

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE NOS.:	RULE TITLES:
65C-22.001	General Information
65C-22.008	School Age Child Care
65C-22.009	Gold Seal Quality Care Program
65C-22.010	Enforcement

PURPOSE AND EFFECT: The purpose of this workshop will be to discuss proposed clarifications, amendments, and legislative mandates to Chapter 65C-22, F.A.C., Child Care Facility Standards. In addition we will also be discussing creating Rule 65C-22.009, F.A.C., to reflect legislative mandates concerning the Gold Seal Quality Care Program, and creating Rule 65C-22.010, F.A.C., to reflect legislative mandates regarding the implementation of statewide uniform enforcement of procedures.

SUBJECT AREA TO BE ADDRESSED: Child Care Facility Standards.

SPECIFIC AUTHORITY: 402.305 FS.

LAW IMPLEMENTED: 402.305 FS.

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

(1st WORKSHOP)

DATE AND TIME: April 2, 2007, 9:00 a.m.

PLACE: Department of Children and Families, 1317 Winewood Boulevard, Room 361A, Tallahassee, FL 32399

(2ND WORKSHOP)

DATE AND TIME: April 3, 2007, 9:00 a.m.

PLACE: Department of Children and Families, 9393 North Florida Avenue, Room 807, Tampa, FL 33612

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT, IF AVAILABLE, IS: Mike Boland, Senior Management Analyst Supervisor, 1317 Winewood Boulevard, Building 6, Room 389, Tallahassee, FL 32399, (850)488-4900

THE PRELIMINARY TEXT OF THE PROPOSED RULE MAY BE OBTAINED BY CONTACTING MIKE BOLAND OR ONLINE AT <http://www.dcf.state.fl.us/childcare/new.shtml>.

**Section II
Proposed Rules**

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6B-4.010	Instructional Personnel Assessment Systems

PURPOSE AND EFFECT: Rule revisions were necessary to bring the rule into compliance with statutory references from school code revisions of 2002, which included requirements for assessment systems to allow for compensation based upon performance.

SUMMARY: This rule sets forth the requirements and implementation of the approval process for district instructional personnel assessment systems as prescribed by Section 1012.34, 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: 1012.34 FS.

LAW IMPLEMENTED: 1012.34, 1012.22 FS.

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

DATE AND TIME: April 17, 2007, 8:30 a.m.

PLACE: 400 South Monroe, Room LL03, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela Stewart, Deputy Chancellor, K-12 Educator Quality, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6B-4.010 Instructional Personnel Assessment Systems.

(1) Submission Process.

(a) Each school district annually shall submit to the Department by June 1st for approval, the methods, criteria, and other documentation intended to be used to assess instructional personnel ~~the~~ (its "instructional personnel assessment system" or "system"), ~~the Division of Professional Educators of the Department for approval~~ pursuant to Sections 1012.34 and 1012.22 ~~231-29~~, Florida Statutes, and other provisions citing these sections that require assessment of instructional personnel based primarily upon student performance. The system shall have completed all applicable Chapter 447, Florida Statutes, negotiation requirements and any other ratification requirements prior to being submitted.

(b) Each submission shall include documentation as set forth in paragraph (c) below to substantiate that the school district has met the requirements and conditions for approval of instructional personnel assessment systems pursuant to Section 1012.34 ~~231-29~~, Florida Statutes, and this rule have been met.

(c) The instructional personnel assessment system shall be reviewed by the Department for inclusion of the following:

1. Assessment criteria that include, at a minimum, indicators that relate to the areas of competence specified in Section 1012.34, Florida Statutes, and the Florida Educator Accomplished Practices as incorporated in Rule 6A-5.065, F.A.C. Section 231.29(3)(a), Florida Statutes.

2. An assessment method for annually evaluating professional performance of all instructional personnel individually, primarily based upon the improved performance of students assigned to them (“Improved Student Achievement”) in a manner consistent with Section 1012.34, Florida Statutes, and this rule. A statement of district procedures reflecting methods and criteria used to designate, document, and differentiate unsatisfactory, satisfactory, and outstanding performance levels.

3. A statement of district procedures describing any method, criteria, or calculation used to assess the professional performance of instructional personnel consistent with the following:

a. Eligibility – Instructional personnel must be automatically eligible to be evaluated and to receive any performance-based pay awards without having to apply or make a special presentation.

b. Evaluation instrument – Each district school board shall adopt an evaluation instrument in which the primary determining factor shall be the evaluation of Improved Student Achievement. The school district’s system shall comparatively differentiate the professional performance of instructional personnel such that a portion of their compensation may be determined on the basis of performance as required by Sections 1012.22(1)(c) and 1012.34, Florida Statutes. In addition, the system must allow a district to distinguish and reward a minimum of 25 percent of its elementary, middle, and high school instructional personnel in order to facilitate compliance with Section 1012.22(1)(c), Florida Statutes, and related performance-based pay systems, for example, the Special Teachers are Rewarded program, Ch. 2006-26, s. 3, Laws of Florida.

(I) Instructional personnel assessment systems shall evaluate Improved Student Achievement independent of its grouping of other criteria. The final assessment result shall combine these two evaluation components, such that Improved Student Achievement is given a primary weighting of at least 50 percent. An employee that rates in the top quartile as to the primary factor, improved student achievement, shall be recognized and rewarded for performance-based pay purposes, see Section 1012.22(c), Florida Statutes, Ch. 2006-26, s. 3, Laws of Florida, unless that employee rates less than “satisfactory” or receives more than one “satisfactory” rating on non-primary evaluation criteria. Assessment instruments must include a rating scale and criteria that clearly differentiate personnel performance levels ranging from outstanding to unsatisfactory with a median rating of satisfactory.

(II) School districts shall annually identify to the Department any instructional personnel rated in the top-quartile as to the Improved Student Achievement component, but who has not been recognized and rewarded for purposes of applicable performance-based pay systems, and describe how these determinations were made.

c. Instructional personnel evaluation based on student performance – Each school district shall measure annual Improved Student Achievement using the most equitable and valid instruments available to assess student performance growth over the time that students are assigned to an instructor’s class or course in a manner unsullied by other evaluation criteria or considerations. The assessment may neither penalize nor advantage instructors based on their teaching assignment.

(I) Improved Student Achievement for instructional personnel linked by course number to state assessed subjects and grade levels shall be measured by standardized annual assessments as provided in Section 1008.22, F.S.

(II) Improved Student Achievement for instructional personnel of subjects and grade levels not measured by a state assessment shall be measured primarily by securely maintained and administered, district-adopted instruments related to the subject area, such as:

(A) Standardized exams or norm-referenced tests, for example, the FCAT, NRT, Advanced Placement, International Baccalaureate, or a district end-of-course test;

(B) industry certification exams;

(C) Exams that have been developed by the district, a consortium of districts, or a professional organization;

(D) Other measures of student performance (excluding student input measures, teacher-assigned grades, or classroom-level tests), that comparatively assess baseline skills or knowledge at a point in time prior to or near the beginning of a class or course against a follow-up assessment near or at the end of that class or course.

(E) For art, physical education, music, some special education, and other classes or courses that contain both knowledge and skill instructional elements and in which a written test-based assessment may not capture some important elements of classroom learning, school districts may use assessments that measure student skills gains. For example, a school district might review student portfolios after establishing criteria to measure Improved Student Achievement and standardizing a review process.

(III) A school district may measure Improved Student Achievement using school-wide, standardized annual assessment data for instructional personnel assigned responsibility for an entire school instead of some subset of students.

(IV) The Department will provide technical assistance as requested by school districts to aid its submission, review, or approval of an instructional personnel assessment system, or

development of criteria for evaluating professional performance. The Department shall make available a model method to assist the effort of school districts to adopt an equitable and valid model for measuring Improved Student Achievement. In addition, the Department annually will make available to districts a percentile-based ranking of instructors for state-assessed subjects and grades by use of a model method constructed annually from input scores of students statewide.

4.3. Copies of assessment data collection procedures, instruments, and forms.

5. A statement of how the system or assessment data is used and weighted for instructional personnel contract decisions and as the basis for awarding any performance-based compensation, such as under Section 1012.22(1)(c), Florida Statutes, and the Special Teachers are Rewarded program, Ch. 2006-26, s. 3, Laws of Florida.

6. An Education Competence Demonstration System pursuant to Section 1012.56(7), Florida Statutes, based primarily on the Educator Accomplished Practices to allow beginning teachers to meet certification requirements.

(2) Initial Review Process. Upon submission, the Department of Education shall review and evaluate the performance assessment systems for compliance with the requirements and conditions of Sections 1012.34 and 1012.22 231-29, Florida Statutes, and this rule. The Department shall prepare and send to each school district a written notice that identifies any specific deficiencies of the proposed system. Upon request from a school district, the Department shall provide assistance to the district for the purpose of making bringing the system into compliance as quickly as possible.

(3) Approval Process. The Department of Education shall send written notification to the school district superintendent of the status of the school district's instructional personnel assessment system. The status designation shall be as follows:

(a) Approved. An instructional personnel assessment system shall be designated approved if all requirements and conditions of for instructional personnel assessment systems pursuant to Sections 1012.34 and 1012.22 231-29, Florida Statutes, and the provisions of this rule are met.

(b) Conditionally Approved Pending. Final approval consideration of a submitted instructional personnel assessment system that fails to satisfy one or more of the requirements or conditions for instructional personnel assessment systems pursuant to Section 1012.34, Florida Statutes, and this rule may be delayed pending revision of deficiencies noted by the Department in writing. The period for redressing deficiencies will be specified by the Department not to exceed 90 days shall be designated conditionally approved if the school district's assessment system fails to satisfy one or more of the requirements and conditions for instructional personnel assessment systems pursuant to Section 231-29, Florida Statutes, and the provisions of this rule. Upon revision,

The school district's shall resubmit the proposed system to the Department for consideration of whether a system designated as conditionally approved shall be revised so that it is in full compliance with all requirements and conditions have been met for instructional personnel assessment systems pursuant to Section 1012.34 231-29, Florida Statutes, and the provisions of this rule, within the time period specified by the Department, and resubmitted to the Department for review and approval.

(c) Disapproved. A school district's system designated as conditionally approved shall be designated as disapproved if the requirements and conditions for instructional personnel assessment systems pursuant to Section 1012.34 231-29, Florida Statutes, and the provisions of this rule are not met within the time period specified by the Department in the written notice of the submitted system's pending granting the conditionally approved status of the system.

(4) Modifications to an Instructional Personnel Assessment System. If a school board makes substantive modifies eations to an approved school district instructional personnel assessment system, the modified system shall be submitted to the Department of Education for review and approval pursuant to this rule.

Specific Authority 1001.02, 1012.34 229.053, 231-29 FS. Law Implemented 1012.22(1)(c), 1012.34 230-23(5)(e), 231-29 FS., Ch. 2006-26, s. 3, Laws of Florida. History--New 6-19-01, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pamela Stewart, Deputy Chancellor, K-12 Educator Quality,
325 West Gaines Street, Room 514, Tallahassee, Florida 32399
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Cheri Yecke, Chancellor, K-12
Public Schools, 325 West Gaines Street, Tallahassee, Florida
32399

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: February 23, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: November 9, 2006 and December 15,
2006

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."

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.:
49B-1.008

RULE TITLE:
Registered Office, Office Hours and
Copies of Documents

PURPOSE AND EFFECT: Rule 49B-1.008, F.A.C., contains the rules relating to the Description of the Organization of Tampa Bay Water. These rules provide for the address of the registered office of Tampa Bay Water, which has changed.

SUMMARY: Change of address of Tampa Bay Water.

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: 119.07, 123.53(5), 120.535, 120.54, 163.01, 189.416, 373.1962 FS.

LAW IMPLEMENTED: 119.07, 120.53(1)(a), (5), 120.535, 120.54, 163.01, 189.416, 373.1962 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: Koni Cassini, Director, Finance and Administration, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-1.008 Registered Office, Office Hours and Copies of Documents.

(1) The registered office of Tampa Bay Water is:

2575 Enterprise Road
Clearwater, FL 33763-1102

~~2535 Lanmark Drive, Suite 211~~
~~Clearwater, FL 34624~~

(2) through (3) No change.

Specific Authority 119.07, 120.53(5), 120.535, 120.54, 163.01, 189.416, 373.1962 FS. Law Implemented 119.07, 120.53(1)(a), (5), 120.535, 120.54, 163.01, 189.416, 373.1962 FS. History—New 1-11-81, Formerly 16M-1.08, Amended 5-8-88, 3-6-91, 5-24-93, Formerly 16M-1.008, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Koni Cassini

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Maxwell

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2007

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.: 49B-1.011
RULE TITLE: Delegation of Authority by the Board of Directors

PURPOSE AND EFFECT: Rule Chapter 49B-1, F.A.C., contains the rules relating to the Description of the Organization of Tampa Bay Water. These rules provide for the specific responsibilities that the Board of Directors has delegated to the General Manager. The Board of Directors has increased the dollar amounts of materials and services that the General Manager can secure without Board approval, and the amount in controversy relating to the settlement of regulatory and legal actions that the General Manager can act on with concurrence of the General Counsel and the Chairman.

SUMMARY: Changes of delegations of authority to the General Manager.

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: 163.01 FS.

LAW IMPLEMENTED: 373.1962 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: Koni Cassini, Director, Finance and Administration, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-1.011 Delegation of Authority by the Board of Directors.

The Board of Directors, as head of Tampa Bay Water, have delegated authority as follows:

(1) To the General Manager to hire or terminate the employment of any employee; to recommend and maintain personnel rules which shall be made available for public inspection; to secure services, labor or material costing \$50,000.00 ~~\$25,000.00~~ or less; to prepare proposed budgets; to advise the Board on budget matters; to keep correct minutes and records of Board meetings; to prepare agendas; to represent Tampa Bay Water at public hearings; to serve as the registered agent of Tampa Bay Water; and to act in accordance with Board direction on behalf of the Board with the concurrence of the General Counsel and Chairman in matters relating to settlement of regulatory and legal actions when the total amount in controversy does not exceed \$50,000.00,

\$25,000.00 settlement of property acquisition matters, initiation of legal action, and referral of amended requests for hearing to the Division of Administrative Hearings.

(2) No change.

Specific Authority 163.01(5)(h) FS. Law Implemented 373.1962 FS. History--New 1-1-81, Formerly 16M-1.11, Amended 5-8-88, 3-6-91, Formerly 16M-1.011, Amended 7-29-97, 12-21-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Koni Cassini

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Maxwell

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2007

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.: 49B-1.0131
RULE TITLE: Public Information and Inspection and Copying of Records

PURPOSE AND EFFECT: Rule Chapter 49B-1, F.A.C., contains the rules relating to the Description of the Organization of Tampa Bay Water. These rules provide for the address of the registered office of Tampa Bay Water. The address of the registered office of Tampa Bay Water has changed.

SUMMARY: Change of address for Tampa Bay Water.

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: 119.07, 120.53, 120.54, 163.01, 189.416, 373.1962 FS.

LAW IMPLEMENTED: 119.021, 119.07, 120.53, 120.54, 163.01, 189.416, 373.1962 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: Koni Cassini, Director, Finance and Administration, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-1.0131 Public Information and Inspection and Copying of Records.

(1) Requests for information, disclosure of public records, or copies of public records shall be directed to the General Manager of Tampa Bay Water at the following address:

Tampa Bay Water
2575 Enterprise Road
Clearwater, FL 33763-1102

~~2535 Lanmark Drive, Suite 211~~
~~Clearwater, FL 34624~~

(2) through (4) No change.

Specific Authority 119.07(1)(a), (b), 120.53(5), 120.54, 163.01, 189.416, 373.1962 FS. Law Implemented 119.021, 119.07(1)(a), (b), 120.53(5), 120.54, 163.01, 189.416, 373.1962 FS. History--New 5-17-93, Formerly 16M-1.0131, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Koni Cassini

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Maxwell

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2007

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.: 49B-2.038
RULE TITLE: Personnel Rule Manual Incorporated by Reference

PURPOSE AND EFFECT: Rule 49B-2.038, F.A.C., currently incorporates by reference the Personnel Rule Manual of Tampa Bay Water. Tampa Bay Water proposes to update its Personnel Rule Manual in order to ensure compliance with certain Federal laws and regulations, State statutes, and other regulations and restrictions, and to provide policy guidance for the agency.

SUMMARY: Update of Personnel Rule Manual.

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: 163.01(5)(g) FS.

LAW IMPLEMENTED: 120.54(1)(i), 163.01, 373.1962, 373.1963 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: Holly Wells, Manager, Human Resources, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-2.038 Personnel Rule Manual Incorporated by Reference.

The Tampa Bay Water "Personnel Rule Manual," dated ~~November 30, 2006~~ ~~July 15, 2004~~, is hereby incorporated by reference into this chapter and is available from Tampa Bay Water upon request.

Specific Authority 163.01(5)(~~g~~)(~~h~~) FS. Law Implemented 120.54(1)(i), 163.01, 373.1962, 373.1963 FS. History--New 7-29-97, Amended 9-17-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Holly Wells

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Maxwell

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2007

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.: 49B-3.001
RULE TITLE: Procedures for Contracting for Professional Services

PURPOSE AND EFFECT: This rule will be repealed because contracting procedures will be addressed in the Purchasing Policy and Procedures Manual, which is incorporated by reference by Rule 49B-3.003, F.A.C.

SUMMARY: Repeal of this 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: 120.53(5), 163.01, 287.017, 287.055(3), 373.1962 FS.

LAW IMPLEMENTED: 120.53(5), 163.01, 287.017, 287.055(3), 373.1962 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: Koni Cassini, Director, Finance and Administration, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-3.001 Procedures for Contracting for Professional Services.

Specific Authority 120.53(5), 163.01, 287.017, 287.055(3), 373.1962 FS. Law Implemented 120.53(5), 163.01, 287.017, 287.055(3), 373.1962 FS. History--New 1-11-81, Formerly 16M-3.01, Amended 6-15-92, 5-24-93, Formerly 16M-3.001, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Koni Cassini

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Maxwell

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2006

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.: 49B-3.002
RULE TITLE: Procedures for Resolving Contract Bid Disputes

PURPOSE AND EFFECT: This rule will be repealed because contracting procedures will be addressed in the Purchasing Policy and Procedures Manual, which is incorporated by Rule 49B-3.003, F.A.C.

SUMMARY: Repeal of this 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: 373.1962 FS.

LAW IMPLEMENTED: 120.53(5) 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: Koni Cassini, Director, Finance and Administration, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-3.002 Procedures for Resolving Contract Bid Disputes

Specific Authority 373.1962 FS. Law Implemented 120.53(5) FS. History--New 3-30-82, Formerly 16M-3.02, 16M-3.002, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Koni Cassini
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Jerry Maxwell
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 18, 2006

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.: 49B-3.003
RULE TITLE: Purchasing Policy and Procedures Manual Incorporated by Reference

PURPOSE AND EFFECT: Chapter 49B-3, F.A.C., currently contains Tampa Bay Water’s policies and procedures relating to the purchase of commodities and services. Tampa Bay Water proposes to update its current rules, policies, and procedures relating to purchasing commodities and services in the form of a Purchasing Policy and Procedures Manual, incorporate by reference this manual into Chapter 49B-3, F.A.C., and repeal existing Rules 49B-3.001, 49B-3.002 and 49B-3.004, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Purchase of commodities and services.

SPECIFIC AUTHORITY: 163.01(5)(i) FS.

LAW IMPLEMENTED: 120.54(1)(i), 163.01, 287.017, 287.055, 287.057, 373.1962, 373.1963 FS.

IF REQUESTED WITHIN 14 DAYS BY AN AFFECTED PERSON AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Koni Cassini, Director, Finance and Administration, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

49B-3.003 Purchasing Policy and Procedures Manual Incorporated by Reference.

The Tampa Bay Water “Purchasing Policy and Procedures Manual,” dated December 18, 2006, is hereby incorporated by reference into this chapter and is available from Tampa Bay Water upon request.

Specific Authority 163.01(5)(i) FS. Law Implemented 120.54(1)(i), 163.01, 287.017, 287.055, 287.057, 373.1962, 373.1963 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Koni Cassini
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Jerry Maxwell
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 18, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 26, 2007

REGIONAL UTILITY AUTHORITIES

Tampa Bay Water – A Regional Water Supply Authority

RULE NO.: 49B-3.004
RULE TITLE: Procedures for the Award of Design-Build Contracts

PURPOSE AND EFFECT: This rule will be repealed because contracting procedures will be addressed in the Purchasing Policy and Procedures Manual, which is incorporated by reference by Rule 49B-3.003, F.A.C.

SUMMARY: Repeal of this 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: 163.01, 287.055(3), 373.1962 FS.

LAW IMPLEMENTED: 163.01, 287.055(3), 373.1962 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: Koni Cassini, Director, Finance and Administration, Tampa Bay Water, 2575 Enterprise Road, Clearwater, FL 33763-1102, (727)796-2355

THE FULL TEXT OF THE PROPOSED RULE IS:

49B-3.004 Procedures for the Award of Design-Build Contracts.

Specific Authority 163.01, 287.055(3), 373.1962 FS. Law Implemented 163.01, 287.055(3), 373.1962 FS. History–New 6-15-92, Formerly 16M-3.004, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Koni Cassini

NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Jerry Maxwell

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: December 18, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

RULE NO.: 61-20.002
RULE TITLE: Inactive Status and Renewal of Manager’s License

PURPOSE AND EFFECT: The Council proposes the rule amendment to delete unnecessary language and add language to clarify the reactivation and renewal of an inactive license.

SUMMARY: The rule amendment will delete unnecessary language and add language to clarify the reactivation and renewal of an inactive license.

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: 455.271, 468.433, FS.

LAW IMPLEMENTED: 455.271, 468.433, 468.435, 468.436, FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Regulatory Council for Community Association Managers, 1940 North Monroe Street, Tallahassee, Florida 32399-0762

THE FULL TEXT OF THE PROPOSED RULE IS:

61-20.002 Inactive Status Expiration and Renewal of Manager's License.

~~(1) For purposes of license renewal, the licensee shall notify the division in writing of any change of address.~~

~~(2) All active and non-active licenses shall be valid, unless suspended or revoked, for a term as provided below:~~

~~(a) All licenses issued after June 30, 1992 through June 30, 1994 will expire September 30, 1994. All licenses issued after June 30, 1994 through June 30, 1996 will expire September 30, 1996.~~

~~(b) All licenses issued after June 30, 1996 through June 30, 1998 will expire September 30, 1998.~~

~~(3) Active License Renewal. Licensees shall apply for renewal of their license on a BPR form 33-003, COMMUNITY ASSOCIATION MANAGER'S LICENSE RENEWAL NOTICE, incorporated herein by reference and effective 7-12-94. Applications shall be postmarked by September 30 of each renewal year. The application shall include a non-refundable renewal fee in the amount of \$50. Applications for renewal postmarked after September 30 and no later than October 31 shall include both the renewal fee and a non-refundable late renewal fee of \$25. If a renewal application is postmarked after October 31 of the renewal year, the license shall be deemed expired. In order to be complete, the application shall have all appropriate spaces completed, be signed by the licensee and include a money order or sufficiently funded check in the correct amount.~~

~~(a) No active license shall be renewed unless the applicant has, between the date of issuance of the license and by September 30 of the renewal year, completed continuing education contact hour courses approved by the division pursuant to the following schedule:~~

~~1. If the applicant is issued a license during the period October 1, 1988 through March 31, 1993, 16 hours of continuing education courses are required. The continuing education courses must include 4 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~2. If the applicant is issued a license during the period April 1, 1993 through September 30, 1993, 12 hours of continuing education courses are required. The continuing education courses must include 4 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~3. If the applicant is issued a license during the period October 1, 1993 through March 31, 1994, 8 hours of continuing education courses are required. The continuing education courses must include 2 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~4. If the applicant is issued a license during the period April 1, 1994 through June 30, 1994, 4 hours of continuing education courses are required. The continuing education courses must include 2 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~5. If the applicant is issued a license during the period July 1, 1994 through March 31, 1995, 16 hours of continuing education courses are required. The continuing education courses must include 4 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~6. If the applicant is issued a license during the period April 1, 1995 through September 30, 1995, 12 hours of continuing education courses are required. The continuing education courses must include a 4 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~7. If the applicant is issued a license during the period October 1, 1995 through March 31, 1996, 8 hours of continuing education courses are required. The continuing education courses must include 2 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~8. If the applicant is issued a license during the period April 1, 1996 through June 30, 1996, 4 hours of continuing education courses are required. The continuing education courses must include 2 hours of approved update seminars as provided in Rule 61-20.508, F.A.C.~~

~~(b) Any community association manager's license which is lost or destroyed will be replaced at no charge to the licensee if a statement attesting to the loss or destruction is submitted to the division.~~

(e) ~~Any community association manager licensee, who changes his or her legal name, shall submit a copy of the court judgment or decree authorizing the name change to the Division. The Division shall reissue a license at no charge to the licensee.~~

(1)(4) Changing an Active License to an Inactive Non-active License and Renewal of an Inactive License. A licensee desiring to maintain a valid license but who will not be providing community association management services for a period of time, may change apply to have the status of his/her license ~~changed~~ to inactive status, as provided in Department of Business and Professional Regulation Rule 61-6.003, F.A.C non-active.

(a) In order to place an active license in a non-active status the licensee shall complete BPR form CAM-43.05, Community Association Change of Status Application, effective 10/23/2002, available on the DBPR Web site or by written request addressed to the Council at 1940 N. Monroe Street, Tallahassee, Florida 32399 33-002, COMMUNITY ASSOCIATION MANAGER STATUS CHANGE FORM, incorporated herein by reference and effective 11-23-93. A non-refundable non-active license fee of \$15 \$40 shall accompany the application as set forth in Rule 61-20.504, F.A.C., unless the status change request is made at the end of a renewal period, and the licensee shall surrender his active license by mailing it to the division along with the application form.

(b) All inactive non-active licenses shall expire at the end of the renewal period (on September 30 of the next even numbered year) in accordance with the schedule set forth in paragraphs (2)(a)-(c) of this rule. Inactive Non-active licensees shall be notified by the Department of Business and Professional Regulation pursuant to Section 455.273, Florida Statutes and instructed how to proceed apply for renewal of their licenses on a BPR form 33-003, Community Association Manager's License Renewal Notice. Renewals Applications shall be completed on or before postmarked by September 30 of each renewal year. Completion of a renewal requires payment of the The application shall include a non-refundable renewal fees in the amount of \$15 40. The first failure to renew on or before September 30 of a renewal year shall result in a delinquent status license pursuant to Department of Business and Professional Regulation Rule 61-6.002, F.A.C. If a renewal application is postmarked after October 31 of the renewal year, the license shall be deemed expired. Failure to renew a delinquent status license results in a null license pursuant to Department of Business and Professional Regulation subsection 61-6.004(1), F.A.C.

(2)(5) Changing an Inactive License to an Active License. Reactivation of a Non-active License.

(a) If the license has been in an inactive non-active status for a period of 2 years or less, and the licensee seeks to reactivate the license, then the licensee shall complete an

approved 2 hour update seminar as provided in paragraph 61-20.508(3)(a), F.A.C., within 1 year prior to ~~the date of application for reactivation.~~

(b) If the license has been in an inactive non-active status for a period of more than 2 years and the licensee seeks to reactivate the license, the licensee shall complete 4 hours of an approved update seminar as provided in paragraph 61-20.508(3)(a), F.A.C., within 1 year prior to ~~the date of application for reactivation.~~

(c) In order to reactivate from a non-active status, the licensee shall complete BPR form CAM-4305, Community Association Manager Change of Status Application, effective 10/23/2002, available on the DBPR Web site, or by written request from the Council at 1940 N. Monroe Street, Tallahassee, FL 32399 33-002, Community Association Manager Status Change Form as referenced in subsection (4) of this rule. The reactivated license shall expire in accordance with the schedule set forth in accordance with the schedule set forth in Rule 61-6.001, F.A.C., and be renewed at the end of the current renewal period, along with all other licenses paragraphs (2)(a)-(c) of this rule. Renewal of a reactivated license shall be in accordance with subsection (3) of this rule. For the purpose of license renewal, the date of issuance of a reactivated license is the date the division reactivates the license. A reactivated license is not considered an initial license for purpose of subsection 61-20.508(6), F.A.C. A reactivated license holder may apply update seminar credits accepted by the division for reactivation of an inactive non-active license under paragraphs (5)(a) and (b) of this rule toward the continuing education update seminar requirements for active license renewal provided in paragraph 61-20.508(3)(a), F.A.C. of this rule if the renewal period is within two years or less of the reactivation.

(3)(6) Renewal of a Delinquent license whether Expiration of Active License or Inactive Non-active License. shall require submission Renewal applications submitted to the Council on or before division in proper form and postmarked after September 30 and no later than October 31 shall to be processed for renewal. If September 30 October 31 falls on a Saturday, Sunday, or legal holiday, the time period is deemed extended to the next working day. Proper form shall mean the renewal is complete, application has been completed, all applicable fees are paid and all applicable continuing education contact hours have been completed prior to submission. If a renewal application is submitted postmarked after September 30 October 31 of the renewal year, the license becomes null shall be deemed expired. The holder of a null license desiring to perform community association management services shall be required to make an initial application to the division and proceed as provided in Rules 61-20.001 and 61-20.502, F.A.C.

Specific Authority 455.271, 468.433 FS. Law Implemented 455.271, 468.433, 468.435, 468.436 FS. History—New 5-5-88, Amended 3-22-89, 2-5-91, 12-28-92, Formerly 7D-55.006, Amended 11-23-93, 7-12-94, 10-9-94, 1-29-96, Formerly 61B-55.006, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Regulatory Council for Community Association Managers
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Regulatory Council for Community Association Managers
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 8, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-31.001
RULE TITLE: Fees
PURPOSE AND EFFECT: The Board proposes the rule amendment in order to remove language concerning approval of continuing education courses.

SUMMARY: Language regarding approval of continuing education courses will be deleted from 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: 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS.

LAW IMPLEMENTED: 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 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: Voloria Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-31.001 Fees.

(1) through (13) No change.

