

**PURPOSE AND EFFECT:** The purpose of the proposed rule amendment is to revise the existing rule to reflect certain provisions of Senate Bill 2176, a general insurance bill passed by the 2010 Legislature. The relevant statute, Section 626.99(4)(c), F.S., has been amended to require cover pages for fixed and variable annuity contracts. The effect of the proposed rule is to provide clear and concise information to consumers regarding their rights to cancel annuity contracts and to receive unconditional refunds. In addition to the mandatory formatting requirements, the proposed rule amendment requires that annuity cover pages contain specific cautionary language to inform consumers of the risks, policy features and contact sources for those seeking additional information or to report complaints.

**SUBJECT AREA TO BE ADDRESSED:** Annuity Policy Cover Pages.

**RULEMAKING AUTHORITY:** 624.308(1), 626.016, 627.4554(10) FS.

**LAW IMPLEMENTED:** 624.307(1), 626.308, 626.99(4)(c), 627.4131, 627.4554 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, December 13, 2010, 10:00 a.m.  
**PLACE:** Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Richard Brinkley, Special Investigator, Bureau of Investigation, Division of Agent & Agency Services, Florida Department of Financial Services, 200 E. Gaines Street, Tallahassee, Florida 32399-0320, (850)413-5654

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

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

## Section II Proposed Rules

### DEPARTMENT OF EDUCATION

#### State Board of Education

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
6A-1.0014	Comprehensive Management Information System

**PURPOSE AND EFFECT:** The purpose of this rule amendment is to revise existing requirements of the statewide comprehensive management information system which are necessary in order to implement changes recommended by school districts and to make changes in state reporting and local recordkeeping procedures for state and/or federal programs. The effect is to maintain compatibility among state and local information systems components.

**SUMMARY:** The rule incorporates revisions to selected data elements, procedures and timelines for state reporting, local recordkeeping, and statewide records transfer which are to be implemented by each school district and the Department of Education within the automated statewide comprehensive management information system. The rule contains the security, privacy and retention procedures to be used by the Department of Education for school district, student, staff and finance records collected and maintained at the state level.

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

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

**RULEMAKING AUTHORITY:** 120.536(1), 120.54, 1001.02(1), 1002.22(3)(a), 1008.385(3) FS.

**LAW IMPLEMENTED:** 1002.22, 1008.385(2), 1010.305 FS.  
**A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** December 17, 2010, 11:00 a.m.  
**PLACE:** Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Lavan Dukes, Education Information and Accountability Services Section, Department of Education, 325 West Gaines Street, Room 852, Tallahassee, Florida 32399-0400, (850)245-0400

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

6A-1.0014 Comprehensive Management Information System.  
 (1) No change.

(2) The data elements, procedures and timelines for state reporting, local recordkeeping and statewide records transfer to be implemented by each school district and the Department within its automated information system component as prescribed in the publications entitled "DOE Information Data Base Requirements: Volume I – Automated Student Information System, 2010 2009," "DOE Information Data Base Requirements: Volume II – Automated Staff Information System, 2010 2009," and "DOE Information Data Base Requirements: Volume III – Automated Finance Information System, 1995." These publications which include the Department procedures for the security, privacy and retention of school district student and staff records collected and maintained at the state level are hereby incorporated by reference and made a part of this rule. Copies of these publications may be obtained from Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(3) No change.

Rulemaking Authority 1001.02(1), 1008.385(3) FS. Law Implemented 1001.23, 1002.22(3)(d)3., 1008.385(2) FS. History—New 2-19-87, Amended 12-21-87, 12-13-88, 3-25-90, 3-24-91, 3-17-92, 12-23-92, 2-16-94, 3-21-95, 7-3-96, 5-20-97, 10-13-98, 10-18-99, 10-17-00, 5-19-03, 7-20-04, 4-21-05, 3-1-07, 3-24-08, 11-26-08, 12-15-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kris Ellington, Deputy Commissioner, Accountability, Research, and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

## DEPARTMENT OF EDUCATION

### State Board of Education

RULE NO.: 6A-1.099824  
RULE TITLE: Voluntary Prekindergarten (VPK) Program Good Cause Exemption

PURPOSE AND EFFECT: Pursuant to Section 1002.69, F.S., the State Board of Education, upon request of a private prekindergarten provider or public school that remains on probation for two consecutive years or more and subsequently fails to meet the minimum rate adopted under Section 1002.69(6)(a), F.S., and for good cause shown may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program. The purpose of the proposed rule is to adopt procedures and criteria for submission of a Voluntary Prekindergarten (VPK) provider's request for a good cause exemption and describe the

Department's review process before making a recommendation to the State Board of Education for approval or denial of the good cause exemption request. The effect is a rule to implement Section 1002.69, F.S.

SUMMARY: The proposed rule establishes the criteria and process for a low performing VPK provider's request for a good cause exemption under Section 1002.69, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Although the rule will impact a limited number of small businesses, no additional costs are created.

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

RULEMAKING AUTHORITY: 1002.67(3)(c)4., 1002.69(7), 1002.79 FS.

LAW IMPLEMENTED: 1002.67(3)(c)4., 1002.69(7) FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stuart Greenberg, Executive Director, Just Read, Florida! and the Office of Early Learning, Department of Education, Suite 514, 325 West Gaines Street, Tallahassee, Florida 32399; (850)245-0445

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 6A-1.099824 Voluntary Prekindergarten (VPK) Program Good Cause Exemption.

Pursuant to Section 1002.69, F.S., the State Board of Education, upon request of a private prekindergarten provider or public school that remains on probation for two (2) consecutive years or more and subsequently fails to meet the minimum rate adopted under Section 1002.69(6)(a), F.S., and for good cause shown may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

(1) Criteria for Granting Good Cause Exemptions. Each of the following criteria must be met to be granted a good cause exemption:

(a) Learning Gains. The private prekindergarten provider or public school must demonstrate learning gains on a standardized assessment that tracks the achievement and progress over time of the children having completed the provider's VPK program. The documentation of learning gains shall meet the following criteria:

1. Providers may utilize an assessment from a list of Department-approved assessments which may be accessed on the Department's website at <https://vpk.fl DOE.org/Downloads/ProviderAcknowledgement.pdf>. A provider using an assessment which does not appear on the list of approved assessments must include technical documentation supporting the standardized assessment as evidence of the reliability standard of the assessment and must address VPK standards incorporated in Rule 6A-1.099823, F.A.C., not limited to, but including emergent literacy. The standardized assessment must have an internal consistency reliability coefficient of 0.70 or greater as documented in the publisher's technical manual.

2. Testing procedures for each assessment shall be performed according to the publisher's guidelines and assessment results shall be tabulated according to the publisher's guidelines. The provider shall take appropriate measures to ensure the integrity of the testing process. The resulting data from the standardized assessment must be presented in a manner that is clear, concise and easily allows the reviewers to determine the achievement and progress made by the children who completed the VPK program. Applicant must submit a summary of the data using the Department's VPK Good Cause Exemption Data Form VPK-GCE-01, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00031>) January 2011, which is incorporated by reference herein.

3. At a minimum, data must be provided for all years following the third year of a provider having been designated a low performing provider. Additional data may be included. Assessment results for all program completers who were assessed shall be included in the documentation provided. An explanation shall be included for any program completers who were not assessed.

4. The results of the assessment shall demonstrate substantial and appropriate learning gains by program completers.

(b) Student Population. The private prekindergarten provider or public school must have served at least twice the statewide percentage of children with disabilities as defined in Section 1003.01(3)(a), F.S., or children identified as limited English proficient as defined in Section 1003.56, F.S.

(c) Health and Safety Requirements. Pursuant to Section 1002.69(7)(d), F.S., a good cause exemption may not be granted to any private prekindergarten provider that has any Class I violations or two or more Class II violations within the 2 years preceding the provider's or school's application for the exemption. For purposes of this rule, Class I violations and Class II violations have the same meaning as provided in Section 402.281(3), F.S. The good cause exemption application must include copies of all Department of Children and Families Childcare Inspection Checklists for all inspections performed by the Department of Children and

Families under authority of Sections 402.301-402.319, F.S., during the two-year time period prior to application for good cause exemption.

(d) Individual Circumstances. Extraordinary or unique circumstances under which the provider should be allowed to continue to deliver the Voluntary Prekindergarten Education Program after having been designated as low performing for at least four (4) consecutive years.

(e) Faithful adherence to an approved improvement plan under Section 1002.67, F.S.

(2) Calculation of Percentages:

(a) The statewide percentage of kindergarten children with disabilities or limited English proficient students shall be calculated based on the October FTE enrollment survey.

(b) A provider's percentage of children with disabilities shall be calculated based on the number of children with disabilities who were included in the provider's last readiness rate divided by the total number of students included in the provider's last readiness rate.

(c) A provider's percentage of limited English proficient students shall be calculated based on the number of limited English proficient students who were included in the provider's last readiness rate divided by the total number of students included in the provider's last readiness rate.

(3) Application. A provider seeking a good cause exemption shall complete the Department's VPK Good Cause Exemption Application Form VPK-GCE-02, (<http://www.flrules.org/Gateway/reference.asp?No=Ref-00032>) January 2011, which is incorporated by reference herein. The submission of an application for a good cause exemption must adhere to the following:

(a) In addition to the application form, the provider must submit with the application supporting documentation meeting the criteria described in subsection (1) of this rule. The provider may submit additional documentation in support of its application.

(b) A fourth-year low performing provider may submit a good cause exemption application at any time after the release of the annual preliminary VPK Readiness Rates; however, the good cause exemption application and all supporting documentation must be received by the Department no later than fourteen (14) days after the timely filed provider acknowledgment of being a low-performing provider submitted pursuant to Rule 6A-1.099821, F.A.C.

(c) The Department may, in its discretion, grant an extension of time for submitting the good cause exemption application or supporting documentation.

(4) Department Review and Recommendation.

(a) Eligibility. The Department shall review each application for a good cause exemption to verify that the provider is eligible to apply. The Department shall deny any

application that is submitted by a provider who does not meet the criteria described in paragraph (1)(b) or (1)(c) of this rule, without further review.

(b) The Department will review each application for a good cause exemption filed by an eligible provider, and shall make a recommendation to the State Board of Education as to whether or not to grant the good cause exemption to the provider. The Department may include outside consultants in the review process. The Department may request additional information from providers to supplement provider applications and may consider additional relevant documentation gathered or received by the Department from any source. The Department shall allow the provider an opportunity to rebut any evidence considered that was not submitted by the provider.

(c) The Department will consider each application individually and shall include in its recommendation and report:

1. Whether the provider met the criteria described in subsection (1) of this rule;

2. Whether the provider was previously granted a good cause exemption;

3. The readiness rates of other providers in comparable circumstances, if such information is available and relevant;

4. Whether the circumstances warrant granting the request for a good cause exemption; and

5. Whether any conditions should be imposed upon the grant of a good cause exemption. Each conclusion or recommendation shall be accompanied by an explanation in the report.

(d)1. The Department shall issue a preliminary recommendation and report and provide a copy of it to the provider.

2. The provider may submit a written response to the Department's preliminary recommendation and report within one (1) week of receipt.

3. The Department shall consider any timely response and revise the recommendation and report, if appropriate.

(5) State Board of Education Determination.

(a) The Department will make its final recommendation to the State Board of Education by forwarding a final recommendation and report to the State Board of Education regarding each application submitted. A copy of the final recommendation and report will be provided to the applicant.

(b) The Department will provide to the State Board of Education copies of the following documents:

1. The provider's good cause application, with supporting documents;

2. Additional documentation considered by the Department in making its recommendation;

3. The Department's preliminary recommendation and report;

4. The provider's response to the preliminary recommendation and report, if one was submitted; and

5. The Department's final recommendation and report.

(c) The State Board of Education may consider a provider's application based on the written submissions alone or may, in its discretion, allow oral argument before the Board.

(d) The State Board of Education shall grant or deny each application. The State Board of Education may conditionally grant an application if, but for the proposed condition(s), the application would be denied.

(e) The Department shall notify the Agency for Workforce Innovation of all good cause exemptions granted by the State Board of Education. Any provider granted a good cause exemption shall continue to implement its improvement plan and continue the corrective actions required under Section 1002.67(3)(c)2., F.S. Any exemption granted by the State Board of Education is valid for one (1) year and may be renewed through the same application process.

(f) The Department will provide onsite review of adherence to curriculum as approved in the provider's improvement plan, implementation of the VPK standards and research based instructional practices, and ensure that ongoing student progress monitoring is administered by all providers granted a good cause exemption.

Rulemaking Authority 1002.73(2), 1002.69(7) FS. Law Implemented 1002.67(3), 1002.69(7) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 17, 2010

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-5.065  
RULE TITLE: The Educator Accomplished Practices

PURPOSE AND EFFECT: The purpose of the rule amendment is to revise the existing essential practices of effective teachers that form the basis for all Florida teacher preparation programs. The effect will be the establishment of the core practices for teacher appraisal systems.

SUMMARY: Sections 1004.04, 1004.85, 1012.225, 1012.34, and 1012.56, F.S., establish requirements for educator accomplished practices that serve as the state's standards for effective instructional practice and are used to define and identify effective teaching. The Educator Accomplished Practices have not been reviewed or revised since adoption in

1998. The rule as amended will incorporate contemporary research and sound educational principles in effective educational practices.

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: 1004.04, 1004.85, 1012.225, 1012.34, 1012.56 FS.

LAW IMPLEMENTED: 1004.04, 1004.85, 1012.225, 1012.34, 1012.56 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathy Hebda, Deputy Chancellor for Educator Quality, Department of Education, Suite 1502, 325 West Gaines Street, Tallahassee, Florida 32399; (850)245-0509

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6A-5.065 follows. See Florida Administrative Code for present text):

6A-5.065 The Educator Accomplished Practices.

(1) Purpose and Foundational Principles.

(a) Purpose. The Educator Accomplished Practices are set forth in rule as Florida's core standards for effective educators. The Accomplished Practices form the foundation for the state's teacher preparation programs, educator certification requirements and school district instructional personnel appraisal systems.

(b) Foundational Principles. The Accomplished Practices are based upon and further describe three (3) essential principles:

1. The effective educator creates a culture of high expectations for all students by promoting the importance of education and each student's capacity for academic achievement.

2. The effective educator demonstrates deep and comprehensive knowledge of the subject taught.

3. The effective educator exemplifies the standards of the profession.

(2) The Educator Accomplished Practices. Each effective educator applies the foundational principles through six (6) Educator Accomplished Practices. Each of the practices is

clearly defined to promote a common language and statewide understanding of the expectations for the quality of instruction and professional responsibility.

(a) Quality of Instruction.

1. Instructional Design and Lesson Planning. Applying concepts from human development and learning theories, the effective educator consistently:

a. Aligns instruction with state-adopted standards at the appropriate level of rigor;

b. Sequences lessons and concepts to ensure coherence and required prior knowledge;

c. Designs instruction for students to achieve mastery;

d. Selects appropriate formative assessments to monitor learning;

e. Uses diagnostic student data to plan lessons; and

f. Develops learning experiences that require students to demonstrate a variety of applicable skills and competencies.

2. The Learning Environment. To maintain a student-centered learning environment that is safe, organized, equitable, flexible, inclusive, and collaborative, the effective educator consistently:

a. Organizes, allocates, and manages the resources of time, space, and attention;

b. Manages individual and class behaviors through a well-planned management system;

c. Conveys high expectations to all students;

d. Respects students' cultural and family background;

e. Models clear, acceptable oral and written communication skills;

f. Maintains a climate of openness, inquiry, fairness and support;

g. Integrates current information and communication technologies;

h. Adapts the learning environment to accommodate the differing needs and diversity of students; and

i. Utilizes current and emerging assistive technologies that enable students to participate in high-quality communication interactions and achieve their educational goals.

3. Instructional Delivery and Facilitation. The effective educator consistently utilizes a deep and comprehensive knowledge of the subject taught to:

a. Deliver engaging and challenging lessons;

b. Deepen and enrich students' understanding through content area literacy strategies, verbalization of thought, and application of the subject matter;

c. Identify gaps in students' subject matter knowledge;

d. Modify instruction to respond to preconceptions or misconceptions;

e. Relate and integrate the subject matter with other disciplines and life experiences;

- f. Employ higher-order questioning techniques;
  - g. Apply varied instructional strategies and resources, including appropriate technology, to teach for student understanding;
  - h. Differentiate instruction based on an assessment of student learning needs and recognition of individual differences in students;
  - i. Support, encourage, and provide immediate and specific feedback to students to promote student achievement; and
  - j. Utilize student feedback to monitor instructional needs and to adjust instruction.
4. Assessment. The effective educator consistently:
- a. Analyzes and applies data from multiple assessments and measures to diagnose students' learning needs, informs instruction based on those needs, and drives the learning process;
  - b. Designs and aligns formative and summative assessments that match learning objectives and lead to mastery;
  - c. Uses a variety of assessment tools to monitor student progress, achievement and learning gains;
  - d. Modifies assessments and testing conditions to accommodate learning styles and varying levels of knowledge;
  - e. Shares the importance and outcomes of student assessment data with the student and the student's parent/caregiver(s); and
  - f. Applies technology to organize and integrate assessment information.
- (b) Continuous Improvement, Responsibility and Ethics.
1. Continuous Professional Improvement. The effective educator consistently:
- a. Designs purposeful professional goals to strengthen the effectiveness of instruction based on students' needs;
  - b. Examines and uses data-informed research to improve instruction and student achievement;
  - c. Uses a variety of data, independently, and in collaboration with colleagues, to evaluate learning outcomes, adjust planning and continuously improve the effectiveness of the lessons;
  - d. Collaborates with the home, school and larger communities to foster communication and to support student learning and continuous improvement;
  - e. Engages in targeted professional growth opportunities and reflective practices; and
  - f. Implements knowledge and skills learned in professional development in the teaching and learning process.
2. Professional Responsibility and Ethical Conduct. Understanding that educators are held to a high moral standard in a community, the effective educator adheres to the Code of Ethics and the Principles of Professional Conduct of the

Education Profession of Florida, pursuant to Rules 6B-1.001 and 6B-1.006, F.A.C. and fulfills the expected obligations to students, the public and the education profession.

Rulemaking Specific Authority 1004.04, 1004.85, 1012.225, 1012.34, 1012.56 FS. Law Implemented 1004.04, 1004.85, 1012.225, 1012.34, 1012.56 FS. History--New 7-2-98, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Frances Haithcock, Chancellor, K-12 Public Schools  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

**DEPARTMENT OF EDUCATION  
 State Board of Education**

RULE NO.: 6A-6.014  
 RULE TITLE: General Requirements for Adult General Education Program

PURPOSE AND EFFECT: The rule is proposed for amendment to add two new assessments to the rule as choices to be used for placement and documentation of learning gains of a student enrolled in the adult general education program. The effect is to increase the options in the list of assessments to be utilized.

SUMMARY: Two assessments are added as choices to be used for placement and documentation of learning gains of a student enrolled in the adult general education program.

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: 1001.02(1), 1004.93(8), 1011.80(11) FS.

LAW IMPLEMENTED: 1004.93, 1011.80 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Loretta Costin, Chancellor, Career and Adult Education, Department of Education, 325 West Gaines Street, Suite 744, Tallahassee, Florida; (850)245-0446

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.014 General Requirements for Adult General Education Program.

In the operation of adult general education programs, the following general requirements shall apply:

- (1) through (3) No change.
- (4) Academic skills tests for adults.
- (a) The following tests, English language versions only, are approved to be used for placement and documentation of learning gains of a student enrolled in the adult general education program. The tests shall be used according to standards established for test administration and interpretation set forth in Standards for Educational and Psychological Testing (APA, AERA, NCME, 1999) and with appropriate accommodations for students with disabilities as specified in Section 1004.02(7), F.S.

- 1. Tests of Adult Basic Education (TABE), Complete Battery or Survey Form, Forms 9 & 10 (all active assessments as of the date of adoption of this rule);
- 2. Comprehensive Adult Student Assessment System (CASAS) (all active assessments as of the date of adoption of this rule).

3. General Assessment of Instructional Needs (GAIN) – test of English skills, Forms A & B.

4. General Assessment of Instructional Needs (GAIN) – test of Math skills, Forms A & B.

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

Rulemaking Authority 1001.02(1), 1004.93(8), 1011.80(11) FS. Law Implemented 1004.93, ~~1008.405~~, 1011.80 FS. History—Amended 2-20-64, 4-11-70, 11-17-73, 2-18-74, 6-17-74, Repromulgated 12-5-74, Amended 12-6-84, Formerly 6A-6.14, Amended 12-28-86, 10-17-89, 12-29-98, 4-26-06, 9-19-07, 8-18-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Loretta Costin, Chancellor, Career and Adult Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-6.05731	Industry Certification of Automotive Service Technology Education Programs

PURPOSE AND EFFECT: The purpose of this new rule is to establish guidelines for industry certification of automotive service technology education programs. The effect will be that all programs undergo a consistent comprehensive review.

SUMMARY: This rule establishes consistent guidelines for automotive service technology education programs to comply with Section 1004.925, F.S., which requires all programs to be industry certified by Fiscal Year 2013-2014. Each program must undergo a comprehensive review conducted by a national organization and result in an industry certification that is recognized nationally. The rule establishes minimum standards for the review as well as timelines for achieving and maintaining the certification.

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: 1004.925 FS.

LAW IMPLEMENTED: 1004.925(2), (3) FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Loretta Costin, Chancellor, Career and Adult Education, Department of Education, 325 West Gaines Street, Suite 744, Tallahassee, Florida; (850)245-0446

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.05731 Industry Certification of Automotive Service Technology Education Programs.

(1) Section 1004.925, F.S., requires industry certification of all automotive service technology education programs, effective fiscal year 2013-2014, in order to receive state funding. This rule establishes consistent guidelines for industry certification of automotive service technology education programs which are preparing students for employment in the automotive occupations that involve the inspection, repair, or adjustment of automobiles.

(2) In order to become industry certified, an automotive service technology program must undergo a comprehensive review. The review must be conducted by a national organization and result in a national industry program certification or accreditation. The comprehensive review must include, at a minimum:

(a) A review of the program goals, related to the needs of the students and employers served;

(b) A review of program administration that would ensure that instructional activities support and promote the goals of the program;

(c) A review of support material, consistent with both program goals and performance objectives, that will be available to staff and students;

(d) A review of funding available to meet the program goals and performance objectives;

(e) A review of systematic skills assessment, interviews, counseling services, placement and follow-up procedures used;

(f) A review of instruction which must be systematic and reflect program goals;

(g) A task list and specific performance objectives with criterion referenced measures used;

(h) A review of equipment and tools ensuring they are of the type and quality found in the repair industry and that they are also the type needed to provide training to meet the program goals and performance objectives;

(i) A review of the physical facilities making sure those facilities permit achievement of the program goals and performance objectives;

(j) A review of all instructional staff to assure technical competency and all state and local requirements for certification are met;

(k) A review of all written policies and procedures used for cooperative and apprenticeship training programs; and

(l) For programs using e-learning to meet program hour requirements, a review of written policies and procedures that must be followed when e-learning curricular materials are used outside of scheduled classroom/lab/shop time for the purpose of meeting the industry-certified entity's instructional hour requirements.

(3) Description of the examinations and competencies to be demonstrated must be recognized nationally by the automotive industry, including manufacturers, automotive dealers, automotive maintenance and repair businesses for their expertise and experience in certifying automotive repair training programs.

(4) Programs must be recertified according to the prescribed procedures of the appropriate certification agency. However, all programs must remain continuously certified by said certifying agency, with no lapse of certification.

Rulemaking Authority 1004.925 FS. Law Implemented 1004.925(2), (3) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Loretta Costin, Chancellor, Career and Adult Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 8, 2010

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.0981  
RULE TITLE: School District Virtual Instruction Program

PURPOSE AND EFFECT: The purpose of the rule amendment is to delete obsolete references to major areas of interest and to clarify that the Department's approval is for the following three school years rather than three years from the date of approval. The effect is a rule which is consistent with current law as well as ensure clarity relating to the length of time the Department's approval is in effect.

SUMMARY: This rule is amended to make changes to the School District Virtual Instruction Program Application as incorporated by reference in 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: 1002.45(11) FS.

LAW IMPLEMENTED: 1002.45 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sally Roberts, Educational Policy Consultant, Department of Education, Division of Public Schools, 325 West Gaines Street, Tallahassee, FL 32399-0400; (850)245-0509

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0981 School District Virtual Instruction Program.

(1) No change.

