDA/NRCS, P. O. Box 141510, 2614 N.W. 43rd Street, Gainesville, FL 32614-1510.

(2) “Agronomic Rates” means the application of nutrients to the soil that equals the rate of nutrient uptake, by existing or planned agriculture crop or pasture grass, required to produce reasonably ~~an~~ expected yield while minimizing adverse environmental effects.

(3) “Animal Wastes” means manure, used bedding, litter, feed, soil, urine, compost, and process wastewater from animal production areas.

(4) ~~“Buy-out Dairy Property” means property where one or more cows are kept and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, or receiving station, and a “high intensity use area”, as defined by the Florida Department of Environmental Protection (FDEP) through Rule 62-670.200, F.A.C., dated December 26, 1996, have ceased operations.~~

(4)(5) ~~“Certified Technical Service Provider” (“CTSP”)~~ means an individual, or an entity or public agency having an employee or employees who meet the minimum NRCS criteria for providing technical service for conservation planning or a specific conservation practice or system. The minimum criteria for providing technical service are ~~is~~ outlined in 7 CFR Part 652, subpart B, effective November 20, 2002. Individuals who meet the minimum NRCS criteria must be approved and certified by the USDA/NRCS State Conservationist and placed on the approved list to provide technical service to program participants or to the Department.

(5)(6) ~~“Conservation Plan” means:~~

(a) a record of the landowner’s decisions and supporting information for treatment of a unit of land or water as a result of the planning process that is consistent with the ~~meets~~ Field Office Technical Guide (FOTG) quality criteria for each natural resource (soil, water, air, plants, and animals) and takes into account economic, and social, and site specific ~~and~~ considerations. The plan must be consistent developed in accordance ~~in accordance~~ with the United States Department of Agriculture/Natural Resources Conservation Service (USDA/NRCS) National Planning Procedures Handbook Amendment 4 and approved by USDA/NRCS, and shall specify the schedule of operations and land activities needed to solve identified natural resource problems. ~~The needs of the~~

landowner, the resources, and federal, state and local requirements must be met. The National Planning Procedures Handbook Amendment 4 may be viewed or copied by going to <http://www.floridaagwaterpolicy.com/links.html>, http://policy.nres.usda.gov/scripts/lpsiiis.dll/H/H_180_600.htm or obtained from USDA/NRCS, P. O. Box 141510, 2614 N. W. 43rd St., Gainesville, FL 32614-1510; or (b) for those landowners otherwise not eligible for USDA/NRCS cost-share programs, or where a Conservation Plan to a Resource Management System (RMS) level can not be obtained, an alternative plan may be approved by the Department. Where justified, based on site specific considerations, the alternative plan may vary from the guidance provided in paragraphs 5M-3.004(3)(a) through (d), F.A.C. During plan development the Department shall consult with the Florida Department of Environmental Protection (DEP) to ensure that the plan is supported by sufficient scientific justification that water resource protection equivalent to a USDA/NRCS Conservation Plan will be provided.

(6)(7) "Field Office Technical Guide" ("FOTG" or "eFOTG", the online electronic version) means the current official Florida NRCS series that includes volume I-V, in effect August 1, 2003, which sets forth the guidelines, criteria, and standards for planning and applying conservation treatments, which may be viewed or copied by going to <http://www.floridaagwaterpolicy.com/links.html>, <http://www.nres.usda.gov/technical/efotg/> or obtained from USDA/NRCS, P. O. Box 141510, 2614 N.W. 43rd St., Gainesville, FL 32614-1510.

(7)(8) "Nutrient Management Plan" means a component of a site specific Conservation Plan that is designed and applied according to the USDA/NRCS conservation practice standard included in Section IV, Code 590 Nutrient Management, of the FOTG/eFOTG ~~Efotg~~. Nutrient Management Plans specify the amount, placement, form, and timing of the application of nutrients including manure and animal by-products, and soil amendments. Nutrient Management Plans are applicable to all lands where plant nutrients and soil amendments are applied. The Nutrient Management section of the FOTG/eFOTG ~~Efotg~~, Code 590, Conservation Practice Standard may be viewed or copied by going to http://www.floridaagwaterpolicy.com/PDFs/Conservation_Prac_Standard590.pdf, <ftp://ftp.ftw.nres.usda.gov/pub/nhcv/pdf/590.pdf>.

(8) "Lake Okeechobee Watershed" means Lake Okeechobee and the area surrounding and tributary to Lake Okeechobee, composed of the surrounding hydrologic basins, as defined in Section 373.4595(2)(i), F.S.

Specific Authority 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. History—New 10-23-03, Amended _____.

5M-3.003 Approved Best Management Practices.

The following best management practices (BMPs) are approved for the Lake Okeechobee Watershed priority basins, (S-191, S-154, S-65 D and E) as identified in Section 373.4595 (3)(b)1., F.S.

(1) The document titled Water Quality/Quantity BMPs for the Indian River Area Citrus Groves; (January 2005 ~~May 2000~~) is hereby incorporated and adopted by reference in this rule. Copies of this document may be obtained from the University of Florida, Indian River Research and Education Center, 2199 South Rock Road, Ft. Pierce, FL 34945.

(2) The document titled Water Quality BMPs for Cow/Calf Operations; (June 1999) is hereby incorporated and adopted by reference in this rule. Copies of the document may be obtained from the Florida Cattlemen's Association, P. O. Box 421929, Kissimmee, FL 34742-1929.

(3) The document titled Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops (2005 Edition) is hereby incorporated and adopted by reference in this rule for participating vegetable and agronomic crop growers in the Lake Okeechobee watershed as defined in subsection 5M-3.002(8), F.A.C. Copies of the document may be obtained from the local county University of Florida Cooperative Extension Service office or from the Florida Department of Agriculture and Consumer Services (FDACS), Office of Agricultural Water Policy, 1203 Governor's Square Boulevard, Suite 200, Tallahassee, Florida 32301.

(4)(3) Implementation of a site specific Conservation Plan, as defined in Rule 5M-3.002, F.A.C. developed in accordance with the USDA/NRCS National Planning Procedures Handbook Amendment 4 and approved by the USDA/NRCS. A copy of the National Planning Procedures Handbook Amendment 4 may be obtained from USDA/NRCS, P. O. Box 141510, 2614 N. W. 43rd St., Gainesville, FL 32614-1510.

(5)(4) Implementation of a site specific Agricultural Nutrient Management Assessment and Plan (ANMAP), as defined in Rule 5M-3.002, F.A.C., developed for a dairy or other Concentrated Animal Feeding Operation or cow/calf operation located on buy-out dairy property.

Specific Authority 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. History—New 10-23-03, Amended _____.

5M-3.004 Notice of Intent to Implement.

A Notice of Intent to Implement any of the non-regulatory and incentive based programs set forth in Rule 5M-3.003, F.A.C., shall be submitted to the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy, 1203 Governors Square Boulevard, Suite 200, Tallahassee, FL 32301.

(1) Such notice shall identify those practices from the approved best management practices listed in Rule 5M-3.003, F.A.C., the applicant intends to implement. The notice shall

also include the date of submittal; the name of the property owner; the location of the property(ies); the property tax ID number(s); a timeline for implementation, the gross acreage on which each practice will be implemented; the name and contact information for an authorized representative; and the signature of the owner, leaseholder, or authorized agent.

(2) Once filed with the Florida Department of Agriculture and Consumer Services, the Notice of Intent to Implement shall enable the applicant to apply for assistance with implementation as identified in Section 373.4595(3)(c)1.b., F.S. All landowners who receive cost-share assistance with implementation shall complete implementation of applicable Best Management Practices within twenty-four (24) months of cost-share assistance becoming available.

(3) All landowners who submit a Notice of Intent (NOI) must implement the nutrient management component of the applicable Best Management Practices upon NOI submittal. Where phosphate (P2O5) is intended to be applied the nutrient management component of the applicable Best Management Practices shall include the collection and analysis of soil and/or plant tissue in determining the amount of phosphate (P2O5) needed for the combination of the crop being produced and its expected yield. Soil and/or plant tissue sampling and analysis shall be conducted using the following University of Florida/Institute of Food and Agricultural Sciences Extension Electronic Data Information Source (EDIS) documents:

(a) For soil testing use: University of Florida/Institute of Food and Agricultural Sciences Extension Soil Testing Laboratory (ESTL) Analytical Procedures and Training Manual (SS312) September 2002; and

(b) For vegetable /agronomic crops use the following documents: Phosphorus Management for Vegetable Production in Florida (HS105) May 2003, IFAS Standardized Fertilization Recommendations for Vegetable Crops (CV002) 1995, and Commercial Vegetable Fertilization Principles (CV009) March 2000; and

(c) For citrus use the following documents: Managing Phosphorus Fertilization of Citrus Using Soil Testing (SS332) October 2001, and Macronutrient Deficiencies in Citrus: Nitrogen, Phosphorus and Potassium (SS420) January 2003; and

(d) For cow/calf operations use the following document: UF/IFAS Standardized Fertilization Recommendations for Agronomic Crops (SS163) March 2002.

Copies of the manual and extension documents can be obtained at <http://www.floridaagwaterpolicy.com/links.html>, or from UF/IFAS, Building 440, Mowry Rd., P. O. Box 110011, Gainesville, Florida 32611-0810.

Specific Authority 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)+. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)+. FS. History—New 10-23-03, Amended _____.

5M-3.005 Presumption of Compliance.

(1) Flatwoods, or non “ridge” Citrus. In order to obtain the presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the implemented practices, the applicant must:

(a) Conduct an assessment of the subject properties, with the assistance of FDACS personnel, using the Citrus Grower Best Management Practices Checklist incorporated in the document titled Water Quality/Quantity BMPs for Indian River Area Citrus Groves (January 2005 May 2000);

(b) Submit the Notice of Intent to Implement outlined in Rule 5M-3.004, F.A.C.;

(c) Implement the non-regulatory and incentive-based programs identified as a result of the assessment of the subject properties and listed in the Notice of Intent to Implement;

(d) Maintain documentation to verify the implementation and maintenance of the non-regulatory and incentive-based programs;

(e) Allow FDACS, or FDACS in conjunction with DEP, SFWMD, or USDA/NRCS representatives, access to the property(ies) for verification of implementation, operation, and maintenance of BMPs. Advance notice of such inspections shall be provided to the landowner by FDACS;

(f) Within 60 days of submission of the Notice of Intent, sign up with the USDA/NRCS Okeechobee Service Center, 482 Highway 98 North, Okeechobee, FL 34972-4168 for development of a Conservation Plan, or with the FDACS Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park Street, Suite C, Okeechobee, FL 34972;

(g) Agree to implement a Conservation Plan developed in accordance with subsection 5M-3.003(4)(3), F.A.C.; and

(h) Provide a copy of the completed Conservation Plan to the Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park Street, Suite C, Okeechobee, FL 34972.

(2) Cow/Calf. In order to obtain the presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the implemented practices, the applicant must:

(a) Conduct an assessment of the subject properties, with the assistance of FDACS personnel, using the Water Quality Risk Assessment section of the document titled Water Quality BMPs for Cow/Calf Operations (June 1999);

(a)(g) Agree to implement a Conservation Plan developed in accordance with subsection 5M-3.003(4)(3), F.A.C.;

(b) Submit the Notice of Intent to Implement outlined in Rule 5M-3.004, F.A.C.;

(c) Implement the non-regulatory and incentive-based programs identified as a result of the assessment of the subject properties;

(d) Maintain documentation to verify the implementation and maintenance of the non-regulatory and incentive-based programs;

(e) Allow FDACS, or FDACS in conjunction with DEP, SFWMD, or USDA/NRCS representatives, access to the property(ies) for verification of implementation, operation and maintenance of BMPs. Advance notice of such inspections shall be provided to the landowner by FDACS;

(f) Within 60 days of submission of the Notice of Intent, sign up with the USDA/NRCS Okeechobee Service Center, 482 Highway 98 N., Okeechobee, FL 34972-4168 for development of a Conservation Plan, or with the FDACS Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park Street, Suite C, Okeechobee, FL 34972, and

~~(g)~~^(h) Provide a copy of the completed Conservation Plan to the Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park St., Suite C, Okeechobee, FL 34972.

(3) Vegetable/Agronomic Crops. In order to obtain the presumption of compliance with applicable state water quality standards and release from the provisions of Section 376.307(5), F.S. for those pollutants addressed by the practices the applicant must:

(a) Conduct a comprehensive assessment of the subject properties using the Decision Tree Flowchart and associated appendices incorporated in the document titled Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops (2005 Edition);

(b) Submit a Notice of Intent to Implement as outlined in Rule 5M-8.004, F.A.C.;

(c) Implement all applicable BMPs in accordance with the timeline identified as a result of the assessment of the subject properties and listed in the Notice of Intent to Implement;

(d) Maintain documentation to verify the implementation and maintenance of the identified BMPs;

(e) Allow FDACS, or FDACS in conjunction with DEP, SFWMD, or USDA/NRCS representatives, access to the property(ies) for verification of implementation, operation and maintenance of BMPs. Advance notice of such inspections shall be provided to the landowner by FDACS;

(f) Within 60 days of submission of the Notice of Intent, sign up with the USDA/NRCS Okeechobee Service Center, 482 Highway 98 N., Okeechobee, FL 34972-4168 for development of a Conservation Plan, or with the FDACS Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park Street, Suite C, Okeechobee, FL 34972;

(g) Agree to implement a Conservation Plan developed in accordance with subsection 5M-3.003(4), F.A.C.; and

(h) Provide a copy of the completed Conservation Plan to the Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park St., Suite C, Okeechobee, FL 34972.

(4) Ridge citrus. In order to obtain the presumption of compliance with state ground water quality standards for nitrogen and release from the provisions of Section 376.307(5), F.S. the applicant must comply with the provisions of Rule 5E-1.023, F.A.C., and

(a) Allow FDACS, or FDACS in conjunction with DEP, SFWMD, or USDA/NRCS representatives, access to the property(ies) for verification of implementation, operation and maintenance of BMPs. Advance notice of such inspections shall be provided to the landowner by FDACS.

~~(5)(3)~~ Dairies/Buy-out Dairies. In order to obtain the presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices, the applicant must:

(a) Conduct an Agricultural Nutrient Management Plan as defined in subsection 5M-3.002(1), F.A.C.

~~(b)~~^(a) Submit a Notice of Intent to Implement as outlined in Rule 5M-3.004, F.A.C.;

~~(c)~~^(b) Implement non-regulatory and incentive-based programs identified in the Agricultural Nutrient Management Assessment and Plan for the subject properties and listed in the Notice of Intent to Implement;

~~(d)~~^(e) Maintain documentation to verify the implementation and maintenance of non-regulatory and incentive-based programs; and

~~(e)~~^(d) Allow FDACS, or FDACS in conjunction with DEP, SFWMD, or USDA/NRCS representatives, access to the property(ies) for verification and implementation, operation and maintenance of BMPs. Advance notice of such inspections shall be provided to the landowner by FDACS.

(6)(4) Other Agriculture. In order to receive the presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices, the applicant must:

(a) Sign up with the USDA/NRCS Okeechobee Service Center, 482 Highway 98 North, Okeechobee, FL 34972-4168 for development of a Conservation Plan or with the FDACS Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park Street, Suite C, Okeechobee, FL 34972;

(b) Submit a Notice of Intent to Implement as outlined in Rule 5M-3.004, F.A.C.;

(c) Implement the non-regulatory and incentive-based programs identified in the site-specific Conservation Plan developed in accordance with subsection 5M-3.003(4)(3), F.A.C., for the subject properties;

(d) Provide a copy of the completed Conservation Plan to the Okeechobee office of the Office of Agricultural Water Policy, 305 East North Park Street, Suite C, Okeechobee, FL 34972;

(e) Maintain documentation to verify the implementation and maintenance of the non-regulatory and incentive-based programs; and

(f) Allow FDACS, or FDACS in conjunction with DEP, SFWMD, or USDA/NRCS representatives, access to the property(ies) for verification of implementation, operation, and maintenance of the BMPs. Advance notice of such inspections shall be provided to the landowner by FDACS.

Specific Authority 373.45954(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. History–New 10-23-03, Amended.

5M-3.006 Land Application of Animal Wastes.

Animal wastes shall be applied at a phosphorous-based agronomic rate. The landowner or leaseholder must have a current (5 year old or less) nutrient management plan, prepared by a ~~Certified~~ Technical Service Provider, or the USDA/NRCS consistent with the USDA, NRCS, Field Office Technical Guide, Conservation Practice Standards-Code 590 “Nutrient Management” and Code 633 “Waste Utilization.” The landowner or leaseholder must maintain adequate records demonstrating adherence to the Nutrient Management Plan. The Nutrient Management Plan, and associated records, shall be made available to the Department or its representative, upon request. FOTG Code 590 “Nutrient Management” may be viewed or copied by going to http://www.floridaagwaterpolicy.com/PDFs/Conservation_Prac_Standard590.pdf, ~~ftp://ftp.ftw.nres.usda.gov/pub/nhep/pdf/590.pdf~~ FOTG Code 633 “Waste Utilization” may be viewed or copied by going to http://www.floridaagwaterpolicy.com/PDFs/Conservation_Prac_Standard_633.pdf, ~~ftp://ftp.ftw.nres.usda.gov/pub/nhep/pdf/633.pdf~~

Specific Authority 373.45954(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. History–New 10-23-03, Amended.

5M-3.007 Record Keeping.

All participants must preserve, for a minimum of ten years, sufficient documentation to confirm implementation of the non-regulatory and incentive-based programs identified in the Notice of Intent to Implement. Such documentation regarding fertilization must be in sufficient detail to confirm implementation of applicable nutrient management Best Management Practices, and include date of soil and/or plant tissue sample collection, results of soil and/or plant tissue analysis, formulation and quantity of fertilizer material purchased, crop, crop yield, and acreage upon which the fertilizer is applied, and date(s) of fertilizer application. All documentation is subject to ~~FDACS~~ inspection. Advance notice of such inspections shall be provided to the landowner by FDACS.

Specific Authority 373.45954(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. History–New 10-23-03, Amended.

5M-3.008 Land Use Changes.

Any change in the land use shall require the landowner to demonstrate to the South Florida Water Management District that the proposed changes in land use will not result in

increased phosphorus loading over that of the existing land uses. Affected landowners should contact the Florida Department of Agriculture and Consumer Services Okeechobee Office, 305 East North Park Street, Suite C, Okeechobee, FL 34972 for assistance in the event of land use changes.

Specific Authority 373.45954(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. History–New 10-23-03, Repromulgated.

5M-3.009 Preservation of Authority.

Nothing in this rule shall be construed as modifying or limiting the existing authority of the Department of Environmental Protection or the South Florida Water Management District’s existing authority under Chapters 373 and 403, F.S., or the existing requirements of any permits, consent decree or rule.