(14) For approval of continuing education provider status, one hundred dollars (\$100.00), valid for two years. ~~For approval of continuing education courses, twenty-five dollars (\$25.00), per credit hour, up to a maximum of two hundred fifty dollars (\$250.00).~~

Specific Authority 455.213(2), 455.219(4), 455.271, 473.305, 473.312 FS. Law Implemented 119.07, 455.219(4), 455.271, 473.305, 473.312, 473.313 FS. History—New 12-4-79, Amended 2-3-81, 3-4-82, 11-6-83, 3-29-84, Formerly 21A-31.01, Amended 6-4-86, 9-16-87, 2-1-88, 8-30-88, 2-6-89, 12-28-89, 8-16-90, 4-8-92, 12-2-92, Formerly 21A-31.001, Amended 11-4-93, 2-14-95, 11-3-97, 6-22-98, 10-28-98, 7-15-99, 4-3-02, 1-27-04, 1-31-05, 7-14-05, 4-9-06, 12-3-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Accountancy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 9, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 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 NOS.: 62-4.001, 62-4.200, 62-4.510
RULE TITLES: Scope of Part I, Scope of Part II, Scope of Part III

PURPOSE AND EFFECT: The proposed rule amends the scope sections within each of the three Parts of Chapter 62-4, F.A.C., as part of concurrent rulemaking that will implement a new environmental resource permitting (ERP) program in the geographical area of the Northwest Florida Water Management District, generally referred to as the "Panhandle." The new ERP program is authorized and mandated by Section 373.4145, F.S., as amended by Chapter 2006-208, Laws of Florida. A new rule Chapter 62-346, F.A.C., is being proposed through separate rulemaking to implement the Phase I of a new ERP program in the Panhandle. The proposed rule amendments to Chapter 62-4, F.A.C., in conjunction with the proposed Chapter 62-346, F.A.C., will modify the applicability of certain provisions of Chapter 62-4, F.A.C., which will apply to the proposed stormwater management systems in the Panhandle under Section 373.4145(1), F.S. Provisions that will continue to apply include the definitions in Rule 62-4.020, F.A.C., and the water quality provisions in Rules 62-4.242 through 62-4.244, F.A.C., related to anti-degradation, Outstanding Florida Waters, exemptions from water quality criteria, and mixing zone criteria. Most of the other provisions in Chapter 62-4, F.A.C., including those related to fees and general conditions applicable to general permits, are either addressed in Chapter 62-346, F.A.C., or are not applicable to the ERP program, and therefore are not applicable to the ERP program. However, the proposed rule will preserve the

applicability of Chapter 62-4, F.A.C., to wetland resource, stormwater, and management and storage of surface water programs grandfathered under Sections 373.414 and 373.4145(6), F.S.

OGC No.: 06-1119 (formerly Docket No. 02-01R)

SUMMARY: The proposed rule amendments will amend the scope sections in each of the three Parts of Chapter 62-4, F.A.C., which currently provide that all of the provisions of Chapter 62-4, F.A.C., are generally applicable to stormwater and wetland resource permit activities regulated under Part IV of Chapter 373, F.S., within the Panhandle. The proposed rule, together with the concurrent adoption of Chapter 62-346, F.A.C., will identify only a limited number of provisions of Chapter 62-4, F.A.C., which will apply to the proposed Phase I ERP program in the Panhandle. However, the amendments will preserve the applicability of the three Parts to wetland resource, stormwater, and management and storage of surface waters activities grandfathered under Sections 373.414(11), (12)(a), (13), (14), (15), (16) and 373.4145(6), F.A.C.

This rulemaking is associated with the concurrent proposed adoption of Chapter 62-346 and amendments to Chapter 62-341, F.A.C., which are being published separately.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared on this rule. However, the rule only affects where (in which rule) applicable rule provisions are found, and the proposed amendments are not, by themselves, expected to have any economic costs.

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: 373.4145 FS.

LAW IMPLEMENTED: 373.4145 FS.

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

DATE AND TIME: Wednesday, April 4, 2007, 10:00 a.m., ET
PLACE: Department of Environmental Protection, Room 609, Bob Martinez Center (formerly Twin Towers), 2600 Blair Stone Road, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 hours before the workshop/meeting by contacting: Mary Van Tassel at (850)245-8486. 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: Alice Heathcock, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500,

Tallahassee, Florida 32399-2400; telephone (850)245-8483; e-mail: Alice.Heathcock@dep.state.fl.us; or facsimile (850)245-8499

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I GENERAL

62-4.001 Scope of Part I.

This part sets forth procedures on how to obtain a permit from the State of Florida Department of Environmental Protection. This part also provides requirements and procedures for the issuance, denial, renewal, extension, transfer, modification, suspension, and revocation of any permit required by the Department of Environmental Protection. Except as otherwise provided in Chapter 62-343 or 62-346, F.A.C., or in the rules of the water management districts adopted by reference under Chapter 62-330, F.A.C., this Part ~~The provisions of this Part, except for Rule 62-4.020, F.A.C., and subsection 62-4.050(4), F.A.C., shall not apply to activities regulated under Part IV of Chapter 373, F.S.;~~ However, this Part shall continue to apply to except those activities in the geographical territory of the Northwest Florida Water Management District and those activities grandfathered under Sections 373.414(11), (12)(a), (13), (14), (15), and (16), and 373.4145(6), F.S. This Part shall not preclude the application of any other permit requirements or procedures for certain types of facilities as contained in other chapters of Title 62, F.A.C.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026, 373.043, 373.044, 373.109, 373.113, 373.4145, 373.418, 403.021, 403.031, 403.061, 403.087, 403.088 FS. Law Implemented 373.026, 373.044, 373.109, 373.409, 373.413, 373.4135, 373.414(9), (11), (12)(a), (13), (14), (15), (16), 373.4145, 373.418, 373.421, 403.021, 403.031, 403.061, 403.087, 403.088 FS. History—New 5-17-72, Formerly 17-4.01, Amended 8-31-88, Formerly 17-4.001, Amended 7-4-95, 10-1-07.

PART II SPECIFIC PERMITS; REQUIREMENTS

62-4.200 Scope of Part II.

This Part sets forth additional requirements for certain Department permits, exemptions from permitting, requirements for mixing zones and zones of discharge, and related requirements. Except as otherwise provided in the rules adopted by reference under Chapter 62-330 or by Chapters 62-343 or 62-346, F.A.C., this Part ~~The provisions of this Part, except for Sections 62-4.242, 62-4.243, 62-4.244, and 62-4.246, F.A.C., shall not apply to activities regulated under Part IV of Chapter 373, F.S.;~~ However, this Part shall continue to apply to except those activities in the geographical territory of the Northwest Florida Water Management District, and to those activities grandfathered under Sections 373.414(11), (12)(a), (13), (14), (15), and (16), and 373.4145(6), F.S.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026, 373.043, 373.044, 373.109, 373.113, 373.4145, 373.418, 403.021, 403.031, 403.061, 403.088 FS. Law Implemented 373.026, 373.044, 373.109, 373.409, 373.413, 373.4135, 373.414(9), (11), (12)(a), (13), (14), (15), (16), 373.4145, 373.418, 403.021, 403.031, 403.061, 403.087, 403.088 FS. History—New 5-17-72, Formerly 17-4.20, Amended 8-31-88, Formerly 17-4.200, Amended 7-4-95 10-1-07.

PART III PROCEDURES FOR GENERAL PERMITS

62-4.510 Scope of Part III.

This Part defines general permits and establishes the procedures for persons who may wish to use a general permit, except that the procedures for any person who may wish to use a general permit for a source of air pollutant emissions, and all conditions of such a general permit, are established at Chapters 62-210 and 62-213, F.A.C. The provisions of this Part shall not apply to activities regulated under Part IV of Chapter 373, F.S.; However, this Part shall continue to apply to except those activities in the geographical territory of the Northwest Florida Water Management District and to those activities grandfathered under Sections 373.414(11), (12)(a), (13), (14), (15), and (16), and 373.4145(6), F.S.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026, 373.043, 373.044, 373.109, 373.113, 373.4145, 373.418, 403.021, 403.031, 403.061, 403.087, 403.814(1) FS. Law Implemented 373.026, 373.044, 373.109, 373.409, 373.413, 373.4135, 373.414(9), (11), (12)(a), (13), (14), (15), (16), 373.4145, 373.418, 403.021, 403.031, 403.061, 403.087, 403.088, 403.814, 403.702-.73, 403.851-.864 FS. History—New 7-8-82, Formerly 17-4.51, Amended 8-31-88, Formerly 17-4.510, Amended 4-18-95, 7-4-95, 10-16-95, 4-16-01 10-1-07.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 30, 2006, on the Department’s Official Internet Noticing site at <http://tlhora6.dep.state.fl.us/onw/pilot.asp>

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-341.021	Definitions
62-341.201	Policy and Purpose
62-341.215	General Conditions for All Noticed General Permits
62-341.443	General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Bridge Alteration, Replacement, Maintenance and Operation

62-341.447

62-341.448

62-341.483

62-341.485

62-341.487

62-341.601

62-341.900

PURPOSE AND EFFECT: Chapter 62-341, F.A.C., currently establishes 35 noticed general permits under the environmental resource permit (ERP) program authorized by Part IV of Chapter 373, F.S., within the Suwannee River, St. Johns River, Southwest Florida, and South Florida Water Management Districts. The chapter is proposed to be amended to make available certain noticed general permits within the geographical area of the Northwest Florida Water Management District (NFWFMD), generally referred to as the “Panhandle,” as authorized and mandated by Section 373.4145, F.S., as amended by Chapter 2006-208, Laws of Florida. Specifically, Section 373.4145(3)(d), F.S., requires the new ERP rules in the Panhandle to “incorporate the exemptions and general permits that are effective under this part and have been enacted by rule by the department and other water management districts, including the general permits authorized by Section 403.814, F.S.”

This rulemaking is proposed as part of a concurrent rulemaking to adopt a new Chapter 62-346, F.A.C., which will implement the ERP rules applicable to stormwater management systems in the Panhandle. Chapter 62-346, F.A.C., provides the procedures for the public to provide notice to the Department or NFWFMD of their intent to use a noticed general permit adopted under Chapter 62-341, F.A.C., as well as the procedures that will be used by these agencies to review and act on such notices. Because nine of the general permits

General Permit to the Florida Department of Transportation, Counties, and Municipalities for Minor Activities Within Existing Rights-of-Way or Easements
 General Permit to Counties and Municipalities to Pave Existing County or Municipally Owned and Maintained Roads, including the Repair and Replacement of Bridges that are Part of the Roadway
 General Permit to the Department and Water Management Districts to Conduct Minor Activities
 General Permit to the Department and Water Management Districts for Environmental Restoration or Enhancement
 General Permit to the Department and Water Management Districts to Change Operating Schedules for Water Control Structures
 General Permit for Clam and Oyster Culture on Sovereignty Submerged Lands Aquaculture Leases

Noticed General Permit Forms

authorize activities that cannot take place in the Panhandle, only 26 of the noticed general permits in Chapter 62-341, F.A.C., will be available for activities within the Panhandle.

In addition to the above, six of the existing general permits are being amended to authorize additional activities, to clarify existing language, or to conform the rule to statutory authority. One general permit, Rule 62-341.601, F.A.C., which authorizes clam and oyster culture operations within sovereignty submerged lands aquaculture leases, is proposed to be repealed in recognition that Section 373.406(8), F.S., which was enacted after adoption of this general permit. Section 373.406(8), F.S., now exempts these activities from regulation under Part IV of Chapter 373, F.S., effectively making Rule 62-341.601, F.A.C., obsolete. Amendments also are proposed to the procedures and forms that are used to provide notice of use of the general permits.

Many general permits that are analogous to the noticed general permits adopted under Chapter 62-341, F.A.C., also are in effect under Rules 62-312.800 through 62-312.825, F.A.C. Those general permits, and most of the noticed general permits adopted under Chapter 62-341, F.A.C., authorize activities involving dredging and filling in wetlands and other surface waters. Some of those activities also involve stormwater management systems that will require a permit under Chapter 62-346, F.A.C. Section 373.4145(1), F.S., requires a phased approach to adopting rules that implement the ERP program in the Panhandle. The first phase of rules proposed under Chapter 62-346, F.A.C., is limited to regulation of stormwater management systems. Other than the activities authorized under Chapter 62-341, F.A.C., activities involving dredging and filling will continue to be regulated under Chapter 62-312, F.A.C., until the second phase of rules under Section 373.4145(1)(b), F.S., are adopted, which cannot occur any sooner than January 1, 2008. Therefore, persons who propose to construct, alter, maintain or repair, abandon, or remove stormwater management systems that involve dredging or filling in surface waters of the state, as defined in Rule 62-312.030, F.A.C., can choose to use either an applicable general permit adopted under Chapter 62-312, F.A.C., or a noticed general permit Chapter 62-341, F.A.C., until the second phase of rules become effective.

Rule 62-341.900, F.A.C., is being amended to provide that the form to notice the Department or NFWFMD of the intended use of a general permit is Form 62-312.900(6). This form is already used to notice the Department of uses of general permits adopted under the wetland resource permit program in Chapter 62-312, F.A.C. This form is being retained because, as mentioned above, many of the general permits involve dredge and fill activities. Most dredge and fill activities within the Panhandle require a separate permit or authorization from the U.S. Army Corps of Engineers (Corps). The Corps is familiar

with the proposed form, and its continued use under the new ERP program in the Panhandle will avoid confusion and the need to adopt new operational procedures with the Corps.

The overall effect of this rulemaking will be to streamline and expedite the process of authorizing projects that qualify for the general permits within the Panhandle. It also will reduce costs to the public. The noticed general permit under Chapter 62-341, F.A.C., constitutes the requisite dredge and fill and stormwater management system authorizations. The availability of these general permits in the Panhandle will not reduce environmental protection because general permits are authorized under Sections 373.4145, F.S., to have only minimal adverse individual and cumulative impacts.

OGC NO.: 06-1124 (formerly Docket No. 02-06R)

SUMMARY: The proposed amendments to Chapter 62-341, F.A.C., will enable applicants to use noticed general permits under the new ERP program authorized under Section 373.4145, F.A.C., that are applicable in the Panhandle.

The amendments to Rule 62-341.021, F.A.C., provide that applicable definitions under Chapters 62-330 and 62-346, F.A.C., will apply to the noticed general permits in Chapter 62-341, F.A.C.

The amendments to Rule 62-341.201, F.A.C., provide that the procedures for reviewing notices to use general permits adopted under Chapter 62-341, F.A.C., will include those adopted under Rule 62-346.090, F.A.C.

The amendments to subsections 62-341.215(4) and (8), F.A.C., remove a reference to Chapter 62-330, F.A.C., and add a reference to Rule 62-346.130, F.A.C., so that general conditions related to rights and transfers of permits will apply to noticed general permits in the Panhandle.

The amendments to Rules 62-341.443 and .447, F.A.C., expand and clarify, respectively, certain roadway and bridge activities authorized to the Florida Department of Transportation, counties, and municipalities. These changes were requested by the Florida Department of Transportation, and will be applicable statewide once rulemaking to amend the corresponding noticed general permit rules in the water management districts is completed. The amendment to Rule 62-341.448, F.A.C., removes, within the geographical area of the NFWFMD, the applicability of this noticed general permit to counties. This limitation is required in recognition that Section 373.4145(3)(e), F.A.C., retains an exemption for counties in the Panhandle to repair, stabilize, or pave county owned and maintained roads and repair or replace bridges that are part of the roadway in accordance with the limitations and conditions of Section 403.813(2)(t), F.S. The amendments will retain applicability of this noticed general permit to municipalities in the Panhandle, and will not affect the applicability of this general permit to counties and municipalities outside of the Panhandle.

The amendments to Rules 62-341.483, .485 and .487, F.A.C., will enable the Department and NFWFMD to qualify for general permits that authorize certain minor activities, environmental restoration or enhancement projects, or changes to operating schedules for water control structures, respectively. These general permits currently are issued only to the water management districts outside of the Panhandle because the Suwannee River, St. Johns River, Southwest Florida, and South Florida Water Management Districts have their own noticed general permit rules that authorize the Department to perform the above activities. However, under Section 373.4145, F.S., the NFWFMD will be using rules adopted by the Department to implement the ERP program in the panhandle. Therefore the Department's Chapter 62-341, F.A.C., rule must be amended to enable the NFWFMD to authorize general permit activities conducted by the Department.

The existing general permit in Rule 62-341.601, F.A.C., which authorizes certain clam and oyster culture activities within sovereignty submerged lands aquaculture leases is being repealed for the reasons set forth above.

Rule 62-341.900, F.A.C., is being amended to provide that the form to notice the Department or NFWFMD of the intended use of a general permit is Form 62-312.900(6).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs has not been prepared. Section 373.4145(3)(d), F.S., mandates that the Department extend the applicability of existing noticed general permits to ERP activities in the Panhandle.

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: 373.026(7), 373.043, 373.118, 373.406(5), 373.4145, 373.418, 373.06(9)(b), 403.061, 403.0877, 403.805, 403.815 FS.

LAW IMPLEMENTED: 120.54(5)(a), 120.60(2), 120.60(6), 161.041, 161.055, 253.03, 253.77, 258.42, 258.43, 373.026(7), 373.043, 373.109, 373.118, 373.129, 373.136, 373.403, 373.406(5), 373.409, 373.413, 373.414, 373.4141, 373.4145, 373.416, 373.418, 373.419, 373.421, 373.422, 373.423, 373.426, 373.427, 373.4275, 373.428, 373.429, 380.06(9)(b), 403.031, 403.061, 403.062, 403.803, 403.812, 403.813, 403.815, 403.816, 403.927, 403.9328 FS.

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

DATE AND TIME: Wednesday, April 4, 2007, 10:00 a.m., ET
PLACE: Florida Department of Environmental Protection, Rm. 609, Bob Martinez Center (formerly Twin Towers), 2600 Blair Stone Rd., Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Mary Van Tassel at (850)245-8486. 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: Alice Heathcock, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400; telephone (850)245-8483; e-mail: Alice.Heathcock@dep.state.fl.us; or facsimile (850)245-8499

THE FULL TEXT OF THE PROPOSED RULES IS:

62-341.021 Definitions.

Except as otherwise provided in this chapter, the definitions of Chapters 62-330 and 62-346, F.A.C., including those incorporated by reference in Chapter 62-330, F.A.C., shall apply to this chapter. Additionally, as used in this chapter:

(1) through (22) No change.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.416, 373.418, 373.426 FS. History—New 10-3-95, Amended 10-1-07.

PART II NOTICED GENERAL ENVIRONMENTAL RESOURCE PERMITS

62-341.201 Policy and Purpose.

(1) The purpose of Part II of this chapter is to provide noticed general environmental resource permits for those activities which have been determined to have minimal impacts to the water resources of the District, both individually and cumulatively, when conducted in compliance with the terms and conditions of the general permit. Unless specifically provided for in the general permit, mitigation is neither necessary nor required for activities that qualify for noticed general permits. Persons wishing to use one or more of the general permits under this Part shall be subject to the notice provisions of Rule 62-343.090, F.A.C., or, for activities within the geographical area of the Northwest Florida Water Management District, Rule 62-346.090, F.A.C., before any activity is conducted as authorized herein. The general conditions provided pursuant to Rule 62-341.215, F.A.C., shall apply to all of the noticed general permits in this Part. Strict compliance with all of the terms, conditions, requirements, limitations and restrictions applicable to a desired noticed general permit under this Part is required to qualify for such a permit.

(2) No change.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.416, 373.418, 373.426 FS. History–New 10-3-95, Amended 2-19-03, 10-1-07.

62-341.215 General Conditions for All Noticed General Permits.

(1) through (3) No change.

(4) This general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit ~~as provided by Chapter 62-330, F.A.C.~~

(5) through (7) No change.

(8) This permit shall not be transferred to a third party except pursuant to Rule 62-343.130, F.A.C., or, for activities within the geographical area of the Northwest Florida Water Management District, Rule 62-346.130, F.A.C. The permittee transferring the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located.

(9) through (14) No change.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.044, 373.406(5), 373.118(1), 373.129, 373.136, 373.413, 373.414(9), 373.4145, 373.416, 373.422, 373.423, 373.429 FS. History–New 10-3-95, Amended 10-1-07.

62-341.443 General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Bridge Alteration, Replacement, Maintenance and Operation.

(1) A general permit is hereby granted to the Florida Department of Transportation, counties and municipalities to conduct the activities described below:

(a) The replacement, ~~or~~ modification, or maintenance of bridges and approaches where the combined total of dredging and filling, both temporary and permanent, in wetlands and other surface waters does not exceed 0.50 acre (2023 square meters or 0.2 hectares); and

(b) No change.

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

(a) through (k) No change.

(l) This general permit authorizes dredging and filling for the replacement, ~~or~~ modification, or maintenance of a bridge and approaches for a specific crossing of a wetland or other surface water. Replacement or modification of a bridge that includes changes in the configuration of the bridge and fill

areas due to changes in materials, construction techniques, or meeting current construction codes or safety standards are authorized under this permit. Any connecting road expansion or alteration associated with such replacement or modification must be authorized by a separate general or individual permit under Part IV of Chapter 373, F.S., as applicable, before the start of construction; and

(m) No change.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.414(9), 373.416, 373.418, 373.419 FS. History–New 10-3-95, Amended 10-1-07.

62-341.447 General Permit to the Florida Department of Transportation, Counties, and Municipalities for Minor Activities Within Existing Rights-of-Way or Easements.

(1) A general permit is hereby granted to the Florida Department of Transportation, counties, and municipalities to conduct the activities described below:

(a) The extension of existing culverts and crossing approaches to accommodate widening of the roadway where excavation or deposition of material shall not exceed 1000 cubic yards (765 cubic meters) in wetlands and other surface waters and the area from which material is excavated or to which material is deposited shall not exceed a total of 0.25 acres (1012 square meters or 0.1 hectares) at any one culverted crossing location (project site). The 1000 cubic yardage (765 cubic meters) limitation shall be separately applied to excavation and deposition of material;

(b) through (f) No change.

(2) through (3) No change.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.414(9), 373.416, 373.418, 373.419 FS. History–New 10-3-95, Amended 10-1-07.

62-341.448 General Permit to Counties and Municipalities to Pave Existing County or Municipally Owned and Maintained Roads, including the Repair and Replacement of Bridges that are Part of the Roadway.

A general permit is hereby granted to counties and municipalities to pave existing county or municipally owned and maintained roads that lack a permanent pavement surface, such as concrete or asphalt. This includes: the repair and stabilization of such roads in preparation of paving; the repair or replacement of bridges and culverts that are part of the roadway; construction or alteration of associated stormwater management systems; other work reasonably necessary to pave the road; and the construction, alteration, operation, and maintenance of systems and works authorized under this general permit, provided all of the terms and conditions below

are met. However, within the geographic area of the Northwest Florida Water Management District, the general permit shall only be applicable to municipalities.

(1) through (6) No change.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.418, 403.805(1), 403.813(2)(t) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.414(9), 373.416, 373.418, 373.419, 403.813(2)(t) FS. History–New 2-22-07, Amended 10-1-07.

62-341.483 General Permit to the Department and Water Management Districts to Conduct Minor Activities.

A general permit is hereby granted to the Department and Water Management Districts to conduct the activities described below:

(1) through (3) No change.

(4) When the activity under this general permit is to be conducted by the Department within the geographical area of the Northwest Florida Water Management District, the Department shall provide the notice and any fee required by paragraph 62-346.090(2)(b), F.A.C., to the District, and the District shall process the notice as provided in subsection 62-346.090(2), F.A.C.

(5) When the activity under this general permit is to be conducted by the Department within the geographical area of the Suwannee River Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, or South Florida Water Management District, the Department shall provide the notice and any required fee to the appropriate District which shall process the notice according to Rule 40B-400.483, 40C-400.483, 40D-400.483 or 40E-400.483, F.A.C., as applicable, and according to any related procedural rules of the District.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.414(9), 373.4145, 373.416, 373.418 FS. History–New 10-3-95, Amended 10-1-07.

62-341.485 General Permit to the Department and Water Management Districts for Environmental Restoration or Enhancement.

(1) A general permit is hereby granted to the Department and water management districts for the construction, alteration, operation, maintenance, removal and abandonment of systems to implement Department or District environmental restoration or enhancement projects.

(2) through (3) No change.

(4) When the activity under this general permit is to be conducted by the Department within the geographical area of the Northwest Florida Water Management District (District), the Department shall provide the notice and any fee required

by paragraph 62-346.090(2)(b), F.A.C., to the District, and the District shall process the notice as provided in subsection 62-346.090(2), F.A.C.

(5) When the activity under this general permit is to be conducted by the Department within the geographical area of the Suwannee River Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, or South Florida Water Management District, the Department shall provide the notice and any required fee to the appropriate District which shall process the notice according to Rule 40B-400.485, 40C-400.485, 40D-400.485 or 40E-400.485, F.A.C., as applicable, and according to any related procedural rules of the District.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.418, 403.805(1), FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.414(9), 373.4145, 373.416, 373.418, 373.426 FS. History–New 10-3-95, Amended 10-1-07.

62-341.487 General Permit to the Department and Water Management Districts to Change Operating Schedules for District Water Control Structures.

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

(2) No change.

(3) When the activity under this general permit is to be conducted by the Department within the geographical area of the Northwest Florida Water Management District (District), the Department shall provide the notice and any fee required by paragraph 62-346.090(2)(b), F.A.C., to the District, and the District shall process the notice as provided in subsection 62-346.090(2), F.A.C.

(4) When the activity under this general permit is to be conducted by the Department within the geographical area of the Suwannee River Water Management District, St. Johns River Water Management District, Southwest Florida Water Management District, or South Florida Water Management District, the Department shall provide the notice and any required fee to the appropriate District which shall process the notice according to Rule 40B-400.487, 40C-400.487, 40D-400.487 or 40E-400.487, F.A.C., as applicable, and according to any related procedural rules of the District.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.414(9), 373.4145, 373.416, 373.418 FS. History–New 10-3-95, Amended 10-1-07.

62-341.601 General Permit for Clam and Oyster Culture on Sovereignty Submerged Lands Aquaculture Leases.
Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.414(9), 373.416, 373.418 FS. History–New 10-3-95, Repealed 10-1-07.

PART III FORMS

62-341.900 Noticed General Permit Forms.

(1) Notice to use the general permit in Rule 62-341.500, F.A.C., Notice of Intent to Construct a Minor Silvicultural System, shall be made on Form 62-341.900(1), effective 9-4-05, which is hereby adopted and incorporated by reference.

(2) Except for notices filed within the geographical area of the Northwest Florida Water Management District – Sections A, B, and G, and Attachments 1 through 6 of the “Joint Application for: Environmental Resource Permit/Authorization to use Sovereign Submerged Lands/Federal Dredge and Fill Permit,” as adopted in subsection 62-343.900(1), F.A.C., on July 4, 1995, shall be used to submit all notices to use a noticed general permit under this chapter, except for the notice referenced in Rule 62-341.500, F.A.C.

(3) For notices filed within the geographical area of the Northwest Florida Water Management District – “Notice of Intent to Construct Works Pursuant to a Wetland Resource General Permit,” Form 62-312.900(6), as authorized by Rule 62-4.530, F.A.C., and incorporated by reference in subsection 62-312.900, F.A.C., shall be used to submit all notices to use a noticed general permit under this chapter, except for the notice referenced in Rule 62-341.500, F.A.C.

(4)(~~3~~) Copies of forms used by the Department to provide notice to use the general permits in this Chapter may be obtained from the Internet at: <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>, or from any local district or branch office of the Department (see <http://www.dep.state.fl.us/secretary/dist/>), or by writing to the Submerged Lands and Environmental Resources Office, MS 2500, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or any local district or branch office of the Department.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.406(5), 373.414(9), 373.4145, 373.418 FS. Law Implemented 373.118, 373.406(5), 373.413, 373.414(9), 373.4145, 373.416, 373.418, 373.426 FS. History–New 9-4-05, Amended 10-1-07.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 30, 2006, on the Department’s Official Internet Noticing site at <http://tlhora6.dep.state.fl.us/onw/pilot.asp>

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-346.010	Policy and Purpose
62-346.020	General Provisions
62-346.030	Definitions
62-346.040	Formal Determinations of the Landward Extent of Wetlands and Surface Waters
62-346.050	Permits Required
62-346.051	Exemptions from Permitting
62-346.060	Conceptual Approval Permits
62-346.070	Procedures to Prepare Applications and Notices for Permits and to Request Verification of Qualification for an Exemption.
62-346.071	Fees
62-346.080	Submittal of Applications and Notices for Permits and Petitions for Formal Determinations to Department and NFWFMD Offices
62-346.090	Processing of Notices and Applications
62-346.091	Documents Incorporated by Reference
62-346.095	Operation and Maintenance
62-346.100	Modification of Permits
62-346.110	Duration of Permits
62-346.120	Permit Extensions
62-346.130	Transfer of Ownership or Permit
62-346.140	Suspension and Revocation
62-346.301	Conditions for Issuance of Individual Permits
62-346.381	General and Special Limiting Conditions
62-346.451	Emergency Authorizations and Actions
62-346.900	Environmental Resource Permit Forms

PURPOSE AND EFFECT: A new Chapter 62-346, F.A.C. is proposed to implement the new Environmental Resource Permitting Program (ERP) within the geographical area of the Northwest Florida Water Management District (NFWFMD), generally referred to as the “Panhandle.” This rule is authorized and mandated by Section 373.4145, F.S., as amended by Chapter 2006-208, Laws of Florida. This rule has

been developed jointly by the Department and the NFWMD in accordance with Section 373.4145, F.S., but will be adopted by the Department and may be implemented by the NFWMD without further adoption pursuant to Section 120.54, F.S.

This rule is written to address the phased approach to rulemaking as provided in Section 373.4145(1), F.S. That section requires the first phase of rulemaking, as reflected in the proposed Chapter 62-346, F.A.C., and herein called the "Phase I rules," to be limited to regulating the construction, operation, alteration, maintenance, abandonment, and removal of stormwater management systems. Section 373.4145(1)(a), F.S., provides that the Phase I rules are intended to update existing stormwater rules within the Panhandle through improving water quality and flood protection, while at the same time being based on the least restrictive stormwater quality and quantity measures and criteria adopted in the rules of the Suwannee River, St. Johns River, Southwest Florida, and South Florida Water Management Districts, while taking into consideration the differing physical and natural characteristics of the area. The Phase I rules do not govern the regulation of dredge and fill activities. These activities will continue to be regulated under Chapter 62-312, F.A.C. until the "Phase II rules" are adopted under Section 373.4145(1)(b), F.S. The Phase II rules can be implemented no sooner than January 1, 2008. Therefore, in addition to any permits required under Chapter 62-346, F.A.C., any activities involving stormwater management systems that also involve dredging or filling in surface waters of the state (as defined in Rule 62-312.030, F.A.C.) must obtain applicable separate authorization under Chapter 62-312, F.A.C., Chapter 62-25, F.A.C., the existing stormwater rule in the Panhandle, will continue to apply to activities that are grandfathered under Section 373.4145(6), F.S., but a separate permit under Chapter 62-25, F.A.C., will not be required for activities that are regulated under Chapter 62-346, F.A.C.