(2) Application Form. Form VSP-02, School District Virtual Instruction Program Application for Provider Approval 2011 for becoming an approved provider for the School District Virtual Instruction Program, will be used for those virtual education providers applying for approved status from the Department of Education. Form VSP-02 is hereby incorporated by reference and made a part of this rule to become effective with the effective date of this rule. Form VSP-02 will be published electronically at [www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp](http://www.fldoe.org/Schools/virtual-schools/DistrictVIP.asp). A hard copy may be obtained by contacting the Division of Public Schools, Office of the Chancellor, Florida Department of Education, 325 West Gaines Street, ~~Room 1504~~, Tallahassee, Florida 32399.

(3) through (6) No change.



Rulemaking Authority 1002.45(11) FS. Law Implemented 1002.45 FS. History—New 11-26-08, Amended 10-21-09, \_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

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

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-24.001	Council and Officer Responsibilities
6A-24.002	Composition of Membership and Length of Service on the Council
6A-24.003	Officers and Their Functions
6A-24.004	Meetings
6A-24.005	Amendments

PURPOSE AND EFFECT: The purpose and effect of this rule revision will be to update an existing rule and repeal outdated rules relating to the Florida State Apprenticeship Council to reflect statutory changes, federal regulatory changes, and needs of the apprenticeship community and labor market.

SUMMARY: A rule is recommended for revision and others are recommended to be repealed to accommodate the transfer of the registered apprenticeship program to the Department from the Department of Labor and Employment Security. Further, revisions will reflect the revised federal rules in Title 29 Code of Federal Regulations, Part 29, aligning state rules with federal rules. The rules to be repealed are Rules 6A-24.002, 6A-24.003, 6A-24.004, and 6A-24.005, F.A.C., as they have been superseded by statute.

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: 446.032, 446.041 FS.

LAW IMPLEMENTED: 446.045 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Loretta Costin, Chancellor, Career and Adult Education, 325 West Gaines Street, Room 734, Tallahassee, FL 32399, (850)245-9463

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6A-24.001 follows. See Florida Administrative Code for present text.)

6A-24.001 Council Name, Authority and Officer Responsibilities.

(1) As used in this Rule:

(a) “Chairman” means the Commissioner of Education or the Commissioner’s designee.

(b) “Department” means the Florida Department of Education.

(c) “Registration Officer” means the Designee, properly authorized to act on behalf of the Department in matters of registering program standards, apprenticeship agreements and the general supervision of apprenticeship programs which are registered with the Department.

(2) The Council shall perform the following functions with regard to matters related to apprenticeship, preapprenticeship and on-the-job training programs:

(a) Advise the Department on matters relating to apprenticeship, preapprenticeship and on-the-job training programs.

(b) Establish effective dialog with the apprenticeship community for the betterment of apprenticeship.

(c) The Council shall have those duties and responsibilities as provided in Chapter 446, F.S., delineated herein.

(3) The Chairman shall serve with no vote on Council issues. In the event the Chairman is absent from a Council meeting, the Chairman’s designee will chair the meeting in his or her place. The Chairman shall have the responsibility to:

(a) Convene meetings;

(b) Call special meetings;

(c) Appoint committees and subcommittees;

(d) Receive, select and finalize all agenda items;

(e) Disseminate agendas and minutes of all meetings;

(f) Approve all expenditures made by the Council; and

(g) Designate the Registration Officer as the Council Executive Secretary.

(4) The Chairman or his or her designee shall contact any member of the Council who is not present at one (1) regular Council meeting to notify the member that he or she may be removed if the member does not attend regularly. When necessary, the Chairman shall provide written notification to the Governor’s Office seeking removal of the member.

(5) The Executive Secretary is not a member of the Council and does not have a vote on Council issues. The Executive Secretary has the responsibility to perform the following tasks:

- (a) Maintain the records and minutes of each meeting and make them available to any interested person;
- (b) Participate in Council discussions; and
- (c) Provide updates on general activities of apprenticeship, preapprenticeship and on-the-job training.

Rulemaking Specific Authority 446.032 FS. Law Implemented 446.045 FS. History–New 5-5-83, Formerly 38C-20.01, Amended 1-9-90, Formerly 38C-20.001, 38H-20.001, Amended \_\_\_\_\_.

6A-24.002 Composition of Membership and Length of Service on the Council.

Rulemaking Specific Authority 446.032 FS. Law Implemented 446.045 FS. History–New 5-5-83, Formerly 38C-20.02, Amended 1-9-90, Formerly 38C-20.002, 38H-20.002, Repealed \_\_\_\_\_.

6A-24.003 Officers and Their Functions.

Rulemaking Specific Authority 446.032 FS. Law Implemented 446.045 FS. History–New 5-5-83, Formerly 38C-20.03, Amended 1-9-90, Formerly 38C-20.003, 38H-20.003, Repealed \_\_\_\_\_.

6A-24.004 Meetings.

Rulemaking Specific Authority 446.032 FS. Law Implemented 446.045 FS. History–New 5-5-83, Formerly 38C-20.04, Amended 1-9-90, Formerly 38C-20.004, 38H-20.004, Repealed \_\_\_\_\_.

6A-24.005 Amendments.

Rulemaking Specific Authority 446.032 FS. Law Implemented 446.045 FS. History–New 5-5-83, Formerly 38C-20.05, Amended 1-9-90, Formerly 38C-20.005, 38H-20.005, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Loretta Costin, Chancellor, Career and Adult Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2010

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

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

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

PURPOSE AND EFFECT: To incorporate by reference the revised Facilitating Agricultural Resource Management Systems (FARMS) Program Funding Application Form, FORM LEG\_R.22.022 (8/10), to request information for projects that reduce frost/freeze protection withdrawals. Rules implementing the District's FARMS Program under Chapter 40D-26, F.A.C., are being amended concurrently with this rule to allow funding assistance for these types of projects.

SUMMARY: The FARMS Program was developed to provide funding assistance to agricultural water users for the implementation of alternative water supply development and water resource development projects. The District's FARMS Program is being amended to allow funding assistance for projects that reduce frost/freeze protection withdrawals. Subsection 40-26.201(2), F.A.C., is being amended to reference the revised FARMS Program Funding Application Form that requests information for these types of projects. This rule amendment incorporates the revised form into Rule 40D-1.659, F.A.C.

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

LAW IMPLEMENTED: 373.083, 373.0831(3), 373.083(5), 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela Gifford, Certified Legal Assistant, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4156) (OGC #2010040)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

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

(1) through (2) No change.

(3) OTHER

(a) No change.

(b) FACILITATING AGRICULTURAL RESOURCE MANAGEMENT ~~(FARMS)~~ SYSTEMS (FARMS) PROGRAM FUNDING APPLICATION FORM, FORM LEG-R.22.02 (8/10) ~~LEG-R.22.01 (4/09)~~, incorporated by reference in subsection 40D-26.201(2), F.A.C.

(c) through (d) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.083, 373.0831(3), 373.083(5), 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS. History—New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05(1) and (2), 10-19-05(5), 10-19-05(20), 2-6-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, 10-26-09, 1-27-10, 4-12-10, 4-27-10, 9-5-10, 9-12-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Eric DeHaven, Resource Data & Restoration Director, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, Florida 33637-6759, (813)985-7481, extension 2118

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2010

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-26.021	Definitions
40D-26.091	Publications Incorporated by Reference
40D-26.101	Conditions of Eligibility
40D-26.201	Program Application
40D-26.401	Cost-Share Rates

PURPOSE AND EFFECT: To modify the Facilitating Agricultural Resource Management Systems (FARMS) Program eligibility requirements to allow funding assistance for projects that reduce frost/freeze protection withdrawals; to establish cost-share rates for these projects; to incorporate by reference the revised FARMS Program Funding Application Form to request information concerning these projects; and to incorporate by reference the Model FARMS Economic Update,

June 2009, to provide updated estimated costs for implementing proposed projects. The estimated costs included in this publication are used to determine whether proposed projects are eligible for funding. The Model FARMS Economic Update, June 2009, replaces the 2001 Model Farms Cost publication.

SUMMARY: Section 373.707(1), F.S., encourages cooperation in the development of water supplies and to provide for alternative water supply development. Sections 373.707(1)(f) and 373.707(8)(a), F.S., authorize the District to provide funding assistance to private water users for the development of alternative water supplies and conservation projects that result in quantifiable water savings. Section 373.705(3), F.S. authorizes the District to fund water resource development. Pursuant to these statutes, the FARMS Program was developed to provide funding assistance to agricultural water users for the implementation of alternative water supply development and water resource development projects. Rule 40D-26.101, F.A.C., Conditions of Eligibility, currently does not allow funding assistance for projects that reduce frost/freeze protection withdrawals. Rule 40D-26.101, F.A.C., is being amended to allow funding for these projects and Rule 40D-26.401, Cost-Share Rates, is being amended to provide cost-share rates for these projects. Rule 40D-26.201, F.A.C., is being amended incorporate by reference the revised FARMS Program Funding Application Form. Rules 40D-26.021 and 40D-26.091, F.A.C., are being amended to incorporate by reference the revised Model FARMS Economic Update, June 2009.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The District’s Facilitating Agricultural Resource Management Systems (FARMS) Program, developed by the District and the Florida Department of Agriculture and Consumer Services, is a public/private agricultural Best Management Practices (BMP) cost-share reimbursement program. FARMS is intended to expedite the implementation of production-scale agricultural BMPs that provide water resource benefits. The proposed revisions to Chapter 40D-26, F.A.C., incorporate by reference the publication setting forth the 2009 Model FARMS economic cost comparison figures with updated and additional project costs, modify the conditions of eligibility to specify how frost/freeze quantities will be used in the determination of a project’s eligibility both in and outside the Dover/Plant City area and modify the cost-share rates to specify that FARMS will provide 75% cost-share for projects that reduce frost/freeze quantities in the Dover/Plant City area. The FARMS Program is entirely voluntary. No entities or individuals are required to comply with the proposed rule It is expected that up to about 30 farmers per year may apply to participate in the overall program (not just frost/freeze-related projects), but they are not required to do so. The expansion of the FARMS Program to include, as eligible projects, those that

reduce withdrawals for frost/freeze protection from the Upper Floridan aquifer and the 75% reimbursement rate for such projects in the Dover/Plant City growing region will likely increase program reimbursement and staff implementation costs to the District. The District anticipates spending approximately \$2.2 million/year over 10 years to reduce frost/freeze quantities permitted from the Upper Floridan aquifer to acceptable levels. No other state and local entities are required to enforce or implement the FARMS Program. As no individuals or entities are required to participate in the FARMS Program, there will be no increase in transactional costs. However, those that choose to participate in the new frost/freeze reduction program in the Dover/Plant City area will benefit from a highest share of project costs being paid by the District. The proposed rule revisions are anticipated to benefit certain program participants. Small businesses, small cities or small counties will not incur transactional costs as a result of the proposed rule revisions.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.0363(4), 373.083(1), 373.705(3), 373.707(1), 373.707(8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pamela Gifford, Certified Legal Assistant, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4156) (OGC #2010040)

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-26.021 Definitions.

When used in this chapter:

(1) through (4) No change.

(5) "Model Farms Costs" means those estimated costs developed to identify reasonable costs associated with implementing various water conservation methods by a variety of agricultural operations as set forth in Tables A-1 through A-18 of the Facilitating Agricultural Resource Management Systems (FARMS) Program Model Farms Economic Update, June 2009, the District's 2001 Model Farms Costs incorporated herein by reference in Rule 40D-26.091, F.A.C.

(6) through (7) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363(4), 373.705(3), 373.707(1), 373.707(8), 373.0831(3), 373.196(1), 373.1961(3) FS. History--New 1-7-09, Amended \_\_\_\_\_.

40D-26.091 Publications Incorporated by Reference.

The following document is hereby incorporated by reference into this chapter and is available from the District upon request: Facilitating Agricultural Resource Management Systems (FARMS) Program Model Farms Economic Update, June 2009 Southwest Florida Water Management District's 2001 Model Farms Costs (effective date August 1, 2001).

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0363(4), 373.705(3), 373.707(1), 373.707(8), 373.0831(3), 373.196(1), 373.1961(3) FS. History--New 1-7-09, Amended \_\_\_\_\_.

40D-26.101 Conditions of Eligibility.

(1) No change.

(2) The following projects are eligible for the Program:

(a) Implementation of BMPs that reduce withdrawals from the Upper Floridan aquifer or from any combination of ground, surface or reclaimed water sources and have a cost-benefit that is equal to or less than the Model Farms Costs; however, no more than 5% of frost/freeze protection quantities authorized by a District Water Use Permit shall be used in calculating the amount of water no longer withdrawn from the Upper Floridan aquifer in areas outside of the following boundary: The portions of Hillsborough and Polk Counties within the following sections (all Townships are South; all Ranges are East):

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

Township 27, Range 21: Sections 25 through 36;

Township 27, Range 22: Sections 25 through 36;

Township 27, Range 23: Sections 29 through 32;

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

Township 28, Range 21: All Sections;

Township 28, Range 22: All Sections;

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

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

Township 29, Range 21: All Sections;

Township 29, Range 22: All Sections;

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

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

Township 30, Range 21: Sections 1 through 12;

Township 30, Range 22: Sections 1 through 12;

Township 30, Range 23: Sections 5 through 8.

(b) Implementation of BMPs that improve ground or surface water quality impacted by ground water withdrawals, ~~and~~

(c) Implementation of BMPs that improve natural system functions within the Upper Myakka River Watershed.

(d) Implementation of BMPs that reduce frost/freeze protection withdrawals authorized by a District Water Use Permit from the Upper Floridan aquifer within the boundary described in paragraph 40D-26.101(2)(a), F.A.C.

(3) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented ~~373.0363(4), 373.705(3), 373.707(1), 373.707(8), 373.0831(3), 373.196(1), 373.1961(3)~~ FS. History–New 1-7-09, Amended \_\_\_\_\_.

40D-26.201 Program Application.

(1) No change.

(2) Applicants for funding shall submit to the District the information required on District Form LEG-R.22.02 (8/10) ~~LEG-R.22.01 (4/09)~~ adopted and incorporated by reference in this rule. This form is available from the District upon request.

(3) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented ~~373.0363(4), 373.705(3), 373.707(1), 373.707(8), 373.0831(3), 373.196(1), 373.1961(3)~~ FS. History–New 1-7-09, Amended \_\_\_\_\_.

40D-26.401 Cost-Share Rates.

(1) The District’s cost-share rate for a funded project shall be based upon a project’s resource benefit as follows:

(a) Equipment costs shall be reimbursed up to a maximum of 50% of the total project cost when a project:

1. Reduces withdrawals from the Upper Floridan aquifer by less than 50%;
2. Reduces withdrawals from any combination of ground, surface or reclaimed water sources;
3. Improves ground or surface water quality impacted by ground water withdrawals; or
4. Improves natural system functions within the Upper Myakka River Watershed.

(b) Equipment costs shall be reimbursed up to a maximum of 75% of the total project cost when a project:

1. Reduces withdrawals from the Upper Floridan aquifer by 50% or more; ~~or~~
2. Reduces withdrawals by 15% or more from any combination of ground, surface or reclaimed water sources of which a minimum of 5% of the total withdrawal reduction is from the Upper Floridan aquifer and the project improves water quality in surface or ground water impacted by ground water withdrawals or improves natural system functions within the Upper Myakka River Watershed; ~~or-~~

3. Reduces frost/freeze protection withdrawals authorized by a District Water Use Permit from the Upper Floridan aquifer within the boundary described in paragraph 40D-26.101(2)(a), F.A.C.

(2) through (4) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented ~~373.0363(4), 373.705(3), 373.707(1), 373.707(8), 373.0831(3), 373.196(1), 373.1961(3)~~ FS. History–New 1-7-09, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Eric DeHaven, Resource Data & Restoration Director, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, Florida 33637-6759, (813)985-7481, extension 2118

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2010

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

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-550.200	Definitions for Public Water Systems
62-550.310	Primary Drinking Water Standards: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels
62-550.500	General Monitoring and Compliance Measurement Requirements for Contaminants and Disinfectant Residuals
62-550.514	Disinfectant Residuals and Disinfection Byproducts Monitoring Requirements
62-550.540	Monitoring of Consecutive Systems
62-550.550	Certified Laboratories and Analytical Methods for Public Water Systems
62-550.720	Recordkeeping
62-550.730	Reporting Requirements for Public Water Systems
62-550.821	Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (Stage 1)
62-550.822	Initial Distribution System Evaluations and Stage 2 Disinfection Byproducts Requirements
62-550.824	Consumer Confidence Reports

**PURPOSE AND EFFECT:** The Department is adopting the national Stage 2 Disinfectants and Disinfection Byproducts Rule (D/DBPR) with related State clarifications and additions, and the Department is updating the State's public water system recordkeeping and Stage 1 D/DBPR requirements to incorporate changes that were made to the record maintenance and Stage 1 D/DBPR requirements in the national primary drinking water regulations and that were promulgated with the Stage 2 D/DBPR. Also, the Department is updating the State's listing of analytical methods for primary or secondary contaminants and the State's consumer confidence report (CCR) requirements so they are consistent with current national primary or secondary drinking water regulations.

**SUMMARY:** Rule 62-550.200, F.A.C., is being amended to incorporate new or revised definitions from the Stage 2 D/DBPR and to make minor technical corrections. Rule 62-550.310, F.A.C., is being amended to expand the applicability of the Stage 1 D/DBPR maximum residual disinfectant levels (MRDLs) for chlorine and chloramines in accordance with the Stage 2 D/DBPR; to clarify that the Stage 1 D/DBPR maximum contaminant levels (MCLs) for total trihalomethanes (TTHM) and haloacetic acids (five) (HAA5) apply until the date specified for compliance with the Stage 2 D/DBPR MCLs for TTHM and HAA5; to specify the water systems to which the Stage 2 D/DBPR TTHM and HAA5 MCLs apply; and to specify the effective dates for the Stage 2 D/DBPR TTHM and HAA5 MCLs. Rule 62-550.500, F.A.C., is being amended to clarify that the monitoring and compliance measurement requirements under the Stage 2 D/DBPR take precedence over the general monitoring and compliance measurement requirements in Rule 62-550.500, F.A.C., and to indicate that monitoring frequencies under the Stage 2 D/DBPR are specified in new Rule 62-550.822, F.A.C. Rule 62-550.514, F.A.C., is being amended to expand the applicability of the Stage 1 D/DBPR chlorine and chloramine monitoring requirements in accordance with the Stage 2 D/DBPR; to clarify that community or non-transient non-community water systems that add a chemical disinfectant to the water must monitor for TTHM and HAA5 under the Stage 1 D/DBPR until the date specified for compliance with the Stage 2 D/DBPR MCLs for TTHM and HAA5; and to specify that community or non-transient non-community water systems that add, or deliver water that has been treated with, a primary or residual disinfectant other than ultraviolet (UV) light must monitor for TTHM and HAA5 under the Stage 2 D/DBPR starting with the date specified for compliance with the Stage 2 D/DBPR MCLs for TTHM and HAA5. Rule 62-550.540, F.A.C., is being amended to clarify residual disinfectant monitoring requirements under the D/DBPRs for consecutive systems; to clarify disinfection byproduct (DBP) monitoring requirements under the D/DBPRs for consecutive systems; and to make minor technical changes. Rule 62-550.550, F.A.C., is being amended to specify who may perform, and appropriate procedures or methods for

performing, residual disinfectant measurements to demonstrate that Stage 2 D/DBPR TTHM and HAA5 samples were taken under normal operating conditions. Rule 62-550.550, F.A.C., also is being amended to reference all analytical methods currently listed in the national primary or secondary drinking water regulations; to delete the sentence allowing use of alternative analytical techniques with written permission; and to clarify that the Department approves the use of the Industrial Test Systems free chlorine test strip for the determination of free chlorine. Rule 62-550.720, F.A.C., is being amended to incorporate revisions that the U.S. Environmental Protection Agency (USEPA) made to the record maintenance requirements in the national primary drinking water regulations and published with the Stage 2 D/DBPR. Rule 62-550.730, F.A.C., is being amended to reference the Stage 2 D/DBPR reporting format for DBPs (TTHM and HAA5) in new Rule 62-550.822, F.A.C., and to make minor technical corrections. Rule 62-550.821, F.A.C., is being revised to make a minor technical correction and to incorporate revisions that the USEPA made to the Stage 1 D/DBPR and published with the Stage 2 D/DBPR. The USEPA revisions to the Stage 1 D/DBPR include the following: updating of analytical requirements under the Stage 1 D/DBPR; addition of source water total organic carbon monitoring requirements for subpart H systems that are not using conventional filtration treatment and that wish to qualify for reduced TTHM and HAA5 monitoring under the Stage 1 D/DBPR; and revision of the criteria to qualify for reduced bromate monitoring under the Stage 1 D/DBPR. Rule 62-550.822, F.A.C., is being added to incorporate the Stage 2 D/DBPR requirements with State clarifications and additions. The Stage 2 D/DBPR requirements include the following: initial distribution system evaluation requirements included under 40 C.F.R. § 141 subpart U; and the Stage 2 D/DBPR compliance monitoring and other requirements included under 40 C.F.R. § 141 subpart V. Rule 62-550.824, F.A.C., is being amended to reference the current edition of subpart O—"CCRs"—and Appendix A to subpart O in 40 C.F.R. § 141. Table 3 is being amended to incorporate the Stage 2 D/DBPR MCLs for TTHM and HAA5. Tables 7 and 8 are being amended to incorporate Stage 2 D/DBPR monitoring requirements and to make minor technical corrections. There are a number of Department rules that reference these rules being amended. Rules 62-555.320, 62-555.360, 62-555.401, and 62-560.410, F.A.C., reference Rule 62-550.200, F.A.C., but the amendment to Rule 62-550.200, F.A.C., will have no effect on those rules. Rules 62-520.420, 62-528.425, 62-560.610, and 62-560.620, F.A.C. refer to the disinfection byproduct maximum contaminant levels that are being revised under Rule 62-550.310, F.A.C. Also, Rules 62-555.325, 62-560.410, 62-560.510, 62-560.520, 62-560.545, and 62-560.610, F.A.C., reference Rule 62-550.310, F.A.C., but the amendment to Rule 62-550.310, F.A.C. will have no effect on those rules. Rules 62-555.320 and 62-560.546, F.A.C., reference Rule 62-550.500, F.A.C., but the

amendment to Rule 62-550.500, F.A.C., will have no effect on those rules. Rules 62-555.315, 62-555.325, 62-555.340, 62-555.350, and 62-555.530, F.A.C., refer to the list of referenced analytical methods that is being amended under Rule 62-550.550, F.A.C. Also, Rule 62-699.311, F.A.C., references Rule 62-550.550, F.A.C., but the amendment to Rule 62-550.550, F.A.C., will have no effect on that rule. Rule 62-555.350, F.A.C., references Rule 62-550.720, but the amendment to Rule 62-550.720, F.A.C., will have no effect on that rule. Rules 62-555.350, 62-560.410, and 62-560.530, F.A.C., reference Rule 62-550.730, F.A.C., but the amendment to Rule 62-550.730, F.A.C., will have no effect on those rules. Rule 62-560.410, F.A.C., references Rule 62-550.821, F.A.C., but the amendment to Rule 62-550.821, F.A.C., will have no effect on that rule. Rule 62-560.410, F.A.C., references Rule 62-550.824, F.A.C., but the amendment to Rule 62-550.824 will have no effect on that rule. Many Department rules reference the primary or secondary drinking water standards or just the water quality standards contained in Chapter 62-550. However, these rule amendments do not change any numerical standard. Therefore the following rules are not affected by this rulemaking: Rules 62-312.825, 62-330.100, 62-330.200, 62-341.486, 62-346.051, 62-346.301, 62-521.400, 62-524.200, 62-552.650, 62-600.420, 62-600.510, 62-301.300, 62-606.400, 62-610.300, 62-610.525, 62-610.865, 62-761.200, 62-762.201, 62-770.200, 62-780.200, 62-782.200, and 62-785.200, F.A.C.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The Department has determined that these rule amendments will have an impact on small businesses and has prepared a SERC. Community water systems (CWSs) and non-transient non-community water systems (NTNCWSs) will incur both a one-time cost and a recurring annual cost to comply with the Stage 2 D/DBPR. For CWSs serving less than 10,000 persons, many of which probably are a small business or an ancillary part of a small business, the estimated average one-time cost is approximately \$1,360 per CWS and the estimated average annual cost is approximately \$1,090 per CWS. The estimated average one-time and average annual costs for NTNCWSs serving less than 10,000 persons, many of which probably are an ancillary part of a small business, are approximately \$330 and \$230, respectively. The estimated total one-time and annual costs for all CWSs in Florida to comply with the Stage 2 D/DBPR are \$4.53 million and \$8.62 million, respectively; and the estimated total one-time and annual costs for all NTNCWSs in Florida to comply with the Stage 2 D/DBPR are \$318,000 and \$229,000, respectively. Assuming CWSs pass all costs on to their customers, customers of CWSs in Florida will incur an average one-time cost of \$0.79 per customer and an average annual cost of \$1.49 per customer as a result of the Stage 2 D/DBPR. A copy of the SERC is available from Virginia Harmon, Department of

Environmental Protection, 2600 Blair Stone Road, M.S. 3520, Tallahassee, FL 32399-2400, (850)245-8630, virginia.harmon@dep.state.fl.us.

