

SUMMARY: The rule is new and provides that existing fetal infant mortality review teams may be used provided the team consist of persons or members as required by Section 383.2162(5)(c), F.S. The rule also identifies the eight urban and rural counties that meet the requirements of Section 383.2162(6), F.S.

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

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

SPECIFIC AUTHORITY: 383.2162(9) FS.

LAW IMPLEMENTED: 383.2162 FS.

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

DATE AND TIME: September 10, 2007, 10:00 a.m.

PLACE: Betty Easley Conference Center, 4075 Esplanade Way, Room 180, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: the Division of Family Health Services at (850)245-4444, extension 2959. 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: Adam Reeves, Infant Maternal and Reproductive Health, 4052 Bald Cypress Way, Bin A-13, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-21.001 Modified Fetal Infant Mortality Review Specification.

(1) Existing FIMR teams, processes, and team members may be utilized in the examination of black fetal and infant deaths. Coalitions participating in this initiative must ensure that members are represented as required by Section 383.2162(5)(c), F.S.

(2) Priority of award selection will go to counties representing Coalition areas that meet the criteria listed in Section 383.2162(6), F.S. These include the following eight counties: Broward, Dade, Duval, Gadsden, Hillsborough, Orange, Palm Beach, and Putnam. In the event that both a State and Federal Healthy Start Coalition representing a single county exist, only one application from that particular area will be accepted as a potential candidate for an award.

Specific Authority 383.2162(9) FS. Law Implemented 383.2162 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Adam Reeves

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Betsy Wood

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 21, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

### 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."

**LAND AND WATER ADJUDICATORY COMMISSION**

**Braddock Community Development District**

RULE NOS.:	RULE TITLES:
42HHH-1.001	Establishment
42HHH-1.002	Boundary
42HHH-1.003	Supervisors

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 34, August 24, 2007 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-16.100	General
62-16.200	Definitions
62-16.300	Renewable Energy Technologies Grants Program
62-16.400	Renewable Energy Technologies Grants Program for Bioenergy
62-16.500	Solar Energy Systems Incentives Program
62-16.600	Renewable Energy Technologies Investment Tax Credit
62-16.900	Forms

## 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. 6, February 9, 2007 issue of the Florida Administrative Weekly.

RENEWABLE ENERGY TECHNOLOGIES  
AND ENERGY EFFICIENCY

## 62-16.100 General.

This part implements the Florida Renewable Energy Technologies and Energy Efficiency Act, providing for grants for renewable energy technologies and rebates for solar energy systems. This part also implements ~~applications for sales tax incentives for renewable energy technologies provided for in Section 212.08, F.S., and~~ applications for corporate tax credits for renewable energy technologies provided for in Section 220.192, F.S.

Specific Authority ~~377.804(3), 377.806(7), 212.08, 220.192(3)~~ FS. Law Implemented ~~377.801, 377.802, 377.803, 377.804, 377.806, 212.08, 220.192~~ FS. History–New \_\_\_\_\_.

## 62-16.200 Definitions.

The words, terms and phrases used in this Chapter, unless otherwise indicated, shall have the meaning set forth in Sections 377.803 and 220.192(1), F.S. In addition, when used in this chapter, the following words, phrases, or terms shall have the following meanings:

(1) “Bioenergy” means energy derived from biomass.

(2) “Biomass” means “biomass” as defined in Section 366.91(2)(a), F.S.

(3) “Department” means the Florida Department of Environmental Protection.

(4) “Matching Funds or Other In-Kind Contributions” means:

(a) Actual cash outlays contributed, including, but not limited to, cash outlays for wages, rental expenses, travel expenses, unrecovered indirect costs, and purchases of material and supplies, as a direct benefit to the project; or

(b) Non-cash contributions necessary and reasonable for proper and efficient accomplishment of project objectives, the value of which must be established using the following guidelines:

1. Rates for donated or volunteer services of any person must be consistent with their regular rate of pay, or the rate of pay of those paid for similar work at a similar level of experience in the labor market, including the value of fringe benefits.

2. The value of donated expendable property such as office supplies or workshop supplies must not exceed the fair market value of the property.

3. The value of donated real property such as land must not exceed the fair market value of the property.

4. Donated space must be valued at fair rental value of comparable space and facilities in a privately-owned building in the same locale.

5. The value of loaned equipment can not exceed its fair rental value.

6. In-kind travel expense must be valued at the approved State rate as specified in Section 112.061, F.S.

(5) “Purchase date” means, for the purchase of solar energy equipment, the date of execution of a loan agreement or the date of final cash payment.

(6) “Solar thermal pool heater” means a device that traps the heat produced by incident sunlight in collector tubing through which swimming pool water is pumped in order to raise the temperature of the swimming pool water.

