

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NO.: 1B-2.011
 RULE TITLE: Library Grant Programs

PURPOSE AND EFFECT: The purpose of this amendment is to modify the guidelines for the Library Services and Technology Act Grant program. These revisions will update the grant program to implement Section 257.12(3), F.S., regarding the adoption of an Internet safety education program by public libraries.

SUBJECT AREA TO BE ADDRESSED: The Library Services and Technology Act Grant program administered by the Division of Library and Information Services.

RULEMAKING AUTHORITY: 257.12, 257.14, 257.15, 257.25 FS.

LAW IMPLEMENTED: 257.12, 257.14, 257.15, 257.25 FS.

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

DATE AND TIME: November 13, 2009, 10:00 a.m.

PLACE: Room 307, State Library and Archives of Florida, R.A. Gray Building, 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: Dorothy Frank, Library Program Specialist, Division of Library and Information Services, R.A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250; (850)245-6620. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Marian Deeney, Library Program Administrator, Division of Library and Information Services, R.A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399-0250; (850)245-6620

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-14.064
 RULE TITLE: Dual Enrollment/Early College Programs

PURPOSE AND EFFECT: The purpose of this rule development is to provide measurable criteria of Dual Enrollment/Early College Programs and to ensure appropriate levels of student achievement and equivalent quality of programs regardless of method of instruction or location of program. The rule language to be developed will include the evidence of implementation to be submitted to the Department of Education, for periodic review. The effect of the rule is to ensure college commitment to ensuring that Early College/Dual Enrollment programs demonstrate the level of academic rigor expected of all college courses and programs.

SUBJECT AREA TO BE ADDRESSED: Dual Enrollment/Early College Programs.

RULEMAKING AUTHORITY: 1007.271(9) FS.

LAW IMPLEMENTED: 1007.271, 1007.235 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: Julie Alexander, Senior Director, Instruction and Student Services, Division of Florida Colleges, 325 West Gaines Street, Suite 1532, Tallahassee, FL 32399; (850)245-9523 or e-mail Julie.alexander@fldoe.org. To request a rule development workshop, please contact: Lynn Abbott, Agency Clerk, Department of Education, (850)245-9661 or e-mail lynn.abbott@fldoe.org or go to <https://app1.fldoe.org/rules/default.aspx>

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

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE NO.: 9J-5.006
 RULE TITLE: Future Land Use Element

PURPOSE AND EFFECT: The purpose and effect are to amend the rule to provide greater detail and explanation relating to the statutory requirements that the future land use element be based upon the amount of land required to accommodate anticipated growth and the projected population of the area.

SUBJECT AREA TO BE ADDRESSED: The statutory requirements that the future land use element be based upon, inter alia, the amount of land required to accommodate anticipated growth and the projected population of the area.

RULEMAKING AUTHORITY: 163.3177(9) FS.

LAW IMPLEMENTED: 163.3177(6)(a) FS.

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

DATE AND TIME: November 10, 2009, 1:00 p.m.

PLACE: Department of Community Affairs, Randall Kelley Training Center, Room 305, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Sheri Coven, Intergovernmental Affairs Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-1600. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robert Pennock, Strategic Planning Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1735

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

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-90.002	Definitions
14-90.004	Bus Transit System Operational Standards
14-90.0041	Medical Examinations for Bus Transit System Drivers
14-90.006	Operational and Driving Requirements
14-90.007	Vehicle Equipment Standards and Procurement Criteria
14-90.009	Bus Safety Inspections
14-90.010	Certification
14-90.011	Safety and Security Inspections and Reviews

PURPOSE AND EFFECT: Rule Chapter 14-90, F.A.C., is being amended in order to include additional definitions, as well as update safety, medical, and operational standards. Regulations governing wireless communication devices are also being included in the rule chapter.

SUBJECT AREA TO BE ADDRESSED: Updated regulations and wireless communication devices are being amended.

RULEMAKING AUTHORITY: 341.031, 341.041(3), 341.061, 334.044(2) FS.

LAW IMPLEMENTED: 119.071, 341.041(3), 341.061, 334.044(12), 334.044(28) 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: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT: <http://www.dot.state.fl.us/transit/>.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

FLORIDA PAROLE COMMISSION

RULE NO.:	RULE TITLE:
23-20.003	Criteria for Program Eligibility

PURPOSE AND EFFECT: The Commission proposes to amend a current rule to clarify eligibility requirements for the mutual participation program.

SUBJECT AREA TO BE ADDRESSED: Mutual Participation Program eligibility is only for those eligible for parole consideration.

RULEMAKING AUTHORITY: 947.07, 947.135(3)(b), 947.20 FS.

LAW IMPLEMENTED: 947.135 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: Sarah J. Rumph, General Counsel, 2601 Blair Stone Road, Bldg. C, Tallahassee, Florida 32399-2450

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

FLORIDA PAROLE COMMISSION

RULE NOS.:	RULE TITLES:
23-21.006	Initial Interview Procedure
23-21.007	Salient Factor Scoring
23-21.0165	Conditions of Parole
23-21.019	Parole Rescission
23-21.021	Warrant and Arrest
23-21.022	Revocation of Parole and Compulsory Conditional Release; Preliminary Hearings; Final Hearings

PURPOSE AND EFFECT: The Commission proposes to update rules to conform to current practices and procedures, deleting obsolete practices and procedures and standardizing to conform to other types of Commission supervision.

SUBJECT AREA TO BE ADDRESSED: The initial interview procedure will be updated to include information regarding out-of-state inmates; the salient factor score will be updated to clarify criminal record; the conditions of parole will be updated to conform to other types of supervision; the parole rescission process will be updated to delete a reference to obsolete rules; the warrant and arrest procedure, revocation of parole, preliminary hearing and final hearings rules will be updated to conform to current practices and procedures.

RULEMAKING AUTHORITY: 947.07, 947.071, 947.165, 947.20 FS.

LAW IMPLEMENTED: 947.04, 947.06, 947.071, 947.13, 947.16, 947.165, 947.168, 947.172, 947.173, 947.174, 947.1745, 947.1746, 947.1747, 947.18, 947.19, 947.21, 947.22, 947.23, 947.24 FS.

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FLORIDA PAROLE COMMISSION

RULE NOS.:	RULE TITLES:
23-22.011	Notice of Release by Control Release
23-22.013	Control Release Supervision
23-22.014	Revocation of Control Release
23-22.015	Control Release Forms

PURPOSE AND EFFECT: The Commission proposes to update rules to conform to current practices and procedures, deleting obsolete rules and standardizing to conform to other types of Commission supervision.

SUBJECT AREA TO BE ADDRESSED: The notice and forms procedures will be updated to delete obsolete practices. The supervision and revocation procedures will be updated to conform to current practices and procedures for other types of supervision.

RULEMAKING AUTHORITY: 947.07, 947.146, 947.20 FS.

LAW IMPLEMENTED: 947.141, 947.146, 947.147 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: Sarah J. Rumph, General Counsel, 2601 Blair Stone Road, Bldg. C, Tallahassee, Florida 32399-2450

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

FLORIDA PAROLE COMMISSION

RULE NOS.:	RULE TITLES:
23-23.006	Conditional Release Definitions
23-23.007	Victim Information
23-23.008	Conditional Release Evaluation Procedure
23-23.009	Notice of Release by Conditional Release
23-23.010	Conditional Release Supervision
23-23.011	Revocation of Conditional Release
23-23.012	Conditional Release Forms

PURPOSE AND EFFECT: The Commission proposes to update rules to conform to current practices and procedures, deleting obsolete rules, practices and procedures, and standardizing to conform to other types of Commission supervision.

SUBJECT AREA TO BE ADDRESSED: The definitions, victim information, conditions of release, and revocation of release are being updated to conform to current practices and procedures and to standardize information with all other types of release under the Commission jurisdiction. The evaluation procedure, notice of release, and forms are being updated to delete practices and procedures no longer used by the Commission.

RULEMAKING AUTHORITY: 947.06, 947.07, 947.1405, 947.20 FS.

LAW IMPLEMENTED: 947.1405, 947.141 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: Sarah J. Rumph, General Counsel, 2601 Blair Stone Road, Bldg. C, Tallahassee, Florida 32399-2450

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

FLORIDA PAROLE COMMISSION

RULE NOS.:	RULE TITLES:
23-24.020	Conditional Medical Release Eligibility
23-24.030	Conditions of Conditional Medical Release
23-24.050	Revocation of Conditional Medical Release
23-24.060	Conditional Medical Release Forms

PURPOSE AND EFFECT: The Commission proposes to update rules to conform to current practices and procedures, deleting obsolete rules and standardizing to conform to other types of Commission supervision.

SUBJECT AREA TO BE ADDRESSED: The forms will be updated to delete obsolete ones. The eligibility, supervision and revocation procedures will be updated to conform to current practices and procedures for other types of supervision.

RULEMAKING AUTHORITY: 947.07, 947.149 FS.

LAW IMPLEMENTED: 947.141, 947.149 FS.

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

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

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

FLORIDA PAROLE COMMISSION

RULE NOS.:	RULE TITLES:
23-25.002	Definitions
23-25.005	Revocation of Addiction Recovery Supervision

PURPOSE AND EFFECT: The Commission proposes to update rules to conform to current practices and procedures, standardizing to conform to other types of Commission supervision.

SUBJECT AREA TO BE ADDRESSED: The supervision and revocation procedures will be updated to conform to current practices and procedures for other types of supervision.

RULEMAKING AUTHORITY: 944.4731 FS.

LAW IMPLEMENTED: 944.4731, 947.141 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: Sarah J. Rumph, General Counsel, 2601 Blair Stone Road, Bldg. C, Tallahassee, Florida 32399-2450

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

PUBLIC SERVICE COMMISSION

RULE NO.:	RULE TITLE:
25-22.061	Stay Pending Judicial Review

PURPOSE AND EFFECT: To amend Rule 25-22.061, F.A.C., to conform to amendments to Fla. R. App. P. 9.310, to revise for clarity, and to more accurately reflect current Commission practice. Undocketed.

SUBJECT AREA TO BE ADDRESSED: The rule addresses: procedure for requesting and granting a stay of a final or nonfinal Commission order pending judicial review; factors which may be considered in determining whether to grant a stay, and; conditions upon which a stay may be granted by the Commission.

RULEMAKING AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 120.68(3) FS.

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

DATE AND TIME: December 10, 2009, 9:00 a.m. – 12:00 Noon

PLACE: Betty Easley Conference Center, Room 148, 4075 Esplanade Way, 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 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kathryn G.W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216 or kcowdery@psc.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-22.061 Stay Pending Judicial Review.

(1) The issuance of a stay of a Commission order pending judicial review in the state courts shall be governed by Fla. R. App. P. 9.190 and 9.310, Section 120.68(3), Florida Statutes, and this rule.

~~(2)(1)~~(a) When the order being appealed involves the refund of moneys to customers or a decrease in rates charged to customers, the Commission shall, upon motion filed by the utility or company affected, grant a stay pending judicial proceedings. The stay shall be conditioned upon the posting of good and sufficient bond, ~~or~~ the posting of a corporate undertaking, or and such other conditions as the Commission finds appropriate to secure the revenues collected by the utility subject to refund.

