

(f) Check the removal brushes and tools for bone fragments. If any fragments have adhered to the tools, place them in the recovery pan with the rest of the cremated remains.

(g) Take the recovery pan, its contents and the cremation documents to an appropriate cool down area.

(3) Postcremation Processing.

(a) Remove the metal identification tag from the recovery tray and place it next to the processor along with any cremation documents.

(b) Remove all other metal from the cremated remains, using a magnet and/or forceps (for nonmagnetic metal). Separate all bone fragments and cremated remains from the nonhuman materials. Do not discard the metal until it is completely free of cremated remains. Refer to the cremation documents for the appropriate disposition of dental materials, mementos and jewelry, to the extent they can be recognized in the cremated remains.

(c) Place any other nonhuman materials, such as metal, prosthetics and any other materials retrieved from the crematory, in a specified container until they are packaged for nonrecoverable disposal.

(d) The cremated remains must be processed or pulverized until they are granulated particles.

(4) Packaging of Cremated Remains.

(a) Pour the cremated remains into a heavy plastic bag and place in a temporary container or urn.

(b) If the urn or container is too small to accept all the cremated remains, use a larger container or provide a second container. When there is more than one container, the additional container(s) must be securely fastened to the original container, must have identification labels placed on each urn or container, and must be marked as 1 of 2, 2 of 2, and so on.

(c) Secure or affix the metal identification tag to the bag. Verify the identification of the cremated remains one final time, by comparing the metal identification tag number and the name of the decedent to the information on any cremation documents. Close the urn or cremated remains container.

(d) Store the cremated remains in a secure area until such time as they are released. Document in a log at least the name of the deceased, the date the cremated remains were placed into storage, the date they were removed, and by whom.

(e) If the cremated remains are to be shipped, place the urn or container in a shipping box and securely tape all box seams to increase the security and integrity of the container. The outside of the shipping box shall be clearly identified with the name of the deceased person whose processed remains are contained therein. Ship the box via registered mail, return receipt requested, or by any other lawful and traceable shipment method.

(5) Releasing Cremated Remains.

(a) Verify the identity of the cremated remains by comparing the identification label to the cremation documents and the crematory log.

(b) Release the cremated remains to a representative of the funeral or direct disposal establishment. Obtain a signed receipt for the cremated remains and file the receipt with the cremation documents.

(c) If the cremated remains have not been claimed after 120 days, the funeral or direct disposal establishment may dispose of the remains in any manner specified in Section 497.607, Florida Statutes.

Specific Authority 497.103(1)(n), (5)(a), 497.608 FS. Law Implemented 497.103(1)(n), 497.607, 497.608 FS. History—New

**Section II  
Proposed Rules**

**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."

**ADMINISTRATION COMMISSION**

RULE CHAPTER NO.: RULE TITLE:

28-22 Land Planning Regulations for The Apalachicola Bay Area of Critical State Concern – Franklin County

RULE NOS.: RULE TITLES:

28-22.210 Amendment to Revised Zoning Code  
28-22.211 Amendment to the City of Apalachicola Land Development Regulations  
28-22.212 City of Apalachicola Planning Pause Ordinance

PURPOSE AND EFFECT: The purpose of the rules is to amend the City of Apalachicola's land use regulations and zoning code; and establish a planning pause for preparation of amendments to comprehensive plan and land development regulations. The City of Apalachicola adopted Ordinances for this purpose to include:

Ordinance 2005-05 amends Section J of the City of Apalachicola land development code relating to the land use category description for C-1 Commercial Zone District. Ordinance 2006-01 amends the City of Apalachicola land use category description for the C-4 Commercial Zoning District to reflect what is allowed under the provisions of the comprehensive plan.

Ordinance 2005-08 provides additional clarity regarding the permitting of transient lodging facilities and establishes minimum criteria to ensure that transient lodging facilities do not become permanent living accommodations.

Ordinance 2005-09 provides a pause in permitting while staff prepares amendments to the comprehensive plan and land development regulations in order to bring consistency between the two documents and to further address impacts to the environment and community character. Ordinance 2006-02 amends 2005-09 concerning a temporary moratoria on the issuance of multi-family and hotel/motel units building permits. The moratoria was intended to last six months, but can be extended for finding of "good cause." The modification involves clarification of Section 4 to identify that development within the C-1 General Commercial District and C-4 the Commercial District is exempt from the conditions of the moratoria.

SUMMARY: The City of Apalachicola adopted Ordinances to amend its land use regulations and zoning code; and establish a planning pause for preparation of amendments to comprehensive plan and land development regulations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 380.0555(9) FS.

LAW IMPLEMENTED: 380.0555(7), (9) FS.

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

DATE AND TIME: October 26, 2006, 10:00 a.m.

PLACE: Room 2103, 21st Floor, The Capitol, Tallahassee, Florida 32399-0001

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 two days before the workshop/meeting by contacting: Barbara Leighty, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884. 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: Barbara Leighty, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

28-22.210 Amendment to Revised Zoning Code.

As adopted by the Apalachicola City Commission on August 2, 2005, and approved by the Administration Commission, Ordinance 2005-05, amending "Section J-Schedule of District Regulations, C-1 General Commercial District," is hereby incorporated by reference. As adopted by the Apalachicola City Commission on February 7, 2006, and approved by the Administration Commission, Ordinance 2006-01, amending "Section J – Schedule of District Regulations, C-4 Commercial District," is hereby incorporated by reference.

Specific Authority 380.0555(9) FS. Law Implemented 380.0555(7), (9) FS. History–New

28-22.211 Amendment to the City of Apalachicola Land Development Regulations.

As adopted by the Apalachicola City Commission on September 27, 2005, and approved by the Administration Commission, Ordinance 2005-08, known as the Transient Lodging Ordinance of the City of Apalachicola, is hereby incorporated by reference.

Specific Authority 380.0555(9) FS. Law Implemented 380.0555(7), (9) FS. History–New

28-22.212 City of Apalachicola Planning Pause Ordinance.

Adoption of the City of Apalachicola's Ordinance 2005-09, as adopted by the City of Apalachicola on September 27, 2005, and amended by the City of Apalachicola's Ordinance 2006-02, as adopted by the City of Apalachicola on February 7, 2006, and approved by the Administration Commission, is hereby incorporated by reference, as an ordinance establishing a planning pause in the City of Apalachicola, Florida. Ordinances 2005-09 and 2006-02 relate to the establishment of a prohibition on the acceptance of development permit applications for new hotels/motels, townhouses, multifamily residential and/or condominiums; establishing duration and requirements for termination and extension; establishing exemptions; providing for severability; and providing an effective date.

Specific Authority 380.0555(9) FS. Law Implemented 380.0555(7), (9) FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE: Teresa Tinker, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 11, 2006

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.210  
 RULE TITLE: Custody Classification

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend the rule to provide that, unless precluded for security or other substantial reasons, all inmates are scheduled to appear for assessments and reviews and inmates shall be notified a minimum of forty-eight hours in advance of an assessment and review unless an inmate waives the notice in writing.

SUMMARY: Amends the rule to provide that, unless precluded for security or other substantial reasons, all inmates are scheduled to appear for assessments and reviews and inmates shall be notified a minimum of forty-eight hours in advance of an assessment and review unless an inmate waives the notice in writing.

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

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

SPECIFIC AUTHORITY: 944.09, 958.11 FS.

LAW IMPLEMENTED: 20.315, 921.20, 944.09, 944.17(2), 944.1905, 958.11 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: Dorothy M. Ridgway, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

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

33-601.210 Custody Classification.

(1) through (3) No change.

(4) Progress Assessments.

(a) through (b) No change.

(c) Unless precluded for security or other substantial reasons, all inmates shall be scheduled to appear for assessments and reviews. An inmate shall be notified a minimum of forty-eight hours in advance of an assessment and review unless the inmate waives such notice in writing. Assessments and reviews that shall be completed as follows:

1. through 4. No change.

(d) through (m) No change.

(5) No change.

Specific Authority ~~20.315~~, 944.09, 958.11 FS. Law Implemented 20.315, 921.20, 944.09, 944.17(2), 944.1905, 958.11 FS. History—New 12-7-81, Formerly 33-6.09, Transferred from 33-6.009, Amended 6-8-82, 10-26-83, 6-8-86, 7-8-86, 10-27-88, 1-1-89, 7-4-89, 10-12-89, 1-2-91, 7-21-91, 8-30-92, 5-13-96, 6-12-96, 11-19-96, 10-15-97, Formerly 33-6.0045, Amended 9-19-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Hieteenthia “Tina” Hayes, Acting Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 1, 2006

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-601.602  
 RULE TITLE: Community Release Programs

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to set forth requirements regarding: contract work release centers; use of electronic data systems; provision of orientation; work hours and travel time; transportation and transportation costs; subsistence payments; advance of funds; and collection of unpaid advancements. In addition, the proposed rule and Form DC6-127, Checklist for Transfers to Work Release Centers, are amended to correct program names, delete obsolete information and amend criteria for eligibility.

SUMMARY: Amends the rule to provide for the use of contract community work release centers; require the use of electronic data system to record inmates’ community work release information at those facilities where system is operable; require that orientation occur within 3 days of arrival at a community work release center; require that inmate work release employment be full time for at least 40 hours per week; expand allowable travel time from one to two hours and expand allowable center departure time from 6 a.m. to 5 a.m.; allow for the use of center transportation to an employment site by inmates at contract work release facilities; specify transportation costs (no more than \$3.00 each way) and obligations for contract work release facilities; provide that inmates at contract work release centers are responsible for transportation costs as described in the contract with the vendor; increase the amount of subsistence to be paid from 45% to 65% of the inmate’s net earnings; allow for the advancement of funds by the facility to inmates at contract facilities for work needs and delete provisions allowing similar advancement of funds by the department from the general revenue fund; require that disciplinary action be taken to initiate collection of unpaid portion of advancements; and amend DC6-127, Checklist for Transfers to Work Release Centers, to correct program names, delete obsolete information and amend some criteria for eligibility.

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

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

SPECIFIC AUTHORITY: 945.091 FS.

LAW IMPLEMENTED: 945.091 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: Dorothy M. Ridgway, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.602 Community Release Programs.

(1) Definitions.

(a) through (h) No change.

(i) Work Release Inmate Monitoring System (WRIMS) – A web site application used by work release facility staff to record information related to an inmate’s participation in community work release.

(2) Inmate Conduct While on Community Release.

(a) During the inmate orientation process, which shall occur within three days of arrival at a community work release center, inmates will be instructed of the following conduct requirements. Upon completion of the orientation program, the inmate shall be given a Certificate of Orientation, Form DC6-126. Form DC6-126 is incorporated in subsection (16) of this rule.

1. Directly and promptly proceed to and return from their destination using the approved method of transportation and route designated by the correctional officer major or facility program director of a contract facility.

2. through 9. No change.

10. Do not enter into any contract without advance written approval of the correctional officer major or facility program director of a contract facility.

(b) An inmate with community release privileges shall not operate any motor vehicle of any kind unless previously authorized to do so by the correctional officer major or facility program director of a contract facility, and in the event of such authorization, shall operate the specified motor vehicle only for the limited purpose for which authorization was given.

(c) No change.

(d) The work release center classification officer or contract facility counselor shall complete a Personalized Program Plan for Work Release Centers, Form DC6-118A, on all inmates assigned to the work release center within 14 days

of receipt of the inmate at the center. Form DC6-118A is incorporated by reference in subsection (16) of this rule. The completed personalized program plan shall be signed by the inmate, the classification officer and the correctional officer major or the facility counselor and facility director at contract facilities. Once the personalized program plan is signed, it shall be given to the staff member assigned to work with the inmate. Any changes in the personalized program plan shall be discussed with the inmate and shall be documented on Form DC6-118B, Personalized Program Plan – Modification Plan. Form DC6-118B is incorporated by reference in subsection (16) of this rule. The inmate’s progress towards achieving the goals of the personalized program plan shall be reviewed bi-weekly with the inmate. The outcome of each review shall be documented on Form DC6-118C, Personalized Program Plan – Biweekly Progress Review or shall be entered into WRIMS at those facilities at which the system is operational. A copy of the Personalized Program Plan shall be printed from WRIMS and given to the inmate. Form DC6-118C is incorporated by reference in subsection (16) of this rule. Staff are authorized to schedule subsequent progress reviews upon request of the inmate.

(e) When the inmate is ready for release a Transition Release Plan, Form DC6-118D, shall be completed in order to assist the inmate in his or her release plans or the plan information shall be entered into WRIMS at those facilities at which the system is operational. Form DC6-118D is incorporated by reference in subsection (16) of this rule.

(3) through (6) No change.

(7) Employment.

(a) Employment sought must be full time employment for at least ~~40~~ 35 hours per week.

(b) through (e) No change.

(f) If the department authorizes paid employment for an inmate with a given employer and subsequently receives and verifies information that the inmate is not being treated by the employer in a manner comparable to other employees, the correctional officer major or facility director will remove the inmate from such employment with that employer.

(g) The prospective employer shall sign an Employer’s Community Work Agreement, Form DC6-124. Form DC6-124 is incorporated by reference in subsection (16) of this rule. Inmates engaged in paid employment are not considered ~~an~~ employees of the state or the department while engaging in or traveling to and from such employment.

(h) through (i) No change.

(j) Facility personnel shall visit the inmate’s place of employment for new employers within the first five ~~working~~ days to verify employment. Documentation of on-site employment verification shall be placed in the inmate’s file by utilizing Form DC6-125, Employment Contacts, or shall be

entered into WRIMS at those facilities at which the system is operational. Form DC6-125 is incorporated by reference in subsection (16) of this rule.

(k) There shall be a minimum of three employment contacts per inmate per month by facility personnel to substantiate attendance and discuss any problems that may have arisen. Two of the contacts shall be accomplished either through telephone calls or site visits to the inmate's place of employment, and documentation of the contacts shall be made on Form DC6-125, Employment Contacts, or shall be entered into WRIMS at those facilities at which the system is operational. One of the three monthly contacts shall be a personal on-site job check. The documentation of the contacts shall be made on Form DC6-125 and placed in the inmate's file or shall be entered into WRIMS at those facilities at which the system is operational for future reference.

(l) Facility personnel shall establish a primary and secondary job contact person at all employment sites. The primary and secondary contact person shall be named on Form DC6-125, Employment Contacts or shall be entered into WRIMS at those facilities at which the system is operational.

(m) The employer shall provide a current work schedule for the inmate to the work release center each week prior to the inmate being allowed to depart for work. The inmate's work schedule shall be entered into WRIMS at those facilities at which the system is operational.

(n) All inmates employed in the community shall return to the facility no later than 12 midnight. Inmates will not be authorized to leave the facility to work in the community between 12 midnight and 5 ~~6~~ a.m. unless an exception is made. Any exceptions must be reviewed and approved on a case by case basis by the warden over the work release center. No exceptions will be approved unless it is determined that the risk to the community is minimal, and the earning potential and rehabilitative benefits which the job offers the inmate are substantial.

(8) No change.

(9) Transportation.

(a) Transportation for inmates engaged in community release programs shall be secured by the following means:

1. Employer furnished transportation;
2. Public transportation;
3. Transportation provided by a family member;
4. Bicycling; ~~or~~
5. Walking; or
6. Center provided transportation at contract work release facilities only.

6. Center provided transportation at contract work release facilities only.

(b) Contract Work Release Facilities:

1. Are authorized to assess a transportation fee from community release inmates not to exceed \$3.00 each way for transportation provided by the contract work release center except as provided in subparagraph (b)3. below.

2. Inmates will utilize transportation authorized in paragraph 33-601.602(9)(a), F.A.C., unless the warden over the work release center determines for public safety reasons another means of transportation is necessary.

3. Will provide at not cost to the department or the inmate, transportation within the community for medical or mental health services, religious services (if not provided at the work release center), attendance at substance abuse group meetings or for shopping.

(c)(b) In order to ensure that inmates are not working long distances from the center, the warden over the work release center shall establish maximum boundaries for employment sites by center geographic location. The maximum boundaries shall not exceed two one ~~one~~ hours travel time to the employment site from the facility unless an exception has been granted. Any exceptions must be reviewed and approved on a case by case basis by the warden over the work release center, who shall assess whether the rehabilitative benefit to the inmate outweighs risks to public safety.

(10) Disbursement of Earnings.

(a) No change.

(b) Once an inmate is approved for paid employment, facility personnel, in consultation with the inmate, will establish a plan for the disbursement of earnings, based upon the needs, responsibilities, and financial obligations of the inmate. No change will be made in this plan of disbursement without the approval of the correctional officer major or facility director.

(c) No change.

(d) The inmate shall be required to disburse such funds to pay the facility for subsistence at the following rates:

1. No change.

2. For all other inmates the amount of subsistence to be paid will be computed by factoring .65 (65%) ~~.45 (45%)~~ times the inmate's net earnings.

(e) through (h) No change.

(i) The inmate shall be responsible while in paid employment status for the following:

~~1. If transportation is provided by the department, the inmate shall be required to pay \$1.00 for every day one way transportation is provided or \$2.00 for two way transportation.~~

~~1.2. Health, comfort items, and incidental expenses.~~

~~2.3. Medical and dental expenses, unless waived by the regional health authority.~~

3. Transportation costs at contract work release facilities as stipulated by the vendor contract, but not to exceed three dollars (\$3.00) each way.

4. Tools, equipment, and clothing needed for employment.

(j) through (l) No change.

(11) No change.

(12) Advance of Funds. The facility director at contract work release centers ~~Department of Corrections~~ is authorized by contract to advance monies up to \$75.00 ~~to from the General Revenue Fund~~ for an inmate who needs money for clothing, equipment, tools, transportation or incidental expenses in order to begin working at paid employment. The financial plan for the disbursement of the inmate's earnings prepared, as provided in subsection 33-601.602(10), F.A.C., shall provide for the repayment of any such advancement of monies from the inmate's earnings. If the inmate's employment is terminated or if for any other reason the advancement of monies is not repaid from the inmate's earnings, the advancement of monies remains a personal obligation of the inmate. Disciplinary action pursuant to Rule 33-601.314, F.A.C., shall be initiated and, after suitable proceedings to ensure due process for the collection of any unpaid portion of the advancement, other sources of funds available to the inmate shall be taken to the extent possible to satisfy the advancement of monies. Any property the inmate has with the department shall be taken to satisfy the debt, provided that before any property is taken, the inmate shall be given a hearing before the classification team to determine the fact and the amount of the debt. The inmate shall be given 24 hours written notice of such hearing. The inmate shall be allowed to present relevant evidence and argument. All or part of the discharge gratuity as provided in Rule 33-601.502, F.A.C., shall be taken, but only if the Department of Corrections finds that such action will not jeopardize the inmate's ability to transition himself into the community.

(13) Citizen Committees. The correctional officer major of a work release center or facility director of a contract facility shall establish committees of volunteer citizens in the various communities of the state to assist the Department of Corrections by:

(a) through (e) No change.

(14) Program Facilities.

(a) The department is authorized to utilize any facility, including a contract facility, under its jurisdiction to provide community work release programs to inmates.

(b) through (c) No change.

(15) No change.

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

(a) through (h) No change.