Specific Authority ~~377.804(3), 377.806(7), 212.08, 220.192(3)~~ FS. Law Implemented ~~377.802, 377.804, 377.806, 212.08, 220.192~~ FS. History–New \_\_\_\_\_.

62-16.300 Renewable Energy Technologies Grants Program.

## (1) REQUEST FOR GRANT PROPOSALS.

(a) The department shall issue a request for grant proposals (“RFGP”). The RFGP shall include a copy of the grant application form, instructions for submission of the grant application, and contact information for the department.

(b) The RFGP shall be issued by publication on the Florida Department of Management Services State Vendor Bid System under MyFlorida MarketPlace, and on the department’s website.

(2) QUALIFIED APPLICANTS. Qualified applicants are those applicants identified in Section 377.804(2), F.S., and State of Florida agencies.

(3) APPLICATIONS. Applications for the Renewable Energy Technologies Grants Program shall be submitted to the Department of Environmental Protection, ATTN: Renewable Energy Technologies Grant Program, Renewable Energy Projects, Florida Energy Office, 2600 Blair Stone Road, MS-19, Tallahassee, FL 32399-2400 as follows:

(a) Six copies of the application shall be submitted in hard copy format, using application Form 62-16.900(1), ~~F.A.C.~~, which is ~~herein~~ adopted and incorporated by reference at subsection 62-16.900(1), F.A.C. One copy shall be submitted in electronic format on compact disc at the same time as the hard copy. Acceptable formats for electronic versions are Microsoft Word for Windows versions 5.0 or higher; and Rich Text Format. Acceptable formats for electronic versions of the signed commitment letters required by Form 62-16.900(1); ~~F.A.C.~~, from third parties are Adobe PDF; Microsoft Word for Windows versions 5.0 or higher; and Rich Text Format.

(b) Applications must be received by the department no later than 5:00 p.m. on the date specified by the department in the RFGP.

(c) The application filing deadline shall be extended by the department when the department determines specifically for this grant program that extenuating circumstances exist, such as a hurricane or other natural disaster. Any deadline extension shall apply for all applicants. The department shall publish notice of the deadline extension on the Florida Department of Management Services State Vendor Bid System under MyFlorida MarketPlace, and on the department's web site.

(d) For grant requests, the minimum allowable amount for an application to be eligible for consideration for award shall be \$50 thousand, and the maximum allowable amount shall be \$2.5 million.

(e) COMPLETENESS. Any application which does not include all required information shall be determined incomplete and ineligible for the award of the grant sought. The department shall notify the applicant of the determination of ineligibility.

(f) An applicant is not eligible for award of a grant if at the time the department determines the recipients for the grant:

1. The department has a pending civil or administrative action against the applicant that alleges that the applicant has committed violations of Chapter 373, 376, or 403, Florida Statutes or the department rules implementing these statutes; or

2. The department has a final judgment or final order finding that the applicant has committed violations of Chapter 373, 376, or 403, Florida Statutes, unless the applicant has satisfied all requirements for corrective actions and has paid all costs, civil penalties, damages, and other financial assessments required by the judgment or order; or

3. The applicant has entered into a consent order with the department, unless the applicant has satisfied all requirements for corrective actions and has paid all costs, civil penalties, damages, and other financial assessments required by the consent order.

(4) CRITERIA.

(a) The criteria listed in Section 377.804(4), F.S., shall apply to grants evaluated pursuant to Sections 377.804(1) through 377.804(5), F.S.

(b) In addition to the criteria in Section 377.804(4), F.S., grant applications shall be evaluated for the degree to which a project incorporates multiple renewable energy technologies.

(5) MATCHING FUNDS.

(a) For matching funds, the minimum allowable amount for an application to be eligible for consideration for award shall be \$1.00.

(b) All matching funds and other in-kind contributions, including third party in-kind, shall be verifiable from the applicant's and/or its partners' records, and not be included as contributions for any other state-assisted project or program.

(c) Expenses related to a proposed project incurred prior to the award announcement are not eligible as matching funds or in-kind contributions.

(d) State funds are not eligible as matching funds or in-kind contributions.

(6) RANKING.

(a) The department shall use a point system to score grants. In scoring grants, points shall be awarded as follows:

<u>Criteria</u>	<u>Max Points Possible</u>
<u>Cost Share Percentage</u> <sup>1</sup>	<u>20</u>
<u>Economic Development</u> <sup>2</sup>	<u>16</u>
<u>Technical Feasibility</u> <sup>3</sup>	<u>16</u>
<u>Innovative Technology</u> <sup>4</sup>	<u>16</u>
<u>Production Potential</u> <sup>5</sup>	<u>16</u>
<u>Energy Efficiency</u> <sup>6</sup>	<u>16</u>
<u>Fostering Awareness</u> <sup>7</sup>	<u>16</u>
<u>Project Management</u> <sup>8</sup>	<u>16</u>
<u>Duration &amp; Timeline</u> <sup>9</sup>	<u>6</u>
<u>Location Served</u> <sup>10</sup>	<u>4</u>
<u>Public Integration</u> <sup>11</sup>	<u>4</u>
<u>Multiple Technologies</u> <sup>12</sup>	<u>4</u>
Total Numerical Rating	<u>150</u>

<sup>1</sup>Cost Share Percentage: The availability of matching funds or other in-kind contributions applied to the total project from the applicant.