Section 373.4145(3), F.S., provides that "The rules adopted under subsection (1), as applicable, shall: (a) Incorporate the exemptions in subsection 373.406 and 403.813(2) and (d) Incorporate the exemptions and general permits that are effective under this part and have been enacted by rule by the department and other water management districts, including the general permits authorized by Section 403.814, F.S." In accordance with those provisions, the Department has included in the Phase I rules all of the exemptions and general permits that are available in the rest of the state.

Section 373.4145(6), F.S., exempts certain additional activities from regulation under Chapter 62-346, F.A.C., such as the construction and use of a single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger common plan of development or sale proposed by the applicant, and does not involve wetlands or other surface waters, and the regulation of agriculture activities, which continue to be governed by the

exemptions in Section 373.406, F.S., or are otherwise regulated by the NFWMD in accordance with Chapters 40A-44, F.A.C.

OGC NO.: 06-1126

SUMMARY: The proposed new Chapter 62-346, F.A.C., provides for the permits that are required for the construction, alteration, operation, maintenance or repair, abandonment, or removal of stormwater management systems within the geographic area of the NFWMD, applicable exemptions, the procedures for submitting applications and notices, fees, criteria for evaluation of permits, general and limiting conditions, forms, and related provisions for operation and maintenance, modification, duration, extension, transfer, and suspension or revocation of permits.

Chapter 62-346, F.A.C., provides for two types of permits for stormwater management systems – noticed general permits and individual permits. The rules also provide for conceptual approval permits, which are a type of individual permit. However, conceptual approval permits may be applied for and will be reviewed and acted on only after the adoption of the Phase II rules.

Noticed general permits are issued by Chapter 62-341, F.A.C., which is an existing rule chapter currently in use in the environmental resource permit program that is in effect under Part IV of Chapter 373, F.S., throughout Florida, except within the Panhandle. This chapter is being amended concurrently with the adoption of Chapter 62-346, F.A.C., to enable applicable general permits to be used in the Panhandle.

The construction, alteration, operation, maintenance or repair, abandonment, or removal of stormwater management systems that do not qualify for one or more of the exemptions in Chapter 62-346, F.A.C., or a noticed general permit under Chapter 62-341, F.A.C., will require an individual permit. These permits are individually reviewed and acted upon in accordance with the procedures and criteria established in Chapter 62-346, F.A.C.

Proposed Rule 62-346.091, F.A.C., incorporates by reference documents that are used in implementing Chapter 62-346, F.A.C., including a new Applicant's Handbook comprised of Volumes I and II, the Operating Agreement between the Department and the NFWMD, forms, and other documents used in implementing the rules. The format and number system used in the rules and the incorporation of an Applicant's Handbook is the same as is used by the water management districts outside of the Panhandle.

Applicant's Handbook Volume I explains and provides detail on the criteria and procedures for the submittal, processing, and evaluation of applications for activities regulated under Chapters 62-341 and 62-346, F.A.C. This volume is applicable to all applications for stormwater management permits within the Panhandle, but is not applicable to applications under Chapters 62-25 or 62-312, F.A.C. Specifically, it provides discussion and details on the general program background,

statutes and rules, regulated activities, permit types and exemptions, processing and review procedures for applications and notices, permit duration, procedures applicable to modifying and transferring permits, compliance inspections and enforcement, erosion and sediment control practices, and operation and maintenance of systems. Volume I also includes four Appendices, which contain a copy of the Operating Agreement executed between the Department and the NFWFMD, statutory and rule definitions and exemptions related to the implementation of Chapters 62-341 and 62-346, F.A.C., copies of the forms, and a model operation and maintenance document.

Applicant's Handbook Volume II provides detailed design and performance requirements for all engineered stormwater management systems that require an individual permit under Chapter 62-346, F.A.C. Generally, this includes systems involving impervious area and total project area exceeding certain thresholds. Volume II also provides detail on general design and performance criteria applicable to all engineered stormwater management systems and additional stormwater quantity (flood control) criteria applicable to systems that exceed certain thresholds, best management practices for the design of stormwater management systems, methodology and design examples for various stormwater management systems, and special basin criteria for systems located in sensitive Karst areas.

The "Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection" provides a division of responsibilities between the Department and the NFWFMD for reviewing and taking agency action on applications and notices for permits, petitions for variances, and verification of exemptions under Chapters 62-341 and 62-346, F.A.C., as well as the responsibilities for compliance monitoring and enforcement. It also provides that the Department will be responsible for performing and taking agency action on all petitions for formal determinations applications for mitigation banks, and Ecosystem Management Agreements within the Panhandle.

Forms have been developed to submit an application or notice for a permit, to notice the commencement of construction, to certify as-built conformance with the permit, to convert permits from the construction phase to an operation and maintenance phase, to transfer a permit, and to notice the addition of systems to a previously permitted regional stormwater management system.

This rulemaking is associated with concurrent proposed amendments to Chapters 62-4 and 62-341, F.A.C., which are being published separately.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A statement of estimated regulatory costs was not prepared for this rule. However, the Department prepared a detailed evaluation of the estimated costs of

implementing a comprehensive ERP program regulating stormwater management systems and dredge and fill activities in the Panhandle. A copy of this information is available from Mary Van Tassel, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400; telephone (850)245-8486; e-mail: Mary.VanTassel@dep.state.fl.us; or facsimile (850)245-8499.

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

SPECIFIC AUTHORITY: 373.026(7), 373.043, 373.118, 373.4145, 373.418, 380.06(9)(b), 403.0877 FS.

LAW IMPLEMENTED: 373.026(7), 373.043, 373.109, 373.118, 373.406(5), 373.409, 373.413, 373.4132, 373.4141, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.423, 373.426, 373.428, 373.429, 380.06(9)(b) FS.

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

DATE AND TIME: Wednesday, April 4, 2007, 10:00 a.m., ET
PLACE: Florida Department of Environmental Protection, Room 609, Bob Martinez Center (formerly Twin Towers), 2600 Blair Stone Road, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Mary Van Tassel at (850)245-8486. 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: Alice Heathcock, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida 32399-2400; telephone (850)245-8483; e-mail: Alice.Heathcock@dep.state.fl.us; or facsimile (850)245-8499

THE FULL TEXT OF THE PROPOSED RULES IS:

**ENVIRONMENTAL RESOURCE PERMITTING IN
NORTHWEST FLORIDA**

62-346.010 Policy and Purpose.

This rule provides the requirements for processing environmental resource permits, under Section 373.4145(1)(a), F.S., and for obtaining formal determinations of the landward extent of wetland and surface waters under Chapter 62-340, F.A.C., within the geographical jurisdiction of the Northwest Florida Water Management District (NFWFMD or District). This rule does not preclude the application of any other permit requirements or procedures in other chapters of Title 62, F.A.C.

The requirements of this chapter are in addition to and not in lieu of the requirements specified in the Applicant's Handbook Volumes I and II incorporated by reference in Rule 62-346.091 or Chapter 62-341, F.A.C.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.418, 373.4145, 403.805(1) FS. Law Implemented 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 373.423, 373.426, 373.428, 373.429 FS. History—New 10-1-07.

62-346.020 General Provisions.

(1) This chapter applies to activities within the geographical jurisdiction of the NFWFMD and shall be implemented by both the Department of Environmental Protection ("Department") and the NFWFMD pursuant to Section 373.4145, F.S. The Department and NFWFMD have entered into an Operating Agreement (see definition in Rule 62-346.030, F.A.C.), determining which agency is responsible for reviewing and taking agency action on specified categories of applications and otherwise implementing the provisions of Part IV of Chapter 373 within the geographical jurisdiction of the NFWFMD.

(2) Except for those activities that continue to be governed by Chapter 62-25 or 62-312, F.A.C., pursuant to Section 373.4145, F.S., all Department actions concerning environmental resource permit applications, suspensions, revocations, modifications, extensions, and transfers, including emergency actions, associated with activities regulated under Part IV of Chapter 373, F.S., are governed by this chapter, the Applicant's Handbook Volumes I and II, Chapter 62-341, F.A.C., and the Operating Agreement.

(3) The responsibilities for the review, agency action, and compliance and enforcement of activities that cross the boundary of the NFWFMD will be governed by interagency agreement as provided in Section 373.046(6), F.S. Applications for activities requiring a permit under this chapter that extend into the area of the Suwannee River Water Management shall be submitted to and processed by the district office of the Department or water management district covering the location where the majority of the project activities are proposed, and in accordance with the Operating Agreement between the Department and the applicable water management district as described in subsection (1) above, or in Chapter 62-113, F.A.C.

(4) Issuance of an environmental resource permit by the Department does not convey to the permittee, or create in the permittee, any property right or any interest in the real property that is the subject of the application, nor does it authorize any entrance upon or activities on property that is not owned or controlled by the permittee.

(5) Until the effective date of the rules adopted under Section 373.4145(1)(b), F.S., dredging, filling, and construction in, on or over surface waters of the state require separate permits under Chapter 62-312, F.A.C.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.414, 373.4145, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.413, 373.414, 373.4145, 373.416, 373.421, 373.426 FS. History—New 10-1-07.

62-346.030 Definitions.

Except as otherwise defined in this chapter or in the Applicant's Handbook, the definitions in Rules 62-4.020, 62-340.200 and 62-341.021, F.A.C., and the following definitions apply to this chapter and to the Applicant's Handbook Volumes I and II. However, the definitions in subsections 62-346.030(8), (11), (17), (20), (24), (29), (35), (39), and (42), F.A.C., are not applicable under this rule until the effective date of the rules adopted under Section 373.4145(1)(b), F.S.:

(1) "Abandon" or "Abandonment" means cessation of use and maintenance activities or responsibility for a system, or part of a system.

(2) "Activity" or "Activities," means construction, alteration, operation, maintenance, abandonment, or removal of any stormwater management system. Upon the effective date of the rules adopted under Section 373.4145(1)(b), F.S., this term will also include dredging or filling in, on, or over surface waters of the state.

(3) "As-Built Drawings" means plans certified by a registered professional that accurately represent the constructed condition of a system.

(4) "Borrow pit" means a location where the soil or other natural deposits on or in the earth are removed from their location so as to make them suitable for use to build up land. No processing is involved, except for the use of a scalping screen to remove large rocks, wood, and other debris. The materials are used more for their bulk than their intrinsic qualities.

(5) "Common plan of development or sale" means:

(a) Any activity initiated by the surveying, planning, or platting of contiguous real property, where such activity facilitates the advancement of a common type of land use (such as multiple residences, a residential subdivision, or phased site development) on the subject property, or

(b) Any activity on contiguous real property that comprises a total land area divided into three or more lots, parcels, tracts, tiers, blocks, sites, or units, and is served by a common road or road network or common surface water management system within that land area. Areas of land that are divided by public or private roads are considered contiguous if such areas are under one ownership or control.

(6) "Compensating treatment" means treatment for water quality in an offsite location when physical conditions do not allow for treatment on-site equivalent to that otherwise required by this chapter and the Applicant's Handbook.

(7) “Completion of Construction” means the time when all components of the stormwater management system are installed and fully functional.

(8) “Conceptual Approval Permit” means a type of individual permit issued by the Department, approving the concept of a master plan for a surface water management system, which is binding upon the Department and the permittee.

(9) “Construction” means any activity including land clearing, earth-moving or the erection of structures that will result in the creation of a system.

(10) “Control elevation” means the lowest elevation at which water can be released through a control device.

(11) “Creation” means the establishment of new wetlands or surface waters by conversion of other landforms.

(12) “Department” means the Department of Environmental Protection. However, when implemented by the NFWFMD, the term “Department” means “Northwest Florida Water Management District.”

(13) “Detention” means the collection and temporary storage of stormwater with subsequent gradual release of the stormwater.

(14) “Discharge” means to allow or cause water to flow.

(15) “Embedded” means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the state by minimal displacement of bottom material and without the creation of a trench, or trough, through the use of techniques such as plowing-in, weighing-in, or non-trenching jets.

(16) “Engineered Stormwater Management System” means a stormwater management system that requires a design by a registered professional and incorporation of performance standards necessary to meet the water quality, water quantity, and general design criteria established in Applicant’s Handbook Volume II.

(17) “Enhancement” means improving the ecological value of wetlands, other surface waters, or uplands that have been degraded in comparison to their historic condition.

(18) “Entrenchment” means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the state by the creation of a defined trench, or trough, through the use of such devices as clamshells, dredges, trenching jets, or other devices that produce similar results.

(19) “Environmental resource permit” means a noticed general or individual permit for a surface water management system issued pursuant to Part IV of Chapter 373, F.S.

(20) “Existing nesting or denning” refers to an upland site that is currently being used for nesting or denning, or is expected, based on reasonable scientific judgment, to be used for such purposes based on past nesting or denning at the site.

(21) “Impervious” means land surfaces that do not allow, or minimally allow, the penetration of water; such as building roofs, normal concrete and asphalt pavements, and some fine grained soils such as clays. For purposes of implementing

stormwater treatment quality and quantity requirements, the calculation of the amount of impervious surface does not include wetlands or other surface waters.

(22) “Insect control impoundment dikes” means artificial structures, including earthen berms, constructed and used to impound wetlands or other surface waters for the purpose of insect control.

(23) “Isolated wetland” means any area that is determined to be a wetland in accordance with Chapter 62-340, F.A.C., but that does not have any connection via wetlands or other surface waters to the waters as defined in Rule 62-312.030, F.A.C.

(24) “Listed species” means those animal species that are endangered, threatened or of special concern and are listed in Rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C., and those plant species listed in 50 Code of Federal Regulation 17.12, when such plants are located in a wetland or other surface water.

(25) “Littoral zone” means that portion of a wet detention pond that is designed to contain rooted aquatic plants.

(26) “Materials,” when used in the context of “filling,” means matter of any kind, such as, sand, clay, silt, rock, dredged material, construction debris, solid waste, pilings or other structures, ash, and residue from industrial and domestic processes. The term does not include the temporary use and placement of lobster pots, crab traps, or similar devices or the placement of oyster cultch pursuant to Section 597.010, F.S.

(27) “Mine” means an area of land that is related to the removal from its location of solid substances of commercial value found in natural deposits on or in the earth, so as to make the substances suitable for commercial, industrial, or construction use, but does not include excavation solely in aid of on-site farming or on-site construction, nor the process of prospecting. As used in this chapter, this does not include mining operations conducted in conjunction with land development activities that will result in residential, industrial, commercial, or land fill uses at the end of construction. Borrow pits that use extracted material in on-site locations are not mines. For the purposes of this definition, “on-site” means, “within the contiguous limits of an area of land under one ownership or control, and upon which agricultural or construction activities are taking place. Areas of land that are divided by public or private roads are considered contiguous if such areas are under one ownership or control.”

(28) “Mitigation” means an action or series of actions to offset the adverse impacts that would otherwise cause an activity regulated under Part IV of Chapter 373, F.S., to fail to meet the criteria set forth in Section 373.414(1), F.S. Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof.

(29) “Mitigation bank,” “Mitigation bank permit,” “Mitigation banker” or “banker,” “Mitigation credit,” and “Mitigation service area” shall have the same meanings as provided in Chapter 62-342, F.A.C.

(30) “Off-line” means the storage of a specified portion of the stormwater in such a manner so that subsequent runoff in excess of the specified volume of stormwater does not flow into the area storing the initial stormwater.

(31) “Operate” or “operation” means to cause or to allow a system to function. This term also means a phase of an environmental resource permit authorizing the operation and maintenance of a surface water management system in accordance with the terms and conditions of the permit.

(32) “Operating Agreement,” refers to the “Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection,” incorporated by reference in Rule 62-346.091, F.A.C. A copy of the Operating Agreement can be obtained by contacting a district or branch office of the Department or NFWFMD, or at the Internet sites of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, or NFWFMD at <http://www.nwfwmd.state.fl.us/permits/ruleform.htm>.

(33) “Other surface waters” means surface waters as described and delineated pursuant to Rule 62-340.600, F.A.C., as ratified by Section 373.4211, F.S., other than wetlands.

(34) “Permanent pool” means that portion of a wet detention pond that normally holds water (e.g., between the normal water level and the pond bottom), excluding any water volume claimed as wet detention treatment volume pursuant to Section 8.5 of the Applicant’s Handbook Volume II.

(35) “Preservation” means the protection of wetlands, other surface waters or uplands from adverse impacts by placing a conservation easement or other comparable land use restriction over the property or by donation of fee simple interest in the property.

(36) “Project area” means the area being modified or altered in conjunction with a proposed activity requiring a permit, including all areas that are part of the stormwater management system.

(37) “Prospecting” means activities considered normal and reasonably necessary to retrieve samples of subsurface geologic sediments for the specific purpose of locating, mapping, and determining the quality and quantity of sedimentary strata or natural deposits.

(38) “Regional stormwater management facility” means a system designed, constructed, operated, and maintained to accept and treat stormwater from multiple parcels and projects within the drainage area served by the regional facility, where the term “drainage area” refers to the land or development that is served by or contributes stormwater to the regional facility.

(39) “Regional watershed” means a watershed as delineated in Rule 62-342.200, F.A.C.

(40) “Registered Professional” means a professional registered or licensed in Florida with the necessary expertise in the fields of hydrology, hydrogeology, drainage, flood control, erosion and sediment control, and stormwater pollution control

to design and certify the stormwater management systems under review. Examples of registered professionals are professional engineers licensed under Chapter 471, F.S., professional landscape architects licensed under Chapter 481, F.S., professional surveyors and mappers under Chapter 472, F.S., and professional geologists licensed under Chapter 492, F.S.

(41) “Remove” or “removal” means cessation of use and maintenance activities for a system, or part of a system, accompanied by elimination of all or part of the system.

(42) “Restoration” means converting back to a historic condition those wetlands, surface waters, or uplands that currently exist as a land form that differs from the historic condition.

(43) “Retention” means a system designed to prevent the discharge of a given volume of stormwater runoff into surface waters in the state by complete on-site storage. Examples include systems such as excavated or natural depression storage areas, pervious pavement with subgrade, or above ground storage areas.

(44) “Routine custodial maintenance” – means those activities described in section 3.4.2.5(b) in Applicant’s Handbook Volume I.

(45) “Seasonal high ground water table elevation” means the highest level of the saturated zone in the soil in a year with normal rainfall.

(46) “Seasonal high water level” means the elevation to which the ground or surface water can be expected to rise due to a normal wet season.

(47) “Semi-impervious” means land surfaces that partially restrict the penetration of water; such as porous concrete and asphalt pavements, limerock, and certain compacted soils.

(48) “Sensitive karst areas” means those areas described in Section 17 and Appendix A of Applicant’s Handbook Volume II, where the Floridan aquifer is at or near the land surface.

(49) “Stormwater” means the flow of water that results from, and that occurs immediately following, a rainfall event.

(50) “Surface water management system” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms “surface water management system” or “system” include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S. However, until the effective date of the rules authorized by Section 373.4145(1)(b), F.S., the term “surface water management system” is limited to stormwater management systems.

(51) “Surface waters of the state” means those surface waters regulated pursuant to Rule 62-312.030, F.A.C.

(52) “System” – see “Surface Water Management System.”

(53) “Total land area” means land holdings under common ownership that are contiguous, or land holdings that are served by common surface water management facilities.

(54) “Traversing work” means any artificial structure or construction that is placed in or across a stream, or other watercourse, or an impoundment.

(55) “Underdrain” means a drainage system installed beneath a stormwater holding area to improve the infiltration and percolation characteristics of the natural soil when permeability is restricted due to periodic high water table conditions or the presence of layers of fine textured soil below the bottom of the holding area. These systems usually consist of a system of interconnected below-ground conduits such as perforated pipe, which simultaneously limit the water table elevation and intercept, collect, and convey stormwater that has percolated through the soil.

(56) “Underground exfiltration trench” or “exfiltration trench” means a below-ground system consisting of a conduit such as perforated pipe surrounded by natural or artificial aggregate that is utilized to percolate stormwater into the ground.

(57) “Wet detention” means the collection and temporary storage of stormwater in a permanently wet impoundment in such a manner as to provide for treatment through physical, chemical, and biological processes with subsequent gradual release of the stormwater.

(58) “Wetlands stormwater management system” means a stormwater management system that incorporates those wetlands described in Section 10.3 of the Applicant’s Handbook Volume II into the stormwater management system to provide stormwater treatment.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.414, 373.415, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.019, 373.117, 373.403, 373.413, 373.414, 373.415, 373.416, 373.418, 373.421, 373.4211, 373.426, 403.0877, 403.813(2) FS. History–New 10-1-07.

62-346.040 Formal Determinations of the Landward Extent of Wetlands and Surface Waters.

Formal determinations of the landward extent of wetlands and other surface waters shall be performed in accordance with the procedures in Rule 62-343.040, F.A.C.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.4145, 373.421(2), 403.0877 FS. Law Implemented 373.4145, 373.421(2) FS. History–New 10-1-07.

62-346.050 Permits Required.

(1) Unless an activity qualifies for an exemption under Rule 62-346.051, F.A.C., or a noticed general permit under Chapter 62-341, F.A.C., an individual permit under this chapter must be obtained from the Department. However, dredging and filling in, on, or over surface waters of the state remain subject to the requirements of Chapter 62-312, F.A.C., and permits

under this chapter are not required for such activities until the effective date of the rules adopted under Section 373.4145(1)(b), F.S.

(2) Activities qualify for a noticed general permit if they meet the criteria in Chapter 62-341, F.A.C.

(3) The construction, alteration, operation, maintenance or repair (excluding routine custodial maintenance), abandonment, or removal of an activity that requires a permit under this chapter but is not eligible for a noticed general permit will require an individual permit. This includes all applications for conceptual approval permits. Applications for individual permits will be reviewed and acted upon in accordance with subsection 62-346.090(2), F.A.C.

(4) Permits for construction or alteration must be converted to an operation and maintenance phase in accordance with Rule 62-346.095, F.A.C.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.118, 373.409, 373.413, 373.4132, 373.4145, 373.416, 373.426, 403.0877 FS. History–New 10-1-07.

62-346.051 Exemptions from Permitting.

(1) The activities set forth in this section do not require an environmental resource permit under this chapter or Chapter 62-341, F.A.C., as applicable, and may be conducted without notice to the Department, unless otherwise specifically provided herein or in Section 373.406, 373.4145(3) or 403.813, F.S., or in Chapters 62-25 or 62-312, F.A.C. The performance of activities in accordance with the provisions of the exemptions set forth in this section does not relieve the person or persons who are using the exemption or who are constructing or otherwise implementing the activity from meeting the permitting, authorization, or performance requirements of other rules of the Department, the Board of Trustees, the water management districts, or other federal, state, or local governmental agencies. Any person proposing an activity under this section is also advised that such activity is subject to obtaining any required Works of the District permit pursuant to Chapter 40A-6, F.A.C., if the work involves connection with, placement of structures in or across, or otherwise makes use of Works of the District.

(2) Activities that are governed by Section 373.4145(6), F.S., which are regulated in accordance with the statutory and rule provisions applicable under Section 373.4145, F.S. (1994).

(3) Activities Below Threshold Criteria. The construction, alteration, operation, and maintenance of a whole and complete project that meets all the thresholds in paragraphs (a) through (c), all the criteria in paragraph (d), and is not part of a larger common plan of development or sale:

(a) Less than or equal to 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;

(b) Less than or equal to 5,000 square feet of building area or other impervious area not subject to vehicular traffic;

(c) Less than or equal to one acre total project area; and

(d) Such project also must meet all of the following criteria:

1. There is no direct discharge into Outstanding Florida Waters, as listed in Rule 62-302.700, F.A.C. A discharge is not direct if it enters another water body or is located outside of the boundary of the Outstanding Florida Water, provided that, in either case, there is sufficient mixing to prevent a lowering of the existing ambient water quality in the Outstanding Florida Water.

2. Will not cause adverse water quantity impacts to receiving waters and adjacent lands;

3. Will not cause adverse flooding to on-site or off-site property;

4. Will not cause adverse impacts to existing surface water storage and conveyance capabilities;

5. Will not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522 and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.; and

6. Will not cause adverse secondary impacts to the water resources. Until the effective date of rules required under Section 373.4145(1)(b), F.S., this shall be limited to not causing a violation of water quality standards and not lowering or raising seasonal water levels in adjacent surface waters of the state to an extent that prevents the stormwater management system from functioning as designed, not adversely altering normal water level fluctuations in adjacent surface waters of the state, and not otherwise adversely impacting the maintenance of surface or ground water levels, or surface water flows established pursuant to Section 373.042, F.S.

Notwithstanding the above provisions of this subsection, an individual permit is required for the construction, alteration, operation, maintenance, abandonment, or removal of any dry storage facility for 10 or more vessels that is functionally associated with a boat launching area, including when the dry storage facility does not involve any work within the landward extent of surface waters of the state.

(4) Bridges, Driveways, and Roadways.

(a) The replacement or repair of existing open-trestle foot bridges and vehicular bridges in accordance with Section 403.813(2)(1), F.S.

(b) The construction or maintenance of culverted driveway or roadway crossings and bridges of wholly artificial, non-navigable drainage conveyances, provided that:

1. The construction project area does not exceed one acre and the construction is for a discrete project that is not part of a larger plan of development that requires permitting under this chapter;

2. The artificial drainage conveyance in its existing condition is not more than 4 feet deep, measured from the top of bank to the bottom of the artificial drainage conveyance;

3. The person performing the activity shall ensure that the size and capacity of the culvert will be adequate to pass normal high water stages of the artificial drainage conveyance without causing adverse impacts to upstream or downstream property, but the culvert shall not be larger than one 24-inch diameter pipe, or its equivalent; and in no instance shall the culvert provide a smaller cross-sectional area or discharge capacity than any upstream culvert;

4. The elevation of the culvert invert shall be at the existing bottom grade of the artificial drainage conveyance;

5. The length of the driveway or roadway crossing the artificial drainage conveyance shall not exceed 30 feet from top of bank to top of bank;

6. The top width of the driveway or roadway shall not exceed 20 feet, the toe-to-toe width shall not exceed 40 feet, and side slopes shall be no steeper than 3 feet horizontal to 1 foot vertical;

7. Clean fill used for the crossing shall be obtained from an upland borrow pit or from a dredge site that is in compliance with the requirements of Part IV of Chapter 373, F.S.

8. There shall be no additional dredging, filling, or construction activities within the artificial waterway or project area, except those directly involved in the construction or operation and maintenance of the culverted crossing and those exempted from regulation under Part IV, Chapter 373, F.S.;

9. All temporary fill in construction areas must be removed and regraded to original elevations and revegetated;

10. The person performing the exempt activity must implement measures for erosion and pollution control using best management practices, including turbidity curtains or similar devices and other site specific practices, in strict adherence to the Florida Department of Transportation's "Standard Specifications for Road and Bridge Construction,(2007)" and Chapter 6 of "The Florida Development Manual: A Guide to Sound Land and Water Management (Department of Environmental Regulation, June 1988)," to prevent violations of state water quality standards. Temporary erosion control measures must be implemented prior to and during construction, and permanent erosion control measures for all exposed soils must be completed within seven calendar days of the most recent construction activity;

11. Any spoil material from construction or maintenance must be used or disposed of on an upland portion of the property or must be transported off site and deposited on a self-contained upland spoil site that is in compliance with the permitting requirements of this chapter, as applicable;

12. If dewatering is performed, all temporary fill dikes and dewatering discharges shall be installed and constructed so that no upstream flooding or impoundment occurs and to prevent siltation, erosion or turbid discharges in violation of state water quality standards. Any temporary works shall be completely removed, and all areas upstream and downstream from the crossing shall be restored to grades, elevations and conditions that existed before the construction;

13. This exemption shall apply only to a maximum of two crossings on any total land area with a minimum distance of 500 feet between crossings; and

14. This exemption shall not apply to activities involving relocation or other alteration of all or part of the artificial drainage conveyance, or construction for other than the proposed culvert or bridge crossing.

(c) The construction of the following minor roadway safety projects, provided that the capacity of existing swales, ditches or other stormwater management systems is not reduced, the projects are not located in wetlands or other surface waters, and the projects include best management practices during construction to prevent secondary impacts in adjacent wetlands or other surface waters due to erosion and sedimentation:

1. Sidewalks that have a width of six feet or less;

2. Turn lanes less than 0.25 mile in length, and other intersection improvements;

3. Road widening and shoulder paving projects which do not result in the creation of additional traffic lanes.

4. Road grading that involves no change in existing road surface elevations, and pavement resurfacing of existing roads, provided the activities do not result in the paving of travel lanes that are not already paved, except as otherwise provided in paragraph 62-346.051(4)(d), F.A.C.

(d) The repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway, in accordance with Section 373.4145(3)(e), F.S., provided:

1. The road and associated bridge were in existence and in use as a public road or bridge, and were maintained by the county as a public road or bridge on or before January 1, 2002;

2. The construction activity does not realign the road or expand the number of existing traffic lanes of the existing road; however, the work may include the provision of safety shoulders, clearance of vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided that the work is constructed by generally accepted engineering standards;

3. The construction activity does not expand the existing width of an existing vehicular bridge in excess of that reasonably necessary to properly connect the bridge with the road being repaired, stabilized, paved, or repaved to safely accommodate the traffic expected on the road, which may include expanding the width of the bridge to match the existing

connected road. However, no debris from the original bridge shall be allowed to remain in waters of the state, including wetlands;

4. Best management practices for erosion control shall be employed as necessary to prevent water quality violations. Such practices are outlined in Part IV, Applicant's Handbook, Volume I;

5. Roadside swales or other effective means of stormwater treatment must be incorporated as part of the project;

6. No more dredging or filling of wetlands or waters of the state is performed than that which is reasonably necessary to repair, stabilize, pave, or repave the road or to repair or replace the bridge, in accordance with generally accepted engineering standards; and

7. Notice of intent to use the exemption must be provided to the Department 30 days prior to performing any work under the exemption.

In accordance with Section 373.4145(3)(e), F.S., the adoption of the noticed general permit in Rule 62-341.448, F.A.C., does not supersede this exemption.