~~(b) In determining the amount and conditions of the bond or corporate undertaking, the Commission may consider such factors as:~~

- ~~1. Terms that will discourage appeals when there is little possibility of success; and~~
- ~~2. A rate of interest that takes into consideration:

 - ~~a. The use of the money that the stay permits;~~
 - ~~b. The prime and other prevailing rates of interest at commercial banks and other potential sources of capital in the amount involved in the appeal.~~~~

~~(3)(2)~~ Except as provided in subsection ~~(2)(1)~~, a party seeking to stay a final or nonfinal order of the Commission pending judicial review may shall file a motion with the Commission, which has shall have authority to grant, modify, or deny such relief. A stay pending review granted pursuant to this subsection may be conditioned upon the posting of a good and sufficient bond or corporate undertaking, other conditions relevant to the order being stayed, or both. In determining whether to grant a stay, the Commission may, among other things, consider:

- (a) Whether the petitioner has demonstrated a likelihood of success on the merits is likely to prevail on appeal;
- (b) Whether the petitioner has demonstrated a likelihood of sustaining that he is likely to suffer irreparable harm if the stay is not granted; and

(c) Whether the delay in implementing the order will likely cause substantial harm or be contrary to the public interest if the stay is granted.

~~(3)(a) When a public body or public official appeals an order involving an increase in a utility's or company's rates, which appeal operates as an automatic stay, the Commission shall vacate the stay upon motion by the utility or company and the posting of good and sufficient bond or corporate undertaking. When determining the amount and conditions of the bond or corporate undertaking, the Commission may consider such factors as those set forth in subparagraph (1)(b)2.~~

~~(b) When a public body or public official appeals an order that does not involve an increase in rates, the Commission may vacate the stay or impose any lawful conditions.~~

~~(4)(a) When a stay or vacation of a stay is conditioned upon the posting of a bond, or corporate undertaking, or other appropriate form of surety, the Commission shall may~~ at the time it grants the stay ~~or vacation of the stay~~, set the rate of interest to be paid by the utility or company pursuant to subsection 25-6.109(4), F.A.C., in the event that the Court's decision requires a refund to customers.

~~(5) Motions filed pursuant to subsection (1) or (2) of this rule shall be heard by those Commissioners who were on the deciding panel for participated in the proceeding which resulted in the order being appealed. However, motions filed under subsection (3) of this rule may be ruled upon by the Chairman or the Commissioner assigned as the prehearing officer in the case.~~

Rulemaking Specific Authority 350.127(2) FS. Law Implemented 120.68(3) FS. History-New 2-1-82, Formerly 25-22.61, Amended.

PUBLIC SERVICE COMMISSION

RULE NOS.:	RULE TITLES:
25-22.103	Orders Indexed
25-22.1035	Official Reporter for Final Orders
25-22.105	Electronic Database of Orders and Other Records
25-22.107	Plan for Making Orders Available to the Public

PURPOSE AND EFFECT: To codify the Commission's process for an electronic database for Commission orders. The Commission's website would become the Official Reporter and provide free and timely access to the public for Commission orders. Undocketed.

SUBJECT AREA TO BE ADDRESSED: The Commission's electronic database of orders would be addressed, and the process for the orders to be available to the public.

RULEMAKING AUTHORITY: 120.53(2), (8), 120.533 FS.

LAW IMPLEMENTED: 120.52(2), 120.53(2)(a)3., 120.53(2)(d), 120.53(4)(a) FS.

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

DATE AND TIME: November 9, 2009, 9:30 a.m. – 11:30 a.m.
 PLACE: Betty Easley Conference Center, Room 140, 4075 Esplanade Way, 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 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Cindy Miller, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, cmiller@psc.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-22.103 Orders Indexed.

~~All Commission orders shall be indexed.~~

~~Rulemaking Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)3., (2)(d) FS. History–New 9-24-92, Amended 12-27-94, Repealed _____.~~

~~25-22.1035 Official Reporter for Final Orders Designation of Official Reporter.~~

The official reporter of the Florida Public Service Commission shall be its Web site www.psc.state.fl.us/dockets/cms, effective January 1, 2010, the Florida Public Service Commission Reporter (FPSCR), published by FALR, Inc. The official reporter shall index orders of the Commission as required by Rule 25-22.103, F.A.C., The Florida Public Service Commission Reporter (FPSCR) published by FALR will remain the designated official reporter for final orders from January 1981 to December 31, 2009, and shall publish the index and all orders. The Florida Public Service Commission Reporter is found at some county law libraries and is available by subscription at the offices of FALR, Inc., P. O. Box 385, Gainesville, FL 32602. A copy of the Florida Public Service Commission Reporter is also available for public inspection at the Office of Commission Clerk.

~~Rulemaking Specific Authority 120.532, 120.533 FS. Law Implemented 120.53(2)(a)3., 120.53(2)(d), 120.53(4)(a) FS. History–New 12-27-94, Amended _____.~~

~~25-22.105 Electronic Database of Orders and Other Records System for Indexing Orders.~~

(1) ~~The Commission’s electronic database The index shall be available from the Commission’s Web site located at www.psc.state.fl.us/dockets/cms and alphabetically arranged by main subject headings representing major categories of the~~

~~Commission’s regulatory jurisdiction and taken from the Florida Statutes index, when applicable. The applicable titles of citations of the Florida Statutes construed within the final order may determine the main subject headings and subheadings in the index. The index shall show the main subject headings in all capital letters, flush left on the page, followed by relevant subheadings which shall be initial caps and lower case letters indented. Subheadings and sub-subheadings shall reflect increasingly specific areas or subjects addressed in Commission orders and may be taken from the text of the Florida Statutes construed. Subheadings and sub-subheadings at equal indentations shall also be alphabetized. The FPSCR citation to orders shall be listed sequentially in an indentation immediately below the applicable sub or sub-subheading. Cross references shall be used to direct the user to subject headings which contain the relevant information. The database shall include the ability to electronically search dockets by docket number, docket title, and document number. The ability to search by rRelated key words (specific words, terms, and phrases) and common and colloquial words shall be available from the “advanced search” feature on the main search page of the Commission’s Web site at http://www.floridapsc.com/search. Orders within this database may be searched using logical search terms that are in common usage, that are also contained within the text of the final orders, or by descriptive information about the order that may not be specifically contained in the order. From the Category drop-down selection on the “advanced search” feature for Orders, the search may optionally be further restricted listed and cross-referenced to the appropriate main subject headings. New subject headings will be added when necessary.~~

(2) ~~Information shall be added to the Commission’s Web site within 24 hours of the issuance of the document by the Office of Commission Clerk. The index shall be cumulative for at least one calendar year and shall be updated and made available to the public at least quarterly.~~

~~Rulemaking Specific Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History–New 9-24-92, Amended 12-27-94, _____.~~

~~25-22.107 Plan for Making Orders and Index Available to the Public.~~

(1) ~~No change.~~

(2) ~~The Office of Commission Clerk shall assist the public in obtaining information pertaining to Commission orders and may be contacted at (850)413-6770 or at Clerk@psc.state.fl.us. Questions may also be faxed to (850)413-7118.~~

(3) ~~Copies of orders, in numerical order, and a copy of the Commission’s official reporter shall be maintained in the offices of the Office of Commission Clerk and electronically at the Commission’s Web site, www.psc.state.fl.us/dockets/cms.~~

Rulemaking Specific Authority 120.53(2), (8) FS. Law Implemented 120.52(2) FS. History–New 9-24-92, Amended 12-27-94, _____.

EXECUTIVE OFFICE OF THE GOVERNOR

Office of Tourism, Trade and Economic Development

RULE NOS.: RULE TITLES:
 27M-4.001 Forms and Definitions
 27M-4.002 Competitive Application for
 Selection as Loan Administrator
 27M-4.003 Certification Decision

PURPOSE AND EFFECT: To implement the Economic Gardening Business Loan Pilot Program.

SUBJECT AREA TO BE ADDRESSED: Economic Gardening Business Loan Pilot Program.

RULEMAKING AUTHORITY: 288.1081 FS.

LAW IMPLEMENTED: 288.1081 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: Michelle Ramsey Dennard, Office of Tourism, Trade, and Economic Development, (850)487-2568, michelle.dennard@myflorida.com

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

DEPARTMENT OF CORRECTIONS

RULE NOS.: RULE TITLES:
 33-601.713 Inmate Visiting – Definitions
 33-601.714 Inmate Visiting – General
 33-601.715 Visiting Application Initiation
 Process
 33-601.716 Visiting Record Management
 33-601.717 Visiting Denial
 33-601.725 Permissible Items for Visitors
 33-601.731 Suspension of Visiting Privileges
 33-601.732 Reinstatement of Suspended Visiting
 Privileges
 33-601.733 Visiting – Special Status Inmates
 33-601.735 Non-Contact Visiting
 33-601.737 Visiting – Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is: to amend Rule 33-601.713, F.A.C., to clarify language and add a definition of “major rule violation” for the purpose of visiting privileges suspension; to amend Rule 33-601.714, F.A.C., to clarify the warden’s authority to deny or terminate a visit; to amend Rule 33-601.715, F.A.C., to correct language referring to the wrong form; to amend Rule

33-601.716, F.A.C., to clarify the circumstances under which an individual may be on the visiting list of more than one non-family inmate; to substantially reword Rule 33-601.717, F.A.C., to clarify the circumstances under which an individual may be denied visiting privileges; to amend Rule 33-601.725, F.A.C., to include a photo ID and a copy of a notarized authorization to supervise a minor as permissible items for visitors to possess; to amend Rule 33-601.731, F.A.C., to clarify the circumstances under which an individual’s visiting privileges may be suspended and to incorporate by reference the Visiting Privileges Suspension Matrix, which specifies the time period of suspensions in relation to their underlying infractions; to amend Rule 33-601.732, F.A.C., to clarify the procedure for reinstatement of suspended visiting privileges; to amend Rule 33-601.733, F.A.C., to include language being moved from Rule 33-601.734, F.A.C., concerning the visiting privileges of inmates in confinement and protective management statuses; to amend Rule 33-601.735, F.A.C., to clarify that noncontact visits for confinement and protective management status inmates must be pre-approved by the warden or designee; and to amend Rule 33-601.737, F.A.C., to clarify language on Form DC6-111D, Visitor Screening Matrix, regarding visiting applicants who are former victims of an inmate.

SUBJECT AREA TO BE ADDRESSED: Inmate Visitation.

RULEMAKING AUTHORITY: 944.09, 944.23 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.23, 944.47, 944.8031 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.713 Inmate Visiting – Definitions.

(1) “Authorized Adult” refers to an approved visitor eighteen years or older who has notarized authorization to escort a minor and represent the minor’s parent or legal guardian should the minor need to be questioned or searched for visiting purposes.

(2) “Automated Visiting Record (AVR)” refers to a computer subsystem of the Offender Based Information System (OBIS) that automates visitor facility entry and exit and records visiting information.

(3) “Emancipated Minor” refers to a visitor seventeen years of age or younger who furnishes written proof of emancipation and attaches a copy to the Request for Visiting

Privileges, Form DC6-111A, Request for Visiting Privileges. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(4) “Institutional Classification Team (ICT)” refers to the team consisting of the warden or assistant warden, classification supervisor, a correctional officer chief and other members as necessary when appointed by the warden or designated by rule. The ICT is responsible for making work, program, housing and inmate status decisions at a facility and for making other recommendations to the State Classification Office (SCO).

(5) “Immediate Family” for the purposes of Rules 33-601.713 through 33-601.737, F.A.C., refers to an inmate’s spouse, children, parents, brothers, sisters, grandparents, great-grandparents, grandchildren, step-brothers, step-sisters, step-parents, step-grandparents, aunts, uncles, foster parents, step-children, half brothers, half sisters, brothers-in-law, sisters-in-law, mothers-in-law, fathers-in-law, and sons and daughters-in-law.

