

**Section I**

**Notices of Development of Proposed Rules and Negotiated Rulemaking**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

**RULE NO.:** 5E-2.031  
**RULE TITLE:** Pesticide Registration; Exemptions from Registration; Experimental Use Permits

**PURPOSE AND EFFECT:** To provide a reference for the Application For New Or Amended Pesticide Product Brand Registration (DACS-13342, Rev. 12/09) and the Application For Reregistration Pesticide Product Brand(s) (DACS-13501, Rev. 12/09), not previously referenced in rule language and to describe documents that must be submitted with new or amended pesticide product brand registration.

**SUBJECT AREA TO BE ADDRESSED:** Forms to be utilized and documents required for registration of new or amended pesticide product brands and the reregistration of existing registered pesticide product brands.

**RULEMAKING AUTHORITY:** 487.041 FS.

**LAW IMPLEMENTED:** 487.041 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: Dr. Dennis F. Howard, Chief of Bureau of Pesticides, 3125 Conner Boulevard, Building 6, Tallahassee, Florida 32399; (850)487-0532

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

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Agricultural Environmental Services**

**RULE NOS.:** 5E-14.110, 5E-14.111  
**RULE TITLES:** Fumigation Requirements – Notices, Fumigation Requirements – Application; Restrictions and Precautions

**PURPOSE AND EFFECT:** To provide an electronic web-based means of complying with the requirement to notify the Department of a structural fumigation 24 hours in advance and to clarify precautions requiring inspections and sealing between fumigated structures.

**SUBJECT AREA TO BE ADDRESSED:** Fumigation operations.

**RULEMAKING AUTHORITY:** 482.051 FS.

**LAW IMPLEMENTED:** 482.051(4), 482.152, 482.241 FS.

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

**DATE AND TIME:** February 19, 2010, 9:00 a.m.

**PLACE:** Fort Lauderdale Research and Education Center, 3205 College Avenue, Room 130, Davie, Florida 33314-7799; (954)577-6300

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mr. Michael J. Page, Chief of Entomology and Pest Control, 1203 Governors Square Boulevard, Suite 300, Tallahassee, Florida 32301-2961, (850)921-4177

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

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
5F-8.0011	Standards Adopted
5F-8.0012	Bureau of Fair Rides Inspection Forms
5F-8.009	Inspections by Owner or Manager
5F-8.0125	Fencing and Gate Standards
5F-8.0126	Minor Rule Violations; Notice of Non-Compliance
5F-8.0127	Enforcement Actions and Administrative Penalties
5F-8.0128	Resolution of Violations, Settlement, and Additional Enforcement Remedies
5F-8.014	Training of Managers, Attendants, and Maintenance Persons
5F-8.015	Regulation of Go-Karts and Similar Vehicles
5F-8.016	Regulation of Water Parks
5F-8.025	Regulation of Bungy Operations
5F-8.050	Games

**PURPOSE AND EFFECT:** The purpose of these rule amendments is: (1) to update and adopt current standards for the inspection of amusement rides (2) to revise Fair Rides Inspection Forms for the purpose of correcting revision dates & adopting changes to those forms adopted by the Bureau; (3) to adopt fencing and gate standards for all amusement rides operating within the state. (4) to adopt guidelines for imposing administrative remedies when the Department determines there is a violation of the statute or rules; (5) to clarify guidelines for attendants in regards to go-kart track monitoring; (6) to clarify

attendant responsibilities on all water related rides; and (7) to add an authorized game to those already approved to operate within the State.

**SUBJECT AREA TO BE ADDRESSED:** Rule 5F-8.011, F.A.C. – Standards Adopted Update and Adopt current national standards for the inspection of amusement rides. Rule 5F-8.012, F.A.C. – Bureau of Fair Rides Inspection Forms Update And Adopt Inspection Forms used by the Bureau and Industry. 5F-8.009 – Inspections by Owner or Manager Update language on owner/manager ride inspections. Rule 5F-8.0125, F.A.C. – Fencing and Gate Standards Standardize fencing and gate standards for all amusement rides. Rule 5F-8.0126, F.A.C. – Minor Rule Violations; Notice of Non-Compliance Adopt and standardize guidelines for imposing administrative penalties for violations. Rule 5F-8.0127, F.A.C. – Enforcement Actions and Administrative Penalties Adopt and standardize guidelines for imposing administrative penalties for violations. Rule 5F-8.0128, F.A.C. – Resolution of Violations, Settlement and Additional Enforcement Remedies Adopt and standardize guidelines for imposing administrative penalties for violations. Rule 5F-8.014, F.A.C. – Training of Managers, Attendants and Maintenance Persons Updates reference and revises method of recording employee training. Rule 5F-8.015, F.A.C. – Regulation of Go-Karts and Similar Vehicles Clarifies monitoring requirements for go-kart tracks, updates fencing requirements for go-kart tracks. Rule 5F-8.016, F.A.C. – Regulation of Water Parks Updates operational and fencing requirements for water parks. Rule 5F-8.025, F.A.C. – Regulation of Bungy Operations Updates fencing requirements for bungy operations. Rule 5F-8.050, F.A.C. – Games Authorizes use of a new game in the State of Florida.

**RULEMAKING AUTHORITY:** 616.165, 616.242(4) FS.

**LAW IMPLEMENTED:** 616.242 FS.

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

**DATE AND TIME:** February 9, 2010, 10:00 a.m.

**PLACE:** Conner Building Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Robert Jacobs (850)488-9790. 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:** Robert Jacobs (850)488-9790

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

(Substantial rewording of Rule 5F-8.0011 follows. See Florida Administrative Code for present text.)

5F-8.0011 Standards Adopted.

The following standards, materials and practices are hereby adopted and incorporated by reference and are available for public inspection during regular business hours at the Florida Department of Agriculture and Consumer Services, Division of Standards, 3125 Conner Boulevard, Suite N, Tallahassee, Florida 32399-1650.

(1) ASTM International Committee F-24 on Amusement Rides and Devices Designation:

(a) F 747-06 “Standard Terminology Relating to Amusement Rides and Devices.”

(b) F 770-06a “Standard Practice for Ownership and Operation of Amusement Rides and Devices.”

(c) F 846-92 (2009) “Standard Guide for Testing Performance of Amusement Rides and Devices.”

(d) F 853-05 “Standard Practice for Maintenance Procedures for Amusement Rides and Devices.”

(e) F 893-05a “Standard Guide for Inspection of Amusement Rides and Devices.”

(f) F 1159-03a “Standard Practice for Design and Manufacture of Patron Directed, Artificial Climbing Walls, Dry Slide, Coin Operated and Purposeful Water Immersion Amusement Rides and Devices and Air-Supported Structures.”

(g) F 1193-06 “Practice for Quality, Manufacture, and Construction of Amusement Rides and Devices.”

(h) F 1305-94 (2002) “Standard Guide for Classification of Amusement Ride and Device Related Injuries and Illnesses.”

(i) F 1957-99(2004) “Standard Test Method for Composite Foam Hardness-Durometer Hardness.”

(j) F 2007-07a “Standard Practice for Design, Manufacture, and Operation of Concession Go-Karts and Facilities.”

(k) F 2137-04 (2009) Practice for Measuring the Dynamic Characteristics of Amusement Rides and Devices.

(l) F 2291-09a “Standard Practice for Design of Amusement Rides and Devices.”

(m) F 2374-07a “Standard Practice for Design, Manufacture, Operation, and Maintenance of Inflatable Amusement Devices.”

(n) F 2375-09 “Practice for Design, Manufacture, Installation and Testing of Climbing Nets and Netting/Mesh Used in Amusement Rides, Devices, Play Areas, and Attractions.”

(o) F 2376-08 “Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems.”

(p) F 2460-07 “Standard Practice for Special Requirements for Bumper Boats.”

(q) F 2461-09 “Standard Practice for Manufacture, Construction, Operations, Maintenance and Water Quality of Interactive Aquatic Play Equipment.”

The above referenced F-24 Committee standards are compiled by ASTM International in the 2009 Annual Book of ASTM Standards, Volume 15.07. A copy of this publication or the individual standards can be obtained by contacting ASTM International, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, Pennsylvania 19428-2959; Phone (610)832-9500; [www.astm.org](http://www.astm.org).

(2) National Electrical Code (NEC) Handbook, Article 525, “Carnivals, Circuses, Fairs, and Similar Events,” 2008 Edition. A copy of this publication can be obtained by contacting the National Fire Protection Association at 1 Batterymarch Park, Quincy, Massachusetts- 02169-7471; Phone 1(800)344-3555; [www.nfpa.org](http://www.nfpa.org).

(3) National Fire Protection Association (NFPA), Document 101, “Life Safety Code”, 2009 Edition, Chapters 3.3.32.10, 12.4.7, and 13.4.7, each entitled “Special Amusement Buildings.” The chapters listed in this section succeeded Chapters 8-4.6 and 9-4.6 of the “Life Safety Code.” A copy of this publication can be obtained by contacting the National Fire Protection Association at 1 Batterymarch Park, Quincy, Massachusetts- 02169-7471; Phone 1 (800)344-3555; [www.nfpa.org](http://www.nfpa.org).