(5) Docking, Pier, and Boat Ramp Facilities – Construction, Replacement or Repair.

(a) The construction, replacement or repair of pilings and dolphins associated with private docking facilities or piers, and the installation and repair of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities in accordance with Section 403.813(2)(b), F.S. This exemption shall include the construction and repair of structures on the dock, such as gazebos, or adjacent to the dock, such as boat shelters, provided such structures are not enclosed with walls and doors, are not used for residential or commercial purposes, or storage of materials other than those associated with water dependent recreational use, and provided the structures, including any roof area extending outside the footprint of the dock, does not exceed, together with the docking facility, the limitations specified in Section 403.813(2)(b), F.S.

(b) Construction of private docks of 1,000 square feet or less of over-water surface area in artificially created waterways in accordance with Section 403.813(2)(i), F.S.

(c) The replacement or repair of existing docks and piers, including mooring piles, in accordance with Section 403.813(2)(d), F.S., provided that the structure to be repaired or replaced must be functional for its intended or designed purpose before this exemption may be used, unless such structure has been rendered non-functional by a discrete event, such as a storm, flood, accident, or fire.

(d) The construction and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists, or the construction and maintenance to design specifications of boat ramps open to the public in any wetlands or other surface waters where navigational access to the proposed ramp exists

in accordance with Section 403.813(2)(c), F.S. Except as otherwise provided in this subsection, the installation of docks that are associated with and adjoining boat ramps constructed pursuant to this exemption shall be limited to an area of 500 square feet or less over surface waters of the state. For the purpose of this exemption, artificial bodies of water shall include residential canal systems, canals permitted by a water management district created under Section 373.069, F.S., and artificially created portions of the Florida Intracoastal Waterway.

(e) The construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts in accordance with Section 403.813(2)(s), F.S.

(6) Fish Attractors, Freshwater – Construction, alteration, maintenance, operation, and removal of freshwater fish attractors by the Florida Fish and Wildlife Conservation Commission, U.S. Forest Service, and county and municipal governments, provided that the material to be used shall be clean concrete, rock, brush, logs, or trees, and shall be free of soils, preservatives, oil, grease, debris, litter, putrescible substances, used appliances, asphalt material, tires, or other pollutants, and shall be firmly anchored to the bottom of the waterbody. The size of an individual fish attractor shall not exceed one quarter of an acre in area. The material shall be placed so that the top of the fish attractor is at least three feet below the surface of the water at ordinary low water and shall be outside any posted navigational channels. No fish attractor material shall be placed on or in areas vegetated by native aquatic vegetation. The site shall be marked with a buoy or buoys to ensure that no material is deposited outside of the site.

(7) Maintenance and Restoration of Systems.

(a) Maintenance activities in accordance with Sections 403.813(2)(f) and (g), F.S., including the notification requirements of Section 403.813(2)(f), F.S. The Department's interpretation and implementation of these exemptions is explained in section 3.4.2.6 of the Applicant's Handbook Volume I.

(b) The restoration of less than 100 feet in length of existing insect control impoundment dikes and the connection of such impoundments to tidally influenced waters in accordance with Section 403.813(2)(p), F.S. The connection shall be of sufficient cross-sectional area to allow beneficial tidal influence. Restoration shall involve no more dredging than needed to restore the dike to original design specifications, and the final elevation of the dredge area shall be within two feet of immediately adjacent bottom elevations.

(c) Alteration and maintenance of treatment or disposal systems, as provided in Rule 62-340.700, F.A.C.

(d) Operation and routine custodial maintenance of activities legally in existence, provided the terms and conditions of the permit, exemption, or other authorization for such activities continue to be met, and provided the work is conducted in a manner that does not cause violations of water

quality standards. However, this exemption shall not apply to any activity that is altered, modified, expanded, abandoned, or removed.

(e) Construction and maintenance of swales in accordance with Section 403.813(2)(j), F.S.

(8) Mosquito Control Activities, Surface Waters or Wetlands Created by – Construction, alteration, operation, maintenance, removal, and abandonment of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, or works in, on, or over lands that have become surface waters or wetlands solely because of mosquito control activities, in accordance with the provisions in Rule 62-340.750, F.A.C.

(9) Navigation, Aids to – The installation of aids to navigation, including bridge fender piles, "No Wake" and similar regulatory signs, and buoys associated with such aids, in accordance with Section 403.813(2)(k), F.S.

(10) Organic Detrital Material Removal in accordance with Sections 403.813(2)(r) and (u), F.S., including the notification provisions of Sections 403.813(2)(u)9. and 10., F.S.

(11) Piling Support Structures Associated With Water Testing or Monitoring Equipment by the Department or the NFWFMD – Installation of piling support structures associated with water testing or monitoring equipment by the Department or NFWFMD, provided that flow and navigation are not impeded.

(12) Pipes or Culverts, Repair or Replacement – The repair or replacement of existing functional pipes or culverts, the purpose of which is the discharge or conveyance of stormwater, in accordance with Section 403.813(2)(h), F.S. This exemption does not authorize the repair, replacement, or alteration of dam, spillways or appurtenant works, nor construction activities or procedures that cause violation of water quality standards as set forth in Chapter 62-302, F.A.C., and Rules 62-4.242, and 62-4.244, F.A.C.

(13) The construction, alteration, maintenance, removal or abandonment of recreational paths that:

(a) Are not located within surface waters of the state;

(b) Include best management practices during construction to prevent secondary impacts in adjacent wetlands or other surface waters due to erosion and sedimentation;

(c) Have a width of eight feet or less for unidirectional paths; and 12 feet or less for bidirectional paths; and

(d) Do not allow motorized vehicles powered by internal combustion engines, except for maintenance and emergency vehicles.

(14) Seawall and Riprap Shore Stabilization – Construction, Restoration and Repair.

(a) Construction of seawalls or riprap in artificially created waterways in accordance with Section 403.813(2)(i), F.S. An artificially created waterway is defined as a body of water that has been totally dredged or excavated and that does not overlap

natural wetlands or other surface waters., including only that backfilling needed to level the land behind seawalls or riprap. For the purpose of this exemption, artificially created waterways shall also include existing residential canal systems.

(b) The restoration of a functional seawall or riprap in accordance with Section 403.813(2)(e), F.S. Such restoration shall be at or upland of its previous location, or within 18 inches waterward of its previous location, as measured from the face of the existing seawall slab to the face of the restored seawall slab, or from the front slope of the existing riprap to the front slope of the restored riprap. No filling can be performed except in the actual restoration of the seawall or riprap. No construction shall be undertaken without necessary title or leasehold interest, especially where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction and natural erosion. This exemption shall be limited to functioning seawalls or riprap. This exemption shall not affect the permitting requirements of Chapter 161, F.S.

(c) The construction of seawalls or riprap in wetlands or other surface waters, where such construction is between and adjoins at both ends existing seawalls or riprap, in accordance with Section 403.813(2)(o), F.S. In estuaries and lagoons, construction of vertical seawalls is limited to the circumstances and purposes stated in Sections 373.414(5)(b)1. through 4., F.S. This exemption shall not constitute an exception from the permitting requirements of Chapter 161, F.S.

(d) Installation of batter piles used exclusively to stabilize and repair seawalls and that do not impede navigation.

(15) Single-Family Residences and Associated Residential Improvements.

(a) The construction or private use of a single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger common plan of development or sale proposed by the applicant and does not involve wetlands or other surface waters;

(b) Stormwater management facilities designed to serve single-family residential projects conducted in conformance with Section 403.813(2)(q), F.S.

(16) Utilities.

(a) The installation of overhead transmission lines in accordance with Section 403.813(2)(a), F.S.

(b) The installation of subaqueous transmission and distribution lines in accordance with Section 403.813(2)(m), F.S.

(c) The replacement or repair of subaqueous transmission and distribution lines in accordance with Section 403.813(2)(n), F.S.

(d) Activities necessary to preserve, restore, repair, remove, or replace an existing communication or power pole or line, provided that the work does not involve dredge and fill activities other than the removal of the existing structure and the installation of the new structure, and, in the case of a power pole or line, the activity does not increase the voltage of

existing power lines. An activity does not qualify to use this exemption if it results in relocation of an existing structure or facility more than 10 feet in any direction from its original location, or if it involves construction of new power or telephone lines or the repair and replacement of existing structures that require dredge and fill activities in order to provide access to the site.

(e) The installation, removal, and replacement of utility poles that support telephone or communication cable lines, or electric distribution lines of 35kV or less, together with the bases and anchoring devices to support those poles, as specified below. For the purpose of this exemption, "anchoring device" shall mean steel guy wires fastened to the ground, without the need for dredging, and "base" shall mean a concrete or steel foundation not exceeding four feet in radius, used to support a utility pole. This exemption shall be subject to the following conditions:

1. No more than 15 utility poles may be installed, removed, or replaced in wetlands;

2. This exemption shall not apply in surface waters other than wetlands;

3. The temporary disturbance to wetlands shall be limited to a length of 0.5 mile, an areal extent of 0.5 acre, and a width of 30 feet to access the site to actually install, remove, or replace the utility poles; thereafter, maintenance of the utility right-of-way in wetlands shall be limited to a cleared corridor that does not exceed a total width of 15 feet and a total area of 0.25 acre;

4. This exemption shall not apply in forested wetlands located within 550 feet from the mean or ordinary high water line of an Aquatic Preserve or a named waterbody that is designated as an Outstanding Florida Water or an Outstanding National Resource Water;

5. There shall be no permanent placement of fill other than utility poles and anchoring devices;

6. There shall be no dredging or filling to create fill pads or access roads, except for temporary mats, which may be used to access pole installation sites, and all temporary mats shall be removed within 30 days after the installation, removal or replacement of the utility poles, associated bases, and anchoring devices;

7. The installation of the utility poles and associated bases and anchoring devices shall not interfere with navigation or impede water flow in wetlands;

8. Turbidity, sedimentation, and erosion shall be controlled during and after construction to prevent violations of state water quality standards due to construction related activities;

9. Except for the permitted structures, pre-construction ground elevations and the contours of all soils that are disturbed by construction activities, including vehicle ruts in wetlands, shall be restored within 30 days of completion of the

installation of the utility line or cable, and restored grades shall be stabilized within 72 hours following completion of elevation and contour restoration to minimize erosion;

10. Vehicle usage in wetlands shall be conducted so as to minimize tire rutting and erosion impacts;

11. Water jets shall not be used except for those that are a pre-engineered part of the pole, and provided that the water for the jets is either recirculated on site or is discharged in a self-contained upland disposal site;

12. Vehicular access in wetlands shall be limited to existing roads, trails, rights-of-way or easements, and to other previously disturbed corridors where they exist; and

13. Persons using this exemption shall provide an annual report to the Department that summarizes the activities conducted under this exemption for the period from January 1 to December 31 of each year, including: the acreage of temporary impacts in wetlands resulting from the use of temporary mats and the clearing of wetland vegetation; the extent of permanent impacts to wetlands, including the number of poles and structures in wetlands and the acreage of clearing in wetlands; the voltage of all electric lines that are installed; the number of times this exemption is used; the specific location of each line that is installed (including the county, the section, township, and range, and the identity of permanent landmarks such as roads and named wetlands and other surface waters within or adjacent to the work location), and the number of times and locations where water jets are used. This report shall be due on March 1 of each year.

(f) Construction, alteration, maintenance, removal, or abandonment of communication tower sites with one-half acre or less of impervious or semi-impervious surface such as access roads, buildings, and equipment pads. The design of above-grade access roads shall not adversely affect the conveyance of surface water flows. No activities associated with the tower site, including access to the site, shall be located in wetlands or other surface waters or within a 100-year floodplain.

(g) Construction, alteration, maintenance, removal, or abandonment of electrical distribution substation sites with one acre or less of impervious or semi-impervious surface such as access roads, buildings, and equipment pads. The design of above-grade access roads shall not adversely affect the conveyance of surface water flows. The site must be surrounded by swales, as defined in Section 403.803(14), F.S. No activities associated with the substation, including access to the site, may be located in wetlands or other surface waters or within a 100-year floodplain.

(h) Temporary trenches dug by hand or with equipment that create a trench less than two feet wide to install utilities such as communication cables, water lines, and electrical lines, provided such activities:

1. Are not located within surface waters of the state;
2. Do not impede or divert the flow of surface waters;

3. Are backfilled within 24 hours of disturbance to restore all grades and contours that existed prior to construction and installation;

4. Utilize and maintain erosion and soil stabilization controls in accordance with Part IV of the Applicant's Handbook Volume I; and

5. Do not result in violations of water quality standards.

(17) Activities exempt under Section 373.406, F.S.

(18) Alteration of a wholly owned, artificial surface water created entirely from uplands that does not connect to surface waters of the state, except for those created for the purpose of providing mitigation under Part IV of Chapter 373, F.S. However, this exemption shall not be applicable until the effective date of the rules adopted under Section 373.4145(1)(b), F.S.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS, Law Implemented 373.406, 373.4145, 403.813(2) FS. History—New 10-1-07.

62-346.060 Conceptual Approval Permits.

(1) A conceptual approval permit is a type of individual permit that is binding to the extent of the activity specified in the permit and subject to the limitations in this section. Issuance of a conceptual approval permit is a determination that the conceptual plans are, within the extent of detail provided in the conceptual approval permit application, consistent with applicable rules at the time of issuance. A conceptual approval permit provides the conceptual approval permit holder with assurance, during the duration of the conceptual approval permit, that the engineering and environmental concepts upon which the designs of the conceptual approval permit are based are (in concept, and within the extent of detail provided in the conceptual approval permit) likely to meet applicable rule criteria for issuance of permits for subsequent phases of the project, provided:

(a) There are no changes in the rules governing the conditions of issuance of permits for future phases of the project; and

(b) Applications for proposed future phase activities under the conceptual approval permit are consistent with the design and conditions of the issued conceptual approval permit. Primary areas for consistency comparisons include the size, location and extent of the system, type of activity, percent imperviousness, allowable discharge and points of discharge, location and extent of wetland and other surface water impacts and proposed mitigation plan (if required), control elevations, extent of stormwater reuse, and detention/retention volumes. If an application for any subsequent phase activity is made that is not consistent with the terms and conditions of the conceptual approval permit and the conceptual approval permit is not modified to conform to the proposed activity, the conceptual approval permit will no longer be valid and the applicant can

no longer rely on the conceptual approval permit as a basis, in part or whole, for issuance of permits for any future phase activities.

(2) Except as otherwise provided in paragraph (1)(b) above, the duration of a conceptual approval permit is five years, provided that a permit for the initial phase of construction or alteration of the system is obtained and construction has begun within two years of the granting of the conceptual approval permit. However, the time periods for duration or commencement of construction will be tolled if:

(a) The project approved by the conceptual approval permit is undergoing Development of Regional Impact review pursuant to Section 380.06, F.S., and an administrative appeal of that review has been filed; or

(b) The issuance of the construction permit for the first phase is under administrative review pursuant to Sections 120.569 and 120.57, F.S.; and

(c) The Department is notified, in writing, within two years of issuance of the conceptual approval permit, that administrative review under either paragraph (a) or (b) is pending.

If notice is given as provided above, the duration period and the two-year time period for obtaining a permit and commencing construction shall be tolled until the date of final action resolving such administrative appeal or review, including any judicial review.

(3) An application for a conceptual approval permit will be reviewed pursuant to the applicable standards, criteria, and procedures for processing individual permits established in this chapter. The conceptual approval permit shall contain specific conditions necessary to ensure that the future applications for permits to construct, alter, operate, maintain, remove, or abandon the system authorized in the conceptual approval permit are consistent with the conceptual approval permit and provide reasonable assurance that the proposed activity will meet the conditions for issuance.

(4) Unless otherwise stated in the permit, issuance of a conceptual approval permit does not authorize construction, alteration, operation, maintenance, removal or abandonment of a surface water management system, and does not relieve the holder of such permit of any requirements to obtain a permit for such activities. An application for construction authorization of the first phase also may be included as a part of the initial application. As the permittee desires to construct, alter, operate, maintain, abandon, or remove additional phases, new applications for such activities shall be processed as an individual permit, and the terms and conditions of the issued conceptual approval permit. Modifications of conceptual approval permits and subsequently issued permits for construction, alteration, operation, maintenance, removal, or abandonment shall be in accordance with Rule 62-346.100,

F.A.C. Requests for an extension of duration of a conceptual approval permit shall be reviewed as provided in Rule 62-346.120, F.A.C.

(5) Applications for conceptual approval permits may be submitted and shall be reviewed by the Department only after the effective date of the rules adopted under Section 373.4145(1)(b), F.S.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026, 373.043, 373.044, 373.4145, 373.418, 380.06, 403.805(1) FS. Law Implemented 373.026, 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 380.06 FS. History—New 10-1-07.

62-346.070 Procedures to Prepare Applications and Notices for Permits and to Request Verification of Qualification for an Exemption.

(1) The Operating Agreement delineates a division of responsibilities between the agencies for receiving, reviewing, and taking agency action on activities under the environmental resource permit program. All notices and applications under this chapter for environmental resource permits, modifications, extensions, transfers, or verification of qualification for an exemption must be submitted to the correct agency set forth in Rule 62-346.080, F.A.C., in accordance with the Operating Agreement.

(2) Applications and notices shall be prepared as follows:

(a) Applications for individual permits shall be made on Form 62-346.900(1), "Application for Stormwater Permit in Northwest Florida," incorporated by reference herein.

1. Applications to the Department for individual permits must contain one original of the completed application with original signatures on Section A; location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; construction plans, drawings, and other supporting documents requested in Section B that depict and describe the proposed activities; one paper copy of all the above; and the fee as required by Rule 62-346.071, F.A.C.

2. Applications to the NFWFMD for individual permits can be submitted through the NFWFMD Internet site at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. The application must include as attachments: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; construction plans, drawings, and other supporting documents requested in Section B that depict and describe the proposed activities; and the fee as required by Rule 62-346.071, F.A.C. If the applicant does not utilize the electronic application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD. If a paper application is submitted, it must include all requirements of subparagraph 62-346.070(2)(a)1., F.A.C., above, as for the Department.

(b) A notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., shall be made at least 30 days prior to initiating the activities, or by such other time as specified in the noticed general permit by submitting a completed Form 62-346.900(2), "Notice of Intent to Conduct a Noticed General Permit in Northwest Florida," incorporated by reference herein.

1. The notice to the Department must contain one original of the completed notice with original signatures; one copy of the completed notice; location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; two sets of construction plans, drawings, other supporting documents that depict and describe the proposed activities; and the notice fee required by Rule 62-346.071, F.A.C.

2. The notice to the NFWFMD can be submitted through the NFWFMD Internet site at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. The notice must include as attachments: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; construction plans, drawings, and other supporting documents that depict and describe the proposed activities; and the fee as required by Rule 62-346.071, F.A.C. If the applicant does not utilize an electronic permit application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD. If a paper application is submitted, it must include all requirements of subparagraph 62-346.070(2)(b)1., F.A.C., above, as for the Department.

(c) Verification of exemptions may be requested as provided below:

1. Applications to the Department for verification of exemptions for stormwater systems that do not involve any work in, on, or over surface waters of the state shall be made either electronically via the Internet site of the Department, or by submitting an "Application for Stormwater Permit in Northwest Florida" in accordance with paragraph 62-346.070(2)(a), F.A.C., or by letter. Applications for verification of any exemption that involves work in, on, or over waters of the state shall be made either on Form 62-312.900(1), "Joint Application for Works in the Waters of Florida," incorporated by reference herein, or by letter. The application or letter must contain location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; two sets of construction plans, drawings, and other supporting documents that depict and describe the proposed activities.

2. Applications to the NFWFMD for verification of exemption under this chapter can be submitted through the NFWFMD Internet site at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. If the applicant does not utilize the electronic self-certification on the NFWFMD Internet site, then a verification of exemption may be obtained from the

NFWFMD by providing the following for review: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; and construction plans, drawings, and other supporting documents sufficient to depict and describe the proposed activities. The NFWFMD will advise in writing whether the activity is exempt.

(3) When application fees are submitted in the form of a check, the check shall be made payable to the processing agency as determined in accordance with subsection (1) above. The fee required for applications submitted to the NFWFMD may be tendered electronically made payable to the "Northwest Florida Water Management District." All fees submitted are non-refundable except as provided in Section 120.60, F.S., and in this chapter.

(4) For individual permits issued pursuant to this chapter to federal agencies, a completed application shall also constitute a request for determination of concurrence under Florida's Coastal Zone Management Program as provided in Section 307 of the Coastal Zone Management Act and 15 CFR 930, Subpart D.

(5) All copies of the construction plans, together with supporting calculations and documentation submitted to the Department must be signed, sealed, and dated by a registered professional, as required by Chapter 471, 472, 481 or 492, F.S., as applicable, when the design of the system requires the services of a registered professional for paper applications submitted to the Department or NFWFMD. For electronic application submissions to the NFWFMD, an electronic signature file must be submitted that shall serve the same purpose as individual signing or sealing of paper applications, plans, and supporting documents.

(6) Paper copies of applications or notices received by the Department or NFWFMD after 5:00 PM local time of the office to which the submittal is made shall be deemed as filed as of 8:00 AM on the next regular business day. Electronic applications or notices to the NFWFMD are considered to be received at the District Headquarters, which is in the Eastern time zone.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.0877, 403.805(1) FS. Law Implemented 373.026(7), 373.109, 373.117, 373.118, 373.413, 373.4141, 373.4145, 373.416, 373.426, 373.428, 403.0877 FS. History--New 10-1-07.

62-346.071 Fees.

(1) The fee required for the type of permit as provided in this chapter is as follows.

(a) Individual permits, including conceptual approval permits – the highest fee shall apply whenever an activity meets the criteria for more than one fee category in 1. through 3., below:

1. A project area of greater than or equal to 100 acres, or that is capable of impounding greater than or equal to 120 acre-feet of water	\$2,500
2. A project area of less than 100 acres but greater than or equal to 40 acres, or that is capable of impounding less than 120 but more than 40 acre-feet of water, or that provides for the placement of 12 or more acres of impervious surface that also constitutes more than 40 percent of the total land area	\$1,300
3. A project does not exceed any of the thresholds in 1 or 2, above	\$300
4. Retrofits of existing surface water management systems, in accordance with section 2.10, Applicant's Handbook Volume II	\$300
5. Activities requiring an individual permit involving the following types of Class I solid waste disposal facilities, as defined in subsection 62-701.340(3), F.A.C.:	
a. New Class I solid waste disposal facility	\$7,500
b. Major modification of an existing Class I solid waste disposal facility	\$8,500
(b) Major modifications (see Rule 62-346.100, F.A.C. Same fee as a new application	
(c) Minor modifications (see Rule 62-346.100, F.A.C.):	
1. Minor modifications in accordance with paragraph 62-346.100(1)(d), F.A.C.	\$ 0
2. To convert an individual permit from the construction phase to the operation phase	\$ 0
3. That consist of a transfer of an individual permit, or a time extension	\$ 50
(d) Noticed general permit	\$100
(e) Variances and waivers under Section 120.542, F.S.	0
(2) All fees shall be allocated pursuant to Section 373.109(1), F.S.	
(3) The fee schedule above will supersede all other references to fees in Department rules or forms, where in conflict.	
(4) This fee schedule does not apply to applications submitted by the U.S. Army Corps of Engineers for permits under Part IV of Chapter 373, F.S., or for certification pursuant to Sections 403.501 through 403.519, F.S. (the Florida Electrical Power Plant Siting Act); or to Sections 403.52 through 403.539, F.S. (the Florida Electric Transmission Line Siting Act).	
(5) In accordance with Section 218.075, F.S., permit application fees shall be reduced for qualifying counties, municipalities, or third parties under contract with such counties or municipalities, to apply for a permit on the county	

or municipality's behalf. A county, municipality, or third party as described above, shall apply to reduce the permit application fees by submitting Form 62-346.900(10) "County or Municipality Request to Reduce Permit Application Fees Pursuant to Section 218.075, F.S.," incorporated by reference herein, for each fiscal year, certifying qualification with the requirements of Section 218.075, F.S. For such qualifying entities, any fee enumerated above that is in excess of \$100.00 shall be reduced to \$100.00.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 218.075, 373.109, 373.4145, 373.418, 373.421 FS. History--New 10-1-07.

62-346.080 Submittal of Applications and Notices for Permits and Petitions for Formal Determinations to Department and NFWFMD Offices.

(1) Petitions for formal determinations of the landward extent of wetlands and other surface waters shall be submitted as specified in Rule 62-343.040, F.A.C.

(2) All applications for environmental resource permits, variances, and other authorizations required under this chapter that are the responsibility of the Department under the Operating Agreement, except for activities as specified in subsection (5) below, shall be submitted to the district or branch office of the Department that has geographical jurisdiction over the location where the activity is to occur, as described in Figure 1A of the "Application for Stormwater Permit in Northwest Florida." For purposes of this subsection, the term "Department" does not include the NFWFMD. At this time, the Department does not accept applications for permits submitted electronically, although such electronically-prepared applications may accompany the paper copies required in Rule 62-346.070, F.A.C.

(3) All applications and notices for environmental resource permits, petitions for variances, and other authorizations required under this chapter that are the responsibility of the NFWFMD under the Operating Agreement can be submitted to the NFWFMD Internet site at: <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. If submitting paper copies, submit to the office of the NFWFMD that has geographical jurisdiction over the location where the activity is to occur, as described in Figure 1B of Form 62-346.900(1). Additional details for submitting applications and notices to the NFWFMD are contained in Rule 62-346.070, F.A.C.

(4) Activities that are within the geographical limits of a local government delegated responsibility for the environmental resource permit program of the Department or NFWFMD under Chapter 62-344, F.A.C., shall be submitted to that local government, or to the Department or NFWFMD

in accordance with the terms of the Delegation Agreement with that local government as incorporated by reference in Chapter 62-113, F.A.C.

(5) In the case of activities that extend into the area of the Suwannee River Water Management that are the responsibility of the Department, the Director of District Management of the Department district office processing the application shall have the authority to take the final agency action on the entire application. However, if the applicant prefers, a separate application may be submitted to each district or branch office of the Department that has responsibility for activities within the geographical limits where the activity is located. In such case, the applications shall be individually reviewed and processed separately by the applicable Department district or branch office.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026, 373.043, 373.044, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.026, 373.118, 373.413, 373.4145, 373.416, 373.426 FS. History—New 10-1-07.

62-346.090 Processing of Notices and Applications.

(1) Noticed General Permits.

(a) The Department shall review a notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., within 30 days of receipt.

(b) If, within 30 days of receipt, the Department notifies the applicant that the notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., does not qualify due to any errors or omissions, the applicant shall have a one time 60 day period, from the date of notification, to submit additional information to correct such errors or omissions. If the applicant submits additional information that demonstrates compliance with the noticed general permit within the 60-day period, no additional application fee will be required.

(c) The Department shall notify the applicant whether or not the system qualifies for the noticed general permit within 30 days of receiving notice of intent or amended notice of intent to use a noticed general permit under Chapter 62-341, F.A.C.

(d) Unless otherwise provided in Chapter 62-341, F.A.C., if the Department does not notify the applicant within 30 days, then the applicant may conduct the activity authorized by the noticed general permit.

(e) If the Department notifies an applicant within 30 days that the activity does not qualify for the noticed general permit, the application fee for the noticed general permit shall be applied to the application fee for an individual permit, provided that the applicant makes an application for such a permit within 30 days of notification by the Department.

(f) All construction, operation, maintenance, alteration, abandonment, or removal of any system pursuant to a noticed general permit shall comply with the provisions of that permit, including all general and specific conditions.

(2) Individual (including Conceptual Approval) Permit Procedures.

(a) Within 30 days after receipt of an application, the Department shall determine whether the application is complete. In order to be considered complete, the submittal must contain the required fee and reasonable assurance that the activity will meet the terms and conditions for issuance in Rule 62-346.301, F.A.C.

(b) If the Department determines that the application does not contain the information in paragraph (2)(a), above, the Department will request the necessary information, including, as applicable, payment of the correct application fee, within 30 days after receipt of the application. Within 30 days after receipt of each submittal of timely requested additional information, the Department shall review that information and may request only that information needed to clarify such additional information or to answer new questions raised by or directly related to such additional information.

(c) The applicant shall have 90 days from the date the Department makes a timely request for additional information to submit that information to the Department. If an applicant requires more than 90 days in which to respond to a request for additional information, the applicant shall notify the Department in writing of the circumstances, at which time the application shall remain in active status for one additional period of up to 90 days. Additional extensions shall be granted for good cause shown by the applicant. A showing that the applicant is making a diligent effort to obtain the requested additional information and that the additional time period requested is both reasonable and necessary to supply the information shall constitute good cause. In such case, a specified amount of additional time shall be granted at the mutual consent of the Department and the applicant. If the applicant chooses not to or is unable to respond to the request for additional information, the application shall be denied.

(d) The Department shall notify the applicant if the activity is exempt from permitting. Such notice shall be given within 30 days of receipt of the application or receipt of additional information that demonstrates to the Department that the proposed activity is exempt from permitting requirements. Upon determination that the activity is exempt from permitting, the Department shall refund any tendered application fees.

(e) Applications for individual permits shall be evaluated for compliance with the criteria in Rule 62-346.301, F.A.C., the Applicant's Handbook Volumes I and II, and the other rules incorporated by reference in this chapter.

(f) A notice of receipt of an application shall be provided to any persons who have filed a written request for notification of any pending applications affecting the particular area where the proposed activity is to occur. When requested, the Department will provide notice of intended agency action for a specific application.

(g) The Department shall make a determination and notify the applicant whether the application does or does not qualify for issuance of an individual permit within 90 days of receipt of a complete application, unless a written request to waive this time period is received from the applicant.

(h) If the application is determined to qualify for issuance of a permit, the Department shall either issue the permit, or a notice of intent to grant such permit.

(i) If the Department determines that the application does not qualify for issuance of an individual permit, or if the applicant does not respond to timely requests for additional information, the Department shall issue a notice of denial. If the Department informs the applicant that the application does not qualify for issuance of an individual permit, such notice must explain the reasons in general terms, and what changes in the permit application, if any, would address the reasons for denial.