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:** 403.853(3), 403.861(9) FS.

**LAW IMPLEMENTED:** 403.0877, 403.852(12), (13), 403.853, (1), (3), (4), (7), 403.854, 403.859(1), 403.861(9), (16), (17), 403.8615, 403.862 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:** December 20, 2010, 10:00 a.m.

**PLACE:** Florida Department of Environmental Protection, 2600 Blair Stone Road, Room 609, 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: Virginia Harmon at the above address, telephone, or email address. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Virginia Harmon at the above address, telephone, or email address

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

62-550.200 Definitions for Public Water Systems.

For the purpose of this chapter and Chapters 62-555 and 62-560, F.A.C., the following words, phrases, or terms shall have the following meaning:

(1) through (10) No change.

**(11) “COMBINED DISTRIBUTION SYSTEM” means the interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water.**

(11) through (17) renumbered (12) through (18) No change.

**(19)(18) “CONSECUTIVE SYSTEM” means a public water system that ~~buys or otherwise~~ receives some or all of its finished water from one or more wholesale ~~other public water~~ systems ~~at least 60 days per year~~. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems. ~~A consecutive system is either a “community water system” or a “non community water system.”~~**

(19) through (32) renumbered (20) through (33) No change.

(34) “DUAL SAMPLE SET” means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purpose of conducting an IDSE under subpart U of 40 C.F.R. § 141 as incorporated into Rule 62-550.822, F.A.C., and for the purpose of determining compliance with the TTHM and HAA5 MCLs under subpart V of 40 C.F.R. §141 as incorporated into Rule 62-550.822, F.A.C.

(33) through (38) renumbered (35) through (40) No change.

(41) “FINISHED WATER” means water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except treatment as necessary to maintain water quality in the distribution system (e.g., booster disinfection or addition of corrosion control chemicals).

(39) through (40) renumbered (42) through (43) No change.

~~(44)~~(44) “GAC10” means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with Stage 2 MCLs under paragraph 62-550.310(3)(d), F.A.C., shall be 120 days.

(45) “GAC20” means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

(42) through (54) renumbered (46) through (58) No change.

(59) “LOCATIONAL RUNNING ANNUAL AVERAGE” (LRAA) means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

(55) through (60) renumbered (60) through (65) No change.

~~(66)~~(64) “NEW SYSTEM” means, for the purposes of capacity development, community water systems or non-transient non-community water systems being newly constructed; systems that which do not currently meet the definition of a public water system under Rule 62-550.200, F.A.C., 62-550.200(70), but that which expand their infrastructure and thereby grow to become community water systems or non-transient non-community water systems and transient non-community water systems that expand their infrastructure and thereby grow to become community water systems or non-transient non-community water systems. Systems not currently public water systems under Rule 62-550.200 subsection 62-550.200(70), F.A.C., or systems that are transient non-community water systems, and that add additional users and thereby become community water systems

or non-transient non-community water systems without constructing any additional infrastructure are not “new systems” for purposes of capacity development.

(62) through (104) renumbered (67) through (109) No change.

~~(110)~~(105) “WHOLESALE SYSTEM” means a public water system that treats source water as necessary to produce finished water and then sells or otherwise delivers some or all of that finished water to another public water system at least 60 days per year. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems. A wholesale system that delivers water to a community water system is considered a community water system.

Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.853, 403.854, 403.8615, 403.862 FS. History—New 11-9-77, Amended 1-13-81, 11-19-87, Formerly 17-22.103, Amended 1-18-89, 5-7-90, 1-3-91, 1-1-93, Formerly 17-550.200, Amended 9-7-94, 12-9-96, 9-22-99, 8-1-00, 11-27-01, 4-3-03, 11-25-03, 10-14-04, 11-28-04, 1-17-05, \_\_\_\_\_.

62-550.310 Primary Drinking Water Standards: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels.

(These standards may also apply as ground water quality standards as referenced in Chapter 62-520, F.A.C.)

(1) No change.

(2) DISINFECTANT RESIDUALS – Except for the chlorine dioxide maximum residual disinfectant level, which applies to all public water systems using chlorine dioxide as a disinfectant or oxidant, this subsection applies only to community or non-transient non-community water systems adding a chemical disinfectant to the water in any part of the drinking water treatment process. Maximum residual disinfectant levels (MRDLs) are listed in Table 2, which is incorporated herein and appears at the end of this chapter. These MRDLs apply to public water systems as described below.

(a) The chlorine dioxide MRDL applies to all public water systems that use chlorine dioxide for disinfection or oxidation.

(b) The chlorine and chloramine MRDLs apply to all community or non-transient non-community water systems that use chlorine or chloramines.

(c) Effective [insert the effective date of these rule amendments], the chlorine and chloramine MRDLs apply to all consecutive community or non-transient non-community water systems that do not add chlorine or chloramines but deliver water that has been treated with chlorine or chloramines.

(3) DISINFECTION BYPRODUCTS – This subsection applies to all community or non-transient non-community water systems adding a chemical disinfectant to the water in any part of the drinking water treatment process. The disinfection byproduct maximum contaminant levels (MCLs) The Stage 1 maximum contaminant levels (MCLs) for



disinfection byproducts are listed in Table 3, which is incorporated herein and appears at the end of this chapter. These MCLs apply to public water systems as described below.

(a) The bromate MCL applies to community or non-transient non-community water systems using ozone for disinfection or oxidation.

(b) The chlorite MCL applies to community or non-transient non-community water systems using chlorine dioxide for disinfection or oxidation.

(c) The Stage 1 total trihalomethanes (TTHM) and haloacetic acids (five) (HAA5) MCLs apply to community or non-transient non-community water systems that add a

chemical disinfectant to the water in any part of the drinking water treatment process. These Stage 1 MCLs apply until the appropriate date specified for Stage 2 compliance in paragraph (d) below.

(d) The Stage 2 TTHM and HAA5 MCLs apply to community or non-transient non-community water systems that use a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light. These Stage 2 MCLs apply beginning on the dates shown in the table below.

<u>SYSTEM TYPE</u>	<u>COMPLIANCE DATE</u>
<u>SYSTEMS THAT ARE NOT PART OF A COMBINED DISTRIBUTION SYSTEM AND SYSTEMS THAT SERVE THE LARGEST POPULATION IN A COMBINED DISTRIBUTION SYSTEM</u>	
<u>System serving 100,000 or more people</u>	<u>April 1, 2012</u>
<u>System serving 50,000 – 99,999 people</u>	<u>October 1, 2012</u>
<u>System serving 10,000 – 49,999 people</u>	<u>October 1, 2013</u>
<u>Ground water system serving less than 10,000 people or subpart H system not treating any surface water source and serving less than 10,000 people</u>	<u>October 1, 2013</u>
<u>Subpart H system treating a surface water source and serving less than 10,000 people</u>	<u>October 1, 2013, if no <i>Cryptosporidium</i> monitoring is required under 40 C.F.R. § 141.701(a)(4) or October 1, 2014, if <i>Cryptosporidium</i> monitoring is required under 40 C.F.R. § 141.701(a)(4)</u>
<u>OTHER SYSTEMS THAT ARE PART OF A COMBINED DISTRIBUTION SYSTEM</u>	
<u>Consecutive system or wholesale system</u>	<u>At the same time as the system with the earliest compliance date in the combined distribution system</u>

(4) through (6) No change.

Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.852(12), 403.853(1) FS. History—New 11-19-87, Formerly 17-22.210, Amended 1-18-89, 5-7-90, 1-3-91, 1-1-93, 1-26-93, 7-4-93, Formerly 17-550.310, Amended 9-7-94, 8-1-00, 11-27-01, 4-14-03, 4-25-03, 11-28-04,\_\_\_\_\_.

62-550.500 General Monitoring and Compliance Measurement Requirements for Contaminants and Disinfectant Residuals.

These general requirements shall apply unless other monitoring or compliance measurement requirements are specified in Rules 62-550.511 through 62-550.540 or Rules 62-550.821 and 62-550.822, F.A.C.

(1) No change.

(2) Monitoring Frequencies. Monitoring frequencies for each group of contaminants or disinfectant residuals are specified in Rules 62-550.511 through 62-550.520, F.A.C., plus Rules ~~Rule~~ 62-550.821 and 62-550.822, F.A.C., and are summarized in Table 7.

(3) through (11) No change.

Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.853(1), (3), 403.859(1), 403.861(16), (17) FS. History—New 11-19-87, Formerly 17-22.300, Amended 1-18-89, 5-7-90, 1-1-93, 1-26-93, 7-4-93, Formerly 17-550.500, Amended 9-7-94, 8-1-00, 11-27-01, 4-14-03, 11-28-04,\_\_\_\_\_.

62-550.514 Disinfectant Residuals and Disinfection Byproducts Monitoring Requirements.

(1) DISINFECTANT RESIDUALS.

(a) Community or non-transient non-community water systems adding a chemical disinfectant to the water in any part of the drinking water treatment process shall monitor in accordance with 40 C.F.R. § 141, subpart L, as adopted and modified under Rule 62-550.821, F.A.C., to determine compliance with the maximum residual disinfectant levels specified in subsection 62-550.310(2), F.A.C. Also, effective [insert the effective date of these rule amendments], consecutive community or non-transient non-community water systems that do not add chlorine or chloramines but that deliver water that has been treated with chlorine or chloramines shall monitor for chlorine or chloramines in accordance with 40 C.F.R. § 141, subpart L, as adopted and modified under Rule 62-550.821, F.A.C., to determine compliance with the maximum residual disinfectant levels specified in subsection 62-550.310(2), F.A.C., for chlorine or chloramines.

(b) No change.

(2) DISINFECTION BYPRODUCTS. Community or non-transient non-community water systems that add ozone or chlorine dioxide shall monitor for bromate or chlorite, respectively, in accordance with 40 C.F.R. § 141, subpart L, as adopted and modified under Rule 62-550.821, F.A.C.

~~Community or non-transient non-community water systems that add a chemical disinfectant to the water in any part of the drinking water treatment process shall monitor for total trihalomethanes (TTHM) and haloacetic acids (five) (HAA5) until the dates in paragraph 62-550.310(3)(d), F.A.C., in accordance with 40 C.F.R. § 141, subpart L, as adopted and modified under Rule 62-550.821, F.A.C. Community or non-transient non-community water systems that add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light shall monitor for TTHM and HAA5 starting on the dates in paragraph 62-550.310(3)(d), F.A.C., in accordance with 40 C.F.R. § 141, subpart V, as adopted and modified under Rule 62-550.822, F.A.C. adding a chemical disinfectant to the water in any part of the drinking water treatment process shall monitor in accordance with 40 CFR 141, subpart L, as adopted and modified under Rule 62-550.821, F.A.C., to determine compliance with the Stage 1 disinfection byproduct maximum contaminant levels specified in subsection 62-550.310(3), F.A.C.~~

~~Rulemaking Specific Authority 403.853(3), 403.861(9) FS. Law Implemented 403.853(1), (3), (7), 403.861(16), (17) FS. History—New 1-1-93, Amended 7-4-93, Formerly 17-550.514, Amended 2-7-95, 11-27-01, 11-28-04, \_\_\_\_\_.~~

~~62-550.540 Monitoring of Consecutive Public Water Systems.~~

~~(1) Consecutive systems shall conduct asbestos monitoring in their distribution systems in accordance with Rule 62-550.511, F.A.C.; shall conduct microbiological monitoring in their distribution systems in accordance with Rule 62-550.518, F.A.C.; shall comply with the lead and copper control requirements in Rule 62-550.800, F.A.C.; shall conduct disinfection byproduct monitoring in accordance with subsection 62-550.514(2) and Rules 62-550.821 and 62-550.822, F.A.C.; shall conduct residual disinfectant monitoring in accordance with subsection 62-550.514(1) and Rule 62-550.821, F.A.C., to determine compliance with the maximum residual disinfectant levels specified in subsection 62-550.310(2), F.A.C.; and shall conduct residual disinfectant monitoring at a remote point in their distribution systems in accordance with subsection 62-555.350(6), F.A.C., to verify that the minimum residual disinfectant concentration required by subsection 62-555.350(6), F.A.C., is being maintained throughout their distribution systems. In accordance with subparagraph 62-550.817(1)(b)2., F.A.C., consecutive systems that receive any finished water originating from a subpart H system shall comply with the distribution system residual disinfectant monitoring requirements in paragraph 62-550.817(10)(e), F.A.C., and in 40 C.F.R. § 141.74(c)(3)(i) 40 CFR 141.74(e)(3) as adopted in subsection 62-550.817(2), F.A.C. Consecutive systems that add a chemical disinfectant to the water shall conduct residual disinfectant monitoring in~~

~~accordance with subsection 62-550.514(1) and Rule 62-550.821, F.A.C., and shall conduct disinfection byproduct monitoring in accordance with subsection 62-550.514(2) and Rule 62-550.821, F.A.C.~~

~~(2) through (4) No change.~~

~~(5) Consecutive systems that receive any finished water originating from a subpart H system shall comply with the disinfectant residual monitoring requirements of subparagraph 62-550.817(1)(b)2., F.A.C.~~

~~Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.853(1), (3), (7), 403.861(16), (17) FS. History—New 11-19-87, Formerly 17-22.340, Amended 1-18-89, 1-1-93, Formerly 17-550.540, Amended 11-27-01, 10-14-04, 11-28-04, \_\_\_\_\_.~~

~~62-550.550 Certified Laboratories and Analytical Methods for Public Water Systems.~~

~~(1) For the purpose of determining compliance with standards and monitoring requirements other than those mentioned in subsection (2) below, samples shall be considered acceptable only if they have been analyzed by a laboratory certified in drinking water by the Department of Health to perform such drinking water analyses with the exception that measurements for alkalinity, bromide, calcium, chlorite at entrances to distribution systems, orthophosphate, silica, specific ultraviolet absorbance, or total organic carbon may be performed by operators licensed under Chapter 62-602, F.A.C., or by persons under the direct supervision of a licensed operator, and measurements for conductivity, disinfectant residual, pH, temperature, or turbidity may be performed by operators licensed under Chapter 62-602, F.A.C., by persons under the direct supervision of a licensed operator, or by any authorized representative of the Department. Approved analytical methods shall be used and are contained in the July 1, 2009 2007, edition of 40 C.F.R. §§ 141.21, 141.23, 141.24, 141.25, 141.27, 141.74, 141.89, 141.131, 141.402, 141.704, and 143.4 and Appendix A to 40 C.F.R. § 141, subpart C, and in the Federal Register, Volume 74, Number 147, August 3, 2009, pp. 38348-38358, Volume 74, Number 216, November 10, 2009, pp. 57908-57918, and Volume 75, Number 109, June 8, 2010, pp. 32295-32302, Vol. 72, Number 47, March 12, 2007, pp. 11199—11249, Vol. 69, No. 30, February 13, 2004, pp. 7156-7161, and Vol. 69, No. 164, August 25, 2004, pp. 52177—52182, all of which are incorporated herein by reference. Use of an alternative analytical technique requires written permission from the Department and the U.S. Environmental Protection Agency. The use of DPD colorimetric test kits to measure residual chlorine, chloramine, or chlorine dioxide concentration is approved. The use of the Industrial Test Systems (ITS) free chlorine test strips for the determination of free chlorine is approved.~~

~~(2) Measurements for residual disinfectant to demonstrate that TTHM and HAA5 samples were taken under normal operating conditions (see subsections 62-550.821(4) and 62-550.822(19), F.A.C.) and measurements for disinfectant~~

residual to determine compliance with the operational requirements in subsection 62-555.350(6), F.A.C., may be performed by any authorized representative of the supplier of water or the Department; but measurements for residual chlorine shall be performed following the appropriate procedures in the Department of Environmental Protection Standard Operating Procedures for Field Activities, DEP-SOP-001/01, as incorporated into Rule 62-160.800, F.A.C., and all other measurements shall be performed using an appropriate method referenced in subsection (1) above. Measurements for alkalinity, dissolved iron, dissolved oxygen, pH, total sulfide, or turbidity to evaluate treatment for control of copper pipe corrosion and black water (see subsection 62-555.315(5), F.A.C.) may be performed by any authorized representative of the construction permit applicant or supplier of water; but measurements for pH and field measurements for dissolved oxygen or turbidity shall be performed following the appropriate procedures in the Department of Environmental Protection Standard Operating Procedures for Field Activities, DEP-SOP-001/01, as incorporated into Rule 62-160.800, F.A.C., and all other measurements shall be performed using an appropriate method referenced in subsection (1) above or in *Standard Methods for the Examination of Water and Wastewater* as adopted in Rule 62-555.335, F.A.C. Measurements for residual chlorine when taking bacteriological survey or evaluation samples (see paragraphs 62-555.315(6)(b) and (c), F.A.C., and subsection 62-555.340(2), F.A.C.) may be performed by any authorized representative of the permittee, supplier of water, or Department, but shall be performed following the appropriate procedures in the Department of Environmental Protection Standard Operating Procedures for Field Activities, DEP-SOP-001/01, as incorporated into Rule 62-160.800, F.A.C. Daily measurements for fluoride concentration at water treatment plants fluoridating water (see paragraph 62-555.325(3)(a), F.A.C.) may be performed by any authorized representative of the supplier of water but shall be performed using an appropriate method referenced in subsection (1) above. Measurements for disinfectant residual, pH, or temperature to determine compliance with the operational requirements under Rule 62-555.350(5), F.A.C., may be performed by any authorized representative of the supplier of water or Department; but measurements for residual chlorine, temperature, or pH shall be performed following the appropriate procedures in the Department of Environmental Protection Standard Operating Procedures for Field Activities, DEP-SOP-001/01, as incorporated into Rule 62-160.800, F.A.C., and all other measurements shall be performed using an appropriate method referenced in subsection (1) above or in *Standard Methods for the Examination of Water and Wastewater* as adopted in Rule 62-555.335, F.A.C.

(3) through (4) No change.

~~Rulemaking Specific~~ Authority 403.853(3), 403.861(9) FS. Law Implemented 403.853(1), (3), 403.861(16), (17) FS. History—New 11-19-87, Formerly 17-22-350, Amended 1-18-89, 5-7-90, 1-3-91, 1-1-93, 1-26-93, Formerly 17-550.550, Amended 9-7-94, 2-7-95, 8-1-00, 11-27-01, 4-14-03, 11-28-04, 9-18-07,\_\_\_\_\_.

62-550.720 Recordkeeping.

Suppliers of water shall retain on their premises, or at a convenient location near their premises, the following records:

(1) Records of microbiological analyses and turbidity ~~bacteriological~~ analyses made under this chapter shall be kept for not less than 5 ~~five~~ years. Records of ~~physical, chemical analyses and,~~ or radiological analyses made under any portion of this chapter other than Rule 62-550.800, F.A.C., (including records of chemical analyses to determine compliance with maximum residual disinfectant levels) shall be kept for not less than 10 years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the information required in Rule 62-550.730, F.A.C., is included.

(2) through (6) No change.

(7) Unless specified elsewhere in this chapter, copies of monitoring plans developed pursuant to this chapter shall be kept for the same period of time as the records of analyses taken under the monitoring plan are required to be kept under subsection 62-550.720(1), F.A.C.

~~Rulemaking Specific~~ Authority 403.861(9) FS. Law Implemented 403.861(16) FS. History—New 11-19-87, Formerly 17-22.820, Amended 1-18-89, 1-1-93, 7-4-93, Formerly 17-550.720, Amended 11-27-01, 11-28-04,\_\_\_\_\_.

62-550.730 Reporting Requirements for Public Water Systems.

Suppliers of water and DOH-certified laboratories shall report as follows:

(1) Suppliers of Water.

(a) through (c) No change.

(d) The supplier of water shall submit monthly operation reports as specified in paragraphs 62-550.817(11)(a) and (b), 62-555.325(3)(c), and 62-555.350(12)(b), ~~subsections 62-555.900(2) through (4), F.A.C., to the appropriate Department of Environmental Protection District Office or the appropriate Approved County Health Department~~ within 10 days after each ~~the~~ month of operation.

(e) through (i) No change.

(2) No change.

(3) Additional Reporting Formats for Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors and Enhanced Coagulation or Enhanced Softening. See subsections 62-550.821(12) and 62-550.822(18), F.A.C.

(4) No change.

Rulemaking Specific Authority 403.853(3), 403.861(9) FS. Law Implemented 403.852(12), (13), 403.853(3), 403.861(16), (17) FS. History—New 11-19-87, Formerly 17-22-830, Amended 1-18-89, 1-3-91, 1-1-93, Formerly 17-550.730, Amended 9-7-94, 2-7-95, 12-9-96, 8-1-00, 11-27-01, 4-3-03, 11-28-04, 1-17-05, \_\_\_\_\_.

62-550.821 Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (Stage 1). The requirements contained in the July 1, ~~2009~~ 2003, edition of 40 C.F.R. § 141, subpart L (sections 141.130 through 141.135); ~~and the revisions to 40 CFR 141, subpart L, published on pages 3770 through 3780 of the January 16, 2001, Federal Register~~ are adopted and incorporated herein by reference and are enforceable under this rule. The following are clarifications and additions to the requirements in 40 C.F.R. § 141, subpart L.

(1) In 40 C.F.R. § 141, subpart L, the term “State” shall mean “Department.” Also, references to section 141.2 shall be interpreted to mean Rule 62-550.200, F.A.C.; references to section 141.21 shall be interpreted to mean Rule 62-550.518, F.A.C.; references to section 141.23(k)(1) or 141.89(a) shall be interpreted to mean subsection 62-550.550(1), F.A.C.; references to section 141.31 shall be interpreted to mean subsection 62-550.730(1), F.A.C.; references to section 141.32, ~~141.32(e)(78)~~, or 141.202 shall be interpreted to mean Rule 62-560.410, F.A.C.; ~~references to section 141.32(e)(78) shall be interpreted to mean subsection 62-560.410(6), F.A.C.~~; references to section 141.64 or ~~141.64(a)~~ shall be interpreted to mean subsection 62-550.310(3), paragraph 62-550.310(3)(b), F.A.C.; references to section 141.65 shall be interpreted to mean subsection 62-550.310(2), F.A.C.; references to section 141.74(b)(6)(i) or ~~141.74(c)(3)(i)~~ shall be interpreted to mean subsection ~~62-550.817(10), 62-550.560(2)~~, F.A.C.; ~~references to section 141.74(e)(3)(i) shall be interpreted to mean paragraph 62-550.560(3)(d), F.A.C.~~; references to subpart Q shall be interpreted to mean Part IV of Chapter 62-560, F.A.C.; ~~references to subpart U or V shall be interpreted to mean Rule 62-550.822, F.A.C.~~; and references to section 142.16(h)(5) shall be interpreted to mean subsection 62-550.821(9), F.A.C.

(2) through (5) No change.

(6) 40 C.F.R. § ~~141.132(b)(1)(vi)~~ 141.132(b)(1)(v) shall be interpreted to mean that, in addition to allowing systems on increased monitoring to return to routine monitoring under 40 C.F.R. § ~~141.132(b)(1)(v)~~, 141.132(b)(1)(iv); the Department shall allow systems on increased monitoring to return to routine monitoring if their TTHM quarterly averages and HAA5 quarterly averages are less than or equal to the MCL for four (4) consecutive quarters.

(7) through (11) No change.

(12) This subsection replaces 40 C.F.R. § 141.134 and discusses reporting requirements for disinfectant residuals, disinfection byproducts, and disinfection byproduct precursors.

(a) through (c) No change.

(d) Subpart H systems using conventional filtration treatment shall report a summary of results of measurements for disinfection byproduct precursors and enhanced coagulation or softening ~~shall be submitted~~ in a format including all of the following information:

1. through 3. No change.