(4) ASTM International Designation E 543-08a, “Standard Specification for Agencies Performing Nondestructive Testing.” A copy of this publication can be obtained by contacting ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, Pennsylvania 19428-2959; Phone (610)832-9500; [www.astm.org](http://www.astm.org).

(5) American Society for Nondestructive Testing (ASNT), Recommended Practice No. SNT-TC-1A, “Personnel Qualification and Certification in Nondestructive Testing,” 2006 Edition. A copy of this publication can be obtained by contacting the American Society For Nondestructive Testing, 1711 Arlingate Lane, Post Office Box 28518, Columbus, Ohio 43228-0518; Phone 1(800)222-2768; [www.asnt.org](http://www.asnt.org).

Rulemaking Specific Authority 616.165, 616.242(4) FS. Law Implemented ~~616.001~~, 616.242(4) FS. History–New 2-14-99, Amended 10-2-07,\_\_\_\_\_.

(Substantial rewording of Rule 5F-8.0012 follows. See Florida Administrative Code for present text.)

5F-8.0012 Bureau of Fair Rides Inspection Forms.

The following forms are hereby incorporated by reference. Copies of these publications may be obtained from the Division of Standards, Bureau of Fair Rides Inspection at 3125 Conner Boulevard, Suite N, Tallahassee, Florida 32399-1650 or online at [www.doacs.state.fl.us/onestop/std/fairride.html](http://www.doacs.state.fl.us/onestop/std/fairride.html).

<u>Form Number</u>	<u>Revised</u>	<u>Title</u>
DACS 03401	01/09	Invoice
DACS 03419	12/09	Amusement Ride Inspection Report
DACS 03420	12/09	Water Park Amusement Ride Inspection Report
DACS 03421	12/09	Go-kart Amusement Ride Inspection Report (Track)
DACS 03422	01/09	Go-kart Amusement Ride Inspection Report (Vehicle)
DACS 03423	12/09	Bungy Jump Inspection Report
DACS 03424	012/09	Owner’s Daily Inspection Report (Carnival Type)
DACS 03425	012/09	Owner’s Daily Inspection Report (Water Park)
DACS 03426	012/09	Owner’s Daily Inspection Report (Go-kart Track/Vehicle)
DACS 03427	012/09	Owner’s Daily Inspection Report (Bungy)
DACS 03428	01/09	Written Accident Report
DACS 03429	01/09	Request for Inspection or Reinspection
DACS 03430	01/09	Mechanical, Structural or Electrical Defect Report
DACS 03431	012/09	Employee Training Record
DACS 03432	01/09	Amusement Ride Annual Permit Application
DACS 03433	04/09	Affidavit of Compliance and Nondestructive Testing
DACS 03434	01/09	Affidavit of Annual Inspection for Exempt Facilities
DACS 03545	12/09	Stop Operation Order
DACS 03546	12/09	Out of Service Tag
DACS 03550	01/09	Inspection Certificate
DACS 03557	02/09	Fair Rides Immediate Final Order
DACS 03558	02/09	Fair Rides Immediate Final Order Release

Rulemaking Specific Authority 616.165, 616.242(4), FS. Law Implemented 616.242(4), (5), (6), (7), (10), (11), (14), (15), (16), FS. History–New 2-14-99, Amended 5-30-05, 10-2-07,\_\_\_\_\_.

5F-8.009 Inspections by Owner or Manager.

Prior to opening on each day of operation and prior to any inspection by the Department, the owner or manager of each amusement ride shall inspect and test the amusement ride in accordance with the requirements of Section 616.242(15), F.S., and record the inspection on the applicable Department form,

DACS 03424, Rev. 12/09, Owner's Daily Inspection Report (Carnival Type); DACS 03425, Rev. 12/09, Owner's Daily Inspection Report (Water Park); DACS 03426, Rev. 12/09, Owner's Daily Inspection Report (Go-kart Track and Vehicle); DACS 03427, Rev. 12/09, Owner's Daily Inspection Report (Bungy).

Rulemaking Specific Authority 616.165, 616.242(15) FS. Law Implemented 616.242(15) FS. History--New 9-15-92, Amended 2-23-94, 2-14-99, 5-30-05, \_\_\_\_\_.

#### 5F-8.0125 Fencing and Gate Standards.

ASTM International, F-24 Committee Designations F 1159-03a and F 2291-09a and the following shall be the fencing and gate standards for amusement rides:

(1) Amusement ride train crossing points may use railroad type protection devices.

(2) Natural barriers (ponds or streams, earthen mounds and shrubs or other vegetation) may be utilized when such barriers serve to prevent spectators or riders from gaining access or otherwise coming in contact or close proximity with amusement rides prior to, during or after operation.

Rulemaking Authority 616.165, 616.242(4)(c) FS. Law Implemented 616.242 FS. History--New \_\_\_\_\_.

#### 5F-8.0127 Enforcement Actions and Administrative Penalties

(1) This rule sets forth the guidelines the Department will follow in imposing the penalties authorized under Chapter 616, Florida Statutes. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$2,500 per violation, per day. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(2) The Department will enforce compliance with Chapter 616, F.S., and this rule chapter by issuing an administrative complaint, a stop operation order, out of service tag, or an immediate final order for violations of Chapter 616, F.S., and this rule chapter.

(3) Stop Operation Orders. A stop operation order is necessary to effectuate the statutory duties of the Department in the interest of public health, safety, and welfare and is necessary to promote patron safety in the design, construction, assembly, disassembly, maintenance, and operation of amusement rides in Florida. A stop operation order will be

used to prohibit the operation of an amusement ride that fails to comply with the requirements of Chapter 616, F.S., or this rule chapter.

(4) Nothing in this chapter shall limit the ability of the Department to informally dispose of administrative actions by settlement agreement, consent order, or other lawful means.

(5) Rule Not All-Inclusive. This rule contains illustrative violations. It does not, and is not intended to encompass all possible violations of statute or Department rule that might be committed by any person. The absence of any violation from this rule chapter shall in no way be construed to indicate that the violation does not cause harm to the public or is not subject to a penalty. In any instance where the violation is not listed in this rule chapter, the penalty will be determined by consideration of:

(a) The closest analogous violation, if any, that is listed in this rule; and

(b) The mitigating or aggravating factors listed in this rule.

(6) Aggravating and Mitigating Factors. The Department will consider aggravating and mitigating factors in determining penalties for violations of Chapter 616, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors:

1. The violation caused, or has the potential to cause, serious injury to a person.

2. The violation endangered the public safety or welfare.

3. Previous violations for the same or a similar offense that resulted in enforcement action.

4. The violation occurred for more than 24 hours.

5. The violation was repeated within three years.

6. The violator impeded, or otherwise failed to cooperate with, the Department's inspection or investigation.

7. Previous disciplinary action against the violator in this or any other jurisdiction and the deterrent effect of the penalty imposed.

8. Undue delay in initiating or completing, or failure to take, affirmative or corrective action after receipt of notice of the violation.

9. The violator's prior knowledge of Chapter 616, F.S. and Chapter 5F-8, F.A.C.

10. Whether the violation resulted from negligence or an intentional act.

11. The cost of the enforcement action.

12. The number of other violations proven in the same proceeding.

13. The benefit to the violator.

(b) Mitigating Factors:

1. Any documented efforts by the violator at rehabilitation.

2. Whether intentional actions of another party prevented the violator from complying with the applicable laws or rules.

3. Financial hardship.

4. Acts of God or nature that impairs the ability of the violator to comply with Chapter 616, F.S., or Chapter 5F-8, F.A.C.

5. The violation has a low risk of, or did not result in, harm to the public health, safety, or welfare.

6. The violator expeditiously took affirmative or corrective action after it received written notification of the violation.

7. The number and seriousness of the counts in the administrative complaint.

8. The disciplinary history of the person committing the violation.

9. If a repeat violation, whether three years has passed since the prior violation.

(7) The provisions of this rule chapter shall not be construed so as to prohibit or limit any other civil action or criminal prosecution that may be brought.

(8) In addition to the penalties established in this rule, the Department reserves the right to seek to recover any other costs, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the Department reserves the right to seek to recover any costs, penalties, attorney's fees, court costs, service fees, collection costs, and costs resulting from a payment that is returned for insufficient funds to the Department.

(9) Penalties.

(a) Notice of Noncompliance. Any Department investigation or inspection which reveals minor violations of this rule chapter in which the Department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a notice of noncompliance as the Department's first response to the violation. For the purposes of this rule, the following violations shall result in the issuance of a notice of noncompliance for the first violation only:

1. Failure to maintain or make immediately available to the Department upon request the required Owner's Daily Inspection Reports.

2. Failure to maintain or make immediately available to the Department upon request employee training records (employee trained, but no records).

3. Failure to provide the Department a copy of the manufacturer's operating instructions, operating fact sheet, or written manufacturer's bulletins.