(i) DC6-127, Checklist for Transfers to Work Release Centers, effective \_\_\_\_\_ ~~3-14-01~~.

(j) No change.

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History--New 12-7-97, Amended 4-13-98, 10-20-98, Formerly 33-9.023, Amended 3-14-01, 9-2-01, 10-27-03, 3-2-04, 10-28-04, 2-7-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Franchatta Barber, Deputy Assistant Secretary of Institutions – Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Hieteenthia “Tina” Hayes, Acting Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 21, 2006

**WATER MANAGEMENT DISTRICTS**

**South Florida Water Management District**

RULE NOS.:

RULE TITLES:

40E-8.021

Definitions

40E-8.221

Minimum Flows and Levels: Surface Waters

40E-8.421

Prevention and Recovery Strategies

PURPOSE AND EFFECT: To implement minimum flows and levels (MFLs) pursuant to Section 373.042, F.S., for Florida Bay. The MFL rule will identify the point at which significant harm would occur due to withdrawals and implement a recovery or prevention strategy.

SUMMARY: Section 373.042, F.S., directs the water management districts to establish minimum flows and levels (“MFLs”) for priority water bodies within its jurisdiction. The current MFL priority water body list provides for adoption of a minimum flow and level for Florida Bay in 2006. The technical documentation in support of the proposed rules has been reviewed by an independent scientific peer review panel, as well as stakeholders and the public in a series of workshops. The proposed rule amendments will implement consumptive use permit and water shortage management rules and a prevention strategy. The proposed rule amendments would also provide other related projects with criteria for consideration in water resource planning.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost has not been prepared based on the District's determination that the proposed revisions will not result in a substantial increase in the costs to affected parties and there will not be significant adverse effects on competition, employment, investment or productivity.

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

SPECIFIC AUTHORITY: §§9, 10 P.L. 83-358, 373.042, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS.

LAW IMPLEMENTED: 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS.

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

DATE AND TIME: November 9, 2006, 9:00 a.m.

PLACE: Ocean Reef Club, North Ballroom, 35 Ocean Reef Drive, Key Largo, FL 33037

Although Governing Board meetings, hearings and workshops are normally recorded, affected persons are advised that it may be necessary for them to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which any appeal is to be based. Persons with disabilities or handicaps who need assistance may contact the South Florida Water Management District Clerk's Office, (561)682-2087 at least two business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cecile Piverotto, Senior Specialist Attorney, Office of Counsel, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, telephone 1(800)432-2045, extension 6343 or (561)682-6343, email: cpiverot@sfwmd.gov. For procedural issues, Jan Sluth, Paralegal, South Florida Water Management District, Post Office Box 24680, West Palm Beach, FL 33416-4680, 1(800)432-2045, extension 6299, or (561)682-6299, email: jsluth@sfwmd.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

40E-8.021 Definitions.

Confirm with John Mulliken that this is the final version – any changes made at Board meeting?

(1) through (7) No change.

(8) Northeast Subregion of Florida Bay (hereinafter "Florida Bay") – means the bays, basins, and sounds within Taylor Slough and the C-111 Canal basin watersheds, including Long Sound, Little Blackwater Sound, Blackwater Sound, Buttonwood Sound, Joe Bay, Little Madeira Bay, Madeira Bay, Terrapin Bay, Eagle Key Basin, and other open waters of Florida Bay northeast of a boundary line between Terrapin Bay and Plantation Key (see Map 2).

(9)(8) Harm – means the temporary loss of water resource functions, as defined for consumptive use permitting in Chapter 40E-2, F.A.C., that results from a change in surface or ground water hydrology and takes a period of one to two years of average rainfall conditions to recover.

(10)(9) Indirect Withdrawal – means the withdrawal of water from a water source for a consumptive use that receives surface water or ground water from a MFL water body or is tributary to a MFL water body.

(11)(10) Lake Istokpoga – means the lands and waters contained within the Lake below 40.0 feet NGVD, the top of the U.S. Army Corps of Engineers' regulation schedule.

(12)(11) Lake Okeechobee – means the lands and waters contained within the perimeter of the Hoover Dike.

(13)(12) LEC Plan – means the Lower East Coast Regional Water Supply Plan – May 2000, including all three volumes.

(14)(13) Lower West Coast Aquifers – means the lower Tamiami aquifer, sandstone aquifer and the mid-Hawthorn aquifer that occur within Charlotte, Hendry, Glades, Lee and Collier counties.

(15)(14) LWC Plan – means the Lower West Coast Regional Water Supply Plan – April 2000, including all three volumes.

(16)(15) Minimum Flow – means a flow established by the District pursuant to Sections 373.042 and 373.0421, F.S., for a given water body and set forth in Parts II and III of this chapter, at which further withdrawals would be significantly harmful to the water resources or ecology of the area.

(17)(16) Minimum Flow and Level Exceedance – means to fall below a minimum flow or level, which is established in Parts II and III of this chapter, for a duration greater than specified for the MFL water body.

(18)(17) Minimum Flow and Level Violation – means to fall below a minimum flow or minimum level, which is established in Parts II and III of this chapter, for a duration and frequency greater than specified for the MFL water body. Unless otherwise specified herein, in determining the frequency with which water flows and levels fall below an established MFL for purposes of determining a MFL violation, a "year" means 365 days from the last day of the previous MFL exceedance.

(19)(18) Minimum Level – means the level of groundwater in an aquifer or the level of surface water established by the District pursuant to Sections 373.042 and 373.0421, F.S., in Parts II and III of this chapter, at which further withdrawals would be significantly harmful to the water resources of the area.

(20)(19) MFL Water Body – means any surface water, watercourse, or aquifer for which an MFL is established in Part II or III of this chapter.

(21)(20) Northwest Fork of the Loxahatchee River: Means those areas defined below:

(a) Northwest Fork of the Loxahatchee River that has been federally designated as Wild, Scenic and Recreational uses (as defined in the Loxahatchee River Wild and Scenic River Management Plan 2000) (see Map 1, incorporated herein), including the river channel that extends from river mile 6.0 (latitude 26.9856, longitude 80.1426) located near the eastern edge of Jonathan Dickinson State Park and continues upstream to the G-92 structure (latitude 26.91014, longitude 80.17578), including the C-14 Canal. The river channel includes the

physical water flow courses and adjacent floodplain up to the limits of the floodplain swamp and wetlands within Riverbend Park, as determined by state wetland delineation criteria;

(b) Cypress Creek which extends westward from river mile 10.6 to the intersection of Gulf Stream Citrus Road (latitude 26.96484, longitude 80.1855) located approximately one mile west of the Florida Turnpike and includes its natural river channels and contiguous floodplain as determined by state wetland delineation criteria;

(c) Kitching Creek which extends from river mile 8.1 (latitude 26.9908, longitude 80.1540) northward through Jonathan Dickinson State Park to north of Bridge Road (latitude 27.05513, longitude 80.17580), including its natural river channels and contiguous floodplain as determined by state wetland delineation criteria; and

(d) Hobe Grove Ditch which extends west from river mile 9.1 (latitude 26.9854, longitude 80.1594) westward to the Hobe-St. Lucie Conservancy District pump station outfall (latitude 26.5908, longitude 80.1031) including its natural river channels and contiguous floodplain as determined by state wetland delineation criteria.

~~(22)~~(21) Operations – means activities taken by the District for the movement of surface water through works of the District pursuant to Chapter 373, F.S.

(23) Parts per thousand (ppt) – means in the measurement of salinity the total amount of salt in grams per 1000 grams of water. Practical salinity units (psu) similarly means a measure of salinity, but one that is based on conductivity of water at a standard temperature and pressure. Both terms are used interchangeably for purposes of this rule.

~~(24)~~(22) Prevention Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently not violated, but are projected to be violated within twenty (20) years of the establishment of the minimum flow or level, if said prevention strategies are not implemented.

~~(25)~~(23) Recovery Strategy(ies) – means the structural and non-structural actions approved by the District in regional water supply plans, pursuant to Section 373.0421, F.S., or by rule, for areas where MFLs are currently violated.

~~(26)~~(24) Regional Water Supply Plan – means a plan approved by the District pursuant to Section 373.0361, F.S.

~~(27)~~(25) St. Lucie River North Fork – means the surface waters that extend from the Gordy Road Bridge structure (state plane coordinates, x851212.831, y1116105.7470), combined with tributary contributions below Gordy Road and collectively flow south to the confluence with the C-24 canal (state plane coordinates, x873,712.20, y1064,390.41).

~~(28)~~(26) St. Lucie River South Fork – means the surface waters that extend from the culverts located at state plane coordinates x902, 512.67, y1,001,799.91, north to the confluence of the river and the St. Lucie Canal (C-44).

~~(29)~~(27) St. Lucie Estuary – means the surface water body south of the confluence of the St. Lucie River North Fork and C-24, north of the confluence of the St. Lucie River South Fork and C-44, and west of the western boundary of the Intracoastal Waterway, exclusive of canals.

~~(30)~~(28) Serious Harm – means the long-term loss of water resource functions, as addressed in Chapters 40E-21 and 40E-22, F.A.C., resulting from a change in surface or ground water hydrology.

~~(31)~~(29) Significant Harm – means the temporary loss of water resource functions, which result from a change in surface or ground water hydrology, that takes more than two years to recover, but which is considered less severe than serious harm. The specific water resource functions addressed by a MFL and the duration of the recovery period associated with significant harm are defined for each priority water body based on the MFL technical support document.

Specific Authority §§ 9, 10 P.L. 83-358, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History–New 9-10-01, Amended 11-11-02, 4-1-03, 1-19-06.

## PART II MFL CRITERIA FOR LOWER EAST COAST REGIONAL PLANNING AREA

40E-8.221 Minimum Flows and Levels: Surface Waters.

(1) through (4) No change.

(5) Florida Bay

(a) The minimum flow is that necessary to maintain salinity as described in paragraph (b), below. A net discharge into northeastern Florida Bay of 105,000 acre-feet of water over a 365-day period (a running total measured at West Highway Creek, at 25°14'33" north and 80°26'50" west; Trout Creek, at 25°12'53" north and 80°32'01" west; Mud Creek, at 25°12'09" north and 80°35'01" west; Taylor River, at 25°11'27" north and 80°38'21" west; and McCormick Creek, at 25°10'03" north and 80°43'55" west), is estimated to be necessary to maintain salinity as described in paragraph (b), below.

(b) An exceedance of the minimum flow criteria will be deemed to occur when the average salinity over 30 or more consecutive days exceeds 30 parts per thousand at the Taylor River salinity monitoring station, located at 25°13'29" north and 80°39'10" west. Multiple events of 30 or more day periods with salinity greater than 30 parts per thousand, occurring within a single calendar year, are considered as a single exceedance.

(c) A minimum flow violation occurs when an exceedance occurs during each of two consecutive years, more often than once in a ten-year period. By this definition, three consecutive years of exceedances constitute a violation.



Specific Authority §§ 9, 10 P.L. 83-358, 373.044, 373.113, 373.119, 373.129, 373.136, 373.171, ~~373.042~~ FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History—New 9-10-01, Amended 4-1-03,

Table 1. Minimum water levels, duration and return frequencies for key water management gages located within the Everglades <sup>(1,2,3)</sup>

Area	Key Gage	Soil Type & MFL Criteria	Return Frequency (years) <sup>(3)-(4)</sup>
WCA-1 1-7	1-7	Peat <sup>1</sup>	1 in 4
WCA-2A	2A-17	Peat	1 in 4
WCA-2B	2B-21	Peat	1 in 4
WCA-3A North	3A-NE	Peat	1 in 2
WCA-3A North	3A-NW	Peat	1 in 4
WCA-3A North	3A-2	Peat	1 in 4
WCA-3A North	3A-3	Peat	1 in 3
WCA-3A Central	3A-4	Peat	1 in 4
WCA-3A South	3A-28	Peat	1 in 4
WCA-3B	3B-SE	Peat	1 in 7
Rotenberger WMA	Rotts	Peat	1 in 2
Holeyland WMA	HoleyG	Peat	1 in 3
NE Shark Slough	NESRS-2	Peat	1 in 10
Central Shark Slough	NP-33	Peat	1 in 10
Central Shark Slough	NP-36	Peat	1 in 7
Marl wetlands east of Shark Slough	NP-38	Marl <sup>(2)</sup>	1 in 3
Marl wetlands west of Shark Slough	NP-201	Marl	1 in 5
Rockland marl marsh	G-620	Marl	1 in 2
Taylor Slough	G-1502 NP-67	Marl	1 in 2

- (1) = MFL Criteria for Peat-forming wetlands: Water levels within wetlands overlying organic peat soils within the water conservation areas, Rotenberger and Holeyland wildlife management areas, and Shark River Slough (Everglades National Park) shall not fall 1.0 feet or more below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for at least 30 days, at specific return frequencies shown above.
- (2) = MFL Criteria for Marl-forming wetlands: Water levels within marl-forming wetlands that are located east and west of Shark River Slough, the Rocky Glades, and Taylor Slough within the Everglades National Park, shall not fall 1.5 ft. below ground surface, as measured at a key gage, for one or more days during a period in which the water level has remained below ground for at least 90 days, at specific return frequencies for different areas, as shown above.
- (3) = Return frequencies were developed using version 3.7 of the South Florida Water Management Model (SFWMM) and are the same as those stated on page 168, Table 44 of the adopted LEC Regional Water Supply Plan (May 2000).

(4) = MFL depth, duration and return frequencies are based on historic rainfall conditions for the 31 year period of record from 1965 to 1995.

PART IV IMPLEMENTATION

40E-8.421 Prevention and Recovery Strategies.

(1) through (8) No change.

(9) Florida Bay. Under existing system conditions, violations of the MFL are not anticipated to occur. Therefore, a prevention strategy is contained in this rule. In addition to the prevention strategies identified in subsection 40E-8.421(1), F.A.C., the following actions will be taken:

(a) Modifications to operations for improved management of freshwater discharges to the headwaters of Taylor Slough and the southeast Everglades should consider the MFL, in coordination with:

1. The Modified Waters Deliveries to Everglades National Park project and the C-111 Canal project, and any associated operational and construction plans pursuant to these projects;

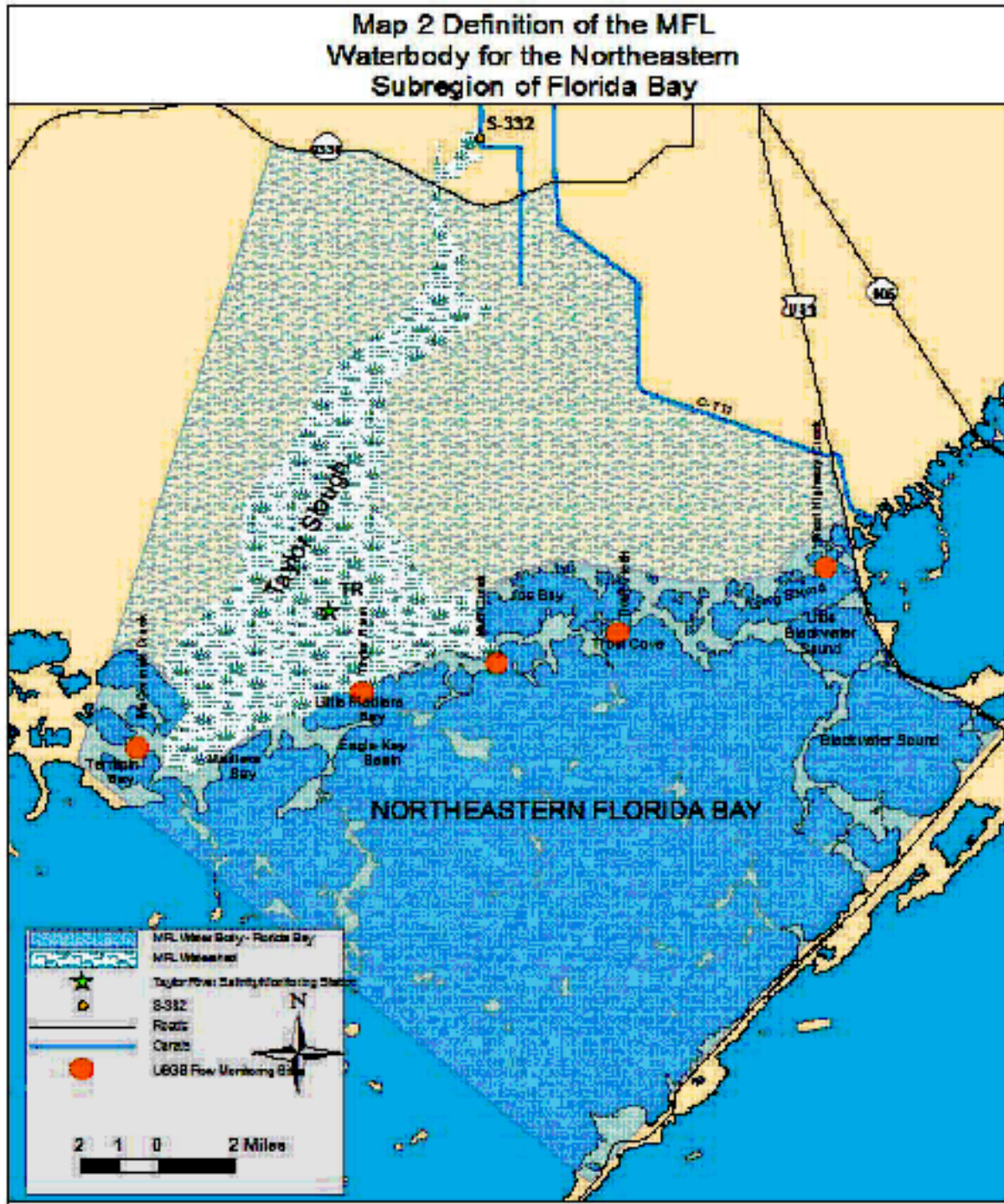
2. The C-111 Canal Spreader Acceler8 and CERP Projects;

3. The CERP Florida Bay and Florida Keys Feasibility Study.

(b) The SFWMD, in cooperation with other management agencies, will continue field monitoring and research to assess salinity, water level, and flow conditions and biological resource response in the region specified above.

(c) The update of the LEC Plan (anticipated in 2006) will contain a description of the elements, scheduling, and funding of the research and monitoring program and additional details of the prevention strategy for Florida Bay pursuant to Section 373.0421, F.S.

(d) These MFL criteria will be reviewed and may be revised no later than five years after adoption based on new information from the CERP Florida Bay and Florida Keys Feasibility Study or other scientific data that may become available. After the initial review, the MFL criteria will be reviewed at subsequent five-year intervals in conjunction with updates to the LEC Plan.



Specific Authority §§ 9, 10 P.L. 83-358, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.036, 373.0361, 373.042, 373.0421, 373.175, 373.216, 373.219, 373.223, 373.246 FS. History—New 9-10-01, Amended 11-11-02, 4-1-03, 1-19-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wm. Scott Burns, Director, Water Supply Policy Implementation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 13, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 23, 2006

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NOS.:	RULE TITLES:
61D-14.076	Player Tracking System
61D-14.077	Procedure for Electronic Fund Transfers
61D-14.078	Patron Slot Machine Gaming Accounts

PURPOSE AND EFFECT: The purpose and effect of the proposed rules will be to implement Florida Statutes regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUMMARY: The rules address the following subject matter areas: Specify allowances and requirements for player tracking system processes in the state under Rule 61D-14.076, F.A.C.; articulate specific procedures for electronic funds transfers for patrons of facilities in the state under Rule 61D-14.077, F.A.C.; and the requirements for the creation, maintenance and audit of patron slot machine gaming accounts under Rule 61D-14.078, F.A.C.