(13) Under 40 C.F.R. § 141.135(b), systems practicing enhanced softening are not required to apply to the Department for Step 2 TOC removal requirements. Enhanced softening systems that are unable to meet the alternative compliance criteria in section 141.135(a)(2) and (3) and that are unable to meet the Step 1 TOC removal requirements may apply to the Department for a waiver of enhanced softening requirements.

(a) Applicants for a waiver shall submit to the appropriate Department of Environmental Protection District Office or appropriate Approved County Health Department results of bench- or pilot-scale testing conducted in accordance with Section 3.3 of the U.S. Environmental Protection Agency’s *Enhanced Coagulation and Enhanced Precipitative Softening Guidance Manual*, which is incorporated herein by reference and is available from the source indicated in sub-subparagraph ~~62-550.821(12)(d)3.b.~~ 62-550.821(12)(e)3.b., F.A.C.

(b) No change.

(14) This subsection supplements 40 C.F.R. § 141.135(b)(3). The Department shall approve Step 2 TOC removal requirements submitted by a system if the system’s application includes the information discussed in 40 C.F.R. § 141.135(b)(4) and (15) below and if all alternative TOC removal percentages are determined in accordance with 40 C.F.R. § 141.135(b)(4) and section 3.2 of the U.S. Environmental Protection Agency’s *Enhanced Coagulation and Enhanced Precipitative Softening Guidance Manual*, which is incorporated herein by reference and is available from the source indicated in sub-subparagraph ~~62-550.821(12)(d)3.b.~~ 62-550.821(12)(e)3.b., F.A.C.

(15) No change.

(16) 40 C.F.R. § 141.135(b)(4)(v) is supplemented by the following:

(a) Systems applying for a waiver of enhanced coagulation requirements shall submit to the appropriate Department of Environmental Protection District Office or appropriate Approved County Health Department results of bench- or pilot-scale testing conducted in accordance with 40 C.F.R. § 141.135(b)(4) and Section 3.2 of the U.S. Environmental Protection Agency’s *Enhanced Coagulation and Enhanced Precipitative Softening Guidance Manual*, which is incorporated herein by reference and is available from the source indicated in sub-subparagraph ~~62-550.821(12)(d)3.b.~~ 62-550.821(12)(e)3.b., F.A.C.

(b) No change.

(17) No change.

Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.0877, 403.852(12), 403.853(1), (3), (7), 403.861(16), (17) FS. History—New 11-27-01, Amended 11-28-04, 1-17-05, \_\_\_\_\_.

62-550.822 Initial Distribution System Evaluations and Stage 2 Disinfection Byproducts Requirements.

The requirements contained in the July 1, 2009, edition of 40 C.F.R. § 141, subpart U (sections 141.600 through 141.605), and 40 C.F.R. § 141, subpart V (sections 141.620 through 141.629), are adopted and incorporated herein by reference and are enforceable under this rule. The following are clarifications and additions to the requirements in 40 C.F.R. § 141, subparts U and V.

(1) In 40 C.F.R. § 141, subparts U and V, the term “State” shall mean “Department.” Also, references to section 141.33 shall be interpreted to mean Rule 62-550.720, F.A.C.; references to section 141.64(b)(2) shall be interpreted to mean subsection 62-550.310(3), F.A.C.; references to section 141.131, 141.131(c), 141.132, 141.132(b)(1), 141.132(b)(1)(iii), 141.132(c)(1), 141.132(d), 141.132(f), 141.133(c)(1), or 141.134(c) shall be interpreted to mean the section as adopted and modified in Rule 62-550.821, F.A.C.; and references to subpart L shall be interpreted to mean Rule 62-550.821, F.A.C.

(2) For purposes of schedule determination, compliance dates, and monitoring requirements under 40 C.F.R. § 141.600(c)(1), 141.620(c)(1) through (5), 40 C.F.R. § 141.621(a)(2), and 40 C.F.R. § 141.623(a):

(a) The number of persons served by a wholesale system includes only the number of persons served directly by the wholesale system and not the persons served by the consecutive systems that receive finished water from the wholesale system; and

(b) Consecutive systems that receive any finished water originating from a subpart H system are considered subpart H systems.

(3) This subsection replaces 40 C.F.R. § 141.600(c)(2) and 40 C.F.R. § 141.620(c)(8). Emergency-only interconnections between wholesale systems and consecutive systems shall not be considered interconnections between systems for the purpose of the combined distribution system definition in Rule 62-550.200, F.A.C. All other interconnections shall be used to determine whether systems meet the combined distribution system definition in Rule 62-550.200, F.A.C.

(4) Under 40 C.F.R. § 141.601(c)(1) and 40 C.F.R. § 141.602(b)(1), the Department shall accept TTHM and HAA5 analytical results from subpart L compliance monitoring, standard monitoring, or system specific study monitoring in any tabular or spreadsheet format.

(5) Under 40 C.F.R. § 141.602(a)(1)(ii)(F), the Department shall not reject any data or approve any monitoring schedule to replace rejected data.

(6) This subsection replaces 40 C.F.R. § 141.602(a)(2)(iii). If a system submits a model that does not fully meet the requirements under 40 C.F.R. § 141.602(a)(2), the system must correct the deficiencies so that the model fully meets the requirements under 40 C.F.R. § 141.602(a)(2) of this section. If the system fails to correct the deficiencies it must conduct standard monitoring under 40 C.F.R. § 141.601.

(7) Under 40 C.F.R. § 141.603(b)(2), the Department shall not require systems to submit any distribution system schematics or recommended subpart V compliance monitoring locations in addition to their 40/30 certifications.

(8) Under 40 C.F.R. § 141.603(b)(3), the Department shall not require systems meeting the criteria of 40 C.F.R. § 141.603(a) to conduct standard monitoring under 40 C.F.R. § 141.601 or a system specific study under 40 C.F.R. § 141.602.

(9) Under 40 C.F.R. § 141.605(b), systems shall use the number and type of monitoring locations specified in the table in 40 C.F.R. § 141.605(b) as their subpart V routine compliance monitoring locations. The Department shall not require different or additional locations.

(10) This subsection replaces 40 C.F.R. § 141.605(d). Systems shall not recommend locations other than those specified in 40 C.F.R. § 141.605(c).

(11) Under 40 C.F.R. § 141.605(e), the Department approves subpart V monitoring during any month in the third quarter of the calendar year as the equivalent of monitoring during the peak historical month for TTHM and HAA5 concentration.

(12) Footnote 1 to the table in 40 C.F.R. § 141.620(c) shall be interpreted to mean that, upon written request submitted to the Department before the compliance date established in the table, with documentation of the time needed to install capital improvements and with documentation that the improvements will aid in complying with MCL and operational evaluation levels, the Department shall grant the system the additional time needed up to an additional 24 months.

(13) Subpart V monitoring plans required under 40 C.F.R. § 141.622(a)(1) shall be prepared in a format containing all the following information:

(a) A cover page identifying the system and providing relevant general information, including:

1. The system name and PWS identification number;
2. A contact person and phone number;
3. The system type (community or non-transient non-community);
4. The number and type of water sources and water treatment plants; and
5. The population served by the system not including the population served by any consecutive systems that receive water from the system.

(b) Monitoring locations.

(c) Monitoring dates.

(d) Compliance calculation procedures.

(14) Under 40 C.F.R. § 141.622(b), all subpart H systems shall submit a copy of their monitoring plan to the appropriate Department of Environmental Protection District Office or appropriate Approved County Health Department prior to the date the system conducts its initial monitoring under 40 C.F.R. § 141, subpart V. All other systems shall make their monitoring plan available for review during sanitary surveys conducted by the Department and shall submit the monitoring plan if requested by the Department.

(15) This subsection replaces 40 C.F.R. § 141.622(c).

(a) Systems shall modify their 40 C.F.R. § 141, subpart V, monitoring plan to reflect any of the following system changes if the change is expected to impact relative DBP levels in the distribution system:

1. Addition or removal of a water source.
2. Addition or removal of a booster disinfection station.
3. Addition or removal of a finished water storage tank.
4. Addition of a new water service area.
5. Change to the primary or residual disinfectant site or type.

(b) Systems that modify their 40 C.F.R. § 141, subpart V, monitoring plan shall do the following:

1. Ensure the modified plan replaces existing compliance monitoring locations that have the lowest LRAA with new locations that reflect the current distribution system locations where TTHM or HAA5 levels are expected to be high.

2. Ensure the modified plan includes an equal number of highest TTHM locations and highest HAA5 locations and includes the total number of monitoring locations specified in the table in 40 C.F.R. § 141.621(a)(2).

3. Provide rationale for each new highest TTHM location in the modified plan and ensure the location meets at least one of the following characteristics:

a. Location is near the ends of the distribution system, at or before the last group of customers.

b. Location is in a mixing zone where water from different sources combines within the distribution system.

c. Location is hydraulically downstream of finished water storage facilities, especially those with a common inlet and outlet, and booster disinfection.

d. Location is in a hydraulic dead-end where flow of water is low or stagnant.

4. Provide rationale for each new highest HAA5 location in the modified plan and ensure the location meets at least one of the following characteristics:

a. Location is in areas with low but existing disinfectant residual (generally, disinfectant residual levels should be consistently above 0.2 mg/L for free chlorine or 0.6 mg/L for combined chlorine).

b. Location is near the end of the distribution system, at or before the last group of customers.

c. Location is in a mixing zone where water from different sources combines within the distribution system.

d. Location is downstream of finished water storage facilities and booster disinfection.

e. Location is prior to the last fire hydrant.

5. Ensure sample locations provide geographic and hydraulic representation.

(c) Systems that modify their 40 C.F.R. § 141, subpart V, monitoring plan shall submit a copy of the modified plan to the appropriate Department of Environmental Protection District Office or Approved County Health Department prior to monitoring in accordance with the modified plan.

(16) 40 C.F.R. § 141.623(d) shall be disregarded. The Department shall return a system from reduced to routine monitoring only if the system is required to return to routine monitoring under 40 C.F.R. § 141.623(c).

(17) Under 40 C.F.R. § 141.626(b)(2)(i) and (ii), the Department shall approve in writing a system's written request to limit the scope of its operational evaluation if the request identifies the cause of the operational evaluation level exceedance. The report of limited scope need not examine any of the items in 40 C.F.R. § 141.626(b)(2) that do not relate to the identified cause of the operational evaluation level exceedance.

(18) This subsection replaces 40 C.F.R. § 141.629(a) and discusses reporting requirements for subpart V TTHM and HAA5 monitoring.

(a) Systems and laboratories shall report results of required TTHM and HAA5 analyses in accordance with subsections 62-550.730(1) and (2), F.A.C. In addition, systems described in paragraphs (b) and (c) below shall report the summary information described in paragraphs (b) and (c). Systems required to report under paragraph (b) or (c) below shall report to the appropriate Department of Environmental Protection District Office or Approved County Health Department within ten days after the end of each quarter in which samples were collected.

(b) Subpart H systems serving 500 or more persons shall report a summary of results of analyses for TTHM and HAA5 in a format including all of the following information:

1. The system name and PWS identification number.
2. A contact person and phone number, and
3. The information listed in 40 C.F.R. § 141.629(a)(1) and (2).

(c) Systems using only ground water not under the direct influence of surface water and serving 10,000 or more persons shall report a summary of results of analyses for TTHM and HAA5 in a format including all of the following information:

1. The system name and PWS identification number.
2. A contact person and phone number, and

3. The information listed in 40 C.F.R. § 141.629(a)(1).

(d) For systems that are not subject to paragraph 62-550.822(18)(b) or (c), F.A.C., the Department shall perform calculations in accordance with 40 C.F.R. § 141.629(a)(1) to determine whether MCLs or operational evaluation levels were exceeded.

(19) Systems shall take all TTHM and HAA5 samples required by 40 C.F.R. § 141, subpart V, during normal operating conditions.

(a) Systems shall demonstrate that TTHM and HAA5 samples were taken during normal operating conditions by measuring, and reporting with the results of samples for TTHM and HAA5, the residual disinfectant level at the same points where, and same times when, TTHM and HAA5 samples are taken. These measurements may be performed by any authorized representative of the supplier of water or Department; but measurements for residual chlorine shall be performed following the appropriate procedures in the Department of Environmental Protection Standard Operating Procedures for Field Activities, DEP-SOP-001/01, as incorporated into Rule 62-160.800, F.A.C., and all other measurements shall be performed using an appropriate method referenced in subsection 62-550.550(1), F.A.C. These measurements shall not be used for determining compliance with the MRDL.

(b) Systems using distribution system flushing as a means to reduce water residence time in their distribution system and manage TTHM and HAA5 levels shall, to the extent possible, take TTHM and HAA5 samples during the middle third of the time period between flushing events.

Rulemaking Authority 403.861(9) FS. Law Implemented 403.852(12), 403.853(1), (3), (7), 403.861(16), (17) FS. History—New \_\_\_\_\_.

62-550.824 Consumer Confidence Reports.

These rules are intended to implement the Primary and Secondary Drinking Water Regulations that require community water systems to prepare and provide to their customers annual consumer confidence reports (CCRs) on the quality of the water delivered by the systems. In addition to the requirements

of this rule, the requirements contained in the July 1, 2009, edition of 40 C.F.R. § 141, subpart O (sections 151 through 155) and Appendix A to 40 C.F.R. § 141, subpart O following regulations are adopted and incorporated herein by reference and are enforceable under this rule: ~~the July 1, 2002, edition of 40 CFR 141, Subpart O, sections 151 through 155, and Appendix A to 40 CFR 141, Subpart O; revisions to Subpart O on pages 70855 through 70857 of the November 27, 2002, Federal Register; and revisions to Subpart O on pages 73011-74047 of the December 9, 2002, Federal Register.~~ Additional information may be obtained from the USEPA's guidance manuals *Preparing Your Drinking Water Consumer Confidence Report – Revised Guidance for Water Suppliers*, EPA 816-R-01-003, January 2001, and *Revised State Implementation Guidance for the Consumer Confidence Report (CCR) Rule*, Appendix F, EPA 816-R-01-002, January 2001, which are incorporated herein by reference.

(1) Additional Report Content Requirements. In addition to the requirements of 40 C.F.R. § 141.153, the following requirements shall apply:

(a) through (k) No change.

(l) Variances and exemptions. Community water systems operating under the terms of a variance or exemption issued by the state in accordance with Rules ~~62-560.510~~ 62-550.510 and 62-560.520, F.A.C. or Section 120.542, F.S., for the secondary contaminant MCLs listed in Rule 62-550.320, F.A.C., or for the primary contaminant MCLs for nickel and sodium listed in subsections 62-550.310(1), F.A.C., shall include in their CCRs:

1. through 4. No change.

(2) through (3) No change.

Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.853(3), (4), 403.861(9) FS. History—New 9-22-99, Amended 8-1-00, 11-27-01, 4-10-03, \_\_\_\_\_.

**TABLE 3: [insert the effective date of these rule amendments]**  
**STAGE 1 MAXIMUM CONTAMINANT LEVELS FOR DISINFECTION BYPRODUCTS**  
**REFERENCE SUBSECTION 62-550.310(3), F.A.C.**

FEDERAL CONTAMINANT ID NUMBER	CONTAMINANT	MCL (mg/L)
2950	Total Trihalomethanes (TTHM)	Stage 1: 0.080 with compliance determined based on the RAA for the system <sup>1</sup> Stage 2: 0.080 with compliance determined based on the LRAA at each monitoring location <sup>2</sup>
2456	Haloacetic Acids (Five) (HAA5)	Stage 1: 0.060 with compliance determined based on the RAA for the system <sup>1</sup> Stage 2: 0.060 with compliance determined based on the LRAA at each monitoring location <sup>2</sup>
1011	Bromate	0.010
1009	Chlorite	1.0

<sup>1</sup> For further details regarding compliance determinations, see 40 C.F.R. § 141.133(b)(1), which is incorporated by reference in Rule 62-550.821, F.A.C.

<sup>2</sup> For further details regarding compliance determinations, see 40 C.F.R. § 141.620(c)(7) and (d), which are incorporated by reference in Rule 62-550.822, F.A.C.

Abbreviations Used: MCL = maximum contaminant level;  
 mg/L = milligrams per liter;  
 RAA = running annual average;  
 LRAA = locational running annual average.

**TABLE 7: [insert the effective date of these rule amendments]**  
**MONITORING FREQUENCIES AND LOCATIONS**  
**REFERENCE SUBSECTION 62-550.500(2), F.A.C.**

CONTAMINANT OR DISINFECTANT RESIDUAL GROUP	APPLICABILITY	INITIAL OR ROUTINE MONITORING		TRIGGER THAT INCREASES MONITORING	INCREASED MONITORING		TRIGGER THAT REDUCES MONITORING	REDUCED MONITORING		MONITORING LOCATION(S)
		SYSTEMS USING ONLY GW SYSTEMS	SUBPART H SYSTEMS		SYSTEMS USING ONLY GW SYSTEMS	SUBPART H SYSTEMS		SYSTEMS USING ONLY GW SYSTEMS	SUBPART H SYSTEMS	
ASBESTOS RULE 62-550.511	CWSs, NTNCWSs	1 SAMPLE EVERY 9 YEARS		SAMPLE > MCL	1 SAMPLE QUARTERLY		SYSTEM NOT SUSCEPTIBLE	NO SAMPLING REQUIRED		NOTE 1
NITRATE & NITRITE RULES 62-550.500(5) & 62-550.512	CWSs, NTNCWSs	1 SAMPLE ANNUALLY	1 SAMPLE QUARTERLY	GW SYS. USING ONLY GW WITH SAMPLE ≥ 50% OF MCL	1 SAMPLE QUARTERLY		SUBPART H SYS. WITH EACH OF 4 MOST RECENT QUARTERLY SAMPLES < 50% OF MCL	---	1 SAMPLE ANNUALLY DURING QUARTER WITH HIGHEST RESULT	EVERY ENTRY POINT TO DIST. SYS. DURING NORMAL OPERATING CONDITIONS
	TWSs	1 SAMPLE ANNUALLY		NITRATE SAMPLE > MCL OR NITRITE SAMPLE ≥ 50% OF MCL	1 SAMPLE QUARTERLY		---	---		
INORGANICS RULES 62-550.500(5) & 62-550.513	CWSs, NTNCWSs	1 SAMPLE EVERY 3 YEARS	1 SAMPLE ANNUALLY	SAMPLE > MCL	1 SAMPLE QUARTERLY		1 FOUR CONSECUTIVE QUARTERS < MCL	SEE ROUTINE MONITORING		EVERY ENTRY POINT TO DIST. SYS. DURING NORMAL OPERATING CONDITIONS
CHLORINE & CHLORAMINES RULES 62-550.514(1) & 62-550.821	CWSs/NTNCWSs ADDING OR DELIVERING WATER THAT HAS BEEN TREATED WITH CHLORINE OR CHLORAMINES	MULTIPLE SAMPLES MONTHLY; SEE NOTE 2		---	---		---	---		NOTE 2
CHLORINE DIOXIDE RULES 62-550.514(1) & 62-550.821	CWSs/NTNCWSs/TWSs ADDING CHLORINE DIOXIDE	1 SAMPLE DAILY		SAMPLE > MCL	ADDITIONAL 3-SAMPLE SET THE FOLLOWING DAY		---	---		NOTE 3



TTHM & HAA5 - STAGE 1 TOTAL- TRICHALO-METHANES & HALOACETIC ACIDS (FIVE)- STAGE 1 MCLs RULES 62-550.514(2) & 62-550.821	CWSs/NTNCWSs ADDING A DISINFECTANT & SERVING ≥ 10,000 PERSONS	1 SAMPLE PER TREATMENT PLANT QUARTERLY	4 SAMPLES PER TREATMENT PLANT QUARTERLY	---	---	GW SYS. USING ONLY GW WITH ANNUAL AVG. TTHM & HAA5 ≤ 50% OF MCL; SUBPART H SYS. WITH ANNUAL AVG. SOURCE-WATER TOC ≤ 4.0 MG/L & ANNUAL AVG. TTHM & HAA5 ≤ 50% OF MCL	1 SAMPLE PER TREATMENT PLANT ANNUALLY DURING MONTH OF WARMEST WATER TEMP.	1 SAMPLE PER TREATMENT PLANT QUARTERLY	NOTE 4
	CWSs/NTNCWSs ADDING A DISINFECTANT & SERVING 500 to 9,999 PERSONS	1 SAMPLE PER TREATMENT PLANT ANNUALLY DURING MONTH OF WARMEST WATER TEMP.	1 SAMPLE PER TREATMENT PLANT QUARTERLY	GW-SYS. USING ONLY GW WITH AVG. OF ANNUAL SAMPLES > MCL	1 SAMPLE PER TREATMENT PLANT QUARTERLY	---	GW-SYS. USING ONLY GW WITH ANNUAL AVG. TTHM & HAA5 ≤ 50% OF MCL FOR 2 CONSECUTIVE YEARS OR ≤ 25% OF MCL FOR 1 YEAR; SUBPART H SYS. WITH ANNUAL AVG. SOURCE-WATER TOC ≤ 4.0 MG/L & ANNUAL AVG. TTHM & HAA5 ≤ 50% OF MCL	1 SAMPLE PER TREATMENT PLANT EVERY 3 YEARS DURING MONTH OF WARMEST WATER TEMP.	1 SAMPLE PER TREATMENT PLANT ANNUALLY DURING MONTH OF WARMEST WATER TEMP.
	CWSs/NTNCWSs ADDING A DISINFECTANT & SERVING < 500 PERSONS	1 SAMPLE PER TREATMENT PLANT ANNUALLY DURING MONTH OF WARMEST WATER TEMP.	AVG. OF ANNUAL SAMPLES > MCL		1 SAMPLE PER TREATMENT PLANT QUARTERLY	---	GW-SYS. USING ONLY GW WITH ANNUAL AVG. TTHM & HAA5 ≤ 50% OF MCL FOR 2 CONSECUTIVE YEARS OR ≤ 25% OF MCL FOR 1 YEAR	---	---
TTHM & HAA5 - STAGE 2 RULES 62-550.514(2) & 62-550.822	CWSs/NTNCWSs USING A PRIMARY OR RESIDUAL DISINFECTANT OTHER THAN UV LIGHT OR DELIVERING WATER THAT HAS BEEN TREATED WITH A PRIMARY OR RESIDUAL DISINFECTANT OTHER THAN UV LIGHT	POPULATION BASED - REFER TO 40 C.F.R. § 141.621(a)(2)		MONITORING ANNUALLY OR LESS FREQUENTLY & TTHM SAMPLE > 0.080 MG/L OR HAA5 SAMPLE > 0.060 MG/L AT ANY LOCATION	DUAL SAMPLE SETS QUARTERLY AT ALL LOCATIONS	SYSTEMS USING ONLY GW WITH LRAA TTHM & HAA5 ≤ 50% OF MCL AT ALL MONITORING LOCATIONS; SUBPART H SYS. WITH ANNUAL AVG. SOURCE-WATER TOC ≤ 4.0 MG/L & LRAA TTHM & HAA5 ≤ 50% OF MCL AT ALL MONITORING LOCATIONS	POPULATION BASED - REFER TO 40 C.F.R. § 141.623(a)		HIGHEST TTHM LOCATIONS & HIGHEST HAA5 LOCATIONS IN ACCORDANCE WITH 40 C.F.R. § 141. SUBPART V, MONITORING PLAN
CHLORITE STAGE 1 MCL RULES 62-550.514(2) & 62-550.821	CWSs/NTNCWSs ADDING CHLORINE DIOXIDE	1 SAMPLE DAILY		SAMPLE > MCL	ADDITIONAL 3-SAMPLE SET THE FOLLOWING DAY	---	---	---	NOTE 5
		3-SAMPLE SET MONTHLY		---	---	NO INDIVIDUAL ENTRY-POINT OR DIST. SYS. SAMPLE > MCL FOR 1 YEAR	3-SAMPLE SET QUARTERLY		
BROMATE STAGE 1 MCL RULES 62-550.514(2) & 62-550.821	CWSs/NTNCWSs ADDING OZONE	1 SAMPLE PER TREATMENT PLANT MONTHLY		---	---	ANNUAL AVG. BROMATE ≤ 0.0025 MG/L BASED ON MONTHLY MEASUREMENTS ANNUAL AVG. SOURCE-WATER BROMIDE ≤ 0.05 MG/L BASED UPON MONTHLY MEASUREMENTS	1 SAMPLE PER TREATMENT PLANT QUARTERLY		ENTRANCE TO DIST. SYS. UNDER NORMAL OPERATING CONDITIONS
VOCs VOLATILE ORGANICS RULES 62-550.500(5) & 62-550.515	CWSs, NTNCWSs	4 CONSECUTIVE QUARTERLY SAMPLES EVERY 3 YEARS OR, IF AUTHORIZED, 1 SAMPLE ANNUALLY; SEE NOTE 6		DETECTION OF ANY VOC AT > 0.0005 MG/L	1 SAMPLE QUARTERLY	GW SYS. USING ONLY GW WITH NO DETECTION OF ANY VOC DURING 3 YEARS OF ANNUAL SAMPLING	1 SAMPLE EVERY 3 YEARS	---	NOTE 7
	CWSs/NTNCWSs SERVING > 3,300 PERSONS	4 CONSECUTIVE QUARTERLY SAMPLES EVERY 3 YEARS		DETECTION OF ANY SOC	1 SAMPLE QUARTERLY	NO DETECTION OF ANY SOC DURING INITIAL COMPLIANCE PERIOD	2 QUARTERLY SAMPLES IN THE SAME YEAR EVERY 3 YEARS		NOTE 7
SOCs SYNTHETIC ORGANICS RULES 62-550.500(5) & 62-550.516	CWSs/NTNCWSs SERVING ≤ 3,300 PERSONS	MULTIPLE SAMPLES MONTHLY; SEE NOTE 8		TOTAL COLIFORM POSITIVE SAMPLE	NOTE 9	---	---	---	SITES REFLECTING WATER THROUGHOUT DIST. SYS.
	TWSs SERVING ≤ 1,000 PERSONS	2 SAMPLES QUARTERLY	2 SAMPLES MONTHLY						
SECONDARY CONTAMINANTS RULES 62-550.500(5) & 62-550.520	CWSs	1 SAMPLE EVERY 3 YEARS		---	---	---	---	---	EVERY ENTRY POINT TO DIST. SYS. DURING NORMAL OPERATING CONDITIONS