4. Failure to maintain the required operations manual written in the English language for each go-kart and go-kart track that includes a detailed scaled drawing of the go-kart type course, manufacturer's maintenance instructions and specification for each go-kart, and written emergency plans.

5. Failure to maintain the required operations manual written in the English language for water parks that contain general maintenance and cleanup procedures, equipment operation instructions and written emergency plans.

(b) Minor Violations. A violation of Chapter 616, F.S., or this rule chapter is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm. Minor violations shall result in the imposition of an administrative fine against the owner of the amusement ride of \$250 per violation, per day. Aggravating factors as defined in paragraph (6)(a) of this rule shall warrant the adjustment of the fine upward and mitigating factors as defined in paragraph (6)(b) of this rule shall warrant the adjustment of the fine downward, but no fine shall exceed the statutory maximum as outlined in Section 616.242(19)(a), F.S. For the purposes of this rule, the following violations shall be considered minor violations:

1. Failure to maintain or make immediately available to the Department upon request the required Owner's Daily Inspection Reports.

2. Failure to maintain or make immediately available to the Department upon request employee training records (employee trained, but no records).

3. Failure to provide the Department a copy of the manufacturer's operating instructions, operating fact sheet, or written manufacturer's bulletins.

4. Failure to maintain the required operations manual written in the English language for each go-kart and go-kart track that includes a detailed scaled drawing of the go-kart type course, manufacturer's maintenance instructions and specification for each go-kart, and written emergency plans.

5. Failure to maintain the required operations manual written in the English language for water parks that contain general maintenance and cleanup procedures, equipment operation instructions and written emergency plans.

6. Failure to report an accident as required by Section 616.242, F.S.

(c) Major Violations. A violation of a Chapter 616, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare or creates a significant threat of such harm. Major violations shall result in the imposition of an administrative fine against the owner of the amusement ride of \$1,000 per violation, per day or suspension of the owner's permit or inspection certificate for not more than one year or revocation the owner's permit or inspection certificate or any combination thereof. Aggravating factors as defined in paragraph (6)(a) of this rule shall warrant the adjustment of the fine upward and mitigating factors as defined in paragraph (6)(b) of this rule shall warrant the adjustment of the fine downward, but no fine shall exceed the statutory maximum as

outlined in Section 616.242(19)(a), F.S. For the purposes of this rule, the following violations shall be considered major violations due to their high potential for consumer harm:

1. Operation of an amusement ride by an employee(s) who is/are not trained to operate or maintain the ride.
2. Operating an amusement ride in a manner or circumstance that presents a risk of serious injury to patrons, which does not result in a reportable accident.
3. Operating an amusement ride with a structural, mechanical or electrical defect, that affects patron safety, of which the owner or manager has knowledge, or through the exercise of reasonable diligence, should have knowledge, which does not result in a reportable accident.
4. Operating an amusement ride in a manner or circumstance that presents a risk of serious injury to patrons, which results in a reportable accident.
5. Operating an amusement ride with a structural, mechanical or electrical defect, that affects patron safety, of which the owner or manager has knowledge, or through the exercise of reasonable diligence, should have knowledge, which results in a reportable accident.
6. Operating an amusement ride which has not been inspected and tested by the owner or manager in accordance with the requirements of Section 616.242(15), F.S.
7. Operating an amusement ride without a current permit, affidavit of compliance/non-destructive testing, inspection certificate, insurance or bond or any combination of each.
8. Operating an amusement ride by an employee who is under the influence of drugs or alcohol.
9. Operating an amusement ride that has undergone a major modification without certification from a professional engineer that the amusement ride is in compliance with Section 616.242, F.S. or Chapter 5F-8, F.A.C.
10. Operating an amusement ride in violation of any order of the Department, or any court, or an Immediate Final Order.
11. Failure to provide track safety barriers that are constructed to prevent a vehicle from overturning or running over or under the barrier, as required by paragraph 5F-8-015(6)(b), F.A.C.
12. Failure to describe and demonstrate to patrons emergency signals prior to operation of vehicles, as required by paragraph 5F-8.015(4)(n), F.A.C.
13. Failure to instruct patrons as to safe operation procedures, as required by paragraph 5F-8.015(4)(o), F.A.C.
14. Failure to enforce rules for safe operations, as required by paragraph 5F-8.015(4)(p), F.A.C.
15. Operation of an amusement ride at a speed in excess of its maximum safe operating speed.

Rulemaking Authority 616.165, 616.242(4) FS. Law Implemented 616.242(4)(b), (18), (19) FS. History–New \_\_\_\_\_.

5F-8.0128 Resolution of Violations, Settlement, and Additional Enforcement Remedies.

(1) The Department and person charged with a violation may agree to resolve violations prior to an administrative hearing, or may enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule chapter shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120 or Chapter 616, F.S.

(2) Failure to respond to an administrative complaint shall result in the entry of a Default Final Order against the violator or entity responsible for the violation. The Department shall impose administrative fines in a Default Final Order equal to the maximum amount allowable under Section 616.242(19), F.S.

(3) A failure to comply with either a Final Order or a Default Final Order of the Department shall result in revocation the owner’s permit or inspection certificate and an administrative fine against the owner of the amusement ride of \$2,500 per violation, per day. Additional penalties shall be sought through the enforcement of the order in circuit court.

Rulemaking Authority 616.165, 616.242(4) FS. Law Implemented 616.242(4)(b), (18), (19) FS. History–New \_\_\_\_\_.

5F-8.014 Training of Managers, Attendants and Maintenance Persons.

The owner or manager shall maintain a record of employee training required by Section 616.242(16), F.S., on Department Form DACS 03431, Rev. 12/09, Employee Training Record.

Rulemaking Specific Authority 616.165, 616.242(4) FS. Law Implemented 616.242(16) FS. History–New 7-31-94, Amended 2-14-99, 5-30-05, \_\_\_\_\_.

5F-8.015 Regulation of Go-kart Tracks and Similar Vehicles.

(1) through (3) No change.

(4) Operations.

(a) through (d) No change.

(e) Go-kart attendants shall be positioned so that they can observe go-kart operations and reach any section of the go-kart track immediately. In addition, observation of go-kart facility operations may be supplemented. Every section of a track shall be monitored during its operation. This shall be done visually by attendants or by electronic visual and audio means.

Attendants shall not be engaged in the operation of other amusement rides although they may observe go-kart operations on an adjacent track.

- (f) through (p) No change.
- (5) No change.
- (6) Track and Course Requirements.
- (a) through (d) No change.
- (e) Every track shall be surrounded by a fence or barrier. Fencing and gates shall be in accordance with Rule 5F-8.0125, F.A.C. Fences manufactured after January 1, 1993 shall be in accordance with ASTM F-24 Committee Standard F-1159-92 (4th Edition 1992).

- (f) through (g) No change.
- (7) through (9) No change.

Rulemaking Specific Authority 616.165, 616.242(15) FS. Law Implemented 616.242 FS. History—New 7-31-94, Amended 2-14-99, \_\_\_\_\_.

5F-8.016 Regulation of Water Parks.

- (1) through (5) No change.
- (6) Operations.
- (a) The owner/manager shall operate each water related amusement ride in accordance with its operations manual and manufacturer requirements.

(b) Owners or attendants shall instruct all patrons as to safe operation procedures.

(c) Owners or attendants shall enforce all rules for safe operations.

- (7) Criteria.
- (a) No change.
- (b) The water park shall be fenced. Fencing and gates shall be in accordance with Rule 5F-8.0125, F.A.C. or otherwise effectively guarded. Individual water related amusement rides need not be fenced when the water park is fenced ~~or provided with barriers.~~

- (c) through (d) No change.
- (8) No change.

Rulemaking Specific Authority 616.165, 616.242(4)(c) FS. Law Implemented 616.242(4) FS. History—New 12-6-93, Amended 2-14-99, \_\_\_\_\_.

5F-8.025 Regulation of Bungy Operations.

- (1) through (24) No change.
- (25) Fences.
- (a) through (d) No change.
- (e) Fencing and gates shall be in accordance with Rule 5F-8.0125, F.A.C.

- (26) through (44) No change.

Rulemaking Specific Authority 616.165, 616.242(4)(c), (6) FS. Law Implemented 616.242 FS. History—New 11-11-92, Amended 6-13-93, 9-21-93, 2-23-94, 4-15-94, 7-5-94, 5-7-96, 2-14-99, \_\_\_\_\_.

- 5F-8.050 Games.
- (1) through (3) No change.

(4) Authorized Games. The following games when operated in accordance with the operating standards and procedures prescribed by this rule may be exhibited at public fairs and expositions:

- (a) through (zz) No change.

(aaa) Sweeper Game. Turntables are made of 1/4" mirror measuring 16 1/4" in diameter. Sweeper arms are 9" in length and made of steel. Prize pucks are 1 1/2" lengths with a diameter of 3/4" to 1 1/2". Only the patron can activate the sweeper arm by pushing the start button located in a wooden box.

(aaa) through (fff) renumbered (bbb) through (ggg) No change.