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

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

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(d), (1)(e) FS.

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

DATE AND TIME: October 24, 2006, 9:00 a.m. – 12:00 Noon  
 PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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 Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Dual Party Relay System by calling (800)955-8770 (Voice) or (800)955-8771 (TDD).

Written comments or suggestions on the proposed rule may be submitted to: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1035, within 21 days of this notice for inclusion in the record of this proceeding.

THE FULL TEXT OF THE PROPOSED RULES IS:

61D-14.076 Player Tracking System.

(1) Each slot machine licensee that offers the use of a card or device to its patrons for accessing funds from a patron account established under Rule 61D-14.078, F.A.C., or uses such a card or device for tracking player history, shall include a description of this program or system as part of its internal control procedures and submit the internal control procedures to the division for approval.

(2) Any card or device referenced in subsection (1) shall only be used for slot machine gaming at the slot machine license facility where the card or device was issued.

(3) Any activity involving a card or device referenced in (1) shall be recorded and maintained in a database that shall be available for inspection by the division or FDLE upon demand. Information in the database shall be maintained for the time specified in paragraph 61D-14.080(3)(b), F.A.C.

(4) Each card or device issued to a patron shall require at least a four digit Personal Identification Number (PIN) for use.

(5) The following errors related to the use of a card or device shall be recorded by the facility based monitoring system and a message shall be displayed by the slot machine or automatic ticket redemption machine to the patron:

(a) An invalid PIN. This error shall cause the slot machine to prompt the patron for re-entry of the PIN. However, the slot machine shall not allow more than three attempts to re-enter a PIN number for the card or device;

(b) Account unknown;

(c) Inactive or closed account as determined by paragraph 61D-14.078(2)(g), F.A.C.; or

(d) Attempt to use a card or device that has been reported to the slot machine licensee as lost or stolen.

Specific Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(d), (e) FS. History–New \_\_\_\_\_.

61D-14.077 Procedure for Electronic Fund Transfers.

(1) A slot machine licensee that receives or transfers funds by wire, facsimile, electronic funds transfer, or any similar transfer shall comply with all requirements of this rule. Any receipt or transfer of such funds shall be referred to as an Electronic Funds Transfer “EFT”.

(2) The slot machine licensee shall establish a single transaction account for the receipt and transfer of all EFTs from, or on behalf of, patrons.

(3) A slot machine licensee that receives or transmits an EFT shall establish a Patron Account pursuant to Rule 61D-14.078, F.A.C., for that patron at the slot machine licensee’s facility.

(4) The slot machine licensee shall maintain internal control procedures for transmittal or receipt of EFT transactions. These internal control procedures shall include:

(a) An anti-money laundering program; and

(b) Identification of a program manager or other person responsible for ensuring that a procedure is implemented and administered by the slot machine licensee and monitored to maintain the following standards:

1. Provisions for training of employees related to EFT functions within fourteen (14) days of the employee’s hire date. No employee shall perform any function related to EFT until the employee has completed training. Documentation of all training shall be maintained on site;

2. Annual follow-up training for EFT employees;

3. Ensure any contracted licensed vendor utilized by the slot machine licensee is implementing the standards of this rule, and the internal control standards of the slot machine licensee;

4. Establish written policies and procedures for daily administration and reconciliation and monthly reconciliation of all EFT activity; and

5. Establish a process for the slot machine license holder to maintain dual control standards and reconciliation practices when a licensed contracted vendor is utilized.

(c) Procedures for receipt and transfer of EFT transactions shall include:

1. Designation of licensed employees to complete EFT transactions on behalf of a patron;

2. Recording signature and occupational license number of the slot machine licensed employee receiving and recording the information required by section;

3. Verification of patron identification, attested by signature and inclusion of occupation license number of a designated slot machine licensee supervisor;

4. Ensure the patron is present with the designated licensed employee during the process of receiving or sending the EFT;

5. Maintaining an EFT Log and an EFT acknowledgement form to record notice and executions of EFT activity;

6. Identify and verify the name, address and account information of the financial institution and the conductor of incoming EFTs; and

7. Identify and verify the name, address and account information of the financial institution and the beneficiary for the account to which the funds will be credited.

(d) Procedures for processing and documenting EFT reversals. An EFT reversal occurs when an unprocessed or undeposited EFT fund is returned to the originating institution because:

1. The transmitting financial institution, wherever located, is unable or unwilling to disclose the identity of the account or account owner from which the funds were originally transferred; or

2. The individual designated as the recipient of the EFT funds is either unavailable at the time of the notice of EFT fund arrival or is unable to provide proper identification;

(e) The EFT reversal procedure shall include:

1. A log that shall contain entries of each EFT that has been reversed and that the division and the FDLE were advised of the reversal;

2. A process for dual control standards and reconciliation controls when a contracted vendor administers EFT transactions;

3. A process to comply with the criteria for mandatory filing of a Suspicious Activity Report by Casinos and Card Clubs, FinCEN Form 102 (April 2003), 31 United States Code 5318(g);

4. Immediate notification of FDLE in their on site office in any instance when funds are immediately returned to the sending institution; and

5. Documentation of a reversal shall meet all the conditions of this section.

Specific Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(d), (1)(e) FS. History–New \_\_\_\_\_.

61D-14.078 Patron Slot Machine Gaming Accounts.

(1) A slot machine licensee shall only establish wagering accounts for its patrons who are real persons. Controls for such wagering accounts (Patron Accounts) shall be included within the slot machine licensee’s system of internal controls.

(2) The system of internal controls for Patron Accounts shall include procedures for the following:

(a) Verification of the identity of the patron by a form of identification required by Rule 61D-14.010, F.A.C.;

(b) Retention of a copy of the form of identification produced by the patron and a current photograph of the patron;

(c) Maintenance of the current street and mailing address and telephone number of the patron;

(d) Determination that the patron is not in the slot machine licensee's database of excluded patrons maintained pursuant to Rule 61D-14.020, F.A.C.;

(e) Establishment of a signature file under the slot machine licensee's internal control procedures pursuant to subsection 61D-14.058(7), F.A.C.;

(f) Reconciliation of the balances of the Patron Accounts, Patron Account Transaction Forms, and the log of transactions referenced in subsection (7) made by patrons during a shift;

(g) Auditing and rendering inactive all Patron Accounts that have had no activity or those having a zero balance for a period of 90 days; and

(h) A requirement to reactivate a patron account, the patron shall present identification at the cage as required by Rule 61D-14.010, F.A.C., in person.

(3) Funds deposited into a Patron Account shall only be used at the slot machine licensee's facility in which the Patron Account was established.

(4) Patron Account Transaction Forms shall be serially pre-numbered two-part forms used in sequential order.

(5) The cashier shall record the following information on the Patron Account Transaction Form after verifying the identity of the patron or of the person making a deposit on behalf of the patron:

- (a) Whether the transaction was a deposit or withdrawal;
- (b) The name of the patron;
- (c) The total amount of the transaction indicated with both a numerical total and a written amount;

(d) The date and time;

(e) Type of transaction (EFT, cash withdrawal, cash equivalent, or cash deposit);

(f) The signature and occupational license number of the cashier or, if computer generated, the occupational license number of the cashier; and

(g) All voided original and duplicate Patron Account Transaction Forms shall be marked "VOID" and shall require the signatures and occupational license numbers of the preparer and a supervisor.

(6) After preparation of the Patron Account Transaction Form, the cashier shall obtain the patron's signature and shall distribute the copies in the following manner:

- (a) The original shall be forwarded to the slot machine licensee's accounting department; and
- (b) The duplicate copy shall be given to the patron.

(7) A log of all Patron Account transactions conducted at the cage shall be prepared on a daily basis that shall include the following:

- (a) The date of the transaction;
- (b) Patron Account Transaction Form Number;
- (c) The name of the patron;
- (d) The amount of the transaction; and

(e) The type of transaction (EFT, cash withdrawal, cash equivalent, or cash deposit).

(8) Withdrawals from Patron Accounts shall only be made to the person in whose name the Patron Account is established.

Specific Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(d), (e) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: David J. Roberts, Director, Division of Pari-Mutuel Wagering  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Simone Marsteller, Secretary, Department of Business and Professional Regulation  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2006  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2006

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE NO.: 61G4-16.009  
 RULE TITLE: Examination and Reexamination  
 PURPOSE AND EFFECT: The Board proposes to review the existing rule on examination and reexamination.

SUMMARY: The Board proposed a rule amendment to allow the candidate to take any specific part of the test no more than six times within a two year period of the first attempt.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 455.217(2), 455.219(1), 489.108, 489.129(2) FS.

LAW IMPLEMENTED: 455.217, 489.109, 489.111 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: G. W. Harrell, Executive Director, Construction Industry Licensing Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

- 61G4-16.009 Examination and Reexamination.
- (1)(a) through (b) No change.
- 1. No change.

2. A candidate shall be required to retake only the tests on which he or she failed to achieve a passing score or failed to appear to take when scheduled. However, a candidate must pass all tests within two years three hundred sixty five (365) days of the first attempt; after which time all past test scores of the candidate shall be considered invalid and he or she shall be required to take all parts of the test as specified in Rule 61G4-16.001, F.A.C. A candidate may take any specific part of the test no more than six times in the two year period.

- 3. No change.
- (2) through (4) No change.

Specific Authority 455.217(2), 455.219(1), 489.108, 489.129(2) FS. Law Implemented 455.217, 489.109, 489.111 FS. History—New 2-25-93, Formerly 21E-16.009, Amended 10-17-93, 7-20-94, 11-25-97, 9-15-99, 4-26-00, 10-24-00, 2-6-03, 1-10-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Construction Industry Licensing Board  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2006  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 7, 2006

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Cosmetology**

RULE NO.: 61G5-20.004  
RULE TITLE: Display of Documents  
PURPOSE AND EFFECT: To require lamination of the license and photo on display.  
SUMMARY: Requires lamination of licenses by July 1, 2007.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 477.016, 477.025(2) FS.  
LAW IMPLEMENTED: 477.025 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: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-20.004 Display of Documents.

(1) All holders of a cosmetology or specialty salon license shall display within their salons in a conspicuous place which is clearly visible to the general public upon entering the salon the following documents:

- (a) The current salon license,
- (b) A legible copy of the most recent inspection sheet for the salon.

(2) All holders of a cosmetology or specialty salon license shall require and ensure that all individuals engaged in the practice of cosmetology, any specialty, hair braiding, hair wrapping, or body wrapping display at the individual's work station their current license or registration at all times when the individual is performing cosmetology, specialty, hair braiding, hair wrapping, or body wrapping services. The license or registration on display shall be the original certificate or a duplicate issued by the Department and shall have attached a 2" by 2" photograph taken within the previous two years of the individual whose name appears on the certificate. The certificate with photograph attached shall be permanently laminated as of July 1, 2007. A photograph of the individual whose name appears on the displayed license or registration certificate, which is approximately 2" by 2" and less than two years old, shall be permanently attached or affixed to all displayed licenses and registration.

Specific Authority 477.016, 477.025(2) FS. Law Implemented 477.025 FS. History—New 11-2-80, Amended 10-10-82, 6-28-84, 10-6-85, Formerly 21F-20.04, 21F-20.004, Amended 3-22-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Cosmetology  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2006  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 25, 2006

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Cosmetology**

RULE NO.: 61G5-32.001  
RULE TITLE: Continuing Education  
PURPOSE AND EFFECT: To increase time for Continuing Education Providers to submit information.  
SUMMARY: Increases the time for providers to submit the list of attendees.  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 455.2178, 455.2179, 455.219(3), 455.2228, 477.016, 477.019(7) FS.

LAW IMPLEMENTED: 455.2178, 455.2179, 455.219(3), 455.2228, 477.019(7) 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: Robyn Barineau Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-32.001 Continuing Education.

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

(e) Beginning November 1, 2001, continuing education providers shall electronically provide to the Department the list of attendees at each of its offered courses within 30 ~~5~~ business days of the completion of the course, or prior to the end of the renewal cycle, whichever occurs first. For home study courses, the provider shall electronically supply the list of those individuals successfully completing the course by the 5th of the month following the calendar month in which the provider received documentation and was able to determine the successful completion of the course by the individual. This list shall include the provider's name and provider number, the name and license or registration number of the attendee, the date the course was completed, and the course number. All documents from the provider shall be submitted electronically to the Department and must be in a form as agreed to by the Department with the provider. Failure to comply with the time and form requirements will result in disciplinary action taken against the provider and the course approval. Each continuing education provider shall maintain records of attendance or completion for all continuing education courses offered or taught by the provider for a period of not less than four years following the offering of each course or the receipt of documentation of completion of a home study course. Upon request, these records shall be made available for inspection by the Department or its agent, or the private entity contracted with by the Department to administer the continuing education program at such reasonable time and location as determined by the Department or its agent, or the private entity. The list of attendees submitted electronically to the Department shall not include the names of applicants taking the course for initial licensure pursuant to Rule 61G5-18.011, F.A.C.

(f) through (8) No change.

Specific Authority 455.2178, 455.2179, 455.219(3), 455.2228, 477.016, 477.019(7) FS. Law Implemented 455.2178, 455.2179, 455.219(3), 455.2228, 477.019(7) FS. History—New 3-25-99, Amended 2-28-00, 7-27-00, 7-29-01, 7-1-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 25, 2006

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.:	RULE TITLE:
61G15-19.004	Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: Purpose and effect is to amend the rule to include guidelines for all the violations.

SUMMARY: The rule is amended to include guidelines for all the violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 455.227, 471.008, 471.031, 471.033 FS.

LAW IMPLEMENTED: 455.227, 471.031, 471.033 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: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-19.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) No change.

(2) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:



VIOLATION	PENALTY RANGE	
	MINIMUM	MAXIMUM
<u>(a) Violating any provision of s. 455.227(1), Section 471.025 or 471.031, F.S., or any other provision of Chapter 471, F.S., or rule of the Board or Department</u> <u>[471.033(1)(a), 455.227(1)(b)(q)]</u>	<u>Reprimand and \$1,000 fine</u>	<u>One (1) year suspension, two (2) years probation and \$5,000 fine</u>
<u>1. Failure to sign, seal or date documents</u> <u>[471.025(1)]</u>	<u>Reprimand</u>	<u>Reprimand and one (1) year probation</u>
<u>2. Sealing any document after license has expired or been revoked or suspended, or failure to surrender seal if the license has been revoked or suspended</u> <u>[471.025(2)]</u>	<u>Suspended license: Revocation and \$1,000 fine</u>  <u>Revoked license: Referral to State's Attorney's office</u>	
<u>3. Signing or sealing any document that depicts work the licensee is not licensed to perform or which is beyond his or her profession or specialty therein or practicing or offering to practice beyond the scope permitted by law or accepting and performing responsibilities the licensee is not competent to perform</u> <u>[471.025(3), 455.227(1)(o), 61G15-19.001(6)(c)(d)]</u>	<u>Reprimand, one (1) year probation and \$1,000 fine</u>	<u>Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation</u>
<u>4. Firm practicing without certificate of authorization</u> <u>[471.023, 61G15-19.001(3)]</u>	<u>Reprimand</u>	<u>Revocation</u>
<u>5. Failure to complete continuing education</u> <u>[471.017(3), 61G15-22.001]</u>	<u>Suspend until licensee demonstrates compliance</u>	<u>Revocation</u>
<u>6. Practicing engineering without a license or using a name or title tending to indicate that such person holds an active license as an engineer</u> <u>[471.031(1)(a)(b)]</u>	<u>\$1,000.00 fine per count</u>	<u>\$5,000.00 fine per count</u>
<u>7. Presenting as his or her own the license of another</u> <u>[471.031(1)(c)]</u>	<u>\$1,000.00 fine per count</u>	<u>\$5,000.00 per count and revocation</u>
<u>8. Giving false or forged evidence to the Board or concealing information relative to violations of this chapter</u> <u>[471.031(1)(d)(g)]</u>	<u>\$1,000.00 fine per count</u>	<u>\$5,000.00 per count and revocation</u>
<u>9. Employing unlicensed persons to practice engineering or aiding, assisting, procuring, employing unlicensed practice or practice contrary to Chapter 455 or 471, F.S.</u> <u>[471.031(1)(f), 455.227(1)(j)]</u>	<u>\$1,000.00 fine per count and reprimand</u>	<u>\$5,000.00 per count and revocation</u>

<u>10. Having been found liable for knowingly filing a false complaint against another licensee [455.227(1)(g)]</u>	<u>\$1,000.00 fine per count and reprimand</u>	<u>\$5,000.00 fine per count and revocation</u>
<u>11. Failing to report a person in violation of Chapter 455, Chapter 471 or the rules of the Board or the Department [455.227(1)(i)]</u>	<u>Reprimand</u>	<u>Reprimand, \$5,000.00 per count and suspension for one year</u>
<u>12. Failing to perform any statutory or legal obligation [455.227(1)(k)]</u>	<u>Reprimand</u>	<u>Revocation</u>
<u>13. Exercising influence on a client for financial gain [455.227(1)(n)]</u>	<u>Reprimand</u>	<u>Revocation</u>
<u>14. Improper delegation of professional responsibilities [455.227(1)(p)]</u>	<u>\$1,000.00 fine per count and probation for one year</u>	<u>Revocation</u>
<u>15. Improperly interfering with an investigation or inspection or disciplinary proceeding [455.227(1)(r)]</u>	<u>\$1,000.00 fine per count and probation for one year</u>	<u>Revocation</u>
<u>(b) Attempting to procure a license by bribery, fraudulent misrepresentation, or error of the Board or Department [471.033(1)(b), 455.227(1)(h)]</u>	<u>Revocation and \$1,000 fine if licensed; if not licensed, denial of license and referral to State Attorney</u>	
<u>(c) Having a license to practice engineering acted against or denied by another jurisdiction [471.033(1)(c), 455.227(1)(f)]</u>	<u>Same penalty as imposed in other jurisdiction or as close as possible to penalties set forth in Florida Statutes</u>	
<u>(d) Being convicted or found guilty of, or entering a plea of nolo to a crime which relates to the practice or ability to practice [471.033(1)(d), 455.227(1)(c)]</u>	<u>Misdemeanor: reprimand and one (1) year probation</u> <u>Felony: Revocation and \$1,000 fine</u>	<u>Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation</u>
<u>1. Conviction of crime related to building code inspection or plans examination [61G15-19.001(7)(a)]</u>	<u>Misdemeanor: reprimand and one (1) year probation</u> <u>Felony: Revocation and \$5,000 fine</u>	<u>Reprimand, \$5,000 fine, one (1) year suspension and two (2) years probation</u>
<u>(e) Knowingly making or filing a false report or record, failing to file a report or record required by law, impeding or obstructing such filing [471.033(1)(e), 61G15-19.001(7)(c), 455.227(1)(l)]</u>	<u>One (1) year suspension, two (2) years probation, \$1,000 fine</u>	<u>Revocation and \$5,000 fine</u>
<u>(f) Fraudulent, false, deceptive or misleading advertising [471.033(1)(f), 61G15-19.001(2)]</u>	<u>Reprimand</u>	<u>Reprimand, one (1) year probation and \$5,000 fine</u>