GROSS ALPHA, RADIUM-226, RADIUM-228, & URANIUM RULE 62-550.519(1)	CWSs	INITIAL MONITORING IS 4 CONSECUTIVE QUARTERLY SAMPLES;  ROUTINE MONITORING IS 1 SAMPLE EVERY 3 YEARS; SEE NOTE 10	SAMPLE > MCL OR IF MONITORING ONCE EVERY 6 YEARS, A SAMPLE RESULT > 1/2 MCL OR IF MONITORING ONCE EVERY 9 YEARS, A SAMPLE RESULT $\geq$ DETECTION LIMIT	1 SAMPLE QUARTERLY WHEN PREVIOUS SAMPLE RESULT IS > MCL OR <u>IF SAMPLING EVERY 9 YEARS AND THE SAMPLE IS <math>\leq</math> MCL BUT &gt; 1/2 MCL, SAMPLE EVERY 6 YEARS;</u> OR IF SAMPLE IS $\geq$ DETECTION LIMIT BUT $\leq$ 1/2 MCL; OR IF SAMPLING EVERY 6 OR 9 YEARS AND THE SAMPLE IS > 1/2 MCL BUT $\leq$ MCL, SAMPLE EVERY 3 YEARS OR <u>IF SAMPLING EVERY 9 YEARS AND THE SAMPLE IS <math>\geq</math> DETECTION LIMIT BUT <math>\leq</math> 1/2 MCL, SAMPLE EVERY 6 YEARS</u>	AVERAGE OF INITIAL MONITORING SAMPLES OR LAST ROUTINE OR REDUCED MONITORING SAMPLE < DETECTION LIMIT	1 SAMPLE EVERY 9 YEARS	EVERY ENTRY POINT TO DIST. SYS. DURING NORMAL OPERATING CONDITIONS
					DETECTION LIMIT $\leq$ AVERAGE OF INITIAL MONITORING SAMPLES OR LAST ROUTINE OR REDUCED MONITORING SAMPLE IS $\geq$ DETECTION LIMIT BUT $\leq$ 1/2 MCL	1 SAMPLE EVERY 6 YEARS	
BETA PARTICLE & PHOTON RADIO-ACTIVITY RULE 62-550.519(2)	CWSs DESIGNATED AS VULNERABLE	1 SAMPLE QUARTERLY FOR GROSS BETA & 1 SAMPLE ANNUALLY FOR TRITIUM & STRONTIUM-90	SAMPLE > MCL	1 SAMPLE MONTHLY FOR GROSS BETA, TRITIUM, & STRONTIUM-90	ANNUAL AVERAGE OF GROSS BETA MINUS POTASSIUM-40 $\leq$ 50 pCi/L	1 SAMPLE EVERY 3 YEARS FOR GROSS BETA, TRITIUM, & STRONTIUM-90	EVERY ENTRY POINT TO DIST. SYS. DURING NORMAL OPERATING CONDITIONS
	CWSs DESIGNATED AS UTILIZING WATERS CONTAMINATED BY EFFLUENTS FROM NUCLEAR FACILITIES	QUARTERLY FOR GROSS BETA & IODINE-131 & ANNUALLY FOR TRITIUM & STRONTIUM-90; SEE NOTE 11	QUARTERLY RESULT FOR GROSS BETA OR IODINE-131 > MCL; ANNUAL RESULT FOR TRITIUM OR STRONTIUM-90 > MCL.	MONTHLY FOR GROSS BETA, IODINE-131, TRITIUM, & STRONTIUM-90	ANNUAL AVERAGE OF GROSS BETA MINUS POTASSIUM-40 $\leq$ 15 pCi/L	EVERY 3 YEARS FOR GROSS BETA, IODINE-131, TRITIUM, & STRONTIUM-90	
Abbreviations used:	CWSs = community water systems; GW SYSTEMS = ground water systems; HAA5 = haloacetic acids (five); MCL = maximum contaminant level; MGL = milligrams per liter; NTNCWSs = non-transient non-community water systems; pCi/L = picocuries per liter;			SOC = synthetic organic contaminant; TOC = total organic carbon; THM = total trihalomethanes; TWSs = transient non-community water systems; UV = ultraviolet; VOC = volatile organic contaminant			

NOTE 1: Systems susceptible to asbestos contamination due solely to corrosion of asbestos-cement pipe shall sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur. Systems susceptible to asbestos contamination due solely to source water shall monitor at every entry point to the distribution system during normal operating conditions. Systems susceptible to asbestos contamination due to both source water and corrosion of asbestos-cement pipe shall sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

NOTE 2: Systems shall measure the residual disinfectant level at the same locations in the distribution system where, and at the same time when, total coliforms are sampled.

NOTE 3: Systems shall take routine daily samples at the entrance to the distribution system. Systems shall take additional three-sample sets in the distribution system at the following locations:

(a) If chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfectant addition ~~disinfection~~ points after the

entrance to the distribution system (i.e., no booster chlorination), the system shall take three samples as close to the first customer as possible at intervals of at least six hours.

(b) If chlorine is used to maintain a disinfectant residual in the distribution system and there are one or more disinfectant addition points after the entrance to the distribution system (i.e., booster chlorination), the system shall take one sample at each of the following locations: as close to the first customer as possible, in a location representative of average residence time, and as close to the end of the distribution system as possible.

NOTE 4: Systems taking one sample shall take the sample at a location reflecting maximum residence time in the distribution system. Systems taking more than one sample shall take at least 25% of the samples at locations representing maximum residence time of the water in the distribution system and shall take the remaining samples at locations representing at least average residence time in the distribution system and representing the entire distribution system, taking into account number of persons served, different sources of water, and different treatment methods.

NOTE 5: Systems shall take routine daily samples at the entrance to the distribution system. Systems shall take routine monthly or additional three-set samples in the distribution system; each three-set sample shall consist of one sample at

each of the following locations: a location as close to the first customer as possible, a location representative of average residence time, and a location reflecting maximum residence time in the distribution system.

NOTE 6: For initial base point monitoring, systems shall take four consecutive quarterly samples during the first three-year compliance period. If a system does not detect any VOC, it shall take one sample annually beginning with the next three-year compliance period.

NOTE 7: During the first quarter of initial base point monitoring, GW systems shall take a minimum of one sample that is representative of each well. Under all other circumstances, systems shall sample at every entry point to the distribution system during normal operating conditions.

NOTE 8: The minimum number of samples shall be as set forth in subsection Rule 62-550.518(2), F.A.C.

NOTE 9: Systems shall conduct repeat monitoring in accordance with subsection Rule 62-550.518(7), F.A.C., and systems that routinely collect fewer than five samples per month shall collect at least five samples during the next month the system provides water to the public.

NOTE 10: The Department shall waive the final two quarters of initial monitoring for a sampling point if the results of the samples from the previous two quarters are below the regulatory detection limit. Additionally, under the conditions described in paragraph Rule 62-550.519(1)(c), F.A.C., historical data may be used to satisfy initial monitoring requirements. ~~Systems shall take one sample quarterly if an MCL is exceeded.~~

NOTE 11: Quarterly monitoring for gross beta shall be based on the analysis of monthly samples or the analysis of a composite of three monthly samples. For iodine-131, a composite of five consecutive daily samples shall be analyzed once each quarter. Annual monitoring for tritium and strontium-90 shall be conducted by means of the analysis of a composite of four consecutive quarterly samples or analysis of four quarterly samples.

<p align="center">TABLE 8: <del>insert the effective date of these rule amendments</del></p> <p align="center">INITIAL OR ROUTINE MONITORING SCHEDULE</p> <p align="center">REFERENCE <u>SUBSECTION RULE 62-550.500(3)</u>, F.A.C.</p> <p align="center">Under initial or routine monitoring, public water systems shall take required samples during the time period specified below.</p>					
CONTAMINANT OR DISINFECTANT RESIDUAL GROUP	COMMUNITY WATER SYSTEMS SERVING MORE THAN 3,300 PEOPLE	COMMUNITY WATER SYSTEMS SERVING 3,300 OR FEWER PEOPLE	NON-TRANSIENT NON-COMMUNITY WATER SYSTEMS	TRANSIENT NON-COMMUNITY WATER SYSTEMS	
ASBESTOS RULES 62-550.500(3) & 62-550.511	FIRST YEAR OF EACH NINE-YEAR COMPLIANCE CYCLE	SECOND YEAR OF EACH NINE-YEAR COMPLIANCE CYCLE	THIRD YEAR OF EACH NINE-YEAR COMPLIANCE CYCLE	NOT REQUIRED	
NITRATES AND NITRITES RULES 62-550.500(3) & 62-550.512	SYSTEMS USING ONLY GROUND WATER	ANNUALLY			
	SUBPART H SYSTEMS	QUARTERLY			ANNUALLY
INORGANICS RULES 62-550.500(3) & 62-550.513	SYSTEMS USING ONLY GROUND WATER	FIRST YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	SECOND YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	THIRD YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	NOT REQUIRED
	SUBPART H SYSTEMS	ANNUALLY			NOT REQUIRED
CHLORINE & CHLORAMINES RULES 62-550.514(1) & 62-550.821	MONTHLY FOR SYSTEMS ADDING OR DELIVERING WATER TREATED WITH CHLORINE OR CHLORAMINES				NOT REQUIRED
CHLORINE DIOXIDE RULES 62-550.514(1) & 62-550.821	DAILY FOR SYSTEMS ADDING CHLORINE DIOXIDE				
TOTAL TRIHALOMETHANES & HALOACETIC ACIDS (FIVE) - <del>STAGE 1 STAGE-1</del> + MCL RULES 62-550.500(3), 550.514(2), & 62-550.821	SYSTEMS USING ONLY GROUND WATER	QUARTERLY FOR SYSTEMS ADDING A DISINFECTANT & SERVING ≥ 10,000 PEOPLE & ANNUALLY DURING MONTH OF WARMEST WATER TEMPERATURE FOR SYSTEMS ADDING A DISINFECTANT & SERVING < 10,000 PEOPLE	ANNUALLY DURING MONTH OF WARMEST WATER TEMPERATURE FOR SYSTEMS ADDING A DISINFECTANT	QUARTERLY FOR SYSTEMS ADDING A DISINFECTANT & SERVING ≥ 10,000 PEOPLE & ANNUALLY DURING MONTH OF WARMEST WATER TEMPERATURE FOR SYSTEMS ADDING A DISINFECTANT & SERVING < 10,000 PEOPLE	NOT REQUIRED
	SUBPART H SYSTEMS	QUARTERLY FOR SYSTEMS ADDING A DISINFECTANT	QUARTERLY FOR SYSTEMS ADDING A DISINFECTANT & SERVING ≥ 500 PEOPLE & ANNUALLY DURING MONTH OF WARMEST WATER TEMPERATURE FOR SYSTEMS ADDING A DISINFECTANT & SERVING < 500 PEOPLE		NOT REQUIRED

TOTAL TRIHALOMETHANES & HALOACETIC ACIDS (FIVE) – STAGE 2 RULES 62-550.500(3), 62-550.514(2), & 62-550.822	SYSTEMS USING ONLY GROUND WATER	QUARTERLY FOR SYSTEMS SERVING ≥ 10,000 PEOPLE; ANNUALLY DURING MONTH OF HIGHEST DBP CONCENTRATIONS FOR SYSTEMS SERVING < 10,000 PEOPLE	ANNUALLY DURING MONTH OF HIGHEST DBP CONCENTRATIONS	QUARTERLY FOR SYSTEMS SERVING ≥ 10,000 PEOPLE; ANNUALLY DURING MONTH OF HIGHEST DBP CONCENTRATIONS FOR SYSTEMS SERVING < 10,000 PEOPLE	NOT REQUIRED
	SUBPART H SYSTEMS	QUARTERLY	QUARTERLY FOR SYSTEMS SERVING ≥ 500 PEOPLE; ANNUALLY DURING MONTH OF HIGHEST DBP CONCENTRATIONS FOR SYSTEMS SERVING < 500 PEOPLE		
CHLORITE – STAGE 1 MCL RULES 62-550.514(2) & 62-550.821		DAILY AT ENTRANCE TO DISTRIBUTION SYSTEM & MONTHLY IN DISTRIBUTION SYSTEM FOR SYSTEMS ADDING CHLORINE DIOXIDE			NOT REQUIRED
BROMATE – STAGE 1 MCL RULES 62-550.514(2) & 62-550.821		MONTHLY FOR SYSTEMS ADDING CHLORINE DIOXIDE			NOT REQUIRED
VOLATILE ORGANICS RULES 62-550.500(3) & 62-550.515		QUARTERLY OR, IF AUTHORIZED, ANNUALLY DURING THE FIRST YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	QUARTERLY OR, IF AUTHORIZED, ANNUALLY DURING THE SECOND YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	QUARTERLY OR, IF AUTHORIZED, ANNUALLY DURING THE THIRD YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	NOT REQUIRED
SYNTHETIC ORGANICS RULES 62-550.500(3) & 62-550.516		QUARTERLY DURING THE FIRST YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD; UNLESS REDUCED MONITORING IS AUTHORIZED	QUARTERLY DURING THE SECOND YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD; UNLESS REDUCED MONITORING IS AUTHORIZED	QUARTERLY DURING THE THIRD YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD UNLESS REDUCED MONITORING IS AUTHORIZED	NOT REQUIRED
MICROBIOLOGICAL CONTAMINANTS RULES 62-550.500(3) & 62-550.518	SYSTEMS USING ONLY GROUND WATER	MONTHLY			MONTHLY FOR SYSTEMS SERVING > 1,000 PEOPLE & QUARTERLY FOR SYSTEMS SERVING ≤ 1,000 PEOPLE
	SUBPART H SYSTEMS	MONTHLY			
GROSS ALPHA, RADIUM-226, RADIUM-228 & URANIUM RULES 62-550.500(3) & 62-550.519		ROUTINE MONITORING OCCURS DURING FIRST YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD UNLESS REDUCED MONITORING IS APPROVED	ROUTINE MONITORING OCCURS DURING SECOND YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD UNLESS REDUCED MONITORING IS APPROVED	NOT REQUIRED	NOT REQUIRED
BETA PARTICLE & PHOTON RADIOACTIVITY RULES 62-550.500(3) & 62-550.519		QUARTERLY/ANNUALLY FOR SYSTEMS DESIGNATED AS VULNERABLE OR UTILIZING WATERS CONTAMINATED BY EFFLUENTS FROM NUCLEAR FACILITIES		NOT REQUIRED	NOT REQUIRED
SECONDARY CONTAMINANTS RULES 62-550.500(3) & 62-550.520		FIRST YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	SECOND YEAR OF EACH THREE-YEAR COMPLIANCE PERIOD	NOT REQUIRED	NOT REQUIRED

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Janet G. Llewellyn, Director, Division of Water Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mimi A. Drew, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 6, 2009

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:                      RULE TITLES:  
62-560.400                      Scope of Drinking Water Public Notification Rules  
62-560.410                      Public Notification – Primary Standards

PURPOSE AND EFFECT: The Department is adopting the national Stage 2 Disinfectants and Disinfection Byproducts Rule (D/DBPR), including revisions to best available technology (BAT) for disinfection byproducts. Also, the

Department is updating the State’s “Standard Health Effects Language for Public Notification,” so it is consistent with the national primary drinking water regulations.

SUMMARY: Rules 62-560.400 and 62-560.410, F.A.C., are being amended to reference the current edition of Appendix B to Subpart Q in Part 141 of Title 40 of the Code of Federal Regulations, “Standard Health Effects Language for Public Notification.” Table 2 in Chapter 62-560, F.A.C., is being amended to incorporate the Stage 2 D/DBPR BAT for compliance with the Stage 2 D/DBPR maximum contaminant levels for total trihalomethanes and haloacetic acids (five). There are a number of Department of Environmental Protection rules that reference these rules being amended. Rules 62-550.200, 62-550.310, 62-550.500, 62-550.512, 62-550.518, and 62-550.821, F.A.C., reference Rule 62-560.410, F.A.C., but the amendment to Rule 62-560.410, F.A.C., will have no effect on those rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Department has determined that these rule amendments will have no impact on public water systems, some of which are small businesses. The update to the health effects language referenced in Rules 62-560.400 and 62-560.410, F.A.C., will result only in different wording being

required for public notices. The list of BAT in amended Table 2 is mainly for informational purposes; public water systems must use a BAT listed in Table 2 only if they wish to obtain a variance from a maximum contaminant level for disinfection byproducts.

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: 403.861(9) FS.

LAW IMPLEMENTED: 403.857 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: December 20, 2010, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room 609, 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: Virginia Harmon at the above address, telephone, or email address. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Virginia Harmon at the above address, telephone, or email address

THE FULL TEXT OF THE PROPOSED RULES IS:

62-560.400 Scope of Drinking Water Public Notification Rules.

The following sections set forth the requirements that a supplier of water shall meet when public notification is required. In addition to the requirements described in this part, Appendix B to Subpart Q of 40 C.F.R. § 141, "Standard Health Effects Language for Public Notification," July 1, ~~2009~~ 2002, is adopted and incorporated herein by reference and is available from the Department of Environmental Protection, Drinking Water Section (MS 3520), 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.857 FS. History--New 1-18-89, Amended 1-3-91, 1-1-93, Formerly 17-560.400, Amended 9-7-94, 11-27-01, 1-17-05,\_\_\_\_\_.

62-560.410 Public Notification – Primary Standards.

(1) through (5) No change.

(6) The supplier of water shall include in the notice the applicable language on potential adverse health effects for those contaminants and disinfectants found in Appendix B to Subpart Q of 40 C.F.R. § 141, "Standard Health Effects Language for Public Notification," July 1, ~~2009~~ 2002, and in subparagraph 62-550.824(1)(c)5., F.A.C.

(7) through (11) No change.

Rulemaking Specific Authority 403.861(9) FS. Law Implemented 403.857 FS. History--New 11-19-87, Formerly 17-22.910, Amended 1-18-89, 1-3-91, 1-1-93, 7-4-93, Formerly 17-560.410, Amended 9-7-94, 11-27-01, 1-17-05,\_\_\_\_\_.

TABLE 2: [insert the effective date of these rule amendments]  
 BEST AVAILABLE TECHNOLOGY FOR DISINFECTION BYPRODUCTS  
 REFERENCE SUBSECTION 62-560.610(3), F.A.C.

CONTAMINANT	BEST AVAILABLE TECHNOLOGY
<p><u>Total Trihalomethanes and Haloacetic Acids (five)</u></p>	<p><u>For compliance with the Stage 1 MCLs and 40 C.F.R. § 141, subpart L, as incorporated into Rule 62-550.821, F.A.C.:</u></p> <ul style="list-style-type: none"> <li>• <u>Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant</u></li> </ul> <p><u>For compliance with the Stage 2 MCLs and 40 C.F.R. § 141, subpart V, as incorporated into Rule 62-550.822, F.A.C., by systems that disinfect their source water:</u></p> <ul style="list-style-type: none"> <li>• <u>Enhanced coagulation or enhanced softening, plus GAC10</u></li> <li>• <u>Nanofiltration with a molecular weight cutoff less than or equal to 1,000 Daltons</u></li> <li>• <u>GAC20</u></li> </ul> <p><u>For compliance with the Stage 2 MCLs and 40 C.F.R. § 141, subpart V, as incorporated into Rule 62-550.822, F.A.C., by consecutive systems (these technologies apply only to disinfected water that consecutive systems buy or otherwise receive):</u></p> <ul style="list-style-type: none"> <li>• <u>Systems serving 10,000 or more people: improved distribution system and storage tank management to reduce residence time, plus the use of chloramines for disinfectant residual maintenance</u></li> <li>• <u>Systems serving less than 10,000 people: improved distribution system and storage tank management to reduce residence time</u></li> </ul>
<p><u>Total Trihalomethanes</u></p>	<p><u>Enhanced coagulation with chlorine as the primary and residual disinfectant.</u>  <u>Enhanced softening with chlorine as the primary and residual disinfectant.</u>  <u>GAC 10 with chlorine as the primary and residual disinfectant.</u></p>
<p><u>Haloacetic acids (five)</u></p>	<p><u>Enhanced coagulation with chlorine as the primary and residual disinfectant.</u>  <u>Enhanced softening with chlorine as the primary and residual disinfectant.</u>  <u>GAC 10 with chlorine as the primary and residual disinfectant.</u></p>
<p><u>Bromate</u></p>	<p><u>Control of ozone treatment process to reduce production of bromate.</u></p>
<p><u>Chlorite</u></p>	<p><u>Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.</u></p>

NAME OF PERSON ORIGINATING PROPOSED RULE: 63H-1.010 Cross-Over Training  
 Janet G. Llewellyn, Director, Division of Water Resource 63H-1.011 Rehired Employee Training  
 Management 63H-1.013 Testing Requirements  
 NAME OF AGENCY HEAD WHO APPROVED THE 63H-1.014 Training Instructor Qualifications  
 PROPOSED RULE: Mimi A. Drew, Secretary 63H-1.016 Law Enforcement and County  
 Operated Facilities and  
 Partnerships  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 6, 2009

**DEPARTMENT OF JUVENILE JUSTICE**

**Staff Training**

RULE NOS.: RULE TITLES:  
 63H-1.001 Purpose and Scope  
 63H-1.002 Definitions  
 63H-1.004 Authorized Techniques  
 63H-1.006 Supervision of Youth in Mechanical Restraints

PURPOSE AND EFFECT: The amendments to the department's Protective Action Response (PAR) verbal and physical intervention program are necessary to accommodate county operation of juvenile detention centers.

SUMMARY: References to state operated and contracted facilities are revised to include county operation of detention centers and facilities.

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: 985.64, 985.645 FS.

LAW IMPLEMENTED: 985.645 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: Monday, December 13, 2010, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 3223, Tallahassee, Florida. For information about participation by telephone, contact John Milla at (850)921-4129

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 63H-1.001 Purpose and Scope.

This rule establishes a statewide framework to implement procedures governing the use of verbal and physical intervention techniques and mechanical restraints. Protective Action Response (PAR), as authorized by the department, shall be the verbal and physical intervention program trained and utilized by direct care staff in state operated, county operated, county operated, and contracted facilities and programs. PAR verbal intervention is the most common and preferred method of preventing or de-escalating conflict. It is the intent of the department that the least restrictive means of physical intervention be employed based on the individual needs of each youth.

Rulemaking Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055 FS. History—New 11-19-06, Amended 1-13-09, \_\_\_\_\_.

#### 63H-1.002 Definitions.

(1) Active Resistance – Youth makes physically evasive movements to defeat an employee's attempts to control; for example, bracing, or attempting to push or pull away from an employee.

(2) Actively Engaged – An employee is participating in the practical performance or application of any one of the approved physical intervention techniques or mechanical restraints.

(3) Administrator – One whose primary responsibility is overseeing the daily operations of a facility, program or probation circuit.