Rulemaking Specific Authority 616.241(10), 616.242(4) FS. Law Implemented 616.241(10) FS. History—New 5-8-94, Amended 2-14-99, \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-1.0451	Florida Education Finance Program Student Membership Surveys
6A-1.045111	Hourly Equivalent to 180-Day School Year

PURPOSE AND EFFECT: The purpose and effect of this rule development is to develop an equivalent number of hours to the 180-day school year requirement, consistent with statutorily required instructional time for participation in the Florida Education Finance Program. The rule development will also amend existing Rule 6A-1.0451, F.A.C., to account for the hourly equivalent of the 180-day school year for purposes of reporting student membership for participation in the Florida Education Finance Program.

SUBJECT AREA TO BE ADDRESSED: Required instructional time for students.

RULEMAKING AUTHORITY: 1001.02(1), 1001.42(12)(a), 1001.51(11)(a), 1003.02(1)(g), 1011.60(2), 1011.61(1)(c)2. FS.

LAW IMPLEMENTED: 1001.42(12)(a), 1001.51(11)(a), 1003.02(1)(g), 1011.60(2), 1011.61(1)(a)1., 1011.61(1)(c)2. 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: February 5, 2010, 9:00 a.m. – 11:00 a.m.

PLACE: Via conference call: (888)808-6959, conference code 2450966. Anyone wishing to attend in person: Florida Department of Education, 325 W. Gaines St., Rm. 1727, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robert Large, Assistant General Counsel, 325 W. Gaines St., Room 1244, Tallahassee, FL 32399, (850)245-0442. 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 EDUCATION**

**State Board of Education**

RULE NO.: 6A-1.0955                      RULE TITLE: Education Records of Pupils and Adult Students

PURPOSE AND EFFECT: The 2009 Legislature revised Florida’s student records law in order to ensure that it aligns with federal requirements. Section 1002.22, F.S., now directs the Department of Education to review the provisions of the Family Education Rights and Privacy Act (FERPA) to ensure that it complies with certain protections and notices and adopt rules to administer Florida’s student records laws provisions. The purpose of this rule development is to revise the rule on student records to reflect recent revisions to Section 1002.22, F.S., and 34 C.F.R. 99.1, et seq. in order to ensure that Florida’s student records law is complaint with FERPA. The revisions will update statutory references, delete obsolete references and provisions, amend definitions, revise record keeping and notice requirements, and make other revisions necessary to ensure compliance with FERPA and establish the obligations of public schools and agencies when managing these records.

The result will be a rule that reflects the current requirements of FERPA and provides public schools with a framework for complying with student records requirements.

SUBJECT AREA TO BE ADDRESSED: Requirements for the creation and maintenance of student records and the rights of access, challenge, waiver, privacy and notice related to student records.

RULEMAKING AUTHORITY: 1001.02, 1002.22(3), 1003.23(5) FS.

LAW IMPLEMENTED: 1001.51(12), 1001.52(2), 1002.22, 1003.25, 1008.386, 1008.405 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, February 8, 2010, 2:00 p.m.

PLACE: Via conference call at (888)808-6959, Conference Code 2450966; Anyone wishing to attend in person: Department of Education, 325 West Gaines Street, Room 1706, Tallahassee Florida, at the time provided above

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Margaret O’Sullivan Parker, Office of the General Counsel, 325 West Gaines Street, Suite 1244, Tallahassee, FL 32399; (850)245-0443

TO REQUEST A RULE DEVELOPMENT WORKSHOP please contact Lynn Abbott, Agency Clerk at lynn.abbott@fldoe.org or (850)245-9661

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-10.044                      RULE TITLE: Residency for Tuition Purposes

PURPOSE AND EFFECT: Section 1009.21, F.S., governing the determination of resident status for tuition purposes, was revised during the 2009 legislative session. The rule must be amended to be consistent with the revised statute.

SUBJECT AREA TO BE ADDRESSED: Residency for Tuition Purposes.

RULEMAKING AUTHORITY: 1009.21(12) FS.

LAW IMPLEMENTED: 1009.21 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, Division of Florida Colleges, Department of Education, 325 West Gaines Street, Room 1532G, Tallahassee, Florida 32399-0400, (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), (10) 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:** February 22, 2010, 1:00 p.m.

**PLACE:** Wyndham Orlando Resort – Jasmine Room, 8001 International Drive, Orlando, Florida 32819

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, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-1681. 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**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
14-85.024	Permit Renewal
14-85.025	Denial, Revocation, Suspension, or Cancellation of Permit

**PURPOSE AND EFFECT:** The proposed amendments will establish payment options for years in which annual fees increase by more than 20%.

**SUBJECT AREA TO BE ADDRESSED:** The amendments address the payment of logo sign permit fees.

**RULEMAKING AUTHORITY:** 334.044(2), 479.261(1) FS.

**LAW IMPLEMENTED:** 479.261(3), 479.261(4) 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:** February 17, 2010, 9:00 a.m. – 12:00 Noon

**PLACE:** Department of Transportation, Haydon Burns Building, Suwannee Room, 605 Suwannee Street, Tallahassee, Florida 32399-0458

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT 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:**

**14-85.024 Permit Renewal.**

(1) Each year, a dated renewal billing shall be sent to current permittees specifying the permit fee amount, due date, Interstate and interchange location, number of panels, and name ~~on~~ of the business logo.

(2) Permit renewal payments must be received by the Program Administrator no later than 5:00 p.m. on December 1 of each year. In any year in which the average annual fee increases by more than 20% and upon request by the permittee, the Department shall extend the due date for (thirty) 30 days.

(3) In any year in which the average annual fee increases by more than 20% and upon request by the permittee, the Department shall accept payments on an installment basis. Installments shall be paid in accordance with the following provisions:

(a) No more than four (4) quarterly installments of equal amount shall be authorized.

(b) The first installment payment shall be paid no later than 5:00 p.m. on the due date established in accordance with subsection (2).

(c) Payment for each subsequent quarter shall be paid at least thirty (30) days prior to the beginning of that quarter.

(d) Failure to submit each quarterly payment by the required date will result in the revocation of the permit pursuant to subsection 14-85.025(2), F.A.C.

(4)(3) It is the responsibility of the permit holder to keep the Program Administrator informed of ~~all~~ any address changes, ownership changes, contact changes, and billing address changes, as well as ~~and~~ any other changes occurring after impacting notification or participation eligibility that have occurred since the last renewal period, which may impact the permittee's notification of their participation eligibility.

~~(4) If the Program Administrator has not received the permit fee(s) by 5:00 p.m. Eastern Standard time on December 1, the Department shall revoke the logo permit.~~

Rulemaking Authority 334.044(2), 479.261(1) FS. Law Implemented 479.261(3), 479.261(4) FS. History–New 12-15-09, Amended \_\_\_\_\_.

14-85.025 Denial, Revocation, Suspension, or Cancellation of Permit.

(1) No change.

(2) Revocation. A business’s permit to participate in the logo sign program shall be revoked if:

(a) The business no longer meets the eligibility requirements as outlined in this rule chapter, ~~and~~ has not been granted a suspension pursuant to subsection (3) below, or the Program Administrator has not received the permit fees by 5:00 p.m. on December 1, unless the Department has extended the payment due date pursuant to subsections 14-85.024(2) and (3), F.A.C. if permit fees are not received by the Program Administrator by 5:00 p.m. Eastern Standard time on December 1.

(b) No change.

(3) through (5) No change.

Rulemaking Authority 334.044(2), 479.261(1) FS. Law Implemented 479.261(3), 479.261(4) FS. History–New 12-15-09, Amended \_\_\_\_\_.

**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.”

**PUBLIC SERVICE COMMISSION**

RULE NO.: 25-22.033  
 RULE TITLE: Communications Between Commission Employees and Parties

PURPOSE AND EFFECT: To codify Commission policy on communication with parties and interested persons. Undocketed.

SUBJECT AREA TO BE ADDRESSED: Communication with parties and interested persons.

RULEMAKING AUTHORITY: 350.01(7), 350.127(2) FS.

LAW IMPLEMENTED: 120.569, 120.57, 350.042 FS.

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

DATE AND TIME: Wednesday, February 10, 2010, 9:30 a.m.

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, IF AVAILABLE, IS: Samantha Cibula, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6202. The preliminary text of the proposed rule development will be available on the Commission's Web site, [www.floridapsc.com](http://www.floridapsc.com), on January 27, 2010

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

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-208.504  
 RULE TITLE: Criteria for Assignment to Staff Housing

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to include in the list of priority positions staff members who are duty wardens and whose duty station is an institution.

SUBJECT AREA TO BE ADDRESSED: Staff Housing.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-208.504 Criteria for Assignment to Staff Housing.

The warden shall assign staff housing based upon the best interests of the institution and the following:

(1) Houses, Apartments and Mobile Homes.