Specific Authority 373.45954(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. Law Implemented 373.4595(3)(c)1.a., 403.067(7)(c)2.(d)1. FS. History–New 10-23-03, Repromulgated.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Clegg Hooks, Environmental Administrator, FDACS Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700 or FAX (850)617-1701

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Rich Budell, Assistant Director, FDACS Office of Agricultural Water Policy, 1203 Governor’s Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)617-1700 or FAX (850)617-1701

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 10, 2005

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CITRUS

RULE CHAPTER NO.: 20-9
RULE CHAPTER TITLE: Payment of Excise Taxes

RULE NO.: 20-9.002
RULE TITLE: Processed Form

PURPOSE AND EFFECT: Revising conversion units for a standard equivalent 1 3/5 bushel box used in computing equalization tax.

SUMMARY: Revising conversion units used in computing equalization tax.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Regulatory Cost has been prepared.

SPECIFIC AUTHORITY: 601.10(1), 601.15(1),(10)(a), 601.155(3),(7) FS.

LAW IMPLEMENTED: 601.15(5),(6), 601.155 FS.

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

DATE AND TIME: June 21, 2006, 10:30 a.m.

PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License & Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULE IS:

20-9.002 Processed Form.

(1) No change.

(2) All persons or entities required to file excise tax returns pursuant to Section. 601.155, Florida Statutes, shall file, each week, an excise tax return on forms furnished by the Department of Citrus (incorporated by reference in Rule 20-100.004, F.A.C.).

(a) All persons liable for the excise tax imposed by this section shall file with the Department of Citrus equalizing excise tax returns, certified as true and correct. The return, as furnished by the Department of Citrus, shall report information as to the number of units of processed orange or grapefruit products subject to this section upon which any taxable privilege was exercised during the period of time covered by the return, in addition to the status of inventoried product. Each handler shall maintain records and documentation supporting declarations made on the excise tax return filed with the Department of Citrus. Unless the actual number of boxes is known to the processor and can be substantiated by appropriate records in his possession, the following table shall be used in determining the equivalent number of boxes:

Conversion Unit			
Product	Oranges	Grapefruit	Number of Equivalent 1-3/5 Bushel Boxes
Concentrate	6.20 6.32 solids	4.60 4.65 solids	1
Single Strength	6.12 6.16 gallons	5.26 5.12 gallons	1
Sections, canned	4.93 gallons	4.27 gallons	1

(b) Equalizing excise taxes shall be due and payable within 61 days after the first of the taxable privileges is exercised in this state.

(c) The excise tax levied by this section shall be at the same rate per box of oranges or grapefruit utilized in the initial production of the processed citrus products so handled as that imposed, at the time of exercise of the taxable privilege, by Section 601.15, Florida Statutes.

(d) All credits and refunds will be provided by Department of Citrus in accordance with s. 601.155, Florida Statutes.

(3) through (4) No change.

Specific Authority 601.10(1), 601.15(1),(10)(a), 601.155(3),(7) FS. Law Implemented 601.15(5),(6), 601.155 FS. History—Formerly 105-1.15(2), Revised 1-1-75, § (2), Amended 11-21-77, 8-1-80, § (3), 2-1-81, 8-1-83, Formerly 20-9.02, Amended 7-21-86, 8-30-89, 8-27-91, 7-13-94, 10-22-95, 8-1-97, 8-3-00, 11-27-01,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Keck, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Keck, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 9, 2003

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
40B-8	Minimum Flows and Levels
RULE NOS.:	RULE TITLES:
40B-8.021	Definitions
40B-8.031	Minimum Surfacewater Levels and Flows for Madison Blue Spring
40B-8.041	Minimum Surfacewater Levels and Flows for Lower Suwannee River, Little Fanning Spring, Fanning Spring and Manatee Spring

PURPOSE AND EFFECT: The purpose of the rule development is to codify minimum flows and levels for the Lower Suwannee River, Little Fanning Spring, Fanning Spring, and Manatee Spring within 40B-8, F.A.C. The effect of

the rule will be to provide protection for these areas from significant harm resulting from uses of ground and surface water.

SUMMARY: This proposed rule will establish minimum flows and levels for Lower Suwannee River, Little Fanning Spring, Fanning Spring, and Manatee Spring, in accordance with Rule 62-40.473, F.A.C., and Sections 373.042 and 373.0421, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.103 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 RULES IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULES IS:

40B-8.021 Definitions.

Unless the context indicates otherwise, the following terms shall have the following meanings:

(1) "Fanning Spring" means single spring vent located within Levy County, adjacent to the Suwannee River at 29°33'14" north latitude and 82°56'07" west longitude.

(2)(4) "Flow Duration Curve" means a statistical representation of flows, actual or synthetic, and their recurrence probabilities over a determined period of record.

(3)(2) "Historic period" means the period of record as documented in each technical report establishing minimum flow or level to October 1, 2004.

(4) "Little Fanning Spring" means the single spring vent located within Levy County, adjacent to the Suwannee River at 29°35'09" north latitude and 82°56'04" west longitude.

(5) "Lower Suwannee River" means the river segment below the Wilcox gauge to the estuary.

(6)(3) "Madison Blue Spring" means the single vent spring system located within Madison County, adjacent to the Withlacoochee River at 30°28'48" north latitude and 83°14'40" west longitude.

(7) "Manatee Spring" means the single spring vent located within Levy County, adjacent to the Suwannee River at 29°29'21" north latitude and 82°58'37" west longitude.

(8)(7) "Minimum surfacewater flow" means a flow, expressed in cubic feet per second combined with a temporal element. The temporal element may be specifically expressed as a duration and return interval.

(9)(8) "Minimum surfacewater level" means an elevation in feet NGVD combined with a temporal element. The temporal element, for purposes of this chapter, may be specifically expressed as a duration and return interval.

(10)(9) "NGVD" means National Geodetic Vertical Datum of 1929.

(11)(7) "Pinetta gauge" means stream flow measuring gauge number 02319000 operated by the United States Geological Survey located on the Withlacoochee River approximately 10 miles upstream from Madison Blue Spring at 30°35'43" north latitude and 83°15'35" west longitude.

(12) "Stage Duration Curve" means a statistical representation of stages, actual or synthetic, and their recurrence probabilities over a determined period of record.

(13) "Suwannee River" means the riverine waterbody which originates in south-central Georgia and flows southeast and south into Florida discharging into the Gulf of Mexico north of Cedar Key.

(14) "Wilcox gauge" means stream flow measuring gauge number 02323500 located on the Suwannee River at 29°05'90" north latitude and 82°09'37" west longitude.

(15)(8) "Withlacoochee River" means the riverine waterbody which originates in south-central Georgia and flows southeast and south into Florida discharging into the Suwannee River at Ellaville.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.415 FS. History—New 9-15-05, Amended _____.

40B-8.031 Minimum Surfacewater Levels and Flows for Madison Blue Spring.

The Governing Board hereby establishes the following minimum surfacewater flows and levels for Madison Blue Spring. The Governing Board finds that the following minimum surfacewater flows and levels are the limit at which further withdrawals would be significantly harmful to the water resources or ecology.

(1) The minimum surfacewater flow for Madison Blue Spring is 70 cubic feet per second (cfs) for a flow duration frequency of 90 percent when the stage of the Withlacoochee River measured at the Pinetta gauge is 55.0 feet (NGVD) or less.

(2) If the surfacewater flows from Madison Blue Spring are reduced below the levels established in subsection (1) above, withdrawals will be significantly harmful to the water resources or ecology.

(3) In determining the estimated impact of existing and proposed future withdrawals on the surfacewater flow of Madison Blue Spring, as expressed in subsections (1) and (2) above, the following factors shall be considered:

(a) A stage of 55.0 feet (NGVD) at the Pinetta gauge will serve as a modeling boundary condition.

(b) The surfacewater flow for Madison Blue Spring shall not be caused to be reduced to a predicted flow of 70 cfs or less for a flow duration frequency of less than 90 percent as determined by the Flow Duration Curve for the Madison Blue Spring discharge over the historic period.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.103, 373.415 FS. History—New 9-15-05, Amended

40B-8.041 Minimum Surfacewater Levels and Flows for Lower Suwannee River, Little Fanning Spring, Fanning Spring, and Manatee Spring.

The Governing Board hereby establishes the following minimum surfacewater flows and levels. The Governing Board finds that the following minimum surfacewater flows and levels are the limit at which further withdrawals would be significantly harmful to the water resources or ecology.

(1) The minimum surfacewater flow for Manatee Spring is the flow that will maintain 90 percent of the historic flow regime for the Manatee Spring discharge as defined in “Technical Report – MFL Establishment for the Lower Suwannee River and Estuary, Little Fanning, Fanning, and Manatee Springs, October 2005.”

(2) In addition to subsection (1) above, the minimum surface water flow for Manatee Spring for the period of November 1 through April 30 is 130 cubic feet per second for a flow duration frequency of 50 percent.

(3) The minimum surfacewater flow for Fanning and Little Fanning Spring is the flow that will maintain 90 percent of the historic flow regime for the Fanning Spring discharge as defined in “Technical Report – MFL Establishment for the Lower Suwannee River and Estuary, Little Fanning, Fanning, and Manatee Springs, October 2005.”

(4) The minimum surface water level for Fanning Spring for the period of November 1 through April 30 is 2.71 feet (NGVD) for a stage duration frequency of 85 percent.

(5) The minimum surfacewater flow for the Lower Suwannee River below the Wilcox gauge is 6,600 cubic feet per second for a flow duration frequency of 50 percent for the period May 1 through October 31. For the period November 1 through April 30, the minimum surfacewater flow is 7,600 cubic feet per second for a flow duration frequency of 50 percent.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.103, 373.415 FS. History—New

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2005

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER NO.: RULE CHAPTER TITLE:

40D-2 Water Use Permits

RULE NOS.: RULE TITLES:

40D-2.011 Policy and Purpose

40D-2.021 Definitions

40D-2.041 Permits Required

40D-2.091 Publications Incorporated by Reference

40D-2.301 Conditions for Issuance of Permits

40D-2.302 Reservations From Use

40D-2.321 Duration of Permits

40D-2.331 Modification of Permits

40D-2.621 Water-Conserving Credits

40D-2.801 Water Use-Caution Areas

PURPOSE AND EFFECT: To adopt rules to implement the regulatory portion of the recovery strategy for minimum flows and levels for certain water bodies within the Southern Water Use Caution Area that are being proposed as amendments to Chapter 40D-8, F.A.C. simultaneously with these rules.

SUMMARY: The proposed rules provide that if the actual flow or level of a water body is below the minimum flow or level, a new quantity of water will not be permitted unless the proposed withdrawal will provide a net benefit to the impacted water body. The proposed rules describe the three types of net benefit that can be proposed.

In order to maximize the efficient utilization of water resources in the SWUCA to allow for recovery, the District proposes rules that will emphasize that new and renewal water use permits applicants must demonstrate a reasonable-beneficial use, that conservation measures will be implemented and alternative sources of water will be utilized to the extent economically, technically and environmentally feasible.

The proposed rules include a method for calculating public water supply service area population so that calculation of population is standardized for utilities within the Southern Water Use Caution Area. This standardization is integral to the determination of compliance with per capita daily water use rule requirements and to developing future per capita daily water use standards.

The proposed rules repeal the Highlands Water Use Caution Area and the Eastern Tampa Bay Water Use Caution Area.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost, final draft dated March 14, 2006, has been prepared addressing the impact of the proposed minimum flows and levels, and the rules proposed simultaneously in 40D-2 and 40D-80 to implement the minimum flows and levels within the Southern Water Use Caution Area (the "SWUCA SERC"). The items to be addressed in a Statement of Estimated Regulatory Cost as set forth in section 120.541(1)(c), F.S. are included in the SWUCA SERC. The SWUCA SERC is available upon request to the District. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.103, 373.113, 373.118, 373.171, 373.216, 373.249 FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.044, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.224, 373.226, 373.227, 373.229, 373.233, 373.336, 373.239, 373.243 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-2.011 Policy and Purpose.

The purpose of this Chapter is to implement the provisions of Part II of Chapter 373, F.S., and the Water Resource Implementation Rule State of Florida Water Policy set forth in Chapter 62-40, F.A.C. Additional rules relating to water use are found in Chapter 40D-3, F.A.C., entitled Regulation of Wells, Chapter 40D-8, F.A.C., entitled Water Levels and Rates of Flow, Chapter 40D-80, F.A.C., entitled Prevention and Recovery Strategies For Minimum Flows and Levels, Chapter 40D-21, F.A.C., entitled Water Shortage Plan, and Chapter 40D-22, F.A.C., entitled Year-Round Water Conservation Measures.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.219 FS. History—Readopted 10-5-74, Formerly 16J-2.01, Amended 10-1-89, _____.

40D-2.021 Definitions.

The following definitions shall apply within the Southern Water Use Caution Area:

(1) "Alternative Water Supplies" and "Alternative Water Supply" means saltwater; brackish surface water and brackish groundwater; surface water captured predominately during wet-weather flows; sources made available through the addition of new storage capacity for surface or ground-water;

water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; stormwater; and any other water supply source that is designated as non-traditional for a water supply planning region in the applicable regional water supply plan. Inclusion of reclaimed water and seawater in this definition of Alternative Water Supplies does not alter the exemption from water use permitting for these sources (see Section 1.2, Basis of Review for Water Use Permitting).

(2) "Annual Average" means the annual average daily quantity that is the total quantity authorized by the District to be withdrawn from water sources in one year, divided by 365 days and expressed in gallons per day (gpd).

(3) "Change in Ownership or Control" means a person other than the permittee that has been granted a real property interest or lease interest in the property subject to the permit, but does not include a person with a familial relationship to the permittee.

(4) "Drought Annual Average" means the annual average daily quantity in the SWUCA that is the total quantity authorized by the District to be withdrawn in one calendar year for irrigation based on a two-in-ten year drought, divided by 365 days and expressed in gallons per day (gpd).

(5) "MIA" means the Most Impacted Area within the Southern Water Use Caution Area located in Hillsborough, Manatee and Sarasota Counties as described in subparagraph 40D-2.801(3)(b)2., F.A.C.

(6) "Net Benefit" means activities or measures that will result in an improvement to a Minimum Flow or Level water body that more than offsets the impact of a proposed withdrawal.

(7) "New Quantities" means water that is not currently authorized to be withdrawn by the applicant or not currently authorized to be used for the intended use by the applicant. This includes applications to modify existing permits to increase quantities, and/or change the Permit Use Type (affecting only the modified portion) and applications for an initial permit. A modification to change crops or plants grown under an Agricultural Permit Use Type Classification or to change withdrawal location or Use Type that is authorized by the terms of the permit or site certification at the time of issuance, is not a change in Permit Use Type provided that the quantities do not increase. In addition, when land is mined and the land will be returned to the Use Type operation authorized under the Water Use Permit that existed prior to mining, such activity does not constitute a change in Use Type or New Quantity.

(8) "Reclaimed Water," except as specifically provided in Chapter 62-610, F.A.C., means wastewater that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.

(9) “Ridge Lakes” means those lakes located within the area formerly known as the Highlands Ridge Water Use Caution Area as described in subparagraph 40D-2.801(3)(b)3., F.A.C.

(10) “Self-Relocation” means a permit modification that authorizes a permittee to move all or a portion of its withdrawal located within the Southern Water Use Caution Area to a new location or locations owned or controlled by the permittee within the Southern Water Use Caution Area, with no change in ownership, control, or Use Type as set forth in Rule 40D-2.501, F.A.C., and no increase in quantities. Self-Relocation does not include changes in withdrawal location or Use Type that are authorized by the terms of the existing permit.

(11) “Upper Peace River” means that portion of the Peace River beginning at the confluence of Saddle Creek and the Peace Creek Canal, and extending southerly to the United States Geological Survey Zolfo Springs River Gage No. 02295637 and including the watershed contributing to that portion of the Peace River.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.216, 373.219, 373.223 FS. History–New _____.

40D-2.041 Permits Required.

(1)(a) through (d) No change

(e) In addition to the thresholds set forth in paragraphs (1)(a) through (1)(d) above, a permit is required within the Most Impacted Area (MIA) as set forth in subparagraph 40D-2.801(3)(b)2., F.A.C., Section 7.2.8. A. and B., and Figure 7.2-2, Basis of Review for Water Use Permit Applications, when withdrawal is from wells having a cumulative outside diameter greater than six inches at the surface any of which wells is constructed after April 11, 1994. This paragraph (e) shall not apply to any proposed well less than six inches in diameter at the surface when it is of the same diameter or smaller than a well it replaces and an application to plug the replaced well in accordance with Rule 40D-3.531, F.A.C., is filed with the application to construct the replacement well in accordance with Rule 40D-3.041, F.A.C.

(2) through (4) No change

Specific Authority 373.044, 373.113, 373.118, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.219, 373.223, 373.224, 373.226 FS. History–Readopted 10-5-74, Amended 12-31-74, 10-24-76, 9-4-77, 10-16-78, Formerly 16J-2.04(1), (2), (4), (5), Amended 9-1-84, 11-19-84, 10-1-89, 2-10-93, 4-11-94, _____.

40D-2.091 Publications Incorporated by Reference

The following publications are hereby incorporated by reference into this Chapter, and are available from the District upon request:

(1) “Basis of Review for Water Use Permit Applications” _____ October 19, 2005;

(2) through (6) No change.

Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History–New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, _____.

40D-2.301 Conditions for Issuance of Permits.

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

(d) Will not interfere with a reservation of water as set forth in Rule 40D-2.302, F.A.C.

(e)(d) Will comply with the provisions of 4.3 of the Basis of Review described in Rule 40D-2.091, F.A.C.;

(f)(e) Will utilize the lowest water quality the Applicant has the ability to use, provided that its use does not interfere with the recovery of a water body to its established MFL and it is not a source that is either currently or projected to be adversely impacted;

(g)(f) Will not significantly induce saline water intrusion;

(h)(g) Will not cause pollution of the aquifer;

(i)(h) Will not adversely impact offsite land uses existing at the time of the application;

(j)(i) Will not adversely impact an existing legal withdrawal;

(k)(j) Will incorporate water conservation measures;

(l)(k) Will incorporate use of Alternative Water Supplies to the greatest extent practicable;

(m)(l) Will not cause water to go to waste; and

(n)(m) Will not otherwise be harmful to the water resources within the District.

(2) through (3) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.223, 373.229 FS. History–Readopted 10-5-74, Amended 12-31-74, 2-6-78, 7-5-78, Formerly 16J-2.11, 16J-2.111, Amended 1-25-81, 10-1-89, 2-10-93, 8-3-00, 4-14-02, _____.

40D-2.302 Reservations From Use.

The Governing Board anticipates reserving from use water necessary to recover to, and protect, the Minimum Flows and Levels established for the Southern Water Use Caution Area as set forth in Chapter 40D-8, F.A.C. These reservations will be adopted through future rulemaking on a case-by-case basis, to address water that is developed through water resource development projects designed to restore and maintain Minimum Flows and Levels. Adopted reservations will be incorporated into this Rule 40D-2.302, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.223 FS. History–New _____.