<u>(g) Fraud, deceit, negligence, incompetence or misconduct</u>	<u>Reprimand, two (2) year probation and \$1,000 fine</u>	<u>\$5,000 fine and revocation</u>
<u>(471.033(1)(g), 455.227(1)(a)(m))</u>		
<u>1. Fraud or deceit</u>		
<u>2. Negligence</u>	<u>Reprimand, two (2) years probation and \$1,000 fine</u>	<u>Reprimand, \$5,000 fine, five (5) year suspension and ten (10) years probation</u>
<u>[61G15-19.001(4)]</u>		
<u>a. As a special inspector</u>	<u>Reprimand, two (2) years probation and \$1,000 fine</u>	<u>Reprimand, \$5,000 fine, five (5) year suspension and ten (10) years probation or revocation</u>
<u>3. Incompetence</u>	<u>Suspension until ability to practice proved followed by probation</u>	
<u>[61G15-19.001(5)]</u>		
<u>4. Misconduct</u>	<u>\$1,000.00 fine per count and reprimand</u>	<u>Revocation</u>
<u>[61G15-19.001(6)]</u>		
<u>a. Expressing an opinion publicly on an engineering subject without being informed as to the facts and being competent to form a sound opinion</u>	<u>Reprimand and \$1,000.00 fine per count</u>	<u>Revocation</u>
<u>[61G15-19.001(6)(a)]</u>		
<u>b. Being untruthful, deceptive or misleading in any professional report, statement or testimony or omitting relevant and pertinent information from such report, statement or testimony when the result or such omission would or reasonably could lead to a fallacious conclusion</u>	<u>Reprimand and \$1,000.00 fine per count</u>	<u>Revocation</u>
<u>[61G15-19.001(6)(b)]</u>		
<u>c. Offering directly or indirectly any bribe or commission or tendering any gift to obtain selection or preferment for engineering employment other than the payment of the usual commission for securing salaried positions through licensed employment agencies</u>	<u>\$5,000.00 fine per count and suspension for five years</u>	<u>Revocation</u>
<u>[61G15-19.001(6)(e)]</u>		
<u>d. Soliciting or accepting gratuities without client knowledge</u>	<u>Reprimand, one (1) year probation and \$1,000 fine</u>	<u>Reprimand, one (1) year suspension, two (2) years probation and \$5,000 fine</u>
<u>[61G15-19.001(6)(g)(h)]</u>		
<u>e. Failure to preserve client's confidence</u>	<u>Reprimand, one (1) year probation and \$1,000 fine</u>	<u>Reprimand, one (1) year suspension, two (2) years probation (if pecuniary benefit accrues to engineer)</u>
<u>[61G15-19.001(6)(r)]</u>		
<u>f. Professional judgment overruled by unqualified person</u>	<u>Reprimand, one (1) year probation and \$1,000 fine</u>	<u>Reprimand, one (1) year suspension, two (2) years probation and \$5,000 fine</u>
<u>[61G15-19.001(6)(i)]</u>		

<u>g. Use of name/firm in fraudulent venture</u> <u>[61G15-19.001(6)(k)]</u>	<u>Reprimand, one (1) year probation and</u> <u>\$1,000 fine</u>	<u>Reprimand, \$5,000 fine, one (1)</u> <u>year suspension and two (2) years</u> <u>probation</u>
<u>h. Undisclosed conflict of interest</u> <u>[61G15-19.001(6)(f)(p)]</u>	<u>Reprimand, \$1,000 fine and two (2)</u> <u>years probation</u>	<u>Revocation and \$5,000 fine</u>
<u>(h) Violating any provision of Chapter 455, F.S.</u> <u>[471.033(1)(h), 455.227(1)(q)]</u>	<u>Reprimand and \$1,000.00 fine per</u> <u>count</u>	<u>\$5,000.00 fine per count and</u> <u>revocation</u>
<u>(i) Practicing on a revoked, suspended, inactive</u> <u>or delinquent license</u> <u>[471.033(1)(i), 471.031(1)(e)]</u>		
<u>1. Delinquent license</u>	<u>Reprimand</u>	<u>Revocation</u>
<u>2. Inactive license</u>	<u>Fine based on length of time in practice</u> <u>while inactive; \$100/month or \$1,000</u> <u>maximum, renewal of license or cease</u> <u>practice</u>	
<u>3. Suspended license</u>	<u>Revocation and \$1,000 fine</u>	
<u>4. Revoked license</u>	<u>Referral to State Attorney</u>	
<u>(j) Affixing or permitting to be affixed his or</u> <u>her seal, name, or digital signature to any</u> <u>documents that were not prepared by him or her</u> <u>or under his or her responsible supervision,</u> <u>direction or control</u> <u>[471.033(1)(j), 61G15-19.001(6)(j)(q)]</u>	<u>Reprimand, one (1) year probation and</u> <u>\$1,000 fine</u>	<u>Reprimand, \$5,000 fine, one (1)</u> <u>year suspension and two (2) year</u> <u>probation</u>
<u>(k) Violating any order of the board or</u> <u>department</u> <u>[471.033(1)(k), 61G15-19.001(6)(o),</u> <u>455.227(1)(q)]</u>	<u>Suspension and \$1,000 fine</u>	<u>Revocation and \$5,000 fine</u>
<u>(l) Aiding, assisting, procuring, employing</u> <u>unlicensed practice or practice contrary to</u> <u>Chapter 455 or 471, F.S.</u> <u>[455.227(1)(j)]</u>	<u>Reprimand and \$1,000.00 fine per</u> <u>count</u>	<u>\$5,000.00 fine per count and</u> <u>revocation</u>
<del>(a) Failure to date plans</del> <del>(471.025(1), F.S.)</del>	<del>Reprimand</del>	<del>Reprimand and one (1)</del> <del>year probation</del>
<del>(b) Signing or sealing</del> <del>work not competent</del> <del>to perform</del> <del>(455.227(1)(o), F.S.)</del> <del>(471.025(3), F.S.)</del> <del>(paragraphs 61G15-19.001</del> <del>(6)(e), (d))</del>	<del>Reprimand</del> <del>and \$1,000</del> <del>fine and one</del> <del>(1) year</del> <del>probation</del>	<del>Reprimand,</del> <del>\$5,000 fine,</del> <del>one (1) year</del> <del>suspension</del> <del>and two (2)</del> <del>year probation</del>
<del>(c) "Plan stamping"</del> <del>(471.033(1)(j), F.S.)</del> <del>(paragraphs 61G15-19.001</del> <del>(6)(j), (q))</del>	<del>Reprimand,</del> <del>one (1) year</del> <del>probation and</del> <del>\$1,000 fine</del>	<del>Reprimand, \$5,000</del> <del>fine, one (1) year</del> <del>suspension and</del> <del>two (2) year probation</del>
<del>(d) Violating a Final</del>	<del>Suspension and</del>	<del>Revocation and</del>

Order of the Board (455.227(1)(q), F.S.) (471.033(1)(k), F.S.) (paragraph 61G15-19.001(1)(o))	\$1,000 fine	\$5,000 fine
(e) Attempting to procure or procuring a license by bribery or fraudulent misrepresentation (455.227(1)(h), F.S.) (471.033(1)(b), F.S.)	Revocation and \$1,000 fine if licensed (denial of license and refer to State Attorney if not licensed)	
(f) License disciplined by another jurisdiction (455.227(1)(f), F.S.) (471.033(1)(c), F.S.)	Same penalty as imposed in other jurisdiction or as closely as possible to penalties set forth in Florida Statutes	
(g) Criminal Conviction relating to engineering (455.227(1)(e), F.S.) (471.033(1)(d), F.S.) (paragraph 61G15-19.001(6)(i))	Misdemeanor: reprimand & one (1) year probation  Felony: Revocation and \$1,000 fine	Reprimand; \$5,000 fine; one (1) year suspension and two (2) year probation
(h) Practice on suspended license (455.227(1)(q), F.S.) (471.033(1)(i), F.S.)	Revocation and \$1,000 fine	
(i) Practice on inactive license (455.227(1)(q), F.S.) (471.033(1)(i), F.S.)	Fine based on length of time in practice while inactive; \$100/month or \$1,000 maximum (penalty will require licensee to renew license or cease practice)	
(j) Practice on revoked license (455.227(1)(q), F.S.) (471.033(1)(i), F.S.)	Refer to State Attorney for criminal prosecution	
(k) Knowingly making or filing false report (455.227(1)(l), F.S.) (471.033(1)(e), F.S.) (paragraph 61G15-19.001(6)(b))	One (1) year suspension; two (2) year probation and \$1,000 fine	Revocation and \$5,000 fine
(l) Fraudulent, false, deceptive, or misleading advertising (455.227(1)(a), F.S.) (471.033(1)(f), F.S.) (subsection 61G15-19.001(2))	Reprimand	Reprimand, one (1) year probation and \$5,000 fine
(m) Negligence (455.227(1)(q), F.S.) (471.033(1)(g), F.S.)	Reprimand; two (2) year probation	Reprimand; \$5,000 fine; five (5) year

	and \$1,000 fine-	suspension and ten (10)-year probation
(n) Fraud or deceit (455.227(1)(a), (m), F.S.) (471.033(1)(g), F.S.)	Reprimand, one (1) year suspension; two (2) year probation and \$1,000 fine	\$5,000 fine and revocation
(o) Misconduct		
1. Soliciting or accepting gratuities without client knowledge: (455.227(1)(q), F.S.) (471.033(1)(g), F.S.) (paragraphs 61G15-19.001(6)(g), (h))	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, one (1) year suspension; two (2) year probation and
2. Failure to preserve client's confidence: (455.227(1)(q), F.S.) (paragraph 61G15-19.001(6)(r))	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, one (1) year suspension and two (2) year probation (if pecuniary benefit accrues to engineer)
3. Professional judgment is overruled by unqualified person: (455.227(1)(q), F.S.) (paragraph 61G15-19.001(6)(i))	Reprimand, one (1) year probation and \$1,000 fine	Reprimand, one (1) year suspension; two (2) year probation and \$5,000 fine
4. Use of name/firm in fraudulent venture: (455.227(1)(q), F.S.) (paragraph 61G15-19.001(6)(k))	Reprimand one (1) year probation and \$1,000 fine	Reprimand \$5,000 fine, one (1) year suspension and two (2) year probation
(p) Incompetence (mental or physical impairment) (455.227(1)(q), F.S.) (subsection 61G15-19.001(5))	Suspension until ability to practice proved followed by probation	
(q) Undisclosed conflict of interest (455.227(1)(q), F.S.) (paragraphs 61G15-19.001(6)(f), (p))	Reprimand, \$1,000 fine, and two (2) year probation	Revocation and \$5,000 fine
(r) Firm practicing without certificate of authorization (455.227(1)(q), F.S.) (471.023, F.S.)	Reprimand	
(s) Violation of any provision of Chapter 61G15, F.A.C., or Chapter 471, F.S.	Reprimand, \$1,000 fine	One (1) year suspension; two (2) year

(455.227, F.S.) (471.033(1)(a), F.S.)		probation and \$5,000 fine
(t) Conviction of crime related to building code inspection or plans examination (paragraph 61G15-19.001(7)(a))	Misdemeanor: reprimand and one (1) year probation  Felony: revocation and \$500 fine	Reprimand, \$5,000 fine, one (1) year suspension and two (2) year probation
(u) False reporting (paragraph 61G15-19.001(7)(e))	One (1) year suspension, two (2) year probation and \$1,000 fine	Revocation and \$5,000 fine
(v) Negligence as a Special Inspector (subsection 61G15-19.001(8))	Reprimand, two (2) year probation and \$1,000 fine	Reprimand, \$5,000 fine five (5) year suspension and ten (10) year probation, or revocation

(3) No change.

Specific Authority 455.227, 471.008, 471.031, 471.033 FS. Law Implemented 455.227, 471.031, 471.033 FS. History—New 1-7-87, Formerly 21H-19.004, Amended 11-27-94, 5-22-01, 11-15-01, 5-20-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: June 14, 2006  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: August 18, 2006

**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 CHAPTER NO.: RULE CHAPTER TITLE:  
62-505 Small Community Wastewater  
Facilities Grants Program  
RULE NOS.: RULE TITLES:  
62-505.100 Scope  
62-505.200 Definitions  
62-505.300 General Program Information  
62-505.350 Grant Funding  
62-505.360 Rural Hardship Community Grant  
Funding  
62-505.420 Project Allowances  
62-505.600 Priority List Information  
62-505.650 Priority Determination  
62-505.655 Ranking Projects for Priority List  
Development  
62-505.680 Priority List Management

62-505.700 Planning, Design, Construction, and Procurement Requirements  
62-505.800 Audit Required  
62-505.850 Exceptions to Program Requirements  
PURPOSE AND EFFECT: The proposed rule incorporates a major restructuring. It has been streamlined to remove redundancy and to make it easier to read. The rural hardship community program is deleted because it is defunct.  
SUMMARY: The proposed rules would establish eligibilities; prerequisites for grant-in-aid; project priorities; procedures for obtaining grants; maximum grant amounts; grant percentages; requirements for planning, design, and construction; procurement; and responsibilities of the parties to grant agreements. Most construction grants would be a subsidy to the project sponsor's State Revolving Fund loan repayments, or some other suitable funding mechanism. The loan repayment subsidy for construction activities would be based on a formula that would incorporate the project sponsor's affordability index and a weighted average of its priority factors. The affordability index is an empirical number that is generated by a computer program developed for the Department by Florida State University and is based on a statistical analysis of the project sponsor's median household income, poverty and unemployment census statistics from the most recent decennial census. Allowances would be eliminated. All elements included in a State Revolving Fund loan repayment would be eligible for grant funding at the grant percentage.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.  
Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
SPECIFIC AUTHORITY: 403.1838, 403.1838(3)(a), (b) FS.  
LAW IMPLEMENTED: 403.1835, 403.1835(3)(a), (b), (d), (7), (10), 403.1838, 403.804 FS.  
A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: October 26, 2006, 9:00 a.m.

PLACE: Environmental Regulation Commission of the Department of Environmental Protection, Conference Room A, 3900 Commonwealth Blvd., 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 7 days before the workshop/meeting by contacting: Bob Holmden at (850)245-8394. 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: Bob Holmden, Bureau of Water Facilities Funding, Department of Environmental Protection, 2600 Blair Stone Road, MS #3505, Tallahassee, Florida 32399 2400; Telephone (850)245-8394

THE FULL TEXT OF THE PROPOSED RULES IS:

SMALL COMMUNITY WASTEWATER FACILITIES  
GRANTS PROGRAM

62-505.100 Scope.

(1) Florida's Small Community Wastewater Facilities Grants Program is authorized by Sections 403.1835 and 403.1838, F.S. These statutes authorize the Department to fund the planning, design, and construction of wastewater management systems for qualifying small municipalities.

(2) This chapter sets forth the Department's program management procedures and the requirements for obtaining financial assistance from the Small Community Wastewater Facilities Grants Program.

(3) Highest priority is given to projects that address the most serious risks to public health, are necessary to achieve compliance, or assist systems most in need based on an affordability index.

Specific Authority 403.1835(10) FS. Law Implemented 403.1835(3)(d), 403.1838 FS. History--New

62-505.200 Definitions.

For purposes of this rule:

(1) "Affordability Index" means the empirical number that is generated for a local government using the computer model entitled "Final Report Statistical Wt. - No Sales," which is based on a combination of the most recent median household income, poverty, and unemployment census statistics for the local government. The computer model is extracted from the program entitled "User Manual Affordability Index," March 2003, Economics Department, Florida State University, Tallahassee, Florida, which is hereby incorporated by reference. "Contingency portion" means the portion of a

priority list consisting of projects that are qualified to be on the fundable portion upon list adoption but cannot be placed on the fundable portion until there are sufficient funds.

(2) "Available funds" means unobligated grant allocation assessments and other unobligated funds projected to be available.

(3) "Construction cost" means costs associated with allowable construction, equipment, materials, and demolition.

(4) "Construction grant" means financial assistance provided to a project sponsor for design and construction of its wastewater management project.

(5)(2) No change.

(6)(3) "Department" means the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400. Forms and program information can be obtained by writing to this address or by accessing the Bureau's website at <http://www.dep.state.fl.us/water/wff/cwsrf>.

(4) "EPA" means the U.S. Environmental Protection Agency.

(7)(5) "Financially disadvantaged small community" or "disadvantaged community" shall mean, for the purposes of financially disadvantaged small community grant funding, a municipality which, according to the latest published U.S. Department of Commerce decennial census, had a total population and a service area population of 7,500 or less and a per capita annual income less than the state average per capita annual income. Data may be obtained from the census website at <http://censtats.census.gov/pub/Profiles.shtml> State Data Center, 200 Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida 32399 2151. "Fundable portion" means the portion of the priority list consisting of the projects scheduled to receive approval for funding during the fiscal year for which a list is prepared.

(8)(6) No change.

(9)(8) "Grant allocation assessment" means that portion of each State Revolving Fund non-capitalization grant project loan repayment under Chapter 62-503, F.A.C., repayment of each loan made after June 30, 1997, that shall be used solely for the purpose of making wastewater grants to financially disadvantaged small communities under this rule chapter. Loans for wastewater management facilities under rule chapter 62-503, F.A.C., and loans for stormwater management facilities 62-504, F.A.C., provide for such grant allocation assessments. The grant allocation assessment shall be in addition to the principal and interest portions of each repayment.

(10)(9) "Grant application" means Form 62-505.900(2), Grant Application, effective July 22, 1999, which is incorporated herein by reference. Copies of this form may be obtained by writing to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399 2400.



“Post-allowance activities” means construction, procurement of equipment and materials, land acquisition, demolition, and technical services after construction bid opening.

(11)(10) “Preconstruction grant” means the funds available for assistance in completing the wastewater planning documentation including special studies. “Post-allowance activities” means construction, procurement of equipment and materials, land acquisition, demolition, and technical services after construction bid opening.

(11) ~~“Post-allowance project cost” means the cost for allowable construction, equipment, materials, demolition, allowable land acquisition under rule 62-505.300(1)(a), F.A.C., contingency, and technical services after construction bid opening.~~

(12) ~~“Pre-construction activities” means planning, design, and administrative activities, including establishing sufficient interest in project sites to enable construction, operation, and maintenance of project facilities, performed prior to any post-allowance project activity.~~

(12)(13) “Priority list” or “project list” means the annual yearly listing of fundable and contingency portion projects scheduled to receive approval for funding during the fiscal year for which the list is prepared for grant funding.

(13)(14) “Project” means any cost-effective devices and systems associated with wastewater collection, transmission, treatment, or disposal facilities. This includes facilities to reuse reclaimed water from for wastewater treatment plants. Project construction need not, in and of itself, result in an operable system. The principal purpose of the project shall be for domestic wastewater pollution control.