(a) To the extent that houses, apartments and mobile homes are available, certain priority staff of a major institution shall be required to live at the institution of their assignment so that emergencies can be resolved with a minimum of delay. An institution with insufficient housing for its priority staff may be

allocated such housing at a nearby institution by the Regional Director. The following priority staff are listed in the order of priority by which the assignment of at least one employee in each category shall be considered by the warden. The warden also has authority to recommend that these personnel live off the grounds. Only the Secretary may alter these priorities based upon proof of an employee's significant personal hardship or in the best interests of the Department.

1. through 4. No change.

5. A staff member who is a Duty Warden and whose duty station is an institution.

5. through 8. renumbered 6. through 9. No change.

(b) No change.

(2) Mobile Home Spaces.

(a) No change.

(b) Employees or occupants of personally owned mobile homes must provide proof of ownership by title or registration. Compliance with this requirement shall be noted on Form DC2-808A, Staff Housing Agreement ~~the staff housing agreement, Form DC2-808A. Form DC2-808A is incorporated by reference in Rule 33-208.506, F.A.C.~~

(c) through (d) No change.

(3) Rooms in Officer Quarters.

(a) through (b) No change.

(c) The warden of a major institution shall designate one or more rooms in an officer quarters for use by department employees temporarily visiting the institution on official duty when so requested by the Secretary ~~secretary~~ to meet the housing needs of such employees.

(4) No change.

(5) Any occupant of staff housing, including officers quarters, state mobile homes and personally owned mobile homes, who is not on the priority or non-priority list shall be permitted to remain an occupant of staff housing provided that he or she abides by the provisions of this rule. This rule provision shall apply to all occupants who reside in any type of staff housing prior to and on the effective date of this amendment.

Rulemaking Specific Authority 944.09(1), 945.025(1) FS. Law Implemented 20.315, 944.09(1), 944.10, 945.025(1) FS. History--New 9-1-88, Amended 9-5-89, Formerly 33-26.004, 33-602.504, Amended 8-16-00, 4-8-02, 1-19-03, 3-30-05, 9-5-06, \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE NO.:                      RULE TITLE:  
33-501.301                      Law Libraries

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: clarify the grounds for suspension or revocation of an inmate law clerk certification; clarify the process for reinstating a law clerk certification that was suspended due to inactivity; specify that inmates identified as

members or possible members of a security threat group shall not be assigned to work in a law library; and generally amend for grammatical accuracy.

SUBJECT AREA TO BE ADDRESSED: Law Libraries.

RULEMAKING AUTHORITY: 944.09, 944.11 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.11 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-501.301 Law Libraries.

(1) No change.

(2) Definitions.

(a) Central office library services: the ~~refers to~~ library services section in the bureau of institutional programs in the department's central office headquarters.

(b) Deadline: ~~refers to~~ any requirement imposed by law, court rule, or court order that imposes a maximum time limit on the filing of legal documents with the court.

(c) Illiterate: ~~refers to inmates who demonstrate~~ academic competence below the 9th grade level, as measured by the Test of Adult Basic Education as provided in Rule 6A-6.014, F.A.C.

(d) Incompetence or incompetent: ~~refers to~~ oral or written statements or conduct that demonstrates to departmental staff that an inmate law clerk does not have ability or knowledge to research and use the law library collection, to provide inmates with accurate information on the law and civil or criminal procedure, or to assist inmates in the preparation of legal documents or legal mail.

(e) Inmate law clerk: ~~refers to~~ any inmate whom ~~that~~ an institution has assigned to work in a law library in departmental inmate work assignment code L04. Inmate law clerks have successfully completed the department's law clerk training program, or have equivalent legal training, and have "LEGAL" or "LAW" certificate entries recorded in the department's offender database.

(f) Inmate law clerk trainee: ~~refers to~~ any inmate whom ~~that~~ an institution has assigned to work in a law library in departmental inmate work assignment code L03. Inmates must meet all of the qualifications established in paragraph (7)(d) to be assigned as a law clerk trainee.

(g) Inmate library clerk: ~~refers to~~ any inmate whom ~~that~~ an institution has assigned to work in the law library in departmental work assignment code L01.

(h) Interstate Corrections Compact: ~~refers to~~ an interstate agreement that permits the state State of Florida to transfer custody of Florida inmates to other state correctional systems in accordance with Sections 941.55-.57, F.S.

(i) Law library collection: ~~refers to~~ print and digital/non-print publications that include the following information: the Florida Constitution and Florida Statutes; the U.S. Constitution and U.S. Code; Florida court decisions; U.S. Supreme Court, federal circuit court, and federal district court decisions; Florida and federal practice digests; forms manuals; and secondary source materials providing research guidance in the areas of federal habeas corpus, Florida post-conviction and post-sentence remedies, and prisoner's rights. Law library collection shall also include current copies of departmental rules and regulations as provided in paragraph (5)(b).

(j) Law library supervisor: ~~refers to~~ a library program specialist, librarian specialist, library technical assistant, and, whenever these positions are vacant, any other employee whom ~~that~~ the warden or designee appoints to oversee operation of the institution's law library program.

(k) Legal assistance: ~~refers to~~ those services that the law library program or inmate law clerks provide to the inmate population. They include: providing inmates access to law library materials; assisting inmates in conducting legal research; assisting inmates with the preparation of legal documents and legal mail and administrative actions filed with the Florida Parole Commission or the Florida Bar; assisting inmates with the preparation of grievances filed with the Department of Corrections; providing inmates with access to grievance and court forms; providing indigent inmates with access to legal writing supplies pursuant to Rule 33-210.102, F.A.C.; and providing copying services to inmates pursuant to Rule 33-501.302, F.A.C.

(l) Library services administrator: ~~the~~ ~~refers to~~ departmental employee in the bureau of institutional programs who is responsible for statewide coordination of library and law library services.

(m) Official state holiday: ~~refers to~~ any day that the governor or the state legislature of the state of Florida designates a state holiday.

(n) Open population inmates: ~~refers to~~ inmates housed in general population at an ~~a~~ institution or unit with a law library and any inmates housed at satellite correctional facilities if law libraries are not located there.

(o) Personal legal papers: ~~refers to~~ legal documents, legal correspondence, research notes, and transcripts relating to ongoing civil or criminal litigation where the inmate is a named plaintiff or defendant.

(p) Primary source material: ~~refers to~~ legal research materials that constitute the law or have the force of law. These include constitutions, statutes, treaties, administrative rules, court rules, and court decisions.

(q) Priority access: ~~refers to~~ the act of providing an inmate with exceptional access to the law library collection, inmate law clerks, interlibrary loan services, or to copying services.

(r) Research items: ~~refers to~~ photocopies of cases, ~~and~~ statutes, ~~and~~ tables of contents, sections, or chapters from other reference titles in the institution's law library collection; that ~~which~~ are lent ~~loaned~~ to inmates for legal research purposes. These do not include the inmate's personal legal papers, pleadings, or transcripts.

(s) Satellite correctional facilities: ~~refers to~~ a medium or minimum custody correctional facility, such as an annex, work camp, road prison, forestry camp, or drug treatment center. Satellite correctional facilities do not include work release centers.

(t) Working day: ~~refers to~~ any weekday, i.e., Monday to Friday, except when the day is an official state holiday.

### (3) Law Library Access – General.

(a) Hours of Operation. Law libraries shall be open for inmate use a minimum of 25 hours per week, except weeks that ~~which~~ include official state holidays. Only times that inmates have access to the law library collection and inmate law clerks, or when inmate law clerks are providing research assistance to close management, death row, other special status populations, shall be counted. The law library's operating schedule shall be designed to permit inmates access to legal materials consistent with:

1. Inmates' ~~The inmate's~~ security classification and housing assignments ~~assignment~~;
2. through 4. No change.

(b) Inmates at satellite correctional facilities without law libraries shall be provided access to the law library and inmate law clerks by means of correspondence, except as otherwise provided in paragraphs (3)(d), (e), and (f).

(c) Inmates who are temporarily transferred to correctional or medical facilities outside the department may secure legal assistance and ~~and/or~~ access to legal research materials by submitting a written request to the library services administrator in the central office; or the law library supervisor at the institution from which they were transferred. Inmates who are serving sentences imposed by the Florida courts by virtue of the Interstate Corrections Compact may secure legal assistance and access to legal research materials by writing the library services administrator in the central office. Correspondence should be directed to the Florida Department of Corrections, Attention: Library Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(d) Law libraries shall provide interpreters for any language, other than English, that is ~~that~~ native to 5 percent or more of the statewide inmate population. Inmates ~~Such inmates~~ at satellite correctional facilities who require an interpreter shall be provided an opportunity to visit the law library within 1 week of submitting an oral request or Form DC6-236, Inmate

Request, for legal assistance to the law library supervisor or other facility staff. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(e) No change.

(f) Inmates who must meet deadlines imposed by law, court rule, or court order shall be given priority in the use of the law library and related legal services. However, the inmate shall be responsible for notifying the department of the deadline in a timely manner. Department staff shall respond to a request for special access to meet a deadline within 3 working days of receipt of the request, not including the day of receipt. This period shall not be shortened due to the failure of the inmate to give timely notice of the deadline.