40D-2.321 Duration of Permits.

(1) The District shall determine the duration of a Water Use Permit, including Standby Permits, based on the degree and likelihood of potential adverse impacts to the water resource or existing users.

(2) The duration of a water use permit shall not exceed six years when:

(a) The permit is for a new use greater than or equal to 500,000 gpd;

(b) ~~The~~ District determines there is a potential for significant adverse impacts and further evaluation is needed to develop an effective mitigation plan; or

(c) ~~The~~ permit is for a renewal to significantly increase quantities.

(3) The duration of a water use permit shall not exceed 10 years when:

(a) ~~The~~ permit is for a new use less than 500,000 gpd;

(b) ~~The~~ permit is for a renewal with an effective mitigation plan to address potential adverse impacts; or

(c) ~~The~~ permit is for a renewal with no significant modification.

~~(4)(5)~~ If the District determines that a permit term longer than 10 years is appropriate based on facts presented by an applicant, the District shall issue a permit for a period up to 50 years in accordance with Section 373.236, F.S.

(5) Subject to Section 373.236, F.S., where a permit is required and issued for an Alternative Water Supply, the permit will be granted, extended, or renewed, as applicable, for a duration of 20 years for the project or portions of a project designed to develop an Alternative Water Supply, unless the applicant requests a longer period.

~~(6)(5)~~ No change.

~~(6) Permits for withdrawals related to a demand of 100,000 gpd or more on an annual average basis (100,000 gpd on a drought annual average basis for irrigation permits) in the Southern Water Use Caution Area where an alternative source of water is used to replace 50% or more of existing or proposed ground water quantities have a permit duration of 20 years. If the amount of ground water replaced by an alternative source becomes less than 50% of the permitted ground water quantities due to a permanent loss of alternative source, the permit shall continue under its remaining duration or receive a duration in accordance with subsections 40D-2.321(2), (3), (4) and (5), F.A.C., whichever is less, from the date when the alternative source was lost. The duration of an Standby Alternative Source Permit pursuant to Section 1.9.9 of the Basis of Review which is incorporated by reference in Rule 40D-2.091, F.A.C., and available upon request to the District, shall be 20 years, except that when all or part is permanently reactivated, the portions reactivated shall have a duration in accordance with subsections 40D-2.321(2), (3) and (4), F.A.C., above.~~

~~(7) Permits for withdrawals related to a demand of less than 100,000 gpd on an annual average basis (drought annual average basis for irrigation permits) in the Southern Water Use Caution Area, which use an alternative source to replace all or~~

~~part of the use demand and which are do not required to meter withdrawals, shall have a permit duration in accordance with subsections 40D-2.321(3), (4) and (5), F.A.C.~~

Specific Authority 373.044, 373.103, 373.113, 373.171 FS. Law Implemented 373.103, 373.171, 373.236 FS. History-Readopted 10-5-74, Amended 12-31-74, 10-24-76, 1-6-82, 3-11-82, Formerly 16J-2.13, Amended 10-1-89, 7-28-98, 1-1-03, _____.

40D-2.331 Modification of Permits.

(1) No change.

(2)(a) No change.

(b) Letter, provided a Modification Short Form is submitted and the annual average daily withdrawal will not increase by more than 100,000 gpd or more than 10% of the total permitted quantity, the use of the water will not change, the modification does not cause the total annual average daily quantity to equal or exceed 500,000 gpd, ~~and~~ the proposed changes would not cause impacts beyond those considered in the initial permit and is not a request to extend a permit term. Within the SWUCA, except to reactivate a Standby for Alternative Water Supply permit as provided in Section 1.12 of the Basis of Review, modification by letter is not available for modifications that include a request to Self-Relocate or to increase water withdrawals that impact or are projected to impact a water body with an established Minimum Flow or Level.

(3) No change.

Specific Authority 373.044, 373.113, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.171, 373.239 FS. History-Readopted 10-5-74, Formerly 16J-2.14(1), Amended 10-1-89, 2-10-93, 7-29-93, _____.

40D-2.621 Water-Conserving Credits.

(1) On January 1, 2003, permits authorizing a water withdrawal within the Southern Water Use Caution Area as described in paragraph 40D-2.801(3)(b)(d), F.A.C., for irrigation shall be assigned a credit by the District for a quantity of water as set forth in Chapter 3 of the Basis of Review referenced in Rule 40D-2.091, F.A.C.

(2) Beginning on January 1, 2003, all permittees with a permit authorizing a water withdrawal within the SWUCA as described in paragraph 40D-2.801(3)(b)(d), F.A.C., for irrigation may earn Water Conserving Credits to withdraw additional quantities of water for use at the site at which they were earned if less than the allowable amount is applied to actual, planted acreage as set forth in Chapter 3 of the Basis of Review described in Rule 40D-2.091, F.A.C.

(3) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.171, 373.216, 373.219, 373.223, 373.239 FS. History-New 1-1-03, Amended _____.

40D-2.801 Water-Use Caution Areas.

(1) through (2) No change.

(3) The regions described in this Rule have been declared Water-Use Caution Areas by the District Governing Board. This Rule reaffirms the declaration of Water-Use Caution Areas and creates conditions to be applied to water users in those areas.

(a) ~~Highlands Ridge Water-Use Caution Area. To address regional declining lake levels, the Governing Board declared portions of Polk and Highlands Counties a Water-Use Caution Area on June 28, 1989, pursuant to Resolution number 932.~~

~~1. The boundary for the Highlands Ridge Water-Use Caution Area is as follows:~~

~~All of Highlands County within the boundaries of the Southwest Florida Water Management District and that portion of Polk County within the following Sections:~~

~~Township 27S, Range 26E: Sections 25-29 and 32-36;
Township 28S, Range 26E: Sections 1-4, 9-16, 21-28, and 34-36;~~

~~Township 29S, Range 26E: Sections 1 and 2;~~

~~Township 27S, Range 27E: Sections 25-36;~~

~~Townships 28-32S, Range 27E: All Sections;~~

~~Township 27S, Range 28E: Section 31;~~

~~Township 28S, Range 28E: Sections 6 and 7; 17-22; 27-34;~~

~~Township 29S, Range 28E: Sections 6 and 7; 18-36;~~

~~Township 30-32S, Range 28E: All Sections;~~

~~Township 29S, Range 29E: Sections 19, 30 and 31;~~

~~Township 30S, Range 29E: Sections 5, 6, 7 and 8; 18 and 19; 30 and 31; and~~

~~Township 31S, Range 29E: Section 6.~~

~~2. Regulations applicable to this Water-Use Caution Area are contained in "Section 7.1, Basis of Review For Water Use Permit Applications."~~

~~3. All Water-Use Permits within the Water-Use Caution Area are hereby modified to conform with this Rule, and applicable permit conditions specified in "Section 7.1, Basis of Review For Water Use Permit Applications," are incorporated into all Water-Use Permits within the Water-Use Caution Area.~~

~~(b) Eastern Tampa Bay Water-Use Caution Area. To address declining seasonal and average groundwater levels, water quality degradation and adverse impacts to existing water users the Governing Board declared portions of Hillsborough, Manatee and Sarasota Counties a Water-Use Caution Area on June 28, 1989, pursuant to Resolution Number 933, and on October 24, 1989, pursuant to Resolution Number 942.~~

~~1. The boundary for the Eastern Tampa Bay Water-Use Caution Area is as follows:~~

~~That portion of Manatee County within the following Sections:~~

~~Township 33S, Range 17E: All Sections;~~

~~Township 33S, Range 18E: All Sections;~~

~~Township 33S, Range 19E: All Sections;~~

~~Township 33S, Range 20E: All Sections;~~

~~Township 33S, Range 21E: All Sections;~~

~~Township 33S, Range 22E: All Sections;~~

~~Township 34S, Range 16E: All Sections;~~

~~Township 34S, Range 17E: All Sections;~~

~~Township 34S, Range 18E: All Sections;~~

~~Township 34S, Range 19E: All Sections;~~

~~Township 34S, Range 20E: All Sections;~~

~~Township 34S, Range 21E: All Sections;~~

~~Township 34S, Range 22E: All Sections;~~

~~Township 35S, Range 16E: All Sections;~~

~~Township 35S, Range 17E: All Sections;~~

~~Township 35S, Range 18E: All Sections;~~

~~Township 35S, Range 19E: All Sections;~~

~~Township 35S, Range 20E: All Sections;~~

~~Township 35S, Range 21E: All Sections;~~

~~Township 35S, Range 22E: All Sections;~~

~~Township 36S, Range 21E: All Sections;~~

~~Township 36S, Range 22E: All Sections;~~

~~That portion of Hillsborough County within the following Sections:~~

~~Township 29S, Range 19E: All Sections South of State Road 60 excluding Sections 19 and 20;~~

~~Township 36S, Range 19E: All Sections;~~

~~Township 36S, Range 20E: All Sections;~~

~~Township 37S, Range 18E: All Sections;~~

~~Township 29S, Range 20E: All Sections South of State Road 60;~~

~~Township 29S, Range 21E: All Sections South of State Road 60;~~

~~Township 29S, Range 22E: All Sections South of State Road 60;~~

~~Township 30S, Range 19E: All Sections;~~

~~Township 30S, Range 20E: All Sections;~~

~~Township 30S, Range 21E: All Sections;~~

~~Township 30S, Range 22E: All Sections;~~

~~Township 31S, Range 18E: All Sections;~~

~~Township 31S, Range 19E: All Sections;~~

~~Township 31S, Range 20E: All Sections;~~

~~Township 31S, Range 21E: All Sections;~~

~~Township 31S, Range 22E: All Sections;~~

~~Township 32S, Range 18E: All Sections;~~

~~Township 32S, Range 19E: All Sections;~~

~~Township 32S, Range 20E: All Sections;~~

~~Township 32S, Range 21E: All Sections;~~

~~Township 32S, Range 22E: All Sections;~~

~~Township 33S, Range 15E: All Sections;~~

~~Township 33S, Range 16E: All Sections; and~~

~~That portion of Sarasota County within the following sections:~~

Township 36S, Range 17E: All Sections;

Township 36S, Range 18E: All Sections;

~~2. Regulations applicable to this Water Use Caution Area are contained in "Section 7.2, Basis of Review For Water Use Permit Applications."~~

~~3. All Water Use Permits within the Water Use Caution Area are hereby modified to conform with this Rule, and applicable permit conditions specified in "Section 7.2, Basis of Review For Water Use Permit Applications," are incorporated into all Water Use Permits within the Water Use Caution Area.~~

~~(a)(e)~~ No change.

~~(b)(d)~~ Southern Water Use Caution Area (SWUCA). To address lowered declining lake levels, stream flows and declining seasonal and average ground water levels, water quality degradation and adverse impacts to water users, the Governing Board declared all or portions of Manatee, Sarasota, DeSoto, Hardee, Charlotte, Highlands, Hillsborough and Polk Counties within the District's boundaries a Water Use Caution Area on October 26, 1992, pursuant to Resolution Number 92-10.

1. As shown in Figure 2-1, ~~t~~The boundary for the Southern Water Use Caution Area is as follows:

All of Manatee, Sarasota, Charlotte, Hardee, DeSoto, and Highlands Counties within the boundaries of the Southwest Florida Water Management District, and that portion of Hillsborough County within the following sections (all Townships are South; all Ranges are East):

Township 29, Range 19: All whole or partial Sections South of State Road 60

Township 29, Range 20: All whole or partial Sections South of State Road 60

Township 29, Range 21: All whole or partial Sections South of State Road 60

Township 29, Range 22: All whole or partial Sections South of State Road 60

Township 30, Range 19: All Sections

Township 30, Range 20: All Sections

Township 30, Range 21: All Sections

Township 30, Range 22: All Sections

Township 31, Range 18: All Sections

Township 31, Range 19: All Sections

Township 31, Range 20: All Sections

Township 31, Range 21: All Sections

Township 31, Range 22: All Sections

Township 32, Range 18: All Sections

Township 32, Range 19: All Sections

Township 32, Range 20: All Sections

Township 32, Range 21: All Sections

Township 32, Range 22: All Sections

Township 33, Range 15: All Sections

Township 33, Range 16: All Sections

and that portion of Polk County within the Southwest Florida Water Management District and within the following sections:

Township 26, Range 26: All whole or partial Sections South of Interstate 4

Township 27, Range 23: All whole or partial Sections South of Interstate 4

Township 27, Range 24: All whole or partial Sections South of Interstate 4

Township 27, Range 25: All whole or partial Sections South of Interstate 4

Township 27, Range 26: All Sections

Township 27, Range 27: Sections 25 through 36

Township 27, Range 28: Section 31

Township 28, Range 23: All Sections

Township 28, Range 24: All Sections

Township 28, Range 25: All Sections

Township 28, Range 26: All Sections

Township 28, Range 27: All Sections

Township 28, Range 28: All Sections

Township 29, Range 23: All Sections

Township 29, Range 24: All Sections

Township 29, Range 25: All Sections

Township 29, Range 26: All Sections

Township 29, Range 27: All Sections

Township 29, Range 28: All Sections

Township 29, Range 29: Sections 19, 30, 31

Township 30, Range 23: All Sections

Township 30, Range 24: All Sections

Township 30, Range 25: All Sections

Township 30, Range 26: All Sections

Township 30, Range 27: All Sections

Township 30, Range 28: All Sections

Township 30, Range 29: Sections 5, 6, 7, 8, 18, 19, 30, 31

Township 31, Range 23: All Sections

Township 31, Range 24: All Sections

Township 31, Range 25: All Sections

Township 31, Range 26: All Sections

Township 31, Range 27: All Sections

Township 31, Range 28: All Sections

Township 31, Range 29: Section 6

Township 32, Range 23: All Sections

Township 32, Range 24: All Sections

Township 32, Range 25: All Sections

Township 32, Range 26: All Sections

Township 32, Range 27: All Sections

Township 32, Range 28: All Sections.

2. As shown in Figure 2-1, the area for the MIA of the Southern Water Use Caution Area is as follows:

Township 30, Range 19, Sections 2 through 36;

Township 30, Range 20, Sections 17 through 22; and 27 through 36;
Township 31, Range 18, all sections;
Township 31, Range 19, all sections;
Township 31, Range 20, all sections;
Township 31, Range 21, Sections 6 through 8; 17 through 20; and 29 through 32;
Township 32, Range 18, all sections;
Township 32, Range 19, all sections;
Township 32, Range 20, all sections;
Township 32, Range 21, Sections 5 through 7;
Township 33, Range 16, all sections;
Township 33, Range 17, all sections;
Township 33, Range 18, all sections;
Township 33, Range 19, all sections;
Township 33, Range 20, all sections;
Township 33, Range 21, Sections 19, 30, 31;
Township 34, Range 16, all sections;
Township 34, Range 17, all sections;
Township 34, Range 18, all sections;
Township 34, Range 19, all sections;
Township 34, Range 20, all sections;
Township 34, Range 16, all sections;
Township 34, Range 17, all sections;
Township 34, Range 18, all sections;
Township 34, Range 19, all sections;
Township 34, Range 20, all sections;
Township 34, Range 21, Sections 6 through 8; 17 through 20; and 29 through 32;
Township 35, Range 16, all sections;
Township 35, Range 17, all sections;
Township 35, Range 18, all sections;
Township 35, Range 19, all sections;
Township 35, Range 20, all sections;
Township 35, Range 21, Sections 5 through 8; 17 through 20; and 30;
Township 36, Range 17, all sections;
Township 36, Range 18, all sections;
Township 36, Range 19, Sections 1 through 24; and 27 through 32;
Township 36, Range 20, Sections 2 through 10; and 17 and 18;
Township 37, Range 17, Sections 1 through 18;
Township 37, Range 18, Sections 1 through 10; and 17 and 18.
Township 34, Range 21, Sections 6 through 8; 17 through 20; and 29 through 32;
Township 35, Range 16, all sections;
Township 35, Range 17, all sections;
Township 35, Range 18, all sections;

Township 35, Range 19, all sections;
Township 35, Range 20, all sections;
Township 35, Range 21, Sections 5 through 8; 17 through 20; and 30;
Township 36, Range 17, all sections;
Township 36, Range 18, all sections;
Township 36, Range 19, Sections 1 through 24; and 27 through 32;
Township 36, Range 20, Sections 2 through 10; and 17 and 18;
Township 37, Range 17, Sections 1 through 18;
Township 37, Range 18, Sections 1 through 10; and 17 and 18.

3. The Ridge Lakes are those lakes located anywhere within Highlands County and Polk County within the boundaries of the Southwest Florida Water Management District within the following Sections:

All of Highlands County within the boundaries of the Southwest Florida Water Management District, and that portion of Polk County within the Southwest Florida Water Management District and within the following sections (all Townships are South; all Ranges are East):
Township 26, Range 25: Partial Section 36 South of Interstate 4
Township 26, Range 26: Partial Sections 28, 29, 31, and 32 South of Interstate 4 and whole Section 33
Township 27, Range 25: Partial Sections 1, 2, 7, and 8 South of Interstate 4 and whole Sections 9 through 29, and 32 through 36
Township 27, Range 26: Sections 4 through 9, 16 through 21, and 25 through 36
Township 27, Range 27: Sections 25 through 36
Township 27, Range 28: Section 31
Township 28, Range 25: Sections 1 through 4, 9 through 15, 22 through 26, and 35 through 36
Township 28, Range 26: All Sections
Township 28, Range 27: All Sections
Township 28, Range 28: Sections 6 through 7, 17 through 22, 27 through 32, and Section 34
Township 29, Range 25: Sections 1, 2, and 11 through 14
Township 29, Range 26: Sections 1 through 18, and 23 through 24
Township 29, Range 27: All Sections
Township 29, Range 28: Sections 6 through 7, and 18 through 36
Township 29, Range 29: Sections 19, 30, 31
Township 30, Range 27: All Sections
Township 30, Range 28: All Sections
Township 30, Range 29: Sections 5 through 8, 18, 19, 30, 31
Township 31, Range 27: All Sections

Township 31, Range 28: All Sections

Township 31, Range 29: Section 6

Township 32, Range 27: All Sections

Township 32, Range 28: All Sections

~~4.2:~~ Regulations applicable to this Water Use Caution Area are specified in this chapter and in the Basis described in Rule 40D-2.091, F.A.C., and are incorporated into this rule. Regulations filed with the Secretary of State in June 2006 relating to the SWUCA shall become effective December [6 months from effective date of this rule], 2006. Regulations relating to SWUCA effective January 1, 2003 and December [6 months from effective date of this rule], 2006, are not intended to affect, and shall not be construed to affect, any water use permit that does not have a withdrawal point within the SWUCA.

~~5.3:~~ Any permit with a withdrawal point located within the boundaries of the SWUCA is deemed to be within the SWUCA. Permits with permitted withdrawals in more than one Water Use Caution Area (WUCA) shall be subject to the conservation and reporting requirements of the WUCA within which the majority of permitted quantities are withdrawn, or projected to be withdrawn, in addition to all other rule criteria, including Minimum Flows and Levels requirements, as set forth in Chapter 40D-2, F.A.C. and this Basis of Review for Water Use Permit Applications.

~~6.4:~~ All Water Use Permits with withdrawal points within the SWUCA Water Use Caution Area are hereby modified to conform with this paragraph 40D-2.801(3)(b)(d), F.A.C., except as provided in subparagraph 5., above, and the applicable SWUCA criteria specified in ~~Chapters 3, 4, 5, and 6~~ of the Basis of Review described in Rule 40D-2.091, F.A.C., are incorporated into all such Water Use Permits.

~~5. In order to ensure that actual ground water use does not worsen the water resource problems in the SWUCA, the District will monitor usage by water use category. Whenever the water used by any category of user, except public supply, during the preceding three years exceeds water used by that category from January 1, 1989 through December 31, 1991, a study will be initiated. The study will determine why current usage by that category of user exceeded usage in the years 1989 through 1991. The study will be based primarily on water use data for the category of user studied rather than on seasonal or localized changes in the potentiometric surface. The study will be provided to the Board for it to determine if rulemaking or other actions should be taken.~~

7. The SWUCA is a water resource caution area for purposes of Chapter 403, F.S., and Chapter 62-40, F.A.C.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented ~~373.0395, 373.042, 373.0421, 373.171, 373.216, 373.219, 373.223~~ FS. History-Readopted 10-5-74, Formerly 16J-3.30, Amended 10-1-89, 11-15-90, 3-1-91, 7-29-93, 1-1-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July, 15, 2004; October 18, 2004; November 8, 2004 and December 6, 2004. In addition, the District's Southern Water Use Caution Area public/staff work group met and public workshops were held on January 19, 2005 and September 19, 2005. The proposed rules were also considered during the District's Governing Board monthly meetings on January 25, 2005; August 30, 2005; October 25, 2005; December 1, 2005; January 24, 2006; February 21, 2006 and March 28, 2006, all of which were noticed in the FAW.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
40D-8	Water Levels and Rates of Flow
RULE NOS.:	RULE TITLES:
40D-8.041	Minimum Flows
40D-8.624	Guidance and Minimum Levels for Lakes
40D-8.626	Minimum Aquifer Levels

PURPOSE AND EFFECT: To establish minimum flows and levels for the Southern Water Use Caution Area for the Most Impacted Area, the upper Peace River and Lakes Jackson, Letta, Lotela and Little Lake Jackson on the Highlands County Ridge and Lakes Clinch, Eagle, McLeod and Wales in Polk County.

SUMMARY: Minimum flows proposed for the upper Peace River to ensure that the minimum hydrologic requirements of fish and natural systems associated with the upper segment of the river are met and not jeopardized by withdrawals. The upper segment of the river includes that area between Bartow and Zolfo Springs. The minimum flows are based on the hydrologic requirements of biological communities associated with the upper Peace River system, as well as considering non-consumptive uses including fishing, wildlife observation, general recreation, aesthetic enjoyment, canoeing and boating. The minimum flows will be supported by District water development projects.

The District also proposes minimum low and minimum high lake levels, as well as the ten-year flood, and high and low guidance levels for Lakes Jackson, Letta, Lotela and Little Lake Jackson on the Highlands County Ridge and Lakes Clinch, Eagle, McLeod and Wales in Polk County. The High Minimum Lake Level is the elevation that a lake's water levels

are required to equal or exceed 10 percent of the time on a Long-term basis. The Minimum Lake Level is the elevation that the lake's water levels are required to equal or exceed 50 percent of the time on a Long-term basis. The High and Low Guidance Levels and the Ten-year Flood Guidance Level are advisory guidelines for lakeshore development of, including water dependent structures and operation of water management structures.

A minimum aquifer level is proposed for the coastal portion of the Southern Water Use Caution Area in southern Hillsborough, Manatee and northern Sarasota counties. The minimum aquifer level is to stabilize regional ground water level declines so that long-term management efforts can slow the rate of regional saltwater intrusion in the area.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost, final draft dated March 14, 2006, has been prepared addressing the impact of the proposed minimum flows and levels, and the rules proposed simultaneously in 40D-2 and 40D-80 to implement the minimum flows and levels within the Southern Water Use Caution Area (the "SWUCA SERC"). The items to be addressed in a Statement of Estimated Regulatory Cost as set forth in section 120.541(1)(c), F.S., are included in the SWUCA SERC. The SWUCA SERC is available upon request to the District.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.086 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

Table 8-8 Minimum Flows for the upper Peace River	
Location/Gage	Minimum Flow (cubic feet per second)
Bartow / USGS Bartow River Gage No. 02294650	Annual 95% exceedance flow of 17 cfs
Ft. Meade / USGS Ft. Meade River Gage No. 02294898	Annual 95% exceedance flow of 27 cfs
Zolfo Springs / USGS Zolfo Springs River Gage No. 02295637	Annual 95% exceedance flow of 45 cfs

(d) Compliance – The Minimum Low Flow is achieved when the measured flow rate is at or above the Minimum Low Flow for three consecutive years. Once the Minimum Low Flow has been achieved for three consecutive years, the Minimum Low Flow is not met when the measured flow rate is below the Minimum Low Flow for two out of ten years

40D-8.041 Minimum Flows.

(1) through (3) No change.

(4) Minimum Flows for upper Peace River.

(a) Over the last several decades there has been a significant decline in flow in the upper Peace River, especially during the dry season. One of the major contributing factors is the elimination of baseflow as a result of ground water withdrawals that have lowered the potentiometric surface of the upper Floridan aquifer. In addition, surface-water drainage alterations, reduction in surface storage, long-term cyclical declines in rainfall and karst openings in the riverbed have played significant roles in reducing flow in the upper Peace River.

(b) The minimum flows are to ensure that the minimum hydrologic requirements of fish and natural systems associated with the river are met and not jeopardized by withdrawals. At this time only Minimum Low Flows are being established. It is anticipated that mid- and high-minimum flows will be established once the controlling factors that affect those flows are better understood.

(c) The Minimum Low Flows for the upper Peace River are set forth in Table 8-8 below. The Minimum Low Flows are established based on the lowest acceptable flow under the lowest anticipated flow conditions. This is determined by providing for the hydrologic requirements of biological communities associated with the upper Peace River system, as well as considering non-consumptive uses including fishing, wildlife observation, general recreation, aesthetic enjoyment, canoeing and boating. This determination uses professional experience and judgment to identify key habitats and hydrologic requirements for specific biotic assemblages. This approach results in establishing Minimum Low Flows for the upper Peace River based on maintaining the higher of the water elevations needed for fish passage (0.6 feet or 7.2 inches) or the lowest wetted perimeter inflection point (as much stream bed coverage as possible for the least amount of flow) as set forth below. A ninety-five percent annual exceedance occurs when the flow is greater than the Minimum Low Flow at least ninety-five percent of the days, or 350 days, of a calendar year.

commencing the year after achievement. If the two years below the minimum flow occur anytime before the ten year period is complete, the upper Peace River is deemed below its Minimum Low Flow and the three consecutive years above the

Minimum Low Flow is again required for compliance. Once the ten-year period is complete, the period will roll forward one year each year.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421 FS. History--Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06.

40D-8.624 Guidance and Minimum Levels for Lakes.
(1) through (12) No change.

(13) Levels for lakes established during or after August 7, 2000, are set forth in the following table. After the High Minimum Lake Level and Minimum Lake Level elevation for each lake is a designation indicating the Method used, as described in subsection 40D-8.624(7), F.A.C., to establish the level. Compliance with the High Minimum and Minimum Lake Levels is determined pursuant to paragraphs (6)(b) and (7)(b) above. Guidance Levels established prior to August 7, 2000, are set forth in Table 8-3 in subsection 40D-8.624(14), F.A.C., below.

Table 8-2 Minimum and Guidance Levels Established During or After August 7, 2000. Levels are elevations, in feet above the National Geodetic Vertical Datum of 1929.

Location by County and Basin	Name of Lake and Section, Township and Range Information	Ten-Year Flood Guidance Level	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
(a) – (h) No change						
(i) In Highlands County Within the Peace River Basin RESERVED	<u>Jackson Lake</u> <u>S-30 T-24S</u> <u>R-29E</u>	<u>104.1</u>	<u>102.6</u>	<u>102.4</u> <u>(Cat 3)</u>	<u>101.3</u> <u>(Cat 3)</u>	<u>100.2</u>
	<u>Letta Lake</u> <u>S-31 T-33S</u> <u>R-29E</u>	<u>100.5</u>	<u>99.5</u>	<u>99.5</u> <u>(Cat 3)</u>	<u>98.4</u> <u>(Cat 3)</u>	<u>97.1</u>
	<u>Little Jackson Lake</u> <u>S-06 T-35S</u> <u>R-29E</u>	<u>104.1</u>	<u>102.6</u>	<u>102.4</u> <u>(Cat 3)</u>	<u>101.3</u> <u>(Cat 3)</u>	<u>100.2</u>
	<u>Lotela Lake</u> <u>S-26 T-33S</u> <u>R-28E</u>	<u>108.5</u>	<u>107.5</u>	<u>106.8</u> <u>(Cat 3)</u>	<u>105.7</u> <u>(Cat 3)</u>	<u>105.0</u>
(j) – (y) No change						
(z) In Polk County Within the Peace River Basin RESERVED	<u>Clinch Lake</u> <u>S-31 T-31S</u> <u>R- 8E</u>	<u>107.4</u>	<u>105.5</u>	<u>105.5</u> <u>(Cat 3)</u>	<u>104.4</u> <u>(Cat 3)</u>	<u>103.1</u>
	<u>Eagle Lake</u> <u>S-01 T-29S</u> <u>R-25E</u>	<u>131.3</u>	<u>129.6</u>	<u>129.0</u> <u>(Cat 3)</u>	<u>127.9</u> <u>(Cat 3)</u>	<u>127.2</u>
	<u>McLeod Lake</u> <u>S-07 T-29S</u> <u>R-26E</u>	<u>133.3</u>	<u>129.4</u>	<u>129.4</u> <u>(Cat 3)</u>	<u>128.3</u> <u>(Cat 3)</u>	<u>127.0</u>
	<u>Wales Lake</u> <u>S-01 T-30S</u> <u>R-27E</u>	<u>114.1</u>	<u>ND</u>	<u>107.7</u> <u>(Cat 3)</u>	<u>106.6</u> <u>(Cat 3)</u>	<u>ND</u>
(aa) – (cc) No change.						

(14) Guidance Levels established for lakes prior to August 7, 2000, are set forth in the following table:

Table 8-3 Guidance Water Levels adopted prior to August 7, 2000

Location of Impoundment by County and Basin	Ten-Year Flood Guidance Level in Feet Above Mean Sea Level (msl)	High Level in Feet Above Mean Sea Level (msl)	Low Level in Feet Above Mean Sea Level (msl)	Extreme Low Level in Feet Above Mean Sea Level (msl)
(a) – (h) No change.				

(1) In Highlands County Within the Peace River Basin LAKES Sec Twsp Rng Jackson, Lake 30 34S 29E	103.20	103.00	100.00	98.00
Letta, Lake 31 33S 29E	100.00	100.00	97.00	95.00
Little Lake Jackson 6 35S 29E	103.20	103.00	100.00	98.00
Loteta, Lake 26 33S 28E	106.60	108.50	105.00	104.00
(j) – (y) No change.				
(z) In Polk County Within the Peace River Basin				
Clinch, Lake 31 31S 28E	108.00	106.75	104.00	102.50
Eagle Lake 4 29 25E	131.00	130.75	128.50	126.50
Lake McLeod 7 29 26E	133.10	132.00	129.50	128.00
Wales, Lake S01 T30 R27	114.10	112.50	110.00	108.00
(aa) – (cc) No change.				

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.086 FS. History—New 6-7-78, Amended 1-22-79, 4-27-80, 10-21-80, 12-22-80, 3-23-81, 4-14-81, 6-4-81, 10-15-81, 11-23-81, 1-5-82, 3-11-82, 5-10-82, 7-4-82, 9-2-82, 11-8-82, 1-10-83, 4-3-83, 7-5-83, 9-5-83, 10-16-83, 12-12-83, 5-8-84, 7-8-84, 12-16-84, 2-7-85, 5-13-85, 6-26-85, 11-3-85, 3-5-86, 6-16-86, Formerly 16J-8.678, Amended 9-7-86, 2-12-87, 9-2-87, 2-18-88, 6-27-88, 2-22-89, 3-23-89, 9-26-89, 7-26-90, 10-30-90, 3-3-91, 9-30-91, 10-7-91, 7-26-92, 3-1-93, 5-11-94, 6-6-96, 2-23-97, 8-7-00, 1-8-04, 12-10-04, 6-5-05.

~~40D-8.626 Minimum Aquifer Levels in Hillsborough County North of State Road 60, and Pasco and Pinellas Counties.~~

~~(1) Hillsborough County North of State Road 60, and Pasco and Pinellas Counties Salt Water Intrusion Minimum Aquifer Levels.~~ Salt Water Intrusion within this area has not been regional in nature, but is of localized concern in some coastal areas. The District has chosen the North Pinellas, Southwest Pasco and Northwest Hillsborough Counties region as the priority area for the establishment of Salt Water Intrusion Minimum Aquifer Levels (“SWIMAL”) to prevent regional seawater intrusion because of the availability of data and the potential for future intrusion. The SWIMALs for the Upper Floridan aquifer shall be established as follows:

- ~~(1) through (3) renumbered (a) through (c) No change.~~
- ~~(2) SWUCA Salt Water Intrusion Minimum Aquifer Level.~~

~~(a) The District has determined that ground water withdrawals in the SWUCA have contributed to water level declines that advance saltwater intrusion. The coastal portion of the SWUCA in southern Hillsborough, Manatee and northern Sarasota counties (the Most Impacted Area or MIA) is a priority area for the establishment of minimum aquifer levels~~

because of its proximity to the saltwater interface and the large effect on interface movement caused by lowering of the potentiometric surface in this area. The Salt Water Intrusion Minimum Aquifer Level (SWIMAL) is established to stabilize regional water level declines so that long-term management efforts can slow the rate of regional saltwater intrusion in the MIA. This is based on an average value to address the regional nature of the problem and avoids the potential for localized lowering of a minimum level.

(b) The SWIMAL over the surface of the MIA is 13.1 feet (National Geodetic Vertical Datum of 1929 or NGVD 1929). The SWIMAL is derived using the method set forth in paragraph (2)(c) below.

(c) The reference period for which the SWIMAL is calculated is the period 1990 through 1999. Ten wells from within or adjacent to the MIA (Table 8-5), are used to determine the minimum level. The annual average elevation for each of the years 1990 through 1999 is established utilizing monthly water level data for each of the wells. The annual averages over the period are then used to calculate the decadal average for the period. The 1990-99 average Upper Floridan aquifer potentiometric surface of the MIA is constructed by calculating the average of these annual average values weighted spatially using the Thiessen polygon methodology. The resulting Minimum Level over the surface of the MIA is 13.1 feet (National Geodetic Vertical Datum of 1929). Table 8-5: Wells utilized to determine the Salt Water Intrusion Minimum Aquifer Level.

Site Number	Sequence Number	Site Name
<u>564</u>	<u>0</u>	<u>KIBLER DEEP</u>
<u>87</u>		<u>ROMP T23 Hawthorn/Ocala</u> <u>HAWTHORN/OCALA</u>
<u>10914</u>	<u>0</u>	<u>ROMP 50 TAMPA/OCALA</u>
<u>10883</u>	<u>0</u>	<u>ROMP TR 10-2 TAMPA</u>
<u>287</u>	<u>0</u>	<u>ROMP TR 7-1 TAMPA</u>
<u>10926</u>	<u>0</u>	<u>ROMP TR 7-4 Suwannee/Ocala</u> <u>SUWANNEE/OCALA</u>
<u>10920</u>	<u>0</u>	<u>ROMP TR 8-1 Upper Avon Park PARK</u>
<u>10909</u>	<u>1</u>	<u>ROMP TR 9-3 Ocala/Avon Park</u>
<u>561</u>	<u>0</u>	<u>SARASOTA 9 DEEP</u>
<u>456</u>	<u>0</u>	<u>VERNA 10-4</u>

(d) Implementation of The SWUCA Salt Water Intrusion Minimum Aquifer Level – The SWIMAL shall be used to gauge the status of the ground water resource with respect to saltwater intrusion in the region. Determining the status of the rate of movement of the saltwater interface shall be based on comparison of the average Floridan aquifer water level over the MIA with the Floridan aquifer minimum level over ten-year moving windows of time. The ten-year average water level for a particular year shall be calculated as the average water level for that year and the previous nine years. The process of calculating the ten-year average is the same as described in section (c) above for calculating the minimum level.

(e) Compliance – The objective of the District's management efforts is for the ten-year moving annual average water level to fluctuate in a range at or above the minimum level. The minimum level is achieved if the ten-year moving annual – average water level has fluctuated at or above the minimum level for a minimum of five consecutive years. Once the minimum level is achieved, the minimum level is no longer met when the ten-year moving annual average water level falls below the minimum level for more than two consecutive years. Then, the five consecutive years above the minimum level is again required for compliance.

Specific Authority 373.044,373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.086 FS. History–New 8-7-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Southwest Florida Water Management District
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 15, 2004; October 18, 2004; November 8, 2004 and December 6, 2004. In addition, the District's Southern Water Use Caution Area public/staff work group met and public workshops were held on January 19, 2005 and September 19, 2005. The proposed rules were also considered during the District's Governing Board monthly meetings on January 25, 2005; August 30, 2005; October 25, 2005; December 1, 2005; January 24, 2006; February 21, 2006 and March 28, 2006, all of which were noticed in the FAW.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE CHAPTER NO.: RULE CHAPTER TITLE:

40D-80 Recovery and Prevention Strategies for Minimum Flows and Levels

RULE NO.: RULE TITLE:

40D-80.074 Regulatory Portion of Recovery Strategy for the Southern Water Use Caution Area

PURPOSE AND EFFECT: To adopt rules describing the recovery strategy for minimum flows and levels within the Southern Water Use Caution Area which minimum flows and levels are being developed simultaneously with these rules.