0 points = \$1.00 up to and including 1% of total project cost.

2 points = Greater than 1% up to and including 10% of total project cost.

4 points = Greater than 10% up to and including 20% of total project cost.

6 points = Greater than 20% up to and including 30% of total project cost.

8 points = Greater than 30% up to and including 40% of total project cost.

10 points = Greater than 40% up to and including 50% of total project cost.

12 points = Greater than 50% up to and including 60% of total project cost.

14 points = Greater than 60% up to and including 70% of total project cost.

16 points = Greater than 70% up to and including 80% of total project cost.

18 points = Greater than 80% up to and including 90% of total project cost.

20 points = Greater than 90% of total project cost.

<sup>2</sup>Economic Development: The degree to which the project stimulates in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for renewable energy technologies.

Minimum (0 points): Negative contribution or this element of the evaluation criteria was not addressed.

Maximum (16 points): Significant potential for economic development in Florida.

<sup>3</sup>Technical Feasibility: The extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

Minimum (0 points): No proof of feasibility or this element of the evaluation criteria was not addressed.

Maximum (16 points): Project demonstrated to be technically feasible and claims are fully supported.

<sup>4</sup>Innovative Technology: The degree to which the project incorporates an innovative new technology or an innovative application of an existing technology.

Minimum (0 points): No degree of innovation or this element of the evaluation criteria was not addressed.

Maximum (16 points): Project incorporates technologies or processes that are not in common use in Florida, that represent a novel application of an existing technology or process, or that overcome obstacles to meeting Florida's energy needs in new or innovative ways.

<sup>5</sup> Production Potential: The degree to which a project generates thermal, mechanical, or electrical energy by means of a renewable energy resource that has substantial long-term production potential.

Minimum (0 points): No production potential or this element of the evaluation criteria was not addressed.

Maximum (16 points): Significant potential for energy production in Florida.

<sup>6</sup> Energy Efficiency: The degree to which a project demonstrates efficient use of energy and material resources.

Minimum (0 points): No consideration for energy efficiency or pollution prevention or this element of the evaluation criteria was not addressed.

Maximum (16 points): Project incorporates energy efficient products and practices including process improvements that lead to source reduction, waste minimization, and on-site recycling.

<sup>7</sup>Fostering Awareness: The degree to which the project fosters overall understanding and appreciation of renewable energy technologies.

Minimum (0 points): No contribution or this element of the evaluation criteria was not addressed.

Maximum (16 points): Significant potential for fostering awareness of renewable energy technologies throughout Florida.

<sup>8</sup>Project Management: The ability to administer a complete project.

Minimum (0 points): Project team mismatched for tasks identified. No prior management experience on project team. Budget is unrealistic.

Maximum (16 points): Project team has extensive management experience and expertise in the proposed field of study. Budget suited to tasks involved.

<sup>9</sup>Duration & Timelines: Project duration and timeline for expenditures.

Minimum (0 points): Project objectives will not be met and grant funds will not be exhausted within the 3 year grant agreement timeframe.

Maximum (6 points): No difficulty accomplishing project objectives and expending funds within grant agreement timeframe.

<sup>10</sup>Location Served: The geographic area in which the project is to be conducted in relation to other projects.

Minimum (0 points): Project duplicates existing efforts in the county or counties in which the project is proposed, minimizing its potential value to the community and state.

Maximum (4 points): Location of project benefits related efforts in the county or counties in which the project is proposed and surrounding areas, creating value for the community and state.

<sup>11</sup>Public Integration: The degree of public visibility and interaction.

Minimum (0 points): No visibility and interaction with the general public or this element of the evaluation criteria was not addressed.

Maximum (4 points): Significant potential for public visibility and interaction.

<sup>12</sup>Multiple Technologies: The degree to which a project incorporates multiple renewable energy technologies in the project.

0 points = One renewable energy technology is used.

2 point = Two renewable energy technologies are used.

4 points = Three or more renewable energy technologies are used.

(b) The department shall establish a review group of no less than 3 people, who shall each individually review grant applications, and score each application according to the point system provided in paragraph (6)(a).

(c) Score points from all reviewers shall be ranked and averaged as follows:

1. Each reviewer shall rank each eligible application by assigning a ranking number to each eligible application based on the score of the individual application compared to all other applications reviewed by that reviewer. For example, the top scored application shall be assigned a ranking number of 1, the second highest scored application shall be assigned a ranking number of 2, the third highest scored application shall be assigned a ranking number of 3, and so on, until all eligible applications are ranked.