1. through 4. No change.

(g) No change.

(h) Inmates who mutilate, deface, or pilfer law library materials shall be subject to formal disciplinary action as provided in Rules 33-601.301-.314, F.A.C., and penalties for infraction may include a temporary suspension of the inmate's privilege of on-site use of the law library of up to 30 days. The disciplinary team ~~that~~ ~~which~~ presides over the disciplinary hearing shall determine the length of the suspension after considering the inmate's past record of rule infractions while in the law library, assessing the material damage to the legal research collection, and determining whether the damage to the collection was intentional or inadvertent. Inmates who have been suspended from the law library shall conduct business through correspondence or through inmate law clerks rather than through personal visits to the law library. However, steps shall be taken to ensure that the inmate is not denied access to legal material during this suspension.

(4) Law Library Access for Inmates in Administrative Confinement, Disciplinary Confinement, Close Management, Protective Management, on Death Row, and in Medical or Mental Health Units.

(a) Inmates in administrative confinement, disciplinary confinement, ~~and~~ close management, and maximum management shall be permitted to have access to their personal legal papers and law books, to correspond with the law library, to have the law library deliver legal materials to their cells, and, as provided in paragraphs (3)(e) and (f), to visit with inmate law clerks. Efforts shall be made to accommodate the research needs of inmates who have filing deadlines imposed by law, court rule, or court order.

1. through 2. No change.

(b) through (e) No change.

(f) Inmates shall be limited to possession of no more than 15 research items from the law library. Research items shall be ~~lent loaned~~ for a maximum of 21 days. Inmates who fail to return research items within 21 days shall be subject to disciplinary action as provided in Rules 33-601.301-.314,

F.A.C. Institutions shall also limit the accumulation of research materials when possession of same in an inmate's cell creates a safety, sanitation, or security hazard.

(5) Law Library Collections.

(a) through (e) No change.

(f) Requests for the addition or deletion of titles in law library collections shall be submitted in writing to the library services administrator in the central office. The library services administrator shall review all requests and make a recommendation to the chief of the bureau of institutional programs. Requests shall be reviewed according to the material's primary research value and whether it substantively provides additional information, or merely duplicates what is in the current collection. If the recommendation is approved, the materials shall be ordered and placed in law library collections.

(g) through (h) No change.

(6) Interlibrary Loan Services.

(a) Inmates at satellite correctional facilities without law libraries, who need access to legal materials in law library collections, shall submit Form DC5-152, Law Library Interlibrary Loan Request, or Form DC6-236, Inmate Request, to the law library supervisor at the main unit of the institution. Form DC5-152 is incorporated by reference in subsection (11) of this rule.

1. through 3. No change.

(b) through (c) No change.

1. Inmates needing such materials are to submit Form DC5-152, Law Library Interlibrary Loan Request, to the institution's law library supervisor. Form DC5-152, ~~Law Library Interlibrary Loan Request~~, is to include the full and complete citation of the material needed, and a written justification on why the material is needed. If any deadlines apply, the date of the deadline is to be noted on Form DC5-152, ~~Law Library Interlibrary Loan Request~~. The law library supervisor is then to forward the request to the library services administrator in the central office. The correct mailing address is: Department of Corrections, Attention: Library Services, 2601 Blair Stone Road, Tallahassee, FL 32399-2500.

2. The library services administrator or designee shall review the request and either approve it or disapprove it. If the request is disapproved, the reason for disapproval will be noted on the request and the request shall be returned to the requesting law library. The law library supervisor will provide a copy of Form DC5-152, Law Library Interlibrary Loan Request, to the inmate. If the request is approved, the request shall be forwarded to the Florida State University law library for completion. When the completed work is received from the Florida State University law library, it shall be mailed to the requesting law library. The law library supervisor will provide a copy of Form DC5-152, ~~Law Library Interlibrary Loan Request~~, and the requested material to the inmate.

(d) Inmates with deadlines imposed by law, court rule, or court order shall be given priority in the handling of interlibrary loan requests, and such requests shall be submitted separately from requests not involving deadlines.

(e) through (f) No change.

(7) Use of Inmates as Clerks in Law Libraries.

(a) No inmate whom the department has identified as a member or suspected member of a security threat group (STG) shall be assigned to work in a law library.

(b) Inmate library clerks: law libraries shall be assigned inmates as library clerks to perform work of a clerical nature. Duties of library clerks include circulating legal materials, maintaining law library files, keeping the law library clean and orderly, and assisting the law library supervisor in collecting statistics, preparing reports and correspondence, and other job tasks related to program operations. Library clerks who are assigned only such work shall not be required to complete the law clerk training program. Inmates assigned as library clerks shall not assist inmates in the preparation of legal documents and legal mail, and shall not be assigned to conduct confinement visits unless accompanied by an inmate law clerk.

~~(c)(b)~~ Inmate law clerk trainees: inmates who have no formal training in legal research and who wish to work as inmate law clerks in law libraries shall be assigned as law clerk trainees, and shall be required to attend and successfully complete the law clerk training program. Inmates assigned as law clerk trainees shall not assist inmates in the preparation of legal documents and legal mail, and shall not be assigned to conduct confinement visits unless accompanied by an inmate law clerk.

~~(d)(e)~~ Inmate law clerks: law libraries shall be assigned inmates as inmate law clerks to assist inmates in the research and use of print and digital or non-print resources in the law library collection, and in the drafting of legal documents, legal mail, administrative actions filed with the Florida Parole Commission, the Florida Bar, and other administrative bodies, and inmate grievances filed with the Department of Corrections. A minimum of 2 inmate law clerks shall be assigned to law libraries in adult institutions, and a minimum of 1 inmate law clerk shall be assigned to law libraries in youthful offender institutions. Institutions shall assign additional inmate law clerks to the law library as needed to ensure that illiterate and impaired inmates are provided research assistance.

~~(e)(d)~~ Qualifications. Inmate law clerks shall:

1. Have a high school diploma, general educational development, or Test of Adult Basic Education (TABE) ~~total battery~~ subtest scores of grade 9.0 or higher in reading and language, or otherwise demonstrate that he or she possesses the reading and language skills necessary to read and understand the law, to conduct legal research, and to assist other inmates in legal research and the preparation of legal documents.

2. through 3. No change.

4. Display a willingness to work and cooperate with others and the ability to perform the general duties of an inmate law clerk, including good oral and written communication skills, good comprehension, and intelligence.

~~(f)(e)~~ Law clerk training program. Central office library services shall develop a training program to provide inmates who work in law libraries with knowledge of legal research and writing, use of specific legal research materials to include digital or non-print resources in the law library collection, the law and rules of criminal law and post-conviction remedies, prisoners' civil rights, and other subject matter identified as necessary for an inmate law clerk to provide meaningful assistance to inmates. Inmates who successfully complete the law clerk training program shall be given a certificate by central office library services documenting successful completion of the program, and a notation shall be recorded in the department's offender database. Central office library services will document an inmate's successful completion of the law clerk training program in the department's offender database. Central office library services shall revoke or suspend certification for commission of acts prohibited by this section or for failure to satisfactorily perform the duties assigned to an inmate law clerk.

~~(g)(f)~~ Inmates, who have prior educational or work experience in the law, or who possess current knowledge of the law, knowledge of legal research materials, and knowledge of how to use them, may be certified by the office of library services without having to complete the law clerk training program. Admissible educational achievements or work experiences include:

1. Receipt of an associate or bachelor's degree in paralegal research or pre-law;
2. Receipt of a juris doctorate degree; or
3. One or more years of verifiable work experience as a paralegal working under the direct supervision of an attorney;~~;~~ or
4. ~~Successful completion of a written examination developed by the office of library services that verifies that an inmate possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing.~~

~~(h)(g)~~ At the time of an inmate's assignment to work in the law library, the law library supervisor shall advise the inmate that he or she is not to disclose any information about an inmate's legal case to other inmates.

~~(i)(h)~~ Incompetence. The law library supervisor shall immediately remove an inmate law clerk from his or her work assignment in the law library upon demonstration that the inmate law clerk is incompetent. When a law library supervisor removes an inmate law clerk for incompetence, he or she will immediately inform the library services administrator, to include providing a report detailing the reason(s) for removal. The library services administrator will review the matter to

determine whether the removal should be temporary, as when a performance deficiency can be corrected through completion of additional training, or should be permanent. If the library services administrator determines that the performance deficiencies cannot be corrected through additional training, he or she will revoke the inmate's law clerk certification. Central office library services shall also have the authority to order the removal of an inmate law clerk from his or her work assignment in the law library for incompetence.

(j)(4) Prohibited conduct: inmate law clerks. Violation of any of the provisions of this section shall result in the immediate removal of the inmate law clerk from his or her work assignment in the law library, and disciplinary action pursuant to Rules 33-601.301-.314, F.A.C. The library services administrator will be informed whenever an institution removes an inmate law clerk from the law library for any of the following reasons:

1. through 7. No change.