(6) “Minor” refers to any visitor seventeen years of age or younger who must visit in the company of a parent, legal guardian, or authorized adult who is an approved visitor.

(7) “Non-Contact Visiting” at authorized institutions refers to visual visiting where a structural barrier is used to prevent the inmate and visitor from any form of physical contact, but allows verbal communication.

(8) “Suspension” refers to the withdrawal or voiding suspension of visiting privileges for a specified period of time for an inmate or visitor.

(9) “Regular Visit” refers to any approved visit between an inmate and any approved visitor on the inmate’s visiting record that occurs on scheduled visiting days and hours.

(10) “Approved Visitor” refers to any person who is approved by the assigned institutional classification officer, warden or duty warden to visit an inmate and whose approval is documented in the automated visiting record.

(11) “Request for Visiting Privileges” refers to Form DC6-111A, which must be fully completed by all prospective visitors twelve years of age and older and forwarded to the assigned institutional classification officer for resolution.

(12) “Scheduled Visiting Days” refers to the specific days and times an inmate is authorized to visit. This is normally Saturday and Sunday, from 9:00 a.m. until 3:00 p.m. Eastern Standard Time (8:00 a.m. – 2:00 p.m. Central Standard Time).

(13) “Special Status Inmate” refers to an inmate who is not in the general population but is in a special classification status as outlined in Rule 33-601.733, F.A.C., that shall prohibit or restrict visiting based upon the status.

(14) “Special Visit” refers to an authorized visit on a day, at a time or for a duration of time other than an inmate’s regularly scheduled visiting days, or with a person not listed in the inmate’s approved visiting record.

(15) “Indefinite Suspension” “Revoked” refers to the withdrawal withdrawing or voiding of visiting privileges of a visitor for an unspecified period of time.

(16) “Maximum Capacity” refers to the capacity of the inside visiting park as determined by the State Fire Marshal.

(17) “Major Rule Violation” – for the purpose of this chapter refers to any assault, battery or attempted assault or battery; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03, 3-7-04, 12-6-04,_____.

33-601.714 Inmate Visiting – General.

(1) Inmate visiting is a privilege, not a guaranteed right of either the inmate or the visitor. Inmates are not assigned to specific institutions solely for the convenience of visiting privileges.

(2) All visitors are subject to Department rules, procedures, technical instructions and restrictions imposed as a condition of admittance and the directions of institutional staff while on institutional grounds.

(3) The warden, assistant warden, or duty warden is authorized to deny or terminate a visit pursuant to Rule 33-601.729, F.A.C. if any of its aspects are disruptive or violate rules, procedures, instructions, restrictions, orders, or directions. Any disruption or violation shall be entered on the AVR and may shall subject the visitor to revocation or suspension of visiting privileges by the warden or designee and the inmate to disciplinary action.

(4) Posting of Policies.

(a) To ensure that all visitors are aware of Section 944.47, F.S., governing contraband, the warden or designee shall post the statute in a conspicuous place at the entrance to the institution or facility.

(b) The warden or designee shall display the visiting rules, procedures, and any technical instructions that do not impede the maintenance of the security of the institution in a manner that allows visitors to read them before they begin the institutional visiting entry process.

(5) Inmates shall be allowed to file grievances concerning visiting privileges in accordance with the provisions of Rule 33-103.005, F.A.C.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03,_____.

33-601.715 Visiting Application Initiation Process.

(1) During the reception process, classification staff shall develop and maintain a computerized list of the inmate's immediate family members for placement on the automated visiting record. Placement of a name on the automated visiting record in and of itself is not approval to visit.

(2) The inmate shall be given up to fifteen copies of the Request for Visiting Privileges, Form DC6-111A, and Visitor Information Summary, Form DC6-111B, within 24 hours after arrival at his or her permanent facility. Forms DC6-111A and DC6-111B are incorporated by reference in Rule 33-601.737, F.A.C. The inmate shall be responsible for sending the forms to each family member or friend twelve years of age or older, whom the inmate wishes to be placed in his or her approved visiting record. Minors eleven years of age and younger are not required to submit a Request for Visiting Privileges, Form DC6-111A ~~DC6-111B~~, until they reach 12 years of age.

(a) Only visitors approved pursuant to Rule 33-601.718, F.A.C., shall be allowed to visit.

(b) The prospective visitor shall be required to complete a Form DC6-111A, Request for Visiting Privileges, by filling in each line or inserting "NA" (not applicable) where appropriate.

(3) The institution classification staff shall conduct criminal history background checks on applicants requesting visiting privileges.

(4) Upon transfer to a permanent institution or facility, each inmate shall be provided with a visitor information letter containing visiting information specific to that institution or facility to be mailed, at the inmate's expense, to each approved visitor.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03,_____.

33-601.716 Visiting Record Management.

(1) The Bureau of Classification and Central Records shall develop and maintain computerized inmate-visiting records.

(2) Department staff shall document all requests for visits and decisions made with regard to visiting and pertinent comments on the automated visiting record.

(3) No more than fifteen people, twelve years of age or older, including family and non-family, are allowed on an inmate's approved visiting record.

(4) Inmates shall be permitted to remove or request to add visitors to their inmate visiting records by completing Form DC6-111C, Remove/Add Visitor Request, a ~~Remove/Add Visitor Request~~, provided by institutional classification staff. Form DC6-111C is incorporated by reference in Rule 33-601.737, F.A.C. Additions to the visiting record shall be allowed at any time, up to the limit of fifteen approved visitors. Removals shall only be permitted every six months. Visitors whose visiting privileges are suspended ~~or revoked~~ shall not be

removed from an inmate's approved visiting list, ~~while in the respective status~~ and the inmate shall not be allowed to replace the suspended visitor with an another approved visitor.

(5) A person who requests placement on an inmate's visiting record shall be referred to the inmate concerned. The inmate shall be responsible for notifying prospective visitors of whether they have been approved or disapproved for visitation.

(6) A visitor shall ~~not~~ be permitted to be on the more than one inmate's approved visiting record of all inmates who are unless they are immediate family as well as one non-family inmate members except as provided in subsection 33-601.716(7), F.A.C.

(7) A visitor who is approved as immediate family on an inmate's visiting record shall not be considered for visitation with a non-~~immediate~~ family ~~member~~ inmate if both inmates are housed at the same institution unless:

(a) The ~~immediate~~ family member inmate is transferred to another institution or is released from incarceration.

(b) The visitor is already approved to visit a non-~~immediate~~ family inmate prior to the immediate family member inmate being received at the same institution. Visitation shall be allowed, but not on the same day.

(c) The visitor is already approved to visit a non-~~immediate~~ family ~~member~~ inmate prior to being transferred to the same institution housing a an immediate family member inmate. Visitation shall be allowed, but not on the same day.

(8) An approved visitor who is on the visiting list of two or more ~~immediate~~ family ~~member~~ inmates who are at the same institution may visit the inmates at the same time.

(9) A visitor approved to visit as a non-~~immediate~~ family ~~inmate member~~ shall not be removed from the visiting list of the inmate for purposes of visiting another non-~~immediate~~ family ~~member~~ inmate at the same institution.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History—New 11-18-01, Amended 9-29-03,_____.

(Substantial Rewording of Rule 33-601.717 Follows. See Florida Administrative Code for present text.)

33-601.717 Visiting Denial

(1) Visitors shall not be denied visiting because of disability, race, creed, color, or national origin of the inmate or visitor. Visits shall not be denied based on the ideas or opinions held or expressed by the inmate or visitor or for any reason unrelated to security, good order, or rehabilitative objectives of the institution.

(2) Initial Denial of Visiting Privileges.

(a) In approving or disapproving visiting privileges, the assigned institutional classification officer shall review Form DC6-111A, Request for Visiting Privileges, and shall consider

all factors related to the security, order, and effective management of the institution. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(b) The assigned institutional classification officer shall evaluate an applicant's criminal history and visiting background using Form DC6-111D, Visitor Screening Matrix. Form DC6-111D is incorporated by reference in Rule 33-601.737, F.A.C. Prior criminal records shall not automatically result in disapproval of visiting. The nature, extent, and recentness of the criminal convictions and adjudications withheld combined with the person's relationship to the inmate shall affect approval or disapproval. Consideration of an applicant's criminal history shall include:

1. Release from incarceration in any jurisdiction for a felony conviction within the last two years, if the applicant was not incarcerated at any time in the facility in which visitation is requested;

2. Release from incarceration for a felony conviction within the last five years if the applicant was incarcerated at any time in the facility in which visitation is requested. If an inmate transfer results in visitation in a facility in which an approved visitor was previously incarcerated and released within the last five years, the warden shall, on a case by case basis, determine if the approved visitor shall be allowed to visit. Factors to be considered shall include, but are not limited to, the visitor's adjustment during incarceration, the relationship of the inmate to the visitor, institutional security, and public safety;

3. Release from incarceration in any jurisdiction for a misdemeanor conviction within the last year;

4. Current community supervision status or termination from community supervision in any jurisdiction within the past year; and

5. The disposition of arrests. If the disposition of an arrest is not reflected, the disposition shall be ascertained prior to approval of the application. If additional documentation of the charge is necessary, the prospective visitor shall be responsible for providing official documentation of the disposition or circumstances of the offense in question.

(c) An application for visiting privileges shall be denied if the applicant:

1. Has possessed, introduced, or attempted to introduce contraband as defined in Section 944.47, F.S., into any facility;

2. Has committed serious or repeated violations of departmental rules or procedures during a previous visit within the past five years;

3. Is a former department employment, contract employment, or volunteer with a documented work history that raises security concerns;

4. Is a victim of an inmate's current or prior offense with consideration of the nature of the inmate's offense, the extent of the victimization and the relationship of the victim to the inmate;

5. Is a co-defendant of the inmate in a current or prior offense;

6. Provided testimony, documentation, or physical evidence which assisted the prosecution in the inmate's conviction or incarceration;

7. Has an active protection order or injunction against the inmate to be visited or the inmate has an active protection order or injunction against the prospective visitor;

8. Is an illegal alien;

9. Is a department volunteer or intern at the institution in which visitation is requested or was a volunteer or intern at the institution at any time in the previous five years; or

10. Escaped, attempted to escape, or assisted or attempted to assist an escape or escape attempt from any facility. If visitation is denied based on this paragraph, the denial shall be permanent.

(d) Visiting privileges shall be denied if the inmate or the prospective visitor gave false or misleading information to obtain visiting privileges within the past six months, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertent or good faith mistake, omission, or clerical error. Discovery of intentional falsification of visitor information after the visitor has been approved for visitation shall result in the visitor being considered for suspension of visiting privileges pursuant to Rule 33-601.731, F.A.C.

(e) In approving or denying an application for visiting privileges, the institutional classification officer shall consider all other factors related to the security, order, or effective management of the institution.

(f) The Secretary or designee, who for the purpose of this rule shall be the Assistant Secretary of Institutions, has the authority to review and modify the classification officer's approval or denial of visiting privileges.

(3) Denial of Visitation after Initial Approval of Visiting Privileges.

(a) Visiting shall be denied during a declared emergency.

(b) Upon review of Form DC6-111A, the institutional classification officer may deny visiting for individuals approved to visit who subsequently become subject to denial pursuant to any of the criteria set forth in subsection (2) of this rule prior to any official suspension pursuant to Rule 33-601.731, F.A.C.