(4) Aggravated Resistance – Youth makes overt, hostile, attacking movements with or without a weapon with the apparent intent and apparent ability to cause death or great

bodily harm to the employee, self, or others; for example, striking with a stick, banging head against the wall, or swinging a razor blade.

(5) CJSTC – Criminal Justice Standards and Training Commission.

(6) Combative Resistance – Youth makes overt, hostile, attacking movements that may cause injury.

(7) Control Techniques – Techniques used to control and/or move a youth from point A to point B with minimum effort by the employee in order to gain and retain control over the youth.

(8) Countermoves – Techniques that impede a youth's movement toward an employee or others; for example, blocking, distracting, evading, redirecting, or avoiding.

(9) Designated Health Authority – A physician who holds an active license under Chapter 458 or 459, F.S.

(10) Dialogue – A two-way, controlled, non-emotional communication between the employee and the youth aimed at problem identification and/or resolution.

(11) Direct Care – Having direct contact with youth for the purpose of providing care, supervision, custody, or control in a state or county operated detention facility, delinquency program, or commitment program within any restrictiveness level, operated by the department or by a provider under contract with the department.

(12) Facility – A contracted, ~~or~~ state-operated, or county operated secure environment that provides custody, care, supervision or confinement of youth alleged or found to have committed a violation of law. This includes, but is not limited to, secure detention, law enforcement operated facilities, residential commitment programs, day treatment programs, and contracted facility based conditional release programs.

(13) Facility Employee – Any employee who exercises direct care in a facility.

(14) Hard Mechanical Restraints – Restraint devices constructed from inflexible material; for example, metal handcuffs, leg cuffs, and waist chains.

(15) Individual Health Care Record – The compilation of all records related to a youth's medical, dental and mental health.

(16) Master PAR Instructor – An advanced, qualified instructor who assists and monitors PAR instructors in maintaining quality delivery of PAR training and evaluation for PAR certification.

(17) Mechanical Restraints – This includes hard and soft mechanical restraints as defined in this rule.

(18) Mechanical Restraints Supervision Log – The form used to document a facility employee's use of mechanical restraints as a result of a Level 3 response, as defined in subsection 63H-1.003(3), F.A.C. The Mechanical Restraints Supervision Log (ADSD-001, revised 6/01/06) is incorporated

by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/mechanical\\_restraints\\_supervision\\_log.pdf](http://www.djj.state.fl.us/forms/sd/mechanical_restraints_supervision_log.pdf)).

(19) PAR Medical Release – The form signed and dated by a licensed physician that authorizes an employee to perform the physical intervention techniques that were checked on the Medical Status form. The PAR Medical Release (ADSD-002, revised 8/15/03) is incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par\\_medical\\_release.pdf](http://www.djj.state.fl.us/forms/sd/par_medical_release.pdf)).

(20) PAR Medical Status – The form signed and dated by a licensed physician that identifies the physical intervention techniques listed on the applicable PAR Training Plan an employee cannot perform and why. The PAR Medical Status (ADSD-003, revised 12/11/06) is incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par\\_medical\\_status.pdf](http://www.djj.state.fl.us/forms/sd/par_medical_status.pdf)).

(21) PAR Medical Review – The evaluation deemed necessary as a result of the Post PAR Interview.

(22) Passive Resistance – The youth physically refuses to comply or respond. The youth does not attempt to physically defeat the actions of the employee but refuses to obey all verbal directives.

(23) Post PAR Interview – The interview conducted by the Administrator or designee following a Level 2 or Level 3 response.

(24) Program – A contracted or state-operated non-residential environment providing supervision of youth who have been identified to receive services within the community. This includes, but is not limited to, probation, non-secure detention, home detention, juvenile assessment centers, Intensive Delinquency Diversion Services (IDDS) programs; community based conditional release programs and screening and intake units. This does not include prevention programs.

(25) Program Employee – Any employee who exercises direct care for a program.

(26) PAR – The department-approved verbal and physical intervention techniques and the application of mechanical restraints used in accordance with this rule, the Protective Action Response Escalation Matrix, and PAR training curricula.

(27) PAR Certification – This applies to an employee who has successfully completed PAR training as described in this rule. Only employees who are PAR trained are authorized to use PAR.

(28) PAR Escalation Matrix – The document that provides guidance as to the authorized level of response based upon the youth's level of resistance. This document articulates the five levels of resistance that may be displayed by a youth and the levels of response employees are authorized to use. The PAR Escalation Matrix (ADSD-004, revised 12/11/06) is

incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par\\_escalation\\_matrix.pdf](http://www.djj.state.fl.us/forms/sd/par_escalation_matrix.pdf)).

(29) PAR Incident Report – The form used to document the occurrence of an event where an employee has used one of the enumerated physical intervention techniques. The PAR Incident Report (ADSD-005, revised 6/23/08) is incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par\\_incident\\_report.pdf](http://www.djj.state.fl.us/forms/sd/par_incident_report.pdf)).

(30) PAR Performance Evaluation Forms – These forms are used to measure an employee's or PAR Instructor's ability to perform verbal and physical intervention techniques and apply mechanical restraints. The following forms are incorporated by reference and are available at the department's website listed below respectively:

(a) PAR Performance Evaluation – State operated facility/Contracted detention/ and Law Enforcement operated facility staff (ADSD-006, revised 6/01/2006) ([http://www.djj.state.fl.us/forms/sd/par\\_performance\\_evaluation\\_state\\_operated.pdf](http://www.djj.state.fl.us/forms/sd/par_performance_evaluation_state_operated.pdf)).

(b) PAR Performance Evaluation – Contracted facility staff (ADSD-007, revised 12/11/06) ([http://www.djj.state.fl.us/forms/sd/par\\_performance\\_evaluation\\_contracted.pdf](http://www.djj.state.fl.us/forms/sd/par_performance_evaluation_contracted.pdf)).

(c) PAR Performance Evaluation – Program staff (ADSD-008, revised 8/15/2003) ([http://www.djj.state.fl.us/forms/sd/par\\_performance\\_evaluation\\_program\\_staff.pdf](http://www.djj.state.fl.us/forms/sd/par_performance_evaluation_program_staff.pdf)).

(d) PAR Performance Evaluation – PAR Instructors (ADSD-009, revised 12/11/06) ([http://www.djj.state.fl.us/forms/sd/par\\_performance\\_evaluation\\_instructor.pdf](http://www.djj.state.fl.us/forms/sd/par_performance_evaluation_instructor.pdf)).

(31) PAR Training Plan forms – These forms identify the specific techniques that program and facility employees shall be trained to use. The identified techniques are the only techniques employees are authorized to use (except where provided in Rules 63H-1.003 and 63H-1.004, F.A.C.). The PAR Training Plan – Contracted facility staff form (ADSD-010, revised 12/11/06) is incorporated by reference and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par\\_training\\_plan.pdf](http://www.djj.state.fl.us/forms/sd/par_training_plan.pdf)).

(32) Soft Mechanical Restraints – Restraint devices that are made with flexible materials; for example, Velcro, nylon flex cuffs (also known as zip cuffs), and leather.

(33) Takedowns – Techniques that redirect a youth to the ground in a controlled manner in order to limit the youth's physical resistance and to facilitate the application of a restraint device, if needed.

(34) Touch – Employee uses a familiar touch when directing, or a custodial touch prior to escalating to a higher response level.

(35) Verbal Directions – Employee tells or commands a youth to engage in, or refrain from, a specific action or non-action.

(36) Verbal Resistance – Youth verbally refuses to comply with an employee's verbal attempts to control the situation.



Rulemaking Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055 FS. History—New 11-19-06, Amended 3-4-07, 1-13-09, \_\_\_\_\_.

63H-1.004 Authorized Techniques.

(1) Protective Action Response, as authorized by the department, shall be the verbal and physical intervention program trained and utilized by direct care staff in state-operated, county operated and contracted facilities and programs.

(2) On or before August 31, 2006, existing contracted facilities shall submit a new PAR Training Plan to the Director Assistant Secretary of Staff Development and Training or designee through the department's Regional Director or designee, and thereafter notice of any change to this plan shall be submitted as described above within 30 calendar days of the changes' effective date. Newly contracted or county operated facilities, except contracted detention facilities, shall submit their PAR Training Plan as described above no less than 30 calendar days prior to becoming operational. The PAR Training Plan for contracted or county operated facility employees shall specify the following:

(a) All Stance and Body Movement techniques.

1. Reactionary Gap
2. Danger Zone
3. Interview Stance
4. Ready Stance
5. Approach

(b) All Countermoves.

1. High Block
2. Mid-range – Straight Arm Blows
3. Mid-range – Roundhouse Blows
4. X Block
5. Leg Raise
6. Evasive Sidestep (with and without redirection)
7. Wrist Releases
8. Front Choke Releases
9. Bear Hug Releases
10. Bite Escape
11. Headlock Escape
12. Full Nelson Escape
13. Double Arm Lock Escape
14. Hairpull Escapes
15. Ground Defense

(c) At a minimum, one (1) Touch technique.

1. Straight Arm Escort (Extended and Close)
2. Supportive Hold: Stage 1

(d) At a minimum, four (4) Control techniques, one of which must be Ground Control.

1. Ground Control
2. Basket Hold
3. Arm Bar

4. Arm Control

5. Wrap-around

6. Team Arm Control

7. Supportive Hold: Stages 2 & 3

(e) At a minimum, three (3) Takedown techniques.

1. Straight Arm to a Takedown

2. Basket Hold to a Takedown

3. Arm Bar to a Takedown

4. Wrap-around to a Team Takedown

5. Supportive Hold to a Takedown: Stages 4 & 5

6. Immediate Team Takedown

(f) The following uses of Mechanical Restraints: standing front handcuffing and uncuffing, one (1) rear handcuffing technique (standing or prone), and one (1) leg cuffing and uncuffing technique (kneeling position or hands on wall). Other uses of mechanical restraints, if authorized under Rule 63H-1.005, F.A.C., may also be specified.

(g) Searches.

(h) The Wrap-around Control technique will not be used on pregnant youth.

(3) The PAR Training Plan for State-Operated facility employees, ~~Law Enforcement Operated Employees~~, and Contracted Detention employees shall specify the following:

(a) All Stance and Body Movement techniques.

(b) All Countermoves.

(c) Searches.

(d) The Straight Arm Escort – Extended and Close Positions.

(e) All Control techniques, except Supportive Hold Control.

(f) All Takedowns, except Wrap-around to a Team Takedown, and Stages 4 and 5 of Supportive Hold to a Takedown.

(g) Handcuffs and Leg Cuffs.

(h) The Wrap-around Control technique will not be used on pregnant youth.

(4) Direct Care employees in law enforcement operated or county operated facilities having been dually certified in the PAR Escalation Matrix, and the CJSTC Response to Resistance Matrix shall be authorized to use the approved CJSTC tactics as outlined on the Response to Resistance Matrix when reasonably necessary to control a youth after the youth exhibits combative resistance as defined in this rule or aggressive physical resistance (defined in CJSTC standards as overt, hostile, attacking movements that may cause injury, but are not likely to cause death or great bodily harm), and after PAR Escalation Matrix techniques have been exhausted; or when the alternatives are considered inappropriate due to the rapid escalation of dangerous behavior. The CJSTC Response to Resistance Matrix (CJSTC Form 85, 2/7/02) is incorporated by reference, and is available from the Director of Assistant Secretary for Staff Development at 2737 Centerview Drive,

Alexander Building, Suite 1416, Tallahassee, Florida 32399. This rule does not authorize the use of, and specifically prohibits direct care employees, whether dually certified or PAR certified, from using:

- (a) A Taser on a youth;
  - (b) Aerosol or chemical agents, including but not limited to oleoresin capsicum spray;
  - (c) Ammonia capsules, unless required for medical treatment of the youth by a licensed medical professional.
- (5) The PAR Training Plan for Program employees shall specify:
- (a) All Stance and Body Movement techniques; and
  - (b) All Countermoves.
- (6) PAR certified facility and program employees shall only use the techniques that are specified on the applicable PAR Training Plan, and PAR certified facility employees shall only use the mechanical restraints that are specified on the applicable PAR Training Plan.

Rulemaking Specific Authority 985.4055, 985.405 FS. Law Implemented 985.4055(2)(a) FS. History--New 11-19-06, Amended 3-4-07,\_\_\_\_\_.

#### 63H-1.006 Supervision of Youth in Mechanical Restraints.

(1) Youth secured in mechanical restraints pursuant to Rule 63H-1.003, F.A.C., shall be supervised in accordance with this section.

(2) At no time will a youth be left without constant, full, and direct visual supervision by an employee. The youth shall not be placed in an upper bunk or in any position that does not permit constant, full, and direct visual supervision. Youth shall not be stripped of their clothing.

(3) Employees responsible for providing constant, full, and direct visual supervision shall have physical possession of the key to unlock the mechanical restraints.

(4) While a youth is placed in mechanical restraints, employees shall:

(a) Employ verbal intervention techniques designed to de-escalate the need for mechanical restraints.

(b) Continually monitor the youth's level of resistance, aggressiveness, and willingness to comply with instructions to determine whether removal of restraints is safe and advisable.

(c) Conduct breathing and circulation checks at ten-minute intervals. These ten-minute checks shall be documented on the Mechanical Restraints Supervision Log.

(5) If a restrained youth continues to exhibit negative, hostile, and/or aggressive behavior so that removal of mechanical restraints is unsafe, the supervisor or acting supervisor shall interview the youth and decide if it is safe to remove the mechanical restraints. This interview shall occur no more than 30 minutes after the youth is placed in restraints. If it is decided that it is unsafe to remove the restraints, the supervisor or acting supervisor shall document the decision on the Mechanical Restraints Supervision Log. If authorization is

obtained from the Superintendent, Residential Program Director, Administrator, or designee to continue the use of restraints, another interview shall occur no more than one (1) hour after the youth was placed in restraints. Each time the decision is made that it is unsafe to remove the restraints, the decision shall be documented as described above.

#### (6) Authorization Requirements:

(a) A youth may remain in mechanical restraints up to 60 minutes with the supervisor's or acting supervisor's authorization.

(b) In order to keep the youth in mechanical restraints for 60 to 120 minutes, the supervisor or acting supervisor shall obtain authorization from the Superintendent, Residential Program Director, Administrator, or designee who shall first consult with a licensed medical and/or mental health professional before authorizing additional time. This authorization shall be obtained within the initial 60-minute timeframe. This consultation and authorization shall be documented on the Mechanical Restraints Supervision Log by specifying the name of the professional who was consulted, the time contacted, and the amount of time authorized.

(c) In order to keep the youth in mechanical restraints beyond 120 minutes, the same procedures apply as described in paragraph (b) above for each subsequent 60-minute timeframe.

(7) If at any point during the restraint it is determined that transportation to an appropriate treatment center is necessary, the supervisor or acting supervisor shall request verbal authorization from the Superintendent, Residential Program Director, Administrator, or designee to initiate procedures to transport the youth. This verbal authorization and the time the authorization was received shall be documented on the Mechanical Restraints Supervision Log. The licensed medical or mental health professional may come to the facility or the youth may be transported to an appropriate treatment center.

(8) If a youth is being transported to a mental health facility, the facility shall be telephoned in advance that the youth is being transported.

Rulemaking Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055(2)(a) FS. History--New 11-19-06, Amended \_\_\_\_\_.

#### 63H-1.010 Cross-Over Training.

(1) A PAR certified employee who crosses over from a program position to a facility position, or vice versa, shall successfully complete all objectives of the PAR certification curriculum applicable to his or her new position which are not duplicative of the PAR certification objectives previously completed by the employee. Such completion must occur within 90 calendar days following the employee's cross-over date.

(2) When a state-operated, county operated, or contracted facility hires a PAR certified facility employee who was trained under a different PAR Training Plan, a PAR Instructor shall train the employee, and evaluate the employee's performance on any techniques that the employee has not been trained to perform. The employee is not required to re-take the written PAR examination. The PAR Instructor shall use the PAR Performance Evaluation for facility employees. If the employee is unable to perform the new techniques, after remediation, the employee shall not be considered PAR certified for purpose of his or her employment in the new facility or program.

(3) When a PAR Performance Evaluation is completed for PAR certification or PAR Instructor certification, a copy shall be provided to the exam administrator at the written examination site. For PAR Train-the-Trainer courses, a copy of the PAR Instructor Skills Evaluation form shall also be provided to the exam administrator.

(a) If the PAR Performance Evaluation or PAR Instructor Skills Evaluation forms cannot be completed prior to the written examination, it shall be submitted to the Director Assistant Secretary of Staff Development and Training as soon as possible after completion.

(b) The PAR Performance Evaluation shall be submitted for everyone regardless of whether they passed or failed the evaluation or have a Medical Status form.

(4) Law Enforcement and county operated facility employees certified as Law Enforcement, Correctional, or Detention officers by CJSTC are governed by Rule 63H-1.016, F.A.C.

Rulemaking Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055(2)(b) FS. History--New 11-19-06, Amended \_\_\_\_\_.

63H-1.011 Rehired Employee Training.

(1) Employees who resign from their employment with the department, county, or contracted facility or program and are subsequently rehired shall have their PAR certification reinstated by successfully completing PAR training for facility or program employees, whichever is applicable. This subsection is applicable only if the employee has failed to timely and successfully complete the annual in-service training requirement addressed in this section prior to terminating employment.

(2) If an employee is rehired within 12 calendar months of termination and has successfully completed the annual in-service requirements, the employee's PAR Certification is current.

(3) If an employee is rehired after 12 calendar months but within 24 calendar months of termination, the employee must satisfy the following requirements:

(a) Attend a minimum of 8 hours of remedial training;

(b) Obtain 100% satisfactory performance of the techniques specified on the employee's PAR Training Plan using the PAR Performance Evaluation; and

(c) Obtain a minimum score of seventy-five percent (75%) on the PAR written exam.

(4) If an employee is rehired after 24 calendar months of termination, he or she is no longer considered certified and must complete all requirements as outlined in Rule 63H-1.009, F.A.C.

Rulemaking Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055(2)(b) FS. History--New 11-19-06, Amended 1-13-09, \_\_\_\_\_.

63H-1.013 Testing Requirements.

(1) If a candidate fails the PAR written examination, they are only required to attend the remedial classroom training.

(2) PAR Instructors shall conduct a practical examination utilizing the applicable PAR Performance Evaluation to evaluate a facility or program employee's ability to perform verbal intervention techniques and the physical intervention techniques and mechanical restraints that are specified on the PAR Training Plan.

(a) If a PAR Instructor candidate or facility or program employee fails the PAR Performance Evaluation, the PAR Instructor candidate or employee is considered to only have failed the performance evaluation, not the written evaluation. Therefore, when remedial training is provided, the PAR Instructor candidate or employee is only required to attend the performance-based segment of the training.

(b) Test candidates shall have no more than three (3) attempts to pass the written exam. Accommodations based upon the Americans with Disabilities Act will be made as necessary.

(c) Test candidates shall adhere to the following schedule for second and third attempts to pass the written exam:

1. The second attempt shall occur no less than 3 calendar days after and no more than 45 calendar days after the first attempt.

2. The third attempt shall occur no less than 21 calendar days after and no more than 45 calendar days after the second attempt.

(3) For annual in-service training, use of the PAR Performance Evaluation is not required.

(4) One PAR Performance Evaluation form shall be used for each attempt that a facility or program employee makes to pass the performance evaluation. The term, "attempt" is described below.

(a) ATTEMPT 1: If an employee fails one (1) to three (3) techniques, the PAR Instructor shall remediate and re-evaluate the employee on the failed techniques. Upon conclusion of the employee's performance of the remediated techniques, this shall be the employee's first attempt at passing the evaluation. If the employee fails to satisfactorily demonstrate the failed

techniques after remediation, the employee shall attend remediation on a different date for Attempt 2 and at that time shall be evaluated on the failed techniques. An employee who fails four (4) or more techniques on Attempt 1 shall attend remediation on a different date for Attempt 2 and at that time shall be evaluated on the failed techniques.

(b) ATTEMPT 2: If an employee fails one (1) to three (3) techniques, the PAR Instructor shall remediate and re-evaluate the employee on the failed techniques. Upon conclusion of the employee's performance of the remediated techniques, this shall be the employee's second attempt at passing the evaluation. If the employee fails to satisfactorily demonstrate the failed techniques after remediation, the employee shall attend remediation on a different date for Attempt 3 and at that time shall be evaluated on the failed techniques. An employee who fails four (4) or more techniques on Attempt 2 shall attend remediation on a different date for Attempt 3 and at that time shall be evaluated on the failed techniques.

(c) ATTEMPT 3: If an employee fails one (1) to three (3) techniques, the PAR Instructor shall remediate and re-evaluate the employee on the failed techniques. Upon conclusion of the employee's performance of the remediated techniques, this shall be the employee's third attempt at passing the evaluation. If the employee fails to satisfactorily demonstrate the failed techniques after remediation, the employee is considered to have failed his or her third attempt. An employee who fails four (4) or more techniques on Attempt 3 shall not have an opportunity to receive remediation and is considered to have failed his or her third attempt.

(5) Program employees shall be evaluated, using the PAR Performance Evaluation for Program employees, on all physical intervention techniques that are specified in the PAR Training Plan for Program employees.

(6) State-Operated facility employees, ~~Law Enforcement operated facility employees~~, and contracted detention facility employee shall be evaluated, using the PAR Performance Evaluation for State Operated facility employees/Law Enforcement operated employees/Contracted Detention Facility employees, on various physical intervention techniques specified on the PAR Training Plan for State-Operated facility employees/Contracted Detention Facility employees, using the following guidelines:

- (a) All Stance and Body Movement techniques;
- (b) All Countermoves;
- (c) The Straight Arm Escort – Extended and Close Positions;
- (d) Three (3) Control techniques, as selected by the employee;
- (e) Three (3) Takedown techniques, as selected by the employee;
- (f) Three Mechanical Restraint techniques, as selected by the employee. The techniques selected shall include front handcuffing and uncuffing, one (1) rear handcuffing and

uncuffing technique (standing or prone), and one (1) leg cuffing and uncuffing technique (kneeling position or hands on wall); and

(g) Searches.

(7) Contracted and county operated facility employees shall be evaluated using the PAR Performance Evaluation for Contracted Facility employees, on various physical intervention techniques specified on the employee's PAR Training Plan for Contracted Facility employees, using the following guidelines:

- (a) All Stance and Body Movement techniques;
- (b) All Countermoves;
- (c) One (1) Touch technique, as selected by the employee;
- (d) Three (3) Control techniques, as selected by the employee;
- (e) Three (3) Takedown techniques, as selected by the employee;
- (f) Three (3) Mechanical Restraint techniques, as selected by the employee. The techniques selected shall include one (1) front handcuffing and uncuffing technique, one (1) rear handcuffing and uncuffing technique (standing or prone), and one (1) leg cuffing and uncuffing technique (kneeling position or hands on wall); and
- (g) Searches.

Rulemaking Specific Authority 985.405, 985.4055 FS. Law Implemented 985.4055(2)(b) FS. History–New 11-19-06, Amended

63H-1.014 Training Instructor Qualifications.

(1) PAR Instructor Candidate requirements:

- (a) One year of experience, working full time, in juvenile justice, criminal justice, or juvenile social services;
- (b) Facility PAR certification;
- (c) Successful completion of the CJSTC Instructor Techniques ~~Workshop~~ 80-hour course; and
- (d) Successful completion of the PAR Train-the-Trainer 80-hour course conducted by a Master PAR Instructor. An instructor candidate shall be allowed to attend a PAR Train-the-Trainer course only if he or she has achieved the requirements in paragraphs (a), (b), and (c).

(e) PAR Instructor candidates shall demonstrate proficiency for all physical intervention techniques and mechanical restraints listed on the PAR Instructor Performance Evaluation form. In addition, the Instructor candidate must demonstrate the ability to verbally communicate how the techniques are to be performed. The demonstration shall be evaluated by one Master PAR Instructor and one PAR Instructor.

(f) Satisfactory demonstration of presentation skills using the PAR Instructor Skills Evaluation Report. The PAR Instructor Skills Evaluation Report (ADSD-011, revised

6/01/2006) is incorporated by reference, and is available at the department's website ([http://www.djj.state.fl.us/forms/sd/par\\_performance\\_evaluation.pdf](http://www.djj.state.fl.us/forms/sd/par_performance_evaluation.pdf)).

(2) A score of 85 percent or higher on the PAR written examination. The instructor candidate shall have two attempts to pass the examination.

(3) One PAR Performance Evaluation for PAR Instructors form shall be used for each attempt that the instructor candidate makes to pass the performance evaluation. The instructor candidate shall have two attempts to pass the evaluation.