8. Inmate law clerks shall not display an unwillingness to work and cooperate with others or refuse or fail to perform the general duties of that work assignment. ~~Such conduct shall be defined as a failure to follow departmental rules and procedures relating to law library program operations, or violation of the rules of prohibited conduct, Rule 33-601.314, F.A.C., while in the law library or performing work-related tasks.~~

(k)(j) Upon receipt of notice that an inmate law clerk has been found guilty of a disciplinary ~~report~~ ~~infraction concerning violation of any of the provisions of subsection (7)~~, the library services administrator will review the matter to determine whether the inmate's law clerk certificate should be revoked. The determination as to whether the inmate's certificate shall be revoked shall be based on a consideration of the following factors:

1. the findings of the disciplinary report;

2. discussions with institution staff about the infraction;

3. a record of prior counseling or disciplinary action ~~for violation of the provisions of subsection (7)~~;

4. a record of multiple violations of the provisions of subsection (7); and

5. a determination that the violations of subsection (7) were intentional rather than inadvertent.

If the library services administrator determines that revocation is warranted, the inmate's law clerk training certificate shall be revoked and his or her certificate entry will be deleted from the offender database.

(k) through (n) renumbered (l) through (o) No change.

(p)(6) Central office library services shall suspend the law clerk certificate of an inmate when 4 years have passed since he or she worked in a law library as an inmate law clerk. Central office library services shall reinstate the law clerk certificate once an inmate recompletes training pursuant to paragraph (7)(f) or otherwise demonstrates, pursuant to

paragraph (7)(g), that he or she has the requisite educational experience to continue as a law clerk if the inmate demonstrates, through successful completion of a written examination, that he or she still possesses current knowledge of the law, knowledge of legal research materials and how to use them, and can communicate effectively in writing.

(q)(8) Inmate law clerks must secure prior, written approval from the law library supervisor, on Form DC5-153, Personal Legal Papers Authorization, to retain their own or another inmate's personal legal papers in the law library. Form DC5-153 is incorporated by reference in subsection (11) of this rule. At a minimum, the following information shall be documented on Form DC5-153: the committed name and DC number of the inmate who owns the papers; a list of all documents and papers to be retained in the law library and the number of pages for each; and, the committed name and DC number of the inmate law clerk who is assisting the inmate. The inmate shall then sign and date the form and submit it to the law library supervisor for approval. If the law library supervisor approves the request, he or she shall sign the form and enter the date when the personal legal papers must be removed from the law library. Inmates who do not remove their personal legal papers from the law library by that date shall be subject to formal disciplinary action as provided in Rules 33-601.301-.314, F.A.C.

1. Only those personal legal papers that are specifically needed for research, or to prepare the necessary legal documents or mail, shall be stored in the law library. The personal legal papers may be retained in the law library for only as long as it takes to prepare the needed legal documents or legal mail or for 20 calendar days, whichever is shorter.

2. No change.

(r)(9) Inmate law clerks shall not be permitted to conduct legal research or prepare legal documents and legal mail on personal legal matters during work hours unless:

1. through 2. No change.

(8) No change.

(9) Grievance and Court Forms.

(a) Law libraries shall provide inmates access to Form DC6-236, Inmate Request, and Form DC1-303, Request for Administrative Remedy or Appeal. Form DC1-303 is incorporated by reference in Rule 33-103.019, F.A.C. Inmates shall not be required to submit a Form DC6-236, ~~Inmate Request~~, in order to secure grievance forms. Inmates who request more than 5 grievance forms at a time may be required to explain how the forms will be used.

(b) No change.

(10) No change.

(11) 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.

(a) through (b) No change.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 20.315, 944.09, 944.11 FS. History—New 4-6-93, Amended 7-3-94, 11-2-94, 4-28-96, 9-30-96, 12-7-97, Formerly 33-3.0055, Amended 2-15-01, 11-4-01, 12-23-03, 1-7-07, 1-6-09, 6-16-09, \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.101  
RULE TITLE: Incentive Gain Time

PURPOSE AND EFFECT: Rule amended to clarify that only inmates who are found guilty of disciplinary reports on or after July 15, 2009 are eligible for the shortened ineligibility periods that were promulgated on that date. The change is necessary to clarify that the reduced periods of ineligibility are not, and were not intended to be, retroactive from the date of their promulgation. Language in the rule stating that “[a]ny inmate who is found guilty of a disciplinary report on or after April 21, 1996... shall be eligible to earn incentive gain time as follows” was placed in the rule only to ensure prospective application of a prior rule change in accordance with *Britt v. Chiles*, 704 So. 2d 1046 (Fla. 1997); this language is no longer necessary and will be amended to state that inmates found guilty of a disciplinary report on or after July 15, 2009 shall be eligible to earn incentive gain time pursuant to the provisions of the rule.

SUBJECT AREA TO BE ADDRESSED: Incentive Gain Time.

RULEMAKING AUTHORITY: 944.09, 944.275, 944.281 FS.  
LAW IMPLEMENTED: 944.09, 944.275, 944.281, 944.801(3)(i)5. FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-601.101 Incentive Gain Time.

(1) through (5) No change.

(6) Inmates in disciplinary confinement status are not eligible for a work/program rating even if assigned to work or programs while in disciplinary confinement. Inmates in disciplinary confinement are eligible for a security rating award which can be modified by the correctional probation officer in accordance with paragraph 33-601.101(3)(b), F.A.C.

(a) Disciplinary or court action. An inmate is not eligible to receive incentive gain time for the month in which there is an infraction of the rules of the Department or the laws of the State for which he is found guilty. Additionally, those inmates

on escape status and detained by other agencies may not be awarded incentive gain time for the period of time out of custody even though lodged in another confinement facility. Any inmate who is found guilty of a disciplinary report on or after July 15, 2009 ~~April 21, 1996~~ and who is serving a sentence imposed for an offense committed on or after October 1, 1995 shall be eligible to earn incentive gain time as follows:

I. through (8) No change.

Rulemaking Authority 944.09, 944.275, 944.281 FS. Law Implemented 944.09, 944.275, 944.281, 944.801(3)(i)5. FS. History—New 2-26-80, Amended 1-12-83, 1-31-85, 10-7-85, Formerly 33-11.065, Amended 4-28-87, 7-12-89, 7-17-90, 10-16-90, 10-14-91, 2-17-93, 4-17-94, 7-17-94, 4-21-96, 6-1-97, 10-7-97, 3-11-98, 5-12-98, 7-9-98, 9-17-98, Formerly 33-11.0065, Amended 7-15-09, \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-4.230  
RULE TITLE: Physician Services

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-4.230, F.A.C., is to incorporate by reference the Florida Medicaid Physician Services Coverage and Limitations Handbook, January 2010. The effect of the update will provide for new Medicaid policy that allows coverage for intrathecal baclofen therapy (ITB) used to manage severe spasticity of spinal cord or cerebral origin. It will include limitations of coverage, prior authorization requirements for the ITB infusion pump, and conditions of payment for this device.

SUBJECT AREA TO BE ADDRESSED: Physician Services.

RULEMAKING AUTHORITY: 409.919 FS.  
LAW IMPLEMENTED: 409.905, 409.907, 409.908, 409.9081 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: Friday, February 19, 2010, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room B, 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 48 hours before the workshop/meeting by contacting: Alyssa Anderson at the Bureau of Medicaid Services, (850)487-3056. 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: Alyssa Anderson, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308, (850)487-3056



THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.230 Physician Services.

(1) No change.

(2) All physician services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Services Coverage and Limitations Handbook, ~~January 2010~~ ~~January 2007, errata January 2007, updated January 2007 and May 2007,~~ which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's website at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com) ~~http://floridamedicaid.aes-inc.com~~. Click on Public Information for Providers, Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling Provider Enrollment at (800)377-8216.

(3) through (5) No change.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.905, 409.907, 409.908, 409.9081 FS. History—New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.038, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99, 4-23-00, 8-5-01, 2-20-03, 8-5-03, 8-3-04, 8-18-05, 8-31-05, 10-26-06, 2-11-07, 5-7-07, 7-2-07, 11-15-07,\_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Cosmetology**

RULE NO.: 61G5-22.006  
 RULE TITLE: Facials (Including Skin Care and Hair Removal)

PURPOSE AND EFFECT: The purpose for amendment to this rule is to separate the requirements for hair removal training and from that to facial training to make the requirements more easily distinguishable for prospective licensees and licensees.

SUBJECT AREA TO BE ADDRESSED: Requirements for Hair Removal and Facials.

RULEMAKING AUTHORITY: 477.016 FS.

LAW IMPLEMENTED: 477.0201, 477.023(2) FS.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robyn Barineau, Executive Director, Board of Cosmetology, P. O. Box 5377, Tallahassee, Florida 32314-5377

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE NO.: 64B17-3.002  
 RULE TITLE: Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure; Florida Jurisprudence Examination

PURPOSE AND EFFECT: To change the name of the Jurisprudence Exam, place a time limit on valid scores, and change the application.

SUBJECT AREA TO BE ADDRESSED: Changing the name of the Jurisprudence Exam, placing a time limit on valid scores, and changing the application.