Rulemaking Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.23 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03, 6-15-06, 1-7-07, _____.

Editorial Note: Formerly 33-601.706 and 33-601.707, F.A.C.

33-601.725 Permissible Items for Visitors.

(1) Visitors shall be allowed to bring only authorized items listed into any department facility. Entry shall be denied if the visitor attempts to enter the institution or facility while

possessing any unauthorized item or any authorized item in more than the approved amounts. Authorized items shall be removed by the visitor at the end of the visit. Authorized items include:

(a) One unopened pack of cigarettes or cigars and one lighter (bic-type lighters and matches are prohibited); however, smoking materials are not permitted if a designated outside smoking area is not available.

(b) One unopened, sealed package or can of smokeless tobacco, to include chewing tobacco and moist or powdered snuff.

(c) Vehicle keys necessary to operate a motor vehicle. However, keyless entry devices are not permitted unless the duty warden or designee visually inspects the keyless entry device and determines that the device is the only means for the visitor to access a motor vehicle and does not pose a threat to institutional security.

(d) Up to \$50.00, in \$1.00, \$5.00, \$10.00 and \$20.00 denominations only or silver change, per visitor, regardless of age, to purchase snacks and beverages from visiting park canteens or vending machines. All snacks and beverages shall be purchased and consumed in the visiting area. A small wallet or pouch may be used for containing the bills and any change received from the canteen or vending purchases.

(e) One (1) photographic identification card.

~~(f)(e)~~ Prescription medications. The department reserves the right to prohibit individuals from bringing any medication into the facility that may pose a threat to the inmate population or institutional security. Visitor requiring medical injections must leave such items secured in their vehicles and will be allowed to depart the visiting area if an injection is required. Reentry into the visiting area shall be allowed in accordance with subsection 33-601.723(6), F.A.C. The visitor shall not be allowed to bring needles or syringes into any department facility or dispose of them on the grounds of any department institution or facility under any circumstances.

1. Visitors taking prescription medications are allowed only the dosage necessary for the visiting period.

2. Each prescription medication brought into any institution or facility must be in its original prescribed container. The use of one container for different types of medication will not be allowed.

3. Each container must have a clearly readable prescription label that shows:

- a. The type of medication,
- b. The dosage requirements, and
- c. The individual's name for whom the medication was prescribed.

~~(g)(f)~~ Feminine hygiene items enclosed in the original individual wrapping may be carried into the visiting park in a small pouch or bag.

~~(h)(g)~~ Hairbrush and comb.

(i) If applicable, one (1) copy of a notarized authorization to supervise a minor.

~~(j)(h)~~ Visitors with authorized infants and small children shall be allowed to bring in:

1. Five diapers, three clear plastic baby bottles or two sipper cups for toddlers, one clear plastic baby pacifier and three clear plastic jars of baby food with the original seal intact;

2. Baby wipes or towelettes, provided they are in a clear plastic bag;

3. An infant or baby carrier for each infant. Baby carriers are subject to search before entry into the institution and visitors shall be required to remove the infant from each carrier during the search.

4. One set of infant clothing and a non-quilted blanket for each infant and toddler.

~~(k)(i)~~ Sunglasses.

~~(l)(j)~~ Small unopened package of facial tissues in clear plastic.

(2) A visitor who brings any item not listed above that is not considered contraband or illegal, or who brings more than the permissible amounts of authorized items, shall be required to find a secure location to store the items for the duration of their visit.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 7-1-03, 12-30-03, 11-25-04, 3-29-07, 10-8-07,_____.

33-601.731 ~~Revocation or~~ Suspension of Visiting Privileges.

(1) Suspension of Inmate Visiting Privileges.

(a) Suspension, including indefinite suspension, of an inmate's visiting privileges shall be considered by the ICT as a management tool independent of any disciplinary action taken pursuant to Rules 33-601.301 through 33-601.314, F.A.C.

~~(b)(2)~~ Indefinite suspension of an inmate's visiting privileges shall be considered by the ICT Institutional Classification Team (ICT) as a management tool only when an inmate is found guilty of the following offenses:

1. Any major rule violation as defined in Rule 33-601.713, F.A.C.

~~(a) Possessing any firearms, dangerous weapons, explosives or explosive devices;~~

~~(b) Criminal activity, serious rule violations, repeated visiting rule or procedure infractions or security breach. A serious rule violation is a violation that subjects the violator to suspension of privileges for a minimum of two years or to revocation of visiting privileges;~~

2.(e) Possessing or using: a cellular telephone or other portable communication device as defined in Section 944.47(1)(a)6., F.S.; any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth

items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a communication device prohibited under the statute.

~~(c)(3)~~ An inmate shall be subject to suspension of visiting privileges for up to two years by the ICT as a management tool when the inmate is found guilty of the following disciplinary offenses: ~~in paragraphs (a) through (d) below. In determining the length of suspension, the ICT shall consider the extent of the sexual misconduct, the amount and type of drugs, the amount of money, the type of article or instrument, the inmate's prior disciplinary history, and the inmate's prior visiting record.~~

~~1.(a)~~ Committing or engaging in sexual misconduct, (i.e., nudity, sexual acts with or without others, willful exposure of private body parts, or soliciting sexual acts from others).

~~2.(b)~~ Possessing or passing money.

~~3.(c)~~ Possessing or using drugs.

~~4.~~ Possessing or using intoxicating beverages.

~~5.~~ Refusing to participate in or being removed from a mandatory program due to negative behavior.

~~6.~~ Possessing a recording device.

~~7.~~ Visiting rule violation.

~~(d)~~ Possessing any article or instrument that aids in escape or attempted escape.

~~(4)~~ An inmate shall be subject to suspension of visiting privileges for three months for a first offense, six months for a second offense and two years for a third or subsequent offense, by the ICT as a management tool when an inmate is found guilty of possessing any of the following contraband or illegal items:

~~(a)~~ Intoxicating beverages;

~~(b)~~ Recording devices.

~~(5)~~ An inmate shall be subject to suspension of visiting privileges for three months by the ICT as a management tool when an inmate is rated "unsatisfactory" for the work or program performance rating, including part-time assignment or security assessment. Such three-month suspension shall begin with the month the rating was entered and run consecutively for each unsatisfactory rating.

~~(6)~~ Inmates shall be suspended from receiving visits for three months beginning with the next visiting period for refusing to participate or being removed from a mandatory program due to negative behavior.

~~(7)~~ The ICT shall consider suspending the inmate's visiting privileges for each subsequent offense described in subsections 33-601.731(1) through (5), F.A.C.

~~(d)~~ The ICT shall suspend the visiting privileges of any inmate subject to a pending investigation for escape, attempted escape, or possession of escape paraphernalia until the investigation is complete. If the inmate is found guilty, the ICT shall consider indefinite suspension of the inmate's visiting

privileges pursuant to paragraph (1)(b) of this rule. If the inmate is not found guilty, the ICT shall immediately reinstate the inmate's visiting privileges.

~~(e)~~ If an inmate is found guilty of an offense listed in paragraph (1)(c), the ICT shall suspend the inmate's visiting privileges for the length of time specified on Form DC6-XXX, Visiting Privileges Suspension Matrix. Form DC6-XXX is hereby incorporated by reference. If an inmate's visiting privileges are suspended pursuant to this rule and the inmate receives a subsequent guilty finding for one of the offenses listed in paragraph (1)(c), the inmate is subject to an increased period of suspension as follows:

~~1.~~ If the subsequent offense occurs within two years of a guilty finding for the same offense, the inmate's visiting privileges shall be suspended for the length of time specified in the Visiting Privileges Suspension Matrix for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

~~2.~~ If the subsequent offense is different from the previous offense, the inmate's visiting privileges shall be suspended for the length of time specified in the Visiting Privileges Suspension Matrix for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

~~(e)(8)~~ In lieu of suspending an inmate's visiting privileges, the ICT is authorized to consider placement of an inmate in non-contact visitation status as provided in paragraph 33-601.735(2)(c), F.A.C., for offenses listed in paragraph (1)(c) subsections 33-601.731(1) through (6), F.A.C.

~~(2)(9)~~ Suspension of Visitor's Visiting Privileges.

~~(a)~~ A visitor's visiting privileges shall be indefinitely suspended ~~revoked~~ by the warden or designee when the visitor:

1. Is found in possession of an illegal drug (controlled substances) or drug paraphernalia when on the property of any department facility, when entering or exiting any department facility, or is found passing, attempting to pass, accepting, or attempting to accept such items to or from an inmate.

2. Is found in possession of a firearm, ammunition or explosive device, articles, or instrument, or is found attempting to pass or passing such items to an inmate. Staff will secure the weapons for the law enforcement officers.

3. Assists, facilitates, aids or abets an inmate to escape or attempt to escape or is found in possession of or passing or attempting to pass to an inmate any item or instrument that is capable of being used to aid in effecting or attempting an escape. Local law enforcement shall be called in this instance.

~~a.~~ All visiting privileges of the escapee shall be suspended upon his or her return to department's custody.

~~b. Visiting privileges shall be suspended pending completion of the Inspector General's investigation if an attempted escape is alleged.~~

4. Commits repeated visiting rule or procedure infractions.

5. Visits or attempts to visit an inmate work area or walks or drives along the perimeter road or the grounds of the institution except in those areas designated specifically for inmate visitation or visitor parking.

6. Evidences intent to do harm to staff, inmates or visitors.

7. Is found in possession of or is found passing or attempting to pass to an inmate: a cellular telephone or other portable communication device, as defined in Section 944.47(1)(a)6., F.S.; any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a communication device prohibited under the statute.

(b) ~~A visitor's visiting~~ Visiting privileges shall be suspended by the warden or designee ~~for up to two years~~ when the visitor:

1. Attempts to pass or passes money to an inmate;‡

2. Is intoxicated or has consumed intoxicating beverages or is found in possession of intoxicating beverages on the grounds of any department facility, or ~~is~~ found passing or attempting to pass such items to an inmate;‡

3. Violates visitor conduct standards in subsection 33-601.727(1)(~~i~~) ~~through (k)~~, F.A.C.

4. Commits criminal activity, ~~serious rule violations or infractions or any security breach.~~

5. ~~Falsifies~~ As a former employee, contract employee, or vendor falsifies information to obtain visiting privileges, including falsification of guardianship documents, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertant or good faith mistake, omission, or clerical error.

(c) If a visitor is found guilty of an offense listed in paragraph (2)(b), the warden or designee shall suspend the visitor's visiting privileges for the period of time specified in the Visiting Privileges Suspension Matrix (Appendix One). If a visitor's visiting privileges are suspended pursuant to this rule and the visitor subsequently commits one of the offenses listed in paragraph (2)(b), the visitor is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of the commission of the same offense, the visitor's visiting privileges shall be suspended for the length of time specified in the Visiting Privileges Suspension Matrix for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

2. If the subsequent offense is different from the previous offense, the visitor's visiting privileges shall be suspended for the length of time specified in the Visiting Privileges Suspension Matrix for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense. Visitors found in violation of paragraph 33-601.717(5)(f), F.A.C. — falsifying information to obtain visiting privileges, subsections 33-601.723(3) and (5), F.A.C., falsifying information at visitor registration and falsifying documents of guardianship, subsection 33-601.724(2), F.A.C. — visitor attire, Rule 33-601.726, F.A.C. — visitor searches, or visitor conduct standards as outlined in paragraphs 33-601.727(1)(a) through (h), F.A.C., shall have visiting privileges suspended by the warden or designee supervisor for up to one year.