(a) If remediation is required, the Master PAR Instructor shall have the discretion to determine whether remediation will be conducted on-site or at a future date. If remediation occurs at a future date, the instructor candidate shall be evaluated, at the second attempt, on all techniques initially evaluated.

(b) If the instructor candidate fails the second attempt, he or she shall not be certified as a PAR Instructor. However, this candidate is eligible to attend the PAR Train-the-Trainer course again, provided all other criteria for becoming a PAR Instructor remain current.

(4) Demonstrations of the physical intervention techniques and presentation skills shall be videotaped. The videotapes shall be submitted to the ~~Director of Assistant Secretary for~~ Staff Development and Training within thirty (30) working days after completion of the evaluations.

Rulemaking Authority 985.64, 985.645 FS. Law Implemented 985.645(2)(c) FS. History--New 11-19-06, Amended 8-4-09, \_\_\_\_\_.

63H-1.016 Law Enforcement and County Operated Facilities Operations and Partnerships.

(1) All Law Enforcement/Correction/Detention employees must complete, at a minimum, the following training requirements within 90 calendar days of either the employee's hire date or the effective date of this rule, whichever is later:

(a) Direct care employees who are certified correctional, correctional probation or law enforcement officers under Chapter 943, F.S., are to successfully complete PAR crossover training for law enforcement personnel. Successful completion requires:

- 1. Attendance and participation in a minimum of twenty (20) hours of PAR Training.
- 2. A minimum score of seventy-five percent (75%) on the written examination.
- 3. One hundred percent (100%) satisfactory performance on the techniques specified on the applicable PAR Performance Evaluation form.

(b) Direct care employees who are not certified correctional, correctional probation or law enforcement officers under Chapter 943, F.S., are to be certified in PAR.

(2) CJSTC certified employees and non-CJSTC certified employees shall adhere to the annual training requirements set forth in Rule 63H-1.012, F.A.C., for facility employees.

(3) All Law Enforcement and county operated facilities or programs shall submit a PAR Training Plan in accordance with Rule 63H-1.004, F.A.C.

(4) Facilities or programs that are required to have PAR certified employees must certify employees within the timeframes set forth herein.

~~Rulemaking Specific~~ Authority 985.405, 985.4055 FS. Law Implemented 985.4055(2)(d) FS. History--New 11-19-06, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael McCaffrey, Director of Staff Development and Training

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary

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

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

**DEPARTMENT OF JUVENILE JUSTICE**

**Staff Training**

RULE NOS.:	RULE TITLES:
63H-2.001	Purpose and Scope
63H-2.002	Definitions
63H-2.0075	County Operated Detention
63H-2.008	Instructor Qualifications

PURPOSE AND EFFECT: Amendments to the rule chapter governing training of direct care staff are necessary to accommodate county operation of detention centers.

SUMMARY: References to state operated and contracted facilities and programs are amended to accommodate county operation of detention centers. A rule section is added to govern training of county operated detention center staff.

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: 20.316(1), 985.601(8) FS.

LAW IMPLEMENTED: 985.601(8) 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: Monday, December 13, 2010, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 3223, Tallahassee, Florida. For information about participation by telephone, contact John Milla at (850)921-4129

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63H-2.001 Purpose and Scope.

(1) This rule establishes a statewide framework for the department to implement procedures governing the certification, pre-service, and in-service training of direct care staff. The provisions of this rule are applicable to all direct care staff, as defined in this rule, within all state and contracted department programs, facilities, ~~and~~ probation units, and county operated detention centers.

(2) The need exists to establish training requirements in order to: (1) ensure that all direct care staff are performing at a minimum standardized level of competency; (2) maintain a safe and secure environment for staff and youth; (3) enhance treatment program effectiveness; and (4) provide greater protection to the public through an improved level of services to youth.

Rulemaking Specific Authority 20.316(1), 985.601(8) FS. Law Implemented 985.02(3)(c), 985.601(8) FS. History--New 6-11-07, Amended \_\_\_\_\_.

63H-2.002 Definitions.

(1) Academy – A department approved training site where Phase II certification training occurs.

(2) Administrator – One whose primary responsibility is overseeing the daily operations of a facility, program or judicial circuit.

(3) Certification – A process indicating that an individual has fulfilled a minimum standard level of competency in a profession and authorizes the individual to practice in the profession.

(4) Certified Staff – Direct care staff in facilities/units who have completed the certification requirements set forth in Rules 63H-2.005, 63H-2.006 and 63H-2.007, F.A.C.

(5) Daily Observation Report (DOR) – The document used to formally evaluate and provide feedback on the newly hired staff's performance and knowledge to ensure the staff has achieved or exceeded satisfactory performance.

(6) Department – Florida Department of Juvenile Justice.

(7) Detention Staff – State or contracted direct care staff assigned to work at a detention facility.

(8) Direct Care Staff – Having direct contact with youth for the purpose of providing care, supervision, custody, or control in a detention facility, probation unit, day treatment

program or commitment program within any restrictiveness level, operated by the department or by a provider under contract with the department.

(9) Field Training Officer (FTO) – Refers to an employee who has successfully completed the Field Training Officer course.

(10) In-Service Training – The on-going training that employees are required to receive in all but the first year of their employment. Such training must be documented and relevant to the employee's job responsibilities as set out in this rule.

(11) ITW – The 80-hour Instructor Techniques Workshop.

(12) Non-Residential Staff – State or contracted direct care staff assigned to work in a non-residential environment, including probation and day treatment programs.

(13) On the job training – Training on specific skills based on pre-service/Phase I topics that is conducted by an FTO and/or administrative staff.

(14) Protective Action Response (PAR) – The department-approved verbal and physical intervention techniques and the application of mechanical restraints used in accordance with the PAR Rule (Chapter 63H-1, F.A.C.), the PAR Escalation Matrix, and PAR training curricula.

(15) PAR Certification – This applies to an employee who has successfully completed PAR training as described in Chapter 63H-1, F.A.C. Only employees who are PAR trained are authorized to use PAR. The status attained upon successful completion of PAR training pursuant to Chapter 63H-1, F.A.C.

(16) Phase I Training – The initial portion of the certification training process, applicable to state direct care staff, which ~~that~~ is conducted at the workplace.

(17) Phase II Training – A part of the certification training process, applicable to state direct care staff, which ~~that~~ is conducted at an academy.

(18) Pre-Service Training – The initial training for newly hired contracted or county operated direct care staff that is conducted after hire but before they become direct care staff.

(19) Residential Staff – State or contracted direct care staff assigned to work at a residential facility.

(20) Returning Staff – These are trained/certified staff who have separated from employment and are re-hired into the same position type.

(21) Staff Development and Training – The branch of the department responsible for the creation, implementation, and maintenance of training and evaluation materials.

Rulemaking Specific Authority 20.316(1), 985.601(8) FS. Law Implemented 985.02(3)(c), 985.601(8) FS. History--New 6-11-07, Amended \_\_\_\_\_.

63H-2.0075 County Operated Detention.

(1) Pre-service training requirements are as follows:

(a) Staff must complete all training within 180 days of being hired. However, pursuant to subsection 63H-1.016(1), F.A.C., PAR training must be completed within 90 days of the employee's date of hire or, for existing staff, within 90 days of assignment to a county-operated detention center.

(b) Staff must complete a minimum of 120 hours of pre-service training (computer-based and/or instructor-led) to include the following:

1. PAR training as required by Rule Chapter 63H-1, F.A.C.;

2. CPR/First Aid;

3. Professionalism and ethics, including standards of conduct;

4. Suicide prevention;

5. Emergency procedures;

6. Mission/Program philosophy/ Program culture;

7. Adolescent behavior specific to the population served;

8. Confidentiality/HIPAA requirements;

9. Infection control/Blood borne pathogens;

10. Gang awareness;

11. Safety, security, and supervision, including incident reporting;

12. Human Diversity;

13. Behavior management;

14. DJJ: The organization;

15. Mental health and substance abuse services;

16. Sexual harassment;

17. Communication skills;

18. Child abuse reporting.

(c) All county operated detention facilities/programs will submit, in writing, a list of all pre-service training to Staff Development and Training that includes course names, descriptions, objectives, and training, hours for any training based on the above topics.

(d) Staff must complete all of the on the job training associated with the above topics.

(2) County operated detention employees are authorized to be in the presence of youth prior to the completion of the training requirements outlined above. However, the following essential skills training must be completed first:

(a) PAR trained;

(b) CPR/First Aid certified;

(c) Professionalism and ethics, including standards of conduct;

(d) Suicide prevention;

(e) Emergency procedures.

(f) Child abuse reporting.

(3) Upon request by a county operated detention administrator, the Director of Staff Development and Training will grant a 90-day extension to the 180-day time frame for completing training requirements. The extension may only be based on the following:

(a) Death of an immediate family member;

(b) Serious chronic condition, illness or injury;

(c) Immediate family crisis;

(d) Court appearance;

(e) Military duty;

(f) Family medical leave;

(g) Other emergency circumstances.

(4) Testing requirements for pre-service training are as follows:

(a) PAR testing and evaluation requirements as outlined in Chapter 63H-1, F.A.C.

(b) Successful completion of all written and practical requirements for CPR/First Aid training.

(c) A passing score on any other applicable courses based on subparagraph 63H-2.0075(1)(b)1.-18., F.A.C.

(5) County operated detention staff must complete 24 hours of annual in-service training beginning the calendar year after the staff has completed pre-service training.

(6) The following are mandatory training topics that must be completed each year:

(a) PAR update (Chapter 63H-1, F.A.C.);

(b) CPR;

(c) First aid, unless the specific certification is good for more than one year, in which case training is only necessary as required by certification;

(d) Professionalism and ethics;

(e) Suicide prevention.

(7) All county operated detention facilities/programs will submit to Staff Development and Training a written list of in-service training that includes course names, descriptions, objectives, and training hours for any instructor-led in-service training other than the above topics.

(8) As part of the 24 hours of in-service training required for direct-care staff, supervisory staff shall complete 8 hours of training in the areas of management, leadership, personal accountability, employee relations, communication skills or fiscal training each year.

(9) Returning staff who return less than one year from separation shall complete the following:

(a) PAR update consisting of a minimum of 8 hours training (Chapter 63H-1, F.A.C.)

(b) CPR/First Aid certification (if not current).

(c) Overview of facility/program operating procedures.

(10) Returning staff who return more than one year from separation shall complete all requirements set forth in Rule 63H-2.0075, F.A.C., as they are no longer considered trained.

(11) County operated detention staff who cross over from non-residential to residential shall complete all training requirements set forth in Rule 63H-2.0075, F.A.C.

(12) Procedures for documentation of training are as follows:

(a) Administrators will ensure that a training file is maintained for each direct care staff, and that they meet all requirements.

(b) Completion of all training requirements shall be documented on the Department's computer-based tracking system or a county operated tracking system.

(c) Facilities and programs shall develop an annual in-service training calendar which must be updated as changes occur.

Rulemaking Authority 20.316(1), 985.601(8) FS. Law Implemented 985.601(8) FS. History—New \_\_\_\_\_.

63H-2.008 Instructor Qualifications.

(1) Only certified PAR instructors (see Chapter 63H-1.014, F.A.C. for PAR instructor requirements) shall conduct PAR training.

(2) Only certified CPR/First aid/AED instructors shall conduct CPR/First aid/AED training.

(3) All instructors must have successfully completed the Criminal Justice Standards and Training Commission Instructor Techniques 80 hour Instructor Techniques Workshop course, however, the following exceptions apply:

(a) FTOs and administrative staff who provide administrative, orientation, and/or Phase One training, with the exception of PAR, are not required to be ITW certified.

(b) Any instructor who is not ITW certified, must submit for approval a completed Instructor Exemption form to the Director Assistant Secretary of Staff Development and Training through their respective facility/program administrator. The Instructor Exemption form (ADSD-20, effective 12/15/2006) is incorporated by reference, and is available through Staff Development and Training, 2737 Centerview Dr., Tallahassee, FL 32399.

Rulemaking Specific Authority 20.316(1), 985.601(8) FS. Law Implemented 985.02(3)(c), 985.601(8) FS. History—New 6-11-07, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael McCaffrey, Director of Staff Development and Training

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary

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

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

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-31.010                      RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are necessary to update the disciplinary guidelines for violations and penalties relating to practice by anesthesiologist assistants.

SUMMARY: The proposed rule amendments set forth additional violations and penalties for anesthesiologist assistants and update the current disciplinary guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.079, 458.309, 458.331(4), 459.005, 459.023 FS.

LAW IMPLEMENTED: 456.072, 456.079, 458.331(4), 458.3475, 459.005, 459.023 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-31.010 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section 456.072, F.S., the Boards provide within this rule disciplinary guidelines which shall be imposed upon anesthesiologist assistant applicants or licensees whom it regulates under Chapters 458 and 459, F.S. The purpose of this rule is to notify such applicants and licensees of the ranges of penalties which will routinely be imposed unless the Boards find it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; for multiple counts of the violated provisions or a combination of the violations the Boards shall consider a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between, including continuing medical education (CME). The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.



(2) Violations and Range of Penalties. In imposing discipline upon anesthesiologist assistant applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The

verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

(a) Attempting to obtain a license by bribery, fraud or through an error of the Department or the Board.

(Section 456.072(1)(h), F.S.);

(Section 458.331(1)(a), F.S.)

1. Attempting to obtain an initial license by bribery or fraud.

2. Attempting to renew

a license by bribery or fraud.

3. Obtaining or renewing a license by bribery or fraud.

4. Obtaining or renewing a license through error of the Department of the Board.

(b) Action taken against license by another jurisdiction.

(Section 456.072(1)(f), F.S.);

(Section 458.331(1)(b), F.S.)

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilty of crime directly relating to practice or ability to practice.

(Section 456.072(1)(c), F.S.);

(Section 458.331(1)(c), F.S.)

RECOMMENDED PENALTIES

First Offense

~~(a) From suspension of license or certificate to revocation, with ability to reapply, or denial of licensure.~~

1. Denial of application and a \$10,000.00 fine.

2. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.

3. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.

4. Revocation.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to reprimand through suspension and/or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$1,000.00 to \$2,500.00.

1. Revocation ~~From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 100 hours of community service, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, ~~and~~ an administrative fine of \$1,000.00 to \$5,000.00, and 50 to 100 hours of community service.

Subsequent Offenses

~~(a) From denial of license to revocation of license with ability to reapply in not less than three years and a fine up to \$5,000.00 to denial of license without ability to reapply.~~

2. Revocation and a \$10,000.00 fine.

3. Revocation and a \$10,000.00 fine.

4. Revocation.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension and revocation until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$2,500.00 to \$5,000.00.

1. From ~~permanent~~ revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, ~~and~~ an administrative fine of \$2,500.00 to \$5,000.00, and from 100 to 200 hours of community service.

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| <p>1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.</p> <p>2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.</p> <p>(d) False, deceptive, or misleading advertising.<br/>(Section 458.331(1)(d), F.S.)</p> <p>(e) Failure to report another licensee in violation.<br/>(Section 456.072(1)(i), F.S.);<br/>(Section 458.331(1)(e), F.S.)</p> <p>(f) Aiding unlicensed practice.<br/>(Section 456.072(1)(j), F.S.);<br/>(Section 458.331(1)(f), F.S.)</p> <p>(g) Failure to perform legal obligation.<br/>(Section 456.072(1)(k), F.S.);<br/>(Section 458.331(1)(g), F.S.)</p> <p>1. Continuing medical education (CME) violations.<br/>(Section 456.033(9), F.S.);<br/>(Section 456.072(1)(e), F.S.);<br/>(Section 456.072(1)(s), F.S.)<br/>a. through b. No change.</p> <p>(h) Filing a false report or failing to file a report as required.<br/>(Section 456.072(1)(l), F.S.);<br/>(Section 458.331(1)(h), F.S.)</p> <p>1. Involving healthcare fraud in dollar amounts in excess of \$5,000.00.</p> | <p>1. <del>Revocation</del> From <del>revocation</del> with <del>leave to reapply in three (3) years</del>, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> <p>2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, <u>100 hours of community service</u>, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.</p> <p>(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 50 to 100 hours of community service</u>.</p> <p>(e) From a letter of concern to probation, <del>and</del> an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 25 to 50 hours of community service</u>, or denial of licensure.</p> <p>(f) From reprimand to suspension, followed by probation, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure, <u>50 hours of community service</u> and an administrative fine from \$1,000.00 to \$5,000.00.</p> <p>1. Document compliance with the CME requirements for the relevant period; AND:</p> <p>(h) From a letter of concern to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p> <p>1. <del>Revocation</del> From <del>revocation</del> with <del>leave to reapply in three (3) years</del>, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p> | <p>1. From <del>permanent revocation</del> and an administrative fine ranging from \$2,500.00 to \$5,000.00, <del>or in the case of application for licensure, denial of licensure</del>.</p> <p>2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, <u>200 hours of community service</u>, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.</p> <p>(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 100 to 200 hours of community service</u>.</p> <p>(e) From reprimand to suspension or denial of licensure, <del>and</del> an administrative fine from \$2,500.00 to \$5,000.00, <u>and 50 to 100 hours of community service</u>.</p> <p>(f) From probation to revocation or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial, <u>from 50 to 100 hours of community service</u> and an administrative fine from \$2,500.00 to \$5,000.00.</p> <p>1. Document compliance with the CME requirements for the relevant period; AND:</p> <p>(h) From probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> <p>1. From <del>permanent revocation</del> and an administrative fine ranging from \$2,500.00 to \$5,000.00, <del>or in the case of application for licensure, denial of licensure</del>.</p> |
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2. Involving healthcare fraud in dollar amounts of \$5,000.00 or less.

(i) Kickbacks or split fee arrangements. (Section 458.331(1)(i), F.S.)

(j) Sexual misconduct. (Section 456.072(1)(u), F.S.); (Section 458.329, F.S.); (Section 458.331(1)(j), F.S.)

(k) Deceptive, untrue, or fraudulent representations in the practice of medicine.

(Sections 456.072(1)(a), (m), F.S.); (Section 458.331(1)(k), F.S.)

1. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(l) Improper solicitation of patients. (Section 458.331(1)(l), F.S.)

(m) Failure to keep legible written medical records. (Section 458.331(1)(m), F.S.)

1. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 50 to 100 hours of community service, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient, 25 to 50 hours of community service and from a reprimand and an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.

(j) From probation to revocation, or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(k) From a letter of concern, and 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. ~~Revocation~~ ~~From revocation with leave to reapply in three (3) years~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 50 to 100 hours of community service, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(l) From an administrative fine ranging from \$1,000.00 to \$5,000.00, 25 to 50 hours of community service, and a reprimand to probation, or denial of licensure.

(m) From a letter of concern, 25 to 50 hours of community service to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

1. ~~Revocation~~ ~~From revocation with leave to reapply in three (3) years~~, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 100 to 200 hours of community service and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(i) A refund of fees paid by or on behalf of the patient, 50 to 100 hours of community service and from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(j) From suspension, to be followed by a period of probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(k) From probation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00 to revocation.

1. ~~From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 100 to 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(l) From suspension, to be followed by a period of probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.

(m) From a reprimand to suspension followed by probation, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.

1. ~~From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(n) Exercising influence on patient for financial gain.  
(Section 456.072(1)(n), F.S.);  
(Section 458.331(1)(n), F.S.)

(o) Performing professional services not authorized by patient.  
(Section 458.331(1)(p), F.S.)

(p) Inability to practice medicine with skill and safety.  
(Section 456.072(y), F.S.);  
(Section 458.331(1)(s), F.S.)

(q)1. Malpractice: practicing below acceptable standard of care.  
(Section 458.331(1)(t), F.S.)

2. Gross Malpractice.

3. No change.

(r) Performing of experimental treatment without informed consent.  
(Section 458.331(1)(u), F.S.)

(s) No change.

(t) Delegation of professional responsibilities to unqualified person.  
(Section 456.072(1)(p), F.S.);  
(Section 458.331(1)(w), F.S.)

(u)1. No change.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand, 50 to 100 hours of community service to through suspension of the license, or in the case of application for licensure, denial of licensure.

(n) Payment of fees paid by or on behalf of the patient and from a reprimand, 25 to 50 hours of community service to probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a letter of concern to revocation, or denial of licensure, 25 to 50 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(p) From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(q)1. From a letter of concern, 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From probation, 25 to 50 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(r) From a letter of concern to suspension to be followed by a period of probation, or denial of licensure, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(t) From reprimand to suspension, followed by probation, 25 to 50 hours of community service, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation, 100 to 200 hours of community service to revocation, or in the case of application for licensure, denial of licensure.

(n) Payment of fees paid by or on behalf of the patient and from probation, 50 to 100 hours of community service, to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(o) From a reprimand, 50 to 100 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(p) From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, 50 to 100 hours of community service and an administrative fine from \$2,500.00 to \$5,000.00.

(q)1. From reprimand, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

2. From suspension followed by probation to revocation or denial, 50 to 100 hours of community service and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(r) From suspension to be followed by a period of probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(t) From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

<p>2. Violation of an order of the Board.</p>	<p>2. From a <u>reprimand, 25 to 50 hours of community service</u> <del>letter of concern</del> and an administrative fine of \$1,000.00 to a <u>reprimand, 100 hours of community service, letter of concern</u> and an administrative fine of \$5,000.00.</p>	<p>2. From a <u>reprimand, 100 hours of community service</u> and an administrative fine of \$2,500.00 to a <u>reprimand, 200 hours of community service</u> and an administrative fine of \$5,000.00 and probation.</p>
<p>(v) Conspiring to restrict another from lawfully advertising services. (Section 458.331(1)(y), F.S.)</p>	<p>(v) From a letter of concern to a <u>reprimand, 25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>	<p>(v) From a <u>reprimand, 50 to 100 hours of community service</u> and an administrative fine of \$2,500.00 to a <u>reprimand</u> and an administrative fine of \$5,000.00.</p>
<p>(w) Aiding an unlawful abortion. (Section 458.331(1)(z), F.S.)</p>	<p>(w) From <u>probation, 25 to 50 hours of community service</u> to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>	<p>(w) From <u>suspension, to be followed by a period of probation, 50 to 100 hours of community service,</u> to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>
<p>(x) Failure to adequately supervise assisting personnel. (Section 458.331(1)(dd), F.S.)</p>	<p>(x) From a reprimand to probation, or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>	<p>(x) From probation to suspension followed by probation, or denial of licensure, <u>50 to 100 hours of community service</u> and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>
<p>(y) Improper use of substances for muscle building or enhancement of athletic performance. (Section 458.331(1)(ee), F.S.)</p>	<p>(y) From a reprimand to suspension, or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>	<p>(y) From <u>suspension to be followed by a period of probation</u> to revocation or denial of licensure, <u>50 to 100 hours of community service</u> and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>
<p>(z) Use of amygdaline (laetrile). (Section 458.331(1)(ff), F.S.)</p>	<p>(z) From a reprimand to probation, or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>	<p>(z) From <u>suspension to be followed by a period of probation</u> to revocation or denial of licensure, <u>50 to 100 hours of community service</u> and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>
<p>(aa) Misrepresenting or concealing a material fact. (Section 458.331(1)(gg), F.S.)</p>	<p>(aa) From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, <u>25 to 50 hours of community service</u> or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.</p>	<p>(aa) From <u>probation, 50 to 100 hours of community service</u> to revocation or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.</p>
<p>(bb) Improperly interfering with an investigation or a disciplinary proceeding. (Section 456.072(1)(r), F.S.); (Section 458.331(1)(hh), F.S.)</p>	<p>(bb) From a reprimand to probation, <u>25 to 50 hours of community service</u> or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>	<p>(bb) From <u>probation, 50 to 100 hours of community service</u> to revocation or denial of licensure without ability to reapply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>
<p>(cc) Failing to report any licensee who is in violation of law. (Section 456.072(1)(i), F.S.); (Section 458.331(1)(ii), F.S.)</p>	<p>(cc) From a letter of concern to probation, or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>	<p>(cc) From probation to revocation or denial of licensure, <u>50 to 100 hours of community service</u> and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>
<p>(dd) Providing medical opinion without reasonable investigation. (Section 458.331(1)(jj), F.S.)</p>	<p>(dd) From a letter of concern to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>	<p>(dd) From probation to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.</p>

(ee) Theft or reproduction of an examination.

(Section 456.018, F.S.)

(ff) through (jj) No change.

(kk) Performing health care services on the wrong patient, wrong site, wrong procedure.

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

(ll) Leaving a foreign body in a patient.