RULEMAKING AUTHORITY: 456.017, 486.025, 486.051 FS.

LAW IMPLEMENTED: 456.017, 486.051 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: Susan Love, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE NO.: 64B17-4.002  
 RULE TITLE: Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure; Florida Jurisprudence Examination

PURPOSE AND EFFECT: To change the name of the Jurisprudence Exam and to place a time limit on valid scores.

SUBJECT AREA TO BE ADDRESSED: Name of the Jurisprudence Exam and time limit on valid scores.

RULEMAKING AUTHORITY: 456.017(1)(b), 486.025, 486.104 FS.

LAW IMPLEMENTED: 456.017, 486.104 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: Susan Love, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE NO.: 64B17-7.002      RULE TITLE: Citations

PURPOSE AND EFFECT: To make all deadlines in citations consistent.

SUBJECT AREA TO BE ADDRESSED: Deadlines in citations.

RULEMAKING AUTHORITY: 456.077, 486.025 FS.

LAW IMPLEMENTED: 456.077 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: Susan Love, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

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

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE NO.: 64B17-7.0027      RULE TITLE: Procedure for Compliance With Board Ordered Laws and Rules Exam

PURPOSE AND EFFECT: To move the special testing accommodations questions to another part of the application.

SUBJECT AREA TO BE ADDRESSED: Changes to the application.

RULEMAKING AUTHORITY: 456.036, 456.072, 456.079, 486.025 FS.

LAW IMPLEMENTED: 456.072, 456.073, 456.079, 486.125 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: Susan Love, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B17-7.0027 Procedure for Compliance With Board Ordered Laws and Rules Exam.

Licensees ordered to take and pass the examination as a result of a disciplinary proceeding or reinstatement, must file DOH Form #DH-MQA 1144, PT Florida Laws and Rules Examination Application, Revised 0802/09, which is available through [www.doh.state.fl.us/mqa](http://www.doh.state.fl.us/mqa).

Rulemaking Authority 456.036, 456.072, 456.079, 486.025 FS. Law Implemented 456.072, 456.073, 456.079, 486.125 FS. History--New 5-21-09, Amended 8-10-09,\_\_\_\_\_.

**DEPARTMENT OF HEALTH**

**Board of Physical Therapy Practice**

RULE NO.: 64B17-9.001      RULE TITLE: Continuing Education

PURPOSE AND EFFECT: To establish the amount of continuing education credit that will be given for college courses.

SUBJECT AREA TO BE ADDRESSED: Determination of the amount of continuing education credit that will be given for college courses.

RULEMAKING AUTHORITY: 486.025 FS.

LAW IMPLEMENTED: 456.013(6), 486.109(2) 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: Allen Hall, Executive Director, Physical Therapy Practice Board, 4052 Bald Cypress Way, Bin #C05, Tallahassee, FL 32399-3255

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

**DEPARTMENT OF HEALTH**

**Division of Emergency Medical Operations**

RULE NO.: 64J-2.010  
 RULE TITLE: Apportionment of Trauma Centers Within a Trauma Service Area (TSA)

PURPOSE AND EFFECT: To obtain public input on the apportionment of trauma centers within Trauma Service Area 1.

SUBJECT AREA TO BE ADDRESSED: Trauma Service Area.

RULEMAKING AUTHORITY: 395.405 FS.

LAW IMPLEMENTED: 395.4015, 395.402, 395.405 FS.

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

DATE AND TIME: Wednesday, February 10, 2010, 11:00 a.m. EST (10:00 a.m. CST)

Participation is also available via conference call. Dial 1(888)808-6959, enter code 2354440.

PLACE: Okaloosa County Health Department – Crestview Location – 810 East James Lee Blvd., Auditorium, Crestview, FL

DIRECTIONS: Contact Tammy Meadows at (850)833-9240, x2112.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Janet Collins at the following email address: Janet\_Collins@doh.state.fl.us or by Fax (850)488-2512. 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: Susan McDevitt at (850)245-4440, ext. 2760 or via email at susan\_mcdevitt@doh.state.fl.us

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

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Accounting and Auditing**

RULE NO.: 69I-20.090  
 RULE TITLE: Orders or Settlements Requiring Restitution

PURPOSE AND EFFECT: The registration forms codified in Rule 69I-20.001, F.A.C., are being amended, in part, to clarify that the applicant must provide the federal tax identification number of the applicant’s employer rather than the applicant’s social security number and to clarify that only the registrant may sign the claim form, power of attorney and the purchase

agreement. The existing notarized statement form codified in Rule 69I-20.0022, F.A.C., is being amended to expressly state that the claimant must produce the claimant’s photographic identification to the notary. The proposed amendment to Rule 69I-20.0022, F.A.C., also creates affidavits attesting to the claimant’s or seller’s identity to be used only when the claimant or seller does not possess any form of government-issued photographic identification. The claimant affidavit codified in Rule 69I-20.0026, F.A.C., is being amended, in part, to provide a space for the claimant to put the description of the unclaimed property and to put the name of the holder that reported the property. The amended affidavit also requires the claimant to provide an explanation regarding why the claimant believes that he or she is the reported owner of the unclaimed property account. Proposed Rule 69I-20.0037, F.A.C., creates a form for the reporting of the precious metals in accordance with Section 538.32, Florida Statutes. Proposed Rule 69I-20.090, F.A.C., provides model language that may be used in orders or settlements requiring restitution. The recommended paragraphs require that uncashed restitution checks be reported as unclaimed property. The language may be modified to fit the facts of the particular case.

SUBJECT AREA TO BE ADDRESSED: The registration of claimant’s representatives, the notarized statement form, affidavits attesting to the unclaimed property owner’s identity, the claimant affidavit, orders or settlements requiring restitution, and reporting form for Section 538.32, Florida Statutes.

RULEMAKING AUTHORITY: 717.117(1), 717.138 FS.

LAW IMPLEMENTED: 92.525, 117.05, 538.31, 538.32, 717.117, 717.119, 717.124, 717.12403, 717.12404, 717.12405, 717.1242, 717.1243, 717.126, 717.1261, 717.1262, 717.135, 717.1351, 717.139, 717.1400, 732.102, 732.103 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, February 25, 2010, 9:30 a.m.

PLACE: Suite B 103, The Fletcher Building, 101 E. Gaines St., 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: Paul C. Stadler, Jr. 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: Paul C.

Stadler, Jr., Assistant General Counsel, Department of Financial Services, 200 E. Gaines St., Tallahassee, Florida 32399-4247, (850)413-3010

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-44.022  
**RULE TITLE:** Report of Unclaimed Property under Sections 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816 or 744.534, Florida Statutes

**PURPOSE AND EFFECT:** Proposed Rule 69I-44.022, F.A.C., incorporates a form into the Department’s rules for the reporting of the unclaimed funds in accordance with Sections 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816 and 744.534, Florida Statutes.

**SUBJECT AREA TO BE ADDRESSED:** Reporting forms for Sections 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816 and 744.534, Florida Statutes.

**RULEMAKING AUTHORITY:** 17.29, 624.308(1) FS.

**LAW IMPLEMENTED:** 17.05(1), 17.29, 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816, 744.534 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, February 25, 2010, 9:30 a.m.  
**PLACE:** Suite B 103, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida

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**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Paul C. Stadler, Jr., Assistant General Counsel, Department of Financial Services, 200 E. Gaines St., Tallahassee, Florida 32399-4247, (850)413-3010

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

**Section II  
Proposed Rules**

**DEPARTMENT OF STATE**

**Division of Elections**

**RULE NO.:** 1S-2.037  
**RULE TITLE:** Provisional Ballots

**PURPOSE AND EFFECT:** The purpose of the proposed changes is to clarify the content of the notice of rights to provisional ballot voters as relates to their right to present evidence of eligibility in order to have their ballot counted and their right to find out if their provisional ballot was counted, and if not, why. The proposed changes will make the notice consistent with the procedures implemented in response to 2008 legislative changes to Section 97.053(6), Florida Statutes.

**SUMMARY:** Specifically, the proposed changes highlight what evidence must be presented by a specific class of voters who may vote provisionally, i.e., those who vote provisionally solely because their Florida driver’s license number, Florida identification card number, or social security number was unverified by the time they presented to vote. Such provisional ballot voter can either present identification in person or provide a copy of such identification by mail, fax or email to the Supervisor of Elections. The identification must still be presented to or received by Supervisor of Elections no later than 5 pm. of the second day following the election if the voter wants the evidence to be considered by the county canvassing board for purposes of counting the provisional ballot. The proposed changes also eliminate reference to the procedures that were applicable prior to January 1, 2008 and also make non-substantive organizational changes to the rule.

**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:** 20.10(3), 97.012(1), 101.048 FS.

**LAW IMPLEMENTED:** 97.053(6), 101.048 FS.

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

**DATE AND TIME:** February 15, 2010, 3:00 p.m.  
**PLACE:** Room 307, R. A. Gray Building, Florida Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Eddie L. Phillips, Executive Office Assistant,