2. After all eligible applications are ranked by the individual reviewers, the ranking numbers from all reviewers for each individual application shall be averaged.

(7) AWARD. The department shall award grants based upon highest averaged ranking and availability of funding, with 1 being the highest ranking. Grants shall be awarded to the top ranked application first, to the second highest ranked application second, and so on until the total amount of the fiscal appropriation in each state fiscal year is met.

(a) The maximum amount for an individual award shall be limited to \$2.5 million.

(b) The minimum amount for an individual award shall be limited to \$50 thousand.

(c) The department shall award up to the total amount requested in individual grant applications to the top ranked grant applicants up to the maximum amount allowed under paragraph (7)(a). If funds are not available to award the total amount requested by an applicant due to awards of grants to higher ranked applications, the department may award partial grants to applicants up to the amount of the fiscal appropriation remaining in each state fiscal year.

(d) In the instance of a ranking tie between two or more applications, the application proposing the higher percentage of match shall be ranked higher. In the instance of a ranking tie between two or more applications, and those applications propose the same percentage of match, the individual scores of the reviewers shall be added, and the application with the higher added reviewer scores shall be ranked higher. If there is still a tie, then the application submitted earlier in date shall be ranked higher.

#### (8) ADMINISTRATION.

(a) Grant funds must be awarded through a formal grant agreement negotiated and executed between the department and the grant applicant. Either party has the discretion to terminate negotiations if an agreement is not reached within 45 days of announcement of award. If the department and the grant applicant are unable to negotiate an agreement, the grant shall not be awarded to that grant applicant.

(b) Grant agreements shall be limited to no longer than three years in duration.

(c) Grant funds shall be distributed as reimbursements to recipients upon receipt of a formal invoice, supporting documentation, and upon department grant manager approval for compliance with all requirements of the grant agreement, this rule chapter, and the Florida Statutes.

(d) Invoices shall be submitted by grantees not more frequently than once per month, and not less frequently than once per quarter.

(e) Expenses incurred by a grantee and its project partners for its project after the execution of a formal grant agreement shall be considered as match based upon the requirements of Section 377.804, FS., and this Chapter.

(f) Expenses incurred by a grantee and its project partners for its project between the date of a notice of grant award and execution of formal grant agreement ~~may~~ shall be considered as match if the proposed match would meet all requirements of this Rule Chapter and Chapter 377, F.S., which would be otherwise applicable to an awarded grant, and if the proposed match would not violate any other provisions of the law. The department shall determine, on a case-by-case basis, whether such expenses qualify for match. Approval of such expenses as match are subject to negotiation of the grant agreement, and prior written approval by the department is required. Consideration as match is not guaranteed.

Specific Authority ~~377.804(3)~~ FS. Law Implemented ~~377.8024, 377.804~~ FS. History—New \_\_\_\_\_.

62-16.400 Renewable Energy Technologies Grants Program for Bioenergy.

#### (1) REQUEST FOR GRANT PROPOSALS.

(a) The department shall issue a request for grant proposals ("RFGP"). The RFGP shall include a copy of the grant application form, instructions for submission of the grant application, and contact information for the department.

(b) The RFGP shall be issued by publication on the Florida Department of Management Services State Vendor Bid System under MyFlorida MarketPlace, and on the department's website.

(2) QUALIFIED APPLICANTS. Qualified applicants are those applicants identified in Section 377.804(2), F.S., and State of Florida agencies.

(3) APPLICATIONS. Applications for the Renewable Energy Technologies Grants Program for Bioenergy shall be submitted to the Department of Environmental Protection, ATTN: Renewable Energy Technologies Grant Program, Bioenergy Projects, Florida Energy Office, 2600 Blair Stone Road, MS-19, Tallahassee, FL 32399-2400 as follows:

(a) Six copies of the application shall be submitted in hard copy format, using application Form 62-16.900(2), ~~F.A.C.~~, which is herein adopted and incorporated by reference. One copy shall be submitted in electronic format on compact disc at the same time as the hard copy. Acceptable formats for electronic versions are Microsoft Word for Windows versions 5.0 or higher; and Rich Text Format. Acceptable formats for electronic versions of the signed commitment letters from third parties required by Form 62-16.900(2), are Adobe PDF; Microsoft Word for Windows versions 5.0 or higher; and Rich Text Format.

(b) Applications must be received by the department no later than 5:00 p.m. on the date specified in the RFGP.

(c) The application filing deadline shall be extended by the department when the department determines specifically for this grant program that extenuating circumstances exist, such as a hurricane or other natural disaster. Any deadline extension shall apply for all applicants. The department shall publish

notice of the deadline extension on Florida Department of Management Services State Vendor Bid System under MyFlorida MarketPlace, and on the department's web site.