~~(3)(10)~~ The warden or designee shall have the discretion to impose a length of suspension less than the maximum allowed by rule by considering the type of violation, the impact of the violation on the overall security or safety of the institution, and prior visits without incident.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03, 10-4-07, 1-8-09, _____.

Editorial Note: Formerly 33-601.707 and 33-601.708, F.A.C.

33-601.732 Reinstatement of ~~Revoked or~~ Suspended Visiting Privileges.

(1) Reinstatement of Inmate Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of an inmate's suspended visiting privileges. The inmate shall submit a written request for reinstatement to the warden on Form DC6-236, Inmate Request. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(a) Reinstatement of indefinitely suspended ~~suspended for more than two years~~ privileges suspended for more than two years shall only be considered after two years from imposition of the indefinite suspension.

1. The warden or designee shall review the request, render a final decision and notify the inmate concerned.

2. Should the inmate be denied reinstatement, the inmate may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended ~~suspended for two years or less~~ privileges suspended for two years or less shall not be considered for reinstatement ~~for reinstatement~~ for a period of one year from the imposition of the most recent suspension. Should the inmate be denied, the inmate may not make another request for six months from the last decision requesting reinstatement.

~~(e) Early reinstatement of suspensions of one year or less shall not be considered for reinstatement until at least six months from the date of suspension. Should the inmate be denied reinstatement, the inmate may not make another request.~~

(2) Reinstatement of Visitor Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of a visitor's revoked or suspended visiting privilege. The visitor, or inmate on behalf of the affected visitor, shall submit a written request for reinstatement of privileges to the assigned institutional classification officer. The visitor for whom the reinstatement is being considered shall submit a Request for Visiting Privileges, Form DC6-111A, if the suspension has been for longer than six months.

(a) Reinstatement of indefinitely suspended ~~revoked~~ privileges shall only be considered after two years from imposition of the indefinite suspension.

1. The warden or designee shall review the request, render a final decision and notify the visitor concerned.

2. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended ~~suspended for two years or less~~ privileges shall not be considered for reinstatement for a period of one year from the imposition of the most recent suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months from the last decision requesting reinstatement.

~~(e) Early reinstatement of suspensions of one year and under shall not be considered for reinstatement until at least six months from the date of suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request.~~

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History--New 11-18-01, Amended 5-27-02, 9-29-03,_____.

33-601.733 Visiting – Special Status Inmates

(1) Inmates in special statuses, except for medical reasons, are not considered inmates with regular visiting privileges and must have special approval to visit. Inmates in special statuses shall be prohibited or restricted from regular visiting due to adverse impacts on security and orderly institutional operation.

(a) During initial reception periods, inmates awaiting transfer to their initial permanent facility shall not be permitted visits. The warden or duty warden shall grant special visits, as outlined in Rule 33-601.736, F.A.C., if the inmate remains at the reception center more than 45 days.

(b) Inmates in administrative confinement, protective management, or disciplinary confinement status shall have visiting privileges as outlined in Rules 33-602.220, 33-601.221, and 33-602.222, F.A.C., respectively. The warden

or designee shall determine whether an approved visit for inmates in one of the above statuses will be non-contact pursuant to Rule 33-601.735, F.A.C. In disciplinary confinement, administrative confinement, or protective management status, inmates shall have visiting privileges as outlined in Rule 33-601.734, F.A.C.

(c) Inmates in the youthful offender basic training program shall be allowed visiting in accordance with Rule 33-601.237, F.A.C.

(2) Upon placement in a special classification status where visiting privileges are prohibited or restricted, the warden shall ensure:

(a) That inmates are provided the opportunity, at the inmates' expense, to notify at least three approved visitors of the prohibition or restriction before the next scheduled visiting day if the situation permits the inmate to do so, or

(b) That staff makes visitor notifications by phone if the inmate is unable to make them.

(3) Visitation for inmates in prolonged hospitalization or with serious medical conditions or terminal illnesses shall be allowed ~~visits~~ unless security or medical issues as determined by the warden and chief health officer preclude visitation. A decision shall be made on a case-by-case basis. If visitation is authorized, the warden, in consultation with the chief health officer, shall determine the visitation schedule and shall inform at least three members of the inmate's immediate family. The regional director shall be informed in high notoriety cases before allowing visiting.

(4) An inmate housed in a mental health unit shall be permitted visits except as prohibited by the warden upon the advice of the chief health officer on a case-by-case basis.

(a) The warden shall prohibit an inmate housed in a mental health unit from receiving visitation where the warden determines that allowing the visit creates a substantial risk to the security of the institution, inmate, or visitor. In determining whether an inmate should be prohibited from receiving visitation the warden shall consider the custody level, special status, disciplinary history, and any other factors related to the security, order, or effective management of the institution.

(b) The chief health officer shall recommend prohibiting an inmate housed in a mental health unit from receiving visitation where the chief health officer has made or relied on a doctor's determination that visitation with a particular individual or visitation in general is likely to cause substantial harm to the inmate or the individual visiting the inmate.

(5) A maximum management inmate shall be allowed to receive non-contact visits from approved visitors in accordance with Rule 33-601.820, F.A.C.

(6) An inmate in close management shall be allowed to receive visits from approved visitors in accordance with Rule 33-601.800, F.A.C.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, 12-25-08, _____.

Editorial Note: Formerly 33-601.704, F.A.C.

33-601.735 Non-Contact Visiting.

(1) When the ICT determines that non-contact visiting is necessary in order to maintain the security and good order of the institution, the ICT shall make a recommendation to the warden who shall approve or disapprove the recommendation.

(2) The ICT shall consider the following factors in determining whether to place an inmate in non-contact status:

(a) Whether the inmate is a threat to the security of the institution,

(b) The inmate’s and his or her visitors’ past behavior during visiting,

(c) The inmate’s disciplinary history within the last five years involving drugs, contraband, violence, or visiting policy violations occurring during visiting,

(d) Evidence or criminal intelligence reports that an inmate has possessed, sold, or transferred drugs or alcohol,

(e) Whether the inmate has a confirmed membership in a security threat group, and

(f) A positive drug or alcohol urine test.

(3) The ICT shall review non-contact visiting status a minimum of every 6 months to evaluate whether changes are necessary based upon the following:

(a) The seriousness of the incident or circumstances resulting in placement in non-contact status,

(b) The inmate’s history of repeated placement on non-contact status,

(c) The inmate’s overall adjustment history since placement in non-contact status, and

(d) The inmate’s disciplinary pattern within the last year related to drugs, contraband involvement, violence, or visiting rule violations.

(4) The warden shall ensure that there is sufficient space for non-contact visiting based on space available and allowable visitors.

(a) Non-contact visits shall be scheduled for one two-hour visit per week unless an emergency exists or security concerns dictate otherwise.

(b) Non-contact visits shall be limited to a maximum of four adult visitors and as many children as can be accommodated at a time.

(c) More than four visitors can be allowed to visit on a given day, but visiting will be on a rotating basis during the two-hour period.

(d) Inmates are responsible for notifying visitors of their placement on non-contact visiting status.

(5) For inmates in Administrative Confinement, Protective Management, or Disciplinary Confinement, the warden or designee shall determine whether a pre-approved visit will be contact or non-contact based on one or all of the criteria set forth in subsection (2).

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended _____.

33-601.737 Visiting – Forms.

The following forms are hereby incorporated by reference. A copy of any of these forms is available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(1) DC1-803, Unclothed Body Search Consent, effective 11-18-01.

(2) DC1-804, Consent to or Notification of Search, effective 11-18-01.

(3) DC6-111A, Request for Visiting Privileges, effective 8-23-07.

(4) DC6-111B, Visitor Information Summary, effective 8-23-07.

(5) DC6-111C, Remove/Add Visitor Request, effective 11-18-01.

(6) DC6-111D, Visitor Screening Matrix, effective _____ 8-23-07.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 4-29-02, 9-29-03, 3-31-05, 7-17-05, 3-21-06, 3-29-07, 8-23-07, _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NOS.:	RULE TITLES:
61-35.02722	Real Estate: Instructor Transactions
61-35.02723	Real Estate: School Chief Administrator Transaction

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment is to create new, more efficient licensure application forms.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is licensure application forms.

RULEMAKING AUTHORITY: 20.165(8), 455.203, 455.213 FS.

LAW IMPLEMENTED: 455.271, 475.15, 475.161, 475.17, 475.175, 475.180, 475.181, 475.182, 475.183, 475.215, 475.23, 475.24, 559.79 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.

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: Thomas O’Bryant, Jr., (407)481-5662. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Thomas O’Bryant, Jr., (407)481-5662

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-302.800
RULE TITLE: Site Specific Alternative Criteria
PURPOSE AND EFFECT: On January 30, 2009, the Department received three petitions to initiate rulemaking from Buckeye Florida, L.P., to establish site specific alternative criteria (SSAC) for dissolved oxygen, iron, and transparency in the lower Fenholloway River and nearby coastal waters in Taylor County. If approved, the site specific alternative criteria will replace the statewide default criteria for these three water quality parameters. The site specific alternative criteria must be fully protective of the Class III designated use of the waters addressed in the petitions.

SUBJECT AREA TO BE ADDRESSED: This rule development and public workshop will address the need to establish site specific alternative criteria for dissolved oxygen, iron, and transparency in the lower Fenholloway River and nearby coastal waters. The petitions for dissolved oxygen and iron are for Type I SSACs, which require approval by Secretarial Order; while the petition for transparency is for a Type II SSAC, which requires rule adoption and approval by the Environmental Regulation Commission.

RULEMAKING AUTHORITY: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.201, 403.502 FS.

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

DATE AND TIME: Tuesday, November 10, 2009, 7:00 p.m.

PLACE: Taylor County Commission Chambers, Taylor County Administrative Complex, 201 East Green Street, Perry, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eric Shaw at (850)245-8429. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Eric Shaw, Standards and Assessments Section, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400; telephone (850)245-8429, email Eric.Shaw@dep.state.fl.us

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

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-1.007
RULE TITLE: List of Approved Forms; Incorporation

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address additional changes to various forms.

SUBJECT AREA TO BE ADDRESSED: Incorporation of revised forms.

RULEMAKING AUTHORITY: 456.013, 456.036(5), 456.048(1), 458.309, 458.311, 458.3124(6), 458.313(4), 458.3145, 458.315(2), 458.320(8), 458.321(2), 458.347(13), 458.3475, 458.351(6) FS.

LAW IMPLEMENTED: 456.013, 456.035, 4456.036, 456.048, 456.073, 458.309, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.317, 458.319, 458.320, 458.321, 458.345, 458.347, 458.3475, 458.348, 458.351, 465.0276 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: Larry McPherson, Jr., 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 NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-3.006
 RULE TITLE: Registration Fee for Dispensing Practitioners

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address the fee for dispensing practitioners.

SUBJECT AREA TO BE ADDRESSED: Registration and renewal fees for dispensing practitioners.

RULEMAKING AUTHORITY: 456.013(6), (7), 456.031(4), 458.309, 458.319 FS.

LAW IMPLEMENTED: 456.013(6), (7), 456.031(1)(a), (3), 456.033, 458.319(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Larry McPherson, Jr., 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 NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-4.009
 RULE TITLE: Applications

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to incorporate revised licensure applications in the application rule.

SUBJECT AREA TO BE ADDRESSED: Various revised application forms for licensure.

RULEMAKING AUTHORITY: 456.031, 456.033, 458.309, 458.311, 458.317 FS.