SUMMARY: The proposed rule describes the overall regulatory, and non-regulatory mechanisms the District will use to achieve the recovery required by Section 373.0421, F.S., for minimum flows and levels being established for the Southern Water Use Caution Area pursuant to Section 373.042, F.S., simultaneously with this rule. This proposed rule also describes how recovery will be monitored and the recovery mechanisms adjusted if needed to achieve recovery to the minimum flows and levels by the year 2025.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost, final draft dated March 14, 2006, has been prepared addressing the impact of the proposed minimum

flows and levels, and the rules proposed simultaneously in 40D-2 and 40D-80 to implement the minimum flows and levels within the Southern Water Use Caution Area (the "SWUCA SERC"). The items to be addressed in a Statement of Estimated Regulatory Cost as set forth in section 120.541(1)(c), F.S., are included in the SWUCA SERC. The SWUCA SERC is available upon request to the District.

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.171 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-80.074 Regulatory Portion of Recovery Strategy for the Southern Water Use Caution Area.

(1) Background.

Section 373.042, F.S., requires the District to establish Minimum Flows and Levels for priority waters within its boundaries. The District has established Minimum Flows and Levels (MFLs) within the Southern Water Use Caution Area (SWUCA), described in paragraph 40D-2.801(3), F.A.C., which includes all or portions of Hillsborough, Polk, Highlands, Hardee, DeSoto, Manatee, Sarasota, and Charlotte counties. In establishing the MFLs, the District determined that the existing flow rates and water levels of some of the priority waters are below the MFLs established for them. In such circumstances Section 373.0421, F.S., requires the District to implement a recovery strategy. The District has developed a recovery strategy that includes both regulatory and non-regulatory mechanisms as described in the SWUCA Recovery Strategy, dated _____, 2006. The regulatory approach does not make impacts on an MFL water body from permitted quantities existing as of [the effective date of rule] a basis for permit denial because the Recovery Strategy taken as a whole is intended to achieve recovery to the established minimum flows and levels as soon as practicable. The Recovery Strategy involves water supply planning, an emphasis on conservation, the development of alternative water supplies to meet growing demands and allows for reductions in existing ground water withdrawals that are impacting water bodies with established MFLs, restoration of

water bodies and flow patterns, and the regulation of existing and new water withdrawals. This Rule 40D-80.074, F.A.C., describes the regulatory approach of the Recovery Strategy.

(2) Objectives of Recovery Strategy.

Long-term (as defined in section 4.3 A of the Basis of Review for Water Use Permits, incorporated by reference in Rule 40D-2.091, F.A.C.) flow rates and water levels for most MFL water bodies are below the MFLs predominantly because ground water withdrawals have lowered Floridan aquifer levels in the SWUCA. As a result of the lowered aquifer levels, salt water intrusion is occurring, and river flows and lake levels are impacted by reduced water levels, including some of those rivers and lakes for which MFLs have been established. The goals of the District's Recovery Strategy are the recovery of flows and levels to the MFLs and the provision of sufficient water supplies for all existing and projected reasonable-beneficial uses. The MFLs for rivers, lakes and aquifers are described in and established in paragraph 40D-8.041(2), F.A.C., and Table 8-5 in Rule 40D-8.624, F.A.C., and Table 8-2 and Rule 40D-8.626, F.A.C., Table 8-6. The District intends to maintain on its website at www.swfwmd.state.fl.us a current listing of those water bodies for which a recovery or prevention strategy is in effect.

(3) Recovery Strategy Mechanisms.

(a) The non-regulatory mechanisms include conservation and water resource development efforts intended to increase the availability of alternative water supplies and to enhance the water resources of the SWUCA. Conservation, transitions in land use from agricultural to other use or changes in supply source, and the availability of alternative water supplies will help meet growing water demands in the SWUCA, and will also allow for reductions in ground water withdrawals.

(b) The guiding principles for the regulatory portion of the Recovery Strategy are that it should:

1. Contribute significantly to resource management and recovery;
2. Protect the investments of existing water use permit holders; and,
3. Allow for economic expansion and new economic activities in the SWUCA.

In addition, the District recognizes that the water resources in the SWUCA are subject to varying degrees of stress. The regulatory component of the Recovery Strategy has been designed in recognition of these variations. How water use permit applications will be affected by the regulatory mechanisms will vary depending on the resource conditions in the area affected by a proposed withdrawal and the extent to which the withdrawals will contribute to these resource conditions. For example, the regulatory mechanisms continue the existing "Most Impacted Area" (MIA) designation in coastal portions of southern Hillsborough, Manatee and northern Sarasota counties. The Salt Water Intrusion Minimum Aquifer Level is established within the MIA. New ground

water withdrawals within the MIA and the area surrounding the MIA that impact salt water intrusion will be affected more by the MIA designation and the Salt Water Intrusion Minimum Aquifer Level, than will permit applications for new ground water withdrawals in the eastern portions of the SWUCA. Conversely, permit applications for new ground water withdrawals in the coastal areas will be much less affected by the MFLs established for the upper Peace River and the priority lakes in Polk and Highlands counties than permit applications for new ground water withdrawals on the Lake Wales Ridge.

(c) The water use permitting rules in Chapter 40D-2, F.A.C., address water conservation, alternative water supplies and recovery to MFLs. These water conservation and alternative water supplies rules include the amendments to Chapter 40D-2, F.A.C., _____, 1990, January 1, 2003, as well as subsequent rules adopted as of _____, 2006, developed in conjunction with the implementation of the Minimum Flows and Levels Recovery Strategy. In combination, these rules result in more efficient use of water and a lessening of impacts from withdrawals on water bodies with established MFLs.

(4) Restoration of river flows and lake levels.

In addition to the reduction of pumpage and permitted quantities, and the development of new water supplies, the supplemental augmentation of rivers and lakes that are below their established Minimum Flow or Level will contribute to the attainment of the objectives of the Recovery Strategy set forth in paragraph 40D-80.074(2), F.A.C. The District will reserve quantities of water from water sources necessary for such augmentation.

(5) Periodic Review of Recovery Strategy.

(a) The Governing Board will measure progress based on an annual assessment of the water resource criteria and cumulative impact analysis described below.

1. The water resource criteria referred to above are:

a. Improving upper Peace River flows and Ridge Lake water levels;

b. Maintaining or increasing ground water levels below the upper Peace River and in the Ridge Lakes area; and

c. Increasing ground water levels in the Upper Floridan aquifer within the Most Impacted Area and the reduction in the rate of salt water intrusion.

2. The cumulative impact analysis referred to above consists of the following:

a. The development of alternative water supplies;

b. The effects of water conservation;

c. The hydrologic conditions and patterns;

d. The effects of climatic conditions;

e. The effects of water resource development activities;

f. The changes in amounts, distributions and use types of existing and new water use withdrawals (actual and permitted) within the SWUCA; and

g. The effect of land use changes on the water resources.

(b) Results of the annual assessment referred to above will be reported to the Governing Board on an annual basis.

(c) In addition to the annual assessments referred to the District will review the Recovery Strategy at least every five years to assess its progress as part of updating its Regional Water Supply Plan. If the annual assessments or five-year reviews do not indicate progress, the Governing Board will revise the Recovery Strategy, as appropriate, to achieve progress.

(6) The provisions of paragraphs 40D-80.074(1)-(4), F.A.C., are informational, intended to provide an overview of resource conditions related to the water bodies for which minimum flows and levels have been established and the components of the Recovery Strategy. The provisions of the SWUCA minimum flows and levels and permitting rules in Chapters 40D-2, 40D-4 and 40D-80, F.A.C., shall control in the event of any conflict or inconsistency with the provisions of paragraphs 40D-80.074(1)-(4), F.A.C.

(7) The District recognizes that although the rate of salt water intrusion (SWI) will be reduced through implementation of the Recovery Strategy, some existing legal uses of water may be affected by the continued movement of the salt water interface. The District's water supply planning indicates that much of the area potentially susceptible to SWI is experiencing land use transition from traditionally agricultural lands to forms of urban development. The water needs of these new land uses are planned to be met with alternative water supplies funded all or in part by the District to the greatest extent practical. In those cases where the existing permittee, impacted by SWI, desires to continue the existing legal water use, the District has a number of programs that address that situation. The District will make available its various preventative and remedial programs to permittees potentially at risk of salt water intrusion such as the Quality of Water Improvement Program (QWIP), the Facilitating Agricultural Resource Management Systems (FARMS) program, the New Water Source Initiative, the Water Supply and Resource Development Program, and the Cooperative Funding Program (as it relates to replacement of potentially affected water sources with alternative water supplies).

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.171 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 28, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July, 15, 2004; October 18, 2004; November 8, 2004 and December 6, 2004. In addition, the District's Southern Water Use Caution Area public/staff work group met and public workshops were held on January 19, 2005 and September 19, 2005. The proposed rules were also considered during the District's Governing Board monthly meetings on January 25, 2005; August 30, 2005; October 25, 2005; December 1, 2005; January 24, 2006; February 21, 2006 and March 28, 2006, all of which were noticed in the FAW.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.001
 RULE TITLE: Medicaid Providers Who Bill on the CMS-1500

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Provider Reimbursement Handbook, CMS-1500, February 2006. Effective February 10, 2006, ambulance and wheelchair/stretchers van providers billing on paper must use the CMS-1500 claim form instead of the Emergency Transportation 131 and Non-Emergency 131-A claim forms. The handbook was revised to include instructions for ambulance and wheelchair/stretchers van billing. In addition, we added instructions for the archive void and adjustment processing. The effect will be to incorporate the revised Florida Medicaid Provider Reimbursement Handbook, CMS-1500, February 2006, into rule.

SUMMARY: The purpose of this rule amendment is to incorporate by reference in the rule the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, February 2006. The effect will be that the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, February 2006, will be incorporated in rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs was prepared.

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

SPECIFIC AUTHORITY 409.919 FS.

LAW IMPLEMENTED 409.902, 409.905, 409.906, 409.907, 409.908, 409.912 FS.

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

DATE AND TIME: Tuesday, May 16, 2006, 11:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room B, Tallahassee, Florida
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Girard, Agency for Health Care Administration, Medicaid Services, 2727 Mahan Drive, MS #20, Tallahassee, FL 32308, (850)488-9711

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.001 Medicaid Providers Who Bill on the CMS-1500.

(1) All Medicaid providers and their billing agents who submit claims on behalf of an enrolled Medicaid provider who are required by their service specific coverage and limitations handbook or other notification by the Medicaid Program to bill the Florida Medicaid Program on a paper CMS-1500 claim form for reimbursement of services performed on a Medicaid eligible recipient, must be in compliance with the provisions of the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, February 2006 ~~October 2003~~, which is incorporated by reference and available from the fiscal agent. The handbook is available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks. Paper copies of the handbook may be obtained by calling Provider Inquiry at (800)377-8216.

(2) The following forms that are included in the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, are incorporated by reference: in Chapter 1, the CMS-1500 Claim Form, Approved OMB-0938-0008 Form CMS-1500 (12-90), one page double-sided; and in Chapter 2, the Healthy Start Prenatal Risk Screening Instrument, DH 3134, 9/97, one page. The following forms that are included in Chapter 2 of the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, are incorporated by reference in Rule 59G-4.160, F.A.C.: State of Florida, Florida Medicaid Authorization Request, PA01 04/2002, one page; Medically Needy Billing Authorization, DF-ES 2902, June 2003, one page; State of Florida, Sterilization Consent Form, SCF 7/94, one page; State of Florida, Hysterectomy Acknowledgment Form, HAF 07/1999, one-page; State of Florida, Exception to Hysterectomy Acknowledgment Requirement, ETA 07/2001, one page; State of Florida, Abortion Certification Form, August 2001, one page. All the forms except for the Healthy Start Prenatal Risk Screening Instrument are available from the Medicaid fiscal agent by calling Provider Inquiry at (800)289-7799 or from its website at <http://floridamedicaid>.

acs-inc.com. Click on Provider Support, and then on Medicaid Forms. The Healthy Start Prenatal Risk Screening Instrument is available from the local County Health Department.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.906, 409.907, 409.908, 409.912 FS. History—New 10-1-03, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen Girard

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 6, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2006

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NOS.: RULE TITLES:
59G-4.015 Ambulance Transportation Services
59G-4.330 Transportation Services

PURPOSE AND EFFECT: The purpose of promulgating Rule 59G-4.015, F.A.C., is to incorporate by reference the revised Florida Medicaid Ambulance Transportation Services Coverage and Limitations Handbook, February 2006. Effective February 10, 2006, ambulance providers billing on paper must use the CMS-1500 claim form instead of the Emergency Transportation 131 and Non-Emergency 131-A claim forms. The handbook was revised to replace references to the Emergency Transportation 131 and Non-Emergency 131-A claim forms with references to the CMS-1500 claim form. The effect of promulgating rule 59G-4.015 will be to incorporate the revised Florida Medicaid Ambulance Transportation Services Coverage and Limitations Handbook, February 2006, into rule.

The purpose the rule amendment to Rule 59G-4.330, F.A.C., is to delete reference to ambulance transportation from the rule. Because Medicaid has separate handbooks for ambulance transportation services and non-emergency transportation services provided by other types of transportation vendors, Medicaid is promulgating a new rule for ambulance services and deleting the references to ambulance services from Rule 59G-4.330, F.A.C., Transportation Services. The effect of the rule amendment to Rule 59G-4.330, F.A.C., will be to delete references to ambulance transportation services from the rule.

SUMMARY: The purpose of this Rule 59G-4.015, F.A.C., is to incorporate by reference the revised Florida Medicaid Ambulance Transportation Services Coverage and Limitations Handbook, February 2006. The effect of promulgating Rule 59G-4.015, F.A.C., will be to incorporate the revised Florida Medicaid Ambulance Transportation Services Coverage and Limitations Handbook, February 2006, into rule.

The purpose of the rule amendment to Rule 59G-4.330, F.A.C., is to delete the references to ambulance services from Rule 59G-4.330, F.A.C., Transportation Services. The effect of the rule amendment to Rule 59G-4.330, F.A.C., will be to delete references to ambulance transportation services from the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

DATE AND TIME: Tuesday, May 16, 2006, 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Bldg. 3, Conference Room B, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Glen Davis, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)488-4481

THE FULL TEXT OF THE PROPOSED RULES IS:

59G-4.015 Ambulance Transportation Services.

(1) This rule applies to all ambulance transportation providers enrolled in the Florida Medicaid program.

(2) All ambulance transportation providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Ambulance Transportation Services Coverage and Limitations Handbook, February 2006, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks. Paper copies of the handbooks may be obtained by calling Provider Inquiry at (800)377-8216.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.907, 409.908, 409.9081 FS. History—New _____.

59G-4.330 Transportation Services.

(1) through (2) No change.

~~(3) All ambulance transportation providers enrolled in the Medicaid program must comply with the provisions of the Florida Medicaid Ambulance Transportation Services Coverage, Limitations and Reimbursement Handbook, July 2005, incorporated by reference. The handbook is available from the Medicaid fiscal agent's website at~~

<http://floridamedicaid.aes-inc.com>. Click on Provider Support, and then on Handbooks. A paper copy of the handbook may be obtained by calling Provider Inquiry at (800)377-8216.

~~(4) The following forms that are included in the Florida Medicaid Ambulance Transportation Services Coverage, Limitations and Reimbursement Handbook are incorporated by reference: the Emergency Transportation 131 Claim Form, 10/2003, and the Non-Emergency Transportation 131 A Claim Form, 10/2003. The forms are available from the Medicaid fiscal agent.~~

Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.907, 409.908, 409.9081, 409.910, 409.913 FS. History—New 1-1-77, Amended 10-1-77, 1-27-81, 8-28-84, Formerly 10C-7.45, Amended 4-13-93, Formerly 10C-7.045, Amended 1-7-98, 12-15-05,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Glen Davis
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 6, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 20, 2006

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.060
RULE TITLE: Dental Services

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Dental Services Coverage and Limitations Handbook, January 2006. The handbook revisions include policy clarifications and a revised Medicaid Orthodontics Initial Assessment Form and Medicaid Behavioral Management Report Form. The effect will be to incorporate by reference in the rule the Florida Medicaid Dental Services Coverage and Limitations Handbook, January 2006.
SUMMARY: The purpose of the proposed rule amendment is to incorporate by reference the revised Florida Medicaid Dental Services Coverage and Limitations Handbook, January 2006. The effect will be to incorporate by reference in the rule the Florida Medicaid Dental Services Coverage and Limitations Handbook, January 2006.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of regulatory costs was prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 FS.

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

DATE AND TIME: Monday, May 15, 2006, 1:30 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Cerasoli, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)922-7328

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.060 Dental Services.

(1) No change.

(2) All dental services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Dental Services Coverage and Limitations Handbook, January 2006 ~~2004, updated January 2005~~, and the Florida Medicaid Provider Reimbursement Handbook, Dental 111, October 2003, which are incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. All handbooks are available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks. Paper copies of the handbooks may be obtained by calling Provider Inquiry at (800)377-8216.

(3) The following ~~forms form~~ that ~~are is~~ included in the Florida Medicaid Dental Services Coverage and Limitations Handbook ~~are is~~ incorporated by reference: Medicaid Orthodontic Initial Assessment Form (IAF), January ~~2006 2005~~, ~~five two~~ pages, located in Appendix A; and the Medicaid Behavioral Management Report, January 2006, one page, located in Appendix F. The ~~forms are form is~~ available by photocopying ~~them #~~ from the handbook.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.912 FS. History—New 7-10-80, Amended 2-19-81, 10-27-81, 7-21-83, Formerly 10C-7.523, Amended 9-11-90, 11-3-92, Formerly 10C-7.0523, Amended 6-29-93, Formerly 10P-4.060, Amended 7-19-94, 7-16-96, 3-11-98, 10-13-98, 12-28-98, 6-10-99, 4-23-00, 4-24-01, 7-5-01, 2-20-03, 8-5-03, 1-8-04, 10-12-04, 6-28-05,

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Cerasoli
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 6, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 27, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums, and Mobile Homes

RULE NO.: 61B-75.004
 RULE TITLE: Audio or Video Recording of Meetings

PURPOSE AND EFFECT: Section 719.106(1)(c), Florida Statutes, requires the Division to adopt reasonable rules to govern a member's tape recording and videotaping of a cooperative association's board of administration meetings. This proposed rule would provide that unit owners are entitled to tape record or videotape board, committee or unit owner meetings, but only through the use of electronic audio or video equipment or devices that do not produce distracting light or sound. The rule also provides that the board or unit owners may adopt written rules requiring set up of such audio or video recording equipment before the beginning of the meeting; restricting the person recording the meeting from moving around the meeting room to facilitate such recording; and obliging that advance notice to the board or unit owners be given of one's intent to record the meeting.

SUMMARY: To provide reasonable rules governing audio or video recording of a cooperative's administrative meetings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 719.106(1)(c) FS.

LAW IMPLEMENTED: 719.106(1)(c) FS.

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

DATE AND TIME: May 15, 2006, 10:00 a.m.

PLACE: Suite 16, Conference Room, The Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting Sharon A. Malloy,

Senior Management Analyst II at (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-75.004 Audio or Video Recording of Meetings.