(d) For grant requests, the minimum allowable amount for an application to be eligible for consideration for award shall be \$50 thousand, and the maximum allowable amount shall be \$2.5 million.

(e) COMPLETENESS. Any application which does not include all required information shall be determined incomplete, and ineligible for the award of the grant sought. The department shall notify the applicant of the determination of ineligibility.

(4) CRITERIA.

(a) The criteria listed in Section 377.804(6), F.S., shall apply to grants evaluated pursuant to that Section.

(b) In addition to the criteria in Section 377.804(6), F.S., grant applications shall be evaluated for the degree to which a project has scientific merit based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

(5) MATCHING FUNDS.

(a) For matching funds, the minimum allowable amount for an application to be eligible for consideration for award shall be \$1.00.

(b) All matching funds and other in-kind contributions, including third party in-kind, shall be verifiable from the applicant's and/or its partners records, and not be included as contributions for any other state-assisted project or program.

(c) Expenses related to a proposed project incurred prior to the award announcement are not eligible as matching funds or in-kind contributions.

(d) State funds are not eligible as matching funds or in-kind contributions.

(6) RANKING.

(a) The department shall use a point system to score grants. In scoring grants, points shall be awarded as follows:

Criteria	Max Points Possible
Cost Share Percentage <sup>1</sup>	20
Economic Development <sup>2</sup>	16
Technical Feasibility <sup>3</sup>	16
Innovative Technology <sup>4</sup>	16
Production Potential <sup>5</sup>	16
Energy Efficiency <sup>6</sup>	16
Fostering Awareness <sup>7</sup>	16
Project Management <sup>8</sup>	16
Duration & Timeline <sup>9</sup>	6
Location Served <sup>10</sup>	4
Public Integration <sup>11</sup>	4

Multiple Technologies <sup>12</sup>	4
Total Numerical Rating	150

<sup>1</sup> Cost Share Percentage: The availability of matching funds or other in-kind contributions applied to the total project from the applicant.

0 points = \$1.00 up to and including 1% of total project cost.

2 points = Greater than 1% up to and including 10% of total project cost.

4 points = Greater than 10% up to and including 20% of total project cost.

6 points = Greater than 20% up to and including 30% of total project cost.

8 points = Greater than 30% up to and including 40% of total project cost.

10 points = Greater than 40% up to and including 50% of total project cost.

12 points = Greater than 50% up to and including 60% of total project cost.

14 points = Greater than 60% up to and including 70% of total project cost.

16 points = Greater than 70% up to and including 80% of total project cost.

18 points = Greater than 80% up to and including 90% of total project cost.

20 points = Greater than 90% of total project cost.

<sup>2</sup> Economic Development: The degree to which the project stimulates in-state capital investment and economic development in metropolitan and rural areas, including the creation of jobs and the future development of a commercial market for renewable energy technologies.

Minimum (0 points): Negative contribution or this element of the evaluation criteria was not addressed.

Maximum (16 points): Significant potential for economic development in Florida.

<sup>3</sup> Technical Feasibility: The extent to which the proposed project has been demonstrated to be technically feasible based on pilot project demonstrations, laboratory testing, scientific modeling, or engineering or chemical theory that supports the proposal.

Minimum (0 points): No proof of feasibility or this element of the evaluation criteria was not addressed.

Maximum (16 points): Project demonstrated to be technically feasible and claims are fully supported.

<sup>4</sup> Innovative Technology: The degree to which the project incorporates an innovative new technology or an innovative application of an existing technology.

Minimum (0 points): No degree of innovation or this element of the evaluation criteria was not addressed.

Maximum (16 points): Project incorporates technologies or processes that are not in common use in Florida, that represent a novel application of an existing technology or process, or that overcome obstacles to meeting Florida's energy needs in new or innovative ways.

<sup>5</sup> Production Potential: The degree to which a project generates thermal, mechanical, or electrical energy by means of a renewable energy resource that has substantial long-term production potential.

Minimum (0 points): No production potential or this element of the evaluation criteria was not addressed.

Maximum (16 points): Significant potential for energy production in Florida.

<sup>6</sup> Energy Efficiency: The degree to which a project demonstrates efficient use of energy and material resources.

Minimum (0 points): No consideration for energy efficiency or pollution prevention or this element of the evaluation criteria was not addressed.

Maximum (16 points): Project incorporates energy efficient products and practices including process improvements that lead to source reduction, waste minimization, and on-site recycling.

<sup>7</sup> Fostering Awareness: The degree to which the project fosters overall understanding and appreciation of renewable energy technologies.

Minimum (0 points): No contribution or this element of the evaluation criteria was not addressed.

Maximum (16 points): Significant potential for fostering awareness of renewable energy technologies throughout Florida.

