

**PURPOSE AND EFFECT:** The purpose and effect of this rule development notice is to address possible rule changes in the 2011 calendar year for the spiny lobster trap certificate program as a result of stock assessments, federal regulatory actions or other management and enforcement requirements.

**SUBJECT AREA TO BE ADDRESSED:** Subject areas addressed in the rule development notice include size limits, bag limits, gear restrictions and other subjects encompassed by the above-cited rules.

**RULEMAKING AUTHORITY:** Art. IV, Sec. 9, Florida Constitution.

**LAW IMPLEMENTED:** Art. IV, Sec. 9, Florida Constitution.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS:** Mr. William Teehan, Section Leader, Marine Fisheries Management, Florida Fish and Wildlife Conservation Commission, 2590 Executive Center Circle E, Station 201, Tallahassee, Florida 32301, (850)487-0554

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

**PURPOSE AND EFFECT:** Clarifies definitions, eligibility, application and documentation requirements and processes for victims of domestic violence and stalking to participate in the Address Confidentiality Program, as well as the role of the program assistants assisting the victims in the enrollment process.

**SUMMARY:** This rule provides the definitions, eligibility, application and documentation requirements and processes for victims of domestic violence and stalking to participate in the Address Confidentiality Program, as well as the role of the program assistants assisting the victims in the enrollment process.

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

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

**RULEMAKING AUTHORITY:** 741.409 FS.

**LAW IMPLEMENTED:** 741.401, 741.402, 741.403, 741.404, 741.405, 741.406, 741.407, 741.408, 741.409, 741.465, 97.0585(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:** Christina Harris, Chief of Advocacy and Grants Management, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050; (850)414-3300

## Section II Proposed Rules

### DEPARTMENT OF LEGAL AFFAIRS

#### Division of Victim Services and Criminal Justice Programs

RULE NOS.:	RULE TITLES:
2A-7.001	Definitions
2A-7.002	Application and Certification Process
2A-7.0021	Eligibility
2A-7.0022	Application Process
2A-7.0023	Participant Responsibilities
2A-7.0024	Applicant Assistant Duties and Responsibilities
2A-7.003	Responsibility of State and Local Agencies and Governmental Entities
2A-7.004	Certification Renewal
2A-7.005	Certification Withdrawal, Invalidation, Expiration, and Cancellation
2A-7.006	Information Release to Law Enforcement Agency
2A-7.007	Agency Use of Designated Address and Agency Exemption Request
2A-7.008	Service of Process
2A-7.009	Maintaining Protected Records Voter Information

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

2A-7.001 Definitions.

(1) "Address Confidentiality Program" is the statutorily created program responsible for implementing the provisions of Sections 741.401-.409, F.S., within the Office of the Attorney General.

(2) "Agency or Governmental Entity" means an office, department, division, bureau, board, commission, or other statutory unit of state or local government or any functional subdivision of ~~the aforementioned~~ that agency.

(3) "Applicant" means a person who is applying for participation in the Address Confidentiality Program. An applicant may be primary (the victim) or secondary (minor).

~~(4)(3) "Applicant Application Assistant" means an employee of a state or local agency, or a non-profit organization program that provides counseling, referral, shelter, or other services to victims of domestic violence, that has been selected by the respective agency and designated by the department Attorney General to assist individuals in applying for enrollment in the program the completion of program participation applications.~~

(5) “Authorization code” is the identification number assigned to a participant.

~~(6)(4)~~ “Authorized personnel” means an employee of the Department of State, Division of Elections Attorney General, or Supervisor of Elections, who has been designated by the chief executive officer of the respective agency to process and have access to voter application and voting records pertaining to program participants.

(7) “Department” means the Department of Legal Affairs, Office of the Attorney General.

~~(8)(5)~~ “Protected records voter” means a participant who is registered and qualified to vote in this state and has requested an absentee ballot pursuant to Section 101.62, F.S., and will vote in the same manner as an absentee voter.

(9)(6) “Record” means any information relating to the conduct or performance of a governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(10) “Stalking” means an act as defined in Section 784.048, F.S.

~~(11)(7)~~ “Substitute mailing address” means the mailing address designated by the department Attorney General which shall not be the participant’s program residential address as documented on her or his application for program participation.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.402, 741.403, 741.405, 741.406, 471.408 FS. History–New 1-27-99, Amended \_\_\_\_\_.

2A-7.002 Application and Certification Process.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.403, 741.408 FS. History–New 1-27-99, Repealed \_\_\_\_\_.

2A-7.0021 Eligibility.

(1) A person who is a victim of domestic violence as defined in Section 741.28, F.S., or stalking as defined in Section 784.048, F.S., is eligible to apply for participation in this program.

(2) A person who is a victim of domestic violence or stalking who relocates to Florida may apply for enrollment and is subject to the same eligibility criteria as Florida residents.

(3) The applicant must possess a current and valid government-issued photo identification card.

(4) If the victim is a minor or has been adjudicated incapacitated under Chapter 744, F.S., a parent or guardian may apply on their behalf, and the government-issued photo identification must be provided for the minor or incapacitated person. If the minor does not have a government-issued photo identification, the government-issued photo identification of the parent or guardian shall be sufficient for purposes of enrolling in the program.

(5) A name change will result in the participant’s cancellation from the program. However, an individual may re-apply by completing an application for enrollment.

(6) The following individuals are not eligible for participation in the program: A person who is:

(a) A “sex offender” under Section 944.607, F.S.;

(b) A “sexual predator” under Section 775.21, F.S.; or

(c) Required to register as a convicted felon under Section 775.13, F.S.

Rulemaking Authority 741.409 FS. Law Implemented 741.403, 741.408, 97.0585 FS. History–New \_\_\_\_\_.

2A-7.0022 Application Process.

(1) A person who wishes to apply or renew her or his participation shall provide the following information to the department:

(a) Applicant’s full legal name,

(b) Gender,

(c) Date of birth,

(d) Last four digits of social security number,

(e) Actual home address (street number and name, city, state, zip code),

(f) Mailing address (if different),

(g) Home telephone number,

(h) Work telephone number,

(i) Other telephone number where applicant can be reached,

(j) Name and physical address of employer(s),

(k) School name and physical address if applicable.

(l) An affirmation that the applicant is not

1. A “sex offender” under Section 944.607, F.S.;

2. A “sexual predator” under Section 775.21, F.S.; or

3. Required to register as a convicted felon under Section 775.13, F.S.; and

(m) A signed and dated sworn statement that attests to the following: I certify that I am a victim of (select the appropriate category) domestic violence (as defined in Section 741.28, F.S.) or stalking (as defined in Section 784.048, F.S.) “I declare under penalty of perjury that the foregoing is true and correct”.

(2) The applicant must produce a current and valid government-issued photo identification, a copy of which must be forwarded with the application to the department. If the minor applicant does not have a government-issued identification, the adult applicant must provide her or his own current and valid government-issued identification and certify that she or he is the parent or guardian of the minor.

(3) When an application is received and the government-issued photo identification is not provided, the applicant may be granted a conditional certification, pending receipt of the photocopy of the government-issued photo identification. If a copy of the government-issued photo identification is not received by the department within 30

calendar days after the date the application is signed by the applicant, the conditional certification will be cancelled and the applicant must submit a new application for participation in the program.

(4) An application for enrollment may be obtained from an applicant assistant at selected state or local agencies or non-profit organizations that have been designated by the department to assist in the application process.

(5) The application must be received by the department at the following address: Office of the Attorney General, Address Confidentiality Program, P. O. Box 6298, Tallahassee, Florida 32314-6298.

(6) An eligible applicant who has filed a properly completed application with the department shall be certified as a participant. Upon certification, each participant will be issued an authorization card, which will include the following:

- (a) Participant's name,
- (b) Authorization code,
- (c) Substitute mailing address, and
- (d) Expiration date.

(7) Certification shall be effective on the date the application is approved by the department.

(8) The department will forward first class, certified, and express mail to the participant at the address of record. Any magazines, periodicals, catalogs, packages, advertisements, and other postal materials received by the department will be returned to the United States Postal Service.

(9) Mail received by the department that does not include the name and authorization code of a certified participant may not be able to be forwarded.

(10) If mail forwarded by the department to the participant is returned by the post office, the department will attempt to contact the participant by telephone to verify the address. If contact is not successful within seven days, the participant's certification will be cancelled and the mail will be returned to the United States Postal Service.

Rulemaking Authority 741.409 FS. Law Implemented 741.403, 741.408, 97.0585 FS. History—New \_\_\_\_\_.

#### 2A-7.0023 Participant Responsibilities.

(1) The participant shall keep the department informed of her or his current mailing address. The last known address provided to the department will be the address of record.

(2) To protect her or his address confidentiality and exercise her or his right to vote pursuant to Section 741.406, F.S., the participant must personally go to the physical office of the county supervisor of elections and request to vote by absentee ballot.

Rulemaking Authority 741.409 FS. Law Implemented 741.403, 741.404, 741.406, 97.0585 FS. History—New \_\_\_\_\_.

#### 2A-7.0024 Applicant Assistant Duties and Responsibilities.

(1) Only those individuals who are employed with a state or local agency or non-profit organization designated by the department and who have completed the required training may assist a victim in applying for enrollment in the program.

(2) An applicant assistant must complete required training every four years. Required training is available only through the department.

(3) The applicant assistant will forward original and supporting documents to the department within 72 hours of completion along with a photocopy of the government-issued photo identification.

(4) Approval to serve as an applicant assistant is assigned to the individual at a designated state or local agency or non-profit organization and is not transferrable. The applicant assistant serves at the pleasure and on behalf of the department, and may have designation as an applicant assistant terminated with or without cause.

(5) Upon notice to the department by the designated agency that the applicant assistant is no longer employed by that agency, the individual applicant assistant's approval will be rescinded.

Rulemaking Authority 741.409 FS. Law Implemented 741.403, 741.408, 97.0585 FS. History—New \_\_\_\_\_.

#### 2A-7.003 Responsibility of State and Local Agencies and Governmental Entities.

(1) When an active ACP participant presents her or his authorization card to a state or local agency or governmental official when creating a new record and requests address confidentiality through the use of the substitute mailing address as it appears on the authorization card, the agency official creating a new record may make a file photocopy of the authorization card and shall immediately return the authorization card to the program participant.

(2) A state or local agency shall accept the substitute mailing address unless the agency has received a written exemption from the department pursuant to Section 741.405, F.S.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.405 FS. History—New 1-27-99, Amended \_\_\_\_\_.

#### 2A-7.004 Certification Renewal.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.403 FS. History—New 1-27-99, Repealed \_\_\_\_\_.

#### 2A-7.005 Certification Withdrawal, Invalidation, Expiration, and Cancellation Termination.

(1) A ~~program~~ participant may withdraw from the program participation by submitting to the ~~Address Confidentiality Program~~ written notification of her or his intent to withdraw ~~withdrawal~~ and shall return the department-issued ~~his or her~~

~~current~~ authorization card to the department. Certification shall be  canceled immediately upon terminated on the date of receipt of the this notification.

(2) If the department cancels Attorney General terminates a participant's certification pursuant to Section 741.404, F.S., the department Address Confidentiality Program shall send written notice of the cancellation termination to the participant's address of record last known mailing or residential address. The participant shall be advised of the right to appeal the cancellation termination.

(3) Cancellation of certification in the program will result in cancellation for the primary and all secondary participants.

(4)(3) To In order to protest a cancellation termination, the program participant must may request a hearing pursuant to the provisions of Sections 120.569 and 120.57, F.S., and Chapter 28-106, F.A.C., Uniform Rules of Procedure.

(5)(4) If the terminated participant was a protected records voter, the department Address Confidentiality Program shall notify the Department of State, Division Supervisor of Elections that the participant's certification participant has been canceled terminated from the program.

(6) The substitute mailing address is a post office box that is shared with other participants. The participant is not an authorized boxholder customer and is prohibited from filing a change of address with the United States Postal Service when she or he is no longer a program participant.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.404 FS. History–New 1-27-99, Amended \_\_\_\_\_.

2A-7.006 Information Release to Law Enforcement Agency.

A request from a law enforcement agency for release of records in a participant's file shall be made in writing to the department and shall contain the request date, the name of the program participant and a copy of the active arrest warrant.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.407 FS. History–New 1-27-99, Amended \_\_\_\_\_.

2A-7.007 Agency Use of Designated Address and Agency Exemption Request.

An A state or local agency seeking requesting an exemption under Section 741.405, F.S., must provide in writing to the department Attorney General, identification of the specific statute or administrative rule which demonstrates the agency's bona fide requirement and authority to for the use of the participant's actual address of an individual and the information required pursuant to Section 741.405, F.S.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.405 FS. History–New 1-27-99, Amended \_\_\_\_\_.

2A-7.008 Service of Process.

(1) Service of process for ~~program~~ participants shall be made on the department Office of the Attorney General, Address Confidentiality Program by mailing two copies of the service of process documents to the substitute mailing address or ~~by service on the Address Confidentiality Program~~ to the Office of the Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399-1050.

(2) Following service on the department, ~~a copy of the documents shall be sent by certified mail, return receipt requested, to the program participant's address of record current mailing address shown on the records.~~

(3) In the event the participant's certification has expired or has been cancelled, the service of process will be returned to sender and service declined.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.403 FS. History–New 1-27-99, Amended \_\_\_\_\_.

2A-7.009 Maintaining Protected Records Voter Information.

(1) The Department of State, Division Supervisor of Elections, shall notify the ~~department Attorney General~~ when a ~~an Address Confidentiality~~ participant requests protected record status.

(2) All records pertaining to a protected records voter shall be maintained in a manner ensuring that these records are accessible only to authorized personnel. A protected records voter shall not be included in any registered voter list, absentee ballot list, tape, label, or poll book, electronic or otherwise, that is available to the public. Information pertaining to a protected records voter shall not be publicly accessible regardless of the type of records management system except as provided by Sections 741.407 and 741.465, F.S.

Rulemaking Specific Authority 741.409 FS. Law Implemented 741.407, 741.465, 97.0585 FS. History–New 1-27-99, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christina Harris

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Attorney General Bill McCollum

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 2010

**DEPARTMENT OF EDUCATION**

**Florida School for the Deaf and the Blind**

RULE NO.: 6D-4.002  
 RULE TITLE: President

PURPOSE AND EFFECT: Previously, FLDOE recommended that all FSDB Board of Trustees employees minimum qualifications be moved from 6D Board Rules to a statement of

agency organization and operation, pursuant to Rule 28-101.001, F.A.C. Because a president search was underway, the president's minimum qualifications were not repealed at that time.

SUMMARY: The purpose of this rule was to establish the qualifications, duties and responsibilities of the President of the Florida School for the Deaf and the Blind.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There is no financial impact.

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

RULEMAKING AUTHORITY: 1002.36(4)(c) FS.

LAW IMPLEMENTED: 1002.36(4)(e) 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: Friday, January 28, 2011, 9:00 a.m.

PLACE: Center for Leadership Development, Moore Hall, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Cindy Day, (904)827-2221. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Day, (904)827-2221

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-4.002 President.

Rulemaking Specific Authority 1002.36(4)(c) FS. Law Implemented 1002.36(4)(e) FS. History—New 12-19-74, Amended 10-29-84, 9-8-85, Formerly 6D-4.02, Amended 12-6-92, 5-14-02, 9-23-08, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cindy Day

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Danny Hutto

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2010

**DEPARTMENT OF TRANSPORTATION**

RULE NO.: 14-10.0052  
 RULE TITLE: Zoning

PURPOSE AND EFFECT: The amendments will implement changes to Section 479.01, F.S., regarding zoning requirements for the permitting of outdoor advertising signs. The title of the rule will be changed to "Zoning."

SUMMARY: The amendments address the zoning requirements for permitting outdoor advertising signs.

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

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

RULEMAKING AUTHORITY: 334.044(2), 479.02(7) FS.

LAW IMPLEMENTED: 479.07(10) 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: January 25, 2011, 9:00 a.m.

PLACE: Department of Transportation, Haydon Burns Building, Auditorium, 605 Suwannee Street, Tallahassee, FL 32399-0458

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-10.0052 Zoning ~~Enacted Primarily to Permit Outdoor Advertising Signs.~~

(1) Definitions:

~~(a)(1)~~ "Comprehensively Enacted Zoning" means ordinances or other laws adopted by the county or municipal government pertaining to and designating the currently

allowable uses of property within its jurisdiction, pursuant to and consistent with a comprehensive plan enacted in accordance with Chapter 163, F.S.

(b) "Parcel" means those lands contiguous to an existing or proposed sign site which lie within the same zoning category.

(c) "Utility" means all privately, publicly, or cooperatively owned lines, facilities, and systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and storm water not connected with highway drainage, and other similar commodities, including television transmission signals, publicly owned fire and police signal systems, and street lighting systems, which, directly or indirectly serve the public or any part thereof. The term does not include wireless telecommunication towers.

(d) The terms "allowable uses," "commercial use," "industrial use," and "zoning category" shall be as defined in Section 479.01, F.S.

(2) Where the parcel is in an area on the Future Land Use Map in which the allowable uses include commercial or industrial land uses, the Land Development Regulations will determine whether the parcel on which the sign is located or proposed to be located is designated for commercial or industrial uses.

(a) A parcel will be determined to be designated for commercial or industrial uses if the Land Development Regulations indicate the nature of the zoning category to be commercial or industrial. In making this determination the Department will consider:

1. Any statement indicating the intended nature of the zoning category;

2. Whether the allowable uses are commercial or industrial with any non-commercial or non-industrial uses allowed only by special exception or allowed with the condition that adjacent commercial or industrial uses will not be required to meet buffering requirements;

3. Any documentation indicating the maximum percentage of the total area within the zoning category allocated to commercial and industrial uses.

(b) If the parcel does not meet the criteria of Section (2) (a) above, but the allowable uses within the assigned zoning category include commercial or industrial uses in addition to other uses, the parcel shall, upon request from the applicant, be evaluated under the provisions of Section 479.01(26) and (28), F.S. For the purposes of this evaluation, the main traveled way shall be that to which the sign is proposed to be permitted. For an activity to be conforming, it must be confirmed by the local government to be conforming to land use.

(c) In addition to the activities listed in Section 479.01(26), F.S., the following shall not be considered commercial or industrial activities or uses for the purposes of this rule:

1. Infrastructure, to mean the man-made structures which serve the common needs of the population, such as: sewage collection systems; potable water conveyance or distribution systems; potable water wells serving a system; retention areas; stormwater systems; utility conveyance or distribution systems; breakwaters; bulkheads; seawalls; bulwarks; revetments; causeways; navigation channels; bridges; and roadways.

2. Governmental uses to mean a governmental activity that is expressly or impliedly mandated or authorized by constitution, statute, or other law and that is carried out for the benefit of the general public, excluding governmental activities which are commercial or industrial in nature and would be so classified if privately owned and/or operated.

(3) The analysis provided in paragraph (2)(b) of this rule shall not be applicable when the applicant requests a permit under the provisions of Section 479.07(9)(c), F.S.

(4) Where a parcel is subject to zoning which is time-limited or the zoning is granted subject to the completion of a specified condition and the time limit or condition has not been satisfied, the zoning category assigned immediately prior to the time-limited or conditional zoning action shall determine whether the parcel is a commercial or industrial zone. The time limit or specified condition referenced herein does not include those conditions which a zoning authority may impose on the permitting of an allowable use within the zoning category, such as conditional uses or uses allowed by special exception.

(5)(2) Even if comprehensively enacted, the following criteria, including public records related thereto, shall be considered in determining whether such zoning is enacted primarily to permit signs:

(a) Whether the size of the property and the public access to the property would be sufficient, given set back requirements, vehicular access requirements, and parking needs, to conduct the allowable commercial or industrial uses, other than signs, under the zoning category; ~~The land use or zoning designation provides for limited commercial or industrial activity only as an incident to other primary land uses.~~

(b) Whether the property shares a common boundary with other properties designated for commercial or industrial uses; ~~The commercial and industrial activities, separately or together, are permitted only by variance or special exceptions.~~

(c) Whether sufficient utilities are available to the site to support the allowable commercial or industrial uses, other than signs, under the zoning category. ~~The physical dimensions or other attributes of the affected parcel would not reasonably accommodate traditional commercial or industrial uses and the area surrounding the affected parcel is not predominantly commercial or industrial.~~

Rulemaking Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 479.07(10) FS. History—New 3-16-04, Amended 5-5-05,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
John L. Garner, Director, Office of Right of Way  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Stephanie C. Kopelousos, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: December 15, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: August 20, 2010

### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

### DEPARTMENT OF CORRECTIONS

RULE NO.:                   RULE TITLE:  
33-503.001               Chaplaincy Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the definition of religious publications and to generally amend for grammatical accuracy.  
SUMMARY: The proposed rule adds "religious calendars" to the list of defined religious publications and generally amends for grammatical accuracy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business and is not expected to directly or indirectly increase regulatory costs more than \$200,000 within a year of taking effect. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09, 944.11 FS.

LAW IMPLEMENTED: 90.505, 944.09, 944.11, 944.803 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-503.001 Chaplaincy Services.

(1) Organization and Functions.

(a) The Chaplaincy Services Section of the Office of Education and Initiatives ~~Classification and Programs~~ is responsible for:

1. through 4. No change.

(b) The chaplaincy services administrator ~~Chaplaincy Services Administrator~~ is the chief administrative officer of the Chaplaincy Services Section ~~section~~ and directs and coordinates all activities of the section.

(c) The chaplain ~~Chaplain~~ of each institution is directly responsible to the area chaplaincy services ~~Chaplaincy Services~~ specialist and coordinates activities with the institution's security staff. The chaplain ~~He~~ plans, coordinates, and supervises all religious activities and services at the institution and. ~~He~~ is responsible for the moral and spiritual well-being of all inmates, including the non-religious.

(2) Policy.

(a) No change.

(b) Programs of the Department and activities of the chaplains ~~Chaplains~~ shall be designed to assist inmates in the expansion of their knowledge and understanding of and commitment to the beliefs and principles of their respective religions.

(c) There shall be no discrimination for or against an inmate based on his religious beliefs or practices, but:

1. An inmate's religious practices may be relevant to an assessment of his adjustment and progress toward rehabilitation; and

2. No change.

(3) Religious Services and Rituals.

(a) All religious services, rituals, or activities at the institution shall be conducted or supervised by the chaplain ~~Chaplain~~ or other employee or regular service volunteer.

(b) Participation in or attendance at any religious program, service, or activity is voluntary.

(c) In the interest of security, order, or effective management of the institution, the warden may limit the number of religious services or activities inmates may attend per week. When it is considered necessary for security or good order of the institution, the warden may limit attendance at or discontinue completely a religious service or activity. The warden may not restrict or allow the religious group itself to restrict attendance at or participation in a religious service or activity on the basis of race, color, or nationality. Inmates are allowed to visit religious services other than their own so long as the services are not scheduled by call-out, the inmate visits the religious service during his own free time, and the inmate does not provoke disruption of the service. The volunteer clergy or religious leader is authorized to limit participation in specific sacraments to members of the faith according to the faith tradition. Inmates attending a religious service or activity may be required to sign an attendance record.

(d) Appropriate liturgical apparel, such as skull caps, head shields, and prayer shawls, may be worn during a religious activity.

(e) Rituals of specific faiths or denominations may be conducted when appropriate facilities are available. If no institutional facilities are available, the warden may authorize ritual services outside the institution when security procedures permit.

(f) The warden, ~~Officer in Charge~~, or his designee may authorize the introduction into the institution of altar or sacramental wine to be used in a sectarian or interfaith service when the use of such wine is deemed essential to the observance of the service. Only the quantity needed for a specific service may be brought into the institution. Storage of wine for use in future services shall not be permitted. In every instance, the control of such elements shall be the responsibility of the institution ~~chaplain~~ Chaplain.

(g) Inmates in the general population may transport the following items for individual worship, as defined in Rule 33-602.201, F.A.C., from their assigned cells or individual sleeping areas to the institutional chapel or other designated program area for the purpose of participating in a scheduled religious program, service, or activity for which the item is necessary or appropriate, as determined by the ~~chaplain~~ Chaplain:

1. through 5. No change.

(4) The ~~chaplain~~ Chaplain shall develop and conduct a program of religious education at the institution.

(5) The ~~chaplain~~ Chaplain shall be available to counsel all inmates, regardless of their classification or status, ~~and~~ ~~He~~ shall have access to all areas of the institution.

(6) The ~~chaplain~~ Chaplain shall be authorized to maintain written communication with inmates where the inmate and the ~~chaplain~~ Chaplain have been at the same institution, at the same time, and either the inmate or the ~~chaplain~~ Chaplain has transferred to another Florida Department of Corrections institution under the following conditions:

(a) The written communication must fall within the scope of clergy professional standards (i.e., ~~provide~~ provides spiritual direction, advice, counsel, or encouragement).

(b) Consistent with the effective management and order of the institution, the ~~chaplain~~ Chaplain maintaining written communication with an inmate at another Florida Department of Corrections institution must inform the ~~chaplain~~ Chaplain at the inmate's current institutional location.