Any unit owner is entitled to tape record or videotape meetings of the board of administration, committee meetings, or unit owner meetings, subject to the following restrictions:

(1) The only audio and video equipment and devices which unit owners are authorized to utilize at any such meeting is equipment which does not produce distracting sound or light emissions.

(2) If adopted in advance by the board or unit owners as a written rule, audio and video equipment shall be assembled and placed in position in advance of the commencement of the meeting.

(3) If adopted in advance by the board or unit owners as a written rule, anyone videotaping or recording a meeting shall not be permitted to move about the meeting room in order to facilitate the recording.

(4) If adopted in advance by the board or unit owners as a written rule, advance notice shall be given to the board by any unit owner desiring to utilize any audio or video equipment.

Specific Authority 719.106(1)(c) FS. Law Implemented 719.106(1)(c) FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rudolph Prinz, Chief of Standards and Registration, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Simone Marstiller, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 3, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE NO.: 61G14-19.001
 RULE TITLE: Percentage of Gross Pilotage Assessed

PURPOSE AND EFFECT: The proposed rule amendment is intended to increase the gross pilotage assessment.

SUMMARY: The proposed rule amendment increases the gross pilotage assessment from .1% to .7%.

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

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

SPECIFIC AUTHORITY: 310.131, 310.185 FS.

LAW IMPLEMENTED: 310.131 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G14-19.001 Percentage of Gross Pilotage Assessed.

(1) The Department of Business and Professional Regulation shall assess the pilots in the respective ports of the state ~~seven tenths one tenth~~ of one percent (.7%) ~~(.1%)~~ of the gross amount of pilotage earned by said pilots during each year. For the purposes of said assessment, the gross amount of pilotage earned shall be the amount of money collected by each pilot or by each entity of which the pilot is a member for piloting which shall include and not be limited to payment for piloting vessels to and from ports of this state, docking or undocking vessels, shifting vessels, running lines, delivering orders at sea, cancelled orders, boat service, detention, pilots being carried to sea, anchoring vessels, and any other related services rendered. Funds collected due under this are to be made payable to the Board and paid by the fifteenth of the following month. When received, the funds are paid into the Professional Regulation Trust Fund as created within the Department.

(2) No change.

THIS RULE SHALL TAKE EFFECT JULY 1, 2006.

Specific Authority 310.131, 310.185 FS. Law Implemented 310.131 FS. History—New 2-5-76, Amended 1-19-77, 1-1-78, 12-7-78, 11-1-81, 6-8-82, 8-9-82, 7-31-83, Formerly 21SS-3.01, Amended 5-30-89, 2-19-90, 12-30-91, 12-2-92, Formerly 21SS-3.001, 21SS-19.001, Amended 3-20-94, 1-5-95, 1-30-96, 3-17-96, 11-21-96, 8-25-97, 1-26-99, 1-31-01, 8-1-02, 7-8-03, 2-17-05, 10-02-05, 2-1-06, 5-1-06, ~~7-1-06~~.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pilot Commissioners

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 11, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 17, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: RULE TITLE:

61G15-20.007 Foreign Degrees

PURPOSE AND EFFECT: Purpose and effect is to delete one of the approved evaluation services because the evaluations do not conform to Board standards.

SUMMARY: One of the approved evaluation services is deleted.

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

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

SPECIFIC AUTHORITY: 471.008 FS.

LAW IMPLEMENTED: 471.013, 471.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.007 Foreign Degrees.

(1) through (3) No change.

(4) The applicant must request an evaluation of substantial equivalency of his or her credentials to EAC/ABET standards through either Engineering Credentials Evaluation International, 111 Market Place, #171, Baltimore, Maryland 21202; ~~Foreign Credentials Service of America, 1910 Justin Lane, Austin, Texas 78757-2414;~~ or Joseph Silny & Associates, Inc., P. O. Box 248233, Coral Gables, Florida 33124.

(5) No change.

Specific Authority 471.008 FS. Law Implemented 471.013, 471.015 FS. History—New 7-20-95, Amended 6-5-96, 4-16-98, 1-17-99, 7-28-99, 1-6-02, 6-13-02, 6-30-02, 10-2-03, 6-16-04, 3-13-05, 5-1-05,

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-22.011
RULE TITLE: Board Approval of Continuing Education Providers

PURPOSE AND EFFECT: Purpose and effect is to extend the renewal date for exempt continuing education providers.

SUMMARY: The renewal date for exempt continuing education providers is extended.

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

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

SPECIFIC AUTHORITY: 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS.

LAW IMPLEMENTED: 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-22.011 Board Approval of Continuing Education Providers.

(1) through (8) No change.

(9) The following providers shall be approved as providers until May 31, 2009 ~~July 1, 2006~~, and the Board shall accept their courses for continuing education credit:

(a) through (c) No change.

Specific Authority 455.213(6), 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. Law Implemented 455.213(6), 455.2177, 455.2178, 455.2179, 471.008, 471.017(3), 471.019 FS. History--New 9-16-01, Amended 9-4-02, 12-21-03, 8-8-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Surveyors and Mappers

RULE NOS.: 61G17-6.0031, 61G17-6.005, 61G17-6.0051, 61G17-6.0052, 61G17-6.006, 61G17-6.007
RULE TITLES: Boundary Survey, Map, and Report Construction Layout Survey, Record or As-Built Survey, Quantity Survey Control Surveys Specific Purpose Surveys and Maps Miscellaneous Horizontal and Vertical Controls for Public and Private Construction Layout

PURPOSE AND EFFECT: Repeal Rules 61G17-6.005, 6.0051, 6.0052, 6.006 and 6.007, F.A.C.

SUMMARY: Repealing the above referenced rules.

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

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

SPECIFIC AUTHORITY: 472.008, 472.027 FS.

LAW IMPLEMENTED: 472.027, 472.003(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rick Morrison, Executive Director, Board of Professional Surveyors and Mappers, 1940 North Monroe Street, Tallahassee, Florida 32399-0767

THE FULL TEXT OF THE PROPOSED RULES IS:

61G17-6.0031 Boundary Survey, Map, and Report.

Specific Authority 472.008, 472.027 FS. Law Implemented 472.027 FS. History--New 2-20-96, Amended 5-25-99, 3-25-01, Repealed _____.

61G17-6.005 Construction Layout Survey, Record or As-Built Survey, Quantity Survey.

Specific Authority 472.008, 472.027 FS. Law Implemented 472.027 FS. History--New 9-1-81, Formerly 21HH-6.05, Amended 12-18-88, Formerly 21HH-6.005, Amended 12-25-95, 5-18-00, 3-25-01, Repealed _____.

61G17-6.0051 Control Surveys.

Specific Authority 472.008, 472.027 FS. Law Implemented 472.027 FS. History--New 12-18-88, Formerly 21HH-6.0051, Amended 12-25-95, 5-13-96, 5-18-00, Repealed _____.

61G17-6.0052 Specific Purpose Surveys and Maps.

Specific Authority 472.008, 472.027 FS. Law Implemented 472.027 FS. History--New 12-25-95, Repealed _____.

61G17-6.006 Miscellaneous.

Specific Authority 472.008, 472.027 FS. Law Implemented 472.027 FS. History—New 8-7-81, Amended 12-30-81, 7-29-85, Formerly 21HH-6.06, Amended 4-29-86, 12-18-88, Formerly 21HH-6.006, Amended 12-25-95, Repealed.

61G17-6.007 Horizontal and Vertical Controls for Public and Private Construction Layout.

Specific Authority 472.008, 472.027 FS. Law Implemented 472.003(3), 472.027 FS. History—New 5-20-92, Formerly 21HH-6.007, Amended 12-25-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Surveyors and Mappers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Surveyors and Mappers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NOS.:	RULE TITLES:
64B18-14.002	Penalties
64B18-14.010	Citations

PURPOSE AND EFFECT: The Board proposed the amendment to Rule 64B18-14.002, F.A.C., to add penalties for not submitting or updating required information within the 45 day time limit. The Board proposes the amendment to Rule 64B18-14.010, F.A.C., to add penalties for failure to comply with Section 456.039(3)(b), Florida Statutes.

SUMMARY: The proposed amendment to Rule 64B18-14.002, F.A.C., is to add penalties for not submitting or updating required information within the 45 day time limit and to Rule 64B18-14.010, F.A.C., is to add penalties for failure to comply with Section 456-039(3)(b), Florida Statutes.

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

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

SPECIFIC AUTHORITY: 456.078, 456.079(1), 461.005, 461.013(4) FS.

LAW IMPLEMENTED: 456.039(3)(b), 456.057, 456.062, 456.077, 456.079, 456.012, 461.013(4), 461.013(7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe Baker, Executive Director, Board of Podiatric Medicine/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

64B18-14.002 Penalties.

(1) No change.

(2) Unless mitigating or aggravating factors are demonstrated when the Board finds an applicant or licensee whom it regulates under Chapter 461, F.S., has committed any of the acts set forth in either Section 461.013(1), 456.013(7), 456.033, 456.053, 456.062, 456.067 or 456.072, F.S., it shall issue a final order imposing appropriate penalties based on the severity and repetition of the offense within the ranges recommended in the following disciplinary guidelines:

(a) through (qq) No change.

(rr) Failure to submit or update required information. The Board shall impose a penalty ranging from a reprimand up to probation plus a fine from \$2,500.00 to \$5,000.00 pursuant to Section 456.039(3)(b), F.S.

Specific Authority 456.039(3), 456.073(3), 456.079, 461.003, 461.005, 461.013 FS. Law Implemented 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS. History—New 11-21-79, Amended 8-31-81, Formerly 21T-14.02, Amended 10-14-68, 12-8-88, 1-19-92, 4-26-93, Formerly 21T-14.002, 61F12-14.002, Amended 2-25-96, 5-29-97, Formerly 59Z-14.002, Amended 11-17-97, 8-24-00, 8-13-02, 4-26-04, _____.

64B18-14.010 Citations.

(1) through (2) No change.

(3) The following violations may be disposed of by the Department by citation with the specified penalty:
VIOLATIONS PENALTY

(a) through (i) No change.

(j). Failure to comply with Section 456.039(3)(b), F.S., a fine of \$50.00 per day.

(4) through (5) No change.

Specific Authority 456.072, 461.005 FS. Law Implemented 456.057, 456.072, 456.077, 461.012, 461.013(7) FS. History—New 1-19-92, Formerly 21T-14.010, 61F12-14.010, Amended 3-26-95, 2-25-96, 6-17-97, Formerly 59Z-14.010, Amended 11-23-00, 8-13-02, 7-26-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2005

DEPARTMENT OF HEALTH

School Psychology

RULE NO.: 64B21-504.001
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: To update the rule text.

SUMMARY: Provides levels of discipline for a licensee who has been terminated from a treatment program for impaired practitioners without good cause.

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

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

SPECIFIC AUTHORITY: 456.079 FS.

LAW IMPLEMENTED: 456.072, 456.079, 490.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Program Operations Administrator, Office of School Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B21-504.001 Disciplinary Guidelines.

(1) When the Department finds that an applicant or a licensee has committed any of the acts set forth in Section 490.009(1) or 456.072(1), F.S., it shall issue a final order imposing one or more of the penalties listed in Section 456.072(2), F.S., as recommended in the following disciplinary guidelines. In addition to any other discipline imposed, the Department, pursuant to Section 456.072(4), F.S., shall assess the costs related to the investigation and prosecution of a case. If the violation is for fraud or making false or fraudulent representation, the Department shall impose a fine of \$10,000 per count or offense.

(a) through (z) No change.

(aa) Section 456.072(1)(gg), F.S.:

Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, F.S., for failure to comply without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug or alcohol treatment program – from suspension and a fine of up to \$1,000 to revocation. For

a second offense, from suspension and a fine of up to \$5,000 to revocation. After a second offense, from suspension and a fine of up to \$7,500 to revocation.

(2) through (3) No change.

Specific Authority 456.079 FS. Law Implemented 456.072, 456.079, 490.009 FS. History--New 9-11-03, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Allen Hall

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lucy Gee

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 15, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 3, 2006

DEPARTMENT OF HEALTH

Division of Health Awareness and Tobacco

RULE NOS.: 64F-12.001, 64F-12.015
RULE TITLES: General Regulations; Definitions
Licensing, Application, Permitting

PURPOSE AND EFFECT: The proposed amendment to Rule 64F-12.001, F.A.C., adds the definition of “propagation” as this term appears in the definition of “manufacture” at Section 499.003(27), F.S. The definition clarifies that the manufacturing process includes the various establishments that may be part of that process, including a private relabeler and an affiliated or contract distribution center. The proposed amendment to Rule 64F-12.015, F.A.C., expands the scope of the on-site inspection requirement to additional permit applicants within the scope of Chapter 499, F.S. The amendment to this rule also provides the department with an option to on-site inspection of a permit applicant’s establishment. This option is designed to protect public health when the department’s workload requires an alternative to an inspection. Finally, the proposed amendment to this rule also adopts a new attachment to the Application for Permit under Chapter 499, F.S., which attachment is directed to manufacturer and prescription drug repackager permit applicants located in Florida.

SUMMARY: The proposed amendment to Rule 64F-12.001, F.A.C., adds the definition of “propagation” clarifying that term as it appears in the definition of “manufacture” at Section 499.003(27), F.S. The proposed amendment to Rule 64F-12.015, F.A.C., expands the scope of the on-site inspection requirement to additional permit applicants within the scope of Chapter 499, F.S., provides the department with an option to on-site inspection of a permit applicant’s establishment, and adopts a new attachment to the Application for Permit under Chapter 499, F.S., which attachment is directed to manufacturer and prescription drug repackager permit applicants located in Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of regulatory cost was prepared.

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

SPECIFIC AUTHORITY: 499.05, 499.0121, 499.0122, 499.013, 499.014, 499.052 FS.

LAW IMPLEMENTED: 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.051, 499.052 FS.

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

DATE AND TIME: May 15, 2006, 1:00 p.m. eastern daylight savings time

PLACE: Ramada Inn Conference Center, Windsor Room, 2900 North Monroe Street, Tallahassee, Florida

If special accommodations are needed to attend this workshop because of a disability, please contact Maxine Wenzinger, (850)245-4736

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rebecca Poston, R. Ph., Executive Director, Board of Pharmacy-Drugs Devices and Cosmetics, 4052 Bald Cypress Way, Mail Bin C-04, Tallahassee, Florida 32399, (850)245-4292

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-12.001 General Regulations; Definitions.

(1) No change.

(2) In addition to definitions contained in Sections 499.003, 499.012(1), 499.0121(6), 499.0122(1), 499.028(1), and 499.61, F.S., the following definitions apply to Rule Chapter 64F-12, F.A.C.:

(a) through (l) No change.

(m) "Propagation" as used under the definition of "manufacture" at Section 499.003(27), F.S., means for purposes of permitting under Section 499.013, F.S., the holder of an approved New Drug Application (NDA), Abbreviated New Drug Application (ANDA), or New Animal Drug Application (NADA); a private label distributor and the private label distributor's prescription drugs are originally manufactured and labeled for the distributor and have not been repackaged; or the distribution point for the manufacturer, contract manufacturer or private label distributor whether the establishment is a member of the manufacturer's affiliated group or is a contract distribution site.

(n)(m) "Ongoing relationship" means: For a prescription drug other than a specified drug:

1. An association that exists when a manufacturer and a distributor enter into a written agreement under which the distributor is authorized to distribute the manufacturer's product(s) for a period of time or for a number of shipments and at least one sale is made under that agreement; or

2. The name of the authorized distributor of record is entered on the manufacturer's list of authorized distributors of record or equivalent list; or

3. At least three purchases of a manufacturer's product(s) are made directly from that manufacturer within a six month period from the date for which the authorized distributor of record relationship is claimed.

(o)(m) "Practitioner" means a person who is duly licensed and authorized by laws of the state to administer, prescribe, or dispense, as appropriate, a drug or device for medical purposes.

(p)(e) "Provides prescription services to the public" – means, for the purposes of the retail pharmacy wholesaler permit, holding the pharmacy out to the public through prominently displayed pharmacy signs on the exterior of the building and adequate inventory on hand to fill a variety of prescriptions for a variety of medical conditions that would be required by the public generally.

(q)(p) "Product" – anything produced or made either naturally or artificially.

(r)(e) "Readily available" and "readily retrievable" mean that records, either hard copy or computerized, are organized in such a manner that they can be quickly and easily retrieved during an inspection; individual records can be produced within minutes of the request (unless the permitted address is not within the state in which case a 48 hour timeframe is available for producing records). Required records that are kept by automatic data processing systems or other electronic or mechanized recordkeeping systems are kept in such a manner so that they can be separated out from all other records in a reasonable time.

(s)(e) "Repackaging or otherwise changing the container, wrapper, or labeling to further the distribution" means:

1. Altering a packaging component that is or may be in direct contact with the drug, device, or cosmetic. For example, repackaging from bottles of 1000 to bottles of 100.

2. Altering a manufacturer's package for sale under a label different from the manufacturer. For example, a kit that contains an injectable vaccine from manufacturer A; a syringe from manufacturer B; alcohol from manufacturer C; and sterile gauze from manufacturer D packaged together and marketed as an immunization kit under a label of manufacturer Z.

3. Altering a package of multiple-units, which the manufacturer intended to be distributed as one unit, for sale or transfer to a person engaged in the further distribution of the product. This does not include:

a. Selling or transferring an individual unit which is a fully labeled self-contained package that is shipped by the manufacturer in multiple units, or

b. Selling or transferring a fully labeled individual unit, by adding the package insert, by a person authorized to distribute prescription drugs to an institutional pharmacy permit, health care practitioner or emergency medical service provider for the purpose of administration and not for dispensing or further distribution.

~~(l)(s)~~ “Rx” – means prescription.

~~(u)(t)~~ “Sale” – includes any transfer whether by barter, exchange or gift.

~~(v)(u)~~ “Separate and distinct cosmetic product” – a cosmetic product for that establishment which is, or will be sold, distributed, or given away. The adding of color, flavor, or scents does not make a separate and distinct cosmetic product for each variation.

~~(w)(v)~~ “Separate and distinct device product” – a device product in its finished form for that manufacturer which is, or will be sold, distributed, or given away. The function or use of the device determines whether a device is separate and distinct.

~~(x)(w)~~ “Separate and distinct drug product” – a drug product in the finished form and strength for that manufacturer which is, or will be sold, distributed or given away.