(Section 456.072(1)(bb), F.S.)

(mm) through (nn) No change.

(oo) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients.

(456.072(1)(gg), F.S.)

(pp) Being terminated from a treatment program for impaired practitioners, for failure to comply with the terms of the monitoring or treatment contract or for not successfully completing any drug-treatment or alcohol-treatment program.

(456.072(1)(hh), F.S.)

(qq) Being convicted of, or entering a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.

(456.072(1)(ii), F.S.)

(rr) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.

(456.072(1)(jj), F.S.)

~~(ee) Revocation Suspension to revocation, or denial of licensure without an ability to reapply.~~

~~(kk) From a letter of concern, 50 to 100 hours of community service, a minimum of five (5) hours of risk management education, and one (1) hour lecture on wrong-site surgery in the State of Florida, and a \$1,000 fine to a \$2,500.00 fine to a reprimand and probation ~~suspension~~ and an administrative fine ranging from \$1,000.00 to \$2,500.00.~~

~~(ll) From a \$1,000.00 to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, 50 to 100 hours of community service, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation ~~From a letter of concern to probation and an administrative fine ranging from \$1,000.00 to \$2,500.00.~~~~

~~(oo) From reprimand to probation, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.~~

~~(pp) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract, and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$1,000 to \$2,500, to revocation.~~

~~(qq) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.~~

~~(rr) From a letter of concern to probation, and a fine of \$500 to \$5,000.~~

~~(ee) Revocation or denial of licensure without ability to reapply.~~

~~(kk) From a reprimand and probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.~~

~~(ll) From a \$7,500.00 fine, a reprimand and probation, 100 to 200 hours of community service, or denial to revocation ~~From a reprimand to suspension and an administrative fine ranging from \$1,000.00 to \$2,500.00.~~~~

~~(oo) From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.~~

~~(pp) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$2,500 to \$5,000, to revocation.~~

~~(rr) From a reprimand to revocation, and a fine of \$2,500 to \$5,000.~~

(ss) Being terminated for cause from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.

(456.072(1)(kk), F.S.)

(tt) Being convicted of, or entering into a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.

(456.072(1)(ll), F.S.)

(3) through (4) No change.

Rulemaking Specific Authority 456.079, 458.309, 458.331(4), 459.005, 459.023 FS. Law Implemented 456.072, 456.079, 458.331(4), 458.3475, 459.005, 459.023 FS. History–New 11-13-05, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anesthesiologist Assistant Committee  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 30, 2009

**DEPARTMENT OF HEALTH**

**Board of Osteopathic Medicine**

RULE NO.: 64B15-7.010  
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are necessary to update the disciplinary guidelines for violations and penalties relating to practice by anesthesiologist assistants.

SUMMARY: The proposed rule amendments set forth additional violations and penalties for anesthesiologist assistants and update the current disciplinary guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.079, 459.005, 459.015(5), 459.023 FS.

LAW IMPLEMENTED: 456.072, 456.079, 459.015(5), 459.023 FS.

(ss) From a letter of concern to suspension, and a fine of \$1,000 to \$5,000.

(tt) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(ss) From a reprimand to revocation, and a fine of \$5,000 to \$10,000.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-7.010 Disciplinary Guidelines.

(1) Purpose. Pursuant to Section 456.072, F.S., the Boards provide within this rule disciplinary guidelines which shall be imposed upon anesthesiologist assistant applicants or licensees whom it regulates under Chapters 458 and 459, F.S. The purpose of this rule is to notify such applicants and licensees of the ranges of penalties which will routinely be imposed unless the Boards find it necessary to deviate from the guidelines for the stated reasons given within this rule. The ranges of penalties provided below are based upon a single count violation of each provision listed; for multiple counts of the violated provisions or a combination of the violations the Boards shall consider a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between, including continuing medical education (CME). The purposes of the imposition of discipline are to punish the applicants or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants or licensees from violations.

(2) Violations and Range of Penalties. In imposing discipline upon anesthesiologist assistant applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATIONS

(a) Attempting to obtain a license by bribery, fraud or through an error of the Department or the Board.

(Section 456.072(1)(h), F.S.);

(Section 459.015(1)(a), F.S.)

1. Attempting to obtain an initial license by bribery or fraud.

2. Attempting to renew a license by bribery or fraud.

3. Obtaining or renewing a license by bribery or fraud.

4. Obtaining or renewing a license through error of the Department of the Board.

(b) Action taken against license by another jurisdiction.

(Section 456.072(1)(f), F.S.);

(Section 459.015(1)(b), F.S.)

1. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

2. Action taken against license by another jurisdiction relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(c) Guilty of crime directly relating to practice or ability to practice.

(Section 456.072(1)(c), F.S.)

(Section 459.015(1)(c), F.S.)

1. Involving a crime directly related to healthcare fraud in dollar amounts in excess of \$5,000.00.

RECOMMENDED PENALTIES

First Offense

~~(a) From suspension of license or certificate to revocation, with ability to reapply, or denial of licensure.~~

1. Denial of application and a \$10,000.00 fine.

2. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.

3. Revocation of the license and payment of a \$5,000.00 fine to revocation and a \$10,000 fine.

4. Revocation.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to reprimand through suspension and/or denial of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$1,000.00 to \$2,500.00

1. Revocation ~~From revocation with leave to reapply in three (3) years,~~ and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 100 hours of community service, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

(c) From reprimand to revocation or denial of license, ~~and~~ an administrative fine of \$1,000.00 to \$5,000.00, and 50 to 100 hours of community service.

1. Revocation ~~From revocation with leave to reapply in three (3) years,~~ and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

Subsequent Offenses

~~(a) From denial of license to revocation of license with ability to reapply in not less than three years and a fine up to \$5,000.00 to denial of license without ability to reapply.~~

2. Revocation and a \$10,000.00 fine.

3. Revocation and a \$10,000.00 fine.

4. Revocation.

(b) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension and revocation until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken and an administrative fine ranging from \$2,500.00 to \$5,000.00.

1. From ~~permanent~~ revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.

(c) From probation to revocation or denial of the license, ~~and~~ an administrative fine of \$2,500.00 to \$5,000.00, and from 100 to 200 hours of community service.

~~1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~



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|---|---|--|
| <p>2. Involving a crime directly related to healthcare fraud in dollar amounts of \$5,000.00 or less.</p>   | <p>2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, <u>100 hours of community service</u>, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.</p>  | <p>2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, <u>200 hours of community service</u>, and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.</p>                          |
| <p>(d) False, deceptive, or misleading advertising.<br/>(Section 459.015(1)(d), F.S.)</p>   | <p>(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 50 to 100 hours of community service</u>.</p>  | <p>(d) From a letter of concern to reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 100 to 200 hours of community service</u>.</p>  |
| <p>(e) Failure to report another licensee in violation.<br/>(Section 456.072(1)(i), F.S.);<br/>(Section 459.015(1)(e), F.S.)</p>  | <p>(e) From a letter of concern to probation, <del>and</del> an administrative fine ranging from \$1,000.00 to \$2,500.00, <u>and 25 to 50 hours of community service</u>, or denial of licensure.</p>  | <p>(e) From reprimand to suspension or denial of licensure, <del>and</del> an administrative fine from \$2,500.00 to \$5,000.00, <u>and 50 to 100 hours of community service</u>.</p>  |
| <p>(f) Aiding unlicensed practice.<br/>(Section 456.072(1)(j), F.S.);<br/>(Section 459.015(1)(f), F.S.)</p>   | <p>(f) From reprimand to suspension, followed by probation, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>   | <p>(f) From probation to revocation or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>   |
| <p>(g) Failure to perform legal obligation.<br/>(Section 456.072(1)(k), F.S.);<br/>(Section 459.015(1)(g), F.S.)</p>  | <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial of licensure, <u>50 hours of community service</u> and an administrative fine from \$1,000.00 to \$5,000.00.</p> | <p>(g) For any offense not specifically listed herein, based upon the severity of the offense and the potential for patient harm, from a reprimand to revocation or denial, <u>from 50 to 100 hours of community service</u> and an administrative fine from \$2,500.00 to \$5,000.00.</p> |
| <p>1. Continuing medical education (CME) violations.<br/>(Section 456.033(9), F.S.)<br/>(Section 456.072(1)(e), F.S.);<br/>(Section 456.072(1)(s), F.S.)<br/>a. through b. No change.</p> | <p>1. Document compliance with the CME requirements for the relevant period;<br/>AND:</p>   | <p>1. Document compliance with the CME requirements for the relevant period;<br/>AND:</p>  |
| <p>(h) Filing a false report or failing to file a report as required.<br/>(Section 456.072(1)(l), F.S.);<br/>(Section 459.015(1)(i), F.S.)</p>  | <p>(h) From a letter of concern to revocation, or denial of licenser, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>   | <p>(h) From probation to revocation or denial of licenser, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>   |
| <p>1. Involving healthcare fraud in dollar amounts in excess of \$5,000.00.</p>   | <p>1. <del>Revocation From revocation with leave to reapply in three (3) years</del>, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</p>   | <p><del>1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.</del></p>   |
| <p>2. Involving healthcare fraud in dollar amounts of \$5,000.00 or less.</p>   | <p>2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, <u>50 to 100 hours of community service</u>, and a reprimand through suspension of the license, or in case of application for licensure, denial of licensure.</p>  | <p>2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, <u>100 to 200 hours of community service</u> and suspension of the license, followed by a period of probation to revocation, or in case of application for licensure, denial of licensure.</p>                    |

- (i) Kickbacks or split fee arrangements.  
(Section 459.015(1)(j), F.S.)

(i) A refund of fees paid by or on behalf of the patient, 25 to 50 hours of community service and from a reprimand and an administrative fine of \$1,000.00 to a reprimand and an administrative fine of \$5,000.00, or denial of licensure.

(i) A refund of fees paid by or on behalf of the patient, 25 to 50 hours of community service and from suspension to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (j) Sexual Misconduct.  
(Section 450.0141, F.S.);  
(Section 456.072(1)(u), F.S.);  
(Section 459.015(1)(l), F.S.)

(j) From probation to revocation, or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(j) From suspension, to be followed by a period of probation to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.
- (k) Deceptive, untrue, or fraudulent representations in the practice of medicine.  
(Sections 456.072(1)(a), (m), F.S.);  
(Section 459.015(1)(m), F.S.)

1. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

(k) From a letter of concern, and 25 to 50 hours of community service to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(k) From probation or denial of licensure, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00 to revocation.
- 2. Deceptive, untrue, or fraudulent representations in the practice of medicine relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

1. ~~Revocation From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, 50 to 100 hours of community service, and a reprimand through suspension of the license, or in the case of application for licensure, denial of licensure.

~~1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, 100 to 200 hours of community service, and suspension of the license, followed by a period of probation to revocation, or in the case of application for licensure, denial of licensure.
- (l) Improper solicitation of patients.  
(Section 459.015(1)(n), F.S.)

(l) From an administrative fine ranging from \$1,000.00 to \$5,000.00, 25 to 50 hours of community service, and a reprimand to probation, or denial of licensure.

(l) From suspension, to be followed by a period of probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.
- (m) Failure to keep legible written medical records.  
(Section 459.015(1)(o), F.S.)

(m) From letter of concern, 25 to 50 hours of community service to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(m) From a reprimand to suspension followed by probation, 50 to 100 hours of community service, and an administrative fine ranging from \$2,500.00 to \$5,000.00, or denial of licensure.
- 1. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

1. ~~Revocation From revocation with leave to reapply in three (3) years, and an administrative fine ranging from \$1,000.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand, 50 to 100 hours of community service to through suspension of the license, or in the case of application for licensure, denial of licensure.

~~1. From permanent revocation and an administrative fine ranging from \$2,500.00 to \$5,000.00, or in the case of application for licensure, denial of licensure.~~

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation, 100 to 200 hours of community service to revocation, or in the case of application for licensure, denial of licensure.
- 2. Failure to keep legible written medical records relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

2. From an administrative fine ranging from \$1,000.00 to \$5,000.00, and a reprimand, 50 to 100 hours of community service to through suspension of the license, or in the case of application for licensure, denial of licensure.

2. From an administrative fine ranging from \$2,500.00 to \$5,000.00, and suspension of the license, followed by a period of probation, 100 to 200 hours of community service to revocation, or in the case of application for licensure, denial of licensure.

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| <p>(n) Exercising influence on patient for financial gain.<br/>(Section 456.072(1)(n), F.S.)<br/>(Section 459.015(1)(q), F.S.)</p>                  | <p>(n) Payment of fees paid by or on behalf of the patient and from a reprimand, <u>25 to 50 hours of community service</u> to probation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>   | <p>(n) Payment of fees paid by or on behalf of the patient and from probation, <u>50 to 100 hours of community service</u>, to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>  |
| <p>(o) Performing professional services not authorized by patient.<br/>(Section 459.015(1)(s), F.S.)</p>  | <p>(o) From a letter of concern to revocation, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>  | <p>(o) From a reprimand, <u>50 to 100 hours of community service</u> to revocation, or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>   |
| <p>(p) Inability to practice medicine with skill and safety.<br/>(Section 456.072(1)(y), F.S.);<br/>(Section 459.015(1)(w), F.S.)</p>               | <p>(p) From reprimand to suspension, which may be stayed to allow a period of probation with supervision, and a demonstration by the licensee of the ability to practice with reasonable skill and safety, or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p> | <p>(p) From probation to revocation, until the licensee is able to demonstrate ability to practice with reasonable skill and safety, followed by probation, or denial of licensure, <u>50 to 100 hours of community service</u> and an administrative fine from \$2,500.00 to \$5,000.00.</p> |
| <p>(q)1. Malpractice: practicing below acceptable standard of care.<br/>(Section 459.015(1)(x), F.S.)</p>   | <p>(q)1. From a letter of concern, <u>25 to 50 hours of community service</u> to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>  | <p>(q)1. From reprimand, <u>50 to 100 hours of community service</u> to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>  |
| <p>2. Gross Malpractice.</p>  | <p>2. From probation, <u>25 to 50 hours of community service</u> to revocation or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>  | <p>2. From suspension followed by probation to revocation or denial, <u>50 to 100 hours of community service</u> and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>  |
| <p>3. No change.</p>  | <p>(r) From a letter of concern to suspension <u>to be followed by a period of probation</u>, or denial of licensure, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>  | <p>(r) From suspension <u>to be followed by a period of probation</u>, <u>50 to 100 hours of community service</u> to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>  |
| <p>(s) No change.</p>   | <p>(t) From reprimand to suspension, followed by probation, <u>25 to 50 hours of community service</u>, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>   | <p>(t) From probation, <u>50 to 100 hours of community service</u> to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>  |
| <p>(t) Delegation of professional responsibilities to unqualified person.<br/>(Section 456.072(1)(p), F.S.);<br/>(Section 459.015(1)(aa), F.S.)</p> | <p>(t) From reprimand to suspension, followed by probation, <u>25 to 50 hours of community service</u>, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>   | <p>(t) From probation, <u>50 to 100 hours of community service</u> to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>  |
| <p>(u)1. No change.</p>   | <p>2. From a reprimand, <u>25 to 50 hours of community service</u> <del>letter of concern</del> and an administrative fine of \$1,000.00 to a reprimand, <u>100 hours of community service</u> <del>letter of concern</del> and an administrative fine of \$5,000.00.</p>   | <p>2. From a reprimand, <u>100 hours of community service</u> and an administrative fine of \$2,500.00 to a reprimand, <u>200 hours of community service</u> and an administrative fine of \$5,000.00 and probation.</p>  |
| <p>2. Violation of an order of the Board.</p>   | <p>(v) From a letter of concern to a reprimand, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>  | <p>(v) From a reprimand and an administrative fine of \$2,500.00 to a reprimand, <u>50 to 100 hours of community service</u> and an administrative fine of \$5,000.00.</p>  |
| <p>(v) Conspiring to restrict another from lawfully advertising services.<br/>(Section 459.015(1)(cc), F.S.)</p>                                    | <p>(v) From a letter of concern to a reprimand, <u>25 to 50 hours of community service</u> and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>  | <p>(v) From a reprimand and an administrative fine of \$2,500.00 to a reprimand, <u>50 to 100 hours of community service</u> and an administrative fine of \$5,000.00.</p>  |

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| <p>(w) Aiding an unlawful abortion.<br/>(Section 459.015(1)(dd), F.S.)</p>   | <p>(w) From probation, <u>25 to 50 hours of community service</u> to revocation, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>   | <p>(w) From suspension, <u>to be followed by a period of probation, 50 to 100 hours of community service</u>, to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>      |
| <p>(x) Failure to adequately supervise assisting personnel.<br/>(Section 459.015(1)(hh), F.S.)</p>   | <p>(x) From a reprimand to probation, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>  | <p>(x) From probation to suspension followed by probation, or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>                          |
| <p>(y) Improper use of substances for muscle building or enhancement of athletic performance.<br/>(Section 459.015(1)(ii), F.S.)</p>                         | <p>(y) From a reprimand to suspension, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$5,000.00.</p>   | <p>(y) From suspension <u>to be followed by a period of probation</u> to revocation or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(z) Use of amygdaline (laetrile).<br/>(Section 458.331(1)(ff), F.S.)</p>  | <p>(z) From a reprimand to probation, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>  | <p>(z) From suspension <u>to be followed by a period of probation</u> to revocation or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p> |
| <p>(aa) Misrepresenting or concealing a material fact.<br/>(Section 459.015(1)(jj), F.S.)</p>  | <p>(aa) From a reprimand to probation, and an administrative fine ranging from \$500.00 to \$2,500.00, <u>25 to 50 hours of community service</u> or the denial of licensure with the ability to reapply, upon payment of a \$500.00 fine.</p> | <p>(aa) From probation, <u>50 to 100 hours of community service</u> to revocation or denial of licensure without the ability to reapply, and an administrative fine ranging from \$500.00 to \$5,000.00.</p>                   |
| <p>(bb) Improperly interfering with an investigation or a disciplinary proceeding.<br/>(Section 456.072(1)(r), F.S.);<br/>(Section 459.015(1)(kk), F.S.)</p> | <p>(bb) From a reprimand to probation, <u>25 to 50 hours of community service</u> or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>  | <p>(bb) From probation, <u>50 to 100 hours of community service</u> to revocation or denial of licensure without ability to reapply, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>                     |
| <p>(cc) Failing to report any licensee who is in violation of law.<br/>(Section 456.072(1)(i), F.S.);<br/>(Section 459.015(1)(ll), F.S.)</p>                 | <p>(cc) From a letter of concern to probation, or denial of licensure, <u>25 to 50 hours of community service</u>, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>   | <p>(cc) From probation to revocation or denial of licensure, <u>50 to 100 hours of community service</u>, and an administrative fine ranging from \$2,500.00 to \$5,000.00.</p>  |
| <p>(dd) Providing medical opinion without reasonable investigation.<br/>(Section 459.015(1)(mm), F.S.)</p>   | <p>(dd) From a letter of concern to a reprimand, or denial of licensure, and an administrative fine ranging from \$1,000.00 to \$2,500.00.</p>   | <p>(dd) From probation to revocation or denial of licensure, and an administrative fine from \$2,500.00 to \$5,000.00.</p>   |
| <p>(ee) Theft or reproduction of an examination.<br/>(Section 456.018, F.S.)</p>   | <p>(ee) <del>Revocation</del> <del>Suspension</del> <del>to revocation</del>, or denial of licensure <del>without an ability to reapply</del>.</p>   | <p><del>(ee) Revocation or denial of licensure without ability to reapply.</del></p>   |
| <p>(ff) through (jj) No change.</p>  |  |  |

(kk) Performing health care services on the wrong patient, wrong site, wrong procedure.  
(Section 456.072(1)(aa), F.S.)

(kk) From a letter of concern, 50 to 100 hours of community service, a minimum of five (5) hours of risk management education, and one (1) hour lecture on wrong-site surgery in the State of Florida, and a \$1,000 fine to a \$2,500.00 fine to a reprimand and probation to suspension and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(kk) From a reprimand and probation to revocation and an administrative fine from \$2,500.00 to \$5,000.00.

(ll) Leaving a foreign body in a patient.  
(Section 456.072(1)(bb), F.S.)

(ll) From a \$1,000.00 to a \$5,000.00 fine, a letter of concern, a minimum of five (5) hours of risk management education, 50 to 100 hours of community service, and a one hour lecture to the staff of a Florida licensed healthcare facility on retained foreign body objects to revocation. From a letter of concern to probation and an administrative fine ranging from \$1,000.00 to \$2,500.00.

(ll) From a \$7,500.00 fine, a reprimand and probation, 100 to 200 hours of community service, or denial to revocation. From a reprimand to suspension and an administrative fine ranging from \$1000.00 to \$2,500.00.

(mm) through (nn) No change.

(oo) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients.  
(456.072(1)(gg), F.S.)

(oo) From reprimand to probation, 25 to 50 hours of community service and an administrative fine ranging from \$1,000.00 to \$5,000.00, or denial of licensure.

(oo) From probation, 50 to 100 hours of community service to revocation or denial of licensure, and an administrative fine ranging from \$2,500.00 to \$5,000.00.

(pp) Being terminated from a treatment program for impaired practitioners, for failure to comply with the terms of the monitoring or treatment contract or for not successfully completing any drug-treatment or alcohol-treatment program.  
(456.072(1)(hh), F.S.)

(pp) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract, and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$1,000 to \$2,500, to revocation.

(pp) From suspension until licensee demonstrates compliance with all terms of the monitoring or treatment contract and is able to demonstrate to the Board the ability to practice with reasonable skill and safety to be followed by a term of probation; and a fine of \$2,500 to \$5,000, to revocation.

(qq) Being convicted of, or entering a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program.  
(456.072(1)(ii), F.S.)

(qq) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(rr) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement.  
(456.072(1)(jj), F.S.)

(rr) From a letter of concern to probation, and a fine of \$500 to \$5,000.

(rr) From a reprimand to revocation, and a fine of \$2,500 to \$5,000.

(ss) Being terminated for cause from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program.

(456.072(1)(kk), F.S.)

(tt) Being convicted of, or entering into a plea of guilty or nolo contendere to any misdemeanor or felony, regardless of adjudication, which relates to health care fraud.

(456.072(1)(ll), F.S.)

(3) through (4) No change.

Rulemaking Specific Authority 456.079, 459.005, 459.015(5), 459.023 FS. Law Implemented 456.072, 456.079, 459.015(5), 459.023 FS. History—New 11-13-05, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anesthesiologist Assistant Committee

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 30, 2009

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

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

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

#### DEPARTMENT OF CORRECTIONS

RULE NO.:                      RULE TITLE:  
33-601.602                      Community Release Programs

##### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 34, August 27, 2010 issue of the Florida Administrative Weekly.

33-601.602 Community Release Programs.

(1) Definitions.

(a) No change.

(b) Community Release Program – Any program that allows inmates to work at paid employment or a center work assignment or to participate in education, training, substance abuse treatment programs, or any other transitional program to

(ss) From a letter of concern to suspension, and a fine of \$1,000 to \$5,000.

(tt) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.

(ss) From a reprimand to revocation, and a fine of \$5,000 to \$10,000.

facilitate re-entry into the community while in a work release center, contract community work release facility, or other contract community facility.

(c) through (g) No change.

(h) Non-advanceable date refers to an inmate's release date that is restricted from continuous, monthly gain time awards over the entire length of the sentence, including:

1. through 2. No change.

3. 100% minimum service requirements, such as the Prison Releasee Re-Offender Act located in Section 775.082, F.S., or Three-Time Violent Offender cases under Section 775.084, F.S.

(i) through (k) No change.

(l) Work Release Inmate Monitoring System (WRIMS) – A web site application used by ~~contract community work release~~ facility staff to record information related to an inmate's participation in a community release program CWR.

(2) Eligibility and Ineligibility Criteria.

(a) An inmate is ineligible for community release programs if he has:

1. through 3. No change.

4. Been terminated from CWR, ~~a community-based residential substance abuse program~~, a CWA, or a transition program for disciplinary reasons during the inmate's current commitment;

5. Been committed to or incarcerated in a state or federal correctional facility four or more times ~~in any state or federal correctional facility;~~

6. through 9. No change.

(b) In order to be eligible for a community release program, an inmate must:

1. Be community custody in accordance with Rule 33-601.210, F.A.C., or have a recommendation for community custody currently under review;

2. Be in Department custody for 60 days prior to placement in paid employment;

3. For inmates with non-advanceable dates, the inmate must be within:

i. 28 months of his earliest ~~tentative~~ release date for the transition program, or