(14) “Project costs” means construction costs plus contingency, legal and technical services, land acquisition; and State Revolving Fund loan service fee, allowance, and interest.

(15) “Project sponsor” means a financially disadvantaged small municipality community or a rural hardship community having jurisdiction over collection, transmission, treatment, or disposal of wastewater and its residuals, industrial wastes, or other wastes.

(16) “Request for inclusion” means form 62-505.900(1), F.A.C., Request for Inclusion, on the Priority List for Wastewater Facilities Grants, effective July 22, 1999, which is incorporated herein by reference. Copies of this form may be obtained by writing to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.

(17) “Service Area” means that area currently served by the project sponsor and any additional areas proposed to be served by the sponsor’s project. “Rural hardship community” shall mean, for the purposes of rural hardship community grant funding, a municipality that meets the conditions described below. Data under paragraphs (a), (b), and (c) below may be

~~obtained from the State Data Center, 200 Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida 32399-2151.~~

~~(a) The population shall be less than or equal to 3,000 as of the most recent U.S. Department of Commerce decennial census.~~

~~(b) The per capita income of the municipality does not exceed 80% of national per capita annual income as of the most recent decennial census. Income data shall be as established by the U.S. Department of Commerce, Bureau of Economic Analysis.~~

~~(c) The unemployment rate (not seasonally adjusted) for the municipality was at least 1% higher than the corresponding national unemployment rate for the most recent Calendar Year or for the most recent three-month period ending March 31, June 30, September 30, or December 31. Data shall be as established by the Florida Department of Labor and Employment Security.~~

~~(d) The community is not a remote area within the corporate boundaries of a larger city.~~

~~(e) The community lacks centralized wastewater treatment or collection systems or needs improvements to on-site wastewater treatment systems.~~

~~(18) “Secretary” means the Secretary of the Department of Environmental Protection.”~~

~~(19) “Target date” means the anticipated date for a grant agreement for any part of the amount listed on the fundable portion of the priority list to be ready for the Department’s execution.~~

(18)(20) “Wastewater planning documentation facilities plan” means plans and studies formally adopted by the project sponsor that directly relate to selecting facilities for a wastewater management system. The requirements for a wastewater planning documentation facilities plan are set forth under subsection Rule 62-505.700(2), F.A.C.

~~Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History—New 11-30-98, Amended 7-22-99, \_\_\_\_\_.~~

~~(Substantial rewording of Rule 62-505.300. See Florida Administrative Code for present text.)~~

62-505.300 General Program Information.

(1) Projects shall compete separately for preconstruction and construction phases of a project. Getting a preconstruction grant does not guarantee construction grant funding.

(2) Grant funding is available for projects with and without a State Revolving Fund loan. The grant amount is a percentage of the project cost remaining after financial assistance from other sources has been deducted and is subject to the limitations in Rule 62-505.350, F.A.C.

(3) Steps involved in obtaining a small community wastewater facilities grant:

(a) Request for inclusion. The project sponsor shall submit to the Department a request for inclusion form to establish project ranking as outlined in Rule 62-505.600, F.A.C. A request for inclusion shall be submitted separately for both the preconstruction and the construction phases of a project.

1. Requests for inclusion shall be reviewed to verify eligibility and accuracy of the information provided such as census tract numbers, service area boundaries, population, priority categories, project costs, justification, and to determine the project scope and grant assistance eligibility.

2. Additional information shall be requested by the Department when the data provided by the project sponsor are incomplete or unclear. Requests for inclusion remaining incomplete or unclear after September 1 shall result in a minimum priority score for the project.

(b) The Department shall notify the project sponsor if the project qualifies for grant assistance, and if so, what the estimated grant percentage will be.

(c) The project sponsor shall notify the Department of its intentions with regards to proceeding with the project.

(d) If the project sponsor elects to proceed with the grant, the project shall compete for funding at the next hearing based on priority score.

(e) Application.

1. A complete grant application shall be submitted to the Department within 120 days after the project has been added to the priority list. The project sponsor may incorporate into the application by reference any information previously submitted to the Department.

2. If no application is received within this 120-day period, the project shall be subject to removal from the grant priority list.

(f) Agreement. If an agreement is not executed within 210 days after a project is added to the priority list, the project is subject to removal from the priority list at the next scheduled public hearing.

1. For projects with a State Revolving Fund loan component, the amount of the grant and the terms of the loan repayment shall be incorporated into the project sponsor's loan agreement.

2. For projects without a State Revolving Fund loan component, a stand-alone grant agreement shall be written.

(4) Allowable project costs. Categories of allowable project costs include the following water pollution control activities:

(a) Land that will be used for the ultimate disposal of wastewater or residuals. Funding shall be limited to the fair market value based on the lowest value of two appraisals.

(b) Project construction and related procurement, the contracts for which are executed after a grant is made. For projects without a State Revolving Fund component, the lower

of the as-bid construction costs or final construction costs shall be used in determining the maximum grant amount under Rule 62-505.350, F.A.C.

(c) Demolition and removal of existing structures.

(d) Contingency for project cost overruns.

(e) Legal and technical services after bid opening, or receipt of proposals for design/build or construction-manager-at-risk projects.

(f) Allowable costs for which the sponsor has received prior written authorization from the Department.

(g) Allowance under subsection 62-503.300(5), F.A.C.

(h) Interest included in State Revolving Fund loan repayments.

(i) Department-approved technical services for specialized field studies and tests such as soil and hydrogeological tests, geotechnical evaluations, sewer system evaluations, surveys, wetland delineations, environmental impact statements, and appraisals for eligible land. Projects without a State Revolving Fund loan component shall be limited to 50% of the invoiced costs.

(j) For projects without a State Revolving Fund loan component, invoiced project planning and engineering costs that do not exceed:  $(25.00 - \text{Natural Logarithm of construction costs})$  times the construction costs divided by 100.

(k) Service fees included in State Revolving Fund loan repayments.

(l) Costs incurred before execution of a grant agreement shall be ineligible for reimbursement upon execution of the agreement unless the project sponsor receives prior written authorization to incur such costs. The Department shall issue an authorization to incur costs only after the requirements of Rules 62-505.700 (except for land purchase) and 62-505.750, F.A.C., have been met.

(5) Unallowable project costs. Unallowable project costs include the following:

(a) Acquiring all or part of existing wastewater management facilities.

(b) Facilities not in conformance with Department-approved planning documentation, under Rules 62-505.700 and 62-505.750, F.A.C.

(c) Facilities not included within the approved project scope as described in a grant agreement.

(d) Construction using personnel employed by the project sponsor or construction performed by a Construction-Manager-at-Risk.

(e) Costs, such as for pending construction claims, yet to be incurred at the time of the on-site administrative action taken by the Department to document project completion.

(f) Site acquisition of sewer rights-of-way, sewage treatment plant sites, sanitary landfills, and residuals disposal areas.

(g) That part of any project primarily intended to serve future growth.

(h) Costs reimbursed by other grants.

(i) Any other cost not listed as allowable under subsection (4), above.

(6) Project contingency. The amount of the project contingency, at the time of approval of a grant amendment providing funding for post-allowance project activities, shall not exceed 10% of the estimated sum of the costs for allowable land (when the actual costs are unknown), equipment contracts, materials contracts, and construction contracts. The contingency will be adjusted by the Department to not more than 5% of construction, equipment, and materials contract amounts after procurement contracts have been executed. The contingency remaining after accounting for contract change orders will be retained by the Department when project close-out occurs. Contingency funds will not be used to purchase equipment or pay for construction work not described in the grant agreement. There will be no contingency for land when the costs are known and, for projects without a State Revolving Fund loan, after procurement contracts have been executed.

(7) Program Administration. The Department is authorized to use up to 2% of the grant allocation assessment funds made available each year to pay for the costs of program administration. Such grant allocation assessment funds will be deposited in the Department's Grants and Donations Trust Fund and, together with all investment earnings, will be reserved to pay for the Department's grant program administration expenses.

(8) Binding Commitments. A project sponsor shall obtain, within 180 days of grant agreement execution, a binding commitment for the non-grant share of the project costs described in, and to be incurred under, the grant agreement if such funds are not available at the time of grant application. No grant disbursements shall be made before the non-grant share has been secured.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.804, 403.1835, 403.1838 FS. History--New 11-30-98, Amended 7-22-99,\_\_\_\_\_.

#### 62-505.350 Financially Disadvantaged Small Community Grant Funding.

~~A grant shall be available only after a listing on the fundable portion of the priority list has been obtained, a complete grant application has been submitted to the Department, and a grant agreement has been executed. The initial grant agreement shall provide funding only for pre construction activities. A grant shall be available only when funding for post allowance project activities is projected to be available within three (3) years of the potential grant offer. Projections shall be based upon expected grant allocation assessments resulting from loans executed after June 30, 1997 under rule Chapters 62-503~~

~~and 62-504, F.A.C. A grant amendment shall be used to provide the funding commitment for post allowance project activities only after completion of the pre construction activities.~~

~~(1) A project sponsor shall be allowed to have only one Small Community Wastewater Construction Grant in the preconstruction or construction phase at a time. A grant for pre construction activities shall not exceed the sum of the allowances under Rule 62-505.420, F.A.C., based on the estimated post allowance project costs.~~

~~(2) If program funding from sources other than grant allocation assessments becomes available, it shall be used to pay the grant portion of projects. Grant recipients shall prepare and submit the following to the Department, no later than the time set forth in the grant agreement:~~

~~(a) Wastewater facilities plan.~~

~~(b) Evidence that the results of the Department's environmental review have been published, under subsection 62-505.700(3), F.A.C., and environmental concerns, if any, identified during the 30 day comment period have been resolved.~~

~~(c) Affirmation of availability of all project sites for the purposes of construction, operation, and maintenance over the useful life of the facilities;~~

~~(d) A value engineering report for operationally related project facilities, the post allowance project costs of which are valued at more than \$5,000,000.~~

~~(e) Biddable plans and specifications consistent with the selected alternative described in the wastewater facilities plan.~~

~~(3) Preconstruction grants. Preconstruction grants shall be limited to: (25.00 – Natural Logarithm of construction costs) times the construction costs divided by 1,000 plus 50% of the costs of Department-approved special studies that are needed to determine project planning parameters. Up to 50% of the preconstruction grant shall be available for disbursement after a grant agreement is signed. After all planning documentation is accepted by the Department, the remainder of the preconstruction grant shall be available for disbursement. Construction costs shall be limited to a maximum of \$10,000,000 in calculating the preconstruction grant amount. All costs shall be invoiced. Grant agreements shall provide for amendment to include post allowance project cost funding not to exceed the amount identified in the grant application. The conditions stated in subsection (2) above and in subsection 62-505.700(6), F.A.C., shall be met before grant agreement amendment. Such amendments shall be subject to the following limitations:~~

~~(a) Funding shall not exceed 85% of the estimated post allowance project costs when the per capita income is less than or equal to 80% of the statewide average.~~

~~(b) Funding shall not exceed 65% of the estimated post allowance project costs when the per capita income is greater than 80% but less than 100% of the statewide average.~~

(c) ~~The maximum grant available to any financially disadvantaged small community in any fiscal year shall be the lesser of \$750,000 or 50% of the total grant allocation assessments for that year. The additional funding of a project qualifying for a grant in excess of the amount available from the Department shall be deferred and scheduled for funding in the immediately succeeding year(s). Such scheduling shall continue until the project is fully funded and shall not require further prioritization on the project list unless funding for cost overruns is requested.~~

~~(d) Grant amendments shall be available only for projects entitled to a priority under Rule 62-505.650, F.A.C., that is at least as great as that which enabled the pre-construction funding. If conditions change, including qualification as a disadvantaged small community, or the need for facilities changes from the time that pre-construction funding is made available to the time that a grant amendment for the post-allowance project cost is requested, the original grant agreement commitment for a grant amendment shall be terminated. Upon termination, the financially disadvantaged small community may reapply for funding consideration under rule 62-505.600 or 62-505.680, F.A.C.~~

~~(4) Construction grants. The amount of funds available to a project sponsor shall be determined by multiplying the construction grant percentage as determined in subsection (5) below, by the project costs. Funds shall be limited to no more than \$500,000 annually and shall be limited to a maximum project cost amount of \$10,000,000. Disbursements to the project sponsor shall be for allowances for pre-construction activities, and, after amendment, for post-allowance project cost incurred. Requests for disbursements shall be accompanied by certifications and itemized summaries of the materials, labor, or services to identify the nature of the work performed unless the disbursement is solely for allowances as follows:~~

~~(a) For projects with a State Revolving Fund loan component, the amount of a grant shall be estimated until the time of project close-out. The amount shall be fixed over the remaining loan repayment term. Certifications shall state that the construction or other service for which payment or reimbursement is sought has been performed in accordance with applicable contracts.~~

~~(b) For projects without a State Revolving Fund loan component, reimbursement of costs shall be as follows: The materials, labor, and services shall be part of the approved project.~~

~~1. When the grant percentage times the total eligible as-bid project costs is less than \$10,000,000, disbursements shall be the grant percentage times the eligible invoiced project costs.~~

~~2. When the grant percentage times the total eligible as-bid project costs is greater than \$10,000,000, disbursements shall be \$10,000,000 divided by the total eligible as-bid costs times the eligible invoiced project costs.~~

3. Reimbursement for planning, special studies and engineering costs shall be based on invoiced costs. Up to seventy percent of these costs shall be available after a construction grant agreement is signed. The remainder of the invoiced costs may be requested after all procurement contracts are executed and the allowable amount is adjusted to reflect as-bid costs. Design-build projects shall be limited to 30% of these costs.

4. The amount of the grant remaining after construction is complete shall be disbursed in equal semi-annual payments over a 20-year period beginning in the fiscal year after the fiscal year in which the project is closed out.

~~(e) Requests for disbursements for allowances shall be subject to the limitations imposed by Rule 62-505.420, F.A.C.~~

~~(d) The disbursement shall be due under the terms of the grant agreement, and there shall be money available under the grant agreement for the payment of it.~~

(5) Construction grant percentage. The grant percentage shall initially be based on the estimated project costs. The final grant percentage shall be based on as-bid eligible construction costs. Construction grant percentage (CGP) shall be determined using the formula:

CGP = 0.67(200-Affordability Index) times the weighted average of the Base Factors (BF) shown in Table 1, below, as determined by the following formula where CC means "construction costs":

$$BF = \frac{BF_1 \times CC_1 + \dots + BF_n \times CC_n}{\text{Total CC}}$$

Table 1.

<u>Project Category</u>	<u>Base% Factor (BF)</u>	<u>Base Priority Score (BPS)</u>
<u>Eliminate certified and documented public health hazards</u>	<u>1.00</u>	<u>500</u>
<u>DEP-ordered upgrade/rehab of existing treatment plant that is out of compliance with permit (excludes additional capacity)</u>	<u>1.00</u>	<u>500</u>
<u>Eliminate excessive infiltration/inflow</u>	<u>1.00</u>	<u>500</u>
<u>Eliminate failing individual onsite sewerage disposal systems where greater than or equal to 10.0% failed in last three years</u>	<u>0.75</u>	<u>400</u>
<u>Compliance with laws requiring elimination of discharges to specific water bodies</u>	<u>0.75</u>	<u>400</u>
<u>Upgrade and rehab wastewater facilities</u>	<u>0.50</u>	<u>300</u>

<u>Additional treatment necessary to meet new regulatory requirements</u>	<u>0.50</u>	<u>300</u>
<u>Eliminate failing individual onsite sewerage disposal systems where less than 10.0% failed in last three years</u>	<u>0.50</u>	<u>300</u>
<u>Reclaimed water projects that do not eliminate a discharge that is in violation of permit requirements</u>	<u>0.50</u>	<u>300</u>
<u>Additional capacity for average daily flow greater than 70% of design capacity</u>	<u>0.25</u>	<u>200</u>
<u>Residuals management</u>	<u>0.25</u>	<u>100</u>
<u>Projects not otherwise categorized</u>	<u>0.25</u>	<u>100</u>

~~(6)(5) Assurance of compliance.~~ The project sponsor shall provide assurance that:

(a) through (c) No change.

(d) The revenue generation system will be updated annually.

~~(6) Grant increases for post allowance project cost overruns shall be possible only after placement on the project list under rule 62-505.655 or 62-505.680, F.A.C.~~

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History—New 11-30-98, Amended.

62-505.360 Rural Hardship Community Grant Funding.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History—New 11-30-98, Repealed.

62-505.420 Project Allowances.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History—New 11-30-98, Repealed.

62-505.600 Priority List Information.

~~Each year, a revised priority list shall be adopted at a public hearing held by the Environmental Regulation Commission. The list becomes effective after adoption, but not before July 1 of the fiscal year for which it is developed. A project sponsor may define a wastewater facilities project as consisting of various facilities, all of which qualify under Rule 62-505.655, F.A.C., for the fundable or contingency portion. The scope of a fundable portion project described on the priority list shall not be increased to encompass additional work. The scope of a contingency portion project described on the priority list shall not be increased to encompass additional work except where such increases have been subject to the prioritization procedures of Rule 62-505.650, F.A.C., and either the list development procedures of this rule section or the list management procedures of Rule 62-505.680, F.A.C., as appropriate. The scope of project planning shall encompass all~~

~~of the community's wastewater facilities needs through the planning period established under Rule 62-505.700(2)(e), F.A.C. The project sponsor may elect to implement any portion of planned facilities.~~

(1) General. The Department shall assign projects to the grant priority list each year depending on the amount of the funding projected to be available, the project's priority score, and the project's readiness to proceed. The Department shall accept requests for inclusion on the next year's priority list when they are postmarked or delivered between December 1 and February 15. Resubmittal shall not be necessary if the requested project was included on a preceding year's list. However, current target date and estimated cost information shall be provided by the February 15 deadline for any project previously listed on the contingency portion to qualify for listing on the fundable portion. Procedures for the review of requests for inclusion shall be:

(a) A priority list of grant fundable projects shall be developed by the Department after September 1 for the fiscal year for which the list will be in effect. Construction projects shall be given priority over preconstruction projects for non-reserved funds. Additional information may be requested by the Department when the data provided by the project sponsor are incomplete or unclear. Data remaining incomplete or unclear after 30 days from receipt of the Department's written request for additional information shall result in a lower funding priority, reflecting a substitution of assumed data for the incomplete or unclear data. The assumed data shall be such as to generate the minimum priority score component or consideration attributed to the incomplete or unclear data.

(b) After the ranking of projects, the proposed priority list shall be posted on the Department's website not later than 14 days before the list adoption hearing to be held under this chapter and shall be mailed to anyone who submits a written request to the Department. The amount of funds available to a financially disadvantaged small community for a project to be listed on the fundable portion shall be limited as set forth under rule 62-505.350(3), F.A.C.

(c) The priority list shall be adopted at a public hearing held by the Department. The annual hearing shall be held on the second Wednesday of October. If additional hearings are necessary, they shall be held on the second Wednesday in January, April, or July. A target date shall be assigned to each project. Projects to be scheduled for construction funding in the fiscal year for which the list is being developed shall have target dates no later than March 31 of that fiscal year.

(d) The list shall become effective immediately after adoption. A priority determination under Rule 62-505.650, F.A.C., shall be made for each project.