~~(y)(x)~~ “Specified drug” means all dosage forms, strengths and container sizes of the following prescription drugs:

1. Bextra (valdecoxib);
2. Celebrex (celecoxib);
4. Crixivan (indinavir sulfate);
5. Diflucan (fluconazole);
6. Epivir (lamivudine);
7. Epogen (epoetin alfa);
8. Gamimune (globulin, immune);
9. Gammagard (globulin, immune);
10. Immune globulin;
11. Lamisil (terbinafine);
12. Lipitor (atorvastatin calcium);
13. Lupron (leuprolide acetate);
14. Neupogen (filgrastim);
15. Nutropin AQ (somatropin, e-coli derived);
16. Panglobulin (globulin, immune);
17. Procrit (epoetin alfa);
18. Retrovir (zidovudine);
19. Risperdal (risperidone);
20. Rocephin (ceftriaxone sodium);
21. Serostim (somatropin, mammalian derived);
22. Sustiva (efavirenz);
23. Trizivir (abacavir sulfate/lamivudine/zidovudine);
24. Venoglobulin (globulin, immune);
25. Viagra (sildenafil citrate);
26. Videx (didanosine);
27. Viracept (nelfinavir mesylate);
28. Viramune (nevirapine);
29. Zerit (stavudine);

30. Ziagen (abacavir sulfate);
31. Zocor (simvastatin);
32. Zofran (ondansetron);
33. Zoladex (goserelin acetate); and
34. Zyprexa (olanzapine).

~~(z)(y)~~ “State Current Good Manufacturing Practices” means current good manufacturing practices and quality system regulations as prescribed as of 1/1/01 in Title 21 Code of Federal Regulations, Parts 210, 211, 600-610, and 820, and the federal guidelines which are incorporated by reference herein and made a part of this rule, and the requirements of this chapter. Current good manufacturing practices for cosmetics means the guidelines for manufacturing cosmetics as set forth in Rule 64F-12.010, F.A.C.

~~(aa)(z)~~ “Unapproved new drug” – means any drug which has not been approved or otherwise authorized for use under the federal act, 21 U.S.C. ss. 301 et seq., and the regulations promulgated thereunder or which does not have a Notice of Claimed Investigational Exemption on file with the United States Food and Drug Administration.

~~(bb)(aa)~~ “Valid client-veterinarian relationship” – means one in which (1) a veterinarian has assumed the responsibility for making medical judgments regarding the health of an animal and the need for medical treatment, and the client (the owner or other caretaker of the animal or animals) has agreed to follow the instructions of the veterinarian; (2) there is sufficient knowledge of the animal(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s); and (3) the veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy. Such a relationship can exist only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s) by virtue of examination of the animal(s), and/or by medically appropriate and timely visits to the premises where the animal(s) are kept.

~~(cc)(bb)~~ “Verifiable account” means a number issued by the manufacturer to a wholesaler when the wholesaler sets up an account with the manufacturer for the purchase of a prescription drug from that manufacturer that uniquely identifies the wholesaler and that is to be used on a recurring basis.

~~(dd)(cc)~~ “Wholesale distribution” means distribution of prescription drugs to persons other than a consumer or patient as set forth in Section 499.012(1)(a), F.S.

~~(ee)(dd)~~ “Wholesaler” means a person who engages in the wholesale distribution of a prescription drug.

~~(ff)(ee)~~ “Written agreement” means any type of written correspondence or documentation to establish an account for ongoing sales of prescription drugs by the manufacturer to that wholesaler.

Specific Authority 499.05, 499.61, 499.701 FS. Law Implemented 499.003, 499.004, 499.005, 499.0054, 499.0057, 499.006, 499.007, 499.008, 499.009, 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.015, 499.023, 499.024, 499.025, 499.028, 499.03, 499.033, 499.035, 499.039, 499.041, 499.05, 499.051, 499.052, 499.06, 499.066, 499.067, 499.069, 499.61, 499.62, 499.63, 499.64, 499.65, 499.66, 499.67, 499.71, 499.75 FS. History—New 1-1-77, Amended 12-12-82, 1-30-85, Formerly 10D-45.31, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.031, Amended 1-26-99, 4-17-01, 6-30-03, 10-7-03, 1-1-04, 1-29-04, 5-29-05, 1-19-06, 2-14-06,_____.

64F-12.015 Licensing, Application, Permitting.

(1) through (2) No change.

(3) ON-SITE INSPECTIONS. Passing an on-site inspection is a prerequisite to issuance of a new permit, whether based on an initial application or change of address application, for the following permit types: Prescription Drug Manufacturer, Prescription Drug Repackager, Device Manufacturer, Compressed Medical Gases Manufacturer, Over-the-Counter Drug Manufacturer, Cosmetic Manufacturer, Prescription Drug Wholesaler, Compressed Medical Gases Wholesaler, Retail Pharmacy Wholesaler, Freight Forwarder, Veterinary Prescription Drug Wholesaler located in Florida, Complimentary Drug Distributor located in Florida, Veterinary Legend Drug Retailer, Medical Oxygen Retailer, and Restricted Rx Drug Distributor permits for the Health Care Entity, Reverse Distributor, and Destruction facilities. However, the department may elect to perform an inspection of the Restricted Rx Drug Distributor – Charitable Organization, Government Program, or Institutional Research as a condition of permitting but an on-site inspection fee will not be assessed.

(d) The department may ~~will~~ request from the applicant written documentation to evidence compliance with the requirements of Chapter 499, F.S., when workload prevents the department from conducting an on-site inspection ~~cannot be completed~~ within 65 ~~30~~ days of receipt of a completed application for a permit requiring an on-site inspection or a written request for a change of address. The department may request documentation addressing at a minimum compliance with Section 499.0121, F.S., as it relates to the type of permit for which the person applied. The applicant will be required to specify by page number and paragraph on that page the policies and procedures required under Section 499.0121(7), F.S., that address matters specific to the type of permit for which the person applied. The applicant’s failure to respond to the department’s request within the timeframe specified in the department’s correspondence requesting this documentation may be grounds for denial of the permit application.

(6) MANUFACTURER PERMITS.

(a) through (b) No change.

(c) Application requirements for manufacturers and prescription drug repackagers located in Florida include:

1. Contact the department’s Bureau of Statewide Pharmaceutical Services to request an application or download the application from the bureau’s web site.

2. File with the department a completed application for a permit using an original Form DH 1033, “Application for Permit Under Chapter 499, F.S.,” effective August 2004, and the attachment for a Manufacturer, effective XXXXXXX, which are ~~is~~ incorporated by reference herein.

3. Pay the appropriate fee(s) as required by Rule 64F-12.018, F.A.C.

4. Comply with all the requirements for permitting provided in Chapter 499, F.S., and this rule chapter.

5. Have an FDA establishment registration number, or unless the application is for a cosmetic manufacturer, provide documentation to the department supporting an exemption from FDA registration.

(d) No change.

(7) through (11) No change.

Specific Authority 499.01, 499.012, 499.0121(1), 499.0122, 499.013, 499.014, 499.028, 499.04, 499.041, 499.05, 499.62, 499.63, 499.64, 499.66, 499.67, 499.701 FS. Law Implemented 499.01, 499.012, 499.0121, 499.0122, 499.013, 499.028(6), 499.04, 499.004, 499.041, 499.05, 499.06, 499.006, 499.007, 499.052, 499.062, 499.063, 499.064, 499.066, 499.067 FS. History—New 12-12-82, Amended 7-8-84, 1-30-85, Formerly 10D-45.54, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.054, Amended 1-26-99, 4-17-01, 10-29-02, 7-6-03, 1-1-04, 9-13-04, 10-3-05, 1-19-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rebecca Poston

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cassandra Pasley

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 3, 2006

DEPARTMENT OF HEALTH

Division of Health Awareness and Tobacco

RULE NOS.:	RULE TITLES:
64F-12.012	Records of Drugs, Cosmetics and Devices
64F-12.025	Certification Authority and Digital Signatures for Self-Authenticating Pedigree

PURPOSE AND EFFECT: A proposed amendment to Rule 64F-12.012, F.A.C., requires an inventory of drugs at each wholesaler establishment, of drugs it has on hand as of June 30, 2006, so as to give the Department information useful to determining compliance as the drug pedigree law transitions effective July 1, 2006 from the requirements of Section 499.0121(6)(d) and (e), F.S., to Section 499.0121(6)(f), F.S. An additional proposed amendment to this rule would allow adjustments to the pedigree requirements for an emergency distribution, where a pharmacy or health care practitioner certifies to the wholesaler a need to treat a life threatening

medical condition, or medical condition that will result in serious bodily harm, even if a drug pedigree compliant with Section 499.0121(6)(f), F.S. is not available.

Rule 64F-12.025, F.A.C., is proposed to establish standards for a certification authority to issue a digital certificate to an employee of a wholesale establishment, where the establishment employs this person to certify the accuracy and completeness of a pedigree paper. Through this rule the Department seeks to facilitate a self authenticating drug pedigree.

SUMMARY: A proposed amendment to Rule 64F-12.012, F.A.C., would require an inventory of drugs on hand as of June 30, 2006. An additional amendment to this rule also allows adjustments to the pedigree requirement in certain emergency situations.

Proposed Rule 64F-12.025, F.A.C., would facilitate the use of a self-authenticating electronic drug pedigree. Self authentication is facilitated when the digital signature of the person authenticating the information that person provides on the pedigree is certified by an independent Certification Authority.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of regulatory cost was prepared.

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

SPECIFIC AUTHORITY: 499.05, 499.0121, 499.0122, 499.013, 499.014, 499.052 FS.

LAW IMPLEMENTED: 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.051, 499.052 FS.

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

DATE AND TIME: May 15, 2006, 1:00 p.m. eastern daylight savings time

PLACE: Ramada Inn Conference Center, 2900 North Monroe Street, Tallahassee, Florida

If special accommodations are needed to attend this workshop because of a disability, please contact Maxine Wenzinger, (850)245-4736

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rebecca Poston, R. Ph., Executive Director, Board of Pharmacy-Drugs Devices and Cosmetics, 4052 Bald Cypress Way, Mail Bin C-04, Tallahassee, Florida 32399, (850)245-4292

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-12.012 Records of Drugs, Cosmetics and Devices.

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

(2) Any person engaged in the manufacture of prescription drugs, the wholesale distribution of prescription drugs, or otherwise receiving or distributing prescription drugs must maintain records as follows:

(a) through (d) No change.

(e) Inventory. A complete and accurate record of all stock of prescription drugs on hand must be made annually available by establishments permitted under Chapter 499, F.S. A physical inventory must be conducted at least annually unless perpetual inventory records are maintained, in which case the physical inventory may be conducted on a biennial basis. Significant inventory discrepancies must be investigated and handled in accordance with the written policies and procedures of the establishment. In addition, no later than July 17, 2006, each wholesale distributor shall submit to the department an inventory of drugs it has on hand as of June 30, 2006.

(3) Pedigree papers.

(a) through (j) No change.

(k) Emergency Distributions. A wholesale distributor may distribute and a purchasing pharmacy or health care practitioner authorized by law to purchase prescription drugs may accept a prescription drug for which a pedigree that complies with Section 499.0121(6)(f), F.S., is not available, when the prescription drug is required immediately to treat a specific patient with a life-threatening medical condition or a medical condition that will result in serious bodily harm. A pharmacist for the purchasing pharmacy or the health care practitioner shall supply the wholesale distributor with a coded reference to the specific patient and a statement that the emergency meets this section's requirements. Such coded reference shall allow agents for the department to identify the specific patient in the pharmacy's or health care practitioner's records and confirm the stated emergency. The wholesale distributor that distributes a prescription drug under this provision must maintain the coded patient reference and the pharmacist's or the health care practitioner's emergency statement to demonstrate compliance with this section. The supplying wholesale distributor must otherwise comply fully with all other applicable provisions of Sections 499.001 through 499.081, F.S., with respect to the distribution of such a drug. The wholesale distributor must maintain the confidentiality of the coded patient reference and the emergency statement in its possession, but may provide that information to the department or to FDLE pursuant to Section 499.051, F.S.

Specific Authority 499.05, 499.0121, 499.0122, 499.013, 499.014, 499.052 FS. Law Implemented 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.051, 499.052 FS. History—New 1-1-77, Amended 12-12-82, 7-8-84, 1-30-85, Formerly 10D-45.53, Amended 11-26-86, 2-4-93, 7-1-96, Formerly 10D-45.053, Amended 1-26-99, 4-17-01, 10-7-03.

64F-12.025 Certification Authority and Digital Signatures for Self-Authenticating Electronic Pedigree.

(1) As used in this rule chapter the terms “certificate” and “Certification Authority” are as defined by Section 668.003, F.S. (2005). The department will list on its website one or more companies authorized to serve as a Certification Authority to issue digital certificates to persons for purposes of certifying via a digital signature the accuracy and completeness of a pedigree paper for authentication purposes under sub-subparagraph 64F-12.013(5)(d)1.f., F.A.C. The department recognizes that a Certification Authority listed on the department’s website may revoke any digital certificate it has issued. In addition, the department recognizes that the certificate holder and the employer of the certificate holder may also seek revocation of a certificate, for example because of termination of the holder’s employment or change of the holder’s authority to sign a pedigree for the employing establishment.

(2) The department will list on its website a Certification Authority that requests in writing to the bureau that it be so listed, if the request demonstrates:

(a) The Certification Authority meets the requirements set forth in the Federal Government Bridge Certification Authority Certificate Policy (FBCA CP), of the federal General Services Administration for “medium assurance” certificates, or comparable requirements.

(b) The Certification Authority requires at a minimum the following written documentation prior to granting a digital certificate to the person requesting a digital signature to sign an electronic pedigree:

1. Authorization from the establishment for whom the person is requesting a digital certificate that person may sign pedigree papers on the establishment’s behalf.

2. A valid, unexpired identification document which bears a photograph of the person requesting a digital certificate such as:

a. A passport issued by the United States, an immigration document issued by the Federal Government, or any document issued by an agency of the Federal Government or the Armed Services of the United States.

b. A passport issued by a foreign government if the passport includes or is accompanied by a document proving that the alien is lawfully in the United States, or

c. A document issued by a state or political subdivision if the issuing state or political subdivision prohibits the issuance of the identification document to an alien who is unlawfully in the United States, and the state or political subdivision requires independent verification of the records offered by the person to prove identity when applying for the identification document;

3. The valid permit of the establishment for whom the person requesting a digital certificate is employed, which authorizes that establishment to possess and to wholesale prescription drugs consistent with the transactions it documents on a drug pedigree paper.

(c) The Certification Authority shall submit to the department a statement from an independent auditor confirming that the Certification Authority complies with the requirements of this rule and the applicable provisions of sub-subparagraph 64F-12.013(5)(d)1.f., F.A.C., so that a recipient of a pedigree signed with a digital signature issued by the Certification Authority can rely on the integrity of the digital signature.

(3) To remain listed as a Certification Authority on the department’s website, the Certification Authority must submit a signed statement certifying to the department on an annual basis that it operates in accordance with the requirements of this section and has been audited by a qualified independent (from the operator of the Certification Authority) auditor on at least an annual basis. The Certification Authority must also submit a signed statement from an independent auditor that the Certification Authority complies with the requirements of this rule and the applicable provisions of sub-subparagraph 64F-12.013(5)(d)1.f., F.A.C. This documentation must be submitted to the department by June 1 of each year in order to remain listed on the department’s website as a Certification Authority for the next July 1 – June 30 period.

(4) If a Certification Authority proposes comparable requirements to the FBCA CP “medium assurance” certificates, the Certification Authority must provide a detailed crosswalk between the standards set forth for the FBCA CP “medium assurance” certificates and the proposed comparable requirements with a detailed explanation describing how the comparable requirements provide at least the same level of assurance as the FBCA CP standards.

(5) If any of the requirements in the FBCA CP differ from those set forth in this rule, the ones set forth in this rule shall prevail.

(6) If authorized by the affected establishments that lawfully purchase or receive prescription drugs to digitally sign their electronic pedigrees, an employee may be issued digital certificates for each such establishment or for multiple permits of a single establishment.

(7) The loss, theft, or compromise of a private key or password must be communicated to the Certification Authority within 24 hours of discovery of the key’s loss, theft, or compromise. Notification should promptly result in a request for revocation of the Certificate holder’s digital certificate and must include sufficient information to uniquely identify the certificate holder. Revocation shall be effective upon issuance of the next Certificate Revocation List.

(8) Either the certificate holder or the establishment shall request revocation of a certificate holder’s digital certificate upon termination of the certificate holder’s authorization to make digital signatures on behalf of the establishment. Notification should promptly request revocation of the certificate holder’s digital certificate and must include sufficient information to uniquely identify the certificate holder. Revocation shall be effective upon issuance of the next Certificate Revocation List.

(9) The establishment is ultimately responsible for electronic pedigrees that have been digitally signed on its behalf.

Specific Authority 499.05, 499.0121, 499.0122, 499.013, 499.014, 499.052 FS. Law Implemented 499.012, 499.0121, 499.0122, 499.013, 499.014, 499.051, 499.052 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rebecca Poston
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Cassandra Pasley
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 3, 2006

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Fraud

RULE CHAPTER NO.: 69D-2
RULE CHAPTER TITLE: Insurer Anti-Fraud Investigative Units and Anti-Fraud Plans

RULE NOS.:
69D-2.001 Purpose and Scope
69D-2.002 Definitions
69D-2.003 Insurer SIUs
69D-2.004 Insurer Anti-Fraud Plans
69D-2.005 Compliance and Enforcement

PURPOSE AND EFFECT: The purpose of this rule chapter is to implement the provisions of Section 626.9891, Florida Statutes requiring a higher level of detail and accountability for insurer fraud plans and insurer SIU descriptions.

SUMMARY: The rule would require the exact same disclosures for an SIU description (required for insurers who write more than 10 million in annual premium) as it would an anti-fraud plan (required for insurers who write less than 10 million in annual premium). The rule also sets deadlines for these submissions and necessitates that they be re-submitted every 3 years.

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

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

SPECIFIC AUTHORITY: 624.308, 626.9891 FS.

LAW IMPLEMENTED: 624.307, 626.989, 626.9891(1), 626.9891(2), 626.9891(3), 626.9891(7), 626.9891(8) FS.

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

DATE AND TIME: Tuesday, May 16, 2006, 9:00 a.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Charles Gowland, Jr., Division of insurance Fraud, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0333, phone (850)413-4066

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: Serica Johnson, (850)413-3110, ext. 4216.

THE FULL TEXT OF THE PROPOSED RULES IS:

INSURER ANTI-FRAUD INVESTIGATIVE UNITS AND ANTI-FRAUD PLANS

69D-2.001 Purpose and Scope.

The purpose of this rule chapter is to implement the provisions of Section 626.9891, F.S., establishing guidelines and reporting requirements for insurer anti-fraud investigative units and anti-fraud plans.

Specific Authority 624.308, 626.9891 FS. Law Implemented 624.307, 626.9891(8) FS. History–New_____.

69D-2.002 Definitions.

For the purposes of this rule:

(1) “Division” refers to the Department of Financial Services, Division of Insurance Fraud.

(2) “NAIC” refers to the National Association of Insurance Commissioners.

(3) “Office” refers to the Office of Insurance Regulation, Market Investigations.

(4) “SIU” refers to an insurer’s internal or contracted anti-fraud investigative unit.

Specific Authority 624.308, 626.9891 FS. Law Implemented 624.307, 626.9891(8) FS. History–New_____.

69D-2.003 Insurer SIUs.

(1) An insurer subject to Section 626.9891(1), F.S., shall file with the Division a description of such SIU on or before July 1, 2006, and every three (3) years thereafter, and such description shall include:

(a) The names of all personnel assigned to the SIU, and a description of each person's work responsibilities relating to the SIU's anti-fraud efforts;

(b) A description of the SIU's procedures for detecting and investigating possible fraudulent insurance acts. This description shall include:

1. An acknowledgment that the SIU has established criteria that will be used to detect suspicious or fraudulent activity during investigations relating to the different types of insurance offered by that insurer;

2. An acknowledgment that the SIU has established criteria that will be used for the investigation of acts of suspected insurance fraud relating to the different types of insurance offered by that insurer;

3. Nothing in this rule shall require that an SIU utilize all established criteria in every circumstance.

(c) A description of the SIU's procedures for the mandatory reporting of suspected fraudulent insurance acts to the Division pursuant to Section 626.989(6), F.S. This description shall include:

1. An explanation of the insurer's or SIU's method for reporting all suspected fraudulent insurance acts directly to the Division using a standard digital referral format as specified by the Division;

2. An acknowledgment that all such reports of suspected insurance fraud shall contain information that clearly defines and supports the allegation of suspicious activity.

3. An acknowledgment that all such reports of suspected insurance fraud shall be reported directly to the Division within six (6) months of detection of the alleged suspicious activity, but within twelve (12) months if such alleged suspicious activity involves worker's compensation insurance premium avoidance, and within eighteen (18) months if such alleged suspicious activity is in relation to a natural emergency as defined in Section 252.34(7), F.S.

4. An explanation of the insurer's or SIU's method of recording the date that suspected fraudulent activity is detected, and method of recording the date that reports of such suspected insurance fraud are sent directly to the Division;

(d) A description of the SIU's plan for anti-fraud education and training of its claims adjusters, SIU personnel, and any other personnel involved in anti-fraud related efforts. This description shall include:

1. A plan that involves training relating to the detection and investigation of fraudulent insurance acts for all personnel involved in anti-fraud related efforts.

2. A plan that involves on-going training during the reporting period;

(e) The contact information including names, email addresses, and telephone numbers, for personnel designated by the insurer or SIU to be responsible for achieving and maintaining compliance with Section 626.9891(1), F.S., and this rule chapter;

(f) The insurer's NAIC individual and group code numbers;

(2) An insurer or SIU subject to Section 626.9891(1), F.S., and this rule chapter, shall submit this SIU description via digital format as specified by the Division.

(3) An insurer or SIU subject to Section 626.9891(1), F.S., and this rule chapter, will have a ninety (90) day grace period to submit their initial SIU description, and will have a thirty (30) day grace period for each subsequent submission every three (3) years thereafter.

Specific Authority 624.308, 626.9891 FS. Law Implemented 624.307, 626.9891(8) FS. History-New _____.

69D-2.004 Insurer Anti-Fraud Plans.

(1) An insurer subject to Section 626.9891(2), F.S., shall file with the Division of Insurance Fraud such anti-fraud plan on or before July 1, 2006, and every three (3) years thereafter, and such anti-fraud plan shall include:

(a) A written description or chart outlining the organizational arrangement of the insurer's anti-fraud personnel who are responsible for the investigation and reporting of possible fraudulent insurance acts.

(b) A description of the insurer's procedures for detecting and investigating possible fraudulent insurance acts. This description shall include:

1. An acknowledgment that the insurer has established criteria that will be used to detect suspicious or fraudulent activity during investigations relating to the different types of insurance offered by that insurer;

2. An acknowledgment that the insurer has established criteria that will be used for the investigation of acts of suspected insurance fraud relating to the different types of insurance offered by that insurer;

3. Nothing in this rule shall require that an SIU utilize all established criteria in every circumstance.

(c) A description of the insurer's procedures for the mandatory reporting of possible fraudulent insurance acts to the Division pursuant to Section 626.989(6), F.S. This description shall include:

1. An explanation of the insurer's method for reporting all suspected fraudulent insurance acts directly to the Division using a standard digital referral format as specified by the Division;

2. An acknowledgment that all such reports of suspected insurance fraud shall contain information that clearly defines and supports the allegation of suspicious activity.

3. An acknowledgment that all such reports of suspected insurance fraud shall be reported directly to the Division within six (6) months of detection of the alleged suspicious activity, but within twelve (12) months if such alleged suspicious activity involves worker’s compensation insurance premium avoidance, and within eighteen (18) months if such alleged suspicious activity is in relation to a natural emergency as defined in Section 252.34(7), F.S.

4. An explanation of the insurer’s method of recording the date that suspected fraudulent activity is detected, and their method of recording the date that reports of such suspected insurance fraud are sent directly to the Division.

(d) A description of the insurer’s plan for anti-fraud education and training of its claims adjusters and any other personnel involved in anti-fraud related efforts. This description shall include:

1. A plan that involves training relating to the detection and investigation of fraudulent insurance acts for all employees involved in anti-fraud related efforts.

2. A plan that involves on-going training during the reporting period:

(e) The contact information, including names, e-mail addresses, and telephone numbers, for personnel designated by the insurer to be responsible for achieving and maintaining compliance with Section 626.9891(2), F.S., and this rule chapter;

(f) The insurer’s NAIC individual and group code numbers;

(2) An insurer subject to Section 626.9891(2), F.S., and this rule chapter, shall submit this anti-fraud plan via digital format as specified by the Division.

(3) An insurer subject to Section 626.9891(2), F.S., and this rule chapter, will have a ninety (90) day grace period to submit their initial anti-fraud plan, and will have a thirty (30) day grace period for each subsequent submission every three years thereafter.

Specific Authority 624.308, 626.9891 FS. Law Implemented 624.307, 626.9891(8) FS. History–New _____.

69D-2.005 Compliance and Enforcement.

(1) The Division and the Office shall conduct audits or request self-assessment examinations of insurer SIU descriptions or anti-fraud plans as deemed necessary to determine compliance with Section 626.9891, F.S., and this rule chapter.

(2) If a review of a submission of an SIU description or insurer anti-fraud plan reveals a deficiency in such description or plan as determined by the Division, the insurer shall have thirty (30) days from the date of notification from the Division to repair such deficiency in their description or plan and provide the Division with a corrected submission. However, this additional thirty (30) day period does not apply in those situations where an insurer fails to submit their SIU description

or anti-fraud plan to the Division before the expiration of the thirty (30) or ninety (90) day grace period provided in this rule chapter.

(3) If an insurer fails to timely file an anti-fraud plan or SIU description, fails to take corrective action as set forth in paragraph (2), fails to implement or follow the provisions of their anti-fraud plan or SIU description, or in any other way fails to comply with the requirements of Section 626.9891, F.S., and this rule chapter, the Office shall take appropriate administrative action as provided in the Florida Insurance Code.

Specific Authority 624.308, 626.9891 FS. Law Implemented 624.307, 626.9891(8) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Charles Gowland, Senior Attorney, Division of Insurance Fraud, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Eric Miller, Division Director, Division of Insurance Fraud, Department of Financial Services
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2006

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 2, 2005 and February 10, 2006

**FINANCIAL SERVICES COMMISSION
Office of Insurance Regulation**

RULE NO.: 69N-121.007
RULE TITLE: Public Records and Availability of Forms; Procedures for Inspecting and Copying Public Records and for Obtaining Office Forms

PURPOSE, EFFECT, AND SUMMARY: Puts record owners on notice of the effect of marking a record as confidential or as a trade secret and makes clear the owner’s continuing responsibility toward those records.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Regulatory Cost has been prepared.

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

SPECIFIC AUTHORITY: 120.53, 624.308 FS.

LAW IMPLEMENTED: 119.01, 119.021, 119.07, 119.071, 120.53, 624.307(1), 624.311, 624.501, 627.919 FS.

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

DATE AND TIME: May 18, 2006, 9:30 a.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation, E-mail bob.prentiss@fldfs.com.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

69N-121.007 Public Records and Availability of Forms; Procedures for Inspecting and Copying Public Records and for Obtaining Office Forms.

(1) through (10) No change.

(11) Assertions of Confidentiality Based on Trade Secret.

(a) If the owner of a public record asserts that a particular document it has filed with the Office is confidential and exempt from a Chapter 119, F.S., public records request on the basis that the document is a trade secret within the purview of Section 812.081(1)(c), F.S., it shall clearly mark each document in the filing which it believes is a trade secret with the legend "Trade Secret; confidential and exempt", and shall enclose with the filing a memorandum clearly setting forth the legal basis for such assertion for each document so marked.

(b) If a request pursuant to Chapter 119, F.S., is made for a public record, and the record has been marked in conformance with the procedure in paragraph (a), the following procedure will be used by the Office in response to that request:

1. The person receiving the request will immediately forward the request to the Legal Office.

2. The Legal Office will notify the owner that a request has been made under Chapter 119, F.S., for that record. The notification by the Legal Office will be made by U.S. Mail, by facsimile and by e-mail, as available in the records of the Office.

3. The notification will further inform the owner that the owner has ten business days in which to obtain a protective order, or a temporary injunction pending the ultimate determination, from a court of competent jurisdiction ordering the Office to not make the record available to the requesting party.

4. If no such order is obtained, or if the Office is not provided with such an order within ten days of the notification to the owner, the record will be made available to the requesting party.

Specific Authority 120.53, 624.308 FS. Law Implemented 119.01, ~~119.021, 119.031, 119.041~~, 119.07, 119.071, 120.53, 624.307(1), 624.311, 624.501, 627.919 FS. History—New 1-1-75, Formerly 4-38.07, 4-38.007, Amended 2-5-87, 6-4-92, 5-30-95, Formerly 4-121.007, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steve Parton, General Counsel, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 3, 2006

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

FINANCIAL SERVICES COMMISSION

Office of Insurance Regulation

RULE NOS.: RULE TITLES:

690-144.002 Approval Procedures

690-144.005 Credit for Reinsurance

PURPOSE, EFFECT, AND SUMMARY: This rule amendment adopts the new (2005) NAIC blanks for filing financial statements, and makes changes in the existing rule to account for internal organizational changes.

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

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

SPECIFIC AUTHORITY: 624.308, 624.610(14) FS.

LAW IMPLEMENTED: 624.307(1), (2), (3), (5), 624.316, 624.317, 624.318, 624.321, 624.324, 624.34, 624.401, 624.404, 624.407, 624.413, 624.424, 624.501(20)(c), 624.5091, 624.610, 628.051, 628.061, 628.801, 629.081 FS.

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

DATE AND TIME: May 18, 2006, 9:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Claude Mueller, Property and Casualty Financial Oversight, Office of Insurance Regulation, e-mail: claud.mueller@fldfs.com.

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

THE FULL TEXT OF THE PROPOSED RULES IS:

69O-144.002 Approval Procedures.

(1) An insurer seeking the status of an accredited reinsurer pursuant to Section 624.610(3)(b)1., Florida Statutes, shall comply with the instructions contained in Form OIR-C1-923, "Application For Accredited Reinsurer Status," rev. 5/02 and submit the following forms. Forms relating to specific types of insurance are to be submitted only by companies issuing policies relating to the type of insurance specified on the form.

(a) Form OIR-C1-927, "Application To Conduct Business In The State of Florida Accredited Reinsurer Status," rev. 5/02;

(b) Form OIR-C1-903, "Invoice, Request For Payment of Fingerprint Charges," rev. 4/97;

(c) Form OIR-C1-1524, "Uniform Consent to Service of Process," rev. 5/02;

(d) Form OIR-D0-516, "Insurance Holding Company System Registration Statement," rev. 4/97;

(e) Form OIR-C1-1298, "Management Information Form," rev. 4/97;

(f) Form OIR-C1-1423, "Biographical Affidavit," rev. 5/02;

(g) Fingerprint cards furnished by the Office, according to instructions in Form OIR-C1-938, "Fingerprint Card Instructions," rev. 5/02;

(h) The material required by Form OIR-C1-905 "Instructions for Furnishing Background Investigative Reports," rev. 2/01;

(i) OIR-C1-1464, "FORM AR-1 Certificate of Assuming Insurer," rev. 5/02;

(j) OIR-C1-1465, "Invoice, Payment of Application Filing Fees," rev. 5/02;

(k) OIR-C1-1538, "Checklist Verification," rev. 5/02;

(l) through (2) No change.

(3) An insurer seeking the status of a trustee reinsurer pursuant to Section 624.610, Florida Statutes, shall comply with the instructions contained in Form OIR-C1-1466, "Application for Trustee Reinsurer Status For Single Assuming Reinsurer," rev. 5/02 and submit the following:

(a) through (d) No change.

(e) Form OIR-C1-1524, "Uniform Consent to Service of Process," rev. 5/02;

(f) Form OIR-C1-1298, "Management Information Form," rev. 4/97;

(g) Form OIR-C1-1423, "Biographical Affidavit," rev. 5/02 for all individuals listed on Form OIR-C1-1298;

(h) Form OIR-C1-1469, rev. 5/02, "Certificate of Assuming Insurer to Submit to Examination and Bear the Cost of Examination";

(i) "Checklist Trust Agreement for Trustee Reinsurer" is included in Form OIR-C1-1466, rev. 5/02; and

(j) Form OIR-C1-1538, "Checklist Verification," rev. 5/02.

(4) All forms listed in subsections (1) and (3), above, are hereby adopted and incorporated by reference. All forms may be obtained from and shall be submitted to Company Admissions ~~the Applications Coordination Section, Division of Insurer Services,~~ Office of Insurance Regulation, Larson Building, 200 East Gaines Street, Tallahassee, FL 32399-0332. ~~All checks shall be made payable to the Office of Insurance Regulation.~~

Specific Authority 624.308, 624.610(14) FS. Law Implemented 624.307(1), (2), (3), (5), 624.316, 624.317, 624.318, 624.321, 624.324, 624.34, 624.401, 624.404, 624.407, 624.413, 624.424, 624.501(20)(c), 624.5091, 624.610, 628.051, 628.061, 628.801, 629.081 FS. History—New 1-30-91, Formerly 4-108.002, Amended 5-12-94, 10-13-02, Formerly 4-144-002, Amended.

69O-144.005 Credit for Reinsurance.

(1) No change.

(2) Credit for reinsurance by a domestic insurer shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state pursuant to Section 624.610(3)(b), Florida Statutes and Rule 69O-144.002, F.A.C., as of any date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer pursuant to Section 624.610(3)(b), Florida Statutes:

(a)1. Files with the Office a properly executed Form OIR-C1-1464 ~~OIR-D0-1~~, which is hereby adopted and incorporated by reference, as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records.

2. Form OIR-C1-1464 ~~OIR-D0-1~~ is available from, and shall be submitted to the following: for life and health insurers, ~~Bureau of Life and Health~~ Financial Oversight Insurer Solvency and Market Conduct, 200 East Gaines Street, Tallahassee, Florida 32399-0327; for property and casualty insurers, ~~Bureau of Property and Casualty~~ Financial Oversight Insurer Solvency and Market Conduct, 200 East Gaines Street, Tallahassee, Florida 32399-0329;

(b) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state; and

(c) Files annually and quarterly with the Office a copy of its annual and quarterly statements filed on the National Association of Insurance Commissioners convention blanks, which are hereby adopted and incorporated by reference, with the insurance department of its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement and maintains a surplus as regards policyholders in accordance with Section 624.610(3)(b)1.d., Florida Statutes, and whose approval has been granted by the

Office. If quarterly statements are not required by the state of domicile, quarterly statements shall only be required upon written request of the Office. The following National Association of Insurance Commissioners blanks are hereby adopted and incorporated by reference:

- 1. NAIC Annual Statement Blank Life/Accident/Health ~~2005 2004~~,
 - 2. NAIC Quarterly Statement Blank Life/Accident/Health ~~2005 2004~~,
 - 3. NAIC Annual Statement Blank Health ~~2005 2004~~,
 - 4. NAIC Quarterly Statement Blank Health ~~2005 2004~~,
 - 5. NAIC Annual Statement Blank Property and Casualty ~~2005; and 2004~~,
 - 6. NAIC Quarterly Statement Blank Property and Casualty ~~2005 2004~~.
- (3) through (7) No change.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.610 FS. History—New 1-30-91, Formerly 4-108.005, Amended 12-25-97, 10-13-02, Formerly 4-144-005, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Claude Mueller, Director, Property and Casualty Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 21, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 9, 2005

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5E-14	Entomology – Pest Control Regulations
RULE NOS.:	RULE TITLES:
5E-14.105	Contractual Agreements in Public’s Interest – Control and Preventive Treatment for Wood-Destroying Organisms
5E-14.142	Responsibilities and Duties – Records, Reports, Advertising, Applications

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d), F.S., published in Vol. 32, No. 5, February 3, 2006, issue of Florida Administrative Weekly.

WHEN AMENDED THE PROPOSED RULE WILL READ AS FOLLOWS:

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

- (1) No change.
- (2) Such contract, except as provided in paragraph (3) of this section, or an exact facsimile thereof must be given to the property owner or his authorized agent for acceptance or rejection before any portion of the work is done and before payment, in part or in full, is received by the licensee. The contract shall clearly set forth the following information:

- (a) through (d) No change.
- (e) The complete common name(s) of the wood-destroying organism(s) to be controlled or for which preventive treatment is intended under the contract. Any contract issued after the effective date of this amendment for the treatment or prevention of termites must clearly state on the first page if the contract covers subterranean termites, dry wood termites, or both. If Formosan termites (Coptotermes formosanus) are to be excluded from coverage, this species must be named as excluded.

- (f) through (k) No change.
- (3) ~~It~~ Contracts covering treatments for the prevention of subterranean termites for new construction, ~~it~~ shall clearly set forth that should subterranean termite infestation occur to the structure treated during the warranty period, additional treatment shall be performed to control the infestation. The warranty shall show either the date of initial or final treatment and shall be issued to the property owner or agent within 30 days of the date of initial or final treatment, whichever is specified on the contract, and shall be for a period no less than one year from date of treatment specified on the contract. The property owner at the time of each renewal, if a previous renewal was purchased, shall have the option of extending the warranty annually after the first year for no less than 4 additional years. The contract shall conform with Section 482.227, F.S., and contain information required by paragraphs 5E-14.105(2)(a), (b), (c), ~~(d), (e), (f), (g), (h), (i), (j), and (k)~~, F.A.C. This section applies only to treatment for the prevention of subterranean termites for new construction which does not physically attach to or adjoin existing structures.

- (4) In contracts covering spot treatments for wood-destroying organism(s), the requirements of subsections 5E-14.105(1) and (2), F.A.C. shall apply. In addition to these, specific areas in, on or under the structure to be treated shall be listed in the written contract: and a statement that a spot