(7) A communication to a ~~chaplain~~ Chaplain from an inmate, if made privately for the purpose of seeking moral or spiritual counsel and advice from the ~~chaplain~~ Chaplain in his capacity as ~~chaplain~~ Chaplain, is privileged. The ~~chaplain~~ Chaplain shall not disclose any part of such communication without the inmate's consent except when necessary to prevent a crime or to protect the life or safety of any person or the security of the institution.

(8) The ~~chaplain~~ Chaplain shall not attempt to influence an inmate to change his religious preference or faith.

(9) The ~~chaplain~~ Chaplain shall be available to provide moral and spiritual counseling to employees.

(10) An effort shall be made, consistent with the security, order, and effective management of the institution, to arrange work assignments and schedules to accommodate the beliefs and practices of inmates whose religion requires them to abstain from work on religious holy days.

(11) Activities should be scheduled to allow each inmate an opportunity to participate in religious programs and activities of his choice consistent with the security, order, and effective management of the institution.

(12) Inmates who wish to observe religious dietary laws shall be provided a diet sufficient to sustain them in good health without violating those dietary laws. Exceptions may be made only in unusual cases where providing a special diet would:

(a) No change.

(b) Create a threat to the security, order, or effective management of the institution, or

(c) through (d) No change.

(e) The ~~chaplain~~ Chaplain shall advise the institutional officials in charge of ~~food services~~ Food Services on all matters relating to the implementation of this subsection.

(13) Religious Publications.

(a) Inmates shall have access to religious publications through the chapel or institutional library or as provided through the ~~chaplain~~ Chaplain.

(b) The ~~chaplain~~ Chaplain shall assist inmates in obtaining personal copies of religious books and periodicals, subject to rules of the Department of Corrections and the local institution.

(c) Religious publications shall include the following:

1. Sacred texts – ~~defined as~~ the primary religious documents from which the standards of the faith are derived.

2. Prayer books – ~~defined as~~ the instructional material, prayers and liturgies for the observation of holy rituals, services and personal devotion;

3. Devotional literature – ~~defined as~~ religious commentary, religious calendars, personal instruction in the faith, and sermon type material.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 90.505, 944.09, 944.11, 944.803 FS. History–New 1-6-82, Formerly 33-3.14, 33-3.014, Amended 10-18-01, 1-9-03, 2-25-08, 9-22-08, 1-25-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Alex Taylor, Chaplaincy Services Administrator

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Walter A. McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: November 24, 2010



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

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

**PURPOSE AND EFFECT:** In January 2010, farmers in the Dover/Plant City area pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet and caused more than 750 temporarily dry wells for neighboring homeowners. Pumping groundwater for freeze protection is a best management practice for strawberry, citrus and other industries and is authorized by water use permits. However, the farmers were responsible for fixing hundreds of the dry wells. Amendments to Chapter 40D-1, F.A.C., are being made as part of a rulemaking package, which will also include amendments to Chapters 40D-2, 40D-8, and 40D-80, F.A.C., to prevent a similar situation. Effective and complete implementation of the current phase of the management strategy for the Dover/Plant City area frost/freeze crop protection pumping is dependent on each of the proposed amendments to Chapters 40D-1, 40D-2, 40D-8 and 40D-80, F.A.C. Particularly, amendments to Chapter 40D-1 will add new forms and list updated forms as it relates to water use permitting in the Dover/Plant City Water Use Caution Area (DPCWUCA) being proposed in companion proposed amendments to Chapter 40D-2, F.A.C.

**SUMMARY:** The amendments to Rule 40D-1.659, F.A.C., are being made to list updated or new water use permitting forms revised or created as a result of the Dover/Plant city frost/freeze events of January 2010. The forms are incorporated by reference in Chapter 40D-2, F.A.C., under a separate companion rulemaking. The rulemaking updates the following forms: Small General Water Use Permit Application Form No. LEG-R.027.01 (12/10), General Water Use Permit Application Form No. LEG-R.028.01 (12/10), Individual Water Use Permit Application Form No. LEG-R.029.01 (12/10), Water Use Permit Application Supplemental Form-Agriculture, Form No. LEG-R.030.01 (12/10), Application to Renew a Small General Water Use Permit for Agricultural Use, Form No. LEG-R.036.01 (12/10), Small General Water Use Permit Application – Agricultural Attachment, Form No. LEG-R.037.01 (12/10). This rulemaking creates the following new forms: Dover/Plant City Water Use Caution Area Supplemental Form, Form No. LEG-R.050.00 (12/10) and Net Benefit Supplemental Form Dover/Plant City Water Use Caution Area, Form No. LEG-R.051.00 (12/10). These forms are being updated or created to implement the provisions of companion amendments being made to Chapters 40D-2, 40D-8 and 40D-80, F.A.C., to address use of groundwater for frost/freeze crop protection in the proposed DPCWUCA.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** From January 3-13, 2010, for the first time during the period that records have been kept,

temperatures in eastern Hillsborough County and western Polk County dropped below 34 degrees for 11 consecutive days. As a result, area farmers pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet, contributed to the more than 140 sinkholes and caused more than 750 neighboring groundwater wells to be damaged or to temporarily go dry. Under Florida Statute and District water use permitting rules this damage is not allowable. Therefore, in response to the 2010 freeze event combined with previous freeze events that also resulted in dry wells and sinkholes in the Dover/Plant City area, the District is revising its rules in Chapters 40D-1, 40D-2, 40D-8, and 40D-80, F.A.C., to reduce the potential for impacts from groundwater pumping during future freeze events. The District is establishing a Water Use Caution Area, a Minimum Aquifer Level, a Minimum Aquifer Protection Zone and a Minimum Aquifer Level Recovery Strategy to manage permits authorized to withdraw groundwater for frost/freeze crop protection. The objective of the Recovery Strategy is by January 2020, to reduce groundwater withdrawals for frost/freeze protection by 20% from January 2010 quantities to lessen the potential that drawdown during a future frost/freeze event would lower the aquifer level at District Well DV-1 Suwannee below 10 feet NGVD. The intent is to lessen the likelihood of domestic well failures and sinkhole formation over time in the Dover/Plant City area during freeze events when groundwater is pumped to protect valuable but cold sensitive crops. Permittees and applicants that typically use groundwater for frost/freeze crop protection and most likely affected by the proposed rules are strawberry, citrus, blueberry, nursery and tropical fish farms.

During rule development the District considered many options including: (1) an across the board reduction in water quantities; (2) requiring water use permittees to obtain insurance to cover mitigation costs, and (3) relying on existing rules to deny application for permits on an application by application, case by case basis. However, while the District could require immediate changes or cutbacks by permittees, the District believed that the economic cost to permittees would be too great and opted for a regulatory program that does not reduce quantities on existing permits unless economically feasible alternative means are available and sets a reduction goal of 20 percent over 10 years.

Relying solely on a regulatory approach, such as across the board cuts in frost/freeze quantities or limiting the duration of allowable pumping during frost freeze events could have a significant impact on the agricultural and overall economy of the area. Unlike some other crops that can be insured against natural disasters such as hail, there is no “freeze event” subsidized crop insurance for strawberries, the main crop in the area. Further, such insurance generally requires the grower to make every effort to protect the crop, including pumping groundwater. The grower would be responsible for any losses

due to freezes. Therefore, the grower will utilize permitted frost/freeze protection water quantities and/or a financially feasible alternative means to protect the crop.

The regulatory provisions of the recovery strategy are designed primarily to restrict any new impacts from frost/freeze withdrawals on groundwater levels in the Minimum Aquifer Level Protection Zone. This is accomplished by restricting new increases in frost/freeze protection groundwater quantities that affect the Minimum Aquifer Level Protection Zone so that water levels will not be lowered even further during frost/freeze events. To some extent, frost/freeze protection groundwater quantities may be reduced through rule provisions such as "net benefit" when an increase in frost/freeze protection is requested. In that case where one permittee requests an increase in frost/freeze protection groundwater quantities, another permittee can agree that a specified portion of its groundwater withdrawal will be reduced and reserved to protect the aquifer level.

The primary method for reducing existing groundwater withdrawals for frost/freeze protection in and around the Minimum Aquifer Level Protection Zone will be non-regulatory. The focus of this effort is to provide further financial incentives for water users to adopt technologies that reduce groundwater use such as the use of tailwater recovery systems and protection methods other than water such as crop cloths and crop enclosures.

In accordance with statute and District rule, to prevent further water level declines during frost/freeze events, new groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be permitted. Applicants for new frost freeze groundwater quantities may eliminate the impact by relocating withdrawals, developing alternative sources or means of cold protection, or providing a net benefit that offsets the impact of the proposed withdrawals plus a 20% net benefit. Alternative sources or means of cold protection range from \$581 to \$3,700 per acre farmed per year for row and tree crops and approximately \$78 per hundred square feet of pond for fish farms. Per acre costs vary by the type of crop grown and the size of the farm.

Existing permitted groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be affected. However when existing water use permittees apply for renewal of their permits that have cold protection quantities that impact the Minimum Aquifer Protection Zone, they will have to incur the cost to investigate the feasibility of alternative cold protection methods (costs addressed above) and implement them if economically, technically and environmentally feasible to reduce existing impacts. As part of the non-regulatory portion of the recovery strategy, the District intends to fund 75% of the equipment costs of alternative cold protection measures that reduce cold protection withdrawals within in the DPCWUCA and 50% to 75% of equipment costs for projects outside the DPCWUCA that reduce impacts on the

Minimum Aquifer Level Protection Zone, significantly reducing the costs, which are only incurred after finding that they are feasible, addressed above. Proposed relocation and net benefit provisions are designed to lessen the impact of the proposed rules by allowing the movement and expansion of the affected agricultural industries so long as the relocation does not increase cold protection impacts and the expansion contributes to lessening of such impacts.

To better monitor and model cold protection impacts, the District will provide meters and automatic meter reading (AMR) devices to existing permittees that do not have them and:

- have groundwater cold protection quantities or crops that typically require cold protection quantities in the DPCWUCA, and
- have 100,000 gpd or more of groundwater permitted in the DPCWUCA.

New permittees that meet the above conditions will as one of the permit conditions have to purchase, install and maintain the required meters at an annualized cost range of \$10 to \$103 per acre per withdrawal site. The District will pay the AMR data collection and transmission subscription costs for both existing and new permittees required to meter and use AMR devices.

Current permit conditions in the Dover/Plant City area generally place the burden of well complaint investigation and repair on more recent permittees. Proposed revisions will significantly reduce the likelihood that an individual permittee will have to incur the costs of multiple well mitigation investigations and repairs as often occurred in the 2010 freeze event.

To provide flow meters, AMR devices, AMR data reporting subscriptions and revised well mitigation allocation methods, the District will incur approximately \$6.1 million in one-time and \$582,000 in recurring annual costs. The proposed revisions are not anticipated to generate rule implementation costs to any other state or local agencies nor are they anticipated to have any effects on state or local revenues.

No small cities or counties are affected by the proposed rules. Only those small businesses that exceed the permitting thresholds in Rule 40D-2.041, F.A.C., and have, would typically use, or request new groundwater quantities for frost/freeze protection in the DPCWUCA, or whose existing or proposed groundwater frost/freeze protection withdrawals outside the DPCWUCA that would impact the Minimum Aquifer Level Protection Zone, will be affected as previously described. As noted above, the District will reduce the cost to existing small businesses that must comply with the rule by providing meters and AMR devices, and covering the costs of AMR data reporting subscriptions so as to minimize costs to small businesses resulting from the regulation designed to allow the small business to continue to operate in compliance with statute and District rule. The District also intends to cost share the alternative frost/freeze protection costs that are

deemed economically, technically and environmentally feasible that existing small business permittees may have to incur.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.149, 373.171, 373.337 FS.

LAW IMPLEMENTED: 373.083, 373.083(5), 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.705, 373.707, 668.50 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: January 25, 2011, 9:00 a.m.

PLACE: Southwest Florida Water Management District, Tampa Service Office, 7601 US 301, Tampa, FL 33637

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela Gifford, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4156) (OGC #2010010)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter or into a specific District rule as indicated. Copies of these forms may be obtained from the District offices or the District's website at [www.watmatters.org](http://www.watmatters.org).

(1) GROUND WATER

(a) through (g) No change.

(h) SMALL GENERAL WATER USE PERMIT APPLICATION FORM NO. LEG-R.027.01~~0~~ (12/10)(~~3/09~~), incorporated by reference in paragraph 40D-2.101(2)(c), F.A.C.

(i) GENERAL WATER USE PERMIT APPLICATION FORM NO. LEG-R.028.01~~0~~ (12/10)(~~3/09~~), incorporated by reference in paragraph 40D-2.101(2)(b), F.A.C.

(j) INDIVIDUAL WATER USE PERMIT APPLICATION FORM NO. LEG-R.029.01~~0~~ (12/10)(~~3/09~~), incorporated by reference in paragraph 40D-2.101(2)(a), F.A.C.

(k) WATER USE PERMIT APPLICATION SUPPLEMENTAL FORM-AGRICULTURE, FORM No. LEG-R.030.01~~0~~ (12/10) (~~3/09~~), incorporated by reference in subparagraph 40D-2.101(2)(a)1., F.A.C.

(l) through (bb) No change.

(cc) APPLICATION TO RENEW A SMALL GENERAL WATER USE PERMIT FOR AGRICULTURAL USE, FORM NO. LEG-R.036.01~~0~~ (12/10)(~~3/09~~), incorporated by reference in paragraph 40D-2.101(2)(c), F.A.C.

(dd) SMALL GENERAL WATER USE PERMIT APPLICATION-AGRICULTURE ATTACHMENT, FORM NO. LEG-R.037.01~~0~~ (12/10)(~~3/09~~), incorporated by reference in subparagraph 40D-2.101(2)(c)(~~C~~)1., F.A.C.

(ee) through (kk) No change.

(ll) "DOVER/PLANT CITY WATER USE CAUTION AREA SUPPLEMENTAL FORM" – FORM NO. LEG-R.050.00 (12/10), incorporated by reference in subsection 40D-2.101(7), F.A.C.

(mm) "NET BENEFIT SUPPLEMENTAL FORM DOVER/PLANT CITY WATER USE CAUTION AREA" – FORM NO. LEG-R.051.00 (12/10), incorporated by reference in subsection 40D-2.101(7), F.A.C.

(2) through (3) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.083, 373.116, 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.705, 373.707, 668.50 FS. History--New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05(1), (2), 10-19-05(5), 10-19-05(20), 2-6-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, 10-26-09, 1-27-10, 4-27-10, 9-5-10, 9-12-10, 12-7-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Alba Mas, Tampa Regulation Manager, 7601 Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 (Ext. 2000)

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 12, 2010

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-2.021	Definitions
40D-2.041	Permits Required
40D-2.091	Publications and Forms Incorporated by Reference
40D-2.101	Content of Application
40D-2.381	Standard Permit Conditions
40D-2.801	Water Use Caution Areas

**PURPOSE AND EFFECT:** In January 2010, farmers in the Dover/Plant City area pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet and caused more than 750 temporarily dry wells for neighboring homeowners. Pumping groundwater for freeze protection is a best management practice for strawberry, citrus, and other industries and is authorized by water use permits. However, the farmers were responsible for fixing hundreds of the dry wells. Amendments to Chapter 40D-2, F.A.C., are being made as part of a rulemaking package, which will also include amendments to Chapters 40D-1, 40D-8, and 40D-80, F.A.C., to prevent a similar situation. Effective and complete implementation of the current phase of the management strategy for the Dover/Plant City area frost/freeze crop protection pumping is dependent on each of the proposed amendments to Chapters 40D-1, 40D-2, 40D-8 and 40D-80, F.A.C. The District has set a goal to by January 2020 to reduce groundwater withdrawals for frost/freeze protection by 20% from January 2010 quantities to lessen the potential that drawdown during a frost/freeze event would lower the aquifer level at District Well DV-1 Suwannee below 10 feet NGVD. The District proposes water use permitting requirements in Chapter 40D-2, F.A.C., to limit groundwater pumpage for frost/freeze protection in the area. Additionally, the amendments to Chapters 40D-1 and 40D-2, F.A.C., will incorporate revised and new District water use permit application forms to implement the provisions of the proposed companion amendments to Chapters 40D-2, 40D-8 and 40D-80, F.A.C., be used in the proposed Dover/Plant City WUCA.

**SUMMARY:** Amendments to Chapter 40D-2, F.A.C., will create a Dover/Plant City Water Use Caution Area (DPC WUCA) in portions of Hillsborough and Polk counties. Additionally, The proposed amendments to Chapter 40D-2, F.A.C., and the Water Use Permit Basis of Review incorporated by reference in Chapter 40D-2, F.A.C., include the following water use permitting criteria for water use permit applicants and permittees within the the DPC WUCA or having an impact on the Minimum Aquifer Level Protection Zone proposed for the DPC WUCA in Chapter 40D-8, F.A.C., simultaneously with this rulemaking:

- Establishing that the impacts of existing permits on the minimum aquifer level will not be a basis for permit denial.
- Allowing existing permittees to move their operation to another location through “self-relocation.”
- Clarifying that existing permits can be transferred to a new owner.
- Limiting new groundwater pumping for frost/freeze protection by not allowing additional drawdowns within the WUCA.
- Establishing the frost/freeze event used to model impacts of new permit applications.
- Allowing new groundwater withdrawals to be authorized through several “net benefit” mechanisms. The most common mechanism will likely be retiring an existing permitted groundwater quantity that has had an impact on or within the minimum aquifer level protection zone. The rule allows 80% of that existing freeze protection impact to be re-permitted, with 20% being retired to assist in the recovery of aquifer levels in the area.
- Establishing a freeze protection allocation criterion for a 21-hour frost/freeze event based on University of Florida Institute of Food and Agricultural Sciences (IFAS) research and recommendations. For strawberry, blueberry, and nursery crops, the quantity allocated is based on 6,788 gallons per hour (gph) per acre and the citrus allocation is 3,000 gph per acre. Aquaculture will be based on site specific criteria. There is no limit on the number of freeze events per year.
- Establishing that all permit applicants with frost/freeze protection quantities, including renewals and modifications, must evaluate alternative methods of groundwater such as tailwater recovery ponds and crop covers. Any alternatives that are deemed feasible must be implemented. The District’s Facilitating Agricultural Resource Management Systems (FARMS) program will be offering funding and assistance in this area.
- Requiring automatic meter reading devices for all permits with frost/freeze protection quantities. The District will provide funding for new meters and automatic meter reading equipment as well as the installation for all existing permits that do not already have these devices.
- Implementing a new system for investigating and mitigating well complaints.
- Deletes the language whereby a permittee shall mitigate sinkholes or subsidence caused by reduction in water levels.

Additionally, the amendments to Chapter 40D-2, F.A.C., will incorporate revised and new District water use permit application forms to implement the provisions of the proposed companion amendments to Chapters 40D-2, 40D-8 and 40D-80, F.A.C., be used in the proposed Dover/Plant City WUCA. These forms include: Small General Water Use Permit Application Form No. LEG-R.027.01 (12/10), General Water

Use Permit Application Form No. LEG-R.028.01(12/10), Individual Water Use Permit Application Form No. LEG-R.029.01(12/10), Water Use Permit Application Supplemental Form-Agriculture, Form No. LEG-R.030.01(12/10), Application to Renew a Small General Water Use Permit for Agricultural Use, Form No. LEG-R.036.01(12/10), Small General Water Use Permit Application –Agricultural Attachment, Form No. LEG-R.037.01(12/10). New forms are also being incorporated by reference that require Dover/Plant City area applicants, depending on their proposed water use, to submit. These forms include: Dover/Plant City Water Use Caution Area Supplemental Form, Form No. LEG-R.050.00(12/10) and Net Benefit Supplemental Form Dover/Plant City Water Use Caution Area, Form No. LEG-R.051.00 (12/10).

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** From January 3-13, for the first time during the period that records have been kept, temperatures in eastern Hillsborough County and western Polk County dropped below 34 degrees for 11 consecutive days. As a result, area farmers pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet, contributed to the more than 140 sinkholes and caused more than 750 neighboring groundwater wells to be damaged or to temporarily go dry. Under Florida Statute and District water use permitting rules this damage is not allowable. Therefore, in response to the 2010 freeze event combined with previous freeze events that also resulted in dry wells and sinkholes in the Dover/Plant City area, the Southwest Florida Water Management District is revising its rules in Chapters 40D-1, 40D-2, 40D-8, and 40D-80, F.A.C., to reduce the potential for impacts from groundwater pumping during future freeze events. The District is establishing a Water Use Caution Area, a Minimum Aquifer Level, a Minimum Aquifer Protection Zone and a Minimum Aquifer Level Recovery Strategy to manage permits authorized to withdraw groundwater for frost/freeze crop protection. The objective of the Recovery Strategy is by January 2020, to reduce groundwater withdrawals for frost/freeze protection by 20% from January 2010 quantities to lessen the potential that drawdown during a future frost/freeze event would lower the aquifer level at District Well DV-1 Suwannee below 10 feet NGVD. The intent is to lessen the likelihood of domestic well failures and sinkhole formation over time in the Dover/Plant City area during freeze events when groundwater is pumped to protect valuable but cold sensitive crops. Permittees and applicants that typically use groundwater for frost/freeze crop protection and most likely affected by the proposed rules are strawberry, citrus, blueberry, nursery and tropical fish farms.

During rule development the District considered many options including: (1) an across the board reduction in water quantities; (2) requiring water use permittees to obtain insurance to cover mitigation costs, and (3) relying on existing rules to deny application for permits on an application by application, case

by case basis. However, while the District could require immediate changes or cutbacks by permittees, the District believed that the economic cost to permittees would be too great and opted for a regulatory program that does not reduce quantities on existing permits unless economically feasible alternative means are available and sets a reduction goal of 20 percent over 10 years.

Relying solely on a regulatory approach, such as across the board cuts in frost/freeze quantities or limiting the duration of allowable pumping during frost freeze events could have a significant impact on the agricultural and overall economy of the area. Unlike some other crops that can be insured against natural disasters such as hail, there is no “freeze event” subsidized crop insurance for strawberries, the main crop in the area. Further, such insurance generally requires the grower to make every effort to protect the crop, including pumping groundwater. The grower would be responsible for any losses due to freezes. Therefore, the grower will utilize permitted frost/freeze protection water quantities and/or a financially feasible alternative means to protect the crop.

The regulatory provisions of the recovery strategy are designed primarily to restrict any new impacts from frost/freeze withdrawals on groundwater levels in the Minimum Aquifer Level Protection Zone. This is accomplished by restricting new increases in frost/freeze protection groundwater quantities that affect the Minimum Aquifer Level Protection Zone so that water levels will not be lowered even further during frost/freeze events. To some extent, frost/freeze protection groundwater quantities may be reduced through rule provisions such as “net benefit” when an increase in frost/freeze protection is requested. In that case where one permittee requests an increase in frost/freeze protection groundwater quantities, another permittee can agree that a specified portion of its groundwater withdrawal will be reduced and reserved to protect the aquifer level.

The primary method for reducing existing groundwater withdrawals for frost/freeze protection in and around the Minimum Aquifer Level Protection Zone will be non-regulatory. The focus of this effort is to provide further financial incentives for water users to adopt technologies that reduce groundwater use such as the use of tailwater recovery systems and protection methods other than water such as crop cloths and crop enclosures.

In accordance with statute and District rule, to prevent further water level declines during frost/freeze events, new groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be permitted. Applicants for new frost freeze groundwater quantities may eliminate the impact by relocating withdrawals, developing alternative sources or means of cold protection, or providing a net benefit that offsets the impact of the proposed withdrawals plus a 20% net benefit. Alternative sources or means of cold protection range from \$581 to \$3,700 per acre

farmed per year for row and tree crops and approximately \$78 per hundred square feet of pond for fish farms. Per acre costs vary by the type of crop grown and the size of the farm.

Existing permitted groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be affected. However when existing water use permittees apply for renewal of their permits that have cold protection quantities that impact the Minimum Aquifer Protection Zone they will have to incur the cost to investigate the feasibility of alternative cold protection methods (costs addressed above) and implement them if economically, technically and environmentally feasible to reduce existing impacts. As part of the non-regulatory portion of the recovery strategy, the District intends to fund 75% of the equipment costs of alternative cold protection measures that reduce cold protection withdrawals within in the DPCWUCA and 50% to 75% of equipment costs for projects outside the DPCWUCA that reduce impacts on the Minimum Aquifer Level Protection Zone, significantly reducing the costs, which are only incurred after finding that they are feasible, addressed above. Proposed relocation and net benefit provisions are designed to lessen the impact of the proposed rules by allowing the movement and expansion of the affected agricultural industries so long as the relocation does not increase cold protection impacts and the expansion contributes to lessening of such impacts.

To better monitor and model cold protection impacts, the District will provide meters and automatic meter reading devices to existing permittees that do not have them and:

have groundwater cold protection quantities or crops that typically require cold protection quantities in the DPCWUCA, and

have 100,000 gpd or more of groundwater permitted in the DPCWUCA.

New permittees that meet the above conditions will as one of the permit conditions have to purchase, install and maintain the required meters at an annualized cost range of \$10 to \$103 per acre per withdrawal site. The District will pay the AMR data collection and transmission subscription costs for both existing and new permittees required to meter and use AMR devices.

Current permit conditions in the Dover/Plant City area generally place the burden of well complaint investigation and repair on more recent permittees. Proposed revisions will significantly reduce the likelihood that an individual permittee will have to incur the costs of multiple well mitigation investigations and repairs as often occurred in the 2010 freeze event.

To provide flow meters, AMR devices, AMR data reporting subscriptions and revise well mitigation allocation methods, the District will incur approximately \$6.1 million in one-time and \$582,000 in recurring annual costs. The proposed revisions are not anticipated to generate rule implementation costs to any other state or local agencies nor are they anticipated to have any effects on state or local revenues.

No small cities or counties are affected by the proposed rules. Only those small businesses that exceed the permitting thresholds in Rule 40D-2.041, F.A.C., and have, would typically use, or request new groundwater quantities for frost/freeze protection in the DPCWUCA, or whose existing or proposed groundwater frost/freeze protection withdrawals outside the DPCWUCA that would impact the Minimum Aquifer Level Protection Zone, will be affected as previously described. As noted above, the District will reduce the cost to existing small businesses that must comply with the rule by providing meters and AMR devices, and covering the costs of AMR data reporting subscriptions so as to minimize costs to small businesses resulting from the regulation designed to allow the small business to continue to operate in compliance with statute and District rule. The District also intends to cost share the alternative frost/freeze protection costs that are deemed economically, technically and environmentally feasible that existing small business permittees may have to incur.

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

**RULEMAKING AUTHORITY:** 373.044, 373.113, 373.118, 373.171 FS.

**LAW IMPLEMENTED:** 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.0363, 373.079(4)(a), 373.083(5), 373.0831, 373.116, 373.117, 373.1175, 373.118, 373.149, 373.171, 373.185, 373.1963, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.236, 373.239, 373.243, 373.244, 373.250, 403.0877 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:** January 25, 2011, 9:00 a.m.

**PLACE:** Southwest Florida Water Management District, Tampa Service Office, 7601 US 301, Tampa, FL 33637

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1-(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pamela Gifford, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4156) (OGC #2010010)

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-2.021 Definitions.

The following definitions shall apply Districtwide when used in this chapter and in the District's Water Use Permit Information Manual Part B, "Basis of Review" (WUP Basis of Review) incorporated by reference in Rule 40D-2.091, F.A.C., except as specifically limited:

(1) through (2) No change.

(3) "Change in Ownership or Control" with respect to Self-Relocation within the Southern Water Use Caution Area (SWUCA) and the Dover/Plant City WUCA 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) No change.

(5) "Dover/Plant City WUCA" means the Dover/Plant City Water Use Caution Area as described in subsection 40D-2.801(3)(d), F.A.C.

(5) through (6) renumbered (6) through (7) No change.

(8)(7) "Net Benefit" means activities or measures that will result in an improvement to a Minimum Flow or Level water body within the SWUCA or Dover/Plant City WUCA that more than offsets the impact of a proposed withdrawal.

(9)(8) "New Quantities" within the SWUCA means groundwater 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. Within the Dover/Plant City WUCA "New Quantities" means groundwater for frost/freeze protection 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, but does not include a full or partial permit transfer. 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 (WUP) that existed prior to mining, such activity does not constitute a change in Use Type or New Quantity.

(9) through (13) renumbered (10) through (14) No change.

Rulemaking 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, 373.709 FS. History—New 1-1-07, Amended 12-30-08, 4-27-10, \_\_\_\_\_.

40D-2.041 Permits Required.

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

(b) General.

WUPs for the following are issued by District staff as general WUPs, except as provided in Chapter 4, Section 4.3 A.1.a.ii.(4) of the WUP Basis of Review:

1. No change.

2. A combined annual average daily water demand less than 100,000 gpd when:

a. through d. No change.

e. The maximum daily withdrawal quantity equals or exceeds 3,000,000 gpd for crop protection or other use unless at least one † permitted withdrawal facility is located within the Dover-Plant City Water Use Caution Area and has frost/freeze protection quantities area, in which case the maximum daily withdrawal quantity equals or exceeds 1,000,000 gpd for crop protection or other use.

(c) No change.

(3) through (4) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.149, 373.171, 373.216, 373.249 FS. Law Implemented 373.079(4)(a), 373.083(5), 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, 11-4-84, 10-1-89, 2-10-93, 4-11-94, 1-1-07, 12-30-08, 5-17-09, 11-2-09, \_\_\_\_\_.

40D-2.091 Publications and Forms Incorporated by Reference.

(1) The following publications are hereby incorporated by reference into this chapter, and are available from the District's website at [www.WaterMatters.org](http://www.WaterMatters.org) or from the District upon request:

(a) Water Use Permit Information Manual Part B, Basis of Review for Water Use Permit Applications (also referred to as the WUP Basis of Review)(~~6-30-10~~).

(b) No change.

(2) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, ~~373.0361~~, 373.0363, 373.042, 373.0421, 373.079(4)(a), 373.083(5), ~~373.0831~~, 373.116, 373.117, 373.1175, 373.118, 373.149, 373.171, ~~373.1963~~, 373.185, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.236, 373.239, 373.243, 373.250, 373.705, 373.709, 373.715 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, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, 2-13-08, 2-18-08, 4-7-08, 5-12-08, 7-20-08, 9-10-08, 12-30-08, 1-20-09, 3-26-09, 7-1-09, 8-30-09, 10-26-09, 11-2-09, 1-27-10, 4-27-10, 5-26-10, 6-10-10, 6-30-10, \_\_\_\_\_.

40D-2.101 Content of Application.

(1) through (2) No change.

(a) Individual Water Use Permit.

Application for a new or renewal of an existing Individual Water Use Permit shall be made using the Individual Water Use Permit Application, Form No. LEG-R.029.02 (3/09). Applicants shall also submit one ~~±~~ or more of the following Supplemental Forms as appropriate for each type of water use proposed in the permit application:

1. Water Use Permit Application Supplemental Form – Agriculture, Form No. LEG-R.030.01~~0~~ (12/10)~~(3/09)~~.

2. through 5. No change.

(b) General Water Use Permit.

Application for a new or renewal of an existing general WUP shall be made using the General Water Use Permit Application Form, No. LEG-R.028.01~~0~~ (12/10)~~(3/09)~~. Applicants shall also submit one ~~±~~ or more supplemental forms listed in paragraph (2)(a) above as appropriate for each type of water use proposed in the permit application. Applicants seeking an initial, ~~or~~ renewal, or modification of a general WUP for a combined annual average daily water demand of less than 100,000 gallons per day for public supply use may submit the Small General Water Use Permit Application – Public Supply Attachment, Form No. LEG-R.045.00 (12/09), in lieu of the Water Use Permit Application Supplemental Form – Public Supply, Form LEG-R.033.01(09/09).

(c) Small General Water Use Permit.

Application for a new small general WUP shall be made using the Small General Water Use Permit Application Form, No. LEG-R.027. 01~~0~~ (12/10)~~(3/09)~~. To renew a small general WUP issued solely for agricultural use, application shall be made using the Application to Renew a Small General Water Use Permit for Agricultural Use Form, No. LEG-R.036. 01~~0~~ (12/10)~~(3/09)~~. Application to renew all other small general WUPs shall be made using the Small General Water Use Permit Application Form, No. LEG-R.027. 01~~0~~ (12/10)~~(3/09)~~. One or more of the following Attachment Forms for a specific water use shall be submitted with the application form if the application proposes one ~~±~~ of the specified water uses:

1. through 4. No change.

(d) No change.

(3) through (6) No change.

(7) Dover/Plant City Water Use Caution Area Application Forms – In addition to the permit application and information forms identified in subsections (1)-(6) above, all applicants for permits in the Dover/Plant City Water Use Caution Area shall submit the “Dover/Plant City Water Use Caution Area Supplemental Form” – Form No. LEG-R.050.00 (12/10) incorporated herein by reference. Applicants in the Dover/Plant City WUCA shall also submit the “Net Benefit Supplemental Form Dover/Plant City Water Use Caution Area” – Form No. LEG-R.051.00, (12/10), incorporated herein by reference, as appropriate for the intended water use as

described in Chapters 3, 4 and 7 of the WUP Basis of Review described in Rule 40D-2.091, F.A.C. All application and supplemental information forms may be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363, 373.116, 373.117, 373.1175, 373.216, 373.229, 373.236, 403.0877 FS. History–Readopted 10-5-74, Amended 10-24-76, 1-6-82, 2-14-82, Formerly 16J-2.06, Amended 10-1-89, 10-23-89, 2-10-93, 7-15-99, 1-1-03, 1-1-07, 11-25-07, 9-10-08, 7-1-09, 8-30-09, 10-26-09, 1-27-10, 4-27-10, \_\_\_\_\_.

40D-2.381 Standard Permit Conditions.

(1) through (2) No change.

(3) Every permit acquired under this Chapter shall include the following standard conditions which impose certain limitations on the permitted water withdrawal:

(a) through (1) No change.

(m) The Permittee shall mitigate any adverse impact to environmental features or offsite land uses as a result of withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Examples of adverse ~~Adverse~~ impacts include the following:

1. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams, or other watercourses.

~~2. Sinkholes or subsidence caused by reduction in water levels.~~

~~2.3. Damage to crops and other vegetation causing financial harm to the owner; and~~

~~3.4. Damage to the habitat of endangered or threatened species.~~

(n) through (r) No change.

(4) No change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.079(4)(a), 373.083(5), 373.219, 373.223, 373.244 FS. History–New 6-7-78, Amended 9-9-80, 10-21-80, Formerly 16J-2.112, Amended 10-1-89, 2-10-93, 5-2-93, 4-14-02, 1-1-03, 10-19-05, 7-20-08, 11-2-09, \_\_\_\_\_.

40D-2.801 Water Use Caution Areas.

(1) through (2) No change.

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

(d) Dover/Plant City Water Use Caution Area. To address adverse impacts to water users and offsite land uses due to groundwater withdrawals during frost/freeze events, the Governing Board has established portions of Hillsborough and Polk Counties as a WUCA effective as of [effective date of rule].

1. As shown in Figure 2-3, the boundary for the Dover/Plant City WUCA is as follows:

The portions of Hillsborough and Polk Counties within the following sections (all Townships are South; all Ranges are East):



Township 27, Range 20: Sections 25, 26, 35 and 36;

Township 27, Range 21: Sections 25 through 36;

Township 27, Range 22: Sections 25 through 36;

Township 27, Range 23: Sections 29 through 32;

Township 28, Range 20: Sections 1, 2, 11 through 14, 23 through 26, 35 and 36;

Township 28, Range 21: All Sections;

Township 28, Range 22: All Sections;

Township 28, Range 23: Sections 5 through 8, 17 through 20, and 29 through 32;

Township 29, Range 20: Sections 1, 2, 11 through 14, 23 through 26, 35 and 36;

Township 29, Range 21: All Sections;

Township 29, Range 22: All Sections;

Township 29, Range 23: Sections 5 through 8, 17 through 20, and 29 through 32;

Township 30, Range 20: Sections 1, 2, 11 and 12;

Township 30, Range 21: Sections 1 through 12;

Township 30, Range 22: Sections 1 through 12;

Township 30, Range 23: Sections 5 through 8.

2. Regulations applicable to this WUCA are specified in this chapter and in Section 7.4 of the WUP Basis of Review, incorporated by reference in Rule 40D-2.091, F.A.C., and are in addition to all other regulations set forth in Chapter 40D-2, F.A.C., and the WUP Basis of Review and Part D of the Water Use Permit Information Manual.

3. The permitting criteria and conditions set forth in Chapter 40D-2, F.A.C., WUP Basis of Review, incorporated by reference in Rule 40D-2.091, F.A.C., subsection 40D-8.626(3), F.A.C., and Rule 40D-80.075, F.A.C., shall apply, as specified therein, to the following existing, new, renewal and modification applications for:

a. Frost/freeze quantities to be withdrawn from groundwater when at least one withdrawal point is within the Dover/Plant City WUCA.

b. Quantities of 100,000 gpd annual average or greater from groundwater when at least one withdrawal point is within the Dover/Plant City WUCA.

c. A permit with at least one withdrawal point within the Dover/Plant City WUCA for groundwater quantities to provide frost/freeze quantities authorized to be used or withdrawn from any combination of sources that if withdrawn from groundwater alone would have the potential to impact the Minimum Aquifer Level Protection Zone established for the Dover/Plant City WUCA.

d. A permit with at least one withdrawal point within the Dover/Plant City WUCA for groundwater quantities to provide supplemental irrigation for a use that typically requires frost/freeze protection and where such protection could be achieved through groundwater withdrawals but alternative protection methods are proposed.

4. Any permit with a withdrawal point located within the boundaries of the Dover/Plant City WUCA is deemed to be within the Dover/Plant City WUCA. Permits with permitted withdrawals in more than one WUCA shall be subject to the conservation and reporting requirements, if any, 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 MFL requirements, as set forth in Chapter 40D-2, F.A.C., and the WUP Basis of Review, incorporated by reference in Rule 40D-2.091, F.A.C. However, the Dover/Plant City WUCA provisions shall supersede any other rule criteria that creates conflicting or more stringent requirements. Nothing in the rules and WUP Basis of Review specific to the Dover/Plant City WUCA shall be interpreted or applied in any manner that would interfere with the Comprehensive Plan for the Northern Tampa Bay Area as outlined in Rule 40D-80.073, F.A.C.

5. All water use permits with withdrawal points within the Dover/Plant City WUCA are hereby modified to conform with the provisions of paragraph 40D-2.801(3)(d), F.A.C., except as provided in subparagraph 40D-2.801(3)(d)4., above, and the applicable Dover/Plant City WUCA criteria specified in the WUP Basis of Review, incorporated in Rule 40D-2.091, F.A.C., are incorporated into all such WUPs.

6. The Dover/Plant City WUCA is a water resource caution area for purposes of Chapter 403, F.S., and Chapter 62-40, F.A.C.



Figure 2-3 Dover/Plant City Water Use Caution Area

Rulemaking 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, 1-1-07, 10-1-07, 2-13-08, 4-7-08, 5-26-10,\_\_\_\_\_.

Water Use Permit Information  
Part B  
WUP Basis of Review

*Within Chapter 1.0 of the WUP Basis of Review Section 1.4.2 is added and Section 1.9.9 is revised as follows:*

**1.4.2 DOVER/PLANT CITY WATER USE CAUTION AREA APPLICATION FORMS.**

All permit applicants in the Dover/Plant City Water Use Caution Area (Dover/Plant City WUCA) shall submit the “Dover/Plant City Water Use Caution Area Supplemental Form” –Form No. LEG-R.050.00 (12/10) incorporated herein by reference in subsection 40D-2.101(7), F.A.C., in addition to the appropriate application and supplemental form(s) described in Section 1.4, above. Applicants in the Dover/Plant City WUCA shall also submit the “Net Benefit Supplemental Form Dover/Plant City Water Use Caution Area” – Form No. LEG-R.051.00, (12/10), incorporated herein by reference, as appropriate for the intended water use as described in Chapters 3, 4 and 7 of the WUP Basis of Review described in Rule 40D-2.091, F.A.C. All application and supplemental information forms may be obtained from the District’s website at [www.WaterMatters.org](http://www.WaterMatters.org) or from District offices.

New \_\_\_\_\_.

**1.9.9 DURATION OF PERMITS UTILIZING ALTERNATIVE WATER SUPPLIES WITHIN THE SWUCA OR THE DOVER/PLANT CITY WUCA.**

Permits for the development of Alternative Water Supplies (AWS) that require a water use permit in the SWUCA or the Dover/Plant City WUCA shall be separately issued from other water use permits that the applicant may receive for non-AWS. Subject to Section 373.236, F.S., where required and issued, a permit for the development of AWS shall have a duration of 20 years, if requested by the applicant for a new, extended or renewal permit and provided that the water use is intended to be in place for that duration. A longer duration may be granted provided that the conditions of Section 373.236(5)(4), F.S., are met.

1-1-03, Revised 1-1-07,\_\_\_\_\_.

*Within Section 3.1 of Chapter 3.0 of the WUP Basis of Review the following provisions are revised:*

**3.1 DETERMINING REASONABLE QUANTITIES. – APPLICANT CONSIDERATIONS. REASONABLE DEMAND.**

Proper accounting for each proposed water use is essential to establish that the use is reasonable, beneficial, and in the public interest. In addition, proper accounting of the various

water uses enables the District to better estimate water use and to implement water shortage plans. Sections 3.3 through 3.7 identify the components of demand that must be identified for Applicants for each water use type. Demand information may be estimated from historical data, comparable uses, and acceptable forecasting techniques.

The reasonable water needs of all applicants for initial permits, renewals, and those for New Quantities and Self-Relocation within the SWUCA or the Dover/Plant City WUCA for frost/freeze protection will be closely evaluated by the District. For all renewals and for Self-Relocations in the SWUCA or the Dover/Plant City WUCA for frost/freeze protection, the evaluation period will be the previous permit term, taking into account climate variability, market conditions, and other factors that influence water withdrawals. Permittees who have not utilized the full previous allocation because circumstances prevented full implementation of the plan on which the allocation was based will be required to demonstrate that the need for the full allocation will occur within the next permit term. To support any future needs, this demonstration must include substantive documentation of the proposed need such as materials orders, construction plans or an operations or business analysis or plan that otherwise specifically justifies the requested quantities. In such cases, the permit shall be conditioned to reduce the permitted quantities should the proposed need not develop. For water uses affected by rainfall, the demonstration may include information showing the relationship between actual effective rainfall amounts affecting demand occurring over the previous permit term and any statistical rainfall analysis upon which the previous permit allocation was based that contributed to the permittee’s ability to use less than the full previous allocation. This paragraph shall be construed to provide for the allocation of sufficient quantities to meet the permittee’s reasonable-beneficial needs during drought conditions as otherwise set forth in this Chapter 3 and consistent with the District’s authority to address such uses during declared water shortages and emergency water shortages.

New 1-1-07, Revised 4-27-10,\_\_\_\_\_.

**PERMITS WITH ALTERNATIVE WATER SUPPLIES IN THE SWUCA OR DOVER/PLANT CITY WUCA.**

**New Permits.**

If an application includes the use of AWS to supply all or a portion of the requested demand, and the applicant demonstrates that, through no fault of the applicant, the AWS are vulnerable to becoming unavailable, insufficient or unsuitable for the authorized use, upon request by the applicant, a permit will be issued that puts use of the non-alternative source on standby status, provided the withdrawal and use of the non-alternative water supply source meets all the conditions for issuance. The standby quantity will be for an amount equal to the quantity offset by the AWS. This standby quantity is to be used only when the AWS become

unavailable, insufficient or unsuitable; or economically, technically or environmentally infeasible for the authorized use. In no case will the standby quantity exceed the permitted quantity.

New 1-1-07, \_\_\_\_\_.

Loss of Alternative Water Supplies.

Where a permittee is to use an Alternative Water Supply in lieu of a non-Alternative Water Supply and the Alternative Water Supply becomes temporarily (exceeding 30 days) insufficient or unsuitable, the permittee shall notify the District in writing within 15 days of the event. Such notification shall be submitted monthly for each subsequent 30 days, for up to one year from the date of first loss, while the supply of AWS remains insufficient or unsuitable for the authorized use. During this time, the withdrawal of standby quantities is allowed to meet the authorized use up to the maximum amount of the permitted standby quantities. If the loss of the AWS exceeds one year, the District shall issue a Letter of Modification, subject to all requirements of subsection 40D-2.331(2), F.A.C., to modify the non-AWS quantities that may be withdrawn. If the standby permit is for a withdrawal within the SWUCA or the Dover/Plant City WUCA, a Letter of Modification shall be issued to modify the quantities that may be withdrawn even if the quantities to be withdrawn exceed the quantity thresholds included in subsection 40D-2.331(2), F.A.C.

New 1-1-07, \_\_\_\_\_.

*Within Section 3.3 of Chapter 3.0 of the WUP Basis of Review the following provisions are revised:*

3.3 AGRICULTURE.

Frost/Freeze Protection.

Frost/freeze protection quantities may be identified based on the number of acres to be protected, the crop grown, the ~~type of irrigation system~~ used, and the hours of pumpage required. If the number of hours is not known, the maximum daily quantity will be based on the best available data for frost/freeze recurrence and duration. Alternate calculations will be considered, but they must be thoroughly documented.

Frost/freeze protection quantities will be determined as set forth in Section 7.4 of the WUP Basis of Review incorporated in Rule 40D-2.091, F.A.C., for permits within the Dover/Plant City WUCA and for any permit with frost/freeze quantities authorized to be used or withdrawn from any combination of sources that if withdrawn from groundwater alone would have the potential to impact the Minimum Aquifer Level Protection Zone established for the Dover/Plant City WUCA.

Revised \_\_\_\_\_

*Within Section 4.3 of Chapter 4.0 of the WUP Basis of Review the following changes are made:*

4.3 MINIMUM FLOWS AND LEVELS.

A. through B. No change.

C. Withdrawals That Affect the Minimum Aquifer Level Established within Dover/Plant City Water Use Caution Area

A Minimum Aquifer Level has been established in subsection 40D-8.626(3), F.A.C., for Well DV-1 that is located within the Dover/Plant City WUCA, as shown in Figure 7.4-2 in the WUP Basis of Review, described in Rule 40D-2.091, F.A.C. The Minimum Aquifer Level is affected by local and regional groundwater withdrawals. In order to compensate for the variable hydrogeologic factors within the region, a Minimum Aquifer Level Protection Zone is established based on the 30 ft. drawdown contour for the January 2010 frost/freezing event as shown in Figure 7.4-3. In establishing the Minimum Aquifer Level, the District has determined that the actual water level is below the Minimum Aquifer Level. As required by law, the District is expeditiously implementing a Recovery Strategy for the Minimum Aquifer Level. The Dover/Plant City WUCA provisions of the WUP Basis of Review incorporated by reference in Rule 40D-2.091, F.A.C., and Chapters 40D-2, 40D-8 and 40D-80, F.A.C., set forth the regulatory portion of the recovery strategy for the Minimum Aquifer Level. Compliance with the Minimum Aquifer Level and the Minimum Aquifer Protection Zone by applicants with withdrawals for frost/freezing protection within or proposed to be within the Dover/Plant City WUCA and all other applicants for withdrawals for frost/freezing protection that have the potential to impact the Minimum Aquifer Level and the Minimum Aquifer Protection Zone will be addressed as specified in Section 7.4 of the WUP Basis of Review. Compliance with Section 7.4 does not, by itself, satisfy the requirements of Chapter 40D-2, F.A.C., for applications submitted on or after [effective date of rule].

~~D.C.~~ For areas not subject to 4.3 A., ~~or~~ B. or C. above, water withdrawals must not cause:

1. Lake levels to be reduced below the applicable Minimum Level established in Chapter 40D-8, F.A.C.
2. Streamflow to be reduced below the Minimum Flow as established in Chapter 40D-8, F.A.C.
3. Potentiometric surface or water-table levels to be reduced below the Minimum Level established in Chapter 40D-8, F.A.C.

History Note: 4.3 Revised 8-3-00; 4.3A. New 8-3-00; 4.3B, Revised 8-3-00, 1-1-07, \_\_\_\_\_.

*Within Section 5.1 of Chapter 5.0 of the WUP Basis of Review the following provisions are revised:*

5.1 WITHDRAWAL QUANTITY.

Metering.

Metering requirements will be as set forth in Section 7.4 of the WUP Basis of Review incorporated in Rule 40D-2.091, F.A.C., for any permit issued for frost/freezing quantities or permitted for 100,000 gpd annual average or greater within the Dover/Plant City WUCA or any permit with frost/freezing quantities authorized to be used or withdrawn from any

combination of sources that if withdrawn from groundwater alone would have the potential to impact the Minimum Aquifer Level Protection Zone established for the Dover/Plant City WUCA. All other Individual and general water use permittees will be required to meter the quantity of water withdrawn from any source in accordance with the guidelines described in this section. Metering of actual pumpage provides a means to develop historical records in order to accurately project future reasonable demand, assess impacts to the resource and existing water and land uses, and ensure that quantities withdrawn do not exceed permitted pumpage. Monitoring methods must maintain plus or minus 5% accuracy, and must be approved by the District. Permittees shall use direct flow measuring devices unless the District determines direct methods are inappropriate for the particular water use system.

Permittees shall meter withdrawal quantities from each withdrawal point and provide meter readings to the District at a frequency to be prescribed by permit conditions when:

1. Issued an Individual Water Use Permit.
2. Issued a general water use permit for public supply use.
3. Issued a general water use permit and one or more of the withdrawal points is located within the SWUCA or NTBWUCA;
4. The District determines that there is a potential for harm to the resource or potential for adverse impacts to existing users.

5. In accordance with Section 7.4, Dover/Plant City WUCA, of the WUP Basis of Review described in 40D-2.091, F.A.C. Where automatic reading devices are installed and withdrawal data is provided to the district via this device as specified in the WUP Basis of Review Section 7.4 4., the permittee shall no longer be required to independently submit withdrawal quantities except in the case of device failure.  
Revised 4-27-10, \_\_\_\_\_.

The cost of operation and maintenance of all meters and reporting of data shall be the responsibility of the permittee.  
Revised 4-27-10.

Monitored permittees shall, upon request of the District, provide the District an opportunity to perform measurements of flow during system operation. The District will ensure that the measurements are made in a manner that does not interfere with the permittee's water use activities.

Ordinarily, withdrawal quantities shall be totalized on a monthly basis and reported to the District by the tenth day of the following month. However, for intense uses such as frost/freeze protection, or for stream withdrawals, a permittee may be required to totalize pumpage on a daily basis from each withdrawal point and report the daily withdrawal quantities to the District within two weeks on a monthly basis.

Revised 12-30-08, \_\_\_\_\_.

Metering of Alternative Water Supplies.

New and renewal permittees shall meter alternative supplies of water received by the permittee if the Annual Average quantity (Drought Annual Average quantity for irrigation permits) that would be permitted without the AWS would be 100,000 gpd or more. Meters shall meet the requirements of the first unnumbered paragraph of this Section 5.1, unless alternative methods or mechanisms are approved by the District. Reporting requirements are as specified in the fifth unnumbered paragraph of this Section 5.1. Receipt and use of AWS, including tailwater recovery or rainfall capture systems, metering, and reporting requirements will be as set forth in Section 7.4 of the WUP Basis of Review incorporated in Rule 40D-2.091, F.A.C., for any permit with frost/freeze quantities within the Dover/Plant City WUCA or any permit with frost/freeze quantities authorized to be used or withdrawn from any combination of sources that if withdrawn from groundwater alone would have the potential to impact the Minimum Aquifer Level Protection Zone established for the Dover/Plant City WUCA.

1-1-03, Revised 1-1-07, 4-27-10, \_\_\_\_\_.

*Within Chapter 6.0 of the WUP Basis of Review the following provisions are revised:*

#### 6.1 STANDARD PERMIT CONDITIONS.

The following conditions are placed on all Water Use Permits:

1. through 12. No change.
13. The permittee shall mitigate to the satisfaction of the District any adverse impact to environmental features or off-site land uses as a result of withdrawals. When adverse impacts occur or are imminent, the District shall require the permittee to mitigate the impacts. Examples of Adverse adverse impacts include the following:

a. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams, or other watercourses.

~~b. Sinkholes or subsidence caused by reduction in water levels.~~

~~b.e.~~ Damage to crops and other vegetation causing financial harm to the owner.

~~c.d.~~ Damage to the habitat of endangered or threatened species.

14. through 19. No change.

No. 19. New 1-1-03, Revised 1-1-07, 7-20-08, no. 13 revised

#### 6.2 SPECIAL PERMIT CONDITIONS REPORTING REQUIREMENTS AND PROCEDURES.

1. through 5. No change.

#### PUMPAGE REPORTING.

6. Flow Meters.

Condition: No change.

Discussion: Only the set of paragraphs numbered 1.-7. above shall be applied to permits within the Dover/Plant City WUCA as described in Section 7.4 of the WUP Basis of Review.

New \_\_\_\_\_

6.6 ALTERNATIVE WATER SUPPLIES.

The following conditions shall be applied to permits for 100,000 gpd or greater standard annual average daily water demand, as applicable.

1. Metering Alternative Water Supplies.

Condition: No change.

1-1-03, Revised 1-1-07.

2. Modification to Incorporate Alternative Water Supplies.

No change.

Discussion: Put on all permits that include AWS. Only the set of paragraphs numbered 1.-7. above shall be applied to permits within the Dover/Plant City WUCA as described in Section 7.4 of the WUP Basis of Review.

1-1-03, Revised 1-1-07, \_\_\_\_\_.

*The following section is added to Chapter 7.0, Water Use Caution Areas, of the WUP Basis of Review:*

7.4 DOVER/PLANT CITY WATER USE CAUTION AREA

The Governing Board has declared a portion of Hillsborough and Polk counties the Dover/Plant City Water Use Caution Area (Dover/Plant City WUCA) effective as of [effective date of rule]. The area designated is shown in Figure 7.4-1; the legal description is set forth in paragraph 40D-2.801(3)(d), F.A.C. As more particularly described in paragraph 40D-2.801(3)(d), F.A.C., as of [effective date of rule], all existing water use permits within the WUCA are modified to incorporate the applicable measures and conditions described below. Valid permits, legally in effect as of [effective date of rule], are hereafter referred to as existing permits. Additional or alternative permitting criteria and permit conditions are applicable to those new, renewal, or modified permits specified in paragraph 40D-2.801(3)(d), F.A.C. The Dover/Plant City WUCA is declared a water resource caution area pursuant to Chapter 62-40, F.A.C.

Portions of the area within the Dover/Plant City WUCA are also included within the Northern Tampa Bay WUCA and Southern Water Use Caution Areas, and rules pertaining to those areas remain in force within those areas. This section of the WUP Basis of Review for the Dover/Plant City WUCA is intended to supplement the provisions in other sections of the WUP Basis of Review and are not intended to supersede or replace them, except as specified in the WUP Basis of Review, including this section 7.4, or in paragraph 40D-2.801(3)(a), F.A.C. If there is a conflict between requirements, the more restrictive provision shall prevail.

1. WITHDRAWALS THAT AFFECT THE DOVER/PLANT CITY WUCA MINIMUM AQUIFER LEVEL PROTECTION ZONE.

GENERAL.

A Minimum Aquifer Level has been established for District Well DV-1 Suwannee in subsection 40D-8.626(3), F.A.C., the location of which is depicted on Figure 7.4-1. In order to address the effects of local and regional groundwater withdrawals and the variable hydrogeologic factors within the region, a Minimum Aquifer Level Protection Zone is defined as the area within the boundary of the 30 ft. drawdown contour for the January 2010 frost/freeze event (See Figure 7.4-1.). In establishing the Minimum Aquifer Level, the District has determined that the actual water level is below the Minimum Aquifer Level when certain pumping and climatic conditions occur. As required by law, the District is expeditiously implementing a Recovery Strategy for the Minimum Aquifer Level. The Dover/Plant City WUCA provisions of the WUP Basis of Review for Water Use Permit Applications, and Chapters 40D-2, 40D-8 and 40D-80, F.A.C., set forth the regulatory portion of the recovery strategy for the Minimum Aquifer Level. Compliance with this Section does not, by itself, satisfy the requirements of Chapter 40D-2, F.A.C., for applications submitted on or after [effective date of rule].

1.1 Existing Permits – Applications for the renewal or modification of a permit with no proposed increase in permitted frost/freeze protection quantities or change in Use Type associated with frost/freeze protection will be evaluated to determine compliance with the conditions for issuance of a permit set forth in Rule 40D-2.301, F.A.C., and the WUP Basis of Review, described in Rule 40D-2.091, F.A.C., in its entirety. When evaluating the reasonable-beneficial use of the water, emphasis will be given to reasonable water need, water conservation, use of alternative water supplies, and use of alternative frost/freeze protection methods. However, the existing impacts of permitted quantities on the Minimum Aquifer Level Protection Zone, or the Minimum Aquifer Level, will not be a basis for permit denial because the Dover/Plant City WUCA Recovery Strategy taken as a whole is intended to achieve recovery to the established minimum level as soon as practicable. Existing groundwater withdrawal impacts for frost/freeze crop protection shall be evaluated at renewal or modification based on a frost/freeze design event of 21 hours of irrigation, followed consecutively by 6 hours of non-irrigation, 13 hours of irrigation, 11 hours of non-irrigation and by 14 hours of irrigation.

New \_\_\_\_\_.

1.2 Self-Relocation – A permittee with existing permitted impacts on the Minimum Aquifer Level Protection Zone as of [effective date of the rule] may modify its permit to relocate to a different property all or a portion of the used and unused reasonable-beneficial permitted quantity. When relocated, the withdrawal of the quantities cannot increase impacts to the

Minimum Aquifer Level Protection Zone and must meet all other applicable permitting criteria included in Chapter 40D-2, F.A.C., and this WUP Basis of Review. A Self-Relocation cannot include any change in ownership, control, Use Type or increase in quantities. Crop rotation, by planting and irrigating non-contiguous properties within the same locale in a structured, revolving fashion, is allowed under a single permit and is not considered Self-Relocation.

New \_\_\_\_\_.

1.3 Transfer – A permit may be transferred to another person or entity provided there is no change in permitted water use activities.

New \_\_\_\_\_.

1.4 Applications For New Quantities – For applications including New Quantities for frost/freeze withdrawals located within the Dover/Plant City WUCA and applications for permits for frost/freeze withdrawals outside the Dover/Plant City WUCA but with the potential to impact the Minimum Aquifer Level Protection Zone, the District will evaluate the applications to determine impacts to the Minimum Aquifer Level Protection Zone, and all other Chapter 40D-2, F.A.C., rule criteria. The proposed use shall only be permitted if the proposed ground water withdrawals do not impact the Minimum Aquifer Level Protection Zone. Metering of wells and any alternative sources shall be required as provided below to assure that the alternatives are used when alternative frost/freeze methods are proposed for protection.

New \_\_\_\_\_.

1. “New Quantities” means groundwater for frost/freeze protection 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, but does not include a full or partial permit transfer. 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 (WUP) that existed prior to mining, such activity does not constitute a change in Use Type or New Quantities.

2. Groundwater Withdrawal Impacts and Analysis For Frost/Freeze Withdrawals – All applications for New Quantities, and applications located outside the Dover/Plant City WUCA whose requested withdrawals have the potential to impact the Minimum Aquifer Level Protection Zone, will be evaluated to determine whether the proposed withdrawal for frost/freeze will impact the Dover/Plant City WUCA Minimum Aquifer Level Protection Zone. However, the

applicant has the option to reduce or redistribute the withdrawals to eliminate any impacts so that the withdrawal can be permitted. In addition to the other requirements of subsection 40D-2.301(1), F.A.C., and WUP Basis of Review, the following requirements apply to New Quantities and applications located outside the Dover/Plant City WUCA whose requested withdrawals for frost/freeze protection have the potential to impact the Minimum Aquifer Level Protection Zone:

Frost/Freeze Protection –Applications for New Quantities for frost/freeze protection shall be evaluated based on a frost/freeze design event of 21 hours of irrigation, followed consecutively by 6 hours of non-irrigation, 13 hours of irrigation, 11 hours of non-irrigation and by 14 hours of irrigation. For New Quantities, the resulting drawdown shall not exceed 0.0 ft. within or at the boundary of the Minimum Aquifer Protection Zone, in addition to meeting the requirements of subsection 40D-2.301(1), F.A.C., and the WUP Basis of Review. Existing permitted groundwater withdrawals for frost/freeze protection within the Dover/Plant City WUCA are addressed below in sections titled “Investigation of Frost/Freeze Withdrawal-Related Well Complaints” and the permit conditions for mitigation of impacts to existing legal uses.

New \_\_\_\_\_.

1.5 Net Benefit – In the case where an applicant for New Quantities and applications located outside the Dover/Plant City WUCA whose requested withdrawals are constrained by impacts to the Minimum Aquifer Level Protection Zone, the applicant may choose to provide reasonable assurance by implementation of one or more of the Net Benefit options listed below in order to mitigate the predicted impacts. In order to provide a Net Benefit, the measures proposed by the applicant must offset the predicted negative impact of the proposed withdrawal and also provide an additional positive effect within or at the boundary of the Minimum Aquifer Level Protection Zone equal to or exceeding 20% of the predicted negative impact. For example, if the predicted drawdown is 1.0 ft., the mitigation must offset the 1.0 ft. drawdown and provide another 0.2 ft. (i.e., 20% of 1.0 ft.) of positive effect so that the result is a net improvement of 0.2 ft. There are two forms of Net Benefit, including Mitigation plus Recovery (includes Land Use Transitions), and Groundwater Replacement Credits, as described below.

A. Mitigation plus Recovery – This Net Benefit provision consists of retiring from use the historically used groundwater quantity associated with one or more permits that impacts the Minimum Aquifer Level Protection Zone. Mitigation plus recovery must either precede or be coincident with any new permitted withdrawals. Historically used quantities are those permitted quantities that the District determines have been deemed reasonable-beneficial and were withdrawn and used by a permittee. These quantities are determined based on

documentation previously submitted by a permittee and other methods available to the District to verify the quantities being retired. The types of documentation submitted by permittees include seasonal/annual crop reports, metered data, and other information. Other methods of verification include aerial photography, receipts for supplies, equipment, and services, property appraiser records and other methods. For small permits below thresholds for crop reporting and metering, aerial photography and other methods will be used to determine quantities.

#### 1. Land Use Transitions.

(a) Where historically used groundwater quantity associated with one or more permits that impact the Minimum Aquifer Level Protection Zone is permanently retired, 80% of the quantity associated with the impact of the retired quantity is available to be applied as a Net Benefit.

(b) Where an existing permittee replaces groundwater that was historically used for frost/freeze protection with water from tailwater recovery systems or other alternative frost/freeze protection methods, 35% of the groundwater quantity shall remain in the permit for use as tailwater pond makeup supply or emergency standby use. The amount available for use as a Net Benefit will be 80% of the remaining 65% of the historically used groundwater quantity.

(c) Where the historically used groundwater quantities are used to provide a Net Benefit for another permittee but the donor permittee wishes to maintain a standby permit, the donor permittee's standby quantity shall be 80% of this quantity, allowing 80% of the remaining 20% to be available as a Net Benefit.

2. Recharging the aquifer and withdrawing water such that there remains a net positive impact on the Floridan aquifer potentiometric surface at least 20% greater than the impact of the proposed withdrawal.

3. Undertaking other actions to offset the proposed impact of the withdrawal plus 20% recovery.

#### B. Groundwater Replacement Credit.

To reduce groundwater withdrawals, a Groundwater Replacement Credit can be obtained as an incentive to permittees to offset groundwater withdrawals with alternative water supplies (AWS). The holder of a Groundwater Replacement Credit can use the Credit to provide a Net Benefit where required. The process to obtain a Groundwater Replacement Credit is as follows:

(a) A Groundwater Replacement Credit is created when a person or entity (Supplier) provides a quantity of water from an alternative water supply to offset an existing permit holder's (Receiver's) groundwater withdrawals when those withdrawals impact the Minimum Aquifer Level Protection Zone. A Groundwater Replacement Credit will be available to either the Supplier or the Receiver, or both, at their mutually determined option.

(b) A Groundwater Replacement Credit will be issued for an amount equal to 80 percent of the reasonable-beneficial quantity that has been historically used.

(c) The Supplier and Receiver shall apply to the District for the credit and indicate to the District which entity should obtain the credit quantity, or whether the credit quantity will be divided between them.

(d) The District will set aside the groundwater quantities that are discontinued as a result of the offset by AWS in a standby permit that will be issued to the Receiver to allow withdrawal of all or a portion of such quantities in the event that the alternative water supply is interrupted, discontinued, becomes unsuitable or is decreased.

(e) The Groundwater Replacement Credit will exist for only so long as the Receiver maintains its use of the AWS, unless all groundwater use at the Receiver site ceases, in which case the Credit shall remain in effect and available to the holder of the Credit. The Credit will also remain available if the Receiver transfers the standby permit to a new owner at the same site who continues the same water use with the AWS.

(f) The only withdrawals that may be considered for a Groundwater Replacement Credit are those that meet the permitting criteria of Chapter 40D-2, F.A.C., and this WUP Basis of Review for Water Use Permit Applications.

(g) Reclaimed water suppliers shall not be eligible for a Groundwater Replacement Credit when reclaimed water is directed from existing reclaimed water users to other reclaimed water users and such redirection causes an existing reclaimed water user to reinstate permitted standby ground water withdrawals. In such a case the credit shall be applicable if the reclaimed water provider can demonstrate that the cumulative effect of such redirection will achieve more recovery of the Minimum Aquifer Level than would otherwise occur absent of the redirection.

New \_\_\_\_\_.

### 2. FROST/FREEZE PROTECTION

2.1 Crop Frost/Freeze Protection – Maximum Daily allocations for frost/freeze protection shall be allocated based on a 21 hour event. Quantity allocations shall be as follows:

(a) Blueberries, Nursery, and Strawberries shall be based on 6,788 gallons per hour per acre.

(b) Citrus shall be based on 3,000 gallons per hour per acre.

2.2 Aquaculture Frost/Freeze Protection – Maximum Daily allocation for frost/freeze protection for aquaculture shall be based on the type of fish and the volume of water replaced in the applicant's vats, ponds and tanks.

New \_\_\_\_\_.

### 3. ALTERNATIVE FROST/FREEZE PROTECTION

3.1. All applicants for permits for 100,000 gpd annual average daily quantities and greater that include an activity that typically uses frost/freeze protection and that have or propose to have a groundwater withdrawal with the potential to impact



the Minimum Aquifer Level Protection Zone, shall investigate the technical, economic and environmental feasibility of using alternatives to groundwater for frost/freeze crop protection. If it is determined that alternatives to groundwater are not feasible, applications for New Quantities that impact the Minimum Aquifer level Protection Zone will not be permitted without a Net Benefit. However, in evaluating renewal applications for permits in effect as of [effective date of rule], a determination that alternatives to groundwater are not feasible shall not be a basis for denial of the renewal application.

3.2. Examples of alternatives to using groundwater to provide frost/freeze protection are tailwater recovery systems, stormwater systems, tunnels, covers, foam and heaters. Alternative methods can also include methods supported by documentation from the Institute of Food and Agricultural Sciences at the University of Florida. The evaluation required in subsection 3.1 shall determine whether alternatives are available to use in lieu of groundwater for all or part of frost/freeze crop protection including investigation of participation in the FARMS program set forth in Chapter 40D-26, F.A.C. Infeasibility shall be supported with a detailed explanation, including a description of the investigation of participation in the FARMS program. Use of alternatives to groundwater for frost/freeze protection shall be required where technically, economically, and environmentally feasible.

New \_\_\_\_\_.

#### 4. WITHDRAWAL MONITORING AND REPORTING

##### 4.1 Metering

In addition to the flow meters required by Section 5.1 of the WUP Basis of Review, new and existing permittees shall meter withdrawal quantities from each withdrawal point, including backup and standby withdrawal points, and provide meter readings as set forth below when:

1. Issued a permit with frost/freeze quantities to be withdrawn from groundwater within the Dover/Plant City WUCA.

2. Issued a permit for 100,000 gpd annual average or greater from groundwater within the Dover/Plant City WUCA.

3. Issued a permit within the Dover/Plant City WUCA for groundwater quantities to provide frost/freeze quantities authorized to be used or withdrawn from any combination of sources that if withdrawn from groundwater alone would have the potential to impact the Minimum Aquifer Level Protection Zone established for the Dover/Plant City WUCA.

4. Issued a permit within the Dover/Plant City WUCA for groundwater quantities to provide supplemental irrigation for a use that typically requires frost/freeze protection and where such protection could be achieved through groundwater withdrawals but alternative protection methods are proposed.

New \_\_\_\_\_.

##### 4.2 Permit Conditions

1. Metering – when required to meter pursuant to 4.1 above, permits include, and new permits shall include, the following conditions as applicable:

(a) All withdrawal points, including backup and standby withdrawal points, shall be metered. All alternative water supply (AWS) quantities received, self-generated and used from each alternative water supply inflow line (line coming onto the property from an off-site source), any imported water source, each on-site stormwater catchment facility, each tailwater recovery or rainfall pond system, and each AWS re-pump surface water withdrawal point from any storage facility (the above sources collectively hereinafter referred to as “AWS Points”) shall also be metered. Withdrawals or AWS Points that are required to be metered shall be metered within 90 days after construction of the withdrawal facility or AWS Point is completed.

(b) The following condition is added to permits existing as of [effective date of rule], and permits issued pursuant to an application submitted prior to [effective date of rule], that are located within the Dover/Plant City WUCA and required to be metered pursuant to 4.1 above:

The District will provide for flow meters and their installation on operational withdrawal points, inflow lines, catchment facility, tailwater recovery or rainfall capture pond and storage facility in existence prior to [effective date of rule] that are not equipped with and not required by District rule as of [effective date of rule] to have an inline, non-resettable, totalizing flow meter that, when installed, provides plus or minus 5% accuracy and an output for an automatic meter reading device. The permittee shall coordinate with the District’s program for the provision of meters upon notification from the District of the month(s) and year window scheduled for the permittee’s meter(s) installation.—The permittee shall own any meter provided by the District. The permittee at its expense shall equip any existing withdrawal point that is capped, plugged or dismantled if it is reactivated after [effective date of rule].

(c) The cost of operation and maintenance and replacement of all meters shall be the responsibility of the permittee.

(e) Upon request of the District, permittees required to meter withdrawals shall provide the District an opportunity to perform measurements of flow during system operation.

New \_\_\_\_\_.

2. Automatic Meter Reading Devices – Add the following conditions to existing and future permits required to be metered pursuant to paragraphs 1., 3. or 4. of subsection 4.1 above:

(a) All flow meters shall be equipped to automatically collect meter readings, ambient or wet bulb temperature, system pressure, pond levels and other system indicators of the time withdrawals started and stopped and temperatures. The system shall have the ability to collect hourly and transmit to the District or the District’s designated representative on a

frequency not less than daily and maintained in a time series format that identifies the collection site by District site ID, date and values for each reading. Data shall be transferred automatically to the District's designated electronic data collection site, in a fixed file format as specified by the District.

(b) The District will provide and install automatic meter reading devices on each flow meter on each operational withdrawal point, and AWS point that is not already so equipped. The District shall include these devices in the District's data collection and reporting service subscription at no cost to the permittee. When automatic meter reading devices are required the permittee shall coordinate with the District's program for the provision of an automatic meter reading device upon notification from the District of the month(s) and year window scheduled for the permittee's automatic meter reading device(s) installation. The maintenance, repair, and replacement of all automatic meter reading devices shall be the responsibility of the District.

New \_\_\_\_\_.

## 5. INVESTIGATION OF FROST/FREEZE WITHDRAWAL-RELATED WELL COMPLAINTS BY PERMITTEES WITHIN THE DOVER/PLANT CITY WUCA

### 5.1 Assignment of Responsibility – Frost/Freeze Impacts

The responsibility of existing and new permittees with a withdrawal point within the Dover/Plant City WUCA to investigate and resolve frost/freeze withdrawal-related well complaints shall be determined as follows:

1. Floridan Aquifer Drawdown Contribution – Annually, the District shall determine the Floridan aquifer drawdown resulting from each permittee's permitted frost/freezing groundwater withdrawals through groundwater computer modeling simulation. The modeling shall account for each permittee's ground water frost/freezing protection quantities, the specific location of the withdrawal site and include the duration of the design event as specified in section 7.4.1.1, above.

2. Allocation Ratio – The District shall determine an allocation ratio for each permittee with frost/freezing groundwater quantities. The District shall determine each permittee's percent of the total of frost/freezing groundwater quantities permitted within the Dover/Plant City WUCA. The percent is then converted into an allocation ratio. For example, a permittee who is permitted 2% of the overall groundwater frost/freezing protection quantities in an area would have a ratio of 1:50 and would only be eligible to be assigned one well complaint for every 50 received.

3. Legal Existing Use Date – The District shall determine each permittee's existing legal use date based on when the permit was issued with the current water use quantities.

4. Impact Location – As each well complaint is received, the coordinates for the impacted well shall be entered into the model to determine the aquifer drawdown caused by each permittee at those coordinates.

5. Assignment of Responsibility – The responsibility to investigate and resolve the complaint is then assigned to the permittee that caused the greatest drawdown at a particular site, except:

(a) If the permittee's existing legal use date precedes that of the complainant's well.

(b) If the permittee has already been assigned all the complaints it is responsible for based on its allocation ratio.

(c) If the permittee is determined not to have been withdrawing ground water.

If 5.5.15.(a), 5.5.1 5.(b), or 5.5.15.(c) applies, then the process in this paragraph 5.5.1 is repeated for the permittee who has the next greatest drawdown at the complainant's site.

### 5.2 Assignment of Responsibility – Crop Establishment Impacts

The responsibility of existing and new permittees with a withdrawal point within the Dover/Plant City WUCA to investigate and resolve crop establishment withdrawal-related well complaints shall be determined as follows:

1. Floridan Aquifer Drawdown Contribution – Annually, the District shall determine the Floridan aquifer drawdown resulting from permitted crop establishment groundwater withdrawals for strawberry production (predominant crop establishment use) through groundwater computer modeling simulation. The modeling shall account for each of the permittee's groundwater crop establishment quantities and the specific location of the withdrawal site(s).

2. Allocation Ratio – The District shall determine an allocation ratio that shall be established for each permittee with crop establishment groundwater quantities. The District shall determine each permittee's percent of the total crop establishment groundwater quantities permitted within the Dover/Plant City WUCA. The percent is then converted into an allocation ratio. For example, a permittee who is permitted 2% of the overall groundwater crop establishment quantities in an area would have a ratio of 1:50 and would only be eligible to be assigned one well complaint for every 50 received.

3. Legal Existing Use Date – The District shall determine each permittee's existing legal use date based on when the permit was issued with the current water use quantities.

4. Impact Location – As each well complaint is received, the coordinates for the impacted well shall be entered into the model to determine the aquifer drawdown caused by each permittee at those coordinates.

5. Assignment of Responsibility – The responsibility to investigate and resolve the complaint is then assigned to the permittee that caused the greatest drawdown at a particular site, except:

(a) If the permittee's existing legal use date precedes that of the complainant's well.

(b) If the permittee has already been assigned all the complaints it is responsible for based on its allocation ratio.

(c) If the permittee is determined not to have been withdrawing ground water.

If 5.5.2 5(a), 5.5.2 5(b), or 5.5.25(c) applies, then the process in this paragraph 5.5.2 is repeated for the permittee who has the next greatest drawdown at the complainant's site.

### 5.3 Well Construction Standards

The District adopted Rule 40D-3.600, F.A.C., effective April 9, 2002, that established well construction standards to ensure that wells built after the effective date within portions of the Dover/Plant City WUCA ("Original Dover Area") would not be impacted as a result of aquifer drawdown caused by pumping by another legal water use. Effective August 17, 2010, the District amended Rule 40D-3.600, F.A.C., to expand the well construction standards to a larger area ("Expanded Dover Area"). If the complainant's well was constructed after April 9, 2002, or subsequently repaired in the Original Dover Area or constructed or repaired after August 17, 2010, in the Expanded Dover Area, the complaint will not be assigned to a permittee for investigation.

## 6. INVESTIGATION OF FROST/FREEZE PROTECTION AND CROP ESTABLISHMENT WITHDRAWAL-RELATED WELL COMPLAINTS BY PERMITTEES WITHIN THE DOVER/PLANT CITY WUCA

Permits in effect as of [effective date of rule] with a withdrawal within the Dover/Plant City WUCA shall have any permit conditions requiring investigation of frost/freeze, crop protection, crop establishment withdrawal-related well complaints or agricultural withdrawal-related complaints within a specified area or distance removed and replaced with the following permit condition. Permits issued on or after [effective date of rule] or for uses permitted prior to [effective date of rule] that include frost/freeze protection, crop protection, or crop establishment and that do not have a specific condition requiring complaint investigations shall also include this permit condition.

### Frost/Freeze and Crop Establishment Withdrawal-related Well Complaints

#### A. Well Evaluation and Temporary Supply

After the District receives a well complaint and determines that there is a responsible permittee, as provided in subsection 5, of Section 7.4 of the WUP BOR, incorporated by reference in Rule 40D-2.091, F.A.C., the District will then notify the responsible permittee of the complaint. It will also inform the complainant of the responsible permittee.

#### (1) Estimates of Repairs

(a) The permittee shall arrange with the complainant for the evaluation and preparation of an estimate for restoration of water service to the complainant. The evaluation shall occur within 24 hours of the receipt of the complaint by the

permittee, unless the complainant agrees to a longer time period. The permittee shall notify the District of the date and time for the evaluation of the complainant's well. Selection of a water well contractor to undertake either the repair or replacement of the complainant's well is at the discretion of the permittee, as long as the water well contractor has a license in good standing issued by a water management district. If only a pump repair is required, the person doing the repair shall have the appropriate occupational license.

(b) Alternatively, the complainant and the permittee can jointly arrange for the evaluation and preparation of an estimate to address the well complaint. If this option is chosen, then the evaluation must occur within 24 hours of the receipt of the complaint by the permittee, unless the complainant agrees to a longer time period.

(c) The permittee shall provide a temporary water supply to the complainant within five hours of the completion of the well evaluation and continue to provide the temporary water supply until water service is restored to the complainant's well as long as the complainant cooperates with the permittee in the repair of the complainant's well.

#### 2. Restoration of Water Supply

(a) If the evaluation indicates that groundwater pumping for frost/freeze crop protection resulted in loss of the complainant's water service, the permittee shall pay for the work necessary to restore water service to the complainant.

(b) If the well evaluation does not occur within 24 hours or within a longer time period agreed to by the complainant or a temporary water supply is not provided within five hours of the well evaluation, the complainant may arrange for the evaluation and repair or replacement of the well as necessary to restore water supply and a temporary water supply if needed. Once the complainant provides a detailed accounting of well repair or replacement expenditures, and expenses for a temporary water supply if applicable, to the District and the permittee, the permittee shall reimburse the complainant within 30 business days of permittee's receipt of the detailed accounting for the well repair or replacement expenditures, as well as the expenses for a temporary water supply if applicable, or provide a report to the District within seven days of the receipt by the permittee of disputed costs. This report shall detail why the permittee is not responsible for reimbursing all of the funds expended by the complainant for the well repair or replacement, and a temporary water supply if applicable. The permittee shall provide a copy of this report to the complainant. The District will review the report and determine the appropriate reimbursement based on the cause of the well complaint and the appropriate remedy.

#### B. Pre-Complaint Repairs

If a complainant has expended funds for a well repair or replacement before submitting a well complaint to the District, and upon filing the complaint within 14 days of the water use permittee's pumping that resulted in interference, the District

determines that there is a responsible permittee as provided in subsection 5, of Section 7.4 of the WUP BOR described above, if the complainant provides a detailed accounting of expenditures for well repair or replacement, and for a temporary water supply if applicable, then the responsible permittee shall reimburse the complainant for its actual expenditures, not to exceed \$1,500 within 30 days of permittee's receipt of the detailed accounting of the expenditures or provide a report to the District within seven days of the receipt by the permittee of disputed costs. This report shall detail why the permittee is not responsible for reimbursing all of the funds expended by the complainant for the well repair or replacement, and temporary water supply if applicable. The permittee shall provide a copy of this report to the complainant. The District will review the report and determine the appropriate reimbursement based on the cause of the well complaint and the appropriate remedy.

#### C. Permittee's Mitigation Activities and Report

1. The permittee shall inform the District as to how the permittee intends to proceed to mitigate the complaint within one business day after notice of responsibility to mitigate the complaint is delivered by the District to the permittee via electronic mail, phone call or message, or facsimile transmission, or within three business days after depositing a letter to permittee in the U.S. Mail.

2. If the permittee informs the District that it has determined that it is not responsible for mitigation of the complaint, then the permittee must provide a full explanation for its position. If, after the District has reviewed the permittee's response, the District determines that the permittee is still responsible for mitigating the complaint, the permittee shall proceed with full mitigation of the complaint as set forth in this condition.

3. All well complaints shall be fully mitigated by the permittee as soon as is practicable. Full mitigation of the well complaint shall be restoration of the complainant's well to pre-impact condition or better, including the pressure levels, discharge quantity, and water quality. Full mitigation of the well complaint necessitates the construction of a new well for the complainant if the existing well cannot be restored to pre-impact condition.

4. Within one business day after the complaint is fully mitigated, the permittee shall provide a report to the District in which the permittee details the activities undertaken by either the complainant or the permittee to mitigate the complaint as well as any reimbursements made by the permittee to the complainant. The permittee shall provide a copy of this report to the complainant. The District will review the report submitted by the permittee and may require additional action by the permittee if the District determines that the complaint has not been fully mitigated.

D. If the permittee makes a good-faith effort to comply with the response process set forth above but is unable to repair or replace the well because of the lack of cooperation of the complainant, the permittee may request that the District deem the permittee to have satisfied this permit condition.

E. Time is of the essence of this permit condition and each of its provisions. For example, the full mitigation of a complaint does not excuse the failure to timely comply with each of the provisions of this condition.

#### 7. ADDITIONAL PERMIT CONDITIONS

7.1 Notice of Recovery Strategy – All new, renewal and existing permits located in the Dover/Plant City WUCA, or that are determined to impact the Minimum Aquifer Level or Minimum Aquifer Level Protection Zone, both with or without providing a Net Benefit, include , as of [effective date of rule] the following condition:

This permit is located within the Dover/Plant City WUCA or potentially impacts the Minimum Aquifer Level or Minimum Aquifer Level Protection Zone for the Dover/Plant City WUCA. Pursuant to Section 373.0421, F.S., the Dover/Plant City WUCA is subject to a minimum levels recovery strategy that became effective on [effective date of rule]. As set forth in Rule 40D-80.075, F.A.C., the recovery strategy, including water use permitting rules, is subject to change based on, among other criteria, the Governing Board's periodic assessment of water resource criteria and cumulative water withdrawal impacts as described in Chapter 40D-80, F.A.C. This permit is subject to modification to comply with new rules.

#### 7.2 Adverse Impacts –

(a) The following condition is removed from all existing permits located within the Dover/Plant City WUCA, or that are determined to impact the Minimum Aquifer Level or Minimum Aquifer Level Protection Zone, both with or without providing a Net Benefit, as of [effective date of rule]:

The Permittee shall mitigate any adverse impact to environmental features or offsite land uses as a result of withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Adverse impacts include the following:

1. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams, or other watercourses.

2. Sinkholes or subsidence caused by reduction in water levels.

3. Damage to crops and other vegetation causing financial harm to the owner.

4. Damage to the habitat of endangered or threatened species.

(b) All new, renewal and existing permits located in the Dover/Plant City WUCA, or that are determined to impact the Minimum Aquifer Level or Minimum Aquifer Level Protection Zone, both with or without providing a Net Benefit, include, as of [effective date of rule] the following condition:

The Permittee shall mitigate any unacceptable adverse impact resulting from withdrawals to environmental features, Minimum Flows or Minimum Levels, or offsite land uses, as specified in subsection 40D-2.301(1), F.A.C., and the Water Use Permit Information Manual, Part B, the Basis of Review for Water Use Permit Applications, Chapter 4. Should unanticipated or unmitigated unacceptable adverse impacts occur, the Permittee shall be required to expeditiously mitigate the impacts.

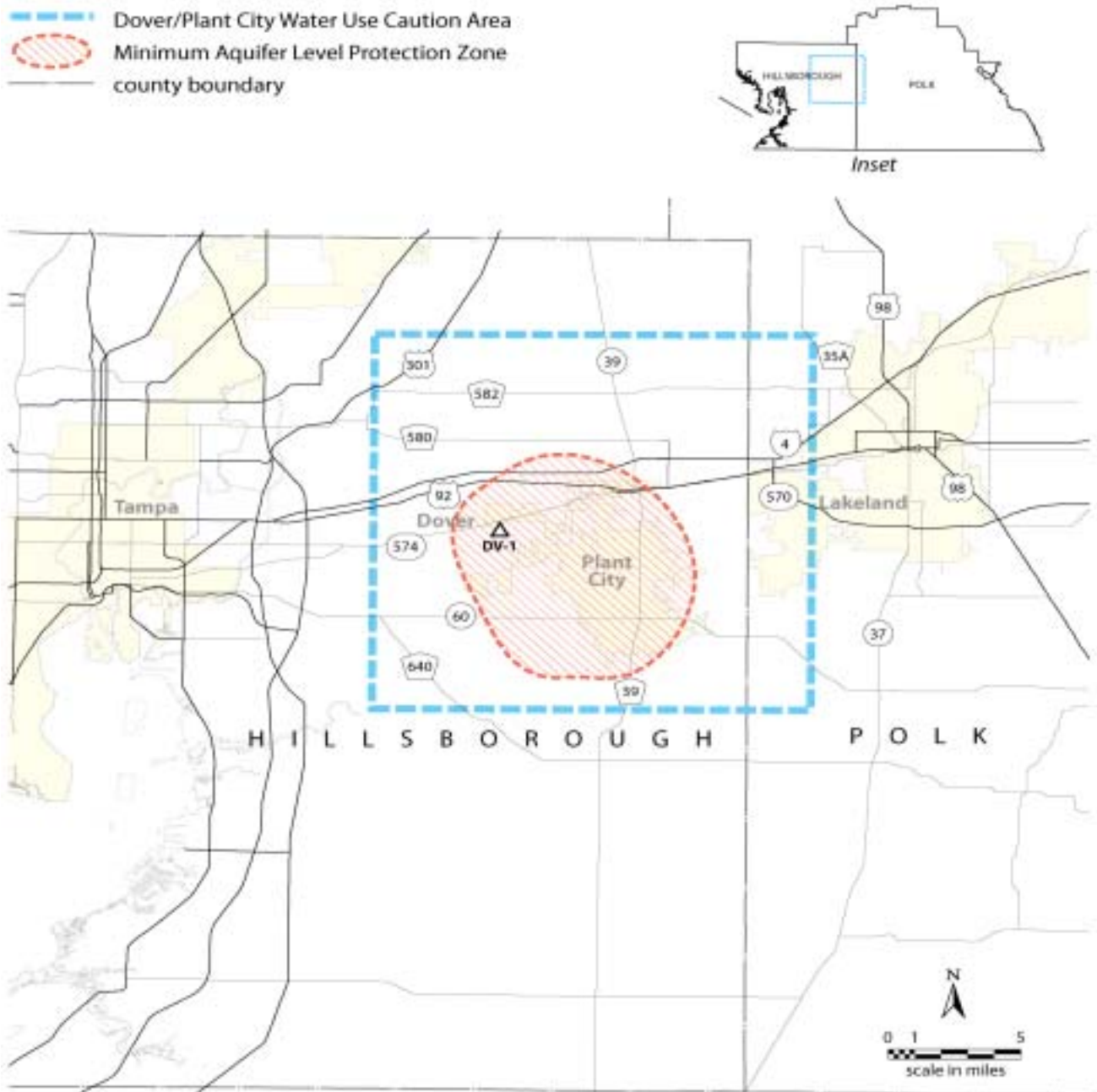
New \_\_\_\_\_

8. AVAILABILITY OF MITIGATION PROCESS FOR IMPACTS TO EXISTING LEGAL USES

Persons who believe that groundwater pumping by a water use permittee for crop establishment or frost/freeze protection has interfered with the person's existing legal use of groundwater may seek mitigation based upon the process set forth in subsection 6, above. An example of interference with the person's existing legal use of groundwater is that the person's well pump no longer operates. In order to seek mitigation through this process such persons must provide the District with their name, address, phone number and the location of their affected groundwater well within 14 days of the water use permittee's pumping that resulted in the interference.

New \_\_\_\_\_

Figure 7.4-1



NAME OF PERSON ORIGINATING PROPOSED RULE:  
Alba Mas, Tampa Regulation Manager, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 (Ext. 2000)

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2010

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: 40D-8.626                      RULE TITLE: Minimum Aquifer Levels

PURPOSE AND EFFECT: In January 2010, farmers in the Dover/Plant City area pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet and caused more than 750 temporarily dry wells for neighboring homeowners. Pumping groundwater for freeze protection is a best management practice for strawberry, citrus, and other industries and is authorized by water use permits. However, the farmers were responsible for fixing hundreds of the dry wells. Amendments to Chapter 40D-8, F.A.C., are being made as part of a rulemaking package, which will also include amendments to Chapters 40D-1, 40D-2, and 40D-80, F.A.C., to prevent a similar situation. Effective and complete implementation of the current phase of the management strategy for the Dover/Plant City area frost/freeze crop protection pumping is dependent on each of the proposed amendments to Chapters 40D-1, 40D-2, 40D-8 and 40D-80, F.A.C. Particularly, amendments to Chapter 40D-8 will establish a Minimum Aquifer Level and Minimum Aquifer Level Protection Zone providing a minimum aquifer elevation for the Dover/Plant city area to prevent significant harm from frost/freeze pumpage. The Minimum Aquifer Level is established as part of a comprehensive management program intended to arrest water level declines during frost/freeze events to minimize the potential for impacts to existing legal uses and sinkhole occurrence. The aquifer level at District well DV-1 Suwannee is affected by local and regional groundwater withdrawals. In order to address the effects of local and regional groundwater withdrawals and the variable hydrogeologic factors within the region, a Minimum Aquifer Level Protection Zone is established under proposed Chapter 40D-8. In establishing the Minimum Aquifer Level, the District has determined that the actual water level is below the Minimum Aquifer Level when certain pumping and climatic conditions occur. Therefore, this rulemaking package also proposes a Minimum Aquifer Recovery Strategy under proposed amendments to Chapter 40D-80, F.A.C. Also, this rulemaking package contains amendments to Chapter 40D-2, F.A.C., which sets forth the regulatory portion of the rulemaking package. Additionally, the amendments to

Chapters 40D-1 and 40D-2, F.A.C., will incorporate revised and new District water use permit application forms to implement the provisions of the proposed companion amendments to Chapters 40D-2, 40D-8 and 40D-80, F.A.C., to be used in the proposed Dover/Plant City Water Use Caution Area (DPCWUCA).

SUMMARY: Amendments to Chapter 40D-8, F.A.C., will establish a Minimum Aquifer Level and Minimum Aquifer Level Protection Zone providing a minimum aquifer elevation for the Dover/Plant city area to prevent significant harm from frost/freeze pumpage. The minimum aquifer level is the 10 ft potentiometric surface elevation at District Well DV-1 Suwannee. Compliance with the Minimum Aquifer Level is evaluated using a groundwater flow model simulation of the permitted groundwater frost/freeze withdrawals in the DPCWUCA, which is being established in companion rule amendments to Chapter 40D-2, F.A.C. Based on the annual simulation, if the resulting potentiometric level is at or above 10 ft NGVD at well DV-1 Suwannee, compliance with the Minimum Aquifer Level is achieved. If the resulting level is below 10 ft NGVD at well DV-1 Suwannee, compliance is not achieved. Once the Minimum Aquifer Level is achieved, if the actual potentiometric level falls below the Minimum Aquifer Level during a frost/freeze event, the District shall investigate the cause, re-evaluate the Minimum Aquifer Level, and determine the appropriate recovery strategy. Permittees do not have to demonstrate individual compliance with the Minimum Aquifer Level, only the Minimum Aquifer Protection Zone.

The Minimum Level Protection Zone proposed under amendments to Chapter 40D-8, F.A.C. is defined as an area within the boundary of the 30 ft drawdown contour for the January 2010 frost/freeze event. Proposed amendments to Chapter 40D-2, F.A.C. and the Water Use Permit Basis of Review, Part B (BOR) provide particular compliance regulations based on whether there would be adverse impacts from withdrawals that would impact the Minimum Level Protection Zone.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: From January 3-13, 2010, for the first time during the period that records have been kept, temperatures in eastern Hillsborough County and western Polk County dropped below 34 degrees for 11 consecutive days. As a result, area farmers pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet, contributed to the more than 140 sinkholes and caused more than 750 neighboring groundwater wells to be damaged or to temporarily go dry. Under Florida Statute and District water use permitting rules this damage is not allowable. Therefore, in response to the 2010 freeze event combined with previous freeze events that also resulted in dry wells and sinkholes in the Dover/Plant City area, the District is revising its rules in Chapters 40D-1, 40D-2, 40D-8, and 40D-80, F.A.C., to reduce the potential for impacts from

groundwater pumping during future freeze events. The District is establishing a Water Use Caution Area, a Minimum Aquifer Level, a Minimum Aquifer Protection Zone and a Minimum Aquifer Level Recovery Strategy to manage permits authorized to withdraw groundwater for frost/freeze crop protection. The objective of the Recovery Strategy is by January 2020, to reduce groundwater withdrawals for frost/freeze protection by 20% from January 2010 quantities to lessen the potential that drawdown during a future frost/freeze event would lower the aquifer level at District Well DV-1 Suwannee below 10 feet NGVD. The intent is to lessen the likelihood of domestic well failures and sinkhole formation over time in the Dover/Plant City area during freeze events when groundwater is pumped to protect valuable but cold sensitive crops. Permittees and applicants that typically use groundwater for frost/freeze crop protection and most likely affected by the proposed rules are strawberry, citrus, blueberry, nursery and tropical fish farms.

During rule development the District considered many options including: (1) an across the board reduction in water quantities; (2) requiring water use permittees to obtain insurance to cover mitigation costs, and (3) relying on existing rules to deny application for permits on an application by application, case by case basis. However, while the District could require immediate changes or cutbacks by permittees, the District believed that the economic cost to permittees would be too great and opted for a regulatory program that does not reduce quantities on existing permits unless economically feasible alternative means are available and sets a reduction goal of 20 percent over 10 years.

Relying solely on a regulatory approach, such as across the board cuts in frost/freeze quantities or limiting the duration of allowable pumping during frost freeze events could have a significant impact on the agricultural and overall economy of the area. Unlike some other crops that can be insured against natural disasters such as hail, there is no "freeze event" subsidized crop insurance for strawberries, the main crop in the area. Further, such insurance generally requires the grower to make every effort to protect the crop, including pumping groundwater. The grower would be responsible for any losses due to freezes. Therefore, the grower will utilize permitted frost/freeze protection water quantities and/or a financially feasible alternative means to protect the crop.

The regulatory provisions of the recovery strategy are designed primarily to restrict any new impacts from frost/freeze withdrawals on groundwater levels in the Minimum Aquifer Level Protection Zone. This is accomplished by restricting new increases in frost/freeze protection groundwater quantities that affect the Minimum Aquifer Level Protection Zone so that water levels will not be lowered even further during frost/freeze events. To some extent, frost/freeze protection groundwater quantities may be reduced through rule provisions such as "net benefit" when an increase in frost/freeze

protection is requested. In that case where one permittee requests an increase in frost/freeze protection groundwater quantities, another permittee can agree that a specified portion of its groundwater withdrawal will be reduced and reserved to protect the aquifer level.

The primary method for reducing existing groundwater withdrawals for frost/freeze protection in and around the Minimum Aquifer Level Protection Zone will be non-regulatory. The focus of this effort is to provide further financial incentives for water users to adopt technologies that reduce groundwater use such as the use of tailwater recovery systems and protection methods other than water such as crop cloths and crop enclosures.

In accordance with statute and District rule, to prevent further water level declines during frost/freeze events, new groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be permitted. Applicants for new frost freeze groundwater quantities may eliminate the impact by relocating withdrawals, developing alternative sources or means of cold protection, or providing a net benefit that offsets the impact of the proposed withdrawals plus a 20% net benefit. Alternative sources or means of cold protection range from \$581 to \$3,700 per acre farmed per year for row and tree crops and approximately \$78 per hundred square feet of pond for fish farms. Per acre costs vary by the type of crop grown and the size of the farm.

Existing permitted groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be affected. However when existing water use permittees apply for renewal of their permits that have cold protection quantities that impact the Minimum Aquifer Protection Zone, they will have to incur the cost to investigate the feasibility of alternative cold protection methods (costs addressed above) and implement them if economically, technically and environmentally feasible to reduce existing impacts. As part of the non-regulatory portion of the recovery strategy, the District intends to fund 75% of the equipment costs of alternative cold protection measures that reduce cold protection withdrawals within in the DPCWUCA and 50% to 75% of equipment costs for projects outside the DPCWUCA that reduce impacts on the Minimum Aquifer Level Protection Zone, significantly reducing the costs, which are only incurred after finding that they are feasible, addressed above. Proposed relocation and net benefit provisions are designed to lessen the impact of the proposed rules by allowing the movement and expansion of the affected agricultural industries so long as the relocation does not increase cold protection impacts and the expansion contributes to lessening of such impacts.

To better monitor and model cold protection impacts, the District will provide meters and automatic meter reading (AMR) devices to existing permittees that do not have them and:



- have groundwater cold protection quantities or crops that typically require cold protection quantities in the DPCWUCA, and
- have 100,000 gpd or more of groundwater permitted in the DPCWUCA.

New permittees that meet the above conditions will as one of the permit conditions have to purchase, install and maintain the required meters at an annualized cost range of \$10 to \$103 per acre per withdrawal site. The District will pay the AMR data collection and transmission subscription costs for both existing and new permittees required to meter and use AMR devices.

Current permit conditions in the Dover/Plant City area generally place the burden of well complaint investigation and repair on more recent permittees. Proposed revisions will significantly reduce the likelihood that an individual permittee will have to incur the costs of multiple well mitigation investigations and repairs as often occurred in the 2010 freeze event.

To provide flow meters, AMR devices, AMR data reporting subscriptions and revise well mitigation allocation methods, the District will incur approximately \$6.1 million in one-time and \$582,000 in recurring annual costs. The proposed revisions are not anticipated to generate rule implementation costs to any other state or local agencies nor are they anticipated to have any effects on state or local revenues.

No small cities or counties are affected by the proposed rules. Only those small businesses that exceed the permitting thresholds in Rule 40D-2.041, F.A.C. and have, would typically use, or request new groundwater quantities for frost/freeze protection in the DPCWUCA, or whose existing or proposed groundwater frost/freeze protection withdrawals outside the DPCWUCA that would impact the Minimum Aquifer Level Protection Zone, will be affected as previously described. As noted above, the District will reduce the cost to existing small businesses that must comply with the rule by providing meters and AMR devices, and covering the costs of AMR data reporting subscriptions so as to minimize costs to small businesses resulting from the regulation designed to allow the small business to continue to operate in compliance with statute and District rule. The District also intends to cost share the alternative frost/freeze protection costs that are deemed economically, technically and environmentally feasible that existing small business permittees may have to incur.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.042, 373.0421, 373.709 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: January 25, 2011, 9:00 a.m.

PLACE: Southwest Florida Water Management District, Tampa Service Office, 7601 US 301, Tampa, FL 33637

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or mail to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela Gifford, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4156) (OGC #2010010)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.626 Minimum Aquifer Levels.

(1) through (2) No change.

(3) Dover/Plant City Water Use Caution Area Minimum Aquifer Level.

(a) The District has determined that ground water withdrawals in the Dover/Plant City area have contributed to water level declines that are significantly harmful to the water resources of the area. The Minimum Aquifer Level is established as part of a comprehensive management program intended to arrest water level declines during frost/freeze events to minimize the potential for impacts to existing legal uses and sinkhole occurrence.

(b) The Minimum Aquifer Level is the 10 ft. potentiometric surface elevation (NGVD 1929) at District Well DV-1 Suwannee, located as shown in Figure 8-4. The Minimum Aquifer Level is the level below which the greatest impact occurred in terms of well failures and sinkholes during the 2010 frost/freeze event.

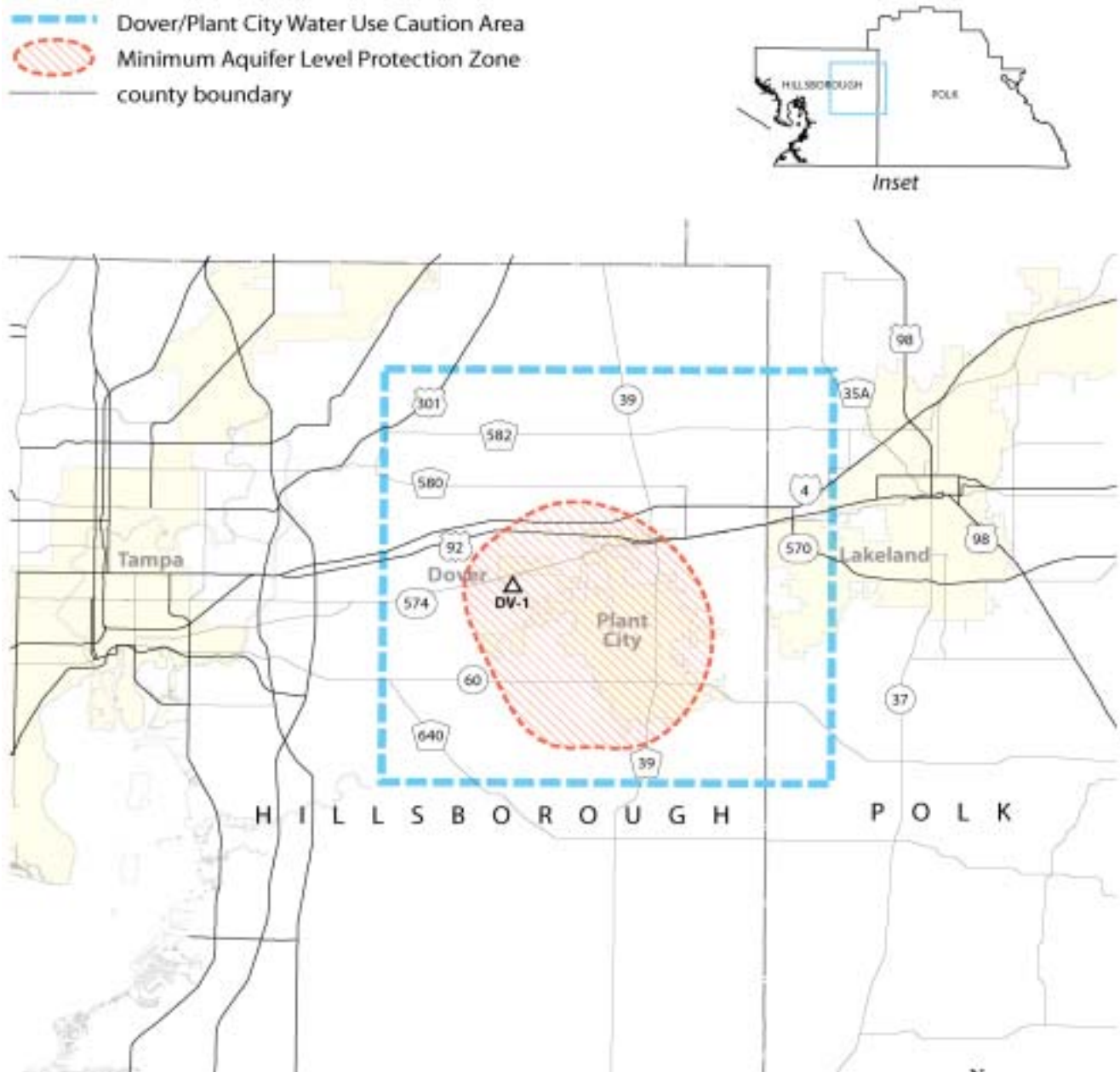
(c) The Minimum Aquifer Level at DV-1 Suwannee is affected by local and regional groundwater withdrawals. In order to address the effects of local and regional groundwater withdrawals and the variable hydrogeologic factors within the region, a Minimum Aquifer Level Protection Zone is established. The Minimum Aquifer Protection Zone is the area within the 30 ft. drawdown contour that resulted from the January, 2010 frost/freeze event, as shown in Figure 8-4. The

digital description of the geographic area is available from the District as ArcGIS Geographic Information System feature class MinimumAquiferLevelProtectionZone.

(d) Compliance with the Minimum Aquifer Level is evaluated using a ground water flow model simulation of the permitted groundwater frost/freeze withdrawals in the Dover/Plant City WUCA. Based on an annual simulation, if the resulting potentiometric level is at or above 10 ft NGVD at well DV-1 Suwannee, compliance with the Minimum Aquifer Level is achieved. If the resulting level is below 10 ft. NGVD

(1929) at well DV-1 Suwannee, compliance with the Minimum Aquifer Level is not achieved. Once the Minimum Aquifer Level is achieved based on the annual simulation, if the actual potentiometric level falls below the Minimum Aquifer Level during a frost/freeze event, the District shall investigate the cause, re-evaluate the Minimum Aquifer Level and determine the appropriate recovery strategy.

Figure 8-4. Minimum Aquifer Level Site DV-1 Suwannee and Minimum Aquifer Level Protection Zone



Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, ~~373.0361, 373.0395~~, 373.042, 373.0421, ~~373.709~~ FS. History—New 8-7-00, Amended 1-1-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Alba Mas, Tampa Regulation Manager, 7601 Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 (Ext. 2000)

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 12, 2010

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-80.075	Regulatory Portion of Recovery Strategy for the Dover/Plant City Water Use Caution Area

PURPOSE AND EFFECT: In January 2010, farmers in the Dover/Plant City area pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet and caused more than 750 temporarily dry wells for neighboring homeowners. Pumping groundwater for freeze protection is a best management practice for strawberry, citrus, and other industries and is authorized by water use permits. However, the farmers were responsible for fixing hundreds of the dry wells. Amendments to Chapter 40D-80, Florida Administrative Code are being made as part of a rulemaking package, which will also include amendments to Chapters 40D-1, 40D-2, and 40D-8, F.A.C., to prevent a similar situation. Effective and complete implementation of the current phase of the management strategy for the Dover/Plant City area frost/freeze crop protection pumping is dependent on each of the proposed amendments to Chapters 40D-1, 40D-2, 40D-8 and 40D-80, F.A.C. Amendments to Chapter 40D-8, F.A.C., will establish a minimum aquifer level. The District has determined that the actual levels are below the proposed minimum aquifer level. As required by Section 373.0421, F.S., amendments to Chapter 40D-80, F.A.C., will establish a minimum aquifer level recovery strategy for the Dover/Plant City area. This will be accomplished by the proposed water use permitting rule amendments to Chapter 40D-2, F.A.C., that are part of this rulemaking package, and non-regulatory mechanisms including assistance in offsetting ground water withdrawals for frost/freeze protection through the Facilitating Agricultural Resource Management Systems (FARMS) program. Amendments to Chapters 40D-1 and 40D-2, F.A.C., will add new forms and list updated forms as it relates to water use permitting in the Dover/Plant City Water Use Caution Area being proposed in companion proposed amendments to Chapter 40D-2, F.A.C.

SUMMARY: The recovery strategy proposed in Rule 40D-80.075, F.A.C., for the Minimum Aquifer Level for the Dover/Plant City WUCA allows for the gradual restoration of the aquifer level so that permittees have time to adapt to new practices or use alternative water sources. The recovery strategy has a goal of reducing groundwater pumping for freeze protection by 20% within 10 years. In addition to the regulatory mechanisms included in proposed amendments to Chapters 40D-1 and 40D-2, F.A.C., the District has revised its program called Facilitating Agricultural Resource Management Systems to provide enhanced funding opportunities for growers in the Dover/Plant City WUCA to install alternative methods of frost/freeze crop protection rather than the continue use of groundwater pumping. By reducing groundwater pumping for freeze protection by 20% during future freeze events, actual groundwater levels are predicted to remain above the minimum aquifer level and impacts should be avoided or minimized. This goal will be reviewed after the first five years.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: From January 3-13, 2010, for the first time during the period that records have been kept, temperatures in eastern Hillsborough County and western Polk County dropped below 34 degrees for 11 consecutive days. As a result, area farmers pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet, contributed to the more than 140 sinkholes and caused more than 750 neighboring groundwater wells to be damaged or to temporarily go dry. Under Florida Statute and District water use permitting rules this damage is not allowable. Therefore, in response to the 2010 freeze event combined with previous freeze events that also resulted in dry wells and sinkholes in the Dover/Plant City area, the Southwest Florida Water Management District is revising its rules in Chapters 40D-1, 40D-2, 40D-8, and 40D-80, F.A.C., to reduce the potential for impacts from groundwater pumping during future freeze events. The District is establishing a Water Use Caution Area, a Minimum Aquifer Level, a Minimum Aquifer Protection Zone and a Minimum Aquifer Level Recovery Strategy to manage permits authorized to withdraw groundwater for frost/freeze crop protection. The objective of the Recovery Strategy is by January 2020, to reduce groundwater withdrawals for frost/freeze protection by 20% from January 2010 quantities to lessen the potential that drawdown during a future frost/freeze event would lower the aquifer level at District Well DV-1 Suwannee below 10 feet NGVD. The intent is to lessen the likelihood of domestic well failures and sinkhole formation over time in the Dover/Plant City area during freeze events when groundwater is pumped to protect valuable but cold sensitive crops. Permittees and applicants that typically use groundwater for frost/freeze crop protection and most likely affected by the proposed rules are strawberry, citrus, blueberry, nursery and tropical fish farms.

During rule development the District considered many options including: (1) an across the board reduction in water quantities; (2) requiring water use permittees to obtain insurance to cover mitigation costs, and (3) relying on existing rules to deny application for permits on an application by application, case by case basis. However, while the District could require immediate changes or cutbacks by permittees, the District believed that the economic cost to permittees would be too great and opted for a regulatory program that does not reduce quantities on existing permits unless economically feasible alternative means are available and sets a reduction goal of 20 percent over 10 years.

Relying solely on a regulatory approach, such as across the board cuts in frost/freeze quantities or limiting the duration of allowable pumping during frost freeze events could have a significant impact on the agricultural and overall economy of the area. Unlike some other crops that can be insured against natural disasters such as hail, there is no “freeze event” subsidized crop insurance for strawberries, the main crop in the area. Further, such insurance generally requires the grower to make every effort to protect the crop, including pumping groundwater. The grower would be responsible for any losses due to freezes. Therefore, the grower will utilize permitted frost/freeze protection water quantities and/or a financially feasible alternative means to protect the crop.

The regulatory provisions of the recovery strategy are designed primarily to restrict any new impacts from frost/freeze withdrawals on groundwater levels in the Minimum Aquifer Level Protection Zone. This is accomplished by restricting new increases in frost/freeze protection groundwater quantities that affect the Minimum Aquifer Level Protection Zone so that water levels will not be lowered even further during frost/freeze events. To some extent, frost/freeze protection groundwater quantities may be reduced through rule provisions such as “net benefit” when an increase in frost/freeze protection is requested. In that case where one permittee requests an increase in frost/freeze protection groundwater quantities, another permittee can agree that a specified portion of its groundwater withdrawal will be reduced and reserved to protect the aquifer level.

The primary method for reducing existing groundwater withdrawals for frost/freeze protection in and around the Minimum Aquifer Level Protection Zone will be non-regulatory. The focus of this effort is to provide further financial incentives for water users to adopt technologies that reduce groundwater use such as the use of tailwater recovery systems and protection methods other than water such as crop cloths and crop enclosures.

In accordance with statute and District rule, to prevent further water level declines during frost/freeze events, new groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be permitted. Applicants for new frost freeze groundwater

quantities may eliminate the impact by relocating withdrawals, developing alternative sources or means of cold protection, or providing a net benefit that offsets the impact of the proposed withdrawals plus a 20% net benefit. Alternative sources or means of cold protection range from \$581 to \$3,700 per acre farmed per year for row and tree crops and approximately \$78 per hundred square feet of pond for fish farms. Per acre costs vary by the type of crop grown and the size of the farm.

Existing permitted groundwater quantities for cold protection that impact the Minimum Aquifer Level Protection Zone will not be affected. However when existing water use permittees apply for renewal of their permits that have cold protection quantities that impact the Minimum Aquifer Protection Zone they will have to incur the cost to investigate the feasibility of alternative cold protection methods (costs addressed above) and implement them if economically, technically and environmentally feasible to reduce existing impacts. As part of the non-regulatory portion of the recovery strategy, the District intends to fund 75% of the equipment costs of alternative cold protection measures that reduce cold protection withdrawals within in the DPCWUCA and 50% to 75% of equipment costs for projects outside the DPCWUCA that reduce impacts on the Minimum Aquifer Level Protection Zone, significantly reducing the costs, which are only incurred after finding that they are feasible, addressed above. Proposed relocation and net benefit provisions are designed to lessen the impact of the proposed rules by allowing the movement and expansion of the affected agricultural industries so long as the relocation does not increase cold protection impacts and the expansion contributes to lessening of such impacts.

To better monitor and model cold protection impacts, the District will provide meters and automatic meter reading devices to existing permittees that do not have them and:

- have groundwater cold protection quantities or crops that typically require cold protection quantities in the DPCWUCA, and
- have 100,000 gpd or more of groundwater permitted in the DPCWUCA.

New permittees that meet the above conditions will as one of the permit conditions have to purchase, install and maintain the required meters at an annualized cost range of \$10 to \$103 per acre per withdrawal site. The District will pay the AMR data collection and transmission subscription costs for both existing and new permittees required to meter and use AMR devices.

Current permit conditions in the Dover/Plant City area generally place the burden of well complaint investigation and repair on more recent permittees. Proposed revisions will significantly reduce the likelihood that an individual permittee will have to incur the costs of multiple well mitigation investigations and repairs as often occurred in the 2010 freeze event.

To provide flow meters, AMR devices, AMR data reporting subscriptions and revise well mitigation allocation methods, the District will incur approximately \$6.1 million in one-time and \$582,000 in recurring annual costs. The proposed revisions are not anticipated to generate rule implementation costs to any other state or local agencies nor are they anticipated to have any effects on state or local revenues.

No small cities or counties are affected by the proposed rules. Only those small businesses that exceed the permitting thresholds in Rule 40D-2.041, F.A.C. and have, would typically use, or request new groundwater quantities for frost/freeze protection in the DPCWUCA, or whose existing or proposed groundwater frost/freeze protection withdrawals outside the DPCWUCA that would impact the Minimum Aquifer Level Protection Zone, will be affected as previously described. As noted above, the District will reduce the cost to existing small businesses that must comply with the rule by providing meters and AMR devices, and covering the costs of AMR data reporting subscriptions so as to minimize costs to small businesses resulting from the regulation designed to allow the small business to continue to operate in compliance with statute and District rule. The District also intends to cost share the alternative frost/freeze protection costs that are deemed economically, technically and environmentally feasible that existing small business permittees may have to incur.

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

RULEMAKING AUTHORITY: 120.54, 373.0421, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.016, 373.023, 373.036, 373.042, 373.0421, 373.171 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: January 25, 2011, 9:00 a.m.

PLACE: Southwest Florida Water Management District, Tampa Service Office, 7601 US 301, Tampa, FL 33637

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela Gifford, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4156) (OGC #2010010)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-80.075 Regulatory Portion of Recovery Strategy for the Dover/Plant City Water Use Caution Area.

(1) Background.

From January 3-13, 2010, for the first time during the period that records have been kept, temperatures in eastern Hillsborough County and western Polk County dropped below 34 degrees for 11 consecutive days. As a result, area farmers pumped large quantities of groundwater to protect their crops. This combined pumping dropped the aquifer level 60 feet, contributed to the large number of sinkhole occurrences, and caused more than 750 neighboring groundwater wells to be damaged or to temporarily go dry. Although pumping groundwater for frost/freeze protection of crops is authorized by their water use permits, permittees are responsible for reversing the impacts to wells in their mitigation areas. The District developed a multi-faceted approach to address these issues that included a series of work sessions for invited guests and technical experts to review public input received and to provide feedback to assist District staff in developing recommended solutions. Additional staff efforts included the coordination of a multi-governmental task force to secure state and federal funding for sinkhole and other repairs, and development of recommendations for modifications to well construction, pump depth and pressure valve cutoff devices criteria and inspections. Staff, after considerable discussions and public input, developed a more equitable approach for assigning well mitigation responsibility for frost/freeze related events. In doing so the staff made further recommendations for limitations on additional groundwater use for frost/freeze protection, developing means to significantly increase the percentage of frost/freeze protection in the area accomplished by methods other than groundwater, enhancing communications with the public and permittees during a frost/freeze event, and expansion of permit and hydrologic data collection.

(2) Objectives of Recovery Strategy.

The objective of the District's Recovery Strategy is to reduce groundwater withdrawals used for frost/freeze protection by 20% from January 2010 withdrawal quantities by January 2020. This reduction is intended to lessen the potential that drawdown during a future frost/freeze event would lower the aquifer level at District Well DV-1 Suwannee below 10 feet NGVD (1929).

(3) Recovery Strategy Mechanisms.

(a) The non-regulatory mechanisms include assistance in offsetting groundwater withdrawals for frost/freeze protection through the Facilitating Agricultural Resource Management Systems program, providing enhanced data for irrigation system management, and other means.

(b) The water use permitting rules in Chapter 40D-2, F.A.C., and the Basis of Review for Water Use Permits, incorporated by reference in Rule 40D-2.091, F.A.C., in particular section 7.4, address groundwater withdrawal impacts, alternative water supplies, frost/freeze protection methods, and resource recovery. In combination, these rules along with the non-regulatory mechanisms are intended to result in recovery to the Minimum Aquifer Level.

(4) Periodic Review of Recovery Strategy.

Progress toward achieving the Minimum Aquifer Level will be continuously evaluated, with a comprehensive assessment in 2015. This evaluation will include an assessment of the reduction in groundwater withdrawals used for frost/freeze protection in the Dover/Plant City WUCA and the resulting reduced impact on the Minimum Aquifer Level. If by January 2015 a 10% reduction in groundwater withdrawals for frost/freeze protection from January 2010 quantities has not been achieved, the Recovery Strategy will be reassessed. If by January 2020 a 20% reduction in groundwater withdrawals used for frost/freeze protection has not been achieved or if the Minimum Aquifer Level has not been achieved, the Recovery Strategy will be reassessed. Evaluation of these reduction goals will include the frost/freeze design event specified in Section 7.4 1. of the WUP Basis of Review.

(5) The provisions of subsections 40D-80.075(1)-(4), F.A.C., are intended to provide an overview of resource conditions related to the water bodies for which a Minimum Aquifer Level has been established and the components of the Recovery Strategy. The provisions of the permitting rules in Chapter 40D-2, F.A.C., and the Basis of Review for Water Use Permitting shall control in the event of any conflict or inconsistency with the provisions of subsections 40D-80.075(1)-(4), F.A.C.

Rulemaking Authority 120.54, 373.0421, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.036, 373.042, 373.0421, 373.171 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Alba Mas, Tampa Regulation Manager, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759, (813)985-7481 (Ext. 2000)

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 12, 2010

**DEPARTMENT OF MANAGEMENT SERVICES**

**Agency for Workforce Innovation**

RULE NOS.:	RULE TITLES:
60BB-11.001	Authority
60BB-11.002	Public Inspection and Copying
60BB-11.003	Listing of Final Orders
60BB-11.004	Numbering of Final Orders
60BB-11.005	Electronic Database of Orders
60BB-11.006	Maintenance of Final Orders

PURPOSE AND EFFECT: The new rules set forth in this Notice of Proposed Rule establish the Agency for Workforce Innovation’s procedures for numbering, listing, managing and preserving its final orders. The Agency’s website will provide free and timely access to the Agency’s orders.

SUMMARY: The new rules establish the Agency’s procedures for numbering, listing, and maintaining final orders, and describe how these documents can be inspected and copied by the public, either online or at the offices of the Agency.

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

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

RULEMAKING AUTHORITY: 120.533 FS.

LAW IMPLEMENTED: 119.021(3), 120.53(1), 120.53(2), 120.53(3) 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: January 21, 2011, 9:00 a.m.

PLACE: Agency for Workforce Innovation, 107 East Madison Street, Tallahassee, Florida 32399-4128; Conference Room 132; Additionally, the following teleconference number is available: Dial-in-Number: (888)808-6959 Conference Code: 2457151#

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Karen Bishop, Assistant General Counsel, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, MSC #110, Tallahassee, Florida 32399-4128, (850)245-7150

THE FULL TEXT OF THE PROPOSED RULES IS:

60BB-11.001 Authority.

(1) These rules regarding the numbering, management and availability of final orders are adopted pursuant to Section 120.533, F.S., and Chapter 1S-6, F.A.C., and have been approved by the Department of State pursuant to Section 120.53(1)(c), F.S.

(2) The purpose of this part is to provide public access to final orders by providing for the availability or listing of final orders.

Rulemaking Authority 120.53(1)(c)5. FS. Law Implemented 120.533 FS. History--New \_\_\_\_\_.

60BB-11.002 Public Inspection and Copying.

(1) The agency shall make the following available for public inspection and copying, at no more than cost:

(a) All final orders.

(b) A list of all final orders which are not indexed, which must be listed pursuant to Rule 1S-6.001, F.A.C.

(2)(a) The Agency Clerk in the Office of General Counsel shall assist the public in obtaining information pertaining to final orders, except for final orders issued pursuant to Chapters 60BB-2 and 60BB-3, F.A.C. The Office of the Agency Clerk is located at the Agency for Workforce Innovation, Caldwell Building, 107 E. Madison Street, MSC 110, Tallahassee, Florida 32399, Phone Number (850)245-7150.

(b) The Office of Appeals for the Unemployment Compensation Program shall assist the public in obtaining information regarding final orders issued pursuant to Chapters 60BB-2 and 60BB-3, F.A.C. The Office of Appeals is located at the Agency for Workforce Innovation, Caldwell Building, 107 E. Madison Street, MSC 347, Tallahassee, Florida 32399, Phone Number (850)921-3511.

(c) The Office of the Agency Clerk and the Office of Appeals are open to the public between the hours of 8:00 a.m. and 5:00 p.m., excluding state holidays and weekends.

(3)(a) Except for final orders issued pursuant to Chapters 60BB-2 and 60BB-3, F.A.C., final orders that are listed, but not indexed and published, and the list of such final orders, are maintained at the Office of the Agency Clerk.

(b) The Office of Appeals will render, file, and certify final orders relating to unemployment compensation tax liability. Final orders relating to unemployment compensation benefits that are listed, but not indexed and published, and the list of those final orders are maintained at the Office of Appeals for the Unemployment Compensation Program.

(4) Certified copies of final orders pertaining to unemployment compensation tax liability may be obtained from the Office of Appeals at the address provided in paragraph (2)(b). Certified copies of other final orders may be obtained from the Agency Clerk in the Office of General Counsel. The Agency will charge fees as provided in Section 119.07(4), F.S., for certified copies of final orders.

Rulemaking Authority 120.53(1)(c)5. FS. Law Implemented 120.53(1)(a)-(h) FS. History--New \_\_\_\_\_.

60BB-11.003 Listing of Final Orders.

(1) The Agency shall maintain a list of stipulations, agreed settlements, and other final orders lacking precedential value, which are unrelated to the Unemployment Compensation

Program, that have been excluded from the indexing requirement. The list shall contain the names of the parties to the proceeding and the number assigned to the final order.

(2) The Office of Appeals for the Unemployment Compensation Program shall maintain a list of final orders pertaining to unemployment compensation benefits which are excluded from the indexing requirements. The list shall contain the names of the parties to the proceeding and the docket number assigned by the Unemployment Compensation Program.

Rulemaking Authority 120.53(1)(c)5. FS. Law Implemented 120.53(2) FS. History--New \_\_\_\_\_.

60BB-11.004 Numbering of Final Orders.

(1) Except as provided in subsection (5), below, all final orders that are required to be indexed or listed shall be sequentially numbered at the time of rendition.

(2) The sequential number shall be a two-part number separated by a dash with the first part indicating the year and the second part indicating the numerical sequence of the order as rendered for that year, beginning with number 1 each new calendar year. The assigned agency designation prefix, AWL, shall precede the two-part number.

(3) The applicable order category shall be added as a suffix succeeding the agency designation prefix and two-part number. The order categories are as follows:

DS – Declaratory Statement

EO – Emergency Order

FOI – Final Order/Informal Proceedings

FOF – Final Order/Formal Proceedings

S – Stipulation or Agreed Settlement

(4) Following the order category, the order number may include a code identifying the subject of the order. As appropriate, the following codes shall be used:

BID Bid Protests

TANF Temporary Assistance for Needy Families

UC Unemployment Compensation

WIA Workforce Investment Act

(5) The following categories of final orders shall be listed according to the docket number assigned by the Unemployment Compensation Program:

(a) Any decision of an appeals referee that becomes a final order pursuant to Section 443.151(4)(c), F.S. because the adversely affected party does not timely request review by the Unemployment Appeals Commission.

(b) Any final order issued in a proceeding heard by a special deputy pursuant to Section 443.141(2)(b), F.S.

Rulemaking Authority 120.53(1)(c)5. FS. Law Implemented 120.53(1)(h) FS. History--New \_\_\_\_\_.



60BB-11.005 Electronic Database of Orders.

(1) The electronic database for Unemployment Compensation Special Deputy Appeals shall be available on the Agency's Web site located at <http://www.floridajobs.org/finalorders/>. The database shall include the ability to electronically search orders by docket number and by key words, including specific words, terms, and phrases that are contained within the text of the final orders, or by descriptive information about the order that may not be specifically contained in the order.

(2) The electronic database for all other Agency final orders shall be available on the Agency's Web site located at [www.floridajobs.org/Legal](http://www.floridajobs.org/Legal). The database shall include the ability to electronically search orders by docket number and by key words, including specific words, terms, and phrases that are contained within the text of the final orders, or by descriptive information about the order that may not be specifically contained in the order.

(3) Final orders shall be added to the appropriate Agency Web site within 2 business days of the issuance of the document by the Office of the Unemployment Compensation Program or by the Agency head.

Rulemaking Authority 120.53(1)(f) FS. Law Implemented 120.53(1)(a) FS. History--New

60BB-11.006 Maintenance of Final Orders.

Final orders that must be indexed or listed pursuant to this Chapter shall be maintained by the agency pursuant to the retention schedule(s) approved by the Department of State, Division of Library and Information Services.

Rulemaking Authority 120.533 FS. Law Implemented 119.021(3) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen Bishop, Assistant General Counsel, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, MSC #110, Tallahassee, Florida 32399-4128, (850)245-7150.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia R. Lorenzo, Director, Agency for Workforce Innovation, 107 East Madison Street, Tallahassee, Florida 32399-4128

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 2010

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF HEALTH****Board of Speech-Language Pathology and Audiology**

RULE NO.: 64B20-2.001  
RULE TITLE: Licensure by Certification of Credentials

PURPOSE AND EFFECT: The Board proposes the rule amendment to address the licensure by certification of credentials for speech-language pathologists or audiologists.

SUMMARY: The rule amendment will address the licensure by certification of credentials for speech – language pathologists or audiologists.

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

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

RULEMAKING AUTHORITY: 456.013(7), 468.1135(4) FS.  
LAW IMPLEMENTED: 456.013(7), 468.1145(2), 468.1185 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Speech-Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32314-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-2.001 Licensure by Certification of Credentials.

(1) Any person desiring to be licensed as a speech-language pathologist or audiologist shall apply to the Department of Health and pay the fee required by Rule 64B20-3.002, F.A.C. The application shall be made on Form SPA-1, Application for Licensure, which is incorporated by reference herein, revised June 2010, ~~December, 2009~~, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C-06, Tallahassee, Florida 32399-3256 or on the Board's website at <http://www.doh.state.fl.us/mqa/speech/index.html>. The Department shall notify the applicant by letter of any deficiencies in the application within 30 days after the application is filed. The applicant shall rectify all deficiencies in the application within one year from the date of such letter or the application will be processed as an incomplete application and the application file will be closed.

(2) The Board shall certify for licensure only those applicants who have completed the application form, remitted the application fee established by Rule 64B20-3.002, F.A.C.,

remitted the initial license fee established by Rule 64B20-3.004, F.A.C., and who have demonstrated to the Board that they:

- (a) Satisfied the educational requirements as prescribed in Rule 64B20-2.002, F.A.C.
- (b) Satisfied the professional employment experience prescribed in Rule 64B20-2.004, F.A.C.
- (c) Passed the licensure examination required by Rule 64B20-2.005, F.A.C.

(3) Effective January 1, 2002, all applicants for initial or renewal of initial license or licensure by endorsement shall submit to the Board proof of completion of a two (2) hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for the profession. The course shall be provided by a Board-approved continuing education provider and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. The address of the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C06, Tallahassee, FL 32399-3256.

Rulemaking Authority 456.013(7), 468.1135(4) FS. Law Implemented 456.013(7), 468.1145(2), 468.1185 FS. History—New 3-14-91, Amended 5-25-92, Formerly 21LL-2.001, Amended 11-30-93, Formerly 61F14-2.001, 59BB-2.001, Amended 6-4-02, 5-18-04, 7-16-09, 4-18-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Speech – Language Pathology and Audiology  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Speech – Language Pathology and Audiology  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

**DEPARTMENT OF HEALTH**

**Board of Speech-Language Pathology and Audiology**

RULE NO.: 64B20-2.003                      RULE TITLE: Provisional Licensure; Requirements  
 PURPOSE AND EFFECT: The Board proposes the rule amendment to address the requirements for provisional license.  
 SUMMARY: The rule amendment will address the requirements for provisional license.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 468.1135(4) FS.  
 LAW IMPLEMENTED: 468.1145(2), 468.1155(4) 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: Anthony Jusevitch, Executive Director, Board of Speech-Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32314-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-2.003 Provisional License; Requirements.

(1) A provisional license shall be required prior to initiating the professional employment experience required pursuant to Section 468.1165, F.S. and Rule 64B20-2.004, F.A.C.

(2) Any person desiring to receive a provisional license to practice speech-language pathology or audiology shall apply to the Department of Health and pay the fee required by Rule 64B20-3.002, F.A.C. The application shall be made on Form SPA-2, Application for Provisional Licensure, which is incorporated by reference herein, revised June 2010, ~~December, 2009~~, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256 or on the Board’s website at <http://www.doh.state.fl.us/mqa/speech/index.html>. The Department shall notify the applicant by letter of any deficiencies in the application within 30 days after the application is filed. The applicant shall rectify all deficiencies in the application within one year from the date of such letter or the application will be processed as an incomplete application and the application file will be closed.

(3) The Board shall certify to the Department as eligible to receive a provisional license those applicants who have completed the application form, remitted the nonrefundable application fee as required by Rule 64B20-3.002, F.A.C., the provisional license fee required by Rule 64B20-3.005, F.A.C., and who have demonstrated to the Board that they have met the educational requirements contained in Rule 64B20-2.002, F.A.C.

(4) In addition to the application form, candidates for a provisional license shall also complete Form SPA-2A, Speech-Language Pathology and/or Audiology Verification of Employment for a Provisional Licensee, which is incorporated by reference herein, revised August 2008, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, #C06, Tallahassee, Florida 32399-3256. Said form shall provide the following:

- (a) Evidence that the professional employment shall include assessment, habilitation and rehabilitation activities with clients.

(b) Evidence that the activities performed by the provisional licensee shall be monitored and evaluated by an individual with an active license in the same area for which provisional licensure is being sought. The evaluation may be conducted by more than one (1) licensed speech-language pathologist or audiologist. In such cases, one licensee shall assume the responsibility to organize and verify that the policies concerning supervision and evaluation are met.

(5) A provisional license shall be valid for a period of 21 months from the date of issuance or until a license to practice Speech-Language Pathology or Audiology pursuant to Section 468.1185, F.S., is issued, whichever occurs first.

Rulemaking Authority 468.1135(4) FS. Law Implemented 468.1145(2), 468.1155(4) FS. History–New 3-14-91, Amended 12-4-91, Formerly 21LL-2.003, Amended 11-30-93, Formerly 61F14-2.003, Amended 9-26-95, Formerly 59BB-2.003, Amended 11-20-07, 6-1-09, 4-18-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech – Language Pathology and Audiology  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Speech – Language Pathology and Audiology  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

**DEPARTMENT OF HEALTH**

**Board of Speech-Language Pathology and Audiology**

RULE NO.: 64B20-3.007                      RULE TITLE: Active Status License Fee  
 PURPOSE AND EFFECT: The Board proposes the rule amendment to reduce the renewal fee.  
 SUMMARY: The rule amendment will notify applicants of the reduced of renewal fee.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.  
 Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
 RULEMAKING AUTHORITY: 468.1145(1) FS.  
 LAW IMPLEMENTED: 456.036, 468.1145(8) FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Speech-Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32314-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-3.007 Active Status License Fee.  
 The fee for biennial renewal of an active status license shall be one hundred twenty-five dollars (~~\$ 100.00~~ \$125.00).  
Rulemaking Specific Authority 468.1145(1) FS. Law Implemented 456.036, 468.1145(8) FS. History–New 3-14-91, Amended 8-21-91, Formerly 21LL-3.007, 61F14-3.007, Amended 2-13-95, 8-17-95, Formerly 59BB-3.007, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech – Language Pathology and Audiology  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Speech – Language Pathology and Audiology  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**DEPARTMENT OF HEALTH**

**Board of Speech-Language Pathology and Audiology**

RULE NO.: 64B20-4.001                      RULE TITLE: Certification of Assistants  
 PURPOSE AND EFFECT: The Board proposes the rule amendment to address the certification of speech-language pathologist or audiologist assistants.  
 SUMMARY: The rule amendment will address the licensure by certification of credentials for speech – language pathologists or audiologists assistants.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.  
 Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
 RULEMAKING AUTHORITY: 468.1125(9), 468.1135(4) FS.  
 LAW IMPLEMENTED: 468.1125(3), (9), 468.1215 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: Anthony Jusevitch, Executive Director, Board of Speech-Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32314-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-4.001 Certification of Assistants.  
 (1) Any person desiring to be certified as a speech-language pathology assistant or audiology assistant shall apply to the Department of Health. The application shall be made on Form SPA-3, Assistant Certification, which is

incorporated by reference herein, revised June 2010, ~~December, 2009~~, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C-06, Tallahassee, Florida 32399-3256 or on the Board's website at <http://www.doh.state.fl.us/mqa/speech/index.html>. Such application and application fee required pursuant to Rule 64B20-3.002, F.A.C., shall expire one year from the date on which the application and fee are initially received in the Board office. After the period of one year, a new application and application fee must be submitted.

(2) The Board shall certify as eligible for an assistant certificate only those applicants who have submitted a completed application form, and a supervisory plan which satisfies the criteria established by Rule 64B20-4.004, F.A.C., remitted the nonrefundable application fee required by Rule 64B20-3.002, F.A.C., the initial certificate fee established by Rule 64B20-3.008, F.A.C., and who have demonstrated to the Board that they satisfy the educational requirements elaborated in Rule 64B20-4.002, F.A.C.

Rulemaking Authority 468.1125(9), 468.1135(4) FS. Law Implemented 468.1125(3), (9), 468.1215 FS. History—New 3-14-91, Amended 12-4-91, Formerly 21LL-4.001, Amended 10-12-93, Formerly 61F14-4.001, Amended 5-22-96, Formerly 59BB-4.001, Amended 7-16-09, 4-18-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Speech – Language Pathology and Audiology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Speech – Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

**DEPARTMENT OF HEALTH**

**Division of Disease Control**

RULE NO.: 64D-4.002                      RULE TITLE: Definitions

PURPOSE AND EFFECT: The purpose and effect of this amendment will be to decrease the federal poverty level (FPL) from 400% to 300% FPL for the AIDS Drug Assistance Program (ADAP). The federal poverty level is used for eligibility purposes for the HIV/AIDS Patient Care Programs to better serve low income persons living with HIV disease. The change is part of the cost containment process to serve the neediest due to an unprecedented demand for services and lack of funding.

SUMMARY: The proposed revisions decrease the federal poverty level for those persons living with HIV/AIDS accessing ADAP.

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

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

RULEMAKING AUTHORITY: 381.003(1)(c) FS.

LAW IMPLEMENTED: 381.011(1), 381.003(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: January 14, 2011, 10:00 a.m.

PLACE: Prather Building, Bureau of HIV/AIDS, Room 345Q, 2585 Merchants Row Boulevard, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Suzanne Stevens, (850)245-4335, [Suzanne\\_Stevens@doh.state.fl.us](mailto:Suzanne_Stevens@doh.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Suzanne Stevens, Bureau of HIV/AIDS, 4052 Bald Cypress Way, BIN #A09, Tallahassee, Florida 32399-1715, (850)245-4335, [Suzanne\\_Stevens@doh.state.fl.us](mailto:Suzanne_Stevens@doh.state.fl.us)

THE FULL TEXT OF THE PROPOSED RULE IS:

64D-4.002 Definitions.

For the purpose of this rule chapter, the words and phrases listed below are defined in the following manner:

(1) through (12) No change.

(13) Low Income means a gross household income at or below 400% of the FPL in accordance with subsection 64D-4.002(9), F.A.C., for all HIV/AIDS patient care programs in accordance with subsection 64D-4.002(12), F.A.C., excluding ADAP which will be at or below 300% of the FPL.

(14) through (15) No change.

Rulemaking Authority 381.0011(13) FS. Law Implemented 381.001(1), 381.003(1)(c), 381.0011(5) FS. History—New 1-23-07, Amended 8-31-07, 3-21-08, 10-27-08, 3-30-09, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Suzanne Stevens, Patient Care

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana Viamonte Ros, M.D., M.P.H., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 2010

**NAVIGATION DISTRICTS**

**Florida Inland Navigation District**

RULE NOS.:	RULE TITLES:
66B-1.003	Definitions
66B-1.004	Policy
66B-1.005	Funds Allocation
66B-1.006	Application Process
66B-1.008	Project Eligibility
66B-1.009	Project Administration
66B-1.011	Reimbursement
66B-1.014	Small-Scale Spoil Island Restoration and Enhancement Projects
66B-1.015	Small-Scale Derelict Vessel Removal Projects
66B-1.016	Waterway Cleanup Events

**PURPOSE AND EFFECT:** The purpose of the proposed rule development is to include the following provisions in the program rule: Ensure consistency within the rule and Chapter 374, F.S., and add maritime management plans as eligible projects; clarify the rule provisions for project application, funding, eligibility and administration; and include a section on Waterway Cleanup Events.

The effect of the rule development is to implement changes in the administration of the District's Assistance Programs that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

**SUMMARY:** Minor changes to the Cooperative Assistance Program rule sections: Definitions, Policy, Funds Allocation, Application Process, Project Eligibility, Project Administration, Reimbursement, Small-Scale Spoil Island Restoration, Small-Scale Derelict Vessel Removal and the addition a of Waterway Cleanup Events.

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

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

**RULEMAKING AUTHORITY:** 374.976(2) FS.

**LAW IMPLEMENTED:** 374.976(1)-(3) 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:** January 18, 2011, 11:00 a.m.

**PLACE:** The FIND district office, 1314 Marcinski Road, Jupiter, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Mark Crosley, Assistant Executive Director, (561)627-3386. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, telephone number: (561)627-3386

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

66B-1.003 Definitions.

The basic terms utilized in this rule are defined as follows:

(1) through (3) No change.

(4) “BEACH RENOURISHMENT” means the placement of sand on a beach for the nourishment, renourishment or restoration of a beach.

(4) through (9) through (5) through (10) No change.

(11) “MARITIME MANAGEMENT PLAN” means a written plan containing a systematic arrangement of elements specifically formulated to identify, evaluate and promote the benefits of eligible waterway accessibility and enjoyment, with consideration and respect to the physical, environmental and economic parameters of the planning area.

(10) through (26) through (12) through (28) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History–New 12-17-90, Amended 2-6-97, Formerly 16T-1.003, Amended 5-17-98, 3-21-01, 3-20-03, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08, 2-22-10,\_\_\_\_\_.

66B-1.004 Policy.

The following constitutes the policy of the District regarding the administration of the program.

(1) **Financial Assistance Eligibility:** Eligible federal, state and regional agencies may be provided financial assistance, support or cooperation in planning, acquisition, development, construction, reconstruction, extension, improvement, operation or the maintenance of public navigation, local and regional anchorage management, beach renourishment, public recreation, inlet management, environmental education, maritime management plans, and boating safety projects directly related to the waterways. Eligible projects shall include the acquisition and development of public boat ramps, launching facilities, and public boat docking and mooring facilities, including those in man-made, navigable waterways contiguous to “waterways” as defined in Rule 66B-1.003, F.A.C.

(2) through (11) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1), (2) FS. History—New 12-17-90, Amended 2-6-97, Formerly 16T-1.004, Amended 5-17-98, 3-31-99, 3-5-00, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-1-09,\_\_\_\_\_.

#### 66B-1.005 Funds Allocation.

The Board will allocate funding for this program based upon the District's overall goals, management policies, fiscal responsibilities and operational needs for the upcoming year. If funds are determined to be available for the program, the District will notify potential eligible state and regional agencies of the availability of program funding and the authorized submission period. Applications will be reviewed by the Board utilizing District Form No. 00-25 and No. 00-25 (a) through (f) Cooperative Assistance Program Application Evaluation and Rating Worksheet (effective date 4-24-06) hereby incorporated by reference and available from the District office.

(1) through (3) No change.

(4) Multi-Year Funding: The construction phase of projects that are large scale, involve multiple phases, have a construction time line of one year or longer, or are requesting over 50% of the total assistance funding available for the program, will be reviewed and approved by the Board for a multiple year period subject to budgeting and allocation pursuant to the provisions of Chapter 200, F.S. The determination by the Board to provide assistance funding on a multi-year basis can be made at any time during the application review process. All approved multi-year projects are limited to a maximum of two (2) additional funding requests.

(5) Public Navigation: Projects or project elements in the category of public navigation that will qualify for up to seventy-five percent (75%) program funds must be within the Intracoastal Right-of-Way (ROW), or provide public navigation channel access to public launching, mooring or docking facilities. In addition, the following shall apply:

(a) through (b) No change.

(6) through (7) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1), (3) FS. History—New 12-17-90, Amended 2-6-97, Formerly 16T-1.005, Amended 5-17-98, 3-31-99, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08, 4-1-09,\_\_\_\_\_.

#### 66B-1.006 Application Process.

(1) Application Period: With the exception of eligible Disaster Relief Projects, eligible Small-Scale Spoil Island Restoration and Enhancement Projects, and eligible Small-Scale Derelict Vessel Applications, and Waterway Cleanup Events, all applications for assistance through this program will be submitted during the authorized submission period which shall be established by vote of the Board at a scheduled meeting.

(2) Application Form: Florida Inland Navigation District Cooperative Assistance Program Application; Applicant Information – Project Summary, Form No. 90-12 (effective date 4-24-06) is hereby incorporated by reference and available from the District office. All applications for financial assistance and support through this program shall be made on this form. With the exception of projects eligible under the Small-Scale Spoil Island Restoration and Enhancement program, ~~and~~ the Small-Scale Derelict Vessel program, and eligible Waterway Cleanup Events, all applications for financial assistance and support through this program from state agencies shall also be made on FIND Form Number 90-12a Project Information (effective date 4-24-06) and shall include a detailed cost estimate submitted on FIND Form No. 90-25 Florida Inland Navigation District Assistance Program Project Cost Estimate (effective date 4-24-06), hereby incorporated by reference and available from the District office. In addition, all applicants shall submit a complete and detailed Project Timeline (FIND FORM No. 96-10) (effective date 4-15-07).

(3) through (4) No change.

(5) Maps and Geographic Information: All applicants shall be required to submit, at minimum, the following geographic information: A County location map, a project location map, a project boundary map, and a clear and detailed site development map for land development projects.

(6)(5) Application Review: If the proposed project is a construction project within a single County, applicants shall obtain the local FIND Commissioner's initials on Form No. 90-16 prior to submitting the application to the District office. It is the applicant's responsibility to make timely arrangements for the local FIND Commissioner's review a pre-application meeting will be held with the local FIND Commissioner prior to formal submission of the application. If the proposed project is a regional project, a pre-application meeting will be held with District staff prior to formal submission of the application. In the absence of extenuating circumstances outside of the applicant's control as determined by the Board of Commissioners, a single County application shall not be considered complete if it does not include the local FIND commissioner's initials on Form No. 90-16.

Upon receipt in the District office, staff will review the applications for completeness of the informational requirements identified in the Application Checklist, FIND Form Number 90-16 (effective date 7-30-02) hereby incorporated by reference and available from the District office, and for compliance with the eligibility requirements of this rule. When an application is determined by staff to be incomplete or ineligible, Staff will immediately inform the applicant by mail. The applicant will then have until the date established by the Board in the application package to bring the application into compliance. If the applicant fails to provide a complete application in compliance with these rules, the

application will not be considered for funding. In order to have a complete application, the applicant shall not only submit the forms required under Rule 66B-1.006, F.A.C., and any other information requirements identified in the Application Checklist (FIND Form Number 90-16), but such forms and other submitted information must be completely filled out, executed as applicable, and also establish compliance with Chapter 66B-1, F.A.C.

(6) through (9) renumbered (7) through (10) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History–New 12-17-90, Amended 2-6-97, Formerly 16T-1.006, Amended 3-5-00, 3-21-01, 7-30-02, 3-20-03, 4-21-05, 4-24-06, 4-15-07, 3-25-08, \_\_\_\_\_

#### 66B-1.008 Project Eligibility.

(1) Eligible Projects: Financial assistance and support through this program shall be used to plan or carry out public navigation and anchorage management, public recreation, environmental education, boating safety, acquisition and development of spoil sites and publicly owned commercial/industrial waterway access directly related to the waterways, acquisition and development of public boat ramps, launching facilities and boat docking and mooring facilities, and inlet management, maritime management planning, environmental mitigation and beach renourishment directly related to the waterways.

(a) No change.

(b) Ineligible Projects or Project Elements: Project costs ineligible for program funding or matching funds will include: contingencies, miscellaneous, reoccurring personnel related costs, land acquisition that is not for additional trailer parking at an existing boat ramp, irrigation equipment, ball-courts, park and playground equipment, and any extraneous recreational amenities not directly related to the waterway such as the following:

1. Landscaping that does not provide shoreline stabilization or aquatic habitat;
2. Restrooms for non-waterway users;
3. Roadways providing access to non-waterway users;
4. Parking areas for non-waterway users;
5. Utilities for non-waterway related facilities;
6. Lighting for non-waterway related facilities;
7. Project maintenance and maintenance equipment;
8. Picnic shelters and furniture;
9. Vehicles to transport vessels;
10. Operational items such as fuel, oil, etc.;
11. Office space that is not incidental and necessary to the operation of the main eligible public building; and
12. Conceptual project planning, including: cost-benefit analysis, public surveys, opinion polls, public meetings, and organizational conferences.

(c) through (d) No change.

(5) The District may assist eligible governments with efforts to prepare and implement a comprehensive maritime management plan. The plan shall be utilized by the eligible government to promote and maximize the public benefit and enjoyment of eligible waterways, while identifying and prioritizing the waterway access needs of the community. The plan should not duplicate any existing or ongoing efforts for the same waterway or water shed, nor shall the District participate in any effort that does not address the basic maritime needs of the community.

(a) The District shall participate in one plan per County. Existing plans may be updated at reasonable intervals or amended to include waterway areas previously not included in the original effort. Public, government, environmental, industry and other pertinent interest groups shall be solicited and included for input in the planning process.

(b) The plan shall be utilized as a tool to provide a minimum 5-year planning analysis and forecast for the maritime needs of the community, and shall include, at minimum, the following:

1. Public boat ramp & ramp parking inventory and analysis.
2. Public mooring and docking facility analysis, including day docks and transient slips.
3. Commercial and working waterfront identification and needs analysis.
4. The identification, location, condition and analysis of existing and potential navigation channels.
5. An inventory and assessment of accessible public shorelines.
6. Public waterway transportation needs.
7. Environmental conditions that affect boat facility siting, a current resource inventory survey, and restoration opportunities.
8. Economic conditions affecting the boating community and boating facilities.
9. Acknowledgment and coordination with existing data and information, including an emphasis on the Intracoastal Waterway.

(c) Projects requested for assistance program funding shall be consistent with the applicant's maritime management plan. The applicant should utilize the plan to assist in prioritizing waterway improvement projects.

(6)(5) Final Decisions: The Board will make all final decisions on the eligibility of a project or specific project costs.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History–New 12-17-90, Amended 2-6-97, Formerly 16T-1.008, Amended 5-17-98, 3-31-99, 3-5-00, 3-21-01, 7-30-02, 3-20-03, 3-3-04, 4-15-07, 3-25-08, 4-1-09, 2-22-10, \_\_\_\_\_.

## 66B-1.009 Project Administration.

The District will appoint a project manager who shall be responsible for monitoring the project and the project agreement. The project manager shall also be responsible for approving all reimbursement requests. The project sponsor shall appoint a liaison agent, who will be a member of the eligible applicant's staff, to act on its behalf in carrying out the terms of the project agreement. Administration of the project will be as follows:

(1) Project Agreement: For each funded project, the District and the project sponsor will enter into a project agreement setting forth the mutual obligations of the parties concerning the project. The project agreement shall be executed and returned by the project sponsor within six (6) months of the approval of the project funding. The project agreement shall incorporate the applicable policies and procedures of the program as outlined in this rule. Project agreements will be for a two-year period with the possibility for one, one-year extension. Any request for a one-year extension of funding shall require submittal by the PROJECT SPONSOR of a request for extension to the DISTRICT no later than July of fiscal year two of the approved project. This request will then be considered by the DISTRICT Board, whose decision shall be final. In review of these requests, the Board will take into consideration the current status and progress of the project and the ability of the applicant to complete the project within one additional year.