(e) Fifteen percent to thirty percent of the unobligated grant funds projected to be available in each fiscal year shall be reserved for preconstruction grants. When the funds remaining

will not cover the total amount of the next highest ranked preconstruction grant project the remaining funds shall be allotted to construction projects.

(f) Reserved funds that are not used for preconstruction grants shall be available for assignment to construction projects.

(g) When a project sponsor has completed the requirements of Rules 62-505.700 and .750, F.A.C., the project shall be eligible to compete for construction grant funding.

(h) Funds that will not cover the amount of the annual grant allocation for the next highest ranked construction grant project shall be allocated at a subsequent priority list hearing.

(2) Priority score determination. Eligible projects shall be given priority according to the extent each project is intended to remove, mitigate, or prevent adverse effects on surface or ground water quality and public health. The final priority score, calculated to the nearest one-tenth (0.1), for each project shall be the weighted average as defined in paragraph (a), below, of the applicable base priority scores shown in Table 1, multiplied by 1.2 if the pollution control is directly related to an impaired water body on the state's adopted verified list of impaired waters, multiplied by a cost-to-benefit index as defined in paragraph (b), below, and then increased for severe economic hardship as defined in paragraph (c), below, if applicable. After the ranking of projects under Rule 62-505.655, F.A.C., and before June 1 preceding the fiscal year for which the list will be in effect, a proposed list shall be established. The proposed list shall be mailed by the Department, not later than 14 days prior to the list adoption hearing to be held under this rule section, to all project sponsors that have submitted a request for inclusion on the proposed list and shall be made available to anyone who submits a written request, at least 14 days before the scheduled list adoption, to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.

(a) Weighted average base priority score. The weighted average base priority score (BPS) shall be determined using the following formula where CC means "construction costs":

$$BPS = \frac{BPS_1 \times CC_1 + \dots + BPS_n \times CC_n}{\text{Total CC}}$$

(b) Cost-to-benefit index. The relative costs of achieving public health and water quality benefits shall be reflected in the priority score. The ratio of the total cost for each project to the weighted average base score (benefit) for that project shall be computed. The cost data used shall be expressed in units of one-thousand dollars (e.g., \$1,000,000 shall become \$1,000 for purposes of determining the cost-to-benefit index). The benefit ratio shall be indexed at not less than 1.0000 nor greater than 1.2000. The cost-to-benefit index (multiplier) for a specific project shall be established to the nearest 0.0001 value as follows:

$$1.20 - 0.021 \times \text{Natural Logarithm of (Project Cost to Benefit Ratio)}$$

(c) Economic hardship. The extent of the economic hardship existing in a small community to be served by the project shall be reflected in the priority score. Ten points will be added to the priority score, after adjustment under paragraphs (a) and (b), above, when the small community's affordability index is less than 70.

(3) Getting on the list.

(a) The Department shall accept requests for inclusion on Form 62-505.900(1), on the next year's priority list when they are postmarked or delivered before July 1. A separate request for inclusion is required and a separate priority determination shall be made for each phase (preconstruction and construction) of a sponsor's project.

(b) Projects for which a request for inclusion is submitted on or after July 1 and that have retained eligibility shall be eligible to compete for grant funding at the first hearing in the following fiscal year.

(c) Projects that have started construction and have not received an authorization to incur costs shall be ineligible to compete for grant funding at subsequent hearings.

(d) The sponsor shall have postmarked or delivered to the Department all required documentation on or before the first day of the month preceding a priority list public hearing.

1. For a preconstruction project, if a request for inclusion remains incomplete after the above date, that project shall receive the minimum priority score.

2. For a construction project, documentation required under Rules 62-505.700 and .750, F.A.C., shall be complete by the above date or that project shall not be considered for funding.

(e) A public hearing shall be held to add projects to the priority list.

(4) Removal from priority list. Projects shall be removed from a priority list upon request of the project sponsor or if the project sponsor fails to comply with the provisions of this chapter. If a project is removed from the priority list, the deobligated funds shall be allocated at a subsequent priority list hearing.

(5) The scope of a preconstruction project described on the priority list shall not be increased to encompass additional work except where such increases have been subject to the list development procedures of Rule 62-505.600, F.A.C.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.804, 403.1835, 403.1838 FS. History--New 11-30-98, Amended \_\_\_\_\_.

62-505.650 Priority Determination.

Specific Authority 403.1835(7), 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History--New 11-30-98, Amended 7-22-99, Repealed \_\_\_\_\_.

62-505.655 Ranking Projects for Priority List Development.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838, 403.804 FS. History—New 11-30-98, Repealed.

62-505.680 Priority List Management.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.804, 403.1835, 403.1838 FS. History—New 11-30-98, Repealed.

62-505.700 Planning, Design, Construction, and Procurement ~~Post-construction~~ Requirements.

The requirements of subsections (1) through (6) below, where applicable, shall be met for all projects.

(1) Planning. Projects shall be subject to the environmental, social, and economic requirements identified in the grant application ~~form 62-505.900(2)~~. Project planning documentation shall include the following:

(a) Sufficient illustrative detail of the local area to identify where the project or activity would be located, including identification of the planning area, the existing service area, and future project service areas. Landmarks and other readily identifiable features shall be noted.

(b) A description of the recommended facilities, estimated capital costs, and estimated operation and maintenance costs. Costs shall be broken down into project categories to the maximum extent possible.

(c) Cost-effectiveness of feasible alternatives, including regionalization of facilities.

1. Consideration must be given to capital costs and operation and maintenance costs over the useful life of the facilities based on a discount rate projected to be in effect during a planning period of not less than five years.

2. Grant funds shall be available for no more than the amount of the cost-effective alternative.

(d) The need or justification for the project or activity and the environmental and economic impacts and benefits of the project.

(e) Resolution of comments received by the Florida State Clearinghouse during its intergovernmental review of the project.

(f) The public participation process used to explain the project and the financial impacts to affected parties shall include the project sponsor's public meeting held before the project sponsor's acceptance of the planning recommendations. The public meeting shall provide for public participation in the evaluation of project alternatives. Notice of the public meeting shall be in accordance with local requirements.

(g) A new request for inclusion to include the schedule, scope, and costs for implementing the recommended facilities or activities and any changes to the census tracts to account for project changes.

(h) An adopting resolution or other action establishing a commitment to implement the planning recommendations.

(i) A revenue generation system that shall include the user charge system and user charge ordinance or other enforceable schedule for charges, rates, fees, and other collections associated with the revenues that will be dedicated to producing adequate revenue for debt service and operation and maintenance of the wastewater management system. This shall include revenues for replacement of equipment, accessories, and appurtenances necessary to maintain the system design capacity and performance during its design life. The user charge system shall be designed to make the wastewater management system financially self-sufficient.

1. The revenue generation system shall be updated at least annually, and may be updated as necessary to reflect changing conditions, but it shall remain in effect in conformance with this chapter.

2. The project sponsor shall certify annually, if grant funds are received during a given year, that it has updated its revenue generation system in conformance with this chapter.

3. The rate structure of the revenue generation system shall be implemented with a phased schedule, if necessary, at least six months before the first State Revolving Fund loan repayment is due and for projects without a State Revolving Fund loan, before the project is administratively closed out.

(2) Environmental Review. The Department shall perform an environmental review under Rule 62-505.750, F.A.C., for each project to be funded. ~~A wastewater facilities plan shall include documentation of the following:~~

(a) ~~Identification of the planning area and the existing service area and future project service areas.~~

(b) ~~Demographic, geologic, topographic, hydrogeologic, and institutional characteristics of the study area impacting the evaluation of alternatives.~~

(c) ~~Cost-effectiveness of feasible alternatives, including regionalization of facilities, considering capital costs and operation and maintenance costs over the useful life of the facilities based on a discount rate projected to be in effect during a planning period of not less than five (5) years.~~

(d) ~~The value of potable water resources conserved as a result of reclaimed water reuse alternatives (such as agricultural or landscape irrigation) shall be addressed in facilities plans for projects involving wastewater treatment, disposal, or reuse.~~

(e) ~~Implementability of the selected facilities from legal, institutional, financial, technical, and management perspectives.~~

(f) ~~Environmental effects and other non-monetary considerations, if any, associated with the selected facilities.~~

~~(g) Identification of the collection, transmission, treatment, reuse, and disposal problems associated with the wastewater system and the local physical conditions associated with those problems.~~

~~(h) Identification of the facilities needed to comply with wastewater treatment plant discharge permits issued by the Department and identification of the facilities needed throughout the future project service area over a planning period of not less than five (5) years.~~

~~(i) Public participation process carried out by the project sponsor. The project sponsor shall hold a public hearing before adoption of its wastewater facilities plan. The purpose of the hearing shall be to enable public participation in the final evaluation of project alternatives. The project sponsor shall include a complete record of the hearing in the wastewater facilities plan.~~

~~(j) Capital improvements financing information addressing the following for projects to be funded with grants:~~

~~1. All capital improvements to the wastewater management system, including those to be financed using any type of debt instrument, that will be implemented over a period of five (5) years beginning with the year after the project has been constructed and is in operation.~~

~~2. Proposed system of charges, rates, fees, and other collections that will generate the revenues that will be dedicated to making the wastewater management system financially self-sufficient.~~

~~3. Proposed rate ordinance or other enforceable schedule for charges, rates, fees, and other collections associated with the revenues that will be dedicated to making the wastewater management system financially self-sufficient.~~

~~4. Wastewater management system operating and non-operating expenses and revenues for the most recent audited operating year and projected to be in effect for the first full year after the project has been constructed and is in operation.~~

~~(k) Affirmation that the selected facilities are not inconsistent with local comprehensive plans.~~

~~(l) Responses generated by a multi-disciplined intergovernmental review, if applicable.~~

~~(m) Executed and fully implementable contractual agreements whenever facilities or services beyond the project sponsor's jurisdiction are involved.~~

~~(n) For projects where the cost-effectiveness of the recommended facilities is determined by flow rate or capacity, the following shall be addressed:~~

~~1. Flow reduction methods unless the estimated average per capita discharge to the sewer system is less than 70 gallons per day.~~

~~2. Cost-effectiveness of reducing infiltration and inflow if the rainfall-induced inflow results in chronic operational problems or rainfall induced inflow exceeds 275 gallons per day per capita during storm events or the flow rate exceeds 120 gallons per day per capita during periods of high groundwater.~~

~~(o) For projects where the cost-effectiveness of recommended facilities is determined by the level to which wastewater or residuals is treated, the alternative of improving operation and maintenance shall be considered.~~

~~(p) A description of the recommended facilities, preliminary design parameters, estimated capital costs, and estimated operation and maintenance costs.~~

~~(q) The schedule for constructing the recommended facilities.~~

~~(3) Plans and specifications. The project sponsor shall submit biddable plans and specifications conforming to the planning documentation for projects involving construction. For design/build projects the sponsor shall submit a copy of the request for qualifications, request for proposals, and the preliminary design report submitted for permitting. Final permitted plans and specifications shall be submitted for each component of a design/build project when complete. The Department shall perform an environmental review under Rule 62-505.750, F.A.C., for each project to be funded. The environmental review shall establish the environmental significance of a proposed project and whether the planning of the project meets the requirements of this rule. The environmental review also shall establish the Department's intention to make funding available for a project after the project sponsor has met the applicable requirements of this rule. A notice of availability to announce the results of the Department's environmental review shall be published in the Florida Administrative Weekly. The notice of availability shall include instructions about the procedures for accessing the project information and the Department's findings. The Department shall provide a 30 day period, commencing as of the date of the notice of availability, for public comment about the environmental impacts of proposed projects. Written comments from the public shall be postmarked or delivered, within the 30 day comment period, to the Department of Environmental Protection, Bureau of Water Facilities Funding, 2600 Blair Stone Road, MS 3505, Tallahassee, Florida 32399-2400.~~

~~(b) The findings, conclusions, and recommendations of a previous EPA and Department environmental review issued within five (5) years prior to a potential offer of financial assistance shall have met the requirements of this subsection. The findings, conclusions, and recommendations of a previous EPA and Department environmental review must be reaffirmed, under subsection (f) below, if five (5) years or more have elapsed between the time of issue and a potential offer of financial assistance. The Department shall consult with project sponsors during the preparation of facilities plans to assist in~~



the preparation of environmental information. The project sponsor shall document cultural, historical, archaeological, biological, and fiscal aspects of a project during the facilities planning process. When necessary, conditions shall be placed on a grant agreement to enhance the compatibility of the project with the existing environment. The Department shall document the results of its environmental reviews as described in paragraphs (c) through (f) below. When an environmental review document is amended in lieu of issuing a new document to reflect proposed project changes that potentially have environmental impacts, the same basic procedures as were used to produce the original document shall be used. (a) When an environmental review is performed for a component or portion of the planned wastewater management system in advance of completing the review for the entire system of facilities, the environmental review process is partitioned. A partitioned environmental review, if requested by the project sponsor, shall be performed only if all the following conditions are met: The component will immediately remedy a public health, water quality, or other environmental problem, or advance completion will achieve a demonstrable cost savings; all environmentally sound, implementable alternatives for the overall wastewater management system of which the component is a part have been identified, and the component does not foreclose any of the alternatives; and the component will not cause adverse environmental impacts, including impacts that will be minimized or eliminated only by completing the entire system. However, partitioning shall not imply further approvals for the remainder of the wastewater management system, and the environmental review for the remainder of the facilities shall conform to the applicable requirements of this subsection.

(c) A Florida Categorical Exclusion Notice (FCEN) shall be used for certain projects that are not expected to generate controversy over potential environmental effects. An FCEN shall not be used if there are environmental objections to a project at the public hearing held, under paragraph (2)(i) above, provided that such objections have a basis in statute, rule, or ordinance. An FCEN shall not be used if a project will result in the inability of existing facilities to meet permit criteria, result in unpermitted discharges, or provide capacity to service previously undisturbed areas such that more than 30% of the total design population for the project is attributed to the undisturbed areas.

1. In issuing an FCEN, the Department shall proceed as follows:

- a. Briefly describe the project, the justification for the categorical exclusion, and the proposed grant funding.
- b. Conclude the environmental review only after the 30 day public comment period, under subsection (3) above, has expired and no information is received about adverse environmental impacts; information is received about adverse environmental impacts and the objections either are without a

basis in statute, rule, or ordinance or are resolved; or information is received about adverse environmental impacts and the FCEN is rescinded.

2. Projects categorically excluded from further environmental review are as follows:

- a. Rehabilitation of existing facilities or replacement of structures, materials or equipment;
- b. Facilities that will not result in more than an additional 100,000 gallons per day flow or, alternatively, not more than a ten percent increase in daily flow at an existing treatment plant and, under either alternative, neither the discharge point nor the pollutant concentration limits will be changed from existing permitted conditions and acquisition of land is not involved;
- e. Facilities for unsewered communities that involve self contained individual or cluster systems providing both treatment and disposal of wastewater near the buildings from which the wastewater is to be discharged;
- d. Additions to sewer systems in areas where streets have been established, underground utilities installed, or building sites excavated; and
- e. Reclaimed water reuse facilities in areas where streets have been established, underground utilities installed, or building sites excavated if the treatment level enables unrestricted public access.

(d) A Florida Finding of No Significant Impact (FFONSI) shall be used for a project not categorically excluded from a detailed environmental review and not requiring a Florida Environmental Impact Statement. In issuing a FFONSI, the Department shall proceed as follows:

1. Record the basis for the decision to provide financial assistance for the project, addressing the following:
  - a. The existing and future environmental conditions without the project and the environmental consequences of the project;
  - b. The purpose of, and the need for, the project;
  - e. The alternatives to, and the cost effectiveness of, the project;
  - d. Environmental enhancement measures to be implemented;
  - e. The public participation process;
  - f. The interdisciplinary review of the project; and
  - g. Compliance with rules of the Department.
2. Consider public comments about environmental impacts of a project if the comments are received within 30 days after the publication date of the notice of availability under subsection (3) above.
3. Conclude the environmental review for the project only after the 30 day comment period has expired and any of the following situations results:
  - a. No information is received about previously unconsidered adverse environmental impacts;

b. Information is received about previously unconsidered adverse environmental impacts and the objections are resolved; or

c. A re-evaluation of the project is made as a result of the comments and the Department takes action to confirm the original decision, require additional analysis and environmental enhancement measures before implementing the project, or rescind the original decision.

(e) A Florida Environmental Impact Statement (FEIS) and a Florida Record of Decision (FROD) shall be used for a project for which there is an adverse direct, or indirect, impact on land use and population patterns, the quality of the environment, cultural or environmental resource areas, or the habitats of endangered or threatened species. An FEIS and FROD also shall be used when there is unresolved public controversy over the environmental impacts of a project provided that the objections to the project have a basis in statute, rule, or ordinance. An FEIS shall be prepared by the Department or, at the direction of the Department and in accordance with the Consultants' Competitive Negotiation Act, Section 287.055 of the Florida Statutes, by others with no conflicting interest in the outcome. In completing the environmental review, the Department shall proceed as follows:

1. Issue a notice of intent to prepare an FEIS for the project;
2. Develop a plan of study and convene a meeting of government, including EPA, and other interested parties to determine the scope of the FEIS;
3. Identify and evaluate project alternatives;
4. Provide for public participation and review by federal and state environmental regulatory agencies;
5. Ensure that adverse impacts of the project are minimized or eliminated;
6. Document the findings of the environmental review using both the FROD and FEIS;
7. Announce the funding eligibilities using a FROD and consider public comments about environmental impacts if received during the 30-day period beginning on the date of publication of the notice of availability under subsection (3) above; and
8. Conclude the environmental review only after a 30-day public comment period has expired without receipt of comments about adverse environmental impacts or if, after receipt of such comments, the Secretary takes one of the following actions:
  - a. Confirms the original decision;
  - b. Requires additional analysis and environmental enhancement as a condition of confirmation of the original decision; or
  - c. Rescinds the original decision.

(f) A Florida Reaffirmation Notice (FRAN) shall be used to establish the Department's continuing intention to make funds available for unimplemented projects, the planning for which was previously documented as accepted by the Department in a FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. In issuing a FRAN, the Department shall proceed as follows:

1. State the findings being reaffirmed.
2. Consider public comments about changed conditions altering the environmental impacts since the previous FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. Comments shall be considered if received during the 30-day period beginning on the date of publication of the notice of availability of the FRAN under subsection (3) above.
3. Conclude the environmental review only after the public comment period has expired and one of the following situations results:
  - a. No information is received about changed conditions resulting in adverse environmental impacts;
  - b. Information is received about previously unconsidered adverse environmental impacts or about changed conditions altering the environmental impacts and the objections are resolved; or
  - c. Information is received about adverse environmental impacts and the FRAN is rescinded.

(4) Site Certification. The project sponsor shall certify that all sites necessary for the construction, operation, and maintenance of the project, or to otherwise carry out project activities over the useful life of the project, are available. Biddable Plans and specifications shall be complete enough to be distributed for competitive bidding. Plans and specifications shall be in conformance with the facilities plan.

(5) A value engineering report shall be prepared for operationally related project facilities, the construction of which is valued at more than \$5,000,000.