<sup>8</sup> Project Management: The ability to administer a complete project.

Minimum (0 points): Project team mismatched for tasks identified. No prior management experience on project team. Budget is unrealistic.

Maximum (16 points): Project team has extensive management experience and expertise in the proposed field of study. Budget suited to tasks involved.

<sup>9</sup> Duration & Timelines: Project duration and timeline for expenditures.

Minimum (0 points): Project objectives will not be met and grant funds will not be exhausted within the 3 year grant agreement timeframe.

Maximum (6 points): No difficulty accomplishing project objectives and expending funds within grant agreement timeframe.

<sup>10</sup> Location Served: The geographic area in which the project is to be conducted in relation to other projects.

Minimum (0 points): Project duplicates existing efforts in the county or counties in which the project is proposed, minimizing its potential value to the community and state.

Maximum (4 points): Location of project benefits related efforts in the county or counties in which the project is proposed and surrounding areas, creating value for the community and state.

<sup>11</sup> Public Integration: The degree of public visibility and interaction.

Minimum (0 points): No visibility and interaction with the general public or this element of the evaluation criteria was not addressed.

Maximum (4 points): Significant potential for public visibility and interaction.

<sup>12</sup> Multiple Technologies: The degree to which a project incorporates multiple renewable energy technologies in the project.

0 points = One renewable energy technology is used.

2 point = Two renewable energy technologies are used.

4 points = Three or more renewable energy technologies are used.

(b) The department shall establish a review group of 4 people. Two members of the review group shall be appointed by the department. Two members of the review group shall be appointed by the Department of Agriculture and Consumer Services. Each reviewer shall individually review grant applications, and score each application according to the point system provided in paragraph (5)(a).

(c) Score points from all reviewers shall be ranked and averaged as follows:

1. Each reviewer shall rank each eligible application by assigning a ranking number to each eligible application based on the score of the individual application compared to all other applications reviewed by that reviewer. For example, the top scored application shall be assigned a ranking number of 1, the second highest scored application shall be assigned a ranking number of 2, the third highest scored application shall be assigned a ranking number of 3, and so on, until all eligible applications are ranked.

2. After all eligible applications are ranked by the individual reviewers, the ranking numbers from all reviewers for each individual application shall be averaged.

(7) AWARD. The department shall award grants based upon highest averaged ranking and availability of funding, with 1 being the highest ranking. Grants shall be awarded to the top ranked application first, to the second highest ranked application second, and so on until the total amount of the fiscal appropriation in each state fiscal year is met.

(a) The maximum amount for an individual award shall be limited to \$2.5 million.

(b) The minimum amount for an individual award shall be limited to \$50 thousand.

(c) The department shall award up to the total amount requested in individual grant applications to the top ranked grant applicants up to the maximum amount allowed under

paragraph (6)(a). If funds are not available to award the total amount requested by an applicant due to awards of grants to higher ranked applications, the department may award partial grants to applicants up to the amount of the fiscal appropriation remaining in each state fiscal year.

(d) In the instance of a ranking tie between two or more applications, the application proposing the higher percentage of match shall be ranked higher. In the instance of a ranking tie between two or more applications, and those applications propose the same percentage of match, the individual scores of the reviewers shall be added, and the application with the higher added reviewer scores shall be ranked higher. If there is still a tie, then the application submitted earlier in date shall be ranked higher.

(8) ADMINISTRATION.

(a) Grant funds must be awarded through a formal grant agreement negotiated and executed between the department and the grant applicant. Either party has the discretion to terminate negotiations if an agreement is not reached within 45 days of announcement of award. If the department and the grant applicant are unable to negotiate an agreement, the grant shall not be awarded to that grant applicant.

(b) Grant agreements shall be limited to no longer than three years in duration.

(c) Grant funds shall be distributed as reimbursements to recipients upon receipt of a formal invoice, supporting documentation, and upon department grant manager approval for compliance with all requirements of the grant agreement, this rule chapter, and the Florida Statutes.

(d) Invoices shall be submitted by grantees not more frequently than once per month, and not less frequently than once per quarter.

(e) Expenses incurred by a grantee and its project partners for its project after the execution of a formal grant agreement shall be considered as match based upon the requirements of Section 377.804, F.S., and this Chapter.

(f) Expenses incurred by a grantee and its project partners for its project between the date of a notice of grant award and execution of formal grant agreement may be considered as match. The department shall determine, on a case-by-case basis, whether such expenses qualify for match. Approvals of such expenses as match are subject to negotiation of the grant agreement, and prior written approval by the department is required. Consideration as match is not guaranteed.

Specific Authority 377.804 FS. Law Implemented 377.802+, 377.804 FS. History--New \_\_\_\_\_.

62-16.500 Solar Energy Systems Incentives Program.

(1) APPLICATION. Applications for rebates pursuant to the Solar Energy Systems Incentives Program, Section 377.806, F.S., shall be submitted to the Department of

Environmental Protection, ATTN: Solar Energy System Incentives Program, Florida Energy Office, 2600 Blair Stone Road, MS-21, Tallahassee, FL 32399-2400 as follows:

(a) Applications shall be submitted in hard copy format, using application Form 62-16.900(3), ~~FAC.~~, which is ~~herein~~ adopted and incorporated by reference. All applications must be submitted by certified mail or hand delivered to the department, and must be received by the department no later than 5:00 p.m. on the 90th day after the purchase date of the solar energy equipment. If the 90th day after the purchase date of the solar energy equipment falls on a weekend or an observed holiday for which Department offices have been closed, then the deadline shall be the next business day.

(b) Rebates are limited to one solar photovoltaic system, one solar thermal system, and one solar pool heater per resident. A separate application must be submitted for each rebate.

(c) All applications must include the information required on the application form, a photocopy of the original purchase agreement for the equipment and installation of the solar energy system, a copy of the final receipt of payment if different from the original purchase agreement, and a photograph of the installed system. All information provided to the department must be legible.

(d) The department shall review each timely filed application to determine if the application includes all required information.

1. An application that is determined to be complete upon initial filing shall be considered for eligibility and placement in the first-come, first-serve order for allocation of rebates based upon the date and time the application is filed.

2. If the department determines that the application does not contain all of the required information the department shall notify the applicant of the incompleteness of the application. Timely filed applications which do not include all required information shall not be considered as eligible for rebates and shall not receive a position in the first-come, first-serve order for allocation of rebates.

3. Applicants who are notified of the incompleteness of a timely filed application may file subsequent information in order to make the application complete. Timely filed applications that are initially determined incomplete, but are subsequently determined complete, shall be considered for eligibility for the rebate and placement in the first-come, first serve order for allocation of rebates based upon the date and time the application is determined complete.

(2) ISSUANCE. The department shall issue each rebate after the department determines that all required information has been provided for each application to make the application complete, provided funds are available to do so.

Specific Authority 377.806(7) FS. Law Implemented 377.801, 377.802, 377.803, 377.806 FS. History--New \_\_\_\_\_.

62-16.600 Renewable Energy Technologies Investment Tax Credit.

(1) GENERAL – This section applies to any taxpayer seeking a tax credit toward corporate income tax pursuant to Section 220.192, F.S., in the amount of the eligible costs as defined in Section 220.192(1)(b), F.S.

(a) This chapter does not apply to the tax return filing process regulated by the Florida Department of Revenue (DOR). An applicant seeking a tax credit pursuant to Section 220.192, F.S., shall apply to the department using the application process and Form 62-16.900(4), ~~F.A.C.~~, which is ~~herein~~ adopted and incorporated by reference. If deemed eligible for a tax credit, the department will issue a tax credit certificate to the applicant.

(b) The applicant may use these tax credits by attaching the certificate to its annual tax return filed with the DOR pursuant to rules promulgated by that agency.

(c) The department will not disburse any funds in connection with this tax credit program. Credits will not result in the payment of refunds by DOR if total credits exceed the amount of tax owed.

(d) Pursuant to Section 220.192, F.S., tax credits are limited to \$3 million per state fiscal year for all taxpayers in connection with an investment in hydrogen-powered vehicles and hydrogen vehicle fueling stations in the state; \$1.5 million per state fiscal year for all taxpayers in connection with an investment in commercial stationary hydrogen fuel cells in the state; and \$6.5 million per state fiscal year for all taxpayers in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100) and ethanol (E10-E100) in the state.

(e) The department shall be responsible for allocating the tax credits and tracking granted tax credits in a fiscal year to ensure that tax credits granted do not to exceed the limits provided in Section ~~220.192~~.192, F.S. If an eligible applicant does not receive a tax credit allocation due to an exhaustion of the annual tax credit appropriation, its application shall remain in the first-come, first-served order in the next year's annual tax credit allocation, if any, based on the date and time of filing the original application.

(f) Tax credits pursuant to Section 220.192, F.S., are available only for eligible costs incurred during the state fiscal year for which the tax credit application is submitted.

(2) APPLICATION. Applications shall be submitted to the Department of Environmental Protection, ATTN: Renewable Energy Technologies Investment Tax Credit Program, Florida Energy Office, 2600 Blair Stone Road, MS-19, Tallahassee, FL 32399-2400 as follows:

(a) Applications shall be submitted in hard copy format, using application Form 62-16.900(4), ~~F.A.C.~~, which is ~~herein~~ adopted and incorporated by reference.

(b) All applications must be submitted by certified mail or hand delivered to the department, and must be received by the department no later than 5:00 p.m. on the 15th day following the end of the applicant's tax year. If the 15th day after the end of the applicant's tax year falls on a weekend or federal holiday, then the deadline shall be the next business day.

(c) All applications must include the information required on the application form, and must include all supporting documentation necessary. Supporting documentation shall include all invoices and proof of payment for expenses for which the applicant seeks the tax credit.

(d) Applications must include a completed and signed affidavit (included as part of the application form) from each applicant certifying that all information contained in the application, including all records of costs incurred and paid and claimed in the tax credit application, are true and correct.

(3) ELIGIBILITY. The department shall review each timely filed application for completeness and determine eligibility as follows:

(a) The department shall review each timely filed application within 15 days of receipt to determine if the application includes all required information. An application package will be deemed "complete" if Form 62-16.900(4), ~~F.A.C.~~, contains all required information and appropriate signatures and the package includes all necessary supporting documentation.

(b) If the department determines that the application does not contain all of the required information to make the application complete, the department shall notify the applicant in writing within 15 days of the receipt of the application of the deficiencies indicated by certified mail, unless the applicant requests, and is willing to pay for, alternative express mailing. Applications will not be returned to applicants.

(c) An applicant who is notified of a failure shall not be issued a credit until all required information is provided to the department.

(d) Credits shall be allocated on a first-come, first-served basis based upon the date and time complete applications are received by the department.

(e) Applications which do not include all required information shall not receive a position in the first-come, first-serve order for allocation of credits.

(f) The department will review the tax credit application package submitted by each applicant to verify that the applicant has met the qualifying statutory and rule criteria and has submitted all required documentation. Upon verification that the applicant has met all requirements, the department shall issue a determination of eligibility for applied for tax credits within 45 days of the receipt of complete information, subject to the fiscal limitations in Section 220.192, F.S., for the tax year in which the tax credit application is submitted.

Specific Authority 220.192(3) FS. Law Implemented 220.192 FS. History—New \_\_\_\_\_.

62-16.900 Forms.

The following forms are adopted and incorporated by reference in this Rule Chapter. The form is listed by rule number, which is also the form number, and by the subject title and effective date. Copies of the form may be obtained by writing to the Department of Environmental Protection, Florida Energy Office, 2600 Blair Stone Road, MS-19, Tallahassee, FL 32399-2400.

(1) Renewable Energy Technologies Grant Program Application, Form 62-16.900(1), ~~F.A.C.~~, (effective \_\_\_\_\_).

~~(2) Renewable Energy Technologies Grant Program Application for Bioenergy, Form 62-16.900(2), F.A.C., (effective \_\_\_\_\_).~~

~~(2)(3) Solar Energy System Incentives Program Application, Form 62-16.900(3), F.A.C., (effective \_\_\_\_\_).~~

~~(3)(4) Renewable Energy Technologies Investment Tax Credit Program Application, Form 62-16.900(4), F.A.C., (effective \_\_\_\_\_).~~

~~(5) Renewable Energy Technologies Sales Tax Program Application, Form 62-16.900(5), F.A.C., (effective \_\_\_\_\_).~~

Specific Authority ~~242.08, 220.192(3), 377.804(3), 377.806(7)~~ FS. Law Implemented ~~377.804-377.806, 242.08, 220.192~~ FS. History—New \_\_\_\_\_.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
62-16.400	Renewable Energy Technologies Grants Program for Bioenergy
62-16.700	Renewable Energy Technologies Sales Tax Program

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rules, as noticed in Vol. 33, No. 6, February 9, 2007 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
62-602.200	Definitions
62-602.270	Eligibility for Operator Examinations
62-602.300	Qualifications for Operator Licensure
62-602.360	Licensing Requirements for Non-Florida Operators
62-602.560	Candidates' Post Exam Review
62-602.570	Formal Administrative Hearing Petition and Pre-hearing Review Request
62-602.600	Fees for Operator Examinations and Licensure
62-602.650	Duties of Operators
62-602.720	Inactive Status of License
62-602.850	Disciplinary Guidelines
62-602.870	Suspension and Revocation of Operator License

**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. 20, May 18, 2007 issue of the Florida Administrative Weekly.

62-602.200 Definitions.

For the purposes of this chapter, the following words, phrases, or terms shall have the following meaning.

(1) “Approved County Health Department” means Broward, Hillsborough, Lee, Manatee, Miami-Dade, Palm Beach, Polk, Sarasota, or Volusia a County Health Departments pursuant to designated by the Department of Health and approved by the Department of Environmental Protection as having a qualified sanitary engineering staff to perform the duties described in Section 403.862(1)(c), F.S.

(5) “Delegated local program” means Broward County (collection systems only), Miami-Dade County, Hillsborough County, Palm Beach County, or Sarasota County pursuant to any county, municipality, or combination thereof that has established, and administers, a pollution control program approved by the Department of Environmental Protection in compliance with Section 403.182, F.S.

(20) “Water distribution system” