

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Joy A. Tootle, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-12.003
 RULE TITLE: Applications for Licensure
 PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the revised licensure application form in the Board’s application rule.
 SUBJECT AREA TO BE ADDRESSED: The revised licensure application form.
 RULEMAKING AUTHORITY: 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS.
 LAW IMPLEMENTED: 456.031(2), 456.033(6), 459.0055, 459.007 FS.
 IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
 Proposed Rules**

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.039
 RULE TITLE: FVRS Voter Registration Procedures
 PURPOSE AND EFFECT: The proposed language codifies and sets forth a number of existing practices and procedures relating to registering voters in the Florida Voter Registration System. The processes are intended to ensure uniformity and consistency in the way a person is registered regardless of where they register to voter or update their registration records in the state.

SUMMARY: Provides uniform practices and procedures for registering new voters and updating existing records in the FVRS.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 20.10(3), 97.012(1)-(2) 97.052(1), 98.015(10)-(12), 98.035(5), 98.045(5) FS.

LAW IMPLEMENTED: 97.052, 97.053, 98.015, 98.035, 98.045, 98.075(2) FS.

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

DATE AND TIME: October 3, 2011, 2:00 p.m.
 PLACE: Florida Heritage Hall, R.A. Gray Building, Florida Department of State, 500 S. Bronough Street, Tallahassee, FL
 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: Eddie Phillips, elphillips@dos.state.fl.us, administrative assistant, Office of General Counsel, Department of State, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, telephone: (850)245-6224. 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: Maria Matthews, Assistant General Counsel, Office of General Counsel; (850)245-6536, mimatthews@dos.state.fl.us or Gisela.salas@dos.state.fl.us, Director, Division of Election, (850)245-6200, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.039 FVRS Voter Registration Procedures.

(1) Applicability. The rule sets forth procedures to ensure that voter registration is conducted uniformly throughout the state.

(2) Definitions. The terms herein shall have the following meaning:

(a) “BVRS” refers to the Bureau of Voter Registration Services.

(b) “DHSMV” refers to the Florida Department of Highway Safety and Motor Vehicles.

(c) “FVRS” refers to the Florida Voter Registration System that contains the official list of registered voters in the state.

(d) “Personal identifying number” or “PIN” refers to the applicant’s or registered voter’s Florida driver’s license number, Florida identification number or the last four digits of his or her social security number.

(e) “SSA” refers to the Social Security Administration.

(f) “SSN4” refers to the last four digits of an applicant’s or registered voter’s social security number.

(g) “Supervisor” refers to the Supervisor of Elections.

(h) “Valid application” refers to any application as referenced in Section 97.052, F.S.

(i) “Voter registration agency” refers to any entity designated as a voter registration agency by the National Voter Registration Act (NVRA) of 1993 (42 U.S.C. 1973gg-5(a) and (c)), or by Section 97.021, F.S., to offer persons opportunity to register to vote.

(j) “Voter registration official” or “registration official” as used interchangeably herein has the same meaning ascribed in Section 97.021, F.S.

(3) Existing record search. Before entering application information into the FVRS, the voter registration official must ensure that the application is a new application and not an update to an existing record. For purposes of this subsection “existing record” refers to either a registration record with a status of active, pre-registered or inactive, or an application record with a status of pending or incomplete.

(a) If the FVRS identifies an existing record within the same county as potentially belonging to the new applicant and the registration official determines that it does, the registration official shall update the existing record with the new information. If the FVRS identifies more than one existing record within the same county, the registration official shall first update the FVRS to reflect only one active record for the voter as set forth in paragraph (e). The registration official shall then update the active record with the information from the application.

(b) If the FVRS identifies an existing record in any other county as potentially belonging to the new applicant, then registration official shall update the existing record from the other county.

(c) If the FVRS identifies two or more existing records in other counties as potentially belonging to the new applicant, and the voter registration official determines that those records are duplicate records, the registration official shall notify the other registration official or officials about those records. The registration officials shall coordinate resolution of the duplicate records as follows: If the registration date on the

more recent record is prior to January 1, 2006, the older registration record shall be recorded as removed in the FVRS and the latest record retained as the voter’s active registration record. The registration official shall assign a code in the FVRS to reflect the basis for removal as duplicate registration record. If the registration date on the more recent record is on or after January 1, 2006, the older registration record shall be updated with the newer county of residence information in the newer record. The registration official shall then update the record with the information from the application.

(d) If the FVRS identifies one or more existing records as potentially belonging to the new applicant but the voter registration official determines that they are not duplicate records, the registration official shall override the flag that identified the potential existing records, and create a new record with the information from the application.

(e) If an application essentially duplicates all the same information as the voter’s existing record, the official shall process, scan and clip the signature from the application to update the signature on record in FVRS. The voter shall be sent notice pursuant to Section 97.073, F.S. Such notice may be satisfied by issuance of a voter information card. For purposes of this paragraph, “same information” refers to the same name, same residence address, same date of birth, same driver’s license number, state identification card number, or social security number, and same political party affiliation.

(f) The FVRS shall contain only one voter registration record (with a status of active, inactive, or pre-registered) for each registered voter.

(g) Unless a registered voter’s name has already been removed pursuant to statutory provisions, a registered voter’s existing record shall not be removed solely on the basis that a subsequent application indicates that registered voter’s legal residence for voter registration and voting purposes did or might have changed out-of-state in the interim. The subsequent application shall be processed as an update to the existing record without assigning a new FVRS identification number.

(4) Data entry. Except as provided in subsection (11) and subject to the following, a voter registration official shall enter into the FVRS all information from valid and invalid applications for new registration or registration record update to the extent that the FVRS is able to accept or recognize the information as valid data:

(a) A registration official shall not complete or fill in a missing field for a new applicant that is otherwise left blank on a valid application unless the application includes a copy of the applicant’s personal identifying number. The applicant shall be notified in accordance with Sections 97.052(6) and 97.073, F.S. if the application for new registration is incomplete, i.e., that the application does not contain all the information necessary to establish the applicant’s eligibility under Section 97.041, F.S. and/or to allow for verification of the applicant’s identity as required per Section 97.053(6), F.S. If the applicant

submits on a supplemental application the mandatory information missing from the previously submitted application, the registration official shall consider all information between the two applications for purposes of determining whether the applicant has provided all the information required for a complete application. However, both applications must include the applicant's signature.

(b) If the application is on an invalid form, a valid application form shall be sent to the applicant from his or her county of residence to complete.

(c) A registration official shall enter information from an application for new registration or registration update as it appears on the application, except as follows:

1. Only the new applicant's SSN4 shall be entered into the FVRS even if the applicant provides the full number. The number on the original application shall not be altered.

2. The applicant's name shall be inputted as contained in the application field soliciting the applicant's name. If a registration official is unable to discern the correct or intended spelling of the name on the application through a comparison of the printed name and the signature and printed name, the printed name shall be entered to the extent possible and the application shall be processed as an incomplete. The Supervisor for the applicant's county of residence shall then notify the applicant in accordance with Section 97.073, F.S.

(d) Each application for new registration, update to an existing registration record, and application with supplemental information to a previously submitted application for new registration must include the original signature, or in the case of electronic records transmitted from DHSMV, include the digital signature.

(5) Verification of personal identifying number. Any valid application for new registration that is complete and submitted other than electronically through DHSMV shall be routed to DHSMV or SSA, whichever is applicable, for verification of the authenticity or nonexistence of the PIN provided on the application. However, no application shall be routed to DHSMV for verification unless the Supervisor first determines that the applicant is otherwise eligible in accordance with Section 97.041, F.S.

(a) Personal identifying number provided.

1. If the PIN is verified, the new applicant's completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS.

2. If the PIN cannot be verified, the application record is routed through the FVRS to the BVRS. The BVRS shall check for data entry errors using the scanned image of the application in the FVRS, and a comparison of information available from DHSMV. If a data entry error occurred, the BVRS shall correct the application record and resubmit the record to DHSMV or SSA for verification. If no data entry error occurred, but the BVRS is able to confirm that the number belongs to the applicant, the BVRS shall override the FVRS to complete the

registration process. The applicant's completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS.

3. If the BVRS is unable to resolve the verification issue, the BVRS shall flag the record as unverified and the application record is sent through the FVRS to the Supervisor of the new applicant's county of residence. The Supervisor shall send a "Notice to Applicant". The notice shall be substantially in the form provided in DS-DE # 122 (eff. /). This form is hereby incorporated by reference. A copy of the form may be obtained from the Division of Elections, Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, or is available from the Division of Elections' website at: <http://election.dos.state.fl.us>, or by contacting the Division of Elections at (850)245-6200.

4. If it is determined after notice to the voter is sent that a data entry error of the PIN occurred, the applicant's record shall be corrected and the PIN resubmitted through the FVRS for verification by DHSMV or SSA, whichever is applicable.

5. If the new applicant provides evidence of his or her PIN, the Supervisor shall retain a copy of the evidence as part of the applicant's application but shall not scan the evidence into the FVRS. The Supervisor shall change in the FVRS the source of the applicant's number from "F" (referring to form) to "P" (referring to proof). If the PIN presented to the Supervisor is different from the PIN provided on the application, the new PIN shall replace the old number. However, if the new PIN is a different type of PIN, then the Supervisor shall also record the type and the new PIN in the FVRS. The Supervisor shall not change the old PIN on the application or submit the new PIN to DHSMV or SSA for verification. The applicant's completed application shall become the official registration record. The applicant shall be listed as an active voter in the FVRS.

(b) No personal identifying number. If a new applicant does not provide a PIN and checks or writes "NONE," on the application, the new applicant's record shall be routed first to DHSMV or SSA, and then if needed, to the BVRS, to determine if a personal identifying number might exist:

1. If a PIN is found to exist for the new applicant, the application record shall be sent to the Supervisor of the applicant's county of residence for resolution. The Supervisor shall contact the applicant and provide him or her with an opportunity to resolve the matter. If the applicant provides evidence of a PIN, the Supervisor shall follow the process in paragraph (a)5.

2. If no PIN is found to exist for the new applicant, the BVRS shall override the FVRS and the applicant's application record shall become the official registration record. The applicant shall be listed as an active registered voter or a pre-registered voter in the FVRS, whichever is applicable. However, if such voter registered by mail and is a first time voter in the state, and did not include with the application a

copy of identification required by Section 97.0535, F.S. the record shall be flagged as requiring special identification to be provided before the voter votes. The only exception to the special identification requirement is if the voter votes absentee and swears or affirms on the absentee ballot certificate that he or she is exempt from providing any photo identification or government-issued documentation as specified in Section 97.0535, F.S.

(c) Blank field. If a new applicant provides no PIN or an incomplete PIN and fails to check or write "None" on the application, the application is incomplete unless the applicant includes a copy of the driver's license, state identification card, or the social security card from which the voter registration official can complete the incomplete PIN. Notice to the applicant shall be provided in accordance with Sections 97.052(6) and 97.073, F.S.

(6) Political party affiliation.

(a) A new applicant or registered voter who selects or affirmatively indicates a change of party affiliation shall be registered in the FVRS:

1. With the requested political party (if the party is registered in Florida) by using the party code assigned to the party by the Division of Elections.

2. Without political party affiliation under the code of "NPA" (no party affiliation) if the person:

a. Marks "No party."

b. Fails to designate a specific party affiliation, or leaves the party field blank.

c. Designates a political party that is non-existent, not registered or no longer registered in Florida.

(b) Except as provided in paragraph (c), no change to a registered voter's currently recorded political party affiliation shall be made unless the registered voter affirms a different political party or no party affiliation.

(c) If the voter's registered political party has disbanded or is no longer registered with the State, the voter's record shall be changed to reflect that a status of no party affiliation. The registered voter shall be sent written notice about the disbanded or unregistered party and the option to select another party for registration. No later than 15 days after the notice, the voter shall be sent a new voter information card reflecting the voter's party affiliation status. A coding change or conversion does not constitute a political party change in the FVRS.

(7) Source code assignment. At the time of entry of information from each application for new registration or for registration record update, the voter registration official must assign one of the following codes in the FVRS. Such code corresponds to who or how the application was directly submitted the Division of Elections or to the Supervisor of Elections regardless of how or where the application was originally obtained:

(a) Code 1 for any electronic intake application information originating directly from a driver's license examiner's office for the Florida Department of Highway Safety and Motor Vehicles or a tax collector's office that issues driver's licenses and for any paper applications mailed or hand-delivered to such office.

(b) Code 2 for any application that arrives through the postal service or other mail delivery service and that does not otherwise fall into any of the other source codes listed under this subsection.

(c) Code 3 for any application that is completed at or submitted to, and forwarded directly by a public assistance program as is defined in Section 97.021, F.S. (for example, food stamp program, the Medicaid program, the Special Supplemental Food Program for Women, Infants, and Children, and the WAGES program).

(d) Code 4 for any application that is completed at or submitted to, and forwarded directly by an office that serves persons with disabilities including any office serving students with disabilities at an educational institute, and any center for independent living.

(e) Code 5 for any application that is completed at or submitted to, and forwarded by an armed forces recruitment office.

(f) Code 6 for any application that is completed at or submitted to, and forwarded directly by a public library.

(g) Code 7 for any application that is completed at or hand-delivered by the applicant or registered voter, or delivered by someone on his or her behalf (other than a third-party voter registration organization), directly to the Supervisor of Election's office in person or through the Supervisor of Election's website.

(h) Code 8 for any application that is submitted directly (by mail or hand-delivery) by a third-party registration organization as defined in Section 97.021, F.S. (for example, an advocacy group or political party), to the Supervisor of Election's office or the Division of Elections, and if applicable, any other unique identification code assigned.

(8) Registration date. The registration date for a new applicant shall be governed by Section 97.053, F.S., and shall be entered in the FVRS accordingly.

(9) Scanned application image. The voter registration official inputting the information from an application for new registration or from an application for an update to the registration record must scan and index the image of the application including the signature into the FVRS no later than three days after inputting the information.

(10) Recording notice activity. Once an application for new registration or registration update is processed, the Supervisor shall record in the FVRS the following type and date of notice:

(a) Notice sent pursuant to Section 97.073, F.S., for failing to complete or check one or more of the mandatory fields required for determining eligibility for new registration (i.e., fields for name, date of birth, Florida legal residence, personal identifying number or writing None, U.S. citizenship, felony conviction, adjudication of mental incapacity, and signature).

(b) Notice sent pursuant to Section 97.073, F.S. regarding denial of an application on the basis that the applicant is ineligible. An applicant may be ineligible for being a convicted felon without civil rights restored, for being adjudicated mental incapacity without voting rights restored, for not being a United States citizen, for being deceased, for being a fictitious person, for not being of legal age to register or pre-register, or for not listing a Florida legal residence.

(c) Notice sent pursuant to Section 97.053(6), F.S., to a new applicant that the personal identifying number could not be verified.

(d) Voter information card sent pursuant to Section 97.071, 97.073, or 97.1031, F.S., issued upon new registration and for specific changes to voter registration records.

(e) Notice sent pursuant to Section 97.073, F.S., that a duplicate registration form was received (i.e., "duplicate" meaning that there were no data element differences between the application and the existing voter registration record as to name, date of birth, address, Florida driver's license or state identification card number or social security number, or party affiliation). A voter information card may be substituted for a duplicate notice.

(10) Special applicants- victims of violence. If a new applicant or registered voter indicates that he or she is or may be a victim of domestic violence or stalking, such person may be entitled to confidential and exempt registration records pursuant to Florida Attorney General's Address Confidentiality Program (ACP) under the provisions of Sections 741.401-.465, F.S., or pursuant to Section 97.0585, F.S., as a victim of stalking. If eligible, such persons are entitled to confidentiality as to their name, telephone number and address, and receive a designated substitute mailing address for purposes of voting by absentee ballot and conducting other activities. The application for such applicant or registered voter shall be processed as follows:

1. If the new applicant or registered voter seeks confidentiality under the program and is not already certified as a participant or the original certification has expired or been withdrawn, the applicant shall be directed to the Supervisor of Elections in the county of residence. The Supervisor shall provide the applicant or registered voter with contact information for the Attorney General's Office to find out about the process for ACP certification or the submission of a sworn statement of stalking.

2. If the applicant or registered voter provides proof of authorization of compliance with the Attorney General Office's requirements for name and address confidentiality, the

Supervisor shall process manually any new application or update to the registration record. The application shall not be entered or scanned into the FVRS in order to ensure that information revealing the personal identifying information and location of the applicant or registered voter are not disclosed to the public. If the applicant is already a registered voter whose record is in the FVRS, the existing registration record in the FVRS shall be cancelled before updating the record manually. The Supervisor must ensure that the registered voter's record including any audit, absentee and voting history records are also removed from the local county registration database. If the voter was registered in other counties, the Supervisor must coordinate with such counties to ensure that similar records are removed from their respective local county registration database. The Supervisor shall forward to the BVRS a copy of the completed and signed application for new registration or for registration update with the legal address redacted. The documents shall be enclosed in an envelope marked private and confidential and addressed to: Chief, Bureau of Voter Registration Services/ACP, Department of State, Division of Elections, 500 S. Bronough Street, Tallahassee, Florida 32399.

(c) Subject to paragraph (b)2., the BVRS chief shall:

1. Verify (for new registrations only) through the DHSMV or SSA the new applicant's personal identifying number and shall notify the Supervisor of Elections for the voter's county of residence about the outcome of the verification process.

2. Conduct monthly checks to determine if such registered voter remains eligible by cross-checking with data as to death, an adjudication of mental incapacity or a felony conviction, and if a match is found, to report such match to the Supervisor of Elections for the voter's county of residence.

3. Retain the documents in a separate secure storage from other registrations.

(d) Such applicant's or registered voter's PIN shall not be included in any registered voter list, absentee ballot list, tape, label, precinct register made available to the public.

(e) If the new applicant or registered voter does not seek or no longer seeks name and address confidentiality through the Attorney General's Office, or does not provide proof of authorization or eligibility to the confidentiality of her or her name and address through the Attorney General's Office, the application or registration update shall be processed in accordance with subsections (2)-(9) of this rule.

(f) If the chief of the BVRS or the Supervisor of Elections receives information that a registered voter's eligibility for name and address confidentiality through the Attorney General's Office is cancelled, expired without renewal or otherwise no longer valid, it shall notify the other. The Supervisor of Elections shall then attempt to contact the voter to determine whether the voter wants to remain a registered voter and shall then enter such record in the FVRS.

(11) Street Address Index Updates.

(a) Each county Supervisor shall submit electronically, at least monthly, by the 10th of each month, to the Division of Elections to the FVRS an uploaded index of valid residential street addresses so that the legal addresses on application forms can be verified as valid at the time of registering or updating a registration record. The street address index may be submitted more frequently as street additions or changes occur in the prior month. No monthly update is required if no additions or changes in street addresses have occurred in the prior month.

(b) The update to a street address index shall be submitted either by:

1. Batch method in which the entire existing index is replaced with an updated index.

2. Change method in which a street address index is updated with individual changes as they occur.

Rulemaking Authority 20.10(3), 97.012(1)-(2), 97.052, 98.015(10)-(12), 98.035(5), 98.045(5) FS. Law Implemented 97.052, 97.053, 98.014, 98.035, 98.045, 98.075(2) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Gisela Salas, Director, Division of Elections
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kurt S. Browning, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 29, 2011

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.040
 RULE TITLE: Statewide Uniform Voter Registration Application

PURPOSE AND EFFECT: The primary purpose of the proposed rule revision is to conform to law that impacted the instructions but not the substantive content of the statewide voter registration application.. The law eliminated 2 forms of identification for persons who registered by mail for the 1st time and who are 1st time voters in Florida. This change was made to conform to a change in the prior year to the list of acceptable identification forms that persons could present before voting at the polls. The law also changed the earliest that a person could preregister from a 15 year old with a driver’s license to simply anyone who is 16 years old. Other format and non-substantive changes are made to streamline the form, DS-DE #39, which is incorporated by reference into the rule.

SUMMARY: Updating the instructions and form for the statewide voter registration application.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase

directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 20.10(3), 97.012(2), 97.052 FS.

LAW IMPLEMENTED: 97.051, 97.052, 97.053, 97.1031, 98.077, 101.045(2) FS.

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

DATE AND TIME: October 3, 2011, 2:00 p.m.

PLACE: Florida Heritage Hall, R.A. Gray Building, Florida Department of State, 500 S. Bronough Street, 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 5 days before the workshop/meeting by contacting: Eddie Phillips, elphillips@dos.state.fl.us, administrative assistant, Office of General Counsel, Department of State, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, telephone: (850)245-6536. 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: Maria Matthews, Assistant General Counsel, Office of General Counsel, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6536, mimatthews@dos.state.fl.us or Dr. Gisela Salas, Director, Division of Elections, Gsalas@dos.state.fl.us, (850)245-6200

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.040 Statewide Uniform Voter Registration Application.

(1) The Department of State, Division of Elections, is required to adopt by rule a uniform statewide voter registration application for use in this state. Form DS DE 39, entitled “Florida Voter Registration Application” (eff. / / 01/08), is hereby incorporated by reference. The form consists of two parts: instructions and information, and a detachable application.

(2) This application is available upon request from the Division at Room 316, R. A. Gray Building, Tallahassee, Florida 32399-0250, or by contacting the Division of Elections at (850)245-6200, by contacting any supervisor of elections’ office, or by download from the Division of Elections’ website

under the voter registration link “For the Voters” at: <http://election.dos.state.fl.us/index.html>, or by contacting any supervisor of elections’ office.

~~Rulemaking Specific~~ Authority 20.10, 97.012(1), (2), 97.052 FS. Law Implemented 97.051, 97.052, 97.053, 97.1031, 98.077, 101.045(2) FS. History–New 11-29-05, Amended 1-1-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Gisela Salas, Director, Division of Elections
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kurt S. Browning, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 16, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 1, 2011

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-1.5095	Publication of Notice of Agency Decision or Intended Agency Decision
40E-1.603	Application Procedures for Conceptual Approval, Individual and Standard Permits
40E-1.6058	Publication and Requests for Notification of Permit Applications or Notices of Intent
40E-1.607	Permit Application Processing Fees
40E-1.615	Coordinated Agency Review Procedures for the Florida Keys Area of Critical State Concern
40E-1.659	Forms and Instructions

PURPOSE AND EFFECT: The proposed rule amendments were identified for correction/updating in accordance with Section 120.74, F.S. The amendments are as follows: 1) repeal rules that are redundant or inconsistent with statutes; 2) update the District’s ePermitting website and delete outdated language; 3) delete the term “general” from standard permits pursuant to Section 373.118, F.S.; 4) correct rule language to be consistent with statutes; 5) update incorporation language pursuant to Section 120.55(1)(a)4., F.S., and Rule 1B-30.005, F.A.C.; 6) include hyperlinks to materials incorporated by reference pursuant to Section 120.54(1)(i), F.S.; and 7) delete obsolete forms.

SUMMARY: In compliance with Section 120.74, F.S., the proposed rule amendments update or repeal the District’s rules to be consistent with statutes, delete obsolete forms, and eliminate outdated language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The District has prepared a Statement of Estimated Regulatory Cost. This will not have an adverse impact on small business. Individuals and other

entities, including governmental entities, and other users of the District’s 40E administrative rules will benefit from the use of more accurate and up-to-date rules.

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.

The proposed rules do not require legislative ratification pursuant to Section 120.54(3), F.S.

RULEMAKING AUTHORITY: 120.53(1), 120.54(5), 218.075, 373.044, 373.109, 373.113, 373.4136, 373.416, 373.421(2), 373.421(6)(b), 380.051, 668.003, 668.004, 668.50, 695.03, 704.06 FS.

LAW IMPLEMENTED: 120.53(1), 120.54(5), 120.569, 120.57, 120.60, 120.60(3), 218.075, 373.044, 373.107, 373.109, 373.113, 373.116, 373.146, 373.229, 373.413, 373.4135, 373.4136, 373.416, 373.417, 373.421, 373.421(2), 373.421(6)(b), 373.422, 380.051, 403.201, 668.003, 668.004, 668.50, 704.06 FS.

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

DATE AND TIME: October 13, 2011, 9:00 a.m.

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

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: South Florida Water Management District Clerk, (800)432-2045, ext. 2087 or (561)682-2087. 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: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866, or (561)682-6866, email: abain@sfwmd.gov. For procedural questions, contact: Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299 or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

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

PROPOSED EFFECTIVE DATE: December 1, 2011

~~Rulemaking Specific~~ Authority 120.54(5), 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 120.54(5), 120.569, 120.57, 373.146, 373.413, 668.003, 668.004, 668.50 FS. History–New 7-2-98, Amended 6-12-00, 10-1-06, Repealed 12-1-11.

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

- (1) No change.
- (a) No change.

(b) If the District determines that the application is incomplete, the District shall request the information needed to complete the application within 30 days of its receipt. For individual permits and standard ~~general~~ permits, the applicant shall have 90 days from receipt of a timely request for additional information to submit that information to the District.

- (c) through (e) No change.
- (2) No change.
- (3)(a) No change.

(b) An authorization to proceed for standard ~~general~~ permits in Chapter 40E-20, F.A.C., shall occur within 60 days of receipt of a complete notice of intent, including receipt of all requested information and correction of any error or omission of which the applicant was timely notified.

(c) Agency action on a standard ~~general~~ permit application in Chapter 40E-40, F.A.C., shall occur within 60 days of receipt of a complete application, including receipt of all requested information and correction of any error or omission of which the applicant was timely notified.

- (d) through (e) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 120.53(1), 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 120.60, 373.107, 373.109, 373.116, 373.229, 373.417, 373.421, 373.422, 668.003, 668.004, 668.50 FS. History—New 9-3-81, Formerly 16K-1.08(1)-(8), Amended 7-1-86, 7-26-87, 11-21-89, 5-11-93, 10-3-95, 4-1-96, 7-2-98, 6-12-00, 10-1-06, 12-1-11.

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

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

(b) Within 14 days of filing notice of intent to use a general permit or application for a ~~standard~~ general permit, persons qualifying for the use thereof are not required to, but may publish notice of such filing in a newspaper of general circulation, as defined in Chapter 50, F.S., in the area affected by the proposed project. Proof of publication shall be submitted to the ~~D~~istrict within 14 days of publication.

- (c) No change.
- (3) through (5) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 120.53(1), 120.60(3), 668.003, 668.004, 668.50 FS. History—New 10-3-95, Amended 7-2-98, 6-12-00, 10-1-06, 12-1-11.

40E-1.607 Permit Application Processing Fees.

- (1) through (2) No change.

(3)(a) Environmental Resource Permit Application processing fees are in the following table:

Category	Amount
TABLE 40E-1.607(3)(a)	
PERMIT APPLICATION PROCESSING FEES FOR ENVIRONMENTAL RESOURCE PERMIT APPLICATIONS REVIEWED PURSUANT TO CHAPTERS 40E-4, 40E-40, AND 40E-400, F.A.C.	
Fee amounts shall apply to applications for conceptual and construction, or conceptual, or construction, except as noted.	
New Individual Permit	
Project area less than 100 acres	
Agriculture	\$4,029
All others, including Mitigation Banks	\$7,500
Project area 100 acres to less than 640 acres	
Agriculture	\$5,284
All others, including Mitigation Banks	\$13,125
Project area 640 acres or more	
Agriculture	\$6,605
All others, including Mitigation Banks	\$25,000
Individual Permit Modification	
Project area less than 100 acres	
Agriculture	\$2,708
All others, including Mitigation Banks	\$5,000
Project area 100 acres to less than 640 acres	
Agriculture	\$3,303
All others, including Mitigation Banks	\$10,000
Project area 640 acres or more	
Agriculture	\$4,624
All others, including Mitigation Banks	\$15,000
New Standard General Permit (excluding incidental site activities pursuant to Rule 40E-40.042, F.A.C.)	
Agriculture	\$859
All others	\$3,500
Standard General Permit Modification including Application for phase construction under a Conceptual Approval	
Application for individual permit modification for a system which does not exceed the criteria in Rule 40E-40.041, F.A.C. and which is not required to obtain an individual environmental resource permit for the reasons in subsection 40E-40.011(2), F.A.C.	
Agriculture	\$661
All others	\$1,500
Noticed General Permit pursuant to Chapter 40E-400, F.A.C., including Aquaculture	
Single family residential homesite consisting of 10 acres or less in total land area	\$250
	\$100

Standard General Permit for incidental site activities pursuant to Rule 40E-40.042, F.A.C. (Early Work)	\$1,000
Transfer of permit (including Mitigation Bank) to another entity pursuant to Rules 40E-1.6107 and 40E-4.351, F.A.C.	\$675
Variance associated with an environmental resource permit application	
From paragraph 40E-4.301(1)(e), F.A.C.	\$750
From other permitting standards, permit conditions, or water quality standards	\$1,500
New Individual Operation Permit	\$5,250
Letter Modification	\$250
New Individual or Standard General Permits, or Individual or Standard General Permit Modifications, solely for environmental restoration or enhancement activities provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. Such activities may include incidental passive recreation and facilities to provide public access to the environmental restoration or enhancement site	\$250
No Notice General Permits pursuant to Rules 40E-400.315 and 40E-400.316, F.A.C.	\$100
Verification that an activity is exempt from regulation under Part IV, Chapter 373 or 403.813, F.S.	\$100
Informal wetland boundary determinations under Part IV of Chapter 373, F.S., for property less than	\$500
or equal to 1 acre	\$500
Permit Extensions	
1. When used in Table paragraph 40E-1.607(3)(a), F.A.C., "Agriculture" shall be defined as set forth in Section 570.02, F.S.	
2. For permit applications which involve a combination of fee categories, the highest fee that applies shall be charged.	
3. Any individual permit application submitted concurrently with a conceptual approval application – where the individual permit application represents a phase of the conceptual approval application – is exempt from the above environmental resource permit fees.	
4. For projects grandfathered pursuant to Section 373.414, F.S., the letter modification, conceptual approval, individual or general surface water management permit application fee shall be the same as listed in Table paragraph 40E-1.607(3)(a), F.A.C.	

5. The District shall use the Consumer Price Index (CPI) adopted by the United States Department of Labor since the most recently revised fee increase for revising fees under Part IV of Chapter 373, F.S., pursuant to Section 373.109, F.S. The inflation index used is the price paid by all urban consumers for a market basket of consumer goods and services; specifically, the CPI figures for the "CPI-U, U.S. City Average. All Items" established for the previous five years by the Bureau of Labor Statistics (BLS) (www.bls.gov/cpi), computed as provided in the BLS publication Bureau of Labor Statistics Handbook of Methods, Chapter 17.

(b) Permit application processing fees for projects grandfathered pursuant to Section 373.414, F.S., wetland resource (dredge and fill) are in the following table:

(3)(b) through (5) No change.

(6)(a) through (6)(b) No change.

(c) The governing body submits Certification of Waiver of Permit Application Processing Fee, Form No. 0889, certifying that the permit processing fee is a fiscal hardship due to one of the following factors:

1. through 5. No change.

Form 0889 is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436.

(7) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Authority 373.044, 373.109, 373.113, 373.421(2), 373.421(6)(b) FS. Law Implemented 218.075, 373.109, 373.421(2), 373.421(6)(b), 403.201 FS. History—New 1-8-89, Amended 1-2-91, 11-15-92, 6-1-93, 1-23-94, 10-3-95, 4-1-96, 11-8-99, 5-24-00, 6-26-02, 7-11-02, 8-10-03, 8-14-03, 11-18-07, 11-1-09, 12-1-11.

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

(1) through (2) No change.

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

(c) The District's Coordinated Review process follows the permit review procedures set forth in Rule 40E-1.603, F.A.C. (Application Procedures for Conceptual Approval, Individual and Standard ~~General~~ Environmental Resource Permits, Individual and General Surface Water Management Permits, and Individual Water Use Permits).

(d) No change.

(e) The Certification of the Coordinated Review Application required by Section 380.051(2)(a), F.S., and subsections 9J-19.002(3) (Purpose) and 9J-19.009(1) and (2) (Completion of Substantive Review), F.A.C., shall occur within 60 days after the District begins substantive review, and shall consist of the notice of proposed agency action together with the staff report on the individual permit pursuant to subsection 40E-1.603(6) (Procedures for Application for

Individual Environmental Resource and Water Use Permits), F.A.C., which may recommend denial to the Governing Board, or approval, or approval with conditions to its designee ~~or denial of the permit.~~

(f) Certification concludes the coordinated agency review process. However, the applicant may complete the permit process as set forth in subsections 40E-1.603(6)-(11), F.A.C., which results in the Governing Board's denial, or approval, or approval with conditions to its designee ~~or denial of the permit.~~

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 380.051, 668.003, 668.004, 668.50 FS. Law Implemented 380.051, 668.003, 668.004, 668.50 FS. History—New 9-22-87, Amended 10-3-95, 10-1-06, 12-1-11.

40E-1.659 Forms and Instructions.

The following forms and instructions are incorporated by reference throughout the District's rules as specified below and are listed herein for convenience. Hyperlinks are provided in the rules in which the forms and instructions are referenced ~~and. Copies~~ can be obtained without cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436 ~~or online at www.sfwmd.gov:~~

Form No.	Date	Title
0050A	7-89	Application to the South Florida Water Management District for a Permit for Utilization of District Works or Modification of Existing Permit Works of the District No.
0108	3-91	Application for Release of Mineral, Canal, and Road Reservations Reserved Under Chapters 6456, 6957, 7305, 9131, 14717 and 20658, Laws of Florida
0113	8-95	Surface Water Management Permit No.
0115	8-95	Surface Water Management Permit Modification No.
0119	8-95	Wetland Resource Permit No.
0122	4-93	Application to the South Florida Water Management District for Authority to Utilize Works or Land of the District
0123	4-95	Well Construction Permit Application
0124	11-90	Well Completion Report
0145	8-95	Environmental Resource Permit No.
0157	8-95	Environmental Resource Permit Modification No.
0188-QMQ	8-03	Quarterly Report of Withdrawals
0188-MDQ	8-03	Monthly Report of Daily Withdrawals
0188-QASR	8-03	Quarterly Report of Injections and Withdrawals for Aquifer Storage and Recovery (ASR) Wells
0188-QMON	8-03	Quarterly Report of Monitoring Requirements
0188-QMQF	8-03	Quarterly Report of Withdrawals from Wells and Surface Water Pumps
0188-QCROP	8-03	Report of Planting and Harvest of Seasonal Crops
0188-QBWDR	8-03	Quarterly Report of Bulk Water Delivered and Received
0195	6-91	Public Water Supply Well Information and Classification
0196	10-89	Water Well Inspection Scheduling Card
0299	1-90	Water Use Permit No.
0444	8-95	Application for a Standard General Permit for Incidental Site Activities, <u>incorporated by reference in paragraph 40E-40.042(5), F.A.C.</u>
0445	8-03	Mining/Dewatering Permit Application (RC-1A, RC-1W, RC-1G)
0483	9-04	Request for Environmental Resource, Surface Water Management, Water Use or Wetland Resource Permit Transfer, incorporated by reference in paragraph 40E-1.6107(1), F.A.C.
0645-W01	8-03	Water Use Permit Application (RC-1A, RC-1W, RC-1G)
0645-G60	8-03	Table A Descriptions of Wells
0645-G61-1	8-03	Table B Description of Surface Water Pumps
0645-G61-2	8-03	Table C Description of Culverts
0645-G65	8-03	Table D Crop Information
0645-G74	8-03	Table E Water Received From or Distributed to Other Entities
0645-G69	8-03	Table F Past Water Use & Table G Projected Water Use
0645-G70	8-03	Table H Projected Water Use (For Per Capita Greater than 200 GPD)
0645-G71	8-03	Table I Water Treatment Method and Losses
0645-G72	8-03	Table J Aquifer Storage and Recovery
0645-G73	8-03	Table K Water Supply System Interconnections
0779	5-92	Guidance for Preparing an Application for a "Works of the District" Permit in the Everglades/Application for a Works of the District Permit

0830	4-94	Special Use Application and License
0881A	12-11	Environmental Resource/Surface Water Management Permit Construction Completion Certification, <u>incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C.</u>
	9-03	
0881B	12-11	Environmental Resource/Surface Water Management Permit Construction Completion Certification-For Projects Permitted Prior to October 3, 1995, <u>incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C.</u>
	9-03	
0889	12-11	Certification of Waiver of Permit Application Processing Fee, <u>incorporated by reference in paragraph 40E-1.607(6)(b), F.A.C.</u>
	9-04	
0920	12-11	Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity, <u>incorporated by reference in paragraph 40E-4.361(1)(a), F.A.C.</u>
	9-04	
0941	8-95	Environmental Resource Standard/Noticed General Permit No.
0942	8-95	Surface Water Management General Permit No.
0960	12-11	Environmental Resource/Surface Water Management Permit Construction Commencement Notice, <u>incorporated by reference in paragraph 40E-4.381(1)(d), F.A.C.</u>
	9-04	
0961	12-11	Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction, <u>incorporated by reference in paragraph 40E-4.381(1)(e), F.A.C.</u>
	9-04	
0970	8-07	Applicant Transmittal Form for Requested Additional Information
0971	12-11	Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, <u>incorporated by reference in paragraph 40E-4.101(1)(b), F.A.C.</u>
	8-07	
0972	12-11	Petition for a Formal Wetland and Surface Water Determination, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	8-95	
0973	8-95	Above Ground Impoundment Inspection/Certification Report
0974	12-11	Notice of Intent to Construct a Minor Silvicultural System, <u>incorporated by reference in subsection 40E-400.500(2), F.A.C.</u>
	8-95	
0980	12-11	Notice of Intent to Use a Noticed General Environmental Resource Permit, <u>incorporated by reference in subsection 40E-400.211(2), F.A.C.</u>
	8-95	
1019	12-11	Mitigation Bank Performance Bond to Demonstrate Construction/Implementation Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	9-04	
1020	12-11	Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	9-04	
1021	12-11	Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	9-04	
1022	12-11	Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	9-04	
1023	12-11	Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	9-04	
1024	12-11	Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	9-04	
1105	12-11	Performance Bond to Demonstrate Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	6-02	
1106	12-11	Irrevocable Letter of Credit to Demonstrate Financial Assurance, <u>incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C.</u>
	6-02	
1109	8-03	Water Use General Permit
1189	12-11	Notice of Environmental Resource or Surface Water Management Permit, <u>incorporated by reference in subsection 40E-4.101(2), F.A.C.</u>
	2-06	
1190	12-11	Deed of Conservation Easement (Standard), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C.</u> Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.
	1-07	

1191	12-11 1-07	Deed of Conservation Easement (Standard Passive Recreational), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C. Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.</u>
1192	12-11 1-07	Deed of Conservation Easement (Standard Riparian), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C. Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.</u>
1194	12-11 1-07	Deed of Conservation Easement (Third Party Standard), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C. Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.</u>
1195	12-11 1-07	Deed of Conservation Easement (Third Party Passive Recreational), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C. Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.</u>
1196	12-11 1-07	Deed of Conservation Easement (Third Party Riparian), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C. Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.</u>
1197	12-11 1-07	Restrictive Covenant (Standard), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C. Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.</u>
1318	12-11 07-10	Deed of Conservation Easement (Local Governments), incorporated by reference in <u>paragraph 40E-4.091(1)(a), F.A.C. Section 4.3.8, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in Rule 40E-4.091, F.A.C.</u>

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Authority ~~120.53~~, 218.075, 373.044, 373.113, 373.4136, 373.416, 695.03, 704.06 FS. Law Implemented ~~120.53~~, 218.075, 373.113, 373.4135, 373.4136, 373.416, 704.06 FS. History—New 9-3-81, Amended 12-1-82, 3-9-83, Formerly 16K-1.90, Amended 7-26-87, 11-21-89, 1-4-93, Formerly 40E-1.901, Amended 5-11-93, 4-20-94, 10-3-95, 6-26-02, 8-14-02, 8-31-03, 9-16-03, 9-20-04, 2-12-06, 1-23-07, 8-7-07, 7-4-10, 12-1-11.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Division Director

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2010

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

WATER MANAGEMENT DISTRICTS
South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-4.011	Policy and Purpose
40E-4.021	Definitions
40E-4.041	Permits Required
40E-4.0415	Permit Thresholds

40E-4.042	Formal Determination of Wetlands and Other Surface Waters
40E-4.051	Exemptions From Permitting
40E-4.091	Publications, Rules and Interagency Agreements Incorporated by Reference
40E-4.101	Content of Permit Applications
40E-4.201	Forms and Instructions
40E-4.301	Conditions for Issuance of Permits
40E-4.302	Additional Conditions for Issuance of Permits
40E-4.303	Environmental Resource Permit Authorization
40E-4.305	Conceptual Approvals
40E-4.321	Duration of Permits
40E-4.331	Modification of Permits
40E-4.361	Conversion from Construction Phase to Operation Phase
40E-4.381	General Conditions

PURPOSE AND EFFECT: The proposed rule amendments were identified for correction/updating in accordance with Section 120.74, F.S. The amendments are as follows: 1) delete “general” from standard permits pursuant to Section 373.118, F.S.; 2) update rules to be consistent with amendment to Section 373.083, F.S.; 3) update the District’s ePermitting website and delete outdated navigation instructions; 4) specify

paragraph in which Basis of Review is incorporated; 5) specify statute describing private docks; 6) delete incorporated material no longer relied upon; 7) update incorporation language pursuant to Section 120.55(1)(a)4., F.S., and Rule 1B-30.005, F.A.C., and include hyperlinks to materials incorporated by reference pursuant to Section 120.54(1)(i), F.S.; 8) update process for submitting applications; 9) delete language redundant of another rule; 10) clarify reference to all applications rather than specific; 11) update title of regulation director; and 12) add date of operating agreement; and 13) add contact information for Division of Historical Resources.

The District is also amending the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District," incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., as follows: Section 1.1 – correct the term "rule" to "paragraph"; 1.2 – delete "general" from standard permits pursuant to Section 373.118, F.S.; 1.2.1 – add "standard" permits as a permit separate from "general" permits pursuant to Section 373.118, F.S.;

1.3 – add Governing Board designee pursuant to amendment to Section 373.083, F.S.; 2.10, 2.18, 2.34, 2.37 – update effective date of referenced rules, delete repealed rule and add incorporation language pursuant to Rule 1B-30.005, F.A.C.; 2.35 – add Governing Board designee pursuant to amendment to Section 373.083, F.S.; 4.1 – add incorporation language pursuant to Rule 1B-30.005, F.A.C.; 4.1.1 – correct rule, subsection and paragraph, and update rule reference; 4.2.1 – delete reference to repealed rule; 4.2.2 – delete the term "general" as a form of standard permit pursuant to s. 373.118(1), F.S., and correct agency name; 4.2.2.4 – delete title next to rule number; 4.2.3 – add the term "subparagraph" before rule numbers; 4.2.3.3 – delete manual no longer relied upon; 4.2.3.6 – delete the term "general" as a form of standard permit pursuant to Section 373.118(1), F.S.; 4.2.4.4 – clarify paragraph number of rule reference;

4.2.7, 4.3 and 4.3.1.7 – delete references to repealed rules; Table 4.2.7-1 – move table under section 4.2.7; 4.3.7.6 and 4.3.8 – add incorporation language pursuant to 1B-30.005, F.A.C.; 4.4.3.1 – change "long term" to "perpetuity" to clarify and be consistent with other statutes; 4.4.4.7, 4.5, 4.5.1 – add incorporation language pursuant to Rule 1B-30.005, F.A.C.; 5.1 – add F.A.C. to rule reference; 5.2.2 – update references to ordinances and add incorporation language pursuant to 1B-30.005, F.A.C.; 5.9.4 – delete agency reference and delete old process for submitting results; 6.12 – correct incomplete sentence; 9.2.4 – add incorporation language pursuant to Rule 1B-30.005, F.A.C.; 10.1 – add incorporation language pursuant to Rule 1B-30.005, F.A.C.; and Appendix 6 – delete cover sheet.

SUMMARY: In compliance with Section 120.74, F.S., the proposed rule amendments update the District's rules to be consistent with statutes, correct errors and eliminate outdated language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The District has prepared a Statement of Estimated Regulatory Costs. This will not have an adverse impact on small business. Individuals and other entities, including governmental entities and other users of the District's 40E administrative rules and the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District," will benefit from the use of more accurate and up-to-date rules.

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.

The proposed rules do not require legislative ratification pursuant to Section 120.54(3), F.S.

RULEMAKING AUTHORITY: 120.53(1), 373.016, 373.044, 373.103(8), 373.113, 373.118, 373.171, 373.406(5), 373.413, 373.414(9), 373.414(17), 373.441, 380.06(9), 668.003, 668.004, 668.50 FS.

LAW IMPLEMENTED: 373.016, 373.019, 373.042, 373.044, 373.086(1), 373.103, 373.103(1), 373.103(4), 373.113, 373.116, 373.117, 373.118, 373.118(1), 373.229, 373.403-443, 380.06, 380.23, 403.031, 403.201, 403.813(2), 668.003, 668.004, 668.50, 704.06 FS.

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

DATE AND TIME: October 13, 2011, 9:00 a.m.

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

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: South Florida Water Management District Clerk, 1(800)432-2045, ext. 2087 or (561)682-2087. 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: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866, or (561)682-6866, email: abain@sfwmd.gov. For procedural questions, contact: Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-4.011 Policy and Purpose.

(1) through (2) No change.

(3) The rules relating to environmental resource permits are found in this chapter, Chapters 40E-40, (Environmental Resource Standard ~~General~~ Permits) and 40E-41, F.A.C. (Surface Water Management Basin and Related Criteria). In addition, no notice and noticed environmental resource general permits are found in Chapter 40E-400, F.A.C.

(4) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.086(1), 373.103(1), 373.103(4), 373.403-443 FS. History—New 9-3-81, Formerly 16K-4.01, Amended 4-20-94, 10-3-95, 12-1-11.

40E-4.021 Definitions.

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

(1) through (4) No change.

(5) “Conceptual Approval” means an environmental resource permit, issued by the District ~~Governing Board~~ which approves a conceptual master plan for a surface water management system or a mitigation bank. Conceptual approvals constitute final District action, and are binding to the extent that adequate data has been made available for review by the applicant during the review process. To the extent that there is any inconsistency between the permit, staff report, and other information in the application file, the permit and staff report shall control.

(6) through (11) No change.

(12) “e-Permitting website” means the District’s website address for e-Permitting at <http://www.sfwmd.gov/ePermitting> ~~http://my.sfwmd.gov/ePermitting~~. ~~After accessing the e-Permitting website, the user clicks the start icon on the e-Permitting page.~~

(13) through (22) No change.

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

(24) through (25) No change.

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

(27) through (46) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 373.019, 373.403-443, 403.031, 668.003, 668.004, 668.50, 704.06 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-1.05(1), Amended 7-1-86, 4-20-94, 10-3-95, 4-1-96, 10-1-06, 3-22-09, 11-11-09, 12-1-11.

40E-4.041 Permits Required.

(1) No change.

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

(c) General permits are issued in ~~two~~ ~~three~~ forms: no notice ~~and~~, noticed ~~and standard~~ general environmental resource permits. General permits are issued for specified activities or projects that satisfy the thresholds and conditions of Chapters ~~40E-40 and~~ 40E-400, F.A.C. ~~Standard general permits are issued pursuant to Chapter 40E-40, F.A.C.~~ No notice and noticed general permits are issued pursuant to Chapter 40E-400, F.A.C.

1. If the District notifies an applicant that the system for which a noticed general permit is sought does not qualify for the noticed general permit, the applicant may apply for a standard ~~general~~ or individual permit.

2. The application fee for the noticed general permit shall be applied to the application fee for a standard ~~general~~ or individual permit if the applicant applies for such a permit within 60 days of notification by the District.

(3) No change.

(4) The District issues two types of mitigation bank environmental resource permits: conceptual approvals and individual permits, pursuant to Section 4.4 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C. A conceptual approval does not authorize the establishment or operation of the mitigation bank. A mitigation bank individual permit authorizes the establishment and operation of a mitigation bank and constitutes authorization pursuant to Chapters 40E-4, 40E-40, or 40E-400, F.A.C., as applicable, to construct any surface water management system proposed as part of the mitigation bank.

(5) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.406(5) FS. Law Implemented 373.103, 373.413, 373.416, 373.426 FS. History—New 9-3-81, Amended 12-1-82, Formerly 16K-4.03(1), 16K-4.07(1), 16K-4.09(1), Amended 1-23-94, 4-20-94, 10-3-95, 4-1-96, 1-7-97, 7-22-07, 12-1-11.

40E-4.0415 Permit Thresholds.

(1) No change.

(2) Any non-exempt system which does not qualify for a noticed or no notice general environmental resource permit pursuant to Chapter 40E-400, F.A.C., and does not exceed the standard for individual permits listed above, shall obtain a standard ~~general~~ permit pursuant to Chapter 40E-40, F.A.C.

(3) Notwithstanding the provisions of subsections (1) and (2):

(a) No change.

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

1. through 3. No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.406(5) FS. Law Implemented 373.118(1), 373.413(1) FS. History–New 10-3-95, Amended 5-28-00, 6-26-02, 4-14-03, 12-1-11.

40E-4.042 Formal Determination of Wetlands and Other Surface Waters.

(1) In accordance with subsection 373.421(2), F.S., a real property owner, an entity that has the power of eminent domain, or any other person who has a legal or equitable interest in real property may petition the District for a formal determination of the landward boundaries of wetlands and other surface waters on that property as defined in Chapter 62-340, F.A.C., and ratified by Section 373.4211, F.S., and incorporated by reference in paragraph 40E-4.091(1)(g), F.A.C.

(2) No change.

(3) The process and procedures for filing a petition for a formal determination of wetlands and other surface waters are set forth in Section 4.5 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C.

(4) through (5) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.043, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History–New 10-3-95, Amended 7-22-07, 12-1-11.

40E-4.051 Exemptions From Permitting.

(1) through (2) No change.

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

(c) Construction of private docks as described in Section 403.813(1)(i), F.S., in artificially created waterways where construction will not violate water quality standards, impede navigation, or adversely affect flood control.

(d) through (e) No change.

(4) through (5) No change.

(6) Bridges, Driveways and Roadway Crossings.

(a) No change.

(b)1. through 10. No change.

11. The person performing the exempt activity shall implement measures for erosion and pollution control using best management practices, including turbidity curtains or similar devices and other site specific practices, ~~in strict adherence to the Florida Department of Transportation’s “Standard Specifications for Road and Bridge Construction,” and Chapter 6 of the Department’s “Florida Development Manual,”~~ to prevent violations of state water quality standards. Temporary erosion controls shall be implemented prior to and

during construction, and permanent erosion control measures for all exposed soils shall be completed within 7 calendar days of the most recent construction activity;

12. through 15. No change.

(7) through (12) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.406, 373.413, 373.416, 403.813(2) FS. History–New 9-3-81, Amended 1-31-82, 3-9-83, Formerly 16K-4.02, Amended 4-20-94, 10-3-95, 5-28-00, 9-2-01, 4-14-03, 9-9-07, 12-1-11.

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

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

(a) Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, effective date December 1, 2011 July 4, 2010, which incorporates the following forms or materials by reference:

1. Form No. 0972, Petition for a Formal Wetland and Surface Water Determination, effective date December 1, 2011;

2. Form No. 1019, Mitigation Bank Performance Bond to Demonstrate Construction/Implementation Financial Assurance, effective date December 1, 2011;

3. Form No. 1020, Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction/Implementation Financial Assurance, effective date December 1, 2011;

4. Form No. 1021, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, effective date December 1, 2011;

5. Form No. 1022, Mitigation Bank Trust Fund Agreement to Demonstrate Construction/Implementation Financial Assurance, effective date December 1, 2011;

6. Form No. 1023, Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, effective date December 1, 2011;

7. Form No. 1024, Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance, effective date December 1, 2011;

8. Form No. 1105, Performance Bond, effective date December 1, 2011;

9. Form No. 1106, Irrevocable Letter of Credit, effective date December 1, 2011;

~~10. Form No. 1190, Deed of Conservation Easement (Standard), effective date December 1, 2011; January 23, 2007;~~

~~11. Form No. 1191, Deed of Conservation Easement (Standard Passive Recreational), effective date December 1, 2011; January 23, 2007;~~

~~12.3. Form No. 1192, Deed of Conservation Easement (Standard Riparian), effective date December 1, 2011; January 23, 2007;~~

~~13.4. Form No. 1194, Deed of Conservation Easement (Third Party Standard), effective date December 1, 2011; January 23, 2007;~~

~~14.5. Form No. 1195, Deed of Conservation Easement (Third Party Passive Recreational), effective date December 1, 2011; January 23, 2007;~~

~~15.6. Form No. 1196, Deed of Conservation Easement (Third Party Riparian), effective date December 1, 2011; January 23, 2007;~~

~~16.7. Form No. 1197, Restrictive Covenant (Standard), effective date December 1, 2011; January 23, 2007;~~

~~17.8. Form No. 1318, Deed of Conservation Easement (Local Governments), effective date December 1, 2011 July 4, 2010;~~

~~18. Chapter 27, Article XIII, Wellfield Protection Ordinance, Broward County Code of Ordinances, last amended September 28, 1999; and~~

~~19. Dade County Wellfield Protection Ordinance contour showing maximum limits (Section 24-43 Protection of Public Potable Water Supply Wells; Chapter 24 Environmental Protection; Code of Metropolitan Dade County, Florida; Codified through Ordinance No. 11-01, enacted January 20, 2011 (Supp. No. 68)).~~

~~(b) 50 C.F.R. section 17.12, 50 Code of Federal Regulations effective date April 8, 2004; and Rule 68A-27.003, F.A.C., effective date December 16, 2003, Rule 68A-27.004, F.A.C., effective date May 15, 2008, and Rule 68A-27.005, F.A.C., effective date November 8, 2007.~~

~~(c) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between South Florida Water Management District and Department of Environmental Protection, effective July 1, 2007.~~

~~(d) State water quality standards set forth in Chapter 62-4, F.A.C., effective date April 21, 2009; Chapter 62-302, F.A.C., effective date August 5, 2010, Chapter 62-520, F.A.C., effective date July 12, 2009; Chapter 62-522, F.A.C., effective date July 12, 2009, and Chapter 62-550, F.A.C., effective date September 18, 2007.~~

~~(e) Chapter 62-312, Part IV, F.A.C., "Additional Criteria for Dredging and Filling Within Outstanding Florida Waters in Monroe County," effective date March 15, 2007.~~

~~(f) 40 C.F.R. Code of Federal Regulations, section 264.143(f), for the purpose of providing financial responsibility and corporate guarantee requirements, effective date September 16, 1992.~~

~~(g) Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Protection, 1988).~~

~~(g)(h) Chapter 62-340, F.A.C., as ratified by Section 373.4211, F.S., for the purpose of delineating wetlands and other surface waters, effective date July 1, 1994.~~

~~(i) Chapter 3, Roadside Design Guide (American Association of State Highway and Transportation Officials, October 1988).~~

~~(h)(j) 30 C.F.R., section 800.23, Code of Federal Regulations for the purpose of providing self bonding provisions, effective date January 14, 1988 requirements.~~

~~(i)(k) Delegation Agreement among the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County, (dated May 22, 2001).~~

~~(j)(2) The documents listed in subsection (1) are available online at www.sfwmd.gov or can also be obtained at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, (800) 432-2045, ext. 6436, or (561) 682-6436.~~

~~PROPOSED EFFECTIVE DATE: December 1, 2011~~

~~Rulemaking Authority 373.044, 373.103(8), 373.113, 373.171, 373.413, 373.441, 668.003, 668.004, 668.50, 704.06 FS. Law Implemented 373.413, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441, 668.003, 668.004, 668.50, 704.06 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 6-26-02, 4-6-03, 4-14-03, 9-16-03, 12-7-04, 2-12-06, 10-1-06, 11-20-06, 1-23-07, 7-1-07, 7-22-07, 11-11-09, 7-1-10, 7-4-10, 12-1-11.~~

~~40E-4.101 Content of Permit Applications.~~

~~(1) Applications for permits required by this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C., shall be filed electronically at www.sfwmd.gov/ePermitting, or at South Florida Water Management District, Regulation Reception Desk, 3301 Gun Club Road, West Palm Beach, FL 33406, (561)682-6736, or at any of the District's Service Centers. The addresses and phone numbers of the District's Service Centers are online at www.sfwmd.gov, "Locations." with the District Service Center which will review the application as set forth in Rule 40E-1.6025, F.A.C. or filed electronically at the District's e-Permitting website. For projects located in Broward County, applications shall be filed either at the District's Headquarters in West Palm Beach or with Broward County Environmental Protection and Growth Management Department, Development and Environmental Regulation Division, 1 North University Drive, Suite 201, Plantation, FL 33324, (954)519-1473, in accordance with the Delegation Agreement among the Florida Department of Environmental Protection, the South Florida Water Management District, and Broward County, dated May 22, 2001, incorporated by reference in paragraph 40E-4.091(1)(h), F.A.C. The application shall contain:~~

~~(a) No change.~~

(b) One original and four copies of Joint Water Management District/Department of Environmental Protection/U.S. Army Corps of Engineers Environmental Resource Permit Application (Form No. 0971), and five copies of drawings, calculations, environmental information, and engineering details sufficient to define the nature, scope, intent and functioning of the work proposed. This information must include at a minimum: flood protection, water quality, environmental impacts, proposed mitigation, water supply, and water conservation elements. Applicants who file an application electronically are not required to submit copies. Form No. 0971, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436 at any of the District's Service Centers upon request.

(2) The application must be signed by the owner or the owner's authorized agent and include documentation of ownership. Applications signed by agents must contain a letter of authorization which is signed by the owner. Those having the right to exercise the power of eminent domain or having a contract to purchase real property may apply for a permit, however, the permit shall prohibit commencement of work until the permittee provides proof of ownership to the District. A permit shall only be issued to the record title holder, holder of a recorded easement conveying the right to utilize the property for a purpose consistent with the authorization requested in the permit application, those having the right to exercise the power of eminent domain or having a contract to purchase real property. A Notice of Environmental Resource or Surface Water Management Permit (Form No. 1189), shall be recorded in the public records of the county where the property is located. This notice shall not be considered an encumbrance upon the property. Form No. 1189, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436.

(3) Environmental resource permit applications shall be filed and processed in accordance with Chapters 120 and 373, F.S., following the procedures set forth in Chapter 40E-1, F.A.C., and by utilizing the forms listed incorporated by reference into Rule 40E-1.659, F.A.C.

(4) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.016, 373.044, 373.113, 373.171, 668.003, 373.416, 668.004, 668.50 FS. Law Implemented 373.016, 373.117, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 5-28-00, 4-14-03, 8-14-03, 2-12-06, 10-1-06, 12-1-11.

40E-4.201 Forms and Instructions.

(1) No change.

~~(2) Forms and instructions are available from District Service Centers upon request.~~

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.53(1), 373.044, 373.113, 373.116, 373.118, 373.229, 373.413, 373.421 FS. History–New 10-3-95, Amended 12-1-11.

40E-4.301 Conditions for Issuance of Permits.

(1) through (1)(d) No change.

(e) Will not adversely affect the quality of receiving waters such that the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522 and 62-550, F.A.C., incorporated by reference in paragraph 40E-4.091(1)(d), F.A.C., including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), and Rule 62-302.300, F.A.C., any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C., will be violated.

(f) through (k) No change.

(2) If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the applicant must comply with the requirements set forth in subsection 4.4.4.5 of the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District," incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C.

(3) The standards and criteria, including the mitigation provisions, and the provisions for elimination or reduction of impacts, contained in the "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District," incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C., shall determine whether the reasonable assurances required by subsection 40E-4.301(1) and Rule 40E-4.302, F.A.C., have been provided.

(4) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(2), 16K-4.30, Amended 7-1-86, 3-24-87, 4-14-87, 7-9-87, 4-21-88, 4-20-94, 10-3-95, 4-1-96, 1-7-97, 7-22-07, 12-1-11.

40E-4.302 Additional Conditions for Issuance of Permits.

(1) In addition to the conditions set forth in Rule 40E-4.301, F.A.C., in order to obtain a standard, general, individual, or conceptual approval permit under this chapter or Chapter 40E-40, F.A.C., an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, and abandonment of a system:

(a) Loaded in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the activity will be clearly in the public interest, as determined by balancing the following criteria as set forth in subsections 4.2.3- through 4.2.3.7 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,”; incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C.

1. through 7. No change.

(b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in subsections 4.2.8 through 4.2.8.2 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,”; incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C.

(c) Located in, adjacent to, or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department as approved, restricted or conditionally restricted for shellfish harvesting as set forth and incorporated in Chapter 5L-1 62R-7, will comply with the additional criteria in subsection 4.2.5 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,”; incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C.

(d) Which constitute vertical seawalls in estuaries or lagoons, will comply with the additional criteria provided in subsection 4.2.6 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,”; incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C.

(2) When determining whether the applicant has provided reasonable assurances that District permitting standards will be met, the District shall take into consideration a permit applicant’s violation of any Department rules adopted pursuant to Sections 403.91-929, F.S. (1984 Supp.), as amended, which the District had the responsibility to enforce pursuant to a delegation, or any District rules adopted pursuant to Part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations. The Department’s delegation to the District to enforce the rules adopted pursuant to Sections 403.91-929, F.S. (1984 Supp.), as amended, is set forth in the “Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between South Florida Water Management District and Department of Environmental Protection” dated July 1, 2007, incorporated by reference in paragraph Rule 40E-4.091(1)(c), F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.414(9) FS. Law Implemented 373.042, 373.409, 373.413, 373.414, 373.416, 373.426, 380.23 FS. History–New 10-3-95, Amended 1-7-97, 12-3-98, 5-28-00, 7-1-07, 7-22-07, 12-1-11.

40E-4.303 Environmental Resource Permit Authorization.

(1) For individual, ~~and~~ standard and general permits issued pursuant to Chapters 40E-4 and 40E-40, F.A.C., a completed permit application shall also constitute an application for certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341. Issuance of the permit shall constitute certification of compliance with state water quality standards unless the permit is issued pursuant to the net improvement provisions of subsection 373.414(1)(b), F.S., or the permit specifically states otherwise.

(2) For projects located in or seaward of coastal counties, and which have regulated activities in, on or over wetlands or other surface waters, as delineated by the methodology ratified pursuant to Section 373.4211, F.S., a complete application for an individual, ~~or~~ standard or general environmental resource permit shall constitute a request for the ~~s~~State’s concurrence that the project is consistent with the Florida Coastal Zone Management Program as provided in Section 307 of the Coastal Zone Management Act and 15 C.F.R., 930, Subpart D. Issuance of the permit shall constitute such concurrence of consistency.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.421 FS. History–New 10-3-95, Amended 12-1-11.

40E-4.305 Conceptual Approvals.

(1) through (3) No change.

(4) For phased projects, the approval process must begin with an application for a conceptual approval which shall be the first permit issued for the project. An application for construction authorization of the first phase(s) may also be included as a part of the initial application. As the permittee desires to construct additional phases, new applications shall be processed as individual, ~~or~~ standard or general environmental resource permit applications pursuant to the conceptual approval. The conceptual approval, individual, ~~and~~ standard and general permits shall be modified in accordance with conditions contained in Chapters 40E-4 and 40E-40, F.A.C.

(5) through (10) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.171, 380.06(9) FS. Law Implemented 373.413, 373.416, 373.421(2), 380.06(9) FS. History–New 10-3-95, Amended 4-14-03, 12-1-11.

40E-4.321 Duration of Permits.

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C., is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual, ~~or~~ standard or general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual, ~~or~~ standard or general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two-year period.

(b) No change.

1. through 4. No change.

(c) For an individual, ~~or~~ standard or general environmental resource permit, the construction phase authorizing construction, removal, alteration or abandonment of a system shall expire five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For an individual, ~~or~~ standard or general environmental resource permit, the operational phase of the permit is perpetual for operation and maintenance.

(e) No change.

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

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

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

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) through (4) No change.

(5) Substantial modifications to individual, ~~or~~ standard or general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual, ~~or~~ standard or general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS. Law Implemented 373.413, 373.416, 373.419, 373.426, 668.003, 668.004, 668.50 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00, 10-1-06, 12-1-11.

40E-4.331 Modification of Permits.

An application for modification of an environmental resource, or surface water management permit shall be processed in accordance with this rule, unless the permit has expired or has been otherwise revoked or suspended.

(1) No change.

(2) Applications to modify environmental resource, or surface water management individual, ~~or~~ standard or general permits shall be made by the following methods:

(a) through (b) No change.

(c) Modifications pursuant to paragraph (2)(b) above are acknowledged and approved by letter from the Regulation ~~Department~~ Division Director or designee through correspondence to the permittee.

(3) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(1) FS. History—New 12-1-82, Formerly 16K-2.031(1), 16K-2.032(1)(a), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 12-1-11.

40E-4.361 Conversion from Construction Phase to Operation Phase.

(1) In order to convert an environmental resource or surface water management permit from the construction phase to the operational phase, the permittee shall submit the following:

(a) A completed and executed Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity (Form No. 0920), ~~incorporated by reference in Rule 40E-1.659, F.A.C. Form No. 0920, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436. in Rule 40E-1.659, F.A.C.;~~

(b) A completed and executed Environmental Resource/Surface Water Management Permit Construction Completion Certification (Form No. 0881A or Environmental Resource/Surface Water Management Permit Construction Completion Certification – For Projects Permitted Prior to October 3, 1995 (Form No. 0881B), ~~incorporated by reference in Rule 40E-1.659, F.A.C. in accordance with Section 10.0 of the "Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District,"; incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C. Form No. 0881A and Form No. 0881B, both effective December 2011, are incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436; and~~

(c) No change.

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

2. Any deviations from the approved plans and specifications will not prevent the system from functioning in compliance with the requirements of this rule and Section 10.0 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C. The professional engineer or other individual authorized by law shall note and explain substantial deviations from the approved plans and specifications and provide two copies of as-built drawings to the District or submit electronically at www.sfwmd.gov/ePermitting; and

(c) No change.

(3) A conversion to the operational phase shall not occur until a responsible entity meeting the requirements in Section 9.0, of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C., has been established to operate and maintain the system. The entity must be provided with sufficient ownership, legal or equitable interest so that it has control over all water management facilities authorized by the permit.

(4) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.413, 373.416 FS. History—New 10-3-95, Amended 1-7-97, 4-14-03, 9-16-03, 7-22-07, 12-1-11.

40E-4.381 General Conditions.

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

(c) Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. ~~All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988) incorporated by reference in Rule 40E-4.091, F.A.C., unless a project specific erosion and sediment control plan is approved as part of the permit.~~

Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

(d) The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource/Surface Water Management Permit Construction Commencement Notice (Form No. 0960), ~~incorporated by reference in Rule 40E-1.659, F.A.C.~~, indicating the actual start date and the expected completion date. Form No. 0960, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk’s Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436.

(e) When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing the District’s Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction (Form No. 0961), ~~incorporated by reference in Rule 40E-1.659, F.A.C.~~ The Annual Status Report Forms shall be submitted the following June of each year. Form No. 0961, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk’s Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436.

(f) Within thirty days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion Certification (Form No. 0881A), or Environmental Resource/Surface Water Management Permit Construction Completion Certification – For Projects Permitted Prior to October 3, 1995 (Form No. 0881B), ~~September 2003, incorporated by reference in paragraph 40E-4.361(1)(b), F.A.C., Rule 40E-1.659, F.A.C.~~ The statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be

clearly shown. The plans must be clearly labeled as “as-built” or “record” drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.

(g) The operation phase of this permit shall not become effective until: the permittee has complied with the requirements of paragraph (f) above, has submitted a Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity (Form No. 0920), ~~incorporated by reference in Rule 40E-1.659, F.A.C.~~; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph Rule 40E-4.091(1)(a), F.A.C., accepts responsibility for operation and maintenance of the system. Form No. 0920, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk’s Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6436 or (561)682-6436.

The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Rule 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

(h) through (i) No change.

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

(k) through (l) No change.

(m) The permittee must obtain a water use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to subsection 40E-20.302(3)(4), F.A.C., also known as the “No Notice” rule.

(n) through (q) No change.

(r) If historical or archaeological artifacts are discovered at any time on the project site, the permittee, or other designee, should contact shall immediately notify the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850)245-6333 or 1(800)847-7278, as well as the appropriate District Service Center. The phone numbers and addresses for the District’s Service Centers are located online at www.sfwmd.gov, “Locations.”

(s) No change.

(2) In addition to those general conditions set forth in subsection (1), the ~~District Governing Board~~ shall impose on any permit granted under this chapter and Chapter 40E-40, F.A.C., such reasonable project-specific special conditions as are necessary to ensure that the permitted system will meet the conditions for issuance in Rules 40E-4.301 and 40E-4.302, F.A.C. Upon receipt of notice of proposed agency action, any substantially affected persons shall have the right to request a hearing in accordance with Rules 40E-1.511 and 40E-1.521, F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.171, 668.003, 668.004, 668.50 FS. Law Implemented 373.116, 373.229, 373.413, 373.416, 373.421, 373.422, 373.426, 668.003, 668.004, 668.50 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(3), 16K-4.38, Amended 7-1-86, 4-20-94, 10-3-95, 1-7-97, 4-14-03, 9-16-03, 10-1-06, 7-22-07, 12-1-11.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anita R. Bain, Environmental Resource Permitting Division Director

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2010

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-40.010	Review of Environmental Resource Standard Permit Applications
40E-40.011	Policy and Purpose
40E-40.031	Implementation
40E-40.041	Permit Thresholds
40E-40.042	Standard Permit for Incidental Site Activities
40E-40.051	Standard Permit Authorization
40E-40.091	Publications, Rules and Interagency Agreements Incorporated by Reference
40E-40.141	Request for Additional Information
40E-40.302	Conditions for Issuance of Permits
40E-40.321	Duration of Permits
40E-40.331	Modification of Permits
40E-40.341	District Revocation or Modification of Permits
40E-40.381	General Conditions
40E-40.391	Forms and Instructions

PURPOSE AND EFFECT: The proposed rule amendments were identified for correction/updating in accordance with Section 120.74, F.S. The proposed rule amendments: 1) correct

the District's rules to delete "general" from standard permits pursuant to Section 373.118(1), F.S.; 2) update incorporation language pursuant to Section 120.55(1)(a)4., F.S., and Rule 1B-30.005, F.A.C.; 3) include hyperlinks to materials incorporated by reference pursuant to Section 30.005, F.A.C.; 4) update titles of directors; 5) delete reference to repealed rule; and 6) delete outdated language.

SUMMARY: In compliance with Section 120.74, F.S., the proposed rule amendments update the District's rules to be consistent with statutes and eliminate outdated language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The District has prepared a Statement of Estimated Regulatory Cost. The proposed rules will have no affect on small business. Individuals and other entities, including governmental entities and other users of the District's 40E administrative rules will benefit from the use of more accurate and up-to-date rules.

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.

The proposed rules do not require legislative ratification pursuant to Section 120.54(3), F.S.

RULEMAKING AUTHORITY: 120.53(1), 120.54(5), 120.54(8), 120.60, 373.044, 373.046, 373.113, 373.118, 373.149, 373.171, 373.413(1), 373.414, 403.812 FS.

LAW IMPLEMENTED: 120.54, 120.60, 373.046, 373.103, 373.118, 373.403, 373.406, 373.413, 373.414, 373.416, 373.419, 373.426, 373.427, 373.429 FS.

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

DATE AND TIME: October 13, 2011, 9:00 a.m.

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

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: South Florida Water Management District Clerk, 1(800)432-2045, ext. 2087 or (561)682-2087. 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: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866, or (561)682-6866, email: abain@sfwmd.gov. For procedural questions, contact: Jan Sluth, Paralegal, South Florida Water Management

District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, email: jsluth@sfwmd.gov.

THE FULL TEXT OF THE PROPOSED RULES IS:

~~GENERAL~~ ENVIRONMENTAL RESOURCE STANDARD PERMITS

40E-40.010 Review of Environmental Resource Standard ~~General~~ Permit Applications.

Environmental ~~r~~Resource ~~s~~Standard ~~General~~ permit applications are processed pursuant to Section 120.60, F.S., Part VI of Chapter 40E-1, F.A.C., and Chapter 28-106, F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 120.54(5), 120.60 FS. Law Implemented 120.54(5), 120.60 FS. History–New 7-2-98, Amended 12-1-11.

40E-40.011 Policy and Purpose.

(1) The rules in this chapter authorize environmental resource standard ~~general~~ permits for certain surface water management systems which have been determined to be not harmful to the water resources of the District and to be not inconsistent with the objectives of the District. This chapter sets forth the requirements for qualifying for a standard ~~general~~ permit and the conditions under which it may be exercised. Unless expressly exempted by Rule 40E-4.051, F.A.C., surface water management systems which do not qualify for a no notice or noticed general permit pursuant to Chapter 40E-400, F.A.C., and which do not qualify for a standard ~~general~~ permit pursuant to this chapter are required to obtain individual environmental resource permits pursuant to Chapter 40E-4, F.A.C.

(2) No change.

(3) The rules in this chapter also authorize standard ~~general~~ permits for incidental site activities in uplands which may be done in conjunction with the work set forth in an individual environmental resource permit application. Projects qualifying for a standard ~~general~~ permit for incidental site activities shall obtain an individual environmental resource permit for the proposed system and activities in, on, or over wetlands or other surface waters in accordance with this chapter, Chapter 40E-4 or 40E-400, F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118, 373.413(1) FS. Law Implemented 373.118, 373.413(1), 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1)(d), 16K-4.022(1)(e), Amended 7-26-87, 4-20-94, 10-3-95, 12-1-11.

40E-40.031 Implementation.

(1) Rule 40E-4.031, F.A.C., specifies the effective dates for the environmental resource standard ~~general~~ permits granted in this chapter.

(2) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118(1) FS. Law Implemented 373.103(1), Part IV, Ch. 373 FS. History–New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 12-1-11.

40E-40.041 Permit Thresholds.

(1) Any non-exempt surface water management systems which do not qualify for a no notice or noticed general environmental resource permit, and do not exceed the threshold for individual permits as listed below, shall obtain a standard ~~general~~ permit.

(2) No change.

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

(a) through (c) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.406(5), 373.413(1), 373.416 FS. History–New 4-20-94, Amended 10-3-95, 5-28-00, 6-26-02, 12-1-11.

40E-40.042 Standard ~~General~~ Permit for Incidental Site Activities.

(1) through (2) No change.

(3) In order to receive a permit under this rule the applicant must:

(a) Submit an environmental resource permit application deemed complete, as evidenced by a letter of completeness from the District;

(b) Receive a preliminary staff recommendation of approval of such application; ~~and~~

(c) Submit Form 0444 and plans or a description of incidental site activities proposed, including proposed locations for work; ~~and~~

(d) No change.

(4) No change.

(5) An application for a Standard General Permit for Incidental Site Activities, Form No. 0444 must be submitted ~~Authorization~~ to conduct incidental site activities pursuant to this rule ~~must be approved by the Regulation Department Director or designee by letter to the applicant. Form No. 0444, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk’s Office, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext 6436, or (561)682-6436.~~

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 120.60(2), 373.103(4), 373.118, 373.413, 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1), 16K-4.022(1), Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 5-28-00, 12-1-11.

40E-40.051 Standard ~~General~~ Permit Authorization.

(1) Application procedures for standard ~~general~~ environmental resource permits are set forth in Rule 40E-1.603, F.A.C., and are incorporated by reference in this rule.

(2) Standard ~~general~~ environmental resource permit authorizations are set forth in Rule 40E-4.303, F.A.C., and are incorporated by reference in this rule.

(3) Agency action shall be taken no later than 60 days after a standard ~~general~~ permit application is declared complete, unless waived by the applicant or stayed by the filing of a petition for an administrative hearing.

(4) For applications for standard ~~general~~ permits, the ~~Governing Board delegates to and appoints the~~ Executive Director, ~~Assistant Deputy~~ Executive Director, ~~Water Resource Regulation Division Department~~ Director, ~~Water Resource Regulation Division Assistant Department Deputy~~ Director, Environmental Resource Permitting ~~Bureau Chief, Division Director, Division Directors,~~ and Service Center ~~Administrators Directors,~~ shall conduct review and issue as its agents for the purposes of reviewing and issuing these permits.

(5) For standard ~~general~~ environmental resource permit applications, or permit applications under subsections 373.414(11)-(16), F.S., which involve activities located on submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund under Chapters 253 or 258, F.A.C., the District shall conduct concurrent application and review procedures in accordance with Section 373.427, F.S., Chapter 18-21, F.A.C., and Rules 62-343.075 and 18-18.014, F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.103(2), 373.103(6), 373.427 FS. History–New 10-3-95, Amended 4-1-96, 5-28-00, 7-19-07, 12-1-11.

40E-40.141 Request for Additional Information.

The District may request additional information from standard ~~general~~ permit applicants in accordance with paragraph 40E-1.603(1)(c), F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.416, 373.419 FS. History–New 9-3-81, Amended 4-20-94, 10-3-95, 4-14-03, 12-1-11.

40E-40.302 Conditions for Issuance of Permits.

In order to qualify for a standard ~~general~~ permit under this chapter, the applicant must give reasonable assurances that the surface water management system meets the following general conditions:

(1) through (2) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

~~Rulemaking Specific~~ Authority 373.044, 373.113, 373.149, 373.171 FS. Law Implemented 373.046, 373.413, 373.416 FS. History–New 9-3-81, Formerly 16K-4.021(1)(a), (2), 16K-4.022(1)(a), (b), Amended 12-1-82, 7-26-87, 11-15-92, 4-20-94, 10-3-95, 12-1-11.

40E-40.321 Duration of Permits.

Unless revoked or otherwise modified, the duration of a standard ~~general~~ permit authorized pursuant to this chapter is set forth in Rule 40E-4.321, F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

~~Rulemaking Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.426 FS. History–New 9-3-81, Amended 12-1-82, 7-26-87, 4-20-94, 10-3-95, 12-1-11.

40E-40.331 Modification of Permits.

A request for modification of an environmental resource standard ~~general~~ permit shall be made in accordance with this chapter, unless the permit has expired or has been otherwise revoked or suspended. Requests to modify such permits shall be made:

- (1) through (2) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

~~Rulemaking Specific~~ Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416(1) FS. History–New 12-1-82, Amended 4-20-94, 10-3-95, 12-1-11.

40E-40.341 District Revocation or Modification of Permits.

The Governing Board may revoke a permit in accordance with the provisions of Chapter 373, F.S., and Rules 40E-1.609 ~~and 28-107-004~~, F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

~~Rulemaking Specific~~ Authority 373.044, 373.113 FS. Law Implemented 120.60(6), 373.429 FS. History–New 9-3-81, Formerly 16K-4.021(1)(e), 16K-4.022(1)(f), Amended 12-1-82, 10-3-95, 7-2-98, 12-1-11.

40E-40.381 General Conditions.

(1) The standard ~~general~~ permits authorized pursuant to this chapter shall be subject to the general conditions set forth in Rule 40E-4.381, F.A.C.

(2) In addition to the general conditions referenced in subsection (1), the following shall apply to standard ~~general~~ permits authorizing incidental site activities:

- (a) through (f) No change.

(3) The standard ~~general~~ permit shall be subject to other reasonable conditions as are necessary to assure that the permitted works will meet the conditions for issuance in Rules 40E-4.301 and 40E-4.302, F.A.C.

PROPOSED EFFECTIVE DATE: December 1, 2011

~~Rulemaking Specific~~ Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.117, 373.118, 373.413, 373.416, 373.419 FS. History–New 9-3-81, Formerly 16K-4.021(1)(b), 16K-4.022(1)(c), Amended 7-26-87, 4-20-94, 10-3-95, 4-14-03, 12-1-11.

40E-40.391 Forms and Instructions.

- (1) No change.

~~(2) Forms and instructions are available at District Service Centers upon request.~~

PROPOSED EFFECTIVE DATE: December 1, 2011

~~Rulemaking Specific~~ Authority 120.53(1), 373.044, 373.113, 373.118 FS. Law Implemented 120.52(16), 120.53(1), 373.085, 373.116, 373.118, 373.103, 373.106, 373.229, 373.413 FS. History–New 10-3-95, Amended 12-1-11.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anita R. Bain, Environmental Resource Permitting Division Director

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2010

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-41.121	Definitions
40E-41.243	Application of Part III
40E-41.260	Content of Application
40E-41.263	Conditions for Issuance of Surface Water Management Permits in the C-51 Basin
40E-41.265	Conditions for Issuance of Right-of-Way Permits in the C-51 Basin
40E-41.363	Conditions for Issuance of Environmental Resource Permits and Surface Water Management Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees

PURPOSE AND EFFECT: The proposed rule amendments were identified for correction/updating in accordance with Section 120.74, F.S. The amendments are as follows: 1) update processes; 2) delete unnecessary titles of rule numbers within text; 3) renumber Figures 1-6 to 41-10-41-15; 4) delete reference to repealed rule; and 5) add incorporation language.

SUMMARY: In compliance with Section 120.74, F.S., the proposed rule amendments update the District’s rules to be consistent with statutes and correct deficiencies in its rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The District has prepared a Statement of Estimated Regulatory Costs. The proposed rules will have no adverse affect on small business. Individuals and other entities, including governmental entities and other users of the District’s 40E administrative rules will benefit from the use of more accurate and up-to-date rules.

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.

The proposed rules do not require legislative ratification pursuant to Section 120.54(3), F.S.

RULEMAKING AUTHORITY: 120.53(1), 373.044, 373.113, 373,118, 373.171 FS.

LAW IMPLEMENTED: 373.085, 373.086, 373.413, 373.416 FS.

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

DATE AND TIME: October 13, 2011, 9:00 a.m.

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

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: South Florida Water Management District Clerk, 1(800)432-2045, ext. 2087 or (561)682-2087. 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: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866, or (561)682-6866, email: abain@sfwmd.gov. For procedural questions, contact: Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299, or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-41.121 Definitions.

When used in this Part:

(1) No change.

(2) “Floodplain” means that area depicted on Figure 41-3, Plates 1 through 5, incorporated by reference in Chapter Rule 40E-41, F.A.C. ~~The large scale originals of these plates are located at the main office of the District.~~

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History–New 5-1-85, Amended 12-1-11.

40E-41.243 Application of Part III.

(1) All projects located within the C-51 Basin which propose to discharge directly or indirectly into C-51 Canal or which are connected directly or indirectly in the C-51 Basin and which require permits pursuant to Rule 40E-4.041, F.A.C., or this pPart shall be constructed, altered, operated, maintained and abandoned in accordance with the criteria specified in Rules 40E-4.301, ~~or 40E-4.302~~ 40E-40.302, F.A.C., ~~(Surface Water Management, Conditions for Issuance of a Permit), and 40E-41.263, F.A.C., (Conditions for Issuance of Surface Water Management Permits in the C-51 Basin),~~ unless specifically exempted by Rule 40E-4.051, F.A.C.; ~~(Surface Water Management, Exemptions).~~

(2) The criteria in Rule 40E-41.263, F.A.C., ~~(Conditions for Issuance of Surface Water Management Permits in the C-51 Basin),~~ shall apply unless the applicant can demonstrate through accepted scientific and technical methodology that the purpose and intent of this rule chapter is fulfilled by the use of alternate criteria.

(3) through (4) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086, 373.413, 373.416 FS. History–New 5-15-87, Amended 4-20-94, 12-1-11.

40E-41.260 Content of Application.

(1) No change.

(2) In addition all projects in the C-51 Basin which require permits pursuant to Rule 40E-4.041, F.A.C., ~~(Surface Water Management, Permits Required),~~ shall submit the information specified by Rule 40E-4.101 or 40E-40.112, F.A.C.; ~~(Surface Water Management, Content of Application),~~ and all projects located in the C-51 Basin which require a permit pursuant to Rule 40E-6.041, F.A.C., ~~(Works of the District, Consent Required),~~ shall submit the information required under Rule 40E-6.101, F.A.C.; ~~(Works of the District, Content of Application).~~

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.413, 373.416 FS. History–New 5-15-87, Amended 4-20-94, 12-1-11.

40E-41.263 Conditions for Issuance of ~~Surface Water Management~~ Permits in the C-51 Basin.

The following criteria shall apply:

(1)(a) No change.

(b) This criteria is not intended to limit inflows to the C-51 Ceanal to the rates specified in subsection (a) above during non-flood conditions. Discharge capacity up to 27 cfs during non-flood conditions shall be considered on a case-by-case

basis pursuant to the criteria in the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., (~~Basis of Review~~) and Rule 40E-4.301, F.A.C. (~~Conditions for Issuance~~).

(2) through (3) No change.

(4) All criteria in the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” which is incorporated ~~and adopted~~ by reference in paragraph ~~Rule~~ 40E-4.091(1)(a), F.A.C., (~~Surface Water Management, Publications Incorporated by Reference~~).

(5) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.413, 373.416 FS. History–New 5-15-87, Amended 12-1-11.

40E-41.265 Conditions for Issuance of Right-of-Way Permits in the C-51 Basin.

Any drainage connection to C-51 Canal within the C-51 Basin must be part of a surface water management system approved under Rule 40E-41.263, F.A.C., (~~Conditions for Issuance of Surface Water Management Permits in the C-51 Basin~~).

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.086 FS. History–New 5-15-87, Amended 12-1-11.

40E-41.363 Conditions for Issuance of ~~Environmental Resource Permits and Surface Water Management~~ Permits in the Water Preserve Area, Water Preserve Area Basin, or Adjacent to the Protective Levees.

(1) through (6) No change.

(7) Reduced mitigation ratios set forth in sections 4.3.2.4 and ~~4.3.9 (Melaleuca Rule)~~ of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., shall not apply in the WPA.

(8) In order to qualify for the reduced mitigation ratios set forth in section 4.3.2.4 ~~and 4.3.9 (Melaleuca Rule)~~ of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District,” incorporated by reference in paragraph 40E-4.091(1)(a), F.A.C., projects located within the WPAB shall:

(a) through (c) No change.

(9) through (10) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416 FS. History–New 10-21-01, Amended 12-1-11.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anita R. Bain, Environmental Resource Permitting Division Director

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2010

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-400.211	Processing Procedures for Noticed General Permits
40E-400.417	General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks
40E-400.443	General Permit for Minor Bridge Alteration, Replacement, Maintenance and Operation
40E-400.447	General Permit for Minor Activities Within Existing FDOT Rights-of-Way or Easements
40E-400.470	Noticed General Permit for Temporary Agricultural Activities
40E-400.475	General Permit for Minor Activities
40E-400.487	General Permit to the Department to Change Operating Schedules for Department or District Water Control Structures
40E-400.500	General Permit for Construction, Operation, Maintenance, Alteration, Removal or Abandonment of Minor Silvicultural Surface Water Management Systems

PURPOSE AND EFFECT: The proposed rule amendments were identified for correction/updating in accordance with Section 120.74, F.S. The amendments are as follows: 1) update incorporation pursuant to Section 120.55(1)(a)4., F.S., and Rule 1B-30.005, F.A.C., and include hyperlinks to materials incorporated by reference pursuant to Section 120.54(1)(i), F.S.; 2) delete “general” from standard permits pursuant to Section 373.118, F.S.; 3) delete incorporated material no longer

relied upon; 4) correct citations; 6) update filing procedures; 5) correct text to be consistent with rule title; and 6) repeal unnecessary rule.

SUMMARY: In compliance with Section 120.74, F.S., the proposed rule amendments update the District's rules to be consistent with statutes and correct deficiencies in its rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The District has prepared a Statement of Estimated Regulatory Costs. The proposed rules will have no adverse affect on small business. Individuals and entities, including governmental entities and other users of the District's 40E administrative rules will benefit from the use of more accurate and up-to-date rules.

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.

The proposed rules do not require legislative ratification pursuant to Section 120.54(3), F.S.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118, 403.067(7)(d), 668.003, 668.004, 668.50 FS.

LAW IMPLEMENTED: 120.60, 373.118, 373.119, 373.413, 373.414, 373.416, 373.423, 373.426, 403.067(7)(d), 668.003, 668.004, 668.50 FS.

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

DATE AND TIME: October 13, 2011, 9:00 a.m.

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

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: South Florida Water Management District Clerk, 1(800)432-2045, ext. 2087 or (561)682-2087. 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: Anita R. Bain, Environmental Resource Permitting Bureau Chief, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6866, or (561)682-6866, email: abain@sfwmd.gov. For procedural questions, contact: Jan Sluth, Paralegal, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, 1(800)432-2045, ext. 6299 or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-400.211 Processing Procedures for Noticed General Permits.

(1) No change.

(2) Any person wishing to construct, operate, maintain, alter, abandon, or remove a surface water management system pursuant to a noticed general permit set forth in this chapter shall provide notice to the District by submitting a complete Notice of Intent to Use a Noticed General Environmental Resource Permit; (Form No. 0980) including the appropriate application fee required in Rule 40E-1.607, F.A.C., to the District at least 30 days prior to undertaking construction, operation, maintenance, alteration, abandonment, or removal of the system. For the purposes of this subsection, the application form is only considered submitted when it is actually received by the District. Form No. 0980, effective date December 2011, is incorporated by reference herein and can be available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406.

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

(4) If the District notifies an applicant that the system for which a noticed general permit is sought does not qualify for the noticed general permit, the applicant may apply for a standard ~~general~~ or individual permit. The application fee for the noticed general permit shall be applied to the application fee for a standard ~~general~~ or individual permit if the applicant applies for such a permit within 60 days of notification by the District.

(5) through (10) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118, 668.003, 668.004, 668.50 FS. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History–New 10-3-95, Amended 7-2-98, 10-1-06, 12-1-11.

40E-400.417 General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks.

(1)(a) No change.

(b) The boat ramp is not part of a larger plan of development proposed by the applicant which requires a standard general or individual environmental resource permit;

(c) through (m) No change.

(n) The accessory docks shall not be used for overnight mooring, except for accessory docks at a boat ramp at a single family residence.;

(2) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 10-3-95, Amended 4-14-03, 12-1-11.

40E-400.443 General Permit for Minor Bridge Alteration, Replacement, Maintenance and Operation.

(1) No change.

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

~~(k) The permittee shall use erosion and sediment control best management practices, in strict compliance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E 4.091, F.A.C., to prevent violations of state water quality standards;~~

~~(k)(4)~~ This general permit authorizes dredging and filling for the replacement, modification or maintenance of a bridge and approaches for a specific crossing of a wetland or other surface water. Replacement of a bridge or modification of a bridge that includes changes in the configuration of the bridge or fill areas due to changes in materials, construction techniques, or meeting current construction codes or safety standards are authorized under this permit. Any connecting road expansion or alteration associated with such replacement or modification must be authorized by a separate general or individual permit under Chapter 40E-4, 40E-40, or 40E-400, F.A.C., as applicable, before the start of construction; and

~~(l)(m)~~ This general permit does not authorize replacement or modification of bridges or approaches which involve the construction of additional traffic lanes.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.414, 373.416, 373.426 FS. History–New 10-3-95, Amended 9-9-07, 12-1-11.

40E-400.447 General Permit for Minor Activities Within Existing Rights-of-Way or Easements.

(1) No change.

(2) This general permit shall be subject to the following specific conditions:

~~(a) The permittee shall use erosion and sediment control best management practices in strict compliance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), incorporated by reference in Rule 40E 4.091, F.A.C., to prevent violation of state water quality standards.~~

~~(b)~~ Immediately following completion of slope construction, the fill areas and any disturbed banks of wetlands or other surface waters shall be stabilized with vegetation or riprap to prevent erosion. Temporary erosion controls for all exposed soils within wetlands and other surface waters shall be completed within 7 ~~seven~~ calendar days of the most recent construction activity. Prevention of erosion of exposed earth into wetlands and other surface waters is a construction priority and completed slopes shall not remain unstabilized while other construction continues.

~~(b)(e)~~ In addition to complying with the notice provisions of Rule 40E-400.211, F.A.C., at least 90 days prior to commencement of construction, the permittee shall provide written notification to the appropriate District Service Center of the date the permitted construction activities are planned to begin and within 90 days following completion of construction the permittee shall provide written notification to the appropriate District Service Center of the date construction activities are completed.

~~(c)(d)~~ The permittee shall limit stream channel relocation to streams which have an average annual discharge of 10 ~~cfs~~ cubic feet per second or less. The length of relocated channels or those significantly altered shall be limited to 200 feet per stream. A stream channel shall be altered only when such a measure will reduce the long term adverse water quality impacts and will maintain or restore the stream's natural hydraulic capability.

~~(d)(e)~~ This general permit shall not apply to ditch construction in Class I or Class II surface waters, Outstanding National Resource Waters or waters designated as Outstanding Florida Waters.

(3) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.414, 373.416, 373.426 FS. History–New 10-3-95, Amended 6-26-02, 9-9-07, 12-1-11.

40E-400.470 Noticed General Permit for Temporary Agricultural Activities.

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

(f) No works or farming activities shall occur within 50 feet of a wetland as defined in Section 373.019(25) ~~(22)~~, F.S. If wetlands are located within the project area, a minimum 50-foot undisturbed buffer must be maintained around the wetland;

(g) through (q) No change.

(2) through (5) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 120.60, 373.118, 373.119, 373.413, 373.416, 373.418, 373.423 FS. History–New 9-6-01, Amended 12-1-11.

40E-400.475 General Permit for Minor Activities.

(1) through (2) No change.

(3) Persons wishing to qualify for this general permit may file an application electronically ~~must file a written or electronic request~~ at the District's e-Permitting website, or South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, or at any of the District's Service Centers, describing the proposed activities and providing plans and other information necessary to evaluate the potential for adverse impacts from the proposed activities. The addresses and phone numbers of the District's Service Centers are available at www.sfwmd.gov, "Locations." Any persons proposing a system described in paragraph (1)(e) ~~(4)(f)~~ above, shall submit tax parcel information or other documentation, sufficient to establish that the property is not part of a tract of land that was divided into two or more parcels after July 1, 1994. The District will provide notification in writing or by electronic mail to the applicant whether the proposed activity qualifies for this general permit within 30 days of submittal of the written or electronic request. The proposed activity may not commence until the District has provided notice in writing or by electronic mail that the applicant qualifies for the general permit.

(4) through (6) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118, 668.003, 668.004, 668.50 FS. Law Implemented 373.118, 373.413, 373.416, 373.426, 668.003, 668.004, 668.50 FS. History–New 10-3-95, Amended 10-1-06, 12-1-11.

40E-400.487 General Permit to the Department to Change Operating Schedules for Department or District Water Control Structures.

(1) A general permit is hereby granted to the Department to change the operating schedules for existing water control structures that are owned or operated by the Department or the District when such changes are for the purpose of environmental restoration or enhancement.

(2) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.416 FS. History–New 10-3-95, Amended 12-1-11.

40E-400.500 General Permit for Construction, Operation, Maintenance, Alteration, Removal or Abandonment of Minor Silvicultural Surface Water Management Systems.

(1) No change.

(2) No construction, operation, maintenance (including repair or replacement), alteration, abandonment, or removal of the minor silvicultural surface water management system described in subsection (1) of this section, shall commence until a completed Notice of Intent to Construct a Minor Silvicultural System (Form No. 0974), is received by the District or said Notice of Intent is properly addressed and stamped and deposited in the United States mail, in which case the postmark date shall be the date of receipt. Form No. 0974, effective date December 2011, is incorporated by reference herein and available at no cost by contacting the South Florida Water Management District Clerk's Office, 3301 Gun Club Road, West Palm Beach, FL 33406. Applicants may also submit annual schedules of proposed silvicultural surface water management systems that meet the requirements of this chapter, including completed permit applications for each activity. The construction, operation, maintenance, alteration, abandonment or removal shall only be authorized when the Notice of Intent is received by the District and provided the proposed activity qualifies for the general permit pursuant to this section and the conditions of issuance are followed.

(3) through (4) No change.

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

(h) In addition to the performance standards set forth in paragraphs (a)-(g) above, the applicant, in undertaking the activities authorized herein, must utilize the best management practices set forth in "Silviculture Best Management Practices for Silviculture Manual" (2003) ~~(1993)~~ published by the Division of Forestry, Florida Department of Agriculture and Consumer Services.

(i) No change.

(6) No change.

PROPOSED EFFECTIVE DATE: December 1, 2011

Rulemaking Specific Authority 373.044, 373.113, 373.118, 403.067(7)(d) FS. Law Implemented 373.118, 373.413, 373.416, 373.426, 403.067(7)(d) FS. History–New 10-3-95, Amended 12-1-11.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Anita R. Bain, Environmental Resource Permitting Division
Director

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 9, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: 61C-1.0021
 RULE TITLE: Administrative Actions and Enforcement

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to repeal the rule. The rule duplicates administrative action and enforcement processes set out in Chapters 120 and 509, Florida Statutes. Repeal will not change the division’s administrative actions processes.

SUMMARY: Repeal of rule relating to administrative action and enforcement processes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 509.032, 509.032(2)(d) FS.

LAW IMPLEMENTED: 509.091, 509.261 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: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, Michelle.Comingore@dbpr.state.fl.us, (850)488-1133

THE FULL TEXT OF THE PROPOSED RULE IS:

61C-1.0021 Administrative Actions and Enforcement.

Rulemaking Specific Authority 509.032, 509.032(2)(d) FS. Law Implemented 509.091, 509.261 FS. History–New 3-31-94, Amended 10-9-95, 9-25-96, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill Veach, Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ken Lawson, Secretary, Department of Business and Professional Regulation
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2011

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-10.002
 RULE TITLE: Application and Licensure Fees

PURPOSE AND EFFECT: The proposed rule amendment is intended to implement fees for those physicians who seek a temporary certificate to practice in an area of critical need.

SUMMARY: The proposed rule amendment implements an application fee in the amount of \$300 for physicians seeking a temporary certificate to practice in an area of critical need and to set forth the initial licensure fee in the amount of \$429.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: During discussion of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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(2), 456.025(1), 459.0076, 459.0077, 459.0092 FS.

LAW IMPLEMENTED: 456.013(2), 459.007, 459.0077, 459.0092 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 Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-10.002 Application and Licensure Fees.

(1) through (2) No change.

(3) The application fee for a temporary certificate to practice in an area of critical need shall be \$300.00. This fee is nonrefundable. The initial licensure fee shall be \$429.00. If,

however, the person applying for a temporary certificate to practice in an area of critical need submits an affidavit from the employing agency or institution stating that the applicant will not receive monetary compensation for any service involving the practice of medicine, the application and licensure fees shall be waived.

~~(4)(3)~~ No change.

~~(5)(4)~~ No change.

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

Rulemaking Specific Authority 456.013(2), 456.025(1), 459.0076, 459.0077, 459.0092 FS. Law Implemented 456.013(2), 459.007, 459.0077, 459.0092 FS. History—New 10-23-79, Amended 10-3-83, Formerly 21R-10.02, Amended 5-13-87, 4-21-88, 10-28-91, 11-9-92, 4-1-93, Formerly 21R-10.002, 61F9-10.002, Amended 12-28-95, Formerly 59W-10.002, Amended 12-13-98, 2-26-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 2010

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-12.010 RULE TITLE: Temporary Certificate for Practice in an Area of Critical Need

PURPOSE AND EFFECT: The proposed rule is intended to incorporate the application form for practice in an area of critical need and to identify the manner in which to obtain the application form.

SUMMARY: The proposed rule incorporates the application form for practice in an area of critical need and sets forth the manner in which applicants may obtain the application form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: During discussion of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule.

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(4), 456.033(7), 459.005, 459.0055(1)(i) FS.

LAW IMPLEMENTED: 456.031(2), 456.033(6), 459.0055, 459.006, 459.007, 459.0076 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 Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-12.010 Temporary Certificate to Practice in an Area of Critical Need.

Applications for Temporary Certificate to Practice in an Area of Critical Need must include a completed application form and appropriate fee as set forth in Section 459.0076, F.S., and subsection 64B15-10.002, F.A.C. The instructions and application form, DH-MQA 1249, (05/11), entitled "Application For Temporary Certificate for Practice in an Area of Critical Need" is hereby incorporated by reference, and may be obtained from the Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256, or from the Board's website at: www.doh.state.fl.us/mqa/osteopath/index.html. Such application and fee shall expire one year from the date on which the application is initially received by the Board. After a period of one year a new application and fee must be submitted.

Rulemaking Authority 456.013(4), 456.033(7), 459.005, 459.0055(1)(i) FS. Law Implemented 456.031(2), 456.033(6), 459.0055, 459.006, 459.007, 459.0076 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 2010

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-14.005 RULE TITLE: Standards for the Use of Controlled Substances for Treatment of Pain

PURPOSE AND EFFECT: The proposed rule amendments clarify the rule with regard to the appropriate standards to be utilized in the use of controlled substances for the treatment of pain.

SUMMARY: The proposed rule amendments clarify the Board's rule with regard to the appropriate standards for all physicians who prescribe or dispense controlled substances for the treatment of pain.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: During discussion of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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: 459.005(1) FS.

LAW IMPLEMENTED: 459.003(3), 459.015(1)(g), (x) 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 Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.005 Standards for the Use of Controlled Substances for Treatment of Pain.

(1) through (2) No change.

(3) Guidelines. The Board has adopted the following guidelines when evaluating the use of controlled substances for pain control:

(a) Evaluation of the Patient. A complete medical history and physical examination must be conducted and documented in the medical record. The medical record ~~shall~~ ~~should~~ document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also ~~shall~~ ~~should~~ document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written treatment plan ~~shall~~ ~~should~~ state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and ~~shall~~ ~~should~~ indicate if any further

diagnostic evaluations or other treatments are planned. After treatment begins, the osteopathic physician ~~shall~~ ~~should~~ adjust drug therapy, if necessary, to the individual medical needs of each patient. Other treatment modalities, including osteopathic manipulative treatment and applications, or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

(c) Informed Consent and Agreement for Treatment. The osteopathic physician ~~shall~~ ~~should~~ discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient, or with the patient's surrogate or guardian if the patient is incompetent. The patient ~~shall~~ ~~should~~ receive prescriptions from one osteopathic physician and one pharmacy where possible. If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the osteopathic physician ~~shall~~ ~~may~~ employ the use of a written agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. through 3. No change.

(d) Periodic Review. ~~Based At reasonable intervals based~~ on the individual circumstances of the patient, the osteopathic physician ~~shall~~ ~~should~~ review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy ~~shall~~ ~~should~~ depend on the osteopathic physician's evaluation of progress toward stated treatment objectives such as improvement in patient's pain intensity and improved physical and/or psychosocial function, i.e., ability to work, need of health care resources, activities of daily living, and quality of social life. If treatment goals are not being achieved, despite medication adjustments, the osteopathic physician ~~shall~~ ~~should~~ reevaluate the appropriateness of continued treatment. The osteopathic physician ~~shall~~ ~~should~~ monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The osteopathic physician ~~shall~~ ~~should~~ be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention ~~must~~ ~~should~~ be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care, monitoring, documentation, and consultation with or referral to an expert in the management of such patients.

(f) Medical Records. The osteopathic physician is required to keep accurate and complete records to include, but not be limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence, as appropriate;

2. through 7. No change.

8. Instructions and agreements; ~~and~~

9. Drug testing results; and

~~10.9.~~ Periodic reviews. Records must remain current, ~~and~~ ~~be~~ maintained in an accessible manner, ~~and~~ readily available for review, and must be in full compliance with Rule 64B15-15.004, F.A.C., and Section 459.015(1)(o), F.S.

(g) No change.

Rulemaking Specific Authority 459.005(1) FS. Law Implemented 459.003(3), 459.015(1)(g), (x) FS. History--New 3-9-00, Amended 11-14-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 24, 2010

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-19.002
RULE TITLE: Violations and Penalties

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth additional violations and the disciplinary guidelines for those violations.

SUMMARY: The proposed rule amendments set forth various violations and the range of disciplinary guidelines for the violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: During discussion of this rule at its Board meeting, the Board, based upon the expertise and experience of

its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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: 456.079, 459.015(5) FS.

LAW IMPLEMENTED: 456.072, 456.079, 456.50 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 Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-19.002 Violations and Penalties.

In imposing discipline upon applicants and licensees, the board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The statutory language is intended to provide a description of the violation and is not a complete statement of the violation; the complete statement may be found in the statutory provision cited directly under each violation description.

(1) through (56) No change.

(57) Being terminated for cause, from a treatment program for impaired practitioners, as described in Section 456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug-treatment or alcohol-treatment program. (456.072(1)(hh) F.S.)

FIRST OFFENSE:

stayed suspension and probation and \$2,500 fine

suspension until licensee is able to demonstrate to the Board ability to practice with reasonable skill and safety to be followed by probation and \$5,000 fine revocation and \$10,000 fine

SECOND OFFENSE:

suspension until licensee is able to demonstrate to the Board ability to practice with reasonable skill and safety to

(58) through (64) No change.

(65) Registration of pain clinic by a designated physician through misrepresentation or fraud.

(459.015(1)(qq)1., F.S.)

(a) For registering a pain clinic through misrepresentation.

FIRST OFFENSE:

SECOND OFFENSE:

(b) For registering a pain clinic through fraud.

FIRST OFFENSE:

(66) Procuring or attempting to procure, the registration of a pain management clinic for any other person by making or causing to be made, any false representation.

(459.015(1)(qq)2., F.S.)

FIRST OFFENSE:

(67) Failing to comply with any requirement of Chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C., ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention Control Act; or Chapter 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act.

(459.015(1)(qq)3., F.S.)

FIRST OFFENSE:

SECOND OFFENSE:

THIRD OFFENSE:

(68) Being convicted of or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, or any other state, or of the United States.

(459.015(1)(qq)4., F.S.)

FIRST OFFENSE:

SECOND OFFENSE:

(69) Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for any offense that would constitute a violation of Chapter 459, F.S.

(459.015(1)(qq)5., F.S.)

FIRST OFFENSE:

be followed by probation and \$7,500 fine

letter of concern and a \$1,000 fine. probation and a \$5,000 fine.

revocation and a \$10,000 fine.

revocation and a \$10,000 fine.

letter of concern and a \$1,000 fine. reprimand and a \$5,000.00 fine.

reprimand and a \$7,500 fine.

probation and a \$1,000 fine.

suspension and a \$5,000 fine.

from imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida and a \$1,000 fine.

probation and a \$5,000 fine. revocation and a \$10,000 fine.

probation and a \$5,000 fine. suspension, followed by a period of probation, and a \$10,000 fine. revocation and a \$10,000 fine.

revocation and a \$10,000 fine. revocation and a \$10,000 fine.

suspension until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and a \$5,000 fine.

<u>SECOND OFFENSE:</u>	<u>from imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida and a \$5,000 fine.</u>	<u>revocation and a \$10,000 fine.</u>
<u>(70) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime which relates to the practice of, or the ability to practice, a licensed health care profession.</u>		
<u>(459.015(1)(qq)6., F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>probation and a \$1,000 fine.</u>	<u>revocation and a \$10,000 fine.</u>
<u>SECOND OFFENSE:</u>	<u>suspension and a \$5,000 fine.</u>	<u>revocation and a \$10,000 fine.</u>
<u>(71) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime which relates to health care fraud.</u>		
<u>(459.015(1)(qq)7., F.S.)</u>		
<u>(a) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime relating to healthcare fraud in dollar amounts in excess of \$5,000.00.</u>		
<u>FIRST OFFENSE:</u>	<u>revocation and a \$5,000 fine.</u>	<u>revocation and a \$10,000 fine.</u>
<u>SECOND OFFENSE:</u>	<u>revocation and a \$7,500 fine.</u>	<u>revocation and a \$10,000 fine.</u>
<u>(b) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime relating to healthcare fraud in dollar amounts of \$5,000.00 or less.</u>		
<u>(459.015(1)(qq), F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>suspension, followed by a period of probation, and a \$10,000 fine.</u>	
<u>SECOND OFFENSE:</u>	<u>revocation and a \$10,000 fine.</u>	
<u>(72) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003(14), or s. 893.02, F.S., if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.</u>		
<u>(459.015(1)(qq)8., F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>reprimand and a \$1,000 fine.</u>	<u>revocation and a \$10,000 fine.</u>
<u>SECOND OFFENSE:</u>	<u>probation and a \$5,000 fine.</u>	<u>revocation and a \$10,000 fine.</u>
<u>(73) Failing to timely notify the Board of the date of his or her termination from a pain management clinic as required by s. 459.0137(2)(e), F.S.</u>		
<u>(459.015(1)(qq)9., F.S.)</u>		
<u>FIRST OFFENSE:</u>	<u>letter of concern and a \$1,000 fine.</u>	<u>probation and a \$5,000 fine.</u>
<u>SECOND OFFENSE:</u>	<u>reprimand and a \$5,000 fine.</u>	<u>suspension, followed by a period of probation, and a \$10,000 fine.</u>
<u>THIRD OFFENSE:</u>	<u>suspension, followed by a period of probation, and a \$7,500 fine.</u>	<u>revocation and a \$10,000 fine.</u>

(74) Failing to timely notify the Department of the theft of prescription blanks from a pain management clinic or a breach of other methods for prescribing within 24 hours as required by s. 459.0137(2)(d), F.S.

(459.015(1)(rr), F.S.

FIRST OFFENSE:

SECOND OFFENSE:

letter of concern and a \$1,000 fine. probation and a \$5,000 fine.

probation and a \$5,000 fine. suspension, followed by a period of probation, and a \$10,000 fine.

THIRD OFFENSE:

suspension, followed by a period of probation, and a \$7,500 fine.

revocation and a \$10,000 fine.

(75) Promoting or advertising through any communication media the use, sale, or dispensing of any controlled substance appearing on any schedule in Chapter 893, F.S.

(459.015(1)(ss), F.S.

FIRST OFFENSE:

SECOND OFFENSE:

letter of concern and a \$1,000 fine.

1 year suspension, followed by a period of probation, and a \$5,000 fine.

reprimand and a \$5,000.00 fine.

1 year suspension, followed by a period of probation, and a \$10,000 fine.

Rulemaking Authority 456.079, 459.015(5) FS. Law Implemented 456.072, 456.079, 456.50 FS. History—New 9-30-87, Amended 10-28-91, 1-12-93, Formerly 21R-19.002, 61F9-19.002, 59W-19.002, Amended 2-2-98, 2-11-01, 6-7-01, 2-26-02, 12-7-05, 11-14-06, 11-27-06, 5-10-10., 7-27-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Osteopathic Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 2010

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-14.002 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to update its disciplinary guidelines to incorporate the new offenses set forth in Section 456.072(1), F.S., that were added by the Legislature (Ch. Law 2009-223).

SUMMARY: The rule amendment will update its disciplinary guidelines to incorporate the new offenses set forth in Section 456.072(1), F.S., that were added by the Legislature (Ch. Law 2009-223).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase

directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 456.039(3), 456.072, 456.073(3), 456.079, 461.003, 461.005, 461.013 FS.

LAW IMPLEMENTED: 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS.

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: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-14.002 Disciplinary Guidelines.

(1) No change.

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

(vv) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, to any of the acts set forth in Section 456.072(1)(ii), F.S., relating to the Medicaid program, the Board shall impose a penalty ranging from suspension to revocation and a fine of \$1,000 to \$10,000.

(ww) Failing to remit the sum owed to the state for an overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement, the Board shall impose a penalty ranging from a reprimand to suspension and a fine from \$5,000 to \$10,000.

(xx) Being terminated from the state Medicaid program pursuant to Section 409.913, F.S., any other state Medicaid program, or the federal Medicare program, unless eligibility to participate in the program from which the practitioner was terminated has been restored, the Board shall impose a penalty ranging from a reprimand to revocation and a fine of \$250 to \$10,000 according to the nature of the offense and the substantiating evidence.

(yy) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud, the Board shall impose a penalty ranging from suspension to revocation and a fine of \$1,000 to \$10,000.

Rulemaking Specific Authority 456.039(3), 456.072, 456.073(3), 456.079, 461.003, 461.005, 461.013 FS. Law Implemented 456.033, 456.053, 456.062, 456.063, 456.067, 456.072, 456.073(3), 456.079, 461.012, 461.013 FS. History—New 11-21-79, Amended 8-31-81, Formerly 21T-14.02, Amended 10-14-86, 12-8-88, 1-19-92, 4-26-93, Formerly 21T-14.002, 61F12-14.002, Amended 2-25-96, 5-29-97, Formerly 59Z-14.002, Amended 11-17-97, 8-24-00, 8-13-02, 4-26-04, 6-14-06, 10-10-06, 11-25-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 5, 2011

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-16.006
RULE TITLE: Registration Requirements of Podiatric Residents

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the form referenced.

SUMMARY: The rule amendment will update the revision date of form

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 461.005, 461.014(4) FS.

LAW IMPLEMENTED: 461.014 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: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-16.006 Registration Requirements of Podiatric Residents.

(1) Every podiatric resident participating in a residency program in a hospital in this state shall register with the Board within sixty (60) days of the date of commencement of residency using the Podiatric Resident Registration Form DH-MQA 1139 (revised ~~8/2010~~ ~~04/09~~), hereby adopted and incorporated by reference, that can be obtained from the Board of Podiatric Medicine’s website at <http://www.doh.state.fl.us/mqa/podiatry/index.html>.

(2) No change.

Rulemaking Specific Authority 461.014(4) FS. Law Implemented 461.014 FS. History—New 11-24-80, Formerly 21T-16.06, 21T-16.006, 61F12-16.006, Amended 1-4-96, Formerly 59Z-16.006, Amended 6-17-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 26, 2011

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: 64B18-24.001
RULE TITLE: Initial Certification for Podiatric X-Ray Assistants

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the form referenced.

SUMMARY: The rule amendment will update the revision date of form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not

have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. 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: 461.005, 461.0135 FS.

LAW IMPLEMENTED: 456.013(2), 456.025(1), 461.003(2), 461.0135 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: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-24.001 Initial Certification for Podiatric X-Ray Assistants.

(1) Each applicant for initial certification as a podiatric x-ray assistant shall submit an application, on form DH-MQA 1026, entitled, "Application for Certified Podiatric X-ray Assistant," which is hereby incorporated by reference, effective ~~8/2010~~ ~~6/2008~~, copies of which may be obtained from the Board of Podiatric Medicine's website: http://www.doh.state.fl.us/mqa/podiatry/po_applications.html and shall include:

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

~~Rulemaking Specific~~ Authority 461.005, 461.0135 FS. Law Implemented 456.013(2), 456.025(1), 461.003(2), 461.0135 FS. History--New 2-16-00, Amended 8-31-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 4, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 26, 2011

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: 64B19-11.012 RULE TITLE: Application Forms

PURPOSE AND EFFECT: The proposed rule amendments are intended to incorporate the revised licensure application and supervising verification form into the rule.

SUMMARY: The proposed rule amendments incorporate the revised licensure application and supervising verification form into the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION: During discussion of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Cost (SERC) was not necessary. No person or interested party submitted additional information regarding the economic impact at that time. The Board has determined that this will not have an adverse impact on small business, or likely increase regulatory costs in excess of \$200,000 in the aggregate within 1 year after implementation of the rule. These rule amendments will not require ratification by the Legislature.

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

RULEMAKING AUTHORITY: 490.004(4) FS.

LAW IMPLEMENTED: 490.005, 490.006(1)(b), 490.007(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.012 Application Forms.

(1) All applicants for licensure pursuant to Chapter 490, F.S., shall complete and submit form DH-MQA 1187, (Revised ~~01/11~~ ~~04/10~~), "Application for Psychologist Licensure," which is incorporated herein by reference and which may be obtained from the Board office or on the Board's website at <http://www.doh.state.fl.us/mqa/psychology>.

(2) through (3) No change.

(4) All applicants for licensure other than those applying for licensure pursuant to Section 490.006, F.S., shall complete and submit ~~Form DH-MQA 1246~~ ~~DOH/MQA/PY SUP/REV. 4/02~~, "Supervising Psychologist Verification Form," (Revised ~~01/11~~) effective ~~6-25-02~~, which is incorporated herein by reference and which may be obtained from the Board office or on the Board's website at <http://www.doh.state.fl.us/mqa/psychology>.

Rulemaking Authority 490.004(4) FS. Law Implemented 490.005, 490.006(1)(b), 490.007(1) FS. History--New 6-25-02, Amended 5-24-09, 3-1-10, 5-23-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Psychology
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Psychology
DATES PROPOSED RULE APPROVED BY AGENCY
HEAD: April 22, 2011; June 17, 2011
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: December 23, 2010

RULEMAKING AUTHORITY: 382.003(7), (10), (11),
382.0085, 382.013, 382.015(6) FS.
LAW IMPLEMENTED: 382.003(7), (10), (11), 382.0085,
382.013, 382.015(2)(3), 382.016(1)(b), 382.021, 382.022,
382.023, 382.025, 409.256(11)(d), 741.01, 742.10, 742.16,
742.18(8) FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF
THIS NOTICE, A HEARING WILL BE SCHEDULED AND
ANNOUNCED IN THE FAW.

DEPARTMENT OF HEALTH

Vital Statistics

RULE NOS.:	RULE TITLES:
64V-1.0032	Birth Certificate Amendments by Paternity Establishment/ Disestablishment; Judicial and Administrative Process
64V-1.004	Change of Paternity; Evidence Required
64V-1.006	Birth Registration; Evidence Required for Births Occurring Outside of a Facility
64V-1.0131	Certifications of Vital Records; Information Required for Release; Applicant Identification Requirements
64V-1.020	Marriage Reporting
64V-1.021	Dissolution of Marriage Reporting

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: Ken Jones, Deputy State Registrar, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, telephone (904)359-6900, Ext. 1001. 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: Ken Jones, Deputy State Registrar, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, telephone (904)359-6900, Ext. 1001

THE FULL TEXT OF THE PROPOSED RULES IS:

64V-1.0032 Birth Certificate Amendments by Paternity Establishment/Disestablishment; Judicial and Administrative Process.

PURPOSE AND EFFECT: To create new form and amend an existing form used in the establishment of paternity process as required by 2009 legislation. To create new form used for preparation of a birth certificate and amend the form used for recording a live birth to be in compliance with national standards. Incorporating in rule the specific safety paper used for statewide certification of vital records, amending affidavits used to allow release of a birth or cause of death information to another person and amending application form used for applying for a birth certification. Incorporating forms used by the Clerks of Court in the transmittal of vital records.

(1) Any judgment establishing paternity entered by a Florida court pursuant to Section 742.10 or 382.015(2), F.S., or disestablishing paternity by a Florida court pursuant to Section 742.18, F.S., shall be recorded on a Certified Statement of Final Judgment of Paternity, DH Form 673, Jun 2010 ~~Aug-06~~, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042. Upon receipt of a Certified Statement of Final Judgment of Paternity, DH Form 673, completed and certified by the clerk of the circuit court entering the paternity judgment, the department shall amend the birth certificate if the child was born in this state.

SUMMARY: These rules are to ensure compliance with national standards as well as the mandates of 2009 legislation and the requirements of Chapter 382, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

(2) through (5) No change.
(6) An application for marriage license must allow both parties to the marriage to state under oath in writing if they are the parents of a child(ren) in common, born in this state. An Affirmation of Common Child(ren) Born in Florida, DH 743A, Jun 2010, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 is created for recording sworn signatures of the couple as well as sufficient information to enable the department to locate the birth certificate(s) of the child(ren).

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 Specific Authority 382.003(10), (11), 382.015(6), 382.016(1), 382.0255(3) FS. Law Implemented 382.003(7), (11), 382.015(2), (3), 382.016(1)(b), 741.01, 742.10, 742.16, 742.18(8), 409.256(11)(d) FS. History–New 11-11-98, Amended 7-18-00, 2-29-04, 10-19-04, 5-13-08,_____.

64V-1.004 Change of Paternity; Evidence Required.

(1) through (2) No change.

~~(3) An amendment made pursuant to subsections (1) and (2) of Rule 64V-1.004, F.A.C., may only be made by order of a court of competent jurisdiction following a proceeding where all parties have been provided legally sufficient notice and an opportunity to be heard by the court.~~

(3)(4) A father who was legally married to the mother at the time of the child's birth but was omitted from the record may be added to the birth record upon receipt of an Acknowledgment of Paternity Consenting Affidavit Acknowledging Paternity, DH Form 432 incorporated by reference in subsection (2) of Rule 64V-1.0032, F.A.C., and a certified copy of the marriage record. The Acknowledgment of Paternity Consenting Affidavit Acknowledging Paternity must be signed by both the mother and the man who was her legal husband at the time of the child's birth.

Rulemaking Specific Authority 382.003(10),(11), 382.015(6), 382.016(1) Law Implemented 382.013(2), 382.015(2), 382.016(1)(b) FS. History–New 1-1-77, Formerly 10D-49.17, Amended 10-1-88, 10-1-90, Formerly 10D-49.017, Amended 11-11-98, 7-18-00, 2-29-04,_____.

64V-1.006 Birth Registration; Evidence Required for Births Occurring Outside of a Facility.

(1) All birth records filed in this state pursuant to Section 382.013, F.S., shall be registered electronically on the department's electronic birth registration system or by means specified by the state registrar. A Certificate of Live Birth, DH Form 511, Jan 2011 July 04, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 shall be used when an electronic birth certificate cannot be filed. For use in the preparation of a Certificate of Live Birth, a Birth Certificate Worksheet, DH Form 1967, Jan 2011 is hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042.

(2) If a birth occurs outside a facility and the child is not taken to a facility within 3 days after delivery, a Certificate of Live Birth, DH Form 511, Jan 2011 July 04, will be accepted for registration by a local registrar and state filing by the Office of Vital Statistics if corroborated by a written statement from a licensed physician or a licensed midwife in attendance during or immediately after the birth.

(3) No change.

Rulemaking Specific Authority 382.003(7), (10), 382.013 FS. Law Implemented 382.003(7), (10), (11), 382.013 FS. History–New 10-1-90, Formerly 10D-49.0194, Amended 11-11-98, 7-18-00, 2-29-04, 10-19-04, 5-13-08,_____.

64V-1.0131 Certifications of Vital Records; Information Required for Release; Applicant Identification Requirements.

(1) Except for Commemorative Birth and Marriage Certificates, all All certifications issued by the Office of Vital Statistics or by any of the county health departments shall be on safety paper, DH Form 1946, Apr 2010 or DH 1947, Aug 04, are hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 designed and approved by the department. Neither plain copy nor uncertified records will be issued except as an approved health study project by the department. Commemorative Birth and Marriage Certificates are not printed on safety paper as described above, are not official certifications and are created only for purposes of display.

(2) All requests for certifications of birth records less than 100 years old must be accompanied with valid photo identification as prescribed in paragraph 64V-1.0131(2)(c), F.A.C. With the exception of a request to file a delayed birth registration, a birth amendment or a Certificate of Foreign Birth, each request shall be submitted in writing or, on a state office Application for Florida Birth Record, DH Form 726, Dec Mar 2010 Sept 07, or county office Application for Florida Birth Record, DH Form 1960, July 03, both hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042. A request to file a delayed birth registration, an amendment to a birth record, or a Certificate of Foreign Birth, must be requested on application forms previously incorporated by reference in Rules 64V-1.001, 64V-1.002 and 64V-1.0031, F.A.C.

(a) No change.

(b) A copy of valid a photo identification must accompany the applicable application or written request or, if presented in person, department personnel must view the original accompanying photo identification.

(c) Acceptable forms of valid photo identification, which includes other identifying information, are as follows:

1. State Driver's License;
2. Military identification;
3. Passport; or
4. State issued identification card.

(d) If the certification is requested by an attorney representing the registrant or his or her parent identified on the birth certificate or his or her legal guardian, the attorney's bar or license number may be provided in lieu of valid photo identification.

(e) If the requestor is not a person enumerated in subsection 382.025(1)(a), F.S., an Affidavit to Release a Birth Certification Certificate, DH Form 1958, Aug 2010 July 03, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 ~~department~~ must be completed by the person enumerated in subsection 382.025(1)(a), F.S.

(3) All requests for certifications of death records where cause of death information is requested and the death occurred less than 50 years prior to the request must be accompanied by valid photo identification as prescribed in paragraph 64V-1.0131(4)(c), F.A.C. With the exception of death amendment requests, and delayed or presumptive death registration, all requests must be submitted in writing or on a state office Application for a Florida Death Record, DH Form 727, Dec 2010 Nov. 04, or county office Application for a Florida Death Record, DH Form 1961, July 03, both hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042. A request to file a death amendment request, a delayed death registration or a presumptive death must be requested on application forms previously incorporated by reference in Rules 64V-1.007, 64V-1.008 and 64V-1.0081, F.A.C.

(a) No change.

(b) A copy of a valid photo identification must accompany the applicable application or written request or, if presented in person, department personnel must view the original accompanying photo identification.

(c) through (d) No change.

(e) If the requestor is not a person enumerated in subsection 382.025(2), F.S., an Affidavit to Release Cause of Death Information, DH Form 1959, Aug 2010 July 03, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 ~~department~~ must be completed by the person enumerated in subsection 382.025(2), F.S.

(4) No change.

(5) All requests for a Department of Health certification of a marriage record must be submitted in writing or on a state office Application for a Marriage Record For Licenses Issued in Florida, DH Form 261, Dec 2010 Sept. 07, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042. If the requestor is named on the marriage record and the Social Security field for that person is also requested, then valid photo identification must accompany the request.

(6) All requests for a Department of Health certification of a Florida divorce or annulment record must be submitted in writing or on a state office Application for Dissolution of

Marriage Report (Divorce or Annulment) Granted in Florida, DH Form 260, Dec 2010 Sept. 07, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042.

Rulemaking Specific Authority 382.003(7), (10), 382.025, 382.0085, 382.0255(1)(a), FS. Law Implemented 382.025, 382.0085 FS. History—New 11-11-98, Amended 2-29-04, 12-12-06, 5-13-08,_____.

64V-1.020 Marriage Reporting.

Marriages occurring in Florida shall be recorded on a Marriage Record, DH Form 743, Apr 98, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 or on an electronic system provided by the Department of Health. A Marriage Monthly Report, DH 133, Sep 2010, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 shall be submitted to the Department before the 5th day of each month.

Rulemaking Specific Authority 382.003(7), (10) FS. Law Implemented 382.021, 382.22 ~~382.023~~ FS. History—New 2-29-04, Amended 5-13-08,_____.

64V-1.021 Dissolution of Marriage Reporting.

Dissolution of Marriages shall be recorded on a Report of Dissolution of Marriage Annulment of Marriage, DH Form 513, Oct. 96, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, or on an electronic system provided by the Department of Health. A Dissolution of Marriage Monthly Report, DH Form 730, Sep 2010, hereby incorporated by reference and available from the Florida Department of Health, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042 shall be submitted to the Department before the 10th day of each month.

Rulemaking Specific Authority 382.003(7), (10) FS. Law Implemented 382.023 FS. History—New 2-29-04, Amended 5-13-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ken Jones, Deputy State Registrar, State Office of Vital Statistics, P. O. Box 210, Jacksonville, Florida 32231-0042, telephone (904)359-6900, Ext. 1001

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: H. Frank Farmer, Jr., State Surgeon General

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 30, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 7, 2011

DEPARTMENT OF FINANCIAL SERVICES

Division of Worker’s Compensation

RULE NO.: RULE TITLE:
69L-9.015 Drug Testing Criteria

PURPOSE AND EFFECT: The purpose of this rulemaking is to repeal Rule 69L-9.015, F.A.C. The Joint Administrative Procedures Committee has informed the Department that it lacks the required rulemaking authority to maintain the rule. Repealing the rule complies with the findings of Committee.

SUMMARY: Rule 69L-9.015, F.A.C., “Drug Test Criteria, will be repealed, as the statutory rulemaking authority no longer exists. Rulemaking authority for the rule, formerly available to the Department’s Division of Workers’ Compensation, was transferred to the Agency for Health Care Administration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: No SERC has been 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: 440.09(7), 440.101, 440.102(10) FS.

LAW IMPLEMENTED: 440.09(7), 440.101, 440.102, 627.0915 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: Pam Macon, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers’ Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4224, (850)413-1708 or Pamela.Macon@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-9.015 Drug Testing Criteria.

Rulemaking Specific Authority 440.09(7), 440.101, 440.102(10) FS. Law Implemented 440.09(7), 440.101, 440.102, 627.0915 FS. History–New 4-30-96, Formerly 38F-9.015, 4L-9.015, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Macon, Bureau Chief, Bureau of Monitoring and Audit, Division of Workers’ Compensation, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2011

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-2.0040 Sanitation Standards in K-12 Private Schools

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. 37, No. 15, April 15, 2011 issue of the Florida Administrative Weekly.

Paragraphs (3)(a), (4)(a), (5)(c), (d), Subparagraph (6)(b)3., Subsections (7), (8), (9), and Paragraph (14)(b) are amended to read:

6A-2.0040 Sanitation Standards in K-12 Private Schools.

This rule prescribes minimum requirements and standards of sanitation and safety for K-12 private schools, as defined in Section 1002.01, Florida Statutes, located within the state regardless of the nature of the school, its ownership or organization. ~~If a requirement in this rule conflicts with a specific requirement in the Florida Building Code adopted under Chapter 9N-1, F.A.C., or the Florida Fire Prevention Code under Chapter 69A-60, F.A.C., then that code shall prevail.~~

(3) Building Construction and Maintenance.

(a) Upon request, K-12 private schools shall provide proof of any required permitting for sSchool construction and remodeling shall pursuant to Section 553.79, Florida Statutes conform to construction requirements of the Florida Building Code and the requirements of the local building authority. School buildings shall be maintained so that they are vermin-proofed.

(4) Lighting Standards.

(a) ~~Illumination in~~ All instructional spaces shall be capable of providing a minimum illumination of forty (40) foot-candles at normal task level.

(5)(c) Heat producing appliances and systems shall be maintained in a proper working condition installed in accordance with requirements of the local building and fire authority.

(d) Ventilation and air conditioning. All occupied rooms and other rooms where odors or contaminants are generated shall be vented to the outside. Ventilation rates shall be maintained as designed ~~comply with those specified in the local building code.~~