(5)(6) Permit. The project sponsor shall submit evidence that one or more of the following permitting related conditions shall be demonstrated to exist for the project:

- (a) No change.
- (b) The Department has issued other authorization for project construction (includes design/build); or
- (c) The Department has determined that its authorization is not required prior to construction; or
- (d) An intent to issue a permit for construction under Part IV, Chapter 373, F.S., has been established.

(6) Procurement (Reference: 40 CFR 31.36). When procuring property and services under a Small Community Wastewater Facilities Grant, a project sponsor shall follow the policies and procedures it uses for procurements from its non-grant funds provided that the procurement conforms to applicable federal, state, and local laws and regulations. Grant

recipients shall submit procurement documentation to the Department for pre-award review. Methods of procurement include small purchase procedures, formal advertising, and competitive or non-competitive proposals. All procurement transactions shall be conducted in a manner providing full and open competition.

(a) Small purchase procurement. For small purchases that do not cost more than \$100,000, price or rate quotations shall be obtained from a minimum of two qualified sources.

(b) Formal advertising. Requirements for the formal advertised competitive bidding method of procurement shall be as follows:

1. All solicitations shall incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured. Bid documents shall break out project categories to the maximum extent possible.

a. Such description shall not contain features that unduly restrict competition.

b. The description shall include a statement of the qualitative nature of the materials, products, or services to be procured, and when necessary for the bid, shall set forth those minimum essential characteristics and standards to which they must conform to satisfy their intended use.

c. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand that must be met by offerors shall be clearly stated.

d. All requirements that the offerors must fulfill and all other factors to be used in evaluating bids or proposals shall be identified.

2. Project sponsors shall ensure that all prequalified lists of persons, firms, or products that are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition.

3. The invitation for bids shall be publicly advertised and bids shall be solicited from an adequate number of known suppliers to assure open competition, providing them sufficient time for bid submittal prior to the date set for opening the bids.

4. The invitation for bids, which shall include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond.

5. All bids shall be publicly opened at the time and place prescribed in the invitation for bids, and a firm-fixed-price contract (lump sum or unit price) awarded to the responsible bidder whose bid conforms to all the material terms and conditions of the invitation for bids.

6. Any or all bids may be rejected if there is a sound, documented reason.

7. Project changes after advertising for bids or other project proposals and before bid or proposal opening shall be made by addendum. Changes to executed contracts involving

construction shall be made by change order. The project sponsor shall submit all addenda and change orders to the Department. The Department shall perform an eligibility determination for each change order.

(c) Competitive proposals. Requirements for the competitive proposals method of procurement shall be as follows:

1. Proposals shall be solicited from a minimum of three sources to assure open competition. Sponsors shall request a waiver to this requirement for procurement when three sources are not available.

2. Grant recipients shall have a method for conducting technical evaluations of the proposals received and for selecting awardees.

3. Awards shall be made to the responsible firm whose proposal is most advantageous to the grant recipient, with price and other factors considered.

(d) Noncompetitive proposals. Requirements for the noncompetitive proposals method of procurement shall be as follows:

1. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

2. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals, and one of the following circumstances applies:

a. The item is available only from a single source;

b. The public exigency or emergency for the requirement shall not permit a delay resulting from competitive solicitation; or

c. After solicitation of a number of sources, competition is determined inadequate.

3. A cost analysis is required verifying the proposed cost data and an evaluation of the specific elements of costs and profits.

(7) Construction-manager-at-risk and design/build contracts: A certification of availability of all project sites necessary for the purposes of construction, operation, and maintenance over the useful life of the facilities shall be made.

(a) Requests for proposals shall be used in the selection process.

(b) The request for proposals shall describe the work eligible for a grant, the requirements with which the successful respondent shall comply, and the evaluation process to be used in selecting the successful respondent.

(c) Advertising shall include announcement in a publication having general circulation on a statewide basis, in a construction trade journal, a professional journal, or in the electronic plan room.

(d) The time allowed for development of proposals shall be commensurate with the complexity and extent of the work and with the extent of the conceptual documents provided with the request for proposals.

(e) Both the qualifications of the respondents and the price for completing the advertised work shall be considered in the selection process.

(f) The project sponsor shall demonstrate that the competition solicited is sufficient for the complexity and extent of the work.

(g) Requests for proposals shall be submitted to the Department prior to advertising for a determination of compliance with grant program requirements.

~~(8) Contract responsibilities Reasonable financial assurance shall be given that project construction will be completed. Such assurance may be in the form of a commitment to maintain adequate reserve funds dedicated throughout the construction period to ensuring project completion. Other forms of such reasonable assurance include requirements for contractors to provide performance and payment bonds under section 255.05, F.S., and insurance covering workers' compensation, comprehensive general liability, vehicle liability, and property damage to the extent that coverage is available for construction activities.~~

(a) Grant recipients shall maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(b) Grant recipients shall maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the grant recipient shall participate in selection, or in the award or administration of a contract supported by Small Community Wastewater Facilities Grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his immediate family, his or her partner, or an organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grant recipient's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grant recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grant recipient's officers, employees, or agents, or by contractors or their agents.

(c) Grant recipients are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(d) Grant recipients shall make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(e) Grant recipients shall maintain records sufficient to detail the significant history of procurement. These records shall include the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(f) Grant recipients alone shall be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.

(g) Grant recipients shall retain all records for three years after final payments are made and all other pending matters are closed.

(h) For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the Department will accept the bonding policy and requirements of the grant recipient when the Department has made a determination that the Department's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

1. A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

2. A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

3. A payment bond on the part of the contractor for 100 percent of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) A grant recipient's contracts shall contain provisions for:

1. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms.

2. Such sanctions and penalties as may be appropriate.

3. Termination for cause and for convenience by the grant recipient including the manner by which it shall be effected and the basis for settlement.

4. Access by the grant recipient, the Department, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor that are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, or transcriptions.

5. Incorporating the Department's Supplementary Conditions into its bid or request for proposals documents. These conditions contain the following provisions:

a. Equal Employment Opportunity compliance;

b. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act, section 508 of the Clean Water Act, and Executive Order 11738; and

c. Contracting with small and minority firms, women's business enterprise, and labor surplus area firms (if applicable).

(j) Procurement of professional service shall be in accordance with the Consultants Competitive Negotiations Act, Section 287.055, F.S. The project sponsor shall submit procurement documentation for approval by the Department for grants without a State Revolving Fund loan.

~~(9) Construction contractors shall be selected according to the competitive or noncompetitive negotiation procurement methods or the formal advertised competitive bidding method. Federal regulations referenced in this subsection shall be read so that the terms "United States," "federal," "EPA," and "officials of EPA" mean "the state" unless the context clearly indicates otherwise. Procurement requirements shall be as set forth in the following sections of 40 C.F.R. Part 33, Procurement Under Assistance Agreements (1995), incorporated herein by reference: 33.230(e) and (d) (except that the references to architects and engineers shall be interpreted to mean the offertory of technical services, the procurement of which is not subject to Chapter 287.055, F.S.), 33.255(e) (except that the salient requirements of the named brand need not be stated and the reference to 40 C.F.R. Part 35 is deleted), 33.305, 33.310, 33.315, 33.405, 33.410, 33.415, 33.420(a) through (d) and (f) (except for references to section 33.295 and Form 5720 4), 33.425, 33.430 (except that bid rejection shall be based solely on sound documented business reasons), 33.505, 33.510 (except for references to section 33.295 and Form 5720 4), 33.515, 33.520, and 33.605(a) through (e) as supplemented by the provision that noncompetitive negotiated procurement also shall be deemed justified when a material, product, or service provides for necessary interchangeability of parts and equipment or promotes innovative technologies.~~

~~(10) Project changes after advertising for bids and before bid opening shall be made by addendum to plans and specifications. Changes after bid opening shall be made by change order. The project sponsor shall submit all addenda and~~

~~change orders to the Department. The Department shall perform a determination of eligibility under Rule 62-505.300, F.A.C., to establish the justification for all change orders to construction contracts.~~

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History—New 11-30-98, Amended \_\_\_\_\_.

#### 62-505.750 Environmental Review.

##### (1) General.

(a) The Department shall perform an environmental review for each project to be funded. The environmental review shall establish the environmental significance of a proposed project and whether the planning of the project meets the requirements of this chapter. The environmental review also shall establish the Department's intention to make funding available for a project after the project sponsor has met the applicable requirements of this chapter. The results of the Department's environmental review for each project shall be issued as an environmental information document that shall be valid for five years from the date of issue. The environmental information documents are described in subsections (2) through (5) below. A notice of availability of an environmental information document shall be published in accordance with Department guidelines to announce the results of the Department's environmental review. The notice of availability shall include instructions about the procedures for accessing the project information and the Department's findings. The Department shall provide a 30-day period, commencing as of the date of the notice of availability, for public comment about the environmental impacts of proposed projects. Written comments from the public shall be considered by the Department before approving a project for funding if postmarked or delivered to the Department within the 30-day comment period.

(b) Review procedures, identical to those described in this subsection, shall be used when the Department amends an environmental information document to announce project changes that have potentially significant environmental impacts.

(2) Florida Categorical Exclusion Notice (FCEN). A FCEN shall be used for certain projects that are not expected to generate controversy over potential environmental effects. A FCEN shall not be used when there are documented environmental objections to a project before the local government adopted the planning recommendations provided that such objections have a basis in statute, regulation, or ordinance.

(a) In issuing a FCEN, the Department shall:

1. Briefly describe the project, the justification for the categorical exclusion, and the proposed grant funding;

2. Conclude the environmental review only after the 30-day public comment period, under subsection (1) above, has expired; and

a. No information is received about adverse environmental impacts;

b. Information is received about adverse environmental impacts and the objections either are without a basis in statute, regulation, or ordinance or the objections are resolved; or

c. Information is received about adverse environmental impacts, the FCEN is rescinded, and an environmental review is undertaken according to subsection (3) or (4) below.

(b) Projects potentially eligible for categorical exclusion are:

1. Rehabilitation of existing water pollution control system components or replacement of structures, materials, or equipment.

2. Water pollution control systems that do not change the existing discharge point or permitted pollutant concentration limits, and that do not involve acquisition of undisturbed land.

3. Water pollution control systems that serve less than 10,000 people in unsewered communities that involve self-contained individual or cluster systems providing both treatment and disposal of wastewater that will take place near the buildings from which the wastewater is to be discharged.

4. Water pollution control systems in areas where streets have been established, underground utilities installed, or building sites excavated.

5. Treatment plant upgrades that are solely to enable reclaimed water reuse if the treatment level enables unrestricted public access.

(3) Florida Finding of No Significant Impact (FFONSI). A FFONSI shall be used when a project sponsor proposes a project not categorically excluded from a detailed environmental review and not requiring a Florida Environmental Impact Statement. In issuing a FFONSI, the Department shall:

(a) Record the basis for the decision to provide financial assistance for the project, addressing:

1. The environmental consequences of the project;

2. The purpose and the need for the project;

3. The alternatives, including no action, and the cost considerations for the project;

4. Any environmental enhancement measures to be implemented;

5. The public participation process;

6. The results, if available, of the State Clearinghouse Review; and

7. Compliance with relevant rules of the Department.

(b) Consider public comments about environmental impacts of a project if the comments are received within 30 days after the date of posting of the notice of availability on the Department's website.

(c) Conclude the environmental review for the project only after the 30-day comment period has expired and:

1. No information is received about previously unconsidered adverse environmental impacts;

2. Information is received about previously unconsidered adverse environmental impacts and one of the following occurs:

a. The objections are either without a basis in statute, regulation, or ordinance, or the objections are resolved;

b. A re-evaluation of the project is made as a result of the comments, and the Department confirms the original decision or requires environmental enhancement measures before implementing the project; or

c. The FFONSI is rescinded.

(4) Florida Environmental Impact Statement (FEIS). A FEIS and a Florida Record of Decision (FROD) shall be used for a project for which there is an adverse direct or indirect impact on land use and population patterns, the quality of the environment, cultural or environmental resource areas, or the habitats of endangered or threatened species. A FEIS and FROD also shall be used when there is unresolved public controversy over the environmental impacts of a project provided that the objections to the project have a basis in statute, regulation, or ordinance. An FEIS shall be prepared by the Department or, at the direction of the Department and in accordance with the Consultants' Competitive Negotiation Act, Section 287.055, F.S., by others with no conflicting interest in the outcome. In completing the environmental review, the Department shall:

(a) Issue a notice of intent to prepare a FEIS for the project;

(b) Develop a plan of study and convene a meeting of government, including EPA, and other interested parties to determine the scope of the FEIS;

(c) Identify and evaluate project alternatives;

(d) Provide for public participation and review by federal and state environmental regulatory agencies;

(e) Ensure that adverse impacts of the project are minimized or eliminated;

(f) Document the findings of the environmental review using both the FROD and FEIS;

(g) Announce the funding eligibilities using a FROD and consider public comments about environmental impacts if received during the 30-day period beginning on the date of posting of the notice of availability on the Department's website; and

(h) Conclude the environmental review only after a 30-day public comment period has expired without receipt of comments about adverse environmental impacts or if, after receipt of such comments, the Department takes action to:

1. Confirm the original decision;

2. Require additional analysis and environmental enhancement as a condition of confirmation of the original decision; or

3. Rescind the original decision.

(5) Florida Reaffirmation Notice (FRAN). A FRAN shall be used to establish the Department's continuing intention to make funds available for unimplemented projects, the planning for which was previously documented as accepted by the Department in a FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing that are no longer valid after five years have elapsed since issuance. In issuing a FRAN, the Department shall:

(a) State the findings being reaffirmed;

(b) Consider public comments about changed conditions altering the environmental impacts since the previous FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. Comments shall be considered if received during the 30-day period beginning on the date of posting of the notice of availability of the FRAN on the Department's website;

(c) Conclude the environmental review only after the public comment period has expired; and

1. No information is received about changed conditions resulting in adverse environmental impacts;

2. Information is received about changed conditions resulting in adverse environmental impacts and one of the following occurs:

a. The objections are resolved;

b. A re-evaluation of the project is made as a result of the comments and the Department confirms the original decision or requires environmental enhancement measures before implementing the project; or

c. The FRAN is rescinded.

(6) State Clearinghouse. Project planning documentation shall be submitted to the State Clearinghouse for a multi-disciplined intergovernmental review. All comments resulting from this review shall be addressed by the Department prior to its approval of the planning documentation.

Specific Authority 403.1838 FS. Law Implemented 403.1835 FS. History-New \_\_\_\_\_.

62-505.800 Audit Required.

(1) Within 12 months after the effective date of the amendment to the grant agreement ~~amendment~~ establishing final project costs, the project sponsor shall submit to the Department a separate audit report of the grant related provisions, revenues, and expenditures. The audit report also shall address whether the project sponsor complied with requirements, such as implementation of the user charge system, set forth in the grant agreement. The audit findings shall set aside or question any costs that are unallowable under this rule chapter. A final determination of the allowability of such costs shall be made by the Department. The

above-described separate project audits shall be required unless the only disbursements were ~~to be~~ made under a preconstruction ~~the grant agreement~~ are for allowances.

(2) The Department shall ~~may~~ conduct an audit within three (3) years following project close-out if grant conditions compliance problems have been noted; record keeping deficiencies are noted during close-out; the project involves unusual, questioned, or apparently irregular costs; or other justification for conducting the audit becomes apparent. The Department of Environmental Protection, Bureau of Water Facilities Funding and the Inspector General jointly shall be responsible for determining whether an audit is to be performed.

(a) through (b) No change.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History-New 11-30-98, Amended \_\_\_\_\_.

62-505.850 Exceptions to Program Requirements.

(1) Projects that were previously listed on the contingency portion of the FY 2005 priority list, have maintained eligibility, have received an authorization to incur costs, and have initiated or completed construction shall be allowed to submit a Request For Inclusion and compete for funding at the first hearing conducted under this revised chapter. An additional 50 priority score points shall be added to its priority score.

(2) Projects in subsection (1) above, shall meet the per capita income and population requirements of this chapter.

(3) Projects in subsection (1) above, shall have the grant percentage determined by subsection 62-505.350(5), F.A.C.

Specific Authority 403.1838(3)(a), (b) FS. Law Implemented 403.1835, 403.1838 FS. History-New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Holmden, Program Administrator, Bureau of Water Facilities Funding, Department of Environmental Protection, 2600 Blair Stone Road, MS #3500, Tallahassee, Florida 32399 2400; Telephone (850)245-8394

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi A. Drew, Director, Division of Water Resource Management, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 21, 2006

DEPARTMENT OF HEALTH

Board of Massage

RULE NO.: 64B7-25.004

RULE TITLE: Endorsements

PURPOSE AND EFFECT: To specify requirements for endorsement licensure.

**SUMMARY:** Includes requirements that endorsement applicants establish completion of Laws and Rules, HIV/AIDS, and medical errors courses.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** 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.

**SPECIFIC AUTHORITY:** 456.013(2), 480.035(7), 480.041(4)(c) FS.

**LAW IMPLEMENTED:** 456.013(2), 480.041(4)(c) 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 E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399

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

64B7-25.004 Endorsements.

(1) The Department shall issue a license by endorsement to a person who:

(a) Pays to the Department the initial licensure fee set forth in subsection 64B7-27.0087(2), F.A.C.; and

(b) Is currently licensed and has practiced massage under the laws of education or apprenticeship training substantially similar to, equivalent to, or more stringent than those required for licensure by Florida law and these rules; and

(c) Demonstrates that his out-of-state license was issued upon the satisfactory completion of an examination comparable to the examination approved by the Board given by the Department; and

(d) Has no outstanding or unresolved complaints filed against him or her in the jurisdiction of licensure.

(e) Completes a current curriculum course from a Board approved school covering the Florida Statutes and rules related to massage therapy.

(f) Completes the HIV/AIDS course requirement in Rule 64B7-25.0012, F.A.C.

(g) Completes a course relating to the prevention of medical errors as required by Section 456.013(7), F.S.

(2) The Department may interview an applicant for licensure by endorsement to determine whether he qualifies for such endorsement.

Specific Authority 456.013(2), 480.035(7), 480.041(4)(c) FS. Law Implemented 456.013(2), 480.041(4)(c) FS. History—New 11-27-79, Amended 7-9-80, 8-29-83, 10-9-85, Formerly 21L-25.04, Amended 6-12-88, 8-15-89, 2-11-93, Formerly 21L-25.004, Amended 9-15-94, 1-9-95, 8-18-96, 1-29-97, Formerly 61G11-25.004, Amended 6-22-99,\_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Board of Massage Therapy

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Board of Massage Therapy

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** July 28, 2006

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** August 25, 2006

**DEPARTMENT OF HEALTH**

**Board of Massage**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
64B7-28.0095	Continuing Education for Pro Bono Services

**PURPOSE AND EFFECT:** To designate which requirements are satisfied by Pro Bono services.

**SUMMARY:** To designate which requirements are satisfied by Pro Bono services.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** 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.

**SPECIFIC AUTHORITY:** 456.013, 480.0415 FS.

**LAW IMPLEMENTED:** 456.013, 480.0415 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 E. King, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399

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

64B7-28.0095 Continuing Education for Pro Bono Services.