(j) The Department shall require an applicant to publish at the applicant's expense, in a newspaper of general circulation within the affected area, a notice of receipt of the application for those activities that, because of their size, potential effect on the environment or the public, controversial nature, or location, are reasonably expected by the Department to result in a heightened public concern or likelihood of request for administrative proceedings. In addition, the Department shall require an applicant to publish at the applicant's expense, in a newspaper of general circulation within the affected area, a notice of intended agency action to issue a permit for those activities that, because of their size, potential effect on the environment or the public, controversial nature, or location, are reasonably expected by the Department to result in a heightened public concern or likelihood of request for administrative proceedings. An application shall be denied if the applicant fails to publish either notice, or to provide proof of publication, as required in this chapter.

(k) Except as otherwise provided by law, pending complete applications shall be exempt from changes in the rules adopted after an application has been deemed to be complete.

(3) If an applicant submits an application fee in excess of the required fee, the Department shall begin processing the application and shall refund to the applicant the amount received in excess of the required fee.

(4) Unless otherwise provided for in this rule, processing fees for applications under one fee category shall not be refunded in whole or in part where an applicant modifies a project to qualify for a lesser fee category when the project did not qualify for that fee category when processing commenced. However, refunds shall be given for those applications that qualify for the lesser fee category solely as a result of a change in Department rules while the application is being processed.

(5) If the Department determines that a substantial revision to a complete application has been received, the Department shall notify the applicant of such determination and that the revised application is considered to be a major modification. The revised application shall be subject to the major modification fee under paragraph 62-346.071(1)(b), F.A.C., and processed as a new application subject to the provisions of subsection 62-346.090(2), F.A.C. For purposes of this subsection, the term "substantial revision" shall mean a revision that is reasonably expected to lead to significantly different environmental impacts and that will require a detailed review by the Department.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.413, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.109, 373.118, 373.4141, 373.4145 FS. History—New 10-1-07.

62-346.091 Documents Incorporated by Reference.

(1) The following documents are hereby incorporated by reference for use in this Chapter:

(a) "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook – Volume I (General)," excluding Appendices A, B, C, and D, effective [Effective Date].

(b) "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook – Volume II (Design Requirements for Stormwater Treatment and Management Systems – Water Quality and Water Quantity)," including Appendix A, effective [Effective Date].

(c) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection," executed on [date] and effective [effective date].

(d) The Florida Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation, June 1988).

(e) The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual, Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, April 2006.

(f) Florida Department of Transportation's "Standard Specifications for Road and Bridge Construction, 2007."

(2) The documents incorporated by reference in this section may be obtained from a district or branch office of the Department or NFWFMD, or by downloading from the Internet sites of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, or NFWFMD at <http://www.nfwfmd.state.fl.us/permits/permit-ERP.html>.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026, 373.043, 373.044, 373.046, 373.113, 373.4145, 373.416, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.026, 373.042, 373.409, 373.0421, 373.043, 373.046, 373.413, 373.4132, 373.4142, 373.4145, 373.416, 373.418, 373.423, 373.426, 373.428, 373.433, 373.436, 373.439, 380.06(9), 403.813(2) FS. History—New 10-1-07.

62-346.095 Operation and Maintenance.

(1) Upon completion of a system constructed in conformance with an individual permit issued under this chapter, or a noticed general permit under Chapter 62-341, F.A.C., the permit must be converted from the construction phase to an operation and maintenance phase. The responsibility for operation and maintenance of systems permitted under this chapter or Chapter 62-341, F.A.C., shall be an obligation for the life of the system by a single entity that wholly owns or controls the lands on which any component of the permitted system is located. Such entity also must have the fiscal, legal, and logistical capability to perform operation and maintenance in accordance with Department rules and permit conditions. The conversion shall follow the procedures specified below, except that:

(a) Once the activities are completed in full compliance with the terms and conditions of the noticed general permit in Chapter 62-341, F.A.C., the system shall automatically be authorized to be operated for the life of the system by the permittee or by subsequent owners of the system.

(b) Systems that serve mining operations subject to the land reclamation requirements of Chapter 378, F.S., shall not be required to be converted to an operation and maintenance phase if they:

1. Have been successfully reclaimed in accordance with Chapter 378, F.S.;

2. Have met all success requirements of the individual permit issued under Part IV of Chapter 373, F.S.; when the construction phase of the permit includes all phases of construction, abandonment, reclamation, and final success determination over reclaimed lands; and

3. Do not contain components that require long-term operation or maintenance, such as conservation easements, state sovereign submerged lands authorizations, dams, above-grade impoundments, works, water control structures, erosion and sedimentation controls, or dewatering pits.

In addition, if the mine already is operating under an operation and maintenance phase of an individual permit, such operation and maintenance phase shall be allowed to terminate upon successful completion of all phases of reclamation and receipt of final success determinations by the Department over lands reclaimed under the permit issued under Chapter 378, F.S.

(2) Within 30 days after completion of construction of a whole system, or independent portion of a system, constructed in conformance with an individual permit issued under this chapter, the permittee shall submit Form 62-346.900(4), "As-Built Certification by a Registered Professional,"

incorporated by reference herein. If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase," incorporated by reference herein. Upon receipt and review of both forms, the Department will determine compliance with the terms and conditions of the permit and notify the permittee whether the conversion to the operation and maintenance phase will become effective. The operation and maintenance phase of an individual permit will not become effective if the Department determines that the activity subject to the permit is not in substantial compliance with all the plans, specifications, terms, and conditions of the permit. In such case, the permittee will be responsible for any necessary modifications, alterations, maintenance or repairs to bring the system into such compliance. The submittal of the above forms does not require a processing fee, and their review shall not require processing as a permit modification under Rule 62-346.100, F.A.C.

(3) Each phase or independent portion of the permitted system must be approved by the Department for conversion to the operation phase prior to the initiation of the permitted use of: that phase or independent portion of the facility; or the site infrastructure located within the area served by that portion or phase of the system.

(4) The permittee shall remain liable for compliance with the operation and maintenance of the system in accordance with the terms and conditions of the permit for the life of the system, unless such permit is transferred to an acceptable responsible entity in accordance with Rule 62-346.130, F.A.C. Entities who are acceptable to the Department to assume operation and maintenance responsibilities are described in Part V of the Applicant's Handbook Volume I. Once transfer of the permit with its operation and maintenance responsibilities has been approved by the Department, the transferee shall be liable for compliance with all the terms and conditions of the operation and maintenance phase of the permit for the life of the system.

(5) For those systems that will be operated and maintained by an entity that requires an easement or deed restriction in order to operate and maintain the system in conformance with the permit, such easement or deed restriction, together with any other final operation and maintenance documents required by Part V of Applicant's Handbook Volume I, must be submitted to the Department for approval. Deed restrictions, easements, and other operation and maintenance documents that require recordation with the Clerk of the Circuit Court must be recorded in the county where the project is located prior to any lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems that are to be operated and

maintained by county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

(6) The operation and maintenance entity shall provide for the inspection of the stormwater management system at least once every third year after conversion of a permit to the operation phase. However, systems that include vegetated natural buffers and systems in karst sensitive areas shall be inspected at least annually. A report describing the results of the inspection and certifying that the system is operating as designed and permitted must be filed with the Department within 30 days after the third-year inspection; including those systems using a vegetated natural buffer or located in a karst sensitive area. A report shall also be submitted within 30 days of a system failure or deviation from the permit. The results of all such inspections shall be filed with the Department using Form 62-346.900(8), "Operation and Maintenance Inspection Certification," incorporated by reference herein.

(7) The operation and maintenance entity of a regional stormwater management facility must notify the Department on an annual basis, using Form 62-346.900(9), "Regional Stormwater Management System Annual Report," incorporated by reference herein, of all new systems and their associated stormwater volumes that have been allowed to discharge stormwater into the regional facility, and certifying that the maximum allowable treatment volume of stormwater authorized to be accepted by the regional stormwater management facility has not been exceeded.

(8) For activities that are the responsibility of the NFWFMD, all required forms identified in this rule can be submitted to the NFWFMD through their Internet site. If the applicant does not utilize the electronic form, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.416,373.418, 403.805(1) FS. Law Implemented 373.118, 373.4141, 373.4145, 373.416 FS. History--New 10-1-07.

62-346.100 Modification of Permits.

(1) Modifications to an existing, currently valid individual permit may be requested by the permittee as follows:

(a) Applications for major modifications shall be made in accordance with the procedures for applying for a new permit applicable to the type of permit originally obtained. Applications for minor modifications shall be made in accordance with the same provisions, or by letter that describes the proposed modification, along with drawings reflecting changes in the design of the system. The modification request

shall include payment of the fee required by Rule 62-346.071, F.A.C., except that minor modifications to noticed general permits shall not require an additional fee.

(b) All modification requests must be sent to the agency that issued the permit.

(c) All modification requests shall be reviewed, and will be issued or denied in accordance with the procedures in Rule 62-346.090, F.A.C., applicable to the type of permit being modified.

(d) Minor modifications include requests for a time extension pursuant to Rule 62-346.120, F.A.C., to correct errors or typographical mistakes, to incorporate changes requested by the Department or required through permits issued by other regulatory agencies, to change due dates for reporting or performance deadlines, to transfer a permit, or to make minor technical changes. However, for the purpose of this chapter, a modification shall be considered minor only when it does not:

1. Require a new site inspection by the Department to evaluate the request; or

2. Substantially:

a. Alter the system design or permit conditions;

b. Increase the authorized discharge;

c. Decrease the stormwater treatment or flood attenuation capability of the existing system as specified by the original permit;

d. Decrease any flood control elevations for roads or buildings specified by the original permit;

e. Increase the project area;

f. Result in additional loss of floodplain storage within the 10-year floodplain at a location where the upstream drainage area is greater than 5 square miles;

g. Increase the proposed impervious surface unless accounted for in the previously permitted design of the system;

h. Reduce the frequency or parameters of monitoring requirements, except in accordance with a permit condition that specifically provides for future adjustments in monitoring requirements; or

i. Reduce the financial responsibility mechanisms provided to ensure the continued construction and operation of the system in compliance with permit requirements, except in accordance with specific permit conditions that provide for a reduction in financial responsibility mechanisms.

(e) A modification that does not meet the requirements in paragraph (d) above is a major modification.

(2) Modifications to individual permits also may be required by the Department as follows:

(a) For good cause and after notice and an administrative hearing, if requested, the Department shall require the permittee to conform to new or additional conditions. Upon a showing by the permittee that a specific reasonable period of time is required to comply with the new or additional

conditions, the Department shall allow the permittee such time to conform to the new or additional conditions. For the purpose of this section, any of the following shall constitute good cause:

1. A showing of any change in the environment or surrounding conditions that requires a modification to conform to applicable water quality standards;

2. For discharges into wetlands or other surface waters, a showing that new or changed classification of the water requires a modification of the discharge;

3. Adoption or revision of Florida Statutes, rules, or standards that require the modification of a permit condition for compliance;

4. To correct errors or omissions in the permit with the consent of the permittee; or

5. To correct a permit as a result of the submittal of incorrect or inaccurate information in the application.

(b) Where appropriate to revoke or modify a permit in accordance with Section 373.429, F.S.

(3) A person or entity other than a permittee or the Department may request a modification of a currently valid individual permit only when the person or entity has purchased, or is authorized to and intends to take ownership through condemnation or a contract to purchase, the part of a permitted system subject to the requested modification. In such case, the entity requesting the modification must submit either a formal application or letter modification in accordance with subsection (1) above, and must demonstrate that both the modified portions of the system and the unmodified portions of the system, including portions of the system remaining in the ownership of the existing permittee, will continue to comply with the conditions for issuance in Rule 62-346.301, F.A.C., Applicant's Handbook Volumes I and II, and all permit conditions.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.026(7), 373.043, 373.109, 373.118, 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 373.418, 373.429 FS. History—New 10-1-07.

62-346.110 Duration of Permits.

Unless revoked, extended or otherwise modified, the duration of a permit under this chapter and Chapter 62-341, F.A.C., is:

(1) Five years to conduct activities under a noticed general permit in Chapter 62-341, F.A.C., commencing from the date notice is provided to the Department, or the date the Department verifies compliance with the terms and conditions of the noticed general permit in accordance with the procedures in subsection 62-346.090(1), F.A.C., whichever is later.

(2) Five years from the date of issuance for the construction phase, which is that period necessary to construct, alter, abandon, or remove a system in accordance with the

terms and conditions of an individual permit, except where the permit expressly authorizes a longer duration. Applications requesting a longer duration must provide reasonable assurance that the activity for which the permit is to be granted cannot reasonably be expected to be completed within five years after commencement of construction.

(3) Life of the system for the operation and maintenance phase of a noticed general or individual permit, and for systems constructed in accordance with the terms and conditions of an exemption under Rule 62-346.051, F.A.C.

(4) As provided in Rule 62-346.060, F.A.C., for conceptual permits.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.426 FS. History—New 10-1-07.

62-346.120 Permit Extensions.

(1) An application to extend the duration of an environmental resource permit may be applied for and will be evaluated in accordance with the provisions of this chapter applicable to permit modifications.

(2) A modification to extend a valid permit shall be granted if the application for extension is received by Department, and the activity:

(a) Continues to be consistent with plans, terms, and conditions of the valid permit;

(b) Is consistent with the Department's rules in effect at the time the Department takes final agency action on the request for extension; and

(c) Will not be harmful to the water resources of the District and not inconsistent with the objectives of the District.

(3) If a timely, sufficient, and complete application is received for an extension of a permit to construct, alter, abandon, or remove a system, then the existing permit shall remain in full force and effect until the Department takes action on the application for extension. If the request for permit extension is denied or the terms limited, the permit shall not expire until the last day for requesting review of the Department order, or a later date fixed by order of the reviewing court.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.409, 373.413, 373.4145, 373.416, 373.426, 373.429 FS. History—New 10-1-07.

62-346.130 Transfer of Ownership or Permit.

(1) At least 30 days prior to any transfer of ownership or control of the real property where any permitted activity is located, the permittee shall submit an executed Form 62-346.900(7), "Notification of Transfer of Permit," incorporated herein by reference, to the agency that issued the permit. This form must contain original signatures of both the

permittee and the proposed transferee. The submittal must include the processing fee specified in Rule 62-346.071, F.A.C., except that the initial conversion of the permit from the construction phase entity to the operation phase entity approved when the permit was issued shall not require a processing fee, and will not require processing as a permit modification under Rule 62-346.100, F.A.C.

(2) Except as provided in subsection (1), the request for transfer will be processed as a modification of the permit in accordance with Rule 62-346.100, F.A.C. The Department shall approve a request for transfer of a permit if the proposed transferee provides reasonable assurance that it can construct, operate and maintain the permitted system in conformance with the terms and conditions of the permit. Such provisions of reasonable assurance shall be limited to the ability of the transferee to comply with the conditions of the existing permit. Nothing herein shall limit the ability of the Department to modify the permit after transfer, as provided in Rule 62-346.100, F.A.C. If the Department proposes to deny the transfer, it shall, within 30 days of receipt of the application for transfer, provide both the existing permittee and the proposed new permittee a written notice of denial of such transfer, which will include the reasons for the denial.

(3) Until a transfer is approved by the Department, the permittee shall be liable for compliance with the terms and conditions of the permit, and may be liable for any corrective actions required as a result of any violations of the permit prior to the approval of the transfer by the Department.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1), FS. Law Implemented 373.118, 373.109, 373.409, 373.413, 373.4142, 373.4145, 373.416(2), 373.426 FS. History--New 10-1-07.

62-346.140 Suspension and Revocation.

(1) The Department shall revoke or suspend a permit:

(a) When necessary to protect the public health, safety or welfare;

(b) For material failure to comply with the provisions of the permit or of Part IV of Chapter 373, F.S., or rules adopted thereunder applicable to the permitted activity;

(c) If the permit holder or their agent:

1. Submitted false or materially inaccurate information in the application or in any reports submitted in support of the application or as required in the permit;

2. Has materially failed to submit operational reports or other information required by the permit or Department rules; or

3. Has refused lawful inspection under Section 373.423, F.S.

(2) Nothing in this section shall preclude the Department from exercising other enforcement remedies under Sections 120.569(2)(n), 120.60(5), 120.60(6), 120.69, 120.73, 373.119, 373.129(7), 373.136 and 373.430, F.S., either in addition to or instead of suspension or revocation described above.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026, 373.043, 373.044, 373.118, 373.4145, 373.418, 373.439, 403.805(1) FS. Law Implemented 373.026, 373.118, 373.413, 373.414, 373.4145, 373.416, 373.426, 373.429, 373.439 FS. History--New 10-1-07.

62-346.301 Conditions for Issuance of Individual Permits.

(1) In order to obtain an individual permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal or abandonment of stormwater management system:

(a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands;

(b) Will not cause adverse flooding to on-site or off-site property;

(c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities;

(d) Will not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522 and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244 and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;

(e) Will not cause adverse secondary impacts to the water resources. Until the effective date of rules required under Section 373.4145(1)(b), F.S., this shall be limited to not causing a violation of water quality standards and not lowering or raising seasonal water levels in adjacent surface waters of the state to an extent that prevents the stormwater management system from functioning as designed, not adversely altering normal water level fluctuations in adjacent surface waters of the state, and not otherwise adversely impacting the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.

(f) Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;

(g) Will be conducted by an entity with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; and

(h) Will comply with any applicable special basin or geographic area criteria rules incorporated by reference in this chapter. When karst features exist on the site of a proposed stormwater management system, in addition to paragraphs (a)

through (g) above, the applicant must provide reasonable assurance that untreated stormwater from the proposed system will not reach the Floridan Aquifer through sinkholes, solution pipes, or other karst features.

(2) In instances where an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, mitigation for water quality impacts can consist of water quality enhancement. In these cases, the applicant must implement mitigation measures that are proposed by or acceptable to the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards.

(3) Except as provided in subsection 62-346.301(2), F.A.C., a showing by the applicant that a stormwater management system complies with the applicable criteria in Part III, Applicant's Handbook Volume II, shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraphs 62-346.301(1)(a), (b), (c), and (e), F.A.C. A showing by the applicant that a stormwater management system complies with the applicable criteria in Part IV, Applicant's Handbook Volume II, shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraph 62-346.301(1)(d), F.A.C. A showing by the applicant that a stormwater management system complies with the applicable criteria in Part V, Applicant's Handbook Volume I and Part V of Applicant's Handbook Volume II, shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraphs 62-346.301(1)(f), F.A.C. The applicant must also demonstrate that the activity can be operated and maintained in accordance with requirements in Part V of the Applicant's Handbook Volume I, in order to meet the requirements in paragraph 62-346.301(g), F.A.C.

(4) An applicant's submittal of alternative designs to those provided in Applicant's Handbook Volumes I and II will be reviewed by the Department to determine whether, based on plans, test results, or other information, the alternative design provides reasonable assurance that the project satisfies the conditions for issuance in Rule 62-346.301, F.A.C.

(5) In addition to the criteria in subsections 62-346.301(1), (2) and (3), F.A.C., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the public interest test of Section 373.414(1)(a), F.S., including the potential adverse impacts to manatees.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.042, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.4132, 373.426, 373.429 FS. History--New 10-1-07.

62-346.381 General and Special Limiting Conditions.

(1) The following general conditions shall be applicable to and binding on all individual permits issued pursuant to this chapter, unless the conditions are not applicable to the activity authorized by the permit, or where the conditions must be modified to accommodate unique, project-specific conditions.

(a) All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved in accordance with Rule 62-346.100, F.A.C.

(b) This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity during the construction phase. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

(c) Activities approved by this permit shall be conducted in a manner that does not cause violations of state water quality standards.

(d) Immediately prior to, and during construction, the permittee shall implement and maintain erosion and sediment control best management practices required to retain sediment on-site and to prevent violations of state water quality standards. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All best management practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation, June 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. If project-specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specifications in Chapter 6 of the Florida Development Manual. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as practicable.

(e) Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

(f) At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department a fully executed Form 62-346.900(3), "Construction Commencement Notice," incorporated by reference herein, indicating the expected start and completion dates.

(g) Within 30 days after completion of construction of the whole system, or independent portion of the system, the permittee shall notify the Department that construction has been completed and the system is ready for inspection by submitting Form 62-346.900(4), "As-Built Certification by a Registered Professional." If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase." The system shall not be used and operated for its permitted purpose until the Department has approved the request to authorize the operation phase, in accordance with Rule 62-346.095, F.A.C. The "As-Built Certification" shall be based on the on-site observation of construction by the registered professional or by a designee under the direct supervision of the registered professional, and review of the permitted drawings for the purpose of determining if the work was completed in substantial compliance with permitted plans and specifications. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as "as-built" or "record" drawings. The following information, at a minimum, shall be verified on the as-built or record drawings:

1. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;

2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;

3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;

4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;

5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;

6. Existing water elevations and the date determined; and

7. Elevation and location of benchmarks for the survey.

(h) Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of the facility, or the site infrastructure located within the area served by that portion or phase of the system.

(i) The permittee shall remain liable for compliance with the operation and maintenance of the system in accordance with the terms and conditions of the permit for the life of the system, unless such permit is transferred to an acceptable responsible entity in accordance with Rules 62-346.095 and 62-346.130, F.A.C. Once transfer of the permit has been approved by the Department, the transferee shall be liable for compliance with all the terms and conditions of the operation and maintenance phase of the permit for the life of the system.

(j) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that the Department can determine whether a permit modification is appropriate.

(k) This permit does not convey to the permittee or create in the permittee any property right or any interest in real property, nor does it authorize any entrance upon or activities on property that is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in this permit or Chapter 62-346, F.A.C.

(l) Pursuant to Section 373.422, F.S., prior to conducting any activities on sovereign submerged lands, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

(m) The permittee shall hold and save the Department harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.

(n) The permittee shall notify the Department in writing at least 30 days prior to any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 62-346.095 and 62-346.130, F.A.C.

(o) Upon reasonable notice to the permittee, Department staff with proper identification shall have permission to enter, inspect, sample and test the system to ensure conformity with the plans and specifications authorized in the permit.

(p) If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the Department.

(q) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

(r) The issuance of this permit does not relieve the permittee from the responsibility to obtain any other required federal, state, and local authorizations.

(s) The permittee is advised that, pursuant to Section 556.105, F.S., excavating contractors are required to provide certain information concerning the excavation that may affect underground facilities through the one-call notification system not less than two, nor more than five, business days before beginning any excavation.

(2) In addition to those general conditions set forth in subsection (1) above, the Department shall impose on any individual permit granted under this chapter such reasonable project-specific special conditions as are necessary to assure that the permitted system will not be harmful to the water resources, as set forth in Rules 62-346.301, F.A.C., and the Applicant's Handbook Volumes I and II.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 373.428, 403.0877 FS. History--New 10-1-07.

62-346.451 Emergency Authorizations and Actions.

When the Department has determined that immediate action is necessary to abate an imminent or currently existing serious threat to the public health, safety, welfare, or the environment, the Department shall issue an emergency order authorizing or directing activities necessary to abate the emergency. When such an order is issued in whole or part under the authority of Section 373.119(2), F.S., it may also be based on a serious threat to reasonable recreational, commercial, industrial, or agricultural uses. The order shall recite the factual basis for it in accordance with Section 120.569(2)(n), F.S., and include all conditions (including a limitation on the duration of the emergency authorization) required to ensure that the activity authorized or directed does not exceed that necessary to abate the threat. When the activity conducted under the order has an operational or maintenance aspect that continues beyond the emergency, any required permits shall be applied for as soon as practicable.

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 120.569(2), 373.119, 373.409, 373.413, 373.4145, 373.416, 373.418, 373.426, 373.439 FS. History--New 10-1-07.

62-346.900 Environmental Resource Permit Forms.

The forms and instructions used in the Environmental Resource Permit program under this chapter are incorporated by reference as stated in subsections (1) through (10) below. The forms are listed by rule number, which is also the form number, and with the subject title and effective date. Copies of forms may be obtained from the Internet sites of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>, or NFWFMD at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>, or from any local district or branch office of the Department (see <http://www.dep.state.fl.us/secretary/dist/>) or NFWFMD, or by writing to the Florida Department of Environmental Protection, Submerged Lands and Environmental Resources Office, M.S. 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or to Northwest Florida Water Management District, District Headquarters Office, 75 Water Management Drive, Havana, Florida 32333.

(1) "Application for Stormwater Permit in Northwest Florida," incorporated by reference in subsection 62-346.070(2), F.A.C., [Effective Date].

(2) "Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida," incorporated by reference in subsection 62-346.070(2), F.A.C., [Effective Date].

(3) "Construction Commencement Notice," incorporated by reference in paragraph 62-346.381(1)(f), F.A.C., [Effective Date].

(4) "As-Built Certification by a Registered Professional," incorporated by reference in subsection 62-346.095(2), F.A.C., [Effective Date].

(5) Construction Completion and Inspection Certification for Systems not Requiring Certification by a Registered Professional – to be developed after adoption of the rules authorized under Section 373.4145(1)(a), F.S.

(6) "Request for Conversion of Stormwater Management Permit Construction Phase to Operation and Maintenance Phase," incorporated by reference in subsection 62-346.095(2), F.A.C., [Effective Date].

(7) "Notification of Transfer of Permit," incorporated by reference in subsection 62-346.130(1), F.A.C., [Effective Date].

(8) "Operation and Maintenance Inspection Certification," incorporated by reference in subsection 62-346.095(6), F.A.C., [Effective Date].

(9) "Regional Stormwater Management System Annual Report," incorporated by reference in subsection 62-346.095(7), F.A.C., [Effective Date].

(10) County or Municipality Request to Reduce Permit Application Fees Pursuant to Section 218.075, F.S., incorporated by reference in subsection 62-346.071(5), F.A.C. [Effective Date].

Proposed Effective Date: October 1, 2007.

Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.019, 373.026, 373.109, 373.117, 373.118, 373.403, 373.409, 373.413, 373.4132, 373.414, 373.4141, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.421, 373.4211, 373.423, 373.426, 373.428, 373.429, 380.06, 403.0877, 403.813(2) FS. History–New 10-1-07.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 30, 2006, on the Department’s Official Internet Noticing site at <http://tlhora6.dep.state.fl.us/onw/pilot.asp>

DEPARTMENT OF JUVENILE JUSTICE

Education

RULE NOS.:	RULE TITLES:
63B-1.001	Purpose and Scope
63B-1.002	Definitions
63B-1.003	Career and Vocational Programming
63B-1.004	Hiring of Vocational Staff
63B-1.005	Youth Participation
63B-1.006	Cooperative Agreement
63B-1.007	Juvenile Education Reporting Requirements and Career-Related Evaluations

PURPOSE AND EFFECT: Establishing standards and requirements for juvenile justice career-related programs.

SUMMARY: The rule describes the nature and availability of career-related programming, and the staffing, youth participation and evaluation of same. The rule also outlines the cooperative agreements between the department, school districts and the Florida Department of Education.

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: 985.618(4), 985.622, 985.64 FS.

LAW IMPLEMENTED: 985.618, 985.622, 1003.52 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: Tuesday, April 3, 2007, 10:00 a.m.

PLACE: DJJ Headquarters, Knight Building, Ste. 312, 2737 Centerview Dr., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 312, Tallahassee, FL 32399-3100, e-mail john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63B-1.001 Purpose and Scope.

This rule establishes the standards and requirements for the department’s juvenile justice career-related programs.

Specific Authority 985.618(4), 985.622, 985.64 FS. Law Implemented 985.618(4), 985.622 FS. History–New _____.

63B-1.002 Definitions.

As used in this chapter, the following words, unless the context does not permit, shall have the meanings indicated:

(1) Cooperative Agreement – Agreement signed locally and at the state level to define shared educational responsibilities with the Florida Department of Education and the Department of Juvenile Justice, and School Districts and the Department of Juvenile Justice as defined in Section 1003.52(1) and (13), F.S.

(2) Department – The Florida Department of Juvenile Justice.

(3) Informational Analysis – The gathering of information for the evaluation of a youth’s physical, psychological, educational, vocational, social condition and family environment as they relate to the youth’s need for rehabilitative and treatment services, including substance abuse treatment services, literacy services, medical services, family services, and other specialized services, as appropriate.

(4) Juvenile Justice Education Survey – An instrument assessing the degree of juvenile justice educational resources, partnerships and outcomes.

(5) Program – A contracted or state-operated residential or non-residential environment funded by the department, providing educational services to committed youth.

(6) Vocational Programming – There are three levels of vocational education:

(a) Level 1 vocational programs are pre-vocational and shall include provision of counseling or instruction contributing to personal accountability skills and behaviors appropriate for youth in all age groups and ability levels that lead to work habits with the following intended youth competencies:

1. Communication skills demonstrated by selection and use of a variety of speaking strategies to clarify meaning and reflect understanding, interpretation, application, and evaluation of content, processes, or experiences, including asking relevant questions when necessary, making appropriate and meaningful comments, and making insightful observations.

2. Interpersonal skills demonstrated by requirements that youth work with each other cooperatively and productively.

3. Decision-making skills such as having youth map out the likely consequences of decisions, the importance of individual factors and choosing the best course of action to take.

(b) Level 2 vocational programs incorporate the competencies stated above and provide youth with an orientation to a broad scope of career choices, based upon personal abilities, aptitudes and interests, and exploring and gaining knowledge of occupation options and the level of effort required to achieve them. Level 2 programs will lead to work habits with the following intended youth competencies:

1. Completion of a vocational interest survey.
2. Identification of occupational skills and interests.
3. Conflict resolution skills.
4. Summary of personal accomplishments.
5. Knowledge of preparation and job seeking skills.
6. Knowledge of stress management skills.

(c) Level 3 vocational programs incorporate the first and second levels and provide recognized industry prerequisites for attaining recognized points of completion within particular trades or vocations.

Specific Authority 985.618(4), 985.622, 985.64 FS. Law Implemented 985.618(4), 985.622 FS. History–New _____.

63B-1.003 Career and Vocational Programming.

(1) All juvenile justice programs are required to incorporate a minimum of level one vocational competency development.

(2) Programs are required to demonstrate efforts to achieve levels one and two programming consistent with the age, type, and special needs of the youth populations served.

(3) Programs will collaborate with the educational program to assist youth in acquiring academic, technical, personal managerial, problem-solving and teamwork skills essential for a lifetime of achievement in a technological society.

Specific Authority 985.618(4), 985.622, 985.64 FS. Law Implemented 985.618(4), 985.622 FS. History–New _____.

63B-1.004 Hiring of Vocational Staff.

(1) Any staff hired directly by the department to deliver vocational services shall be certified in the vocational specialty they are instructing.

(2) Any staff hired by the department shall also complete required background screening prior to direct contact with youth.

Specific Authority 985.618(4), 985.622, 985.64 FS. Law Implemented 985.618(4), 985.601(8) FS. History–New _____.