(2) No change.

(3) Agreement Modification: All proposed changes to the project agreement must be submitted to the District in writing by the project sponsor accompanied by a statement of justification for the proposed changes. All project agreement amendments shall be approved by the District Board, except that the executive director may approve a minor project agreement amendment for a project within a county with the local District commissioner's concurrence. A minor project amendment shall not change the approved projects category, ~~nor~~ result in a reallocation of more than 35% of the approved funding of the project among project elements, nor allow for a greater than 35% change in the project scale or scope of work. Project agreement amendments will not include a change to the approved project's location or a change in the approved project's purpose or project type. Agreed changes shall be evidenced by a formal amendment to the project agreement.

(4) through (9) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 12-17-90, Formerly 16T-1.009, Amended 3-21-01, 7-30-02,\_\_\_\_\_.

## 66B-1.011 Reimbursement.

The District shall release program funds in accordance with the terms and conditions set forth in the project agreement. This release of program funds shall be on a reimbursement only

basis unless otherwise authorized by the Board. Board authorization shall only be given if the applicant can demonstrate that the project cannot be accomplished otherwise. The District shall reimburse the project sponsor for project costs expended on the project in accordance with the project agreement. However, the Board may approve the payment of all or a portion of the program funds upon the execution of the project agreement. Project funds to be reimbursed will require the submission of a Reimbursement Request Form and required supporting documents, FIND Form No. 90-14 (effective date 7-30-02) hereby incorporated by reference and available from the District office.

(1) through (5) No change.

(6) Recovery of Additional Project Funding: If the project sponsor receives additional funding for the project costs from another source that was not identified in the original application and that changes the agreement cost-share percentage, the project sponsor shall proportionately reimburse the District's program funds equal to the cost-share percentage in the approved project agreement. The project sponsor shall promptly notify the District of any project payments it receives from a source other than the District.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 12-17-90, Formerly 16T-1.011, Amended 3-31-99, 7-30-02,\_\_\_\_\_.

## 66B-1.014 Small-Scale Spoil Island Restoration and Enhancement Projects.

Proposals shall be accepted for the restoration or enhancement of spoil islands and natural islands within the District's waterways for recreational, navigational, educational, and environmental purposes. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

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

(b) Property Control – The Project Sponsor must have written property rights on the Project site to construct and maintain the Project for a minimum of five years. Such property rights can be in the form of a lease, interlocal agreement, use agreement or other legal form approved by the District. The applicant shall include a map clearly delineating the location of all proposed work included in the application.

(4) through (5) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 3-20-03, Amended 4-24-06,\_\_\_\_\_.

## 66B-1.015 Small-Scale Derelict Vessel Removal Projects.

Proposals shall be accepted for financial assistance for the removal of derelict vessels within the District's waterways. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) through (3) No change.



(4) District funding shall be limited to \$20,000 per county, per year, provided on a reimbursement basis only. The limitation on pre-agreement expenses may be waived by the Board in accordance with subsection 66B-1.005 ~~66B-2.005~~(3), F.A.C.

(5) No change.

(6) The derelict vessel must be located in the District's Waterways, as defined in Rule 66B-1.003 ~~66B-2.003~~, F.A.C. The applicant shall include a map clearly delineating the location of all vessels included in the application.

(7) through (11) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 4-24-06, Amended 4-15-07, 3-25-08, \_\_\_\_\_.

66B-1.016 Waterways Cleanup Events.

Proposals shall be accepted for financial assistance for the organized removal of refuse within the District's waterways. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) Application Procedure: Prior to the event, a request for funding shall be submitted to the District by means of a cover letter detailing the occurrence of the cleanup, contact information, a map of the cleanup locations and the general parameters of the event. In addition, the Applicant will submit a detailed budget clearly delineating the expenditure of all District funds, as well as the overall general budget of the event. Proposals may be submitted to the District and considered by the Board at any time during the year.

(2) Availability: The District shall fund a maximum of one clean-up program per waterway, per year within a county, with exception to the provisions of items (8) through (10), below.

(3) Applicant Eligibility: The clean-up program must be sponsored by a government agency or a registered not-for-profit corporation.

(4) Funding: District funding shall be limited to \$5,000.00 per waterway, per county, except for the provisions of items (8) through (10), below.

(5) The District shall be recognized in all written, on-line, audio or video advertising and promotions as a participating sponsor of the clean-up program.

(6) Funding Eligibility: The funding provided by the District shall only be allocated to reimburse the applicant for out of pocket expenditures related to specific cleanup program expenses such as trash bags, trash collection, haul and landfill fees, gloves, advertising, T-shirts, and related expenses. The funding provided by the District shall not be allocated for parties, meetings, food or beverages.

(7) The District Board shall make all final decisions concerning the provision of funding for a clean-up program.

In addition to the requirements stated above, a cleanup program implementing all of the following additional incentives will qualify for up to additional \$5,000 in clean up funds.

(8) The clean-up program budget must provide equal or greater matching funds for all Navigation District funding.

(9) The applicant shall tally and report the composition and location of the waterway-related debris, with the goal to show definitive progress in the amount of refuse collected, a reduction in the overall debris in the waterway, or an increase in the number of additional waterway areas included in the clean up.

(10) For each additional \$1,000 in Navigation District funding, the applicant shall coordinate a minimum of one waterway collection point or clean up area, or an applicant can conduct an additional waterway cleanup program for the waterway areas.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mark Crosley, Assistant Executive Director  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David Roach, Executive Director  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010, 36/44

**NAVIGATION DISTRICTS**

**Florida Inland Navigation District**

RULE NOS.:	RULE TITLES:
66B-2.003	Definitions
66B-2.004	Policy
66B-2.005	Funds Allocation
66B-2.006	Application Process
66B-2.008	Project Eligibility
66B-2.009	Project Administration
66B-2.011	Reimbursement
66B-2.014	Small-Scale Spoil Island Restoration and Enhancement Projects
66B-2.015	Small-Scale Derelict Vessel Removal Projects
66B-2.016	Waterways Cleanup Events

PURPOSE AND EFFECT: The purpose of the proposed rule development is to include the following provisions in the program rule: Ensure consistency within the rule and Chapter 374, F.S., and add maritime management plans as eligible projects; clarify the rule provisions for project application, funding, eligibility and administration; and include a section on Waterway Cleanup Events.

The effect of the rule development is to implement changes in the administration of the District's Assistance Programs that will assist the District and program applicants in the review and evaluation of applications submitted pursuant to the rule.

SUMMARY: Minor changes to Waterways Assistance Program rule sections: Definitions, Policy, Funds Allocation, Application Process, Project Eligibility, Project Administration, Reimbursement, Small-Scale Spoil Island Restoration, Small-Scale Derelict Vessel Removal and the addition of Waterway Cleanup Events.

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

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

RULEMAKING AUTHORITY: 374.976(2) FS.

LAW IMPLEMENTED: 374.976(1)-(3) 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: January 18, 2011, 11:00 a.m.

PLACE: The FIND District Office, 1314 Marcinski Road, Jupiter, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Mark Crosley, Assistant Executive Director, telephone number: (561)627-3386. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mark Crosley, Assistant Executive Director, Florida Inland Navigation District, 1314 Marcinski Road, Jupiter, Florida 33477, telephone Number: (561)627-3386

THE FULL TEXT OF THE PROPOSED RULES IS:

66B-2.003 Definitions.

The basic terms utilized in this rule are defined as follows:

(1) through (11) No change.

(12) "MARITIME MANAGEMENT PLAN" means a written plan containing a systematic arrangement of elements specifically formulated to identify, evaluate and promote the benefits of eligible waterway accessibility and enjoyment, with consideration and respect to the physical, environmental and economic parameters of the planning area.

(12) through (29) renumbered (13) through (30) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 12-17-90, Amended 9-2-92, 2-6-97, Formerly 16T-2.003, Amended 5-17-98, 3-21-01, 3-20-03, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08,\_\_\_\_\_.

66B-2.004 Policy.

The following constitutes the policy of the District regarding the administration of the program:

(1) No change.

(a) Member counties may be provided financial assistance, support or cooperation in planning, acquisition, development, construction, reconstruction, extension, improvement, operation or the maintenance of public navigation, local and regional anchorage management, beach renourishment, public recreation, inlet management, environmental education, maritime management plans, and boating safety projects directly related to the waterways.

(b) through (d) No change.

(2) through (11) No change.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1), (2) FS. History--New 12-17-90, Amended 2-3-94, 2-6-97, Formerly 16T-2.004, Amended 5-18-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-1-09, 2-22-10,\_\_\_\_\_.

66B-2.005 Funds Allocation.

The Board will allocate funding for this program based upon the District's overall goals, management policies, fiscal responsibilities and operational needs for the upcoming year. If funds are determined to be available for the program, the District will notify potential eligible governmental agencies of the availability of program funding. Applications will be reviewed by the Board utilizing District Forms No. 91-25 and 91-25 (a) through (f) Waterways Assistance Program Application Evaluation and Rating Worksheet (effective date 4-24-06); and 93-25 and 93-25 (a, b and c) Waterways Assistance Program Navigation Districts Application Evaluation and Rating Worksheet (effective date 4-24-06), hereby incorporated by reference and available from the District office.

(1) through (3) No change.

(4) Multi-Year Funding: The construction phase of projects that are large scale, involve multiple phases, have a construction time line of one year or longer, or are requesting a significant amount of assistance funding in relation to the total assistance available for the county where the project is located, will be reviewed and approved by the District Board for a multiple year period subject to budgeting and allocation pursuant to the provisions of Chapter 200, F.S. The determination by the Board to provide assistance funding on a multi-year basis can be made at any time during the application review process. All approved multi-year projects are limited to a maximum of two (2) additional funding requests.

(5) through (6) No change.

(7) Public Navigation: Projects or project elements in the category of public navigation that will qualify for up to seventy-five percent (75%) program funds must be within the Intracoastal Right-of-Way (ROW), or provide public navigation channel access to public launching, mooring or docking facilities. In addition, the following shall apply:

- (a) through (b) No change.
- (8) No change.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1), (3) FS. History—New 12-17-90, Amended 6-24-93, 9-5-96, 2-6-97, Formerly 16T-2.005, Amended 5-17-98, 8-26-99, 3-21-01, 7-30-02, 3-3-04, 4-21-05, 4-24-06, 4-15-07, 3-25-08, 4-1-09, \_\_\_\_\_.

#### 66B-2.006 Application Process.

(1) Application Period: With the exception of eligible Disaster Relief Projects, eligible Small-Scale Spoil Island Restoration and Enhancement Projects ~~and~~ eligible Small-Scale Derelict Vessel Applications and Waterway Cleanup Events, all applications for assistance through this program will be submitted during the authorized submission period that shall be established by vote of the Board at a scheduled meeting.

(2) Application Forms: Florida Inland Navigation District Waterways Assistance Program Project Application FIND Form Number 90-22 (effective date 4-24-06) and 93-22a, Project Information Navigation Related Districts (effective date 4-24-06) are hereby incorporated by reference and available from the District office. With the exception of projects eligible under the Small-Scale Spoil Island Restoration and Enhancement program, ~~and~~ the Small-Scale Derelict Vessel program, and eligible Waterway Cleanup Events, all applications for financial assistance and support through this program from member counties and local governments shall be made on Form Number FIND 90-22 and shall include a detailed cost estimate submitted on FIND Form No. 90-25, Florida Inland Navigation District Assistance Program Project Cost Estimate, (effective date 4-24-06), hereby incorporated by reference and available from the District office. All applications for financial assistance and support through this program from navigation related districts shall be made on FIND Form Number 93-22 (effective date 4-24-06), hereby incorporated by reference and available from the District office, and shall include a detailed cost estimate submitted on FIND Form No. 90-25. In addition, all applicants shall submit a complete and detailed Project Timeline (FIND FORM No. 96-10) (effective date 4-15-07).

- (3) through (4) No change.

(5) Maps and Geographic Information: All applicants shall be required to submit, at minimum, the following geographic information: A County location map, a project location map, a project boundary map, and a clear and detailed site development map for land development projects.

~~(6)(5) Application Review: Applicants shall obtain the local FIND Commissioner's initials on Form No. 90-26 prior to submitting the application to the District office. It is the applicant's responsibility to make timely arrangements for the local FIND Commissioner's review. In the absence of extenuating circumstances outside of the applicant's control as determined by the Board of Commissioners, an application shall not be considered complete if it does not include the local FIND commissioner's initials on Form No. 90-26. Applications will be reviewed by the local FIND Commissioner before being submitted to the District office.~~ Upon receipt in the District office, staff will review the applications for completeness of the informational requirements identified in the Application Checklist, FIND Form Number 90-26 (effective date 7-30-02), and for compliance with the eligibility requirements of this rule. When an application is determined by staff to be incomplete or ineligible, staff will immediately inform the applicant by mail. The applicant will then have until the date established by the Board in the application package to bring the application into compliance. If the applicant fails to provide a complete application in compliance with these rules, the application will not be considered for funding. In order to have a complete application, the applicant shall not only submit the forms required under Rule 66B-2.006, F.A.C., and any other information requirements identified in the Application Checklist (FIND Form Number 90-26), but such forms and other submitted information must be completely filled out, executed as applicable, and also establish compliance with Chapter 66B-2, F.A.C.

- (7) through (10) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History—New 12-17-90, Amended 9-2-92, 6-24-93, 4-12-95, Formerly 16T-2.006, Amended 5-25-00, 3-21-01, 7-30-02, 3-20-03, 4-21-05, 4-24-06, 4-15-07, 3-25-08, \_\_\_\_\_.

#### 66B-2.008 Project Eligibility.

(1) Eligible Projects: Financial assistance and support through this program shall be used to plan or carry out public navigation and anchorage management, public recreation, environmental education, boating safety, acquisition and development of spoil sites and publicly owned commercial/industrial waterway access directly related to the waterways, acquisition and development of public boat ramps, launching facilities and boat docking and mooring facilities, inlet management, maritime management planning, environmental mitigation and beach renourishment.

- (a) through (d) No change.
- (2) through (4) No change.

(5) The District may assist eligible local governments with efforts to prepare and implement a comprehensive maritime management plan. The plan shall be utilized by the eligible government to promote and maximize the public benefit and enjoyment of eligible waterways, while identifying and prioritizing the waterway access needs of the community. The

plan should not duplicate any existing or ongoing efforts for the same waterway or water shed, nor shall the District participate in any effort that does not address the basic maritime needs of the community.

(a) The District shall participate in one plan per County. Existing plans may be updated at reasonable intervals or amended to include waterway areas previously not included in the original effort. Public, government, environmental, industry and other pertinent interest groups shall be solicited and included for input in the planning process.

(b) The plan shall be utilized as a tool to provide a minimum 5-year planning analysis and forecast for the maritime needs of the community, and shall include, at minimum, the following:

1. Public boat ramp & ramp parking inventory and analysis.

2. Public mooring and docking facility analysis, including day docks and transient slips.

3. Commercial and working waterfront identification and needs analysis.

4. The identification, location, condition and analysis of existing and potential navigation channels.

5. An inventory and assessment of accessible public shorelines.

6. Public Waterway transportation needs.

7. Environmental conditions that affect boat facility siting, a current resource inventory survey, and restoration opportunities.

8. Economic conditions affecting the boating community and boating facilities.

9. Acknowledgment and coordination with existing data and information, including an emphasis on the Intracoastal Waterway.

(c) Projects requested for assistance program funding shall be consistent with the applicant's maritime management plan. The applicant should utilize the plan to assist in prioritizing waterway improvement projects.

(6)(5) Final Decisions: The Board will make all final decisions on the eligibility of a Project or specific project costs.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1)-(3) FS. History—New 12-17-90, Amended 9-2-92, 6-24-93, 2-3-94, 4-12-95, 9-5-96, 2-6-97, Formerly 16T-2.008, Amended 5-17-98, 3-31-99, 5-25-00, 3-21-01, 7-30-02, 3-20-03, 3-3-04, 4-15-07, 3-25-08, 4-1-09, 2-22-10,\_\_\_\_\_.

66B-2.009 Project Administration.

The District will appoint a project manager who shall be responsible for monitoring the project and the project agreement. The project manager shall also be responsible for approving all reimbursement requests. The project sponsor shall appoint a liaison agent, who will be a member of the

eligible applicants staff, to act on its behalf in carrying out the terms of the project agreement. Administration of the project will be as follows:

(1) Project Agreement: For each funded project, the District and the project sponsor will enter into a project agreement. The project agreement shall be executed and returned by the project sponsor within six (6) months of the approval of the project funding and prior to the release of program funds, setting forth the mutual obligations of the parties concerning the project. The project agreement shall incorporate the applicable policies and procedures of the program as outlined in this rule. Project agreements will be for a two-year period with the possibility for one, one-year extension. Any request for a one-year extension of funding shall require submittal by the PROJECT SPONSOR of a request for extension to the DISTRICT no later than July of fiscal year two of the approved project. This request will then be considered by the DISTRICT Board, whose decision shall be final. In review of these requests, the Board will take into consideration the current status and progress of the project and the ability of the applicant to complete the project within one additional year.

(2) No change.

(3) Agreement Modification: All proposed changes to the project agreement must be submitted to the District in writing by the project sponsor accompanied by a statement of justification for the proposed changes. All project agreement amendments shall be approved by the District Board, except that the Executive Director may approve a minor project agreement amendment for a project within a county with the local District commissioners concurrence. A minor project amendment shall not change the approved projects category, ~~nor~~ result in a reallocation of more than 35% of the approved funding of the project among project elements, nor allow for a greater than 35% change in the project scale or scope of work. Project agreement amendments will not include a change to the approved projects location or a change in the approved projects purpose or project type. Agreed changes shall be evidenced by a formal amendment to the project agreement and shall be in compliance with these rules.

(4) through (9) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History—New 12-17-90, Formerly 16T-2.009, Amended 3-21-01, 7-30-02,\_\_\_\_\_.

66B-2.011 Reimbursement.

The District shall release program funds in accordance with the terms and conditions set forth in the project agreement. This release of program funds shall be on a reimbursement only basis. The District shall reimburse the project sponsor for project costs expended on the project in accordance with the project agreement. Project funds to be reimbursed will require the submission of a Reimbursement Request Form and

required supporting documents, FIND Form No. 90-14 (effective date 7-30-02) hereby incorporated by reference and available from the District office.

(1) through (5) No change.

(6) Recovery of Additional Project Funding: If the project sponsor receives additional funding for the project costs from another source that was not identified in the original application and that changes the agreement cost-share percentage, the project sponsor shall proportionately reimburse the District's program funds equal to the cost-share percentage in the approved project agreement. The project sponsor shall promptly notify the District of any project payments it receives from a source other than the District.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 12-17-90, Amended 6-24-93, Formerly 16T-2.011, Amended 3-31-99, 7-30-02,\_\_\_\_\_.

66B-2.014 Small-Scale Spoil Island Restoration and Enhancement Projects.

Proposals shall be accepted for the restoration or enhancement of spoil islands and natural islands within the Districts waterways for recreational, navigational, educational, and environmental purposes. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) through (2) No change.

(3) No change.

(a) No change.

(b) Property Control: The Project Sponsor must have written property rights on the Project site to construct and maintain the Project for a minimum of five years. Such property rights can be in the form of a lease, interlocal agreement, use agreement or other legal form approved by the District. The applicant shall include a map clearly delineating the location of all proposed work included in the application.

(4) through (5) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 7-30-02, Amended 4-24-06,\_\_\_\_\_.

66B-2.015 Small-Scale Derelict Vessel Removal Projects. Proposals shall be accepted for financial assistance for the removal of derelict vessels within the Districts waterways. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) through (5) No change.

(6) The derelict vessel must be located in the Districts Waterways, as defined in Rule 66B-2.003, F.A.C. The applicant shall include a map clearly delineating the location of all vessels included in the application.

(7) through (11) No change.

Rulemaking Specific Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History--New 4-24-06, Amended 4-15-07, 3-25-08,\_\_\_\_\_.

66B-2.016 Waterways Cleanup Events.

Proposals shall be accepted for financial assistance for the organized removal of refuse within the District's waterways. The applicable provisions of this rule apply to these applications with the following additions or exceptions:

(1) Application Procedure: Prior to the event, a request for funding shall be submitted to the District by means of a cover letter detailing the occurrence of the cleanup, contact information, a map of the cleanup locations and the general parameters of the event. In addition, the Applicant will submit a detailed budget clearly delineating the expenditure of all District funds, as well as the overall general budget of the event. Proposals may be submitted to the District and considered by the Board at any time during the year.

(2) Availability: The District shall fund a maximum of one clean-up program per waterway, per year within a county, with exception to the provisions of items (8) through (10), below.

(3) Applicant Eligibility: The clean-up program must be sponsored by a government agency or a registered not-for-profit corporation.

(4) Funding: District funding shall be limited to \$5,000.00 per waterway, per county, except for the provisions of items (8) through (10), below.

(5) The District shall be recognized in all written, on-line, audio or video advertising and promotions as a participating sponsor of the clean-up program.

(6) Funding Eligibility: The funding provided by the District shall only be allocated to reimburse the applicant for out of pocket expenditures related to specific cleanup program expenses such as trash bags, trash collection, haul and landfill fees, gloves, advertising, T-shirts, and related expenses. The funding provided by the District shall not be allocated for parties, meetings, food or beverages.

(7) The District Board shall make all final decisions concerning the provision of funding for a clean-up program. In addition to the requirements stated above, a cleanup program implementing all of the following additional incentives will qualify for up to additional \$5,000 in clean up funds.

(8) The clean-up program budget must provide equal or greater matching funds for all Navigation District funding.

(9) The applicant shall tally and report the composition and location of the waterway-related debris, with the goal to show definitive progress in the amount of refuse collected, a reduction in the overall debris in the waterway, or an increase in the number of additional waterway areas included in the clean up.

(10) For each additional \$1,000 in Navigation District funding, the applicant shall coordinate a minimum of one waterway collection point or clean up area, or an applicant can conduct an additional waterway cleanup program for the waterway areas.

Rulemaking Authority 374.976(2) FS. Law Implemented 374.976(1) FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mark Crosley, Assistant Executive Director  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: David Roach, Executive Director  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2010  
NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010, 36/44

**Section III**  
**Notices of Changes, Corrections and Withdrawals**

**DEPARTMENT OF TRANSPORTATION**

RULE NO.: 14-15.0081  
RULE TITLE: Toll Facilities Description and Toll Rate Schedule

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36 No. 42, October 22, 2010 issue of the Florida Administrative Weekly has been withdrawn.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-602.206  
RULE TITLE: Riot and Disorder Plan

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 44, November 5, 2010 issue of the Florida Administrative Weekly.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: ~~October 8 August 10~~, 2010

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

RULE NO.: 40B-1.706  
RULE TITLE: Fees

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 39, October 1, 2010 issue of the Florida Administrative Weekly.

Notice is hereby given that this rule has been changed to reflect comments received from the Joint Administrative Procedures Committee. When changed, the rule shall read as noted below:

**TABLE 1.A. SCHEDULE OF PERMIT FEES  
WATER USE PERMITS**

General Water Use Permits Less than 10,000 GPD-ADR per paragraph 40B-2.041(4), F.A.C.	\$100
Modification or Renewal	\$50
General Water Use Permits <u>10,000 GPD-ADR or more and less than 2,000,000 GPD-ADR</u> as per paragraph 40B-2.041(4), F.A.C.	\$230
Modification or Renewal	\$115
Individual or Conceptual Approval Water Use Permits per subsection 40B-1.703(3) and paragraph 40B-2.041(5), F.A.C.	\$530
Modification or Renewal	\$265

Please contact Linda Welch, Rules & Contracts Coordinator, SRWMD, 9225 C.R. 49, Live Oak, Florida, 32060, (386)362-1001 or 1(800)226-1066 if you have questions.

**WATER MANAGEMENT DISTRICTS**

Suwannee River Water Management District  
RULE NO.: 40B-2.025  
RULE TITLE: Processing of Water Use Permit Applications

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 23, June 11, 2010 issue of the Florida Administrative Weekly has been withdrawn.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE NOS.:	RULE TITLES:
59A-8.002	Definitions
59A-8.003	Licensure Requirements
59A-8.004	Licensure Procedure
59A-8.008	Scope of Services
59A-8.0095	Personnel
59A-8.0185	Personnel Policies
59A-8.020	Acceptance of Patients or Clients
59A-8.0215	Plan of Care
59A-8.022	Clinical Records
59A-8.0245	Advance Directives
59A-8.027	Emergency Management Plans

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 28, July 16, 2010 issue of the Florida Administrative Weekly.

The deletion of subsection 59A-8.0185, F.A.C., is in response to written comments received from the staff of the Joint Administrative Procedures Committee. subsection