LAW IMPLEMENTED: 456.013(7), 456.031, 456.033, 458.311, 458.3124, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 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: Larry

McPherson, Jr., 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 NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-13.005
 RULE TITLE: Continuing Education for Biennial Renewal

PURPOSE AND EFFECT: The Board proposes the development of a rule amendment to address the five most misdiagnosed conditions.

SUBJECT AREA TO BE ADDRESSED: Five most misdiagnosed conditions for purposes of continuing medical education.

RULEMAKING AUTHORITY: 456.013(6), (7), 456.031(4), 458.309, 458.319 FS.

LAW IMPLEMENTED: 456.013(6), (7), 456.031(1)(a), (3), 456.033, 458.319(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Larry McPherson, Jr., 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 NOT AVAILABLE.

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE NO.: 64B20-2.003
 RULE TITLE: Provisional License; Requirements

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the time limit for the validity of a provisional license.

SUBJECT AREA TO BE ADDRESSED: Provisional License; Requirements.

RULEMAKING AUTHORITY: 468.1135(4) FS.

LAW IMPLEMENTED: 468.1145(2), 468.1155(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Speech Language Pathology, 4052 Bald Cypress Way, Bin C#06, Tallahassee, Florida 32399-3256

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NOS.:	RULE TITLES:
65G-4.001	Definitions for Behavior Analysis Certification and Services Rules
65G-4.0011	Recognized Certification Organizations for Behavior Analysts and Assistant Behavior Analysts
65G-4.003	Certification as a Behavior Analyst
65G-4.004	Certification as an Associate Behavior Analyst
65G-4.005	Renewal of Behavior Analysis Certification
65G-4.006	Approved Continuing Education
65G-4.007	Behavior Analysis Certification Fees
65G-4.008	Behavior Analysis Services Oversight System Organization
65G-4.009	Design, Implementation and Monitoring of Behavior Analysis Services
65G-4.010	Behavior Analysis Services Approval
65G-4.012	Determination of Mental Retardation: Intelligence Tests to be Administered

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to clarify existing language, to ensure effective program administration and reflect changes in provider practice.

SUBJECT AREA TO BE ADDRESSED: The purpose of the proposed rulemaking is to clarify and amend certain provisions regarding the provision of behavior analysis services provided under Rules 65G-4.001, 65G-4.008, 65G-4.009, 65G-4.010, and 65G-4.012, create new Rules 65G-4.0011 and 65G-4.0012, F.A.C. This amendment includes the repeal of Rules 65G-4.003, 65G-4.004, 65G-4.005, 65G-4.006 and 65G-4.007, F.A.C.

RULEMAKING AUTHORITY: 393.063, 393.125, 393.13(4)(g)3., 393.17, 393.501, 916.106 FS.

LAW IMPLEMENTED: 393.0651, 393.066, 393.067, 393.068, 393.125, 393.13, 393.17(2) FS.

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

DATE AND TIME: November 20, 2009, 1:30 p.m.

PLACE: Agency for Persons with Disabilities, 4030 Esplanade Way, Conference Room 301, Tallahassee, Florida 32399-0950

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 esplanade Way, Suite 380, Tallahassee, Florida 32399, (850)414-8695. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 esplanade Way, Suite 380, Tallahassee, Florida 32399, (850)414-8695

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

BEHAVIORAL SERVICES: PRACTICE AND PROCEDURE
SERVICE DELIVERY PRACTICE AND PROCEDURE

65G-4.001 Definitions for Behavior Analysis Certification and Services Rules.

(1) Behavior analysis – refers to the use of scientific methods to change socially meaningful behavior. This process entails gathering information to analyze or describe the link between behavior and environment. It includes assessment of the environment and consequences that are maintaining the behavior targeted for change. It also encompasses changing the situations in the environment that trigger problem behavior and arranging situations that will provide the opportunity for desirable behaviors to occur. Behavior Analysis interventions teach skills to replace the behavior targeted for change and arrange delivery of consequences for desirable and undesirable behavior. A behavior analytic intervention also includes strategies and approaches to maintain the gains of the intervention over time and in varied settings. Behavior change interventions are based on the principles and laws of behavior. Behavior analytic interventions require monitoring or evaluation for effectiveness through direct observation and quantification of the behavior targeted for change. Caregivers and family members are actively involved in the behavior analysis process and are taught how to implement specific techniques or changes in the environment. The design, implementation and evaluation of systematic environmental modifications for the purposes of producing socially significant improvements in and understanding of human behavior based on the principles of behavior identified through the experimental analysis of behavior. It includes the

identification of functional relationships between behavior and environment. It uses direct observation and measurement of behavior and environment. Contextual factors, establishing operations, antecedent stimuli, positive reinforcers and other consequences are used, based on identified functional relationships between behavior and environment, in order to produce practical behavior change. Behavior analysis does not rely on cognitive therapies and expressly excludes psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy and long term counseling as treatment modalities.

(2) Behavior analysis services – The use of behavior analysis to assist a person or persons to learn new behavior, to increase existing behavior, to reduce existing behavior, and to emit behavior under precise environmental conditions. The term “behavior analysis services” includes the terms “behavioral programming,” “behavioral supports,” “behavior modification programs,” “behavior intervention plans,” “behavior plans” and “behavioral programs:” as well as any interventions designed to ameliorate dangerous behavior as described in paragraphs 65G-4.010(2)(a) through (h), F.A.C., below, through the teaching of appropriate replacement responses such as communication training, direct instruction or discrete trials training.

(3) Certification Body – A nonprofit corporation whose standards for certification of behavior analysts and assistant behavior analysts adheres to the national standards of boards that determine professional credentials to meet the needs of behavior analysts, state governments and consumers of behavior analysis services. The certification procedure of the nonprofit corporation must undergo regular psychometric review and validation pursuant to a job analysis survey of the profession and standards established by content experts in the field.

(4)(3) Consultation – Monthly contacts between an assistant behavior analyst applicant for certification and a consulting certified behavior analyst or a person with the education and experience required for certification as a behavior analyst, during which the behavior analysis services provided by the assistant behavior analyst applicant are evaluated. At the time consultation is provided, the consulting behavior analyst shall not be the assistant behavior analyst’s applicant’s subordinate or employee. The consulting behavior analyst shall not be considered an employee of the assistant behavior analyst applicant if the only compensation received by the consulting behavior analyst consists of payment for consultation. Monthly contacts may include the assistant behavior analyst’s applicant’s presentation of behavior analysis services designed by the assistant behavior analyst applicant, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C.

(4) Supervision – Face-to-face meetings for at least two hours every two weeks or two hours per 40 hours of the applicant’s contact with clients, between the applicant and a certified behavior analyst or a person with the education and experience required for certification as a behavior analyst, during which the supervising behavior analyst directs and evaluates the behavior analysis services provided by the applicant. The supervising behavior analyst shall not be, at the time supervision is provided, the applicant’s subordinate or employee. The supervising behavior analyst shall not be considered an employee of the applicant if the only compensation received by the supervising behavior analyst consists of payment for supervision. The applicant’s presentation of behavior analysis services designed and implemented by the applicant, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C., may be substituted for up to 25 percent of the total supervision time needed to be eligible to take the behavior analyst certification examination.

(5) Provider – An enrolled professional authorized to provide behavior analysis services. Only individuals who are board certified behavior analysts or persons licensed in accordance with Chapter 490 or 491, F.S., on active status, and demonstrating supervision as required, may be providers of behavior analysis services. Only those providers holding a certificate on active status from a recognized certification organization for behavior analysis shall use the title, “certified behavior analyst.” Individuals performing behavior analysis services shall limit their practice to areas of documented expertise and in accordance with their education, training, and certification or licensure, unless otherwise demonstrating evidence of supervision by an individual meeting the requisite education, training, and certification.

(6) Regular psychometric review and validation – A certification process which complies with recognized national standards in the testing and certification industry to ensure the certification examinations are fair, valid and reliable and in conformance with recognized standards such as those of the International Organization for Standardization (ISO) or the National Commission for Certifying Agencies (NCCA).

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.023, 65B-4.023, Amended _____.

65G-4.0011 Recognized Certification Organizations for Behavior Analysts and Assistant Behavior Analysts. Pursuant to Rule 65G-4.001, F.A.C., and as required by Section 393.17(2), F.S., recognizes the certification for behavior analysts awarded by the following organizations:

Behavior Analyst Certification Board, Inc.
1705 Metropolitan Blvd., Ste. 102
Tallahassee, FL 32308

Specific Authority 393.17(2) FS, Law Implemented 393.17(2) FS. History–New _____.

65G-4.003 Certification as a Behavior Analyst.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.024, 65B-4.024, Repealed _____.

65G-4.004 Certification as an Associate Behavior Analyst.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.025, 65B-4.025, Repealed _____.

65G-4.005 Renewal of Behavior Analysis Certification.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.026, 65B-4.026, Repealed _____.

65G-4.006 Approved Continuing Education.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.17 FS. History–New 9-23-96, Formerly 10F-4.028, 65B-4.027, Repealed _____.

65G-4.007 Behavior Analysis Certification Fees.

Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.17 FS. History–New 9-23-96, Formerly 10F-4.028, 65B-4.027, Repealed _____.

65G-4.008 Behavior Analysis Services Oversight System Organization.

(1) The Agency will establish and maintain a behavioral services program including a senior clinician, or Agency Senior Behavior Analyst (ASBA) to assume direction for standards of behavioral practice, develop and manage systems of quality, utilization and cost containment for statewide behavioral practice. The ASBA holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the ASBA must be a certified behavior analyst with at least the education and experience established by the designated certification board as eligibility requirements for taking the board’s behavior analyst examination. The behavioral services program will also include the support of at least one master’s level board certified behavior analyst. The ASBA will direct:

(a) Standards of practice.

1. Area Behavior Analysts will be recruited, appointed, given clinical supervision and direction and annually evaluated in conjunction with their functional supervisor in the area to which they are assigned.

2. Committees.

a. The Local Review Committees working in conjunction with the ASBA will establish guidelines for committee function, charter and membership.

b. The Peer Review Committee working in conjunction with the ASBA will establish a committee charter and membership, as well as annual projects including, at minimum, review of behavioral practices in at least one Developmental Disability Center, at least one state operated forensic facility, at least one area community residential behavioral provider, at least one Local Review Committee, and other services as identified by the Agency.

3. Standards for Behavior Analysis Provider Practices will be established in conjunction with Area Behavior Analysts to assure that common requirements are implemented statewide, including but not limited to designating individuals as local service providers, assigning referrals, standards for time frames and process for behavioral program reviews and approvals, standards for behavioral assessment content and behavioral program content, standards for graphic display of data, documentation and billing.

4. Residential Behavioral Provider Standards will be established to determine eligibility requirements, and a common process created for Area approval and designation for providers of behavioral residential services, consistent with programs provided by the Agency.

5. Quality management and utilization standards for behavior analysis services and behavioral residential habilitation will be coordinated and implemented in coordination with:

- a. Agency Quality Management.
- b. Contracted Quality Management.
- c. Area Licensing Coordinators
- d. LRC and PRC Committees.
- e. Prior Service Authorization agency, and
- f. Agency for Health Care Administration.

(2)(+) A statewide peer review committee (PRC) and local review committees (LRCs) shall be appointed by the Agency to provide oversight of behavior analysis services.

(a) The Agency will establish the composition, function and procedures to be followed by the committees. Each committee shall operate in accordance with by-laws written by the committee and approved by the Agency prior to their implementation by the committee.