63B-1.005 Youth Participation.

(1) Each program will complete an informational analysis of youth prior to educational program personnel assignment into career and technical education training.

(2) Program directors will provide work-related experience, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing for youth determined to be eligible for such participation by the responsible school district.

(3) The department shall focus on developing skill competencies including social skills, life skills, academic skills, employability skills, and prevocational or vocational skills; development of services and activities that integrate academic, vocational, and technical instruction, and that link secondary and postsecondary education to participating vocational and technical education students in commitment facilities; and, build on the efforts of states and localities to develop vocational and technical education programs in commitment facilities.

Specific Authority 985.618(4), 985.622, 985.64 FS. Law Implemented 985.618(4), 985.622 FS. History–New _____.

63B-1.006 Cooperative Agreement.

(1) Programs will comply with responsibilities listed in the annual cooperative agreement with the Florida Department of Education.

(2) The department shall support student and staff scheduling and facility utilization to ensure participation in the educational and career-related programming occurs on a 5-day-per-week, 5-hour-per-day basis. Youth workforce education is not limited to the educational portion of the day or program.

(3) Department personnel will establish local education and business partnerships with local employers, volunteers, mentors, community college or vocational entity representatives and school district personnel.

(4) Youth enrolled in educational and career programming will receive credit for participation in the education and training experience by an approved credentialing entity.

(5) Department personnel will work with local school districts to maximize availability of technological equipment to ensure students have access to Florida Virtual High School or other distance learning opportunities.

(6) The department shall facilitate establishment of a re-entry committee in each judicial circuit in partnership with the school district transition contact designated by the Department of Education. The re-entry committee shall include representation from the department, case managers responsible for continuity of programming for youth exiting commitment programs, community law enforcement, educational entities, the One Stop Center and individuals specific to the interests of each youth served by the committee.

(7) Youth with employability as one of their transition goals should have at the time of program release:

(a) A transition plan developed with youth involvement and representatives of the commitment program, educational program and probation with specific plans for continuation of education and/or employment upon program exit;

(b) A sample completed employment application;

(c) A resume summarizing education, work experience and/or career training to date;

(d) An appointment with the One Stop Center within the vicinity where the youth will be seeking employment;

(e) Appropriate documents essential to obtaining employability upon leaving the program if included within his or her transition plan; and

(f) Evidence that the youth's case manager and parent or guardian is aware of the plan, documents and post-release discharge plans.

Specific Authority 985.618(4), 985.622, 985.64 FS. Law Implemented 985.618, 985.622, 1003.52 FS. History—New _____.

63B-1.007 Juvenile Education Reporting Requirements and Career-Related Evaluations.

(1) Each program shall submit a report containing the following information to the department's Office of Education no later than June 1 of each year:

(a) Program name;

(b) School district responsible for educational services;

(c) Status of GED test site;

(d) Vocational education level.

(2) The department shall prepare an annual summary each June 30 to determine the extent of program participation in career and technical training.

(3) Each program's participation in the self-reported level of vocational training will be validated by the Department of Education quality assurance reviews as required by Section 1003.52 F.S.

(4) The Office of Education will maintain an ongoing list of the level of vocational training in place by each of the juvenile justice educational programs.

(5) Annual quality assurance, performance reporting and program monitoring will assess the degree of department program participation in education and career training consistent with pertinent provisions of the Florida Administrative Code.

(6) The Office of Data and Research is required to provide annual summaries of performance, recidivism and quality assurance data collection and reporting no later than December 31.

(7) The summary report will include an education section incorporating results of the Juvenile Justice Education Survey specific to career and technical education training and funding within juvenile justice education programs.

Specific Authority 985.618(4), 985.622, 985.64 FS. Law Implemented 985.618, 985.622, 1003.52 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Matthew Guse, Deputy Education Director, Dept. of Juvenile Justice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Terri Eggers, Education Director, Dept. of Juvenile Justice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 27, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 9, 2007

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-5.002 RULE TITLE: Supervisor

PURPOSE AND EFFECT: The Board proposes amendments for the academic qualifications of clinical laboratory personnel supervisors.

SUMMARY: The proposed rule amendments will clarify licensure requirements for clinical laboratory supervisors.

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: 483.805(4), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.815, 483.823 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.002 Supervisor. Qualifications and Responsibilities.

(1) Qualification. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or by foreign education equated pursuant to subsection 64B3-6.002(6), F.A.C. In order to be licensed as a supervisor, an applicant shall be licensed or meet the requirements for licensure as a technologist, have one hour of Board approved HIV/AIDS continuing education, a Board approved 2-hour course relating to the prevention of

medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety, and one of the following:

Specialty (a) through (b) No change. (c) Histology	Option	Education	Training/Experience	Examination
	1		Five years pertinent clinical laboratory experience in histology and 25 hours of Board-approved continuing education in supervision and administration within the previous 5 years.	<u>HTL (ASCP)</u>
	2		Five years of pertinent clinical laboratory experience post-certification and 48 hours of Board approved continuing education in supervision and administration within the previous five years.	<u>HT (ASCP)</u>
	3		Five years of pertinent clinical laboratory experience, 48 hours of Board-approved continuing education in supervision and administration within the previous 5 years, <u>and licensure as a technologist in the specialty of histology.</u>	

Specific Authority 483.805(4), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.815, 483.823 FS. History—New 12-6-94, Amended 7-12-95, 12-4-95, Formerly 59O-5.002, Amended 5-26-98, 1-11-99, 6-10-99, 3-11-01, 9-19-01, 5-23-02, 10-14-02, 9-16-03, 4-20-04, 2-23-06, 5-25-06, _____.

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: 483.805(4), 483.811(2), 483.823 FS.

LAW IMPLEMENTED: 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 24, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2007

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.003 Technologist.

(1) Technologist Qualifications. Degrees or semester hours of academic credit required in this section shall be obtained at a regionally accredited college or university or, if foreign education, equated pursuant to subsection 64B3-6.002(6), F.A.C. Applicants for technologist licensure in the categories of microbiology, serology/immunology, chemistry, hematology, immunohematology, histocompatibility, blood banking, cytology, cytogenetics, histology, molecular pathology, andrology and embryology shall have one hour of Board approved HIV/AIDS continuing education, a Board

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-5.003
RULE TITLE: Technologist

PURPOSE AND EFFECT: The Board proposes amendments for the academic qualifications of clinical laboratory personnel technologists.

SUMMARY: The proposed rule amendments will clarify licensure requirements for clinical lab technologists.

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

approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety.

(2) through (3) No change.

- (a)1. through
- (h)3. No change.

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Five year of pertinent experience and 48 contact hours of continuing education in immunohistochemistry/advanced histologic techniques and licensure as a technician in the specialty or histology.

(i) No change.

Specific Authority 483.805(4), 483.811(2), 483.823 FS. Law Implemented 381.0034, 483.800, 483.809, 483.811(2), 483.815, 483.823 FS. History–New 12-6-94, Amended 7-12-95, 9-10-95, 12-4-95, Formerly 59O-5.003, Amended 5-26-98, 1-11-99, 7-5-01, 3-34-02, 10-29-02, 8-16-04, 5-15-05, 12-19-05, 5-25-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2007

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-11.001 RULE TITLE: Continuing Education

PURPOSE AND EFFECT: The Board proposes amend the rule to comply with statutory change for HIV course.

SUMMARY: proposed rule amendments will clarify the changes for HIV 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, 483.821 FS.

LAW IMPLEMENTED: 456.013, 483.821 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-11.001 Continuing Education.

(1) In order to renew a clinical laboratory personnel license, a minimum of 24 contact hours of continuing education shall be earned during each biennium including a minimum of one contact hour for each of the categories in which the individual is licensed, ~~and one contact hour of continuing education on HIV/AIDS.~~ Also, as a part of the 24 continuing education hours, each licensee shall take a Board approved 2-hour course relating to the prevention of medical errors, which shall include root-cause analysis, error reduction and prevention, and patient safety. Directors and supervisors are required to obtain one contact hour of continuing education in administration and supervision. As part of the minimum of 24 contact hours of continuing education, each licensee shall be required to take a one hour course on Florida laws and rules governing clinical laboratory personnel or attend a public meeting of the full Board at which disciplinary actions are addressed. A telephone conference call meeting of the Board will not satisfy this requirement.

(2) through (9) No change.

Specific Authority 456.013, 483.821 FS. Law Implemented 456.013, 483.821 FS. History–New 2-22-94, Amended 7-13-94, Formerly, 61F3-11.001, Amended 12-11-94, 3-28-95, 12-4-95, 7-1-97, Formerly 59O-11.001, Amended 3-19-98, 12-13-99, 3-20-01, 10-13-02, 3-18-03, 2-24-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 27, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 5, 2007

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-11.005 RULE TITLE: Mandatory HIV/AIDS Education for Initial Licensure and First Renewal

PURPOSE AND EFFECT: The purpose of the amendment is to add language to conform with new statutory language.

SUMMARY: The proposed rule amendment will clarify the changes for first initial licensure renewal.

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: 483.823 FS.

LAW IMPLEMENTED: 456.033(6), 483.823 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-11.005 Mandatory HIV/AIDS Education for Initial Licensure and First Renewal.

Applicants for initial licensure and first renewal shall complete a one hour HIV/AIDS continuing education course pursuant to Section 381.0034 and Chapter 456, F.S., which shall:

- (1) through (2) No change.

Specific Authority 483.823 FS. Law Implemented 456.033(6), 483.823 FS. History–New 12-6-94, Amended 12-4-95, 7-1-97, Formerly 59O-11.005, Amended 10-12-03, 9-15-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 27, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 27, 2006

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-12.002 RULE TITLE: Citations

PURPOSE AND EFFECT: The purpose of the amendment is to clarify the penalty for failure to comply with CE requirements.

SUMMARY: The proposed rule amendment clarifies the penalty for failure to comply with CE requirements.

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: 456.077(1), (2), 483.805(4), 483.827 FS.

LAW IMPLEMENTED: 456.077(1), (2), 483.827 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-12.002 Citations.

- (1) through (3)(e) No change.

~~(f) Failure to comply with continuing education requirements pursuant to Rule 64B3-11.001, F.A.C.~~

~~(f)(g)~~ Failure to report to the Board in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction as required by Section 456.072(1)(w), F.S.

~~(g)(h)~~ Failure to report to the Board in writing within 30 days of action taken against a license to practice by another jurisdiction as required by Section 483.825(1)(k), F.S.

~~(h)(i)~~ Failure to comply with a portion of a Final Order of the Board due to negligence pursuant to Section 483.825(1)(n), F.S.

~~(4) Failure to comply with and document continuing education requirements shall result in a fine of \$50.00 per hour missing or incomplete, pursuant to Rule 64B3-11.001, F.A.C.~~

~~(5)(4)~~ In addition to the penalties established in this rule, the Department shall recover the costs of investigation. The penalty specified in the citation shall be the sum of the penalty established by this rule plus the Department’s cost of investigation.

~~(6)(5)~~ If the subject disputes any matter contained in the citation, within thirty days after service, the Department shall follow the procedure set forth in Section 456.073, F.S. Otherwise, the citation shall become a final order of the Board.

~~(7)(6)~~ The Department shall report to the Board regarding the number of citations issued and the nature of the offenses for which they were issued.

Specific Authority 456.077(1), (2), 483.805(4), 483.827 FS. Law Implemented 456.077(1), (2), 483.827 FS. History–New 8-3-93, Formerly 61F3-12.002, 59O-12.002, Amended 4-10-01, 9-9-02, 2-24-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Clinical Laboratory
Personnel
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: October 27, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 5, 2007

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-13.001 RULE TITLE: Responsibilities of Directors
PURPOSE AND EFFECT: The purpose of the amendments is to clarify the responsibilities of a licensed director.
SUMMARY: The proposed rule amendment clarifies the directors responsibilities.
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: 483.805(4) FS.
LAW IMPLEMENTED: 483.800, 483.813, 483.823, 483.825 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: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B3-13.001 Responsibilities of Directors.
 - (1) through (4) No change.
 - (5) The director can delegate performance of responsibilities to licensed supervisors, with the exception of the approval, signing and dating of procedures. However, the director remains responsible for ensuring that all duties are properly performed. The delegation of responsibilities must be written and specific.
 - (6)(a) through (r) No change.
 - (s) Ensure that a procedure manual approved, signed, and dated by the clinical laboratory director both initially and biennially thereafter is available to all personnel responsible for any aspect of the testing process.
 - (t) through (y) No change.
 - (7) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.800, 483.813, 483.823, 483.825 FS. History–New 12-6-94, Amended 3-28-95, Formerly 59O-13.001, Amended 4-7-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Clinical Laboratory Personnel
NAME OF SUPERVISOR OR PERSON WHO APPROVED
THE PROPOSED RULE: Board of Clinical Laboratory
Personnel
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: October 27, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: January 5, 2007

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: 64B5-15.020 RULE TITLE: Examination Review Fee
PURPOSE AND EFFECT: The Board proposes the rule repeal due to the conflict with the Department of Health’s rule.
SUMMARY: The rule repeal is necessary due to the conflict with the Department of Health’s 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: 456.017(2) FS.
LAW IMPLEMENTED: 456.017(2) 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B5-15.020 Examination Review Fee.
 - ~~(1) Fees for review of the Dental Examination shall be:~~
 - ~~(a) Review of the practical examination and Florida Laws and Rules examination: \$75.00.~~
 - ~~(b) Review of the practical examination only: \$75.00.~~
 - ~~(c) Review of the Florida Laws and Rules examination: \$30.00.~~
 - ~~(2) Fees for review of the Dental Hygiene Examination shall be:~~
 - ~~(a) Review of the practical examination and Florida Laws and Rules examination: \$75.00.~~
 - ~~(b) Review of the practical examination only: \$75.00.~~

~~(e) Review of the Florida Laws and Rules examination only: \$30.00.~~

Specific Authority 456.017(2) FS. Law Implemented 456.017(2) FS. History—New 3-25-90, Formerly 21G-15.020, 61F5-15.020, 59Q-15.020, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 2, 2007

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-27.850
 RULE TITLE: Standards of Practice for Othotics and Pedorthics

PURPOSE AND EFFECT: The Board proposes the rule promulgation in order to create standards of practice for orthotics and pedorthics.

SUMMARY: The rule provides standards of practice for orthotics and pedorthics.

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: 468.808, 468.812(3) FS.

LAW IMPLEMENTED: 468.808, 468.812(3) 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:

64B16-27.850 Standards of Practice for Orthotics and Pedorthics.

(1) Definitions.

(a) "Orthosis" means a medical device used to provide support, correction, or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity, but does not include the following assistive technology devices: upper extremity adaptive equipment used to facilitate the activities of daily living, including specialized utensils, combs, and brushes; finger splints; wheelchair seating and equipment that is an integral part of the wheelchair and not worn by the

patient; elastic abdominal supports that do not have metal or plastic reinforcing stays; arch supports; nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, over-the-counter shoes; prefabricated foot care products; durable medical equipment such as canes, crutches, or walkers; dental appliances; or devices implanted into the body by a physician. For purposes of this subsection, "accommodative" means designed with the primary goal of conforming to the individual's anatomy and "inlay" means any removable material upon which the foot directly rests inside the shoe and which may be an integral design component of the shoe.

(b) "Orthotics" means the practice, pursuant to a licensed physician's written prescription, of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of an orthosis or pedorthic device; however, the repair, replacement, adjustment, or servicing of any existing orthosis may be performed without an additional prescription from the patient's physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the pharmacist must consult with the therapist if the therapist has requested consultation regarding the fitting, design, or fabrication of an orthosis or regarding treatment with an orthosis.

(c) "Pedorthic device" means therapeutic shoes, shoe modifications made for therapeutic purposes, prosthetic fillers of the forefoot, and foot orthoses for use from the ankle and below, but does not include arch supports; nontherapeutic accommodative inlays and nontherapeutic accommodative footwear, regardless of method of manufacture; unmodified, over-the-counter shoes; or prefabricated foot care products. For purposes of this subsection, "accommodative" means designed with the primary goal of conforming to the individual's anatomy and "inlay" means any removable material upon which the foot directly rests inside the shoe and which may be an integral design component of the shoe.

(d) "Pedorthics" means the practice, pursuant to a licensed physician's written prescription, of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a pedorthic device; however, the repair, replacement, adjustment, or servicing of any existing pedorthic device may be performed without an additional prescription from the patient's physician, unless the original prescription states otherwise. If a patient is under the care of a licensed occupational therapist or physical therapist, the pharmacist must consult with the therapist if the therapist has requested consultation regarding the fitting, design, or fabrication of a pedorthic device or regarding treatment with a pedorthic device.

(2) Pursuant to a licensed physician's written prescription, the pharmacist shall assume the responsibility for assessing the patient, planning the patient's treatment program, and directing the program. No pharmacist shall implement a prescription that, in the pharmacist's judgment, is contraindicated. No change shall be made in the prescription without the authorization of the prescribing physician.

(3) The pharmacist's professional responsibilities include:

(a) Ongoing consultation with the prescribing physician regarding information that will impact the patient's medical and functional outcomes.

(b) Orthotic and or pedorthic evaluation of the patient.

(c) Identification and documentation of precautions, special problems, or contraindications.

(d) Development of a treatment plan including the short and long terms goals.

(e) Implementation of a treatment plan.

(f) Periodic review and update of the treatment plan, including reassessment of the patient in reference to goals and, when necessary, modification of the treatment plan.

(g) Collaboration with members of the health care team when appropriate.

(h) Advising the patient, in terms which the patient can understand, of the nature and purpose of the services to be rendered and the techniques for use and care of an orthosis or pedorthic device.

(i) Determination of the appropriateness of proper fit and function of any orthosis or pedorthic device.

(4) A pharmacist may delegate duties to nonlicensed supportive personnel if those duties are performed under the supervision of the pharmacist. In such instances the supervising pharmacist is responsible for all acts performed by such persons. It is below the standard of practice and prohibited for a pharmacist to delegate or assign activities, tasks or procedures that fall within the scope of any practice defined in Section 468.812(3), F.S., to support personnel, without providing supervision for the performance of the activities, tasks or procedures.

Specific Authority 468.808, 468.812(3) FS. Law Implemented 468.808, 468.812(3) 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: December 7, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 19, 2007

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.:
64B16-27.851

RULE TITLE:
Record-Keeping for Othotics and Pedorthics

PURPOSE AND EFFECT: The Board proposes the rule promulgation in order to create record-keeping for orthotics and pedorthics.

SUMMARY: The rule provides instruction for record-keeping for orthotics and pedorthics.

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: 456.057(16), 468.802, 468.808, 468.812(3) FS.

LAW IMPLEMENTED: 456.057(16), 468.802, 468.808, 468.812(3) 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:

64B16-27.851 Record-Keeping for Orthotics and Pedorthics.

(1) The pharmacist or supportive personnel shall prepare and maintain in a timely manner patient records which include, at a minimum, the following:

(a) The patient name, address and telephone number;

(b) The location and dates of all treatment, evaluation or consultation;

(c) The name of the prescribing physician;

(d) All prescriptions pertaining to services provided to the patient;

(e) A treatment or service plan;

(f) Progress notes for each session;

(2) The licensee may charge a fee for the reproduction of records, which shall be no greater than \$1.00 per page for the first 25 pages, and \$0.50 per page for every page after 25. In addition, the actual cost of postage may be added. Reasonable costs of reproducing radiographs and such other kinds of records shall be the actual costs. "Actual costs" means the cost of the material and supplies used to duplicate the record and the labor and overhead costs associated with the duplication.

(3) The licensee shall retain the patient record for at least two years from the date of last entry, unless otherwise provided by law.

Specific Authority 456.057(16), 468.802, 468.808, 468.812(3) FS. Law Implemented 456.057(16), 468.802, 468.808, 468.812(3) 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: December 7, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 19, 2007

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE NO.: 64B20-6.002
RULE TITLE: Standards for Approval of Continuing Education Activities and Providers

PURPOSE AND EFFECT: The Board proposes a rule amendment to address the standards for approval of continuing education activities and providers.

SUMMARY: The Board proposed a rule amendment to add a minimum 30 day prior approval requirement for a continuing education activity.

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, 468.1135(4), 468.1195(3) FS.

LAW IMPLEMENTED: 468.1195 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 King, Executive Director, Board of Speech-Language Pathology and Audiology, MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-6.002 Standards for Approval of Continuing Education Activities and Providers.

(1) through (2) No change.

(3) Any licensee or certified assistant may apply for prior approval of a continuing education activity by making application at least (30) days prior to the activity on Form CEA-2, Licensee/Certified Assistant Application for Prior Approval of Continuing Education Activity, which is incorporated by reference herein, effective 3-28-95, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C-06, Tallahassee, Florida 32399-3256, and payment of a fee as specified in Rule 64B20-3.016, F.A.C. Upon receipt of said application and payment of said fee, the Board shall approve a continuing education activity which meets the standards for continuing education offerings as outlined in these rules.

(4) through (8) No change.

Specific Authority 456.013, 468.1135(4), 468.1195(3) FS. Law Implemented 468.1195 FS. History—New 3-14-91, Formerly 21LL-6.002, Amended 9-20-93, Formerly 61F14-6.002, Amended 3-28-95, 10-1-95, Formerly 59BB-6.002, Amended 1-6-00, 9-21-05, 4-4-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech- Language Pathology and Audiology
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 8, 2006
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 15, 2006

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE NO.: 68-1.003
RULE TITLE: Florida Fish and Wildlife Conservation Commission Grants Program

PURPOSE AND EFFECT: The purpose of the proposed rule is to revise the dates of three (3) Commission grant program guideline documents that are incorporated by reference in the rule. Each grant program, the Nongame Wildlife Grants Program, the Fish and Wildlife Research Institute Grants Program and Florida’s State Wildlife Grants Program have revised their respective guidelines. These changes will primarily clarify and update certain programmatic and administrative processes to improve efficiency. Incorporated web sites, rule numbers, and details relating to travel and indirect rates have also been updated to reflect changes in agency and state policies.

SUMMARY: The proposed changes to Rule 68-1.003, F.A.C., will update the references to the program guideline documents in subsections (5), (10), and (11) of the rule. Specifically, reference to the Nongame Wildlife Grants Program guidelines

incorporated by reference will be changed from December 2003 to March 2007; the date of incorporation by reference for the Fish and Wildlife Research Institute Grant Program guidelines will be changed from February 2005 to March 2007; and the date of incorporation by reference for the Florida's State Wildlife Grants Program guidelines will be changed from November 2004 to March 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: Article IV, Section 9, Florida Constitution, 370.023 FS.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, 370.023 FS.

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

DATES AND TIME: During the Commission's regular meeting, April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: The ADA Coordinator, at (850)488-6411. 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: Stuart Cumberbatch, Wildlife Research Section, 620 South Meridian Street, Tallahassee, FL 32399-1600; Telephone (850)488-3831; Email: Stuart.Cumberbatch@MyFWC.com

THE FULL TEXT OF THE PROPOSED RULE IS:

68-1.003 Florida Fish and Wildlife Conservation Commission Grants Program.

(1) through (4) No change.

(5) Nongame Wildlife Grants Program grants shall meet all additional program requirements set forth in the Florida Nongame Wildlife Grants Program Guidelines (dated March 2007 ~~December 2003~~), which are hereby incorporated by reference. The guidelines are available from the Commission at 620 South Meridian Street, Tallahassee, Florida 32399-1600.

(6) through (9) No change.

(10) Fish and Wildlife Research Institute Grants Program grants shall meet all additional program requirements set forth in the Fish and Wildlife Research Grants Program Guidelines

(dated March 2007 ~~February 2005~~), which are hereby incorporated by reference. The guidelines are available from the Commission at the Fish and Wildlife Research Institute, 100 Eighth Avenue S.E., Saint Petersburg, Florida 33701-5020.

(11) Florida's State Wildlife Grants Program grants shall meet all additional program requirements set forth in Florida's State Wildlife Grants Program Guidelines (dated March 2007 ~~November 2004~~), which are hereby incorporated by reference. The guidelines are available from the Commission at 620 South Meridian Street, Tallahassee, Florida 32399-1600.

Specific Authority 370.023 FS., Art. IV, Sec. 9, Fla. Const. Law Implemented 370.023 FS., Art. IV, Sec. 9, Fla. Const. History—New 4-4-04, Amended 3-15-05, Formerly 68A-2.015, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Gil McRae, Director, Fish and Wildlife Research Institute
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 27, 2006

FISH AND WILDLIFE CONSERVATION COMMISSION

RULE NOS.:	RULE TITLES:
68-5.001	Introduction of Non-Native Species Into the State
68-5.002	Conditional Non-Native Species
68-5.003	Prohibited Non-Native Species

PURPOSE AND EFFECT: The purpose of this proposed new rule chapter is to consolidate regulatory provisions relating to non-native species currently existing in different rule chapters in Title 68A into a new chapter within Title 68 of the Florida Administrative Code. In addition, the proposed rule adds species previously referenced only in statute, and substitutes the term "conditional" for the term "restricted" to refer to non-native with special requirements. The proposed new rules will list two additional species and add conditions for the possession of a previously restricted genus of freshwater fishes. The effect of this new rule title will be to consolidate related regulatory provisions in the same place and allow citizens easier access to them.

SUMMARY: Proposed new Rule 68-5.001, F.A.C., prohibits transportation into the state of any non-native freshwater fish, aquatic invertebrate, marine plant, marine animal, or wild animal life without a permit from the Commission, with specified exceptions. Permits for certain species will be issued upon the satisfaction of specified conditions. Accredited aquaria, zoological parks, and public exhibitors and individuals

engaged in research will be issued permits to possess prohibited species under specified controls. Possession of piranha or pirambeba is absolutely prohibited. Sea snakes may only be possessed by specified institutions under strict control. Specified tortoises are only allowed to be brought into the state pursuant to Commission permit and specified conditions. Non-regulated non-native species are allowed to be taken in Florida without restrictions.

Proposed new Rule 68-5.002, F.A.C., provides a list of conditional non-native species, those non-native species that are allowed to be possessed within the state only pursuant to Commission permit. Proposed new Rule 68-5.003, F.A.C., provides a list of prohibited non-native species, those non-native species that cannot be possessed in Florida, except under strictly controlled circumstances specified in Rule 68-5.001, 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 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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the Commission's regular meeting, April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: The ADA Coordinator, at (850)488-6411. 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: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68-5.001 Introduction of Non-native Species into the State.

(1) No person shall transport into the state, introduce, or possess, for any purpose that might reasonably be expected to result in liberation into the state, any freshwater fish, aquatic

invertebrate, marine plant, marine animal, or wild animal life not native to the state, without having secured a permit from the Commission, except:

(a) Fathead minnow (*Pimephales promelas*).

(b) Variable platy (*Xiphophorus variatus*).

(c) Coturnix quail (*Coturnix coturnix*).

(d) Ring-necked pheasant (*Phasianus colchicus*).

(2) Conditional Non-native Species – The species or hybrids or eggs thereof listed in Rule 68-5.002, F.A.C., may be possessed only pursuant to permit issued by the Executive Director, with the following restrictions:

(a) Such permits will be issued only to individuals or institutions engaged in research, or to commercial import or export businesses, public aquaria, public zoological parks, or public exhibitors providing educational exhibits. Permits shall not be issued for display of these species in private aquaria, private zoological parks, or for personal possession.

(b) Prior to the issuance of a permit to possess conditional non-native species, facilities where conditional species are to be kept and waters where their use is intended may be inspected by Commission personnel to assure that adequate safeguards exist to prevent escape or accidental release into the waters of the state.

(c) Permits for conditional freshwater fish and aquatic invertebrate species may be issued by the Commission subject to the following:

1. Conditional freshwater fish and aquatic invertebrate species held outdoors may only be held in a water body that has the lowest point of the top edge of its levee, dike, bank, or tank at an elevation of at least one foot above the 100-year flood elevation determined by reference to elevation maps issued by the National Flood Insurance Program, U.S. Department of Housing and Urban Development. Such water body shall have no water discharge or shall be constructed with a barrier system designed to prevent escape of adults, juveniles, and eggs in the water effluent discharged from the permittee's property. Public visitation at facilities in possession of conditional non-native species shall occur only under supervision of the permittee or his/her designee.

2. Conditional freshwater fish and aquatic invertebrate species held indoors may only be held in culture systems having no water discharge, having a water discharge through a closed drain system, or other system designed to prevent discharge of water containing adults, juveniles and eggs from the permittee's property.

3. Any person engaged in aquaculture who possesses a valid certificate of registration from the Department of Agriculture and Consumer Services issued pursuant to Chapter 597, Florida Statutes, and who is authorized to possess such species in accordance with Chapter 597, F.S., is not required to obtain the permit.

4. Conditional aquatic turtle species:

a. Outdoor facilities must have a permanent containment barrier secured at least six inches below ground level to prevent escape by digging or erosion. Such barriers may be constructed of solid board, or metal or plank fencing, and may not use mesh material.

b. All eggs must be removed daily from outdoor facilities.

(3) Prohibited Non-native Species – No person shall import into the state, sell, possess, or transport any live specimens of the species or hybrids or eggs thereof listed in Rule 68-5.003, F.A.C., except as provided in paragraphs (a) and (b) below:

(a) Public aquaria, zoological parks, or public exhibitors with current accreditation by the American Zoo and Aquarium Association or the American Association of Museums may be granted a permit.

(b) Individuals or institutions engaged in research may be granted such a permit, provided the following requirements are met:

1. A detailed research proposal shall accompany the application for the research permit. The proposal shall state with particularity research objectives, methodology and study duration, and outline planned safeguards to assure proper containment of the species.

2. All research on prohibited aquatic species shall be conducted in indoor facilities in containers having no water discharge or having a water discharge through a closed drain system that terminates in a dry-bed wastewater pond.

3. All research on prohibited terrestrial wildlife species shall be conducted in indoor facilities in cages or other confinement facilities to prevent escape.

4. The research permit shall expire 12 months from the date of issuance and shall not be renewed until a detailed report of research findings is received and approved by the Commission. The report shall include a description of activities undertaken in the permit period, progress toward research project objectives, and proposed additional activities to be undertaken during any renewal period. Such reports are public records subject to the requirements for public disclosure under Chapter 119, Florida Statutes.

(4) No permits shall be granted for possession of any species of piranha or pirambaba (subfamily Serrasalminae).

(5) Possession of sea snakes (Family Hydrophiidae, all species) is limited to public aquaria, public zoological parks, or public exhibitors with current accreditation by the American Zoo and Aquarium Association or the American Association of Museums, providing educational exhibits, for public exhibition purposes only, under the following conditions:

(a) Only male sea snakes may be possessed.

(b) A public aquarium, zoological park, or public exhibitor possessing sea snakes shall not be located in a coastal county and shall have no contiguous connection with any waters of the state.

(c) Each public aquarium, public zoological park, or public exhibitor possessing sea snakes shall provide quarterly reports to the Commission regarding the number of each species of sea snakes on the premises and any changes in inventory resulting from death or additions by importation.

(d) Sea snakes shall not be released into the waters of the state.

(e) Each public aquarium, zoological park, or public exhibitor possessing sea snakes shall post with the Commission a \$1 million letter of credit. The letter of credit shall be in favor of the State of Florida, Fish and Wildlife Conservation Commission, for use by the Commission to remove any sea snake accidentally or intentionally introduced into waters of the state. The letter of credit shall be written in the form determined by the Commission. The letter of credit shall provide that the zoological park or aquarium is responsible for the sea snakes within that facility and shall be in effect at all times that the zoological park or aquarium possesses sea snakes.

(f) No person or public aquarium, public zoological park, or public exhibitor shall barter, sell, or trade sea snakes within this state.

(g) A public aquarium, public zoological park, or public exhibitor that imports sea snakes pursuant to this subsection may bring the sea snakes into this state only by airplane that may land only at an airport located in a non-coastal county within this state.

(h) A public aquarium, public zoological park, or public exhibitor possessing sea snakes pursuant to this subsection shall abide by all regulatory requirements of the Fish and Wildlife Conservation Commission with respect to venomous reptiles.

(6) No leopard tortoise (*Geochelone pardalis*), African spurred tortoise (*Geochelone sulcata*), or Bell's hingeback tortoise (*Kinixys belliana*) shall be imported or transported into this state, without a special permit issued by the Commission. The basis for the issuance of such permit shall include:

(a) That each shipment is accompanied by a veterinary certificate stating that all specimens are free from external parasites;

(b) That all shipping containers used to transport such tortoises are incinerated within 24 hours;

(c) Such other conditions as may be necessary to insure that no tortoise infested with ticks capable of transmitting the Heartwater disease is imported into Florida.

(7) No person shall allow or permit any freshwater aquatic organism not native to the state to remain in the waters of any propagating pool or pond that is no longer maintained or operated for the production of such non-native species.

The presence of any species designated in Rule 68-5.002 or Rule 68-5.003, F.A.C., in any propagating pool or pond shall constitute possession by the owner or operator of the pool or pond.

(8) Unless otherwise specifically provided in Titles 68A through 68E, F.A.C., all species of freshwater aquatic life and wild animal life not native to Florida may be taken throughout the year, without restrictions.

PROPOSED EFFECTIVE DATE: July 1, 2007.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-07.

68-5.002 Conditional Non-native Species.

The following species or hybrids thereof may be possessed only pursuant to permit issued by the Executive Director with restrictions as provided in subsection 68-5.001(2), F.A.C.

(1) Non-native freshwater aquatic species.

(a) Bighead carp (*Aristichthys nobilis*).

(b) Bony-tongue fishes (Family Osteoglossidae, all species except silver arowana, *Osteoglossum bicirrhosum*).

(c) Dorados (Genus *Salminus*, all species).

(d) Freshwater stingrays (Family Potamotrygonidae, all species).

(e) Grass carp (*Ctenopharyngodon idella*), with restrictions as provided in Rule 68A-23.088.

(f) Silver carp (*Hypophthalmichthys molitrix*).

(g) Snail or black carp (*Mylopharyngodon piceus*).

(h) Nile perches (Genus *Lates*, all species):

1. For permits issued on or after July 1, 2007, Nile perches shall be held only in indoor facilities.

2. Nile perches shall not be taken from permitted facilities using hook and line or rod and reel.

(i) Blue tilapia (*Oreochromis aureus*), except that *Oreochromis aureus* may be possessed, cultured, and transported without permit in Citrus County in the North Central Region; and all counties of the Northeast, South and Southwest Regions.

(j) Wami tilapia (*Oreochromis hornorum*).

(k) Mozambique tilapia (*Oreochromis mossambicus*)

(l) Nile tilapia (*Oreochromis niloticus*)

(m) Walking catfish (*Clarias batrachus*)

(n) Blue catfish (*Ictalurus furcatus*), except that blue catfish may be possessed in the Suwannee River and its tributaries and north and west of the Suwannee River.

(o) Australian red claw crayfish (*Cherax quadricarinatus*) only in closed tank culture systems.

(p) Red swamp crayfish (*Procambarus clarkii*) and white river crayfish (*Procambarus zonangulus*)

1. Pond aquaculture of either species is prohibited.

2. Red swamp crayfish and white river crayfish may be possessed west of the Apalachicola River and its tributaries or imported for direct sale to food wholesalers and food retailers for resale to consumers without permit.

(q) Red-eared slider (*Trachemys scripta elegans*):

1. Red-eared sliders in personal possession prior to July 1, 2007 may continue in the possession of the owner.

2. Red-eared sliders less than four inches carapace length may not be possessed after July 1, 2008 without a permit.

3. Red-eared sliders with distinctive aberrant color patterns, including albino or amelanistic specimens, may be possessed without a permit otherwise required by this rule.

(2) Non-native mammals – Nutria (*Myocaster coypu*).

PROPOSED EFFECTIVE DATE: July 1, 2007.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-07.

68-5.003 Prohibited Non-native Species.

No person shall import into the state, sell, possess, or transport any live specimens of the species, or hybrids or eggs thereof, of the species listed below, except as provided in subsection 68-5.001(3), F.A.C.

(1) Non-native freshwater aquatic species:

(a) African electric catfishes (Family Malapteruridae, all species).

(b) African tigerfishes (Subfamily Hydrocyninae, all species).

(c) Airbreathing catfishes (Family Clariidae, all species except *Clarias batrachus*).

(d) Candiru catfishes (Family Trichomycteridae, all species).

(e) Freshwater electric eels (Family Electrophoridae, all species).

(f) Lampreys (Family Petromyzonidae, all species).

(g) All species of piranha and pirambeba (subfamily Serrasalminae).

(h) Snakeheads (Family Channidae, all species).

(i) Tilapias (Genera *Tilapia*, *Sarotherodon* and *Oreochromis*, all species except *Oreochromis aureus*, *Oreochromis hornorum*, *Oreochromis mossambicus*, and *Oreochromis niloticus*).

(j) Trahiras or Tigerfishes (Family Erythrinidae, all species).

(k) Airsac catfishes (Family Heteropneustidae, all species).

(l) Green sunfish (*Lepomis cyanellus*).

(m) Australian crayfish (Genus *Cherax*, all species except *Cherax quadricarinatus* cultured in a closed tank system.

(n) Zebra mussel (*Dreissena polymorpha*).

(2) Non-native mammals – African giant pouched rats (Genus *Cricetomys*, all species).

(3) Non-native marine species:

(a) Mitten crab (Genus *Eriocheir*, all species).

(b) Sea snakes (Family Hydrophiidae, all species), except that sea snakes may be possessed as described in subsection 68-5.001(5), F.A.C.

(c) Weeverfishes (Family Trachinidae, all species).

(d) Stone fishes (Genus *Synanceia*, all species).

PROPOSED EFFECTIVE DATE: July 1, 2007.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-07.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault, Director, Division of Habitat and Species Conservation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.:	RULE TITLE:
68A-4.005	Introduction of Carriers of Disease; Inspection

PURPOSE AND EFFECT: The proposed rule change deletes provisions prohibiting the importation and release of non-native fish and wildlife without a permit; these provisions will be incorporated into proposed new Rule Chapter 68-5, F.A.C. The proposed rule change incorporates provisions currently in Rule 68A-23.008, F.A.C. regarding inspection of facilities that might harbor diseased aquatic organisms. Rule 68A-23.008, F.A.C., will be repealed effective July 1, 2007. The effect of this rule amendment will be to consolidate related regulatory provisions in the same place and allow citizens easier access to them.

SUMMARY: Rule 68A-4.005, F.A.C., is amended to delete provisions prohibiting the importation and release of non-native fish and wildlife without a permit; these provisions will be incorporated into proposed subsection 68-5.001(1), F.A.C. The proposed rule amendment also incorporates provisions regarding inspection of facilities that might harbor diseased aquatic organisms currently in Rule 68A-23.008, F.A.C., which will be repealed effective 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: Article IV, Section 9, Florida Constitution, 372.021 FS.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, 372.26, 372.265 FS.

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

DATES AND TIME: April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: The ADA Coordinator, at (850)488-6411. 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: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-4.005 Introduction of ~~Foreign Wildlife or Freshwater Fish~~ or Carriers of Disease; Inspection.

(1) ~~No person shall release or introduce in the state any wildlife, freshwater fish or any other organism that might reasonably be expected to transmit any disease to wildlife or freshwater fish. It shall be unlawful for any person to possess, transport or otherwise bring into the state or to release or introduce in the state any wildlife or freshwater fish that is not native to the state unless such person shall first secure a permit from the Commission. Such permit shall be granted only after duly authorized agents have made such investigation and inspection of the wildlife or freshwater fish as may be deemed necessary, provided that this rule shall not apply to ring-necked or Mongolian pheasants or coturnix quail.~~

(a) Any representative of the Commission may inspect all records, ponds, pools, vehicles and other facilities used to produce, grow, store or transport freshwater aquatic organisms. Inspection may be made of such facilities wherein foreign or non-native species of freshwater aquatic organisms are propagated for any commercial purpose so as to determine that such species or their eggs are not allowed to escape into the waters of the state or to determine whether freshwater aquatic organisms are infected or diseased. In the event that an epizootic aquatic disease among cultured aquatic freshwater organisms presents a threat to public health or to fish or wildlife resources, freshwater aquatic organisms exposed to or exhibiting such disease may be quarantined, confiscated or destroyed as a public nuisance without compensation to anyone having a financial interest in such organisms.

(b) Any freshwater aquatic organism that may be discovered in ponds, pools, vehicles or other facilities and which in the determination of the executive director would be detrimental to fish or wildlife resources if released or placed in the waters of the state, shall be confiscated and destroyed as a public nuisance.

(2) Nothing in this rule shall prohibit the Commission or its duly authorized agents from bringing into the state or releasing or introducing any wildlife or freshwater fish.

~~(3) No person shall release or introduce in the state any wildlife, freshwater fish or any other organism that might reasonably be expected to transmit any disease to wildlife or freshwater fish.~~

PROPOSED EFFECTIVE DATE: July 1, 2007.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.021 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.26, 372.265 FS. History—New 8-1-79, Amended 6-21-82, 7-1-84, Formerly 39-4.05, 39-4.005, Amended 7-1-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault, Director, Division of Habitat and Species Conservation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.:	RULE TITLE:
68A-15.062	Specific Regulations for Wildlife Management Areas – North Central Region

PURPOSE AND EFFECT: The purpose of the proposed rule is to revise the name of a privately-owned Wildlife Management Area (WMA) in the North Central Region to reflect new ownership. The effect of the proposed rule change will be to revise the name of this WMA from PCS Phosphate to PotashCorp – White Springs and enable the agency to better manage fish and wildlife resources and public use.

SUMMARY: Subsection (11) of Rule 68A-15.062, F.A.C., is amended to rename the PCS Phosphate Wildlife Management Area as the PotashCorp – White Springs Wildlife Management Area, at the request of the landowner.

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: Article IV, Section 9, Florida Constitution, 372.121, 375.313 FS.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution, 372.121, 375.313 FS.

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

DATES AND TIME: During the Commission’s regular meeting, April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: The ADA Coordinator, at (850)488-6411. 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: Nick Wiley, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.062 Specific Regulations for Wildlife Management Areas – North Central Region.

(1) through (10) No change.

(11) PotashCorp – White Springs ~~PCS Phosphate~~ Wildlife Management Area.

(a) through (d) No change.

(12) through (37) No change.

PROPOSED EFFECTIVE DATE: July 5, 2007.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.121, 375.313 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.121, 375.313 FS. History— New 6-21-82, Amended 7-1-83, 11-17-83, 7-5-84, 7-1-85, 2-16-86, 5-7-86, 6-10-86, 11-27-86, 5-10-87, 5-1-88, 6-7-88, 7-1-89, 8-17-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 7-2-92, 8-23-92, 10-22-92, 7-1-93, 7-1-94, 2-9-95, 7-1-95, 7-1-96, 9-15-96, 6-1-97, 7-1-98, 7-2-98, 7-1-99, Formerly 39-15.062, Amended 12-9-99, 7-1-00, 7-1-01, 11-11-01, 6-2-02, 10-16-02, 5-25-03, 7-7-03, 9-29-03, 7-1-04, 8-1-04, 7-1-05, 8-1-05, 7-1-06, 7-2-06, 7-5-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Nick Wiley, Director, Division of Hunting and Game Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2007
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 22, 2006

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-23.008
 RULE TITLE: Introduction of Non-Native Aquatic Species in the Waters of the State; Provisions for Sale and Inspection of Fish for Bait or Propagation Purpose; Diseased Fish

PURPOSE AND EFFECT: This proposed rule repeal eliminates provisions relating to introduction of non-native aquatic species, which will be moved to proposed new Rule Chapter 68-5, F.A.C.. The repealed provisions relating to diseased fish will be moved to Rule 68A-4.005, F.A.C. The effect of this rule repeal will be to consolidate related regulatory provisions in the same place and allow citizens easier access to them.

SUMMARY: Rule 68A-23.008, F.A.C., is proposed to be repealed. Provisions relating to introduction of non-native aquatic species, possession of conditional non-native species, and listing of conditional and prohibited non-native species will be moved to new Rule Chapter 68-5, F.A.C. Provisions relating to diseased fish will be moved to Rule 68A-4.005, 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 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: Article IV, Section 9, Florida Constitution

LAW IMPLEMENTED: Article IV, Sec. 9, Florida Constitution.

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

DATES AND TIME: April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: The ADA Coordinator, at (850)488-6411. 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: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-23.008 Introduction of Non-Native Aquatic Species in the Waters of the State; Provisions for Sale and Inspection of Fish for Bait or Propagation Purpose; Diseased Fish.

PROPOSED EFFECTIVE DATE: July 1, 2007.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 6-4-81, 6-21-82, 7-1-84, Formerly 39-23.08, Amended 4-13-88, 7-1-89, 10-30-89, 7-1-92, 7-1-94, 4-12-98, Formerly 39-23.008, Amended 10-10-00, 7-1-01, 7-1-02, 7-1-04, Repealed 7-1-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault, Director, Division of Habitat and Species Conservation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NOS.:	RULE TITLES:
68A-25.002	General Provisions for Taking, Possession and Sale of Reptiles
68A-25.006	Possession, Exhibition and Caging Venomous Reptiles: Prohibited Species

PURPOSE AND EFFECT: The purpose of this rule amendment and rule repeal is to delete provisions regarding the importation of certain tortoises and provide for the continuation of permit requirements for possession of venomous reptiles until January 1, 2008, at which time superseding requirements will become effective in new Rule 68A-6.007, F.A.C. The rule repeal will eliminate on January 1, 2008, provisions for caging and exhibition of venomous reptiles. Those provisions will be replaced by Rule 68A-6.007, F.A.C., on that date. The effect of this rulemaking will be to consolidate related regulatory provisions in the same place and allow citizens easier access to them.

SUMMARY: Rule 68A-25.002, F.A.C., is amended to delete provisions regarding the importation of certain tortoises and provide for the continuation of permit requirements for possession of venomous reptiles until January 1, 2008. This rule amendment is proposed to be effective July 1, 2007. Rule 68A-25.006, F.A.C., which contains provisions for caging and exhibition of venomous reptiles, is repealed effective January 1, 2008.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution., 372.6672, 372.6673, 372.86, 372.921, 372.922 FS.

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

DATES AND TIME: During the Commission's regular meeting, April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: The ADA Coordinator, at (850)488-6411. 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: James V. Antista, General Counsel, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULES IS:

68A-25.002 General Provisions for Taking, Possession and Sale of Reptiles.

(1) through (13) No change.

(14) On or after July 1, 1990, and until January 1, 2008, any person or entity not currently permitted to possess or exhibit venomous reptiles must qualify for a permit by meeting the following criteria:

(a) Submit documentation in accordance with the criteria specified in paragraph 68A-6.0022(5)(c), F.A.C., showing a minimum of one (1) year substantial practical experience in the care, feeding, handling and husbandry of the family of venomous reptiles for which the permit is sought.

(b) Shall not have been convicted of a violation of venomous reptile regulations for three (3) years prior to application for such permit.

(c) Must be at least 18 years old at the time of application.

~~(15) No leopard tortoise (*Geochelone pardalis*) or African spurred tortoise (*Geochelone sulcata*) shall be imported or transported into this state, without a special permit issued by the Commission. The basis for the issuance of such permit shall include:~~

~~(a) That each shipment is accompanied by a veterinary certificate stating that all specimens are free from external parasites;~~

~~(b) That all shipping containers used to transport such tortoises are incinerated within 24 hours;~~

~~(c) Such other conditions as may be necessary to insure that no tortoise infested with ticks capable of transmitting the Heartwater disease is imported into Florida.~~

PROPOSED EFFECTIVE DATE: July 1, 2007.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.6672, 372.6673, 372.86, 372.921, 372.922 FS. History–New 8-1-79, Amended 6-4-81, 6-21-82, 7-1-83, 7-1-84, 7-1-85, Formerly 39-25.02, Amended 6-1-86, 5-10-87, 10-8-87, 4-13-88, 2-14-89, 7-1-89, 7-1-90, 4-14-92, 4-1-96, 9-15-96, 4-12-98, 7-1-99, Formerly 39-25.002, Amended 4-30-00, 7-1-07.

68A-25.006 Possession, Exhibition and Caging Venomous Reptiles: Prohibited Species.

PROPOSED EFFECTIVE DATE: January 1, 2008.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 370.081, 372.86, 372.87, 372.88, 372.89, 372.90, 372.91, 372.92 FS. History–New 8-1-79, Amended 6-21-82, Formerly 39-25.06, Amended 5-10-87, 4-1-96, 9-15-96, Formerly 39-25.006, Amended 11-17-99, Repealed 1-1-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Timothy A. Breault, Director, Division of Habitat and Species Conservation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:
68B-14.001

RULE TITLES:
Purpose and Intent, Designation as Restricted Species

- 68B-14.0035 Size Limits: Amberjacks, Black Sea Bass, Gray Triggerfish, Grouper, Hogfish, Red Porgy, Snapper
- 68B-14.00355 Size Limits for Importation and Sale
- 68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption
- 68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits
- 68B-14.005 Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the Commission’s Reef Fish Rule to become consistent with federal reef fish regulations in the South Atlantic and Gulf of Mexico. The South Atlantic Fishery Management Council developed regulatory actions in Amendment 13C to their Snapper Grouper Fishery Management Plan, which became effective October 13, 2006. Amendment 13C addresses recreational and commercial harvest of snowy grouper, golden tilefish, vermilion snapper, black sea bass, and red porgy, and establishes bag limits, size limits, quotas, and trip limits. The Gulf of Mexico Fishery Management Council developed regulatory actions for black, gag, and red grouper that became effective on November 17, 2006, which includes the prohibition of the possession of the recreational bag limit of grouper by the captain and crew of for hire vessels. The Council developed a Red Snapper Individual Fishing Quota Program that took effect on January 1, 2007, which eliminates the need for Class I and Class II permits. The Council is also moving forward as quickly as possible with a framework amendment to address vermilion snapper management regulations in Amendment 23. This amendment reduces the minimum size limit for 11 inches to 10 inches TL and removes the commercial closed harvesting season.

Another rule amendment is clarification of state regulatory intent by affirmatively prohibiting persons harvesting reef fish species for commercial purposes from possessing the recreational bag limit of reef fish species on the same trip. The state has allowed commercial grouper fishers in the Gulf of Mexico to possess commercially harvested grouper (black and gag) with a 24-inch minimum size limit and recreationally caught grouper (black and gag) with a 22-inch minimum size on the same trip. This presents a problem for law enforcement and allows potential sale of undersize fish. This amendment would align state rules with current federal regulations in the Gulf of Mexico that prohibit vessels from retaining reef fish species under the recreational size and bag limit when commercial quantities of Gulf reef fish are onboard.

The effect of these rule amendments will be that federal and state regulations are consistently applied. Where practicable, this minimizes confusion with the public and aids enforceability. A further effect will be to remove inconsistency in state regulations regarding reef fish size limits as applied to commercial and recreational harvest.

The effect of these rule amendments will be that federal and state regulations are consistently applied. Where practicable, this minimizes confusion with the public and aids enforceability. A further effect will be to remove inconsistency in state regulations regarding reef fish size limits as applied to commercial and recreational harvest.

SUMMARY: The proposed amendment of Rule 68B-14.001, F.A.C., would add golden tilefish to the list of restricted reef fish species. The proposed amendment of Rule 68B-14.0035, F.A.C., would increase the minimum size for black sea bass recreationally harvested in the Atlantic Ocean from 11 inches in 2007 to 12 inches in 2008; decrease the minimum size for vermilion snapper from 11 inches to 10 inches in the Gulf of Mexico, and increase the recreational minimum size of vermilion snapper from 11 inches to 12 inches in the Atlantic Ocean. The proposed amendment of Rule 68B-14.00355, F.A.C., would change the minimum size of imported vermilion snapper to from 11 inches to 10 inches. The proposed amendment of Rule 68B-14.0036, F.A.C., would add golden tilefish; set bag limit of gag, red, and black grouper at zero for captains and crew on for hire vessels in the Gulf of Mexico; establish a one-fish recreational bag limit for snowy grouper within the five-fish aggregate grouper bag limit in the Atlantic Ocean; establish a one-fish recreational bag limit for golden tilefish within the five-fish aggregate grouper bag limit in the Atlantic Ocean; raises the recreational bag limit for red porgy in the Atlantic Ocean for one-fish to three-fish per person per day. The proposed amendment of Rule 68B-14.0045, F.A.C., would remove the requirement for Class I and Class II red snapper licenses for the commercial harvest of red snapper in the Gulf of Mexico; establishes commercial trip limits in the Atlantic Ocean that are concurrent with federal trip limits; establishes a black sea bass harvesting season of June 1 through May 31 each year in the Atlantic Ocean; removes the April 22 through May 31 commercial harvesting season for vermilion snapper in the Gulf of Mexico; prohibits persons harvesting for commercial purposes from harvesting or possessing the recreational bag limit of reef fish species on the same trip. The proposed amendment of Rule 68B-14.005, F.A.C., would require a minimum 2-inch mesh for the back panel of black sea bass traps in the Atlantic Ocean; require the removal of black sea bass traps in the Atlantic Ocean when the commercial quota is reached.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the Commission’s regular meeting, April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: The ADA Coordinator, at (850)488-6411. 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: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-14.001 Purpose and Intent, Designation as Restricted Species.

- (1) No change.
- (2) Designation as restricted species. The following species are hereby designated as restricted species pursuant to Section 370.01(21), F.S.:
 - (a) through (f) No change.
 - (g) Golden tilefish – *Lopholatilus chamaeleonticeps*

Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History–New 7-29-85, Amended 12-11-86, 2-1-90, 12-31-92, 3-31-94, 12-31-98, Formerly 46-14.001, Amended 1-1-00, 1-1-03,_____.

68B-14.0035 Size Limits: Amberjacks, Black Sea Bass, Gray Triggerfish, Grouper, Hogfish, Red Porgy, Snapper. No person shall land, possess, unnecessarily destroy, purchase, exchange, sell or offer for sale any of the following species harvested in or from state waters, of a length less than set forth as follows:

- (1) No change.
- (2)(a) Black sea bass harvested in the Gulf of Mexico or commercially harvested in the Atlantic Ocean 10 inches total length.

(b) Black sea bass harvested recreationally in the Atlantic Ocean, 11 inches total length in 2007, and 12 inches total length beginning January 1, 2008.

- (3) through (6) No change.
- (7) Snapper (measured in terms of total length).
 - (a) through (l) No change.
 - (m) Vermilion snapper harvested in the Gulf of Mexico 10 ~~recreationally~~ 11 inches.
 - (n)~~+~~ Vermilion snapper harvested ~~commercially~~ from the Atlantic Ocean 12 inches.
 - ~~2. Vermilion snapper harvested commercially from the Gulf of Mexico 11 inches.~~
 - (o) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 12-31-98, Amended 3-1-99, Formerly 46-14.0035, Amended 1-1-00, 1-1-01, 1-1-01, 1-1-03, 9-16-05, 7-1-06,_____.

- 68B-14.00355 Size Limits for Importation and Sale.
- (1) No person shall possess for purposes of sale, purchase, sell, or exchange any of the following species of a length less than set forth as follows:
 - (a) through (e) No change.
 - (f) Snapper (measured in terms of total length).
 1. Cubera snapper 12 inches.
 2. Dog snapper 12 inches.
 3. Gray (mangrove) snapper 12 inches.
 4. Lane snapper 8 inches.
 5. Mahogany snapper 12 inches.
 6. Mutton snapper 16 inches.
 7. Red snapper 15 inches.
 8. Schoolmaster snapper 10 inches.
 9. Vermilion snapper 10 ~~11~~ inches.
 10. Yellowtail snapper 12 inches.
 - (2) through (4) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-03, Amended 9-16-05, 7-1-06,_____.

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption.

- (1) No change.
- (2) Grouper.
 - (a) through (c) No change.
 - (d) Gag, red and black grouper. In all state waters of the Gulf of Mexico, the daily bag and possession limit for captains and crew on for-hire vessels is zero.

~~(e)~~~~+~~ Speckled hind and Warsaw grouper. No recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than one speckled hind or more than one Warsaw grouper per day, and no more than one

of each species shall be possessed aboard any vessel in or on state waters, at any time. Such fish shall be counted for purposes of the aggregate grouper bag and possession limit prescribed in paragraph (a).

(f) Snowy grouper. No recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than one snowy grouper per day. Such fish shall be counted for purposes of the aggregate grouper bag and possession limit prescribed in paragraph (a).

(g)(e) Nassau grouper and goliath grouper. No person shall harvest in or from state waters, nor possess while in or on the waters of the state, or land, any Nassau grouper or goliath grouper. The purchase, sale, or exchange of any Nassau grouper or goliath grouper is prohibited.

(3) No change.

(4) Black sea bass. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than 15 20 black sea bass per day.

(5) Red porgy. No recreational harvester shall harvest from state waters of the Atlantic Ocean more than 3 4 red porgy per day, nor possess more than 3 4 such fish while in, on, or above state waters of the Atlantic Ocean or on any dock, pier, bridge, beach, or any fishing site adjacent to such waters.

(6) No change.

(7) Tilefish. No recreational harvester shall harvest in or from state waters of the Atlantic Ocean nor possess in or on the state waters of the Atlantic Ocean more than one golden tilefish per person per day. Such fish shall be counted for purposes of the aggregate grouper bag and possession limit prescribed in paragraph (2)(a).

(7) through (8) renumbered (8) through (9) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, 1-1-03, 1-3-05, 9-16-05, 1-1-06, 7-1-06,_____.

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits.

(1) Licenses.

(a) Each person harvesting any of the species listed in subsection 68B-14.001(2), F.A.C., for commercial purposes in state waters shall possess a valid saltwater products license with a restricted species endorsement and if 1. If fishing in state waters of the Atlantic Ocean, either a valid transferable commercial permit or a trip-limited commercial permit for South Atlantic snapper-grouper; 2. If fishing in state waters of the Gulf of Mexico, a valid commercial vessel permit for Gulf reef fish, and if fishing for red snapper, a Class 1 or Class 2 Gulf red snapper license. The requirement of a valid

commercial vessel permit for Gulf reef fish shall not apply to the harvest of bank sea bass, black sea bass, rock sea bass, or red porgy for commercial purposes in the Gulf of Mexico.

(b) Each person harvesting any of the species listed in subsection 68B-14.001(2), F.A.C., for commercial purposes in the Atlantic Ocean who is required to possess either or both of the federal permits listed in paragraph (a) is subject to any federal vessel possession limits that apply in the adjacent EEZ and shall not possess in or on state waters of the Atlantic Ocean more fish or pounds than specified in the federal regulations.

(c)(b) No person harvesting for commercial purposes pursuant to this subsection shall sell or attempt to sell any of the indicated species, or any part of the indicated species, without possessing and presenting to the purchaser the state and federal licenses and permits specified in paragraph (a). No wholesale dealer, as defined in Section 370.07(1), F.S., shall purchase any of these species, or any part thereof, without confirming that the seller thereof possesses the state and federal licenses and permits specified in this rule.

(2) Season Closures.

(a)1. Except as provided in subsection 2., pPersons harvesting any of the species listed in subsection 68B-14.001(2), F.A.C., for commercial purposes shall have a season that begins on January 1 and continues through December 31 each year.

2. Persons harvesting black sea bass in the Atlantic Ocean for commercial purposes shall have a season that begins June 1 each year and continues through May 31 of the following year.

(b) through (f) No change.

(g) Beginning January 1 and continuing through April 30 each year, no person harvesting for commercial purposes shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, any red porgy; provided, however, a person harvesting other species for commercial purposes during this closure may harvest and possess three one red porgy. During this closed season, the purchase, sale, or exchange of any red porgy harvested from state waters of the Atlantic Ocean is prohibited.

(h) No change.

~~(i) During the period April 22 through May 31 of each year, no person harvesting for commercial purposes shall harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, any vermilion snapper.~~

(3) Bag and Trip Limits.

(a) through (b) No change.

(c) Amberjack. 4- Except during the three-month closed season specified in paragraph (2)(f), no more than 1,000 pounds of greater amberjack harvested in or from state waters of the Atlantic Ocean shall be possessed aboard any vessel or landed from such a vessel per day.

~~2. No person harvesting for commercial purposes shall, on the same trip, harvest or possess greater amberjack pursuant to the bag limit specified in subsection 68B-14.0036(6), F.A.C.~~

(d) No change.

(e) No person harvesting for commercial purposes shall, on the same trip, harvest or possess reef fish species pursuant to the recreational bag limit specified in subsection 68B-14.0036, F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, Formerly 46-14.0045, Amended 1-1-00, 3-6-00, 1-1-01, 3-1-01, 6-1-01, 1-1-03, 7-15-04, 5-20-05, 9-16-05, 3-10-06, _____.

68B-14.005 Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation.

(1) Allowable gear. Except as provided in subsection (2), the following shall be the only gear types and methods allowed for the harvest in or from state waters of any of the species specified in subsection 68B-14.001(2), F.A.C.:

(a) Hook and line gear.

(b) A black sea bass trap, which shall only be used north of Latitude 27° North. Each such trap shall comply with the following specifications:

1. The outer dimensions do not exceed 2 feet in height, 2 feet in width, and 2 feet in depth, and the throat or entrance does not exceed 5 inches in height and 2 inches in width at its narrowest point.

2. A biodegradable panel shall be part of each trap used to take black sea bass. A black sea bass trap shall be considered to have a “biodegradable panel” or a “degradable panel” if one of the following methods is used in construction of the trap:

a. The trap lid tie-down strap is secured to the trap at one end by a single loop of untreated jute twine. The trap lid must be secured so that when the jute degrades, the lid will no longer be securely closed.

b. The trap lid tie-down strap is secured to the trap at one end with a corrodible loop composed of non-coated steel wire measuring 24 gauge or thinner. The trap lid must be secured so that when the loop degrades, the lid will no longer be securely closed.

c. The trap lid tie-down strap is secured to the trap at one end by an untreated pine dowel no larger than 2 inches in length by 3/8 inch in diameter. The trap lid must be secured so that when the dowel degrades, the lid will no longer be securely closed.

d. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be laced, sewn, or otherwise obstructed by a single length of untreated jute twine knotted only at each end and not tied or

looped more than once around a single mesh bar. When the jute degrades, the opening in the sidewall of the trap will no longer be obstructed.

e. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. This opening must be obstructed with an untreated pine slat or slats no thicker than 3/8 inch. When the slat degrades, the opening in the sidewall of the trap will no longer be obstructed. “Untreated pine” means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

f. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may either be laced, sewn, or otherwise obstructed by non-coated steel wire measuring 24 gauge or thinner or be obstructed with a panel of ferrous single-dipped galvanized wire mesh made of 24 gauge or thinner wire. When the wire or wire mesh degrades, the opening in the sidewall of the trap will no longer be obstructed.

g. The trap contains at least one sidewall with a vertical rectangular opening no smaller in either dimension than 6 inches in height by 3 inches in width. The opening may be obstructed with a rectangular panel made of any material, fastened to the trap at each of the four corners of the rectangle by rings made of non-coated 24 gauge or thinner wire or single strands of untreated jute twine. When the corner fasteners degrade, the panel will fall away and the opening in the sidewall of the trap will no longer be obstructed.

3. Escape vents. All black sea bass traps shall have an unobstructed escape vent opening on at least two opposite vertical sides, excluding top and bottom, that complies with one of the following minimum sizes:

a. A rectangular vent, 1.125 inches (2.9 cm) by 5.75 inches (14.6 cm).

b. A circular vent, 2 inches (5.1 cm) in diameter.

c. A square vent with sides of 1.75 inches (4.4 cm) measured inside the square.

4. Trap marking requirements.

a. Each black sea bass trap used for harvesting black sea bass shall have the trap owner’s saltwater products license number permanently attached. Each buoy attached to such trap shall have the letter “B” and the owner’s saltwater products license number affixed to it in legible figures at least 1.5 inches high.

b. A buoy or time-release buoy shall be attached to each black sea bass trap or at each end of a weighted trap trotline. The buoy shall be constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, be of sufficient strength and buoyancy to float, and be either white in color or the same color as the owner’s blue crab or stone crab buoy

colors. Buoys shall be either spherical in shape with a diameter no smaller than 6 inches or some other shape so long as it is no shorter than 10 inches in the longest dimension and the width at some point exceeds 5 inches. No more than 5 feet of any buoy line attached to a buoy used to mark a black sea bass trap or attached to a trotline shall float on the surface of the water.

5. Each black sea bass trap used in state waters shall have a back panel (the side of the trap opposite the entrance) with mesh that is at least 2 inches between sides of the meshes, based on centerline measurements between opposite, parallel wires or netting strands.

6. Black sea bass traps used in state waters shall be removed from the water once the commercial quota is met and the season is closed.

(c) Spearing. This provision shall not be construed to allow the use of any powerhead, bangstick, or handheld device employing an explosive charge for the harvest in state waters of any snapper or grouper listed in Rule 68B-14.001, F.A.C.

(2) through (3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-11-86, Amended 2-1-90, 3-1-94, 10-4-95, 7-15-96, 1-1-98, 12-31-98, 6-1-99, Formerly 46-14.005, Amended 1-1-03, 3-1-05, 7-17-05,_____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Mark Robson, Director, Division of Marine Fisheries Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2007

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.:	RULE TITLES:
68B-28.003	Diving: Open and Closed Areas
68B-28.0035	Commercial Sponge Size Limit and Gear

PURPOSE AND EFFECT: The purpose of these rule amendments is to expand the area where the taking of commercial sponges by diving in the waters of the State of Florida is allowed and to specify the method by which they

may be harvested. The effect is to provide commercial sponge harvesters additional territory in which to work, while assuring that sponges harvested by diving are cut, rather than pulled, from the bottom to allow regrowth.

SUMMARY: Rule 68B-28.003, F.A.C., is amended to change the western boundary of the area where commercial sponges may be landed by diving to a north-south line from near Cape San Blas. Rule 68B-28.0035, F.A.C., is amended to require cutting of sponges harvested by diving.

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: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

DATES AND TIME: During the Commission’s regular meeting, April 11-12, 2007, 8:30 a.m. – 5:00 p.m., each day

PLACE: Ramada Conference Center, 2900 North Monroe 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: ADA Coordinator, at (850)488-6411. 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: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-28.003 Diving: Open and Closed Areas.

(1) No change.

(2) The taking of commercial sponges by diving is allowed in all state waters north of a line extended due west from the southernmost point of Egmont Key, northward and westward to the north-south line represented by 85° 21' 23.04", which meets the coast near the Cape San Blas lighthouse 840 W. longitude, which meets the coast near Cabell Point on the eastern border of Jefferson County.

(3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-1-88, Amended 10-1-90, Formerly 46-28.003, Amended _____.

68B-28.0035 Commercial Sponge Size Limit and Gear.

(1) through (2) No change.

(3) Any commercial sponge attached to the bottom and taken pursuant to subsection 68B-28.003(2) or (3), F.A.C., must be cut, rather than pulled, from the bottom.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 5-13-02, Amended 3-1-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Kenneth D. Haddad, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 8, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 2, 2007

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:	RULE TITLES:
69A-46.010	Submission of the Application
69A-46.015	Testing
69A-46.016	Insurance Requirements
69A-46.0165	Submission of the Application for a Water-Based Fire Protection Permit.
69A-46.017	Required Continuing Education
69A-46.040	Installation Requirements for Automatic Sprinkler Systems Employing Water as the Extinguishing Agent
69A-46.041	Inspection Requirements for Fire Protection Systems

PURPOSE AND EFFECT: The purpose of these rule amendments is to update Rule Chapter 69A-46, F.A.C., to provide for submission of an updated application for water-based systems, and inspection tags using a new system of red and green tags to indicate compliance and non-compliance. The effect of these rules will be to provide a uniform method of filing an application for water-based fire suppression systems and for tagging fire suppression equipment.

SUMMARY: The amendments address application procedures for Fire Protection System Contractors and Systems, including applications for Water-Based Fire Protection Permits, installation requirements for automatic sprinkler systems

employing water as an extinguishing agent, and testing, tagging and maintenance requirements for fire protection systems.

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: 633.01, 633.517(1), 633.521(4) FS. LAW IMPLEMENTED: 471.025, 553.79(6), 633.065, 633.521, 633.521(4), 633.524, 633.534, 633.537, 633.547(2)(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: Wednesday, April 4, 2007, 9:30 a.m.

PLACE: Third Floor Conference Room, The Atrium Building, 325 John Knox Road, Tallahassee, Florida 32308

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: Terry Hawkins, (850)413-3171. 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: Terry Hawkins, Safety Program Manager, 200 E. Gaines Street, Tallahassee, Florida 32399-0342; Telephone: (850)413-3171; Fax: (850)414-6119

THE FULL TEXT OF THE PROPOSED RULES IS:

69A-46.010 Submission of the Application.

(1) through (2) No change.

(3)(a) As a prerequisite to challenging the examination as a Contractor I, II, or III, the applicant shall provide evidence of four (4) years proven experience in the employment of a Contractor I, II, or III, or a combination of experience and education equivalent thereto.

1. "Experience in the employment of a contractor", as required by Section 633.521(3), Florida Statutes, must be gained from full-time employment by a contractor licensed as provided in Section 633.521, Florida Statutes, such employment relating to technical areas. For purposes of this rule chapter, "technical areas" means those activities engaged in by a contractor and participated in by the applicant which provide experience in laying out, fabricating, installing, inspecting, altering, repairing, or servicing fire protection systems. For purposes of this rule chapter, four (4) years

proven experience as a certified ~~plumber plumbing contractor~~, licensed pursuant to the provisions of Chapter 489, Florida Statutes, may be offered toward the experience requirements for a Contractor I or II and shall be considered equivalent to two (2) years proven experience in the employment of a contractor. A certified plumbing contractor shall offer no more than 4 years as a certified plumbing contractor toward the 4 years experience requirement in Section 633.521, Florida Statutes. The applicant's experience must be verified by the contractor employing the applicant utilizing Form DFS-K3-1795 (Effective: _____) Employment Verification Form, or: the ~~The~~ required verification shall be in the form of a letter from the employing contractor employer, on company stationery, attesting to describing the applicant's duties, the kinds of jobs he worked on; his dates of employment; and any other information reasonably calculated to provide the division with an informed understanding of the applicant's work experience. An applicant offering self-employment experience shall provide verification in the form of letters from customers, and others familiar with his work. It is the applicant's responsibility to furnish the required verification. The experience will be evaluated to determine an applicant's qualifications for the class of certificate requested; or,

2. through 4. No change.

(b) No change.

(c) As a prerequisite to challenging the examination as a Contractor V, the applicant shall provide evidence of:

1. No change.

2. Four years experience in the employment of ~~Employment by~~ an individual licensed as a certified underground utility contractor or plumbing contractor pursuant to the provisions of Chapter 489, Florida Statutes, ~~that the applicant has four (4) years experience in the employment of a certified underground utility contractor,~~ which shall be submitted utilizing Form DFS-K3-1795 (Effective: _____) Employment Verification Form; in the form of a letter, on company stationery, signed by the certified underground utility contractor or plumbing contractor, attesting to, ~~describing~~ the applicant's duties; the kinds of jobs he worked on; his dates of employment; and any other information reasonably calculated to provide the division with an informed understanding of the applicant's work experience; or

3. A combination of education and experience equivalent to four (4) years proven experience in the employment of a certified underground utility contractor or plumbing contractor. For purposes of combining education and experience, education in the areas described in paragraph (a)3., above, including at least 3 credit hours from a 4-year college or university or junior or community college in courses which teach the material in the National Fire Protection Association standards on which the applicant will be tested; or other

equivalent coursework; and experience in the areas described in subparagraph (a)1., or subparagraph (c)1. or 2., above, shall be provided.

(d) No change.

(4) No change.

Specific Authority 633.01, 633.517(1) FS. Law Implemented 633.521, 633.524, 633.534 FS. History–New 10-14-86, Amended 12-21-88, 10-20-93, Formerly 4A-46.010, Amended _____.

69A-46.015 Testing.

(1) An applicant who has been qualified to challenge an examination will be notified in writing of available examination dates and examination locations. Upon receipt of a written request for a specific examination date, the applicant will be sent a notice of the exam date, time and location at least seven days prior to the scheduled exam. The applicant will be expected to challenge the exam on that day unless he or she submits a written waiver of his or her right to challenge the exam on that day and requests a later date. ~~The Regulatory Licensing Section will schedule an applicant for a later day upon receipt of a written request. The applicant will also be permitted to challenge the examination at the Regulatory Licensing Section's office in Tallahassee if the applicant makes a request for such testing in writing and receives written notification when the next available scheduled examination will be held in Tallahassee.~~

(2) through (9) No change.

Specific Authority 633.01, 633.517(1) FS. Law Implemented 633.521 FS. History–New 10-14-86, Amended 12-21-88, 8-1-90, 10-20-93, 10-2-96, 6-8-98, 11-21-01, Formerly 4A-46.015, Amended _____.

69A-46.016 Insurance Requirements.

(1) The Fire Protection System Contractor I, II, III, IV, or V licensed pursuant to Section 633.521, Florida Statutes, shall provide evidence of current and subsisting insurance coverage meeting the requirements of Section 633.521, Florida Statutes, to the Regulatory Licensing Section on Form DFS-K3-25, Certificate of Insurance Fire Protection System Contractor, revised and dated Effective: _____, as adopted and incorporated herein by reference. This form is available from the Regulatory Licensing Section, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0342.

(2) The licensed Fire Protection System Contractor I, II, III, IV, or V shall be responsible to ensure that current and subsisting insurance coverage meets the requirements of Section 633.521, Florida Statutes, and that an original signed Form DFS-K3-25, Certificate of Insurance is on file with the Regulatory Licensing Section.

(3) Failure to provide evidence of insurance coverage within 30 days of the expiration date of the policy or within 30 days of a notice to provide evidence of coverage shall result in administrative proceedings pursuant to Section 624.4211,

Florida Statutes, as provided in subsection (4) of Section 633.521, Florida Statutes and pursuant to Section 633.547, Florida Statutes.

Specific Authority 633.01, 633.517(1), 633.521(4) FS. Law Implemented 633.521(4) FS. History–New 10-20-93, Amended 11-21-01, Formerly 4A-46.016, Amended _____.

69A-46.0165 Submission of the Application for a Water-Based Fire Protection Permit.

(1) An individual employed by a Fire Protection System Contractor I or II who will be inspecting water based fire protection systems must be issued a permit by the State Fire Marshal in accordance with Section 633.521, Florida Statutes, to conduct such work.

(2) The applicant for a Water-Based Fire Protection Permit shall submit an application on Form DFS-K3-1794, “Application for Water-Based Fire Protection Inspector Permit,” (Effective: _____), incorporated herein by reference, and available from the Bureau of Fire Prevention, Regulatory Licensing Section, 200 East Gaines Street, Tallahassee, Florida 32399-0342.

(3) The application shall be accompanied by a fee as prescribed in Section 633.524(1), Florida Statutes.

(4) The application shall be accompanied by two current full-face color passport size photographs, and a photocopy of the applicant’s driver’s license or identification card issued by the Florida Department of Highway Safety and Motor Vehicles. Each photograph shall have the name of the applicant printed legibly on the back of the photograph. Effective July 1, 2008, each application shall be accompanied by evidence that the applicant holds a NICET II in a subfield of Inspection and Testing of Water-Based Systems.

(5) Upon submission of a completed application, fee, and photographs, a permit and photo identification card will be issued to the applicant.

(6) Permittees must have a valid and subsisting permit upon their persons at all times while engaging in the inspection, testing and maintenance of fire protection systems. The permit must be produced upon demand. A permittee may perform only those services authorized under the Fire Protection System Contractor I or II employing such permittee.

(7) A permit shall be valid solely for use by the holder thereof in his or her employment by the licensee under whose license the permit was issued. A permittee changing his or her employer or place of employment shall obtain a new permit under the license of the holder at the new place of employment. The licensee shall notify the Regulatory Licensing Section, in writing, of the termination of a permittee within fifteen days of the termination. A permit and photo identification card of an individual leaving the employment of a Fire Protection System Contractor I or II becomes void and inoperative on the date of termination, pursuant to Section 633.521, Florida Statutes.

(8) A Water-Based Fire Protection Inspector Permittee must qualify and maintain a NICET II certification in a subfield of Inspection and Testing of Water-Based Systems as a condition to renewal effective July 1, 2008.

Specific Authority 633.01, 633.517(1), 633.521(4) FS. Law Implemented 633.521(4) FS. History–New _____.

69A-46.017 Required Continuing Education.

(1) Fire Protection System Contractors Certificateholders shall complete a continuing education course or combination of courses in compliance with Section 633.537, Florida Statutes, within each biennial license period, except that a contractor who completes the competency examination and receives a license issued for 1 year or less shall be required to complete a continuing education course or combination of courses prorated at 50 percent of the required hours for a biennial license.

(2) The continuing education course or combination of courses shall be in a fire protection discipline related to the Certificate of Competency held by the Fire Protection System Contractor. All licensed Fire Protection System Contractors are required to complete an approved course or courses providing at least one hour of workplace safety class, one hour of business practices class, and one hour of a workers’ compensation class as part of the required continuing education for each biennial renewal period.

(3) through (5) No change.

(6) The number of contact hours assigned to any course shall be determined by the Regulatory Licensing Section based on the course content and length of the course.

(a) through (b) No change.

(c) Each Fire Protection System Contractor certificateholder shall be notified by the Regulatory Licensing Section, in writing, if the coursework does not satisfy the continuing education requirement in Section 633.537, Florida Statutes. No notification will be given over the telephone.

(d) through (j) No change.

(7) Each Fire Protection System Contractor certificateholder is responsible for attending the appropriate course or courses and for maintaining proof of completion of the course or courses. Such proof shall be in the form of copies of certificates of completion awarded. The Regulatory Licensing Section will not accept any proof of completion except that submitted in accordance with subsection (8) below.

(8) Prior to the annual expiration of the Certificate of Competency, the Fire Protection System Contractor shall submit proof of completion of the required course or courses to the Regulatory Licensing Section. Submissions shall be submitted on a “Fire Protection System Contractor Continuing Education Coursework” Form, DFS-K3-1240 (03/00) as adopted and incorporated herein by reference. Forms are available from and submissions shall be sent to: Regulatory Licensing Section, 200 East Gaines Street, Tallahassee, Florida

32399-0342. Each Fire Protection System Contractors Certificateholders will be notified by the Regulatory Licensing Section, in writing, if the coursework does not satisfy the continuing education requirement in Section 633.537, Florida Statutes. No notification will be given over the telephone.

(9) Any Fire Protection System Contractor who does not complete the continuing education requirement shall not have his or her certificate renewed. If the Fire Protection System Contractor certificateholder is not renewed, the contractor certificateholder shall perform no work for which a license is required. A contractor certificateholder wishing to become licensed again shall meet the requirements of Section 633.521, Florida Statutes.

(10) Effective July 1, 2005 a Water-Based Fire Protection Inspector shall complete 8 hours of approved continuing education in compliance with Section 633.537, Florida Statutes, which are preparatory curriculum for NICET II certification and shall support the general and special work elements for NICET II certification. An additional 16 hours of continuing education must be completed between July 1, 2006 and June 30, 2008.

(11) A Water-Based Fire Protection Inspector shall complete 16 hours of approved continuing education coursework in compliance with Section 633.537, Florida Statutes, within each biennial license period.

Specific Authority 633.01, 633.517(1) FS. Law Implemented 633.521, 633.537 FS. History–New 10-2-96, Amended 6-18-97, 6-8-98, 11-21-01, Formerly 4A-46.017, Amended.

69A-46.040 Installation Requirements for Automatic Sprinkler Systems Employing Water as the Extinguishing Agent.

(1) Fire protection system contractors installing an automatic sprinkler system employing water as the extinguishing agent shall supervise and be responsible for the complete system in accordance with the provisions of Section 633.539, Florida Statutes, except that a contractor installing the underground pipe shall supervise and be responsible only for the portion he or she installs and the contractor installing the remaining portion of the system shall be responsible only for his or her portion of the work. The contractor shall be responsible to install the complete system in compliance with the National Fire Protection Association standards adopted pursuant to Rule Chapter 69A-3, F.A.C., except that if a contractor installs the underground portion of the system from the point of service to the aboveground connection flange in compliance with Section 633.539(3), Florida Statutes, pipe he or she shall be responsible for that portion of the system, and the Contractor installing the remaining portion shall be responsible for the system from the point of connection to the underground throughout the remainder of the system.

(2) through (8) No change.

Specific Authority 633.01 FS. Law Implemented 553.79(6), 633.065, 633.547(2)(e) FS. History–New 12-21-88, Amended 8-1-90, 10-20-93, 11-21-01, Formerly 4A-46.040, Amended.

69A-46.041 Inspection Requirements for Fire Protection Systems, Testing and Maintenance.

~~The contractor I or II shall submit in writing to the Regulatory Licensing Section the names, addresses, and evidence of NFPA 25 training of all individuals in his or her employ that are performing inspections of fire protection systems. In addition, the licensed contractor I or II shall submit a full face current color passport photograph of each inspector along with a copy of the inspector's current driver's license or identification card issued by the Florida Department of Highway Safety and Motor Vehicles. The contractor shall not allow any individual to perform inspections under his or her certificate until that individual has been listed with the Regulatory Licensing Section. The Regulatory Licensing Section shall issue a identification card to each inspector. The identification card is not a license. The contractor shall be responsible for each listed individual's inspections until he or she has requested in writing that the Regulatory Licensing Section delete the individual from his or her list of inspectors. The licensed fire protection system contractor shall notify the Regulatory Licensing Section, in writing, of an inspector leaving his or her employ within fifteen days of the termination. An inspector photo identification card of an individual leaving the employ of a contractor becomes void and inoperative on the date of departure.~~

(1) A Fire Protection Contractor, contracting to perform inspecting, testing, and maintenance service on a fire protection system shall comply with the requirements of Chapter 633, Florida Statutes, and the applicable NFPA standards as adopted in Rule Chapter 69A-3, F.A.C.

(2) Each system that has been inspected, tested, or maintained by a fire protection contractor, or his or her permitted Water-Based Fire Protection Inspector designated inspector, shall have a record tag of durable and weather resistant material placed on the riser ~~or control device.~~ The tag at "Figure A" shall include the following:

~~(a) Name, address and contractor license number of company.~~

~~(b) Date of inspection and type of inspection.~~

~~(c) Inspected by _____.~~

~~(d) The tag shall state "For more information see the inspection report."~~

~~(e) The tag shall state "Do not remove by order of the State Fire Marshal."~~

~~(f) The tag shall be approximately 3 1/2 inches by 5 1/2 inches.~~

~~SEE FLORIDA ADMINISTRATIVE CODE FOR "FIGURE A"~~

(3) Inspection Tags.

(a) After inspection and testing, an inspection tag shall be completed indicating all work that has been done, and then attached to the system riser in such a position as to permit convenient inspection and not hamper activation or operation. A new inspection tag shall be attached to the system riser each time an inspection and test service is performed.

(b) Inspection tags must be a minimum dimension of 133 mm (5 1/4 inches) in height and 67 mm (3 1/2 inches) in width.

(c) Inspection tags shall bear the following information in an easily read format:

1. 'DO NOT REMOVE BY ORDER OF THE STATE FIRE MARSHAL.' This particular information shall be in a minimum of 10pt type and in all capital letters.

2. The licensed Fire Protection System Contractor I or II's name and licensed physical address.

3. The license number of the Fire Protection System Contractor I or II;

4. The permit number of the Water-Based Fire Protection Inspector;

5. The permitted Water-Based Fire Protection Inspector's signature;

6. The day, month and year (to be punched);

7. The facility name and address.

8. Affixing this tag shall not be construed to invalidate the owner's responsibility to maintain the system as provided in Section 633.082, Florida Statutes.

9. The reverse of the non-compliant tag shall include at least four separate boxes for the listing of repair work as follows:

a. Date of Repair: _____

b. Repaired by (Signature): _____

c. Print Name: _____

d. Type of Repair: _____

e. Permit Number: _____ (if repair is made by a Water Based Fire Protection Inspector Permit Number must be noted.)

(d) Inspection tags may be printed and established for a five year period of time.

(e) An inspection tag shall only be removed by the Fire Protection System Contractor or his permitted Water-Based Fire Protection Inspector.

(4) Compliance and Noncompliance Tag.

(a) If a fire protection system is found to be in compliance with the applicable NFPA standards, a GREEN Compliance Tag shall be attached to the main control valve of the system.

(b) If a fire protection system is found to have deficiencies and is not in compliance with the applicable NFPA standards, a completed RED Noncompliance Tag shall be attached to the main control valve of the system to indicate that corrective action is necessary. If the system is operational but not in compliance with the applicable NFPA standards, the building owner or authorized representative and occupant shall be

notified by copy of the NFPA 25 inspection report within 30 days of the inspection. If the system is not operational, the contractor or inspector shall notify the building owner or authorized representative, the occupant, and the authority having jurisdiction within 24 hours of the time of the inspection.

(5)(3) The contractor shall maintain in his or her file all records of any fire protection system having been inspected, serviced and maintained.

(6)(4) These records shall be made available to the State Fire Marshal upon request.

(7)(5) The contractor or his or her permitted Water-Based Fire Protection Inspector the designated inspector shall complete in detail the inspection reports as required in NFPA 25, as adopted in Rule Chapter 69A-3, F.A.C., that outlines all points of the inspection, test, and maintenance as required by the applicable NFPA standards. A copy of the inspection report which shall be provided to the owner at the completion of each inspection performed.

(8)(6) The inspection report shall include a detailed explanation of every deficiency, and any deficiencies. The report shall indicate if the inspection is a weekly, monthly, quarterly or annual inspection. The inspection report shall include the name of the permitted Water-Based Fire Protection Inspector registered inspector, the inspector permit registration number, the inspector's signature, the date and time of the inspection, and the signature of the owner or the owner's representative.

(9) Pursuant to the provisions of Section 633.082, Florida Statutes, it is the owner's responsibility to maintain the fire protection system. Affixing an inspection tag as required herein does not invalidate responsibility nor shall a transfer of risk be construed.

(10) Sample Inspection Tag.

(a) Figure 1 shows information required on a Green Compliance Tag.

(b) Figure 2 shows information required on a Red Non-Compliance Tag.

(c) Figure 3 shows information required on the reverse of the Red Non-Compliance Tag.

Specific Authority 633.01 FS. Law Implemented 471.025, 553.79(6), 633.065, 633.547(2)(e) FS. History--New 10-20-93, Amended 11-21-01, Formerly 4A-46.041, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Terry Hawkins, Safety Program Manager, Bureau of Fire Prevention, Division of State Fire Marshal

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2006

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-12.011
 RULE TITLE: Annual Inspection Fees for Monument Builders

PURPOSE AND EFFECT: Section 497.553(1), F.S., authorizes the Board of Funeral, Cemetery, and Consumer Services to set by rule an annual inspection fee not to exceed \$300 payable upon application for licensure and upon each renewal of such license. The proposed rule sets the inspection fee at \$100.

SUMMARY: The annual inspection fee for monument builders is set at \$100.

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: 497.103(1)(bb), (5)(a), 497.553(1) FS.

LAW IMPLEMENTED: 497.553(1) 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: Tuesday, April 3, 2007, 2:00 p.m.
 PLACE: Alexander Building, 2020 Capital Circle, S.E., 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: Diana Evans, (850)413-3039 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: Diana Evans, Executive Director, Board of Funeral, Cemetery, and Consumer Services, Alexander Building, 2020 Capital Circle, S.E., Tallahassee, Florida 32399-0361, (850)413-3039

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-12.011 Annual Inspection Fees for Monument Builders.

Each monument builder shall pay an annual inspection fee of \$100 that is payable upon application for licensure and upon each renewal of such license.

Specific Authority 497.103(1)(bb), (5)(a), 497.553(1) FS. Law Implemented 497.103(1)(bb), 497.553(1) FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 9, 2007

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-136.019
 RULE TITLE: Insurance Administrator Annual Report and Licensure Application

PURPOSE AND EFFECT: To adopt forms Insurance Administrators must submit to the Office of Insurance Regulation to apply to do business in Florida and to submit financial information.

SUMMARY: The forms reflect legislation which in part requires Insurance Administrators to submit audited financial statements.

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: 626.8991 FS.

LAW IMPLEMENTED: 626.8805, 626.89 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: April 3, 2007, 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 calendar days before the workshop/meeting by contacting: Sandra DuPont, Specialty Product Administration, Office of Insurance Regulation, E-mail:

Sandra.DuPont@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: Sandra DuPont, Specialty Product Administration, Office of Insurance Regulation, E-mail: Sandra.DuPont@fldfs.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-136.019 Insurance Administrator Annual Report and Licensure Application.

(1) The forms adopted in subsections (2) and (3) below, are forms that Insurance Administrators must submit to the Office of Insurance Regulation to apply to do business in Florida and to report financial information. The forms may be viewed at the Office's website: <http://www.floir.com/pdf/OIR-C1-1075.pdf> and <http://www.floir.com/pdf/OIR-A3-975.pdf>.

(2) Form OIR-C1-1075, "Application for Certificate of Authority – Insurance Administrator" (REV 02/07), is hereby incorporated by reference and is to be submitted to the Office of Insurance Regulation when applying to do business in Florida.

(3) Form OIR-A3-975, "Insurance Administrator Annual Report" (REV 02/07), is hereby incorporated by reference and is to be submitted to the Office of Insurance Regulation to report financial information.

(4) All forms submitted for review or approval shall be submitted electronically to <http://portal.fldfs.com>.

Specific Authority 626.8991 FS. Law Implemented 626.8805, 626.89 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Sandra DuPont, Specialty Product Administration, Office of Insurance Regulation

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 16, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 23, 2005

Section III Notices of Changes, Corrections and Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.:	RULE TITLE:
62-730.186	Universal Pharmaceutical Waste
	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. 33, No. 3, January 19, 2007 issue of the Florida Administrative Weekly.

62-730.186 Universal Pharmaceutical Waste

(1) through (2) No change.

(3) Hazardous waste pharmaceuticals are considered to be universal waste in Florida when managed in accordance with this section. Hazardous waste pharmaceuticals not managed as universal waste in accordance with this section shall be managed in accordance with Chapter 62-730, F.A.C., and shall be disposed of at a permitted hazardous waste treatment, storage or disposal facility.

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

(k) "Reverse distributor" means a person engaged in the reverse distribution of prescription drugs who:

1. Operates a warehouse licensed by the Department of Health Bureau of Statewide Pharmaceutical Services under Chapter 499, F.S., as a reverse distributor; and

2. Has management systems in place to ensure compliance with applicable requirements of 40 CFR Parts 260 through 273 [as adopted in sections 62-730.021 and 62-730.183, and subsections 62-730.020(1), 62-730.030(1), 62-730.160(1), 62-730.170(1), 62-730.180(1) and & (2), 62-730.181(1), 62-730.185(1), and 62-730.220(1), F.A.C.] and Chapter 62-730, F.A.C.