(1) Up to 6 hours of continuing education per biennium in satisfaction of paragraph 64B7-28.009(3)(a), F.A.C., may be awarded for the performance of pro bono services to the indigent, underserved populations or in areas of critical need within the state where the licensee practices. The standard for determining indigence shall be that recognized by the Federal Poverty income guidelines produced by the United States Department of Health and Human Services.



(2) In order to receive credit under this rule, the licensee must receive prior approval from the Board by submitting a formal request for approval, which must include the following information:

- (a) The type, nature and extent of services to be rendered;
- (b) The location where the services will be rendered;
- (c) The number of patients expected to be served; and
- (d) A statement indicating that the patients to be served are indigent underserved or in an area of critical need.

(3) Credit shall be given on an hour per hour basis.

(4) Approval for pro bono services is only granted for the biennium for which it is sought. The licensee must request approval for each biennium they wish to receive credit for pro bono services.

Specific Authority 456.013, 480.0415 FS. Law Implemented 456.013, 480.0415 FS. History—New 5-5-04, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Massage Therapy  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2006  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 25, 2006

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE NO.: 64B16-26.1005  
RULE TITLE: Retired License Election; Renewal; Fees

PURPOSE AND EFFECT: The Board proposes the rule promulgation to provide instructions on how to receive a retired status license, how to renew a retired status license, and the fees in order to do so.

SUMMARY: Instructions regarding retired license election, renewal and fees will be included in the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 456.036(15) FS.

LAW IMPLEMENTED: 456.013, 456.036(4)(b) 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: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.1005 Retired License Election; Renewal; Fees.

(1) A licensee may elect to place his or her license on retired status.

(a) At the time of license renewal, to place the license on retired status, the licensee must submit a written request with the board for retired status and submit the retired status fee of \$50.00 pursuant to Section 456.036(4)(b), F.S., and the current unlicensed activity fee.

(b) At a time other than license renewal, to place the license on retired status, the licensee must submit a written request to the Board for the retired status plus submit the retired status fee of \$50.00 pursuant to Section 456.036(4)(b), F.S., plus a change of status fee of \$25.00, plus the current unlicensed activity fee.

(c) Before the license of a retired status licensee is reactivated, the licensee must meet the continuing education requirements in Rule 64B16-26.103, F.A.C., and pay any renewal fees imposed on an active status licensee for all biennial licensure periods, plus the current unlicensed activity fee during which the licensee was on retired status.

(2) Any person applying for an active status license who has been on retired status for 5 years or more, or if licensed elsewhere, has not been active during the past 5 years, shall as a condition of licensure, demonstrate that he or she is able to practice with the care and skill sufficient to protect the health, safety, and welfare of the public by:

(a) If inactive for less than 5 years, the licensee must pass a jurisprudence examination;

(b) If inactive for 5 or more years, in addition to paragraph (a), the licensee must pass the NAPLEX.

(3) Any person applying for an active status license by endorsement who has not been active in his or her state of licensure during the past 5 years, shall as a condition of licensure, demonstrate that he or she is able to practice with the care and skill sufficient to protect the health, safety, and welfare of the public by:

(a) If inactive for less than 5 years, the applicant must pass a jurisprudence examination;

(b) If inactive 5 or more years, in addition to paragraph (a), the applicant must pass the NAPLEX.

Specific Authority 456.036(15) FS. Law Implemented 456.013, 456.036(4)(b) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Pharmacy  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: August 17, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: September 30, 2005

SPECIFIC AUTHORITY: 465.005, 465.0125 FS.  
LAW IMPLEMENTED: 465.0125 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: Rebecca R. Poston, Executive  
Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way,  
Bin #C04, Tallahassee, Florida 32399-3253

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE NO.: 64B16-26.300  
RULE TITLE: Consultant Pharmacist Licensure  
PURPOSE AND EFFECT: The Board proposes the rule  
amendment to modify the training skills required for licensure  
as a Consultant Pharmacist.  
SUMMARY: The rule amendment will modify the training  
skills required for licensure as a Consultant Pharmacist.  
SUMMARY OF STATEMENT OF ESTIMATED  
REGULATORY COST: 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.

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.300 Consultant Pharmacist Licensure.

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

(c) Successfully complete a period of assessment and  
evaluation under the supervision of a preceptor within one (1)  
year of completion of the course set forth in paragraph (b)  
above. This period of assessment and evaluation shall be  
completed over no more than three (3) consecutive months and  
shall include at least 40 hours of training in the following  
practice areas, 60% of which shall occur on-site at an  
institution that holds a pharmacy permit. The training shall  
include:

Minimum Skill Required	Percent of Time	Hours
Minimum of 40 Hours in Maximum of Three Months	50-60%	20-24
1. Regimen review, documentation and communication.		
a. Demonstrate ability to carry out process and understand documentation functions.		
b. Understand and perform drug regimen review. Communicate findings to appropriate individuals or groups.		
c. <u>The Consultant pharmacist is responsible for learning other skills needed to perform in his/her type of facility where he/she is or will be the consultant Pharmacist of Record.</u>		
2. Facility review. Demonstrate areas that should be evaluated, documentation, and reporting procedures.	15-20%	6-8
3. Committee and Reports. <u>Review Attend</u> quarterly Quality of Care Committee <u>minutes</u> and preparation and Delivery of pharmacist quarterly report.	5%	2
4. through 6. No change		
<del>7. Additional skills. The Consultant pharmacist is responsible for learning other skills needed to perform in his/her type of facility where he/she is or will be the consultant Pharmacist of Record.</del>		
(3) through (7) No change.		
<del>(8) A consultant pharmacist who has never completed a period of assessment and evaluation shall meet the requirements of paragraph (2)(c) within one (1) year after the effective date of this rule.</del>		

Specific Authority 465.005, 465.0125 FS. Law Implemented 465.0125 FS. History--New 5-19-72, Revised 4-19-74, Repromulgated 12-18-74, Amended 10-17-79, 4-8-80, 7-29-81, 7-1-83, 4-10-84, 4-30-85, Formerly 21S-1.26, 21S-1.026, Amended 7-31-91, 10-14-91, Formerly 21S-26.300, 61F10-26.300, Amended 9-19-94, 3-28-95, 3-10-96, Formerly 59X-26.300, Amended 5-22-01, 5-5-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2005

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE NO.: 64B16-30.001  
RULE TITLE: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to implement Section 456.072(1)(gg), Florida Statutes.

SUMMARY: The amendment will add a violation, a minimum and maximum penalty range for its disciplinary guidelines in order to implement Section 456.072(1)(gg), Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 456.072, 456.079, 465.005 FS.  
LAW IMPLEMENTED: 456.072, 456.079 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: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-30.001 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances. (1) through (2)(o)19. No change.

20. VIOLATION

Being terminated from or failing to successfully complete an impaired practitioners treatment program (456.072 (1)(gg), F.S.)

PENALTY RANGE

MINIMUM

MAXIMUM

Suspension until successful completion or receipt of written confirmation of compliance with ongoing treatment and a fine of up to \$1,000.

Revocation

(3) through (4) No change.

Specific Authority 456.072, 456.079, 465.005 FS. Law Implemented 456.072, 456.079 FS. History--New 3-1-87, Amended 5-11-88, Formerly 21S-17.001, 21S-30.001, 61F10-30.001, Amended 6-26-95, 1-30-96, Formerly 59X-30.001, Amended 12-3-97, 11-15-98, 5-3-00, 1-2-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Pharmacy  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2005  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2005

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NO.: 69O-142.015  
RULE TITLE: Standardized Requirements Applicable to Insurers After Hurricanes or Natural Disasters

PURPOSE AND EFFECT: Section 24 of Senate Bill 1980 created Section 627.7019, F.S. It requires the Financial Services Commission to adopt by rule standardized requirements that may be applied to insurers as a consequence of a hurricane or other natural disaster.

SUMMARY: The purpose of the rule is to adopt standardized rules with respect to claims reporting requirements, grace periods for payment of premiums, and performance of other duties by insureds and temporary postponement of

cancellations or nonrenewals. These rules are based on Hurricane Orders issued by the Office of Insurance Regulation in the 2004 and 2005 hurricane seasons.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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.

SPECIFIC AUTHORITY: 624.308, 627.7019 FS.

LAW IMPLEMENTED: 624.307(1), 627.7019 FS.

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

DATE AND TIME: October 23, 2006, 9:30 a.m.

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting Carol McBrier, Property and Casualty, Office of Insurance Regulation. E-Mail: carol.mcbrier@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tom Streukens, Deputy Commissioner, Property and Casualty, Office of Insurance Regulation, E-mail: thomas.streukens@fldfs.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

690-142.015 Standardized Requirements Applicable to Insurers After Hurricanes or Natural Disasters.

This rule adopts standardized requirements that may be applied to insurers as a consequence of a hurricane or other natural disaster. The Office is authorized to issue an Order or Orders deemed necessary to protect the health safety and welfare, activating the requirements herein, in whole or in part. An Order may be amended as deemed necessary to accommodate the particular circumstances of the specified hurricane or natural disaster. The following standardized provisions may be activated as provided herein:

(1) CLAIMS REPORTING REQUIREMENTS.

(a) All entities having direct premiums written in Florida and authorized, approved or otherwise eligible to provide the coverages indicated below in items 1. and 2. shall report the information required by Form OIR-DO-1681, "Catastrophic Event Data Reporting and Analysis (Hurricane)", providing hurricane loss and associated exposure data within this state.

The definitions of lines of business specified in items 1. and 2. above are to be consistent with the *Uniform Property & Casualty Product Coding Matrix* provided by the National Association of Insurance Commissioners (NAIC) at [http://www.naic.org/documents/industry\\_rates\\_pc\\_matrix.pdf](http://www.naic.org/documents/industry_rates_pc_matrix.pdf) which is incorporated herein by reference. The reporting shall be submitted with such frequency and for such areas as set forth in the Order activating this subsection and may be revised to reflect the phases of reporting necessary as set forth in form OIR-DO-1681. The applicable coverages are:

1. Those coverages as defined in Sections 627.4025(1) and 215.555(2)(c), F.S.

2. Other property coverages where hurricane loss is not specifically excluded in the policy's outline of coverage such as:

a. Private Passenger Auto Physical Damage

b. Commercial Auto Physical Damage

c. Commercial Property, including Fire and Allied Lines

d. Commercial Multiple Peril

e. Farmowners Multiple Peril

f. Ocean Marine

g. Inland Marine

h. Aircraft

i. Boiler and Machinery

(b) The following form is hereby adopted and incorporated by reference:

1. OIR-DO-1681 (revised 06/2006), "Catastrophic Event Data Reporting and Analysis (Hurricane)".

2. Copies of the form are available and may be printed from the Office's website: <http://www.floir.com/>.

3. All information shall be submitted electronically through <https://iportal.fldfs.com>.

(2) GRACE PERIODS AND TEMPORARY POSTPONEMENT OF CANCELLATIONS OR NONRENEWALS.

(a) Subsection (2) of this rule applies to all contracts of insurance and other contracts that are subject to regulation under the Florida Insurance Code including:

1. All policies referenced in Chapters 440, 624, 626, and 627, F.S.;

2. All policies or contracts issued pursuant to Chapters 636, 641 and 651, F.S.;

3. Contracts issued by Multiple Employer Welfare Arrangements and Commercial Self-Insurance Trusts; and

4. Premium Finance Company contracts;

References herein to "policy" or "contract of insurance" includes all agreements regulated under the Insurance Code.

(b) Reinsurance contracts are not subject to this rule, however, ceding insurers shall, within ten (10) days, notify the Office, in writing, of the cancellation or nonrenewal of any

reinsurance contract reinsuring property risks located in the State. The notice should be directed to Property and Casualty Financial Oversight.

(c) Any free look period in a variable life policy or variable annuity contract is not extended by this rule.

(d) As to any policy provision, notice, correspondence, or law which imposes a time limit upon an insured to perform any act or transmit information or funds with respect to a contract of insurance, which act was to have been performed on or after the date specified in the Order of the Office, the time limit shall be extended to a date specified in the Order. This extension of time shall not relieve a policyholder who has a claim resulting from the designated hurricane or natural disaster from compliance with their obligations to provide information and cooperate in the claim adjustment process relative to their property damage claim. This extension of time shall also not apply to new policies issued on or after the date specified in the Order. No interest, penalties, or other charges, shall accrue or be assessed, as the result of the extensions required herein. Interest that is owed pursuant to premium financing plans with premium finance companies or insurers or their affiliates may be assessed.

(e) During the dates specified in the Order, no insurer or other entity regulated under the insurance code shall cancel or nonrenew a policy or contract of insurance or issue a notice of cancellation or nonrenewal, covering a person, property or risk in the referenced areas as specified in the Order, except at the written request or written concurrence of the policy holder.

(f) All notices of cancellation issued or mailed the week preceding the date specified in the Order, affecting the specified areas, shall be withdrawn and reissued to insureds on or after the date specified in the Order.

(g) A cancellation or nonrenewal may occur prior to the date specified in the Order, at the written request or written concurrence of the policyholder.

(h) Except as provided in paragraphs (e) and (f) with respect to a notice of cancellation or nonrenewal which, but for this rule, would have taken effect during the dates specified in the Order, such notice is not made invalid by this rule; however,

1. The insurer shall extend the coverage to and including the date specified in the Order, or a later date specified by the insurer;

2. The premium for the extended term of coverage shall be the appropriate pro rata portion of the premium for the entire term of the policy.

(i) An insurer or other regulated entity that was unable to cancel or nonrenew a policy due to the operation of this rule, may upon proper notice, cancel or nonrenew such policy, effective on the date the policy would have otherwise been cancelled or nonrenewed, in the event the insured has not filed a claim under the policy or not paid outstanding premium due,

(j) No policy shall be cancelled or nonrenewed solely because of a claim resulting from a hurricane or natural disaster.

(k) An insurer's offer of replacement coverage, which is voluntarily accepted by an insured or applicant in an affiliated company, or made pursuant to a depopulation program, assumption or other arrangement approved by the Office does not constitute a nonrenewal or cancellation for purposes of this rule.

(l) Any insurer who receives a claim from an insured owing premium may offset the premium due to the insurer or a premium finance company from any claim payment made under the policy.

(m) Nothing in this rule shall be construed to exempt or excuse an insured from liability for premiums otherwise due for actual coverage provided.

(n) This rule shall not apply to new policies issued on or after the date specified in the Order.

(o) If the contract of insurance was financed by a premium finance company for risks located in the specified areas, the following provisions apply:

1. Premium finance companies may issue advisory 10-day notices of intent to cancel and cancellation notices in accordance with the terms of the premium finance agreement signed by the insured. In addition, each such advisory notice shall prominently contain the following statement: "If you have been displaced through the loss of your home or damage to your home which has caused you to reside elsewhere on a temporary basis, or if you have temporarily become unemployed due to the destruction caused by Hurricane [name of hurricane or natural disaster], please contact this office at once. Victims of Hurricane [name of hurricane or natural disaster] will receive an automatic extension of time to and including [date specified in the Order], to bring their accounts up to date and no late charges will be applied to any late payments received which were due on their accounts during the period of the dates specified in the Order. Therefore, if you are a victim of Hurricane [name of hurricane or natural disaster], please contact us at once at the number provided at the bottom of this notice so that we may advise you of the status of your account. If you decide that you no longer need or desire to keep the coverage provided by the insurance policy financed by your contract with us, please contact us at once so that we may instruct you on how to effect cancellation with your insurer."

2. If a premium finance loan is in default at the end of the grace period, a premium finance company shall give proper notice by:

a. Issuing a 10 day notice of intent to cancel to the insured by the means provided under Section 627.848(1)(a)1., F.S., and applicable regulations, and

b. If the insured does not bring their loan current within the time provided in the notice of intent, a premium finance company may mail the insurer a request for cancellation as provided in Section 627.848(1)(a)2., F.S.

3. Upon receipt of a request for cancellation from a premium finance company after the grace period specified in an Emergency Order expires, the insurer will process the cancellation in accordance with paragraph (i).

4. Any insurer who is unable to cancel because it has received a claim under a policy for which it receives a notice of cancellation from a premium finance company will offset the balance owed the premium finance company, as disclosed in the notice of cancellation, from the first claim payments made under the policy.

5. No late charges shall be assessed for any insured who qualifies for protection under this rule.

(p) Subsection (2) of this rule shall not apply to policies for the following kinds of insurance issued by authorized insurers which cover a business that is domiciled or maintains its primary place of business outside of the State of Florida: Surety insurance as defined in Section 624.606, F.S.; Fidelity insurance as defined in Section 624.6065, F.S.; Marine insurance, wet marine and transportation insurance and inland marine insurance as defined in Section 624.607, F.S.; Title insurance as defined in Section 624.607, F.S.; Collateral Protection insurance as defined in Section 624.6085, F.S.; Workers' Compensation insurance as defined in Section 624.605, F.S.; Casualty insurance as defined in Section 624.605, F.S., but limited to coverage of commercial risks other than residential or personal property; and property insurance as defined in Section 624.604, F.S., but limited to coverage of commercial risks other than residential or personal property. Additionally, this rule shall not apply to life insurance policies or annuity contracts that are owned by a person other than the insured or the annuitant or where the premium payer under such policy is a person other than the insured or annuitant and such owner or premium payer does not reside in the referenced areas.

(q) Any insurer that becomes impaired or insolvent due to a hurricane or natural disaster or the operation of subsequent rules and orders has a duty to report the resulting financial condition to the Office as soon as possible. Notwithstanding any other provisions contained herein, the Office may exempt any insurer from compliance with this rule if the Office determines that compliance with this rule may be reasonably expected to result in such insurer being subject to financial regulatory action levels by the Office.

(r) The provisions of this rule shall be liberally construed to effectuate the intent and purposes expressed therein and to afford maximum consumer protection.

Specific Authority 624.308, 627.7019 FS. Law Implemented 624.307(1), 627.7019 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carol McBrier, Property and Casualty, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2006

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

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

##### Division of Agricultural Environmental Services

RULE NO.: 5E-2.028  
 RULE TITLE: Restrictions on Use and Sale of Aldicarb; Permit Requirements and Procedures; Forms; Department Authorization; Records; Penalties

#### 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. 32, No. 32, August 11, 2006 issue of the Florida Administrative Weekly.

#### WHEN AMENDED THE PROPOSED RULE WILL READ AS FOLLOWS:

5E-2.028 Restrictions on Use and Sale of Aldicarb; Permit Requirements and Procedures; Forms; Department Authorization Approval; Records; Penalties.

(1) Use and Sale Restrictions. The use of aldicarb in accordance with label directions is authorized statewide, with the following restrictions:

(a) Aldicarb shall be applied only during the time period for which written or electronic authorization has been ~~is~~ issued by the department by means of an aldicarb permit.

(b) Aldicarb shall be applied only at ~~the~~ sites for which written or electronic authorization has been ~~is~~ issued by the department by means of an aldicarb permit.

(c) Experimental use must be authorized by the United States Environmental Protection Agency or the department.

(d) Aldicarb shall not be applied within 300 feet of any well in this state, with the exception of wells that meet the provisions of paragraph (1)(f)(~~e~~).

(e) Aldicarb shall not be used in Florida citrus on any soil series identified by the USDA Natural Resources Conservation Service as highly permeable well-drained soil within 1,000 feet