(b) Each committee shall be chaired by a person who holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the chairperson must

be a certified behavior analyst with at least the education and experience requirements for taking the board's behavior analyst examination.

(c) Local review committees may establish subcommittees within a division of the area office or institution or, upon mutual agreement between an area office and a provider, within a program or programs operated by the provider, and operate under the rules governing local review committees. The LRC shall remain responsible for the decisions of the subcommittees.

~~1. A sufficient number of LRCs shall be established to allow for the timely review of behavior analysis services as required by law and rule. Subcommittees shall operate under the rules governing local review committees, however, the local review committees shall remain responsible for the decisions of the subcommittee.~~

~~2. Each LRC will be chaired by an individual meeting the qualifications above who is either an employee of the Agency or under contract to provide this service. Under no circumstances may the chair participate in the LRC review of his or her own services or related services. Each subcommittee that oversees behavior analysis services of a single provider of a statewide program must be approved by the Agency in advance of the committee making decisions authorized by these rules.~~

(2) The ~~PRC statewide committee~~ shall conduct on-site reviews of behavior analysis services including the operations of local review committees; provide training and technical assistance related to client and systemic behavior analysis services issues; ~~monitor the development of the behavior analysis certification examinations to ensure that they are consistent with practice and testing standards;~~ and provide recommendations regarding laws and regulations that affect behavior analysis services.

(3) Each area office, and each developmental disabilities ~~center institution~~, hereafter referred to as a "facility," ~~institution~~ shall have a local review committee that shall oversee behavior analysis services provided to clients in their area or facility institution as specified in paragraphs (a)-(c), below:

(a) The committee shall review all behavior analysis services and use of reactive strategies in the area or facility to ensure that these services are designed and approved in accordance with Florida Statutes and Agency rules.

~~(b)4-~~ The person who designed the services or their designee shall be present during the initial committee review. A person with primary responsibility for the ongoing implementation and monitoring of the services shall be present at all future meetings at which the services are reviewed by the committee.

~~2- Any person can bring a behavior analysis services plan before the committee for its review.~~

~~(c)(b)~~ The committee shall monitor behavior analysis services ~~reviewed by the committee~~ in accordance with a monitoring schedule plan developed and approved by the committee to ensure that behavior analysis services are in compliance with Florida Statutes and the Agency rules. Approval of services includes the determination by the LRC chairperson that the individual designing and implementing the behavior analysis services is in compliance with subsection 65G-4.002(5), F.A.C., above, or is appropriately supervised.

~~(d)(e)~~ If use of reactive strategies and behavior analysis services are not found not to be in accordance with Florida law, the committee shall request that the Agency notify the provider of the services, ~~in writing and~~ orally at the time of review and in writing within ten days of review in the language of the provider and in English, of each area of non-compliance.

1. Absent emergency circumstances that threaten public health, safety or welfare, the provider shall have 20 days within which to demonstrate compliance or present to the committee in writing evidence showing that the services being provided are in compliance with Florida Statutes and the Agency rules. The provider may present whatever evidence the provider deems appropriate to demonstrate that the provider is in compliance with Florida Statutes and the Agency rules.

2. If, however, the committee determines that the provider is not in compliance with Florida Statutes or the Agency rules, the committee shall report all facts and circumstances to the Agency in writing within five days of the provider's response and request a final decision be made by the department.

3. Within twenty days of such report, the Agency shall notify the committee, in writing, and the provider, in writing and orally in the language of the provider and in English, of its decision. In the event the Agency finds the provider is not in compliance with Florida Statutes or the Agency rules, the Agency shall take appropriate action against the provider up to and including withdrawal of status as an authorized provider, notification of the designated certification or licensing board, and revoke the provider's behavior analysis certification require that the services being provided be discontinued and notify the provider of the provider's rights in accordance with Chapter 120, F.S.

4. Following a committee report set forth above, the Agency may require additional supervision of the provider's services. The requirement for additional supervision may be a prerequisite for allowing the provider to continue to serve as an authorized behavior analysis services provider. Such required supervision may include the following conditions:

a. Face-to-face meetings for up to two hours every two weeks or two hours per 40 hours of the provider's contact with clients. These meetings shall be between the provider and a board certified behavior analyst, during which the supervising behavior analyst directs and evaluates the behavior analysis services provided by the provider.

b. The supervising behavior analyst shall not be, at the time supervision is provided, the provider's subordinate or employee. The supervising behavior analyst shall not be considered an employee of the provider if the only compensation received by the supervising behavior analyst consists of payment for supervision.

c. The provider's presentation of behavior analysis services designed and implemented by the provider, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C., may be substituted for up to 25 percent of the total supervision time required.

Rulemaking Specific Authority 393.125, 393.13(4)(g)3., 393.17 FS. Law Implemented 393.066, 393.067, 393.125, 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.029, 65B-4.029, Amended _____.

65G-4.009 Design, Implementation and Monitoring of Behavior Analysis Services.

(1) Providers of behavior analysis services shall provide services only as certified and as provided by law.

(2) All aspects of behavior analysis services shall be integrated by the provider with other relevant services and supports being provided to the client.

(3) The selection of behavior analysis procedures and decisions by the provider to make environmental changes that obviate the need for the use of behavior change procedures shall be based upon information obtained through valid assessment descriptive analysis or systematic environmental manipulations designed to identify functional relationships between the behavior or behaviors targeted for change and the environment. Consistent with established Agency operating procedure, the assessment will contain at minimum:

(a) Operational definitions of all behavior targeted for change.

(b) Conditions under which the behavior is most likely to occur.

(c) Measures of current level of behavior targeted for change.

(d) Any other relevant personal, social, medical or historical information that may impact on behavior targeted for change.

(e) Putative functional relationships between targeted behavior and environment.

(f) Recommendations for procedures to decrease maladaptive behavior and increase relevant appropriate alternative behavior.

(4) Behavior analysis services designed by the provider to decrease behavior shall include procedures for increasing functional replacement behavior, or acquisition of adaptive skills to serve as a functional alternative to the behaviors targeted for change.

(5) Behavior analysis procedures that are the least intrusive to the client and the most likely to be effective shall be used by the provider.

(6) Medical treatment to address purely medical etiologies or physical or occupational therapies to address behaviors that is related ~~are due~~ to physical limitations shall be provided concurrent with, or prior to, the implementation of behavior analysis services by the provider.

(7) Behavior analysis services shall not be provided continuously without appropriate considerations of Maintenance and generalization of behavior change in relevant settings or a designation of criteria for termination of the interventions or services shall be addressed by the provider whenever behavior analysis services are provided.

(8) The provider shall ensure that persons responsible for implementing, monitoring and providing behavior analysis services receive performance-based training that prepares them to properly implement the behavior analysis procedures involved, within the circumstances under which the services will be provided.

(9) The provider shall ensure that continuous measurement and documentation of behaviors targeted for change and of intermediate and ultimate outcomes of behavior analysis services occur during the entire period during which the services are in effect. Graphic displays of data on behaviors targeted for change shall be kept and up-dated by the provider at least weekly. Graphic displays of data will use time cycles appropriate for the frequency and topography of target behavior and allow for assessment of current effects as well as longitudinal analysis.

(10) The LRC local review committee shall approve the provider's behavior analysis services monitoring plan and specify the requirements for reporting of findings and data to the committee for behavior analysis services approved by the committee.

(a) Consistent with established Agency operating procedure, the behavior analysis services plan Monitoring shall include:

~~1. Documentation of when and by whom monitoring was done.~~

~~2. Examination and interpretation of data.~~

~~3. Direct observations in the setting(s) where the plan is implemented, including the observation of the implementation of procedures or simulated implementation.~~

~~4. Discussions with and observations of individuals who implement the behavior analysis procedures involved.~~

~~5. Determination that the services are in accordance with Florida Statutes and the Agency rules.~~

1. Identifying and relevant demographic information for the individual affected by the plan.

2. The name, signature and certification or licensure information of the individual who developed, supervises or approves the implementation of the procedures described in the plan.

3. Objective statements of goals relative to behavior reduction and/or acquisition resulting in program termination.

4. Rationale for proposed interventions, consistent with assessment results.

5. Medical, social and historical information including previous treatment programs relevant to the current problems being addressed.

6. How behavioral services will be integrated with other relevant services.

7. Identification of behaviors targeted for reduction.

8. Identification of behaviors targeted for acquisition or as replacement.

9. Intervention procedures for behaviors targeted for reduction and acquisition.

10. Data collection methods for behaviors targeted for reduction and acquisition.

11. Description of performance-based training for persons implementing procedures.

12. Techniques for maintaining and generalizing behavioral improvements.

13. Plan for reduction and fading of behavioral services.

14. When applicable, rationale for, description of training, the routine or duties, monitoring and fading of ancillary support staff.

15. Methods and schedule of monitoring for programmatic fidelity.

16. Signatures of informed participants as may be required by law and individuals authorized to approve the procedures.

(b) Modifications to the behavior analysis service plan which includes procedures listed in Rule 65G-4.010, F.A.C., approved by the LRC committee shall be documented and submitted by the provider to the committee within one week after the changes are made. A summary of the effects of and modifications to behavior analysis services plan shall be developed ~~written~~ by the provider at least annually. This summary may be a graphical display of data collected over the year with appropriate annotation of program modifications.

Rulemaking Specific Authority 393.13(4) FS. Law Implemented 393.0651, 393.066, 393.067, 393.068, 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.030, 65B-4.030, Amended _____.

65G-4.010 Behavior Analysis Services Approval.

The local review committee must review:

(1) Behavior analysis services that include behavior analysis procedures that are designed to decrease the probability of the occurrence of a behavior by presenting,

attenuating or removing a stimulus following each occurrence of the behavior to be reduced, behavioral contingencies designed to increase the probability of a behavior by removing or attenuating a stimulus following each occurrence of the behavior to be increased, and the use of satiation and deprivation procedures, hereafter referred to as restricted procedures, and shall require the approval of one of the following practitioners prior to implementation-:

(a) A board certified behavior analyst as defined in subsection 65G-4.0011(5), F.A.C. who meets the education and experience requirements established in these rules for taking the behavior analyst certification examination.

(b) A person licensed pursuant to Chapter 490 or 491, F.S.

(2) ~~Approval by a certified behavior analyst who meets the education and experience requirements specified in these rules for taking the behavior analyst certification examination or a person licensed pursuant to Chapter 490 or 491, F.S., shall also be required prior to implementation for B~~behavior analysis services ~~that are~~ designed to address those actions of the individual which, without behavioral, physical, or chemical intervention can be expected to result in paragraphs (a) through (h) below will be provided or supervised by a Certified Behavior Analyst as defined in paragraph 65G-4.003(1)(b), F.A.C., or a person licensed pursuant to Chapter 490 or 491, F.S.:

(a) Have resulted in self-inflicted, detectable, external or internal damage requiring medical attention or are expected to increase in frequency, duration, or intensity resulting in self-inflicted, external or internal damage requiring medical attention.

(b) Have occurred or are expected to occur with sufficient frequency, duration or magnitude that a life-threatening situation might result, including excessive eating or drinking, vomiting, ruminating, eating non-nutritive substances, refusing to eat, holding one's breath, or swallowing excessive amounts of air.

(c) Have resulted in external or internal damage to other persons that requires medical attention or are expected to increase in frequency, duration or intensity resulting in external or internal damage to other persons that requires medical attention.

(d) Have resulted or are expected to result in major property damage or destruction.

(e) Have resulted or are expected to result in arrest and confinement by law enforcement personnel.

(f) Have resulted in the need for behavioral services in a Behavior Focused or Intensive Behavioral Residential Habilitation program.

(g) Have resulted in the need for additional staffing or Behavior Assistant Services.

(h) Have resulted in the repeated use of reactive strategies without a formal approved plan.

(3) Behavioral programs or manuals implemented as group contingencies or behavior change systems, including behavioral program manuals, level systems and token economies, require local review committee review and approval.

(4)(3) A written plan describing behavior analysis services approved for implementation pursuant to these rules shall be submitted ~~sent~~ to the local review committee within five working days following implementation. Behavior analysis service plans shall be consistent with the requirements of subsection 65G-4.009(10), F.A.C.

Rulemaking Specific Authority 393.13(4)(g)3, FS. Law Implemented 393.066, 393.067(14), 393.068, 393.13, 393.17 FS. History--New 9-23-96, Formerly 10F-4.031, 65B-4.030, Amended _____.

65G-4.012 Determination of Mental Retardation: Intelligence Tests to be Administered.

(1) For the purposes of Chapters 393 and 916, F.S., the Stanford-Binet Intelligence Scale or the Wechsler ~~Adult & Infant~~ Intelligence Scales, administered by or under the direct supervision of a psychologist or school psychologist licensed under Chapter 490, F.S., shall be used to determine mental retardation and the level of intellectual functioning.

(2) Notwithstanding subsection (1), if, given the condition of the individual to be tested, the Stanford-Binet Intelligence Scale or the Wechsler ~~Adult & Infant~~ Intelligence Scales are not valid and reliable as determined by the person authorized to administer such tests as specified in subsection (1), an alternative test or evaluation procedure, administered and interpreted in conformance with instructions provided by the producer of the tests or evaluation materials, may be used. The results of the testing or evaluation must include reference to published validity and reliability data for the specified test or evaluation procedure.

Rulemaking Specific Authority 393.063(38), 916.106, 393.501(1) FS. Law Implemented 393.063(38), 916.106 FS. History--New 6-13-06, Amended _____.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NO.: 69A-2.024
 RULE TITLE: Construction Materials Mining Activities

PURPOSE AND EFFECT: The purpose of the rule amendment is to provide additional notice of intended blasting activity to local government. In addition to the written notice required 20 days in advance of the initial blasting activity, written notice must be provided five days in advance of intended blasting activity following permit renewal.

SUBJECT AREA TO BE ADDRESSED: Notice to local government of intended blasting activity.

RULEMAKING AUTHORITY: 552.30, 552.38 FS.

LAW IMPLEMENTED: 552.30, 552.38 FS.

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

DATE AND TIME: Tuesday, November 10, 2009, 1:00 p.m. – 5:00 p.m.

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Building 4075, Tallahassee, FL 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: Casia Sinco, telephone: (850)413-3670. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Casia.Sinco@myfloridacfo.com, Program Manager, Bureau of Fire Prevention, Division of State Fire Marshal, telephone: (850)413-3670

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

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.: 69A-47.013, 69A-47.014
 RULE TITLES: Regional Access, Compliance Dates

PURPOSE AND EFFECT: To conform the rules to statutory changes made in Chapter 2006-65, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: The date by which regional emergency elevator access must be provided for new construction and existing buildings.

RULEMAKING AUTHORITY: 399.15 FS.

LAW IMPLEMENTED: 399.15 FS.

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

DATE AND TIME: Monday, November 9, 2009, 9:30 a.m.

PLACE: Third Floor Conference Room, The Atrium Building, 325 John Knox Road, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Lesley Mendelson, (850)413-3604. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lesley Mendelson, Assistant General Counsel, Department of Financial Services, (850)413-3604, Lesley.Mendelson@myfloridacfo.com.

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NO.: 69I-3.001
 RULE TITLE: Consolidated Equipment Financing Program

PURPOSE AND EFFECT: To amend Rule 69I-3.001, F.A.C., to implement Department responsibilities under Section 287.064, F.S. In 2008 Section 25, Chapter 2008-227, amending Section 287.064, F.S., modified approval criteria and allowed a master financing program for contracts approved by the Department under Section 489.145, F.S., for guaranteed energy, water, and wastewater performance savings contracting.

SUBJECT AREA TO BE ADDRESSED: Rule 69I-3.001, F.A.C., is being amended to reflect the statutory changes to the criteria for consolidated financing of deferred-payment, installment sale, or lease purchases and amended to reflect the criteria for approving use of a master financing program for guaranteed energy, water, and wastewater performance savings contracting.

RULEMAKING AUTHORITY: 17.29, 287.064(8) FS.

LAW IMPLEMENTED: 287.063, 287.064 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.

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: Mike Rutherford, (850)413-5594 or Mike.Rutherford@MyFloridaCFO.com. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mike Rutherford, (850)413-5594 or Mike.Rutherford@MyFloridaCFO.com.

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NO.: 69I-3.004
 RULE TITLE: Deferred Payment Commodity Contracting

PURPOSE AND EFFECT: To implement Department responsibilities under Section 287.063, F.S. In 2008, Section 24, Chapter 2008-227, amending Section 287.063, F.S., added requirements to the criteria stated in Section 287.063, F.S., for allowing an agency to seek financing without using the Consolidated Equipment Finance Program (CEFP). A new rule is being promulgated to reflect these statutory changes, and to separate the rules related to Section 287.063, F.S., exceptions to the CEFP Program from Rule 69I-3.001, F.A.C., which addresses rules for the CEFP Program.

SUBJECT AREA TO BE ADDRESSED: Establish criteria for approving purchases made under deferred-payment contracts which require the payment of interest, related to requesting equipment leases, under Section 287.063, F.S.

RULEMAKING AUTHORITY: 17.29, 287.063(2)(b) FS.

LAW IMPLEMENTED: 287.063, 287.064 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.

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: Mike Rutherford, (850)413-5594 or Mike.Rutherford@MyFloridaCFO.com. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mike Rutherford, (850)413-5594 or Mike.Rutherford@MyFloridaCFO.com.

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-13.0031
 RULE TITLE: Pressure Relief Ventilation

PURPOSE AND EFFECT: To implement the requirement under s. 6, ch. 2007-55, Laws of Florida, that rules establishing minimum standards for all newly constructed and significantly altered or renovated mausoleums and columbaria, shall include, among others, the following minimum standard: Private or Family Mausoleums with all Crypts Bordering an Exterior Wall Must Contain Pressure Relief Ventilation From the Crypts to the Outside of the Mausoleum Through the Exterior Wall or Roof.

SUBJECT AREA TO BE ADDRESSED: Crypt ventilation.

RULEMAKING AUTHORITY: 497.271 FS.

LAW IMPLEMENTED: 497.271(2)(c) FS.

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

DATE AND TIME: Thursday, November 12, 2009, 10:00 a.m.

PLACE: Alexander Building, 2020 Capital Circle, S.E., Room 230A, Tallahassee, FL 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: LaTonya Bryant, (850)413-4083 or Latonya.Bryant-Parker@myfloridacfo.com. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Douglas Shropshire, Division of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361, (850)413-4096

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

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.: 69O-157.302
 RULE TITLES: Facility Only Rates
 69O-157.303 Home Health Care Only Rates
 69O-157.304 Comprehensive Only Rates

PURPOSE AND EFFECT: Rules 69O-157.302, 69O-157.303, and 69O-157.304, F.A.C., pertaining to Facility Only Rates, Home Health Care Only Rates, and Comprehensive Only Rates, are being amended to publish the new business rates that will be effective for 2010.

SUBJECT AREA TO BE ADDRESSED: Long-Term Care Insurance – New Business Rates for 2010.

RULEMAKING AUTHORITY: 627.9408(1) FS.

LAW IMPLEMENTED: 627.9407(7) FS.

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

DATE AND TIME: November 18, 2009, 9:30 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Gerry Smith, Life and Health Product Review, Office of Insurance Regulation, E-mail Gerry.Smith@flor.com. 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gerry Smith, Life and Health Product Review, Office of Insurance Regulation, E-mail Gerry.Smith@flor.com.

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

DEPARTMENT OF MILITARY AFFAIRS

RULE NOS.: 70-2.001
 RULE TITLES: Application for Educational Assistance Programs
 70-2.002 Noncompliance with Educational Assistance Programs

PURPOSE AND EFFECT: To update the rules based on statutory changes to Section 250.10, F.S.

SUBJECT AREA TO BE ADDRESSED: Application for Educational Assistance Programs and Noncompliance with Educational Assistance Programs.

RULEMAKING AUTHORITY: 250.10(7), (8) FS.

LAW IMPLEMENTED: 250.10(7), (8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Andy Rusnak, Department of Military Affairs, P. O. Box 1008, St. Augustine, FL 32085

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

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE NOS.:	RULE TITLES:
5B-65.001	Purpose
5B-65.002	Definitions
5B-65.003	Wood Boring Pests and Wood Inhabiting Pests that are Harmful to Florida Agriculture, Landscape Plants, and Native Plants
5B-65.004	Plant Disease Pathogens Infecting Firewood and Unprocessed Wood Products
5B-65.005	Movement of Regulated Articles

PURPOSE AND EFFECT: The purpose of this rule is to prevent the introduction and spread of serious plant pests harbored in or infesting firewood and unprocessed wood products. This will affect the interstate and intrastate movement of firewood and unprocessed wood products that are not treated to eliminate the plant pests of concern in order to protect Florida's forests and other plant resources.

SUMMARY: The movement of commercial shipments of firewood, unprocessed wood products and other regulated articles into the state is prohibited unless the shipper has entered into a signed compliance agreement with the state of origin under a master permit that has been issued to the state of origin by the Director. With the exception of Miami-Dade County, locally produced or harvested firewood and unprocessed wood products are exempt from this rule provided they are not moved 50 miles from the distribution point.

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

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

RULEMAKING AUTHORITY: 570.07(23), 581.031(1), (4), (5), (7) FS.

LAW IMPLEMENTED: 570.07(2), (13), 581.031(1), (4), (5), (6), (7), (9), (20) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dr. Wayne Dixon, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

THE FULL TEXT OF THE PROPOSED RULES IS:

5B-65.001 Purpose.

The purpose of this rule chapter is to establish procedures to prevent the introduction of wood boring pests, wood inhabiting pests, and plant disease pathogens into the state, and prevent the spread of these pests within the state by regulating the movement of firewood and unprocessed wood products that can harbor wood boring and wood inhabiting pests and plant disease pathogens.

Rulemaking Authority 570.07(23), 581.031(1), (4), (5), (7) FS. Law Implemented 570.07(2), (13), 581.031(1), (4), (5), (6), (7), (9), (20) FS. History—New _____.

5B-65.002 Definitions.

For the purpose of this rule chapter, the definitions in Section 581.011, F.S., and the following definitions shall apply:

(1) Commercial Shipments. Shipments of regulated articles intended for public or private sale or distribution within the state.

(2) Compliance Agreement. An agreement, meeting the requirements of subsection 5B-65.005(1), F.A.C., between a shipper and the state of origin pursuant to the Master Permit of the state of origin.

(3) Firewood. Cut wood products intended for burning.

(4) Infected. Regulated articles found with plant disease pathogens.

(5) Infested. Regulated articles found with plant pests.

(6) Master Permit. A permit issued by the department to the state of origin allowing the movement of regulated articles into and within the state and specifying the conditions under which the regulated articles are allowed to be moved.

(7) Plant Disease Pathogen. Any organism that can infect plants and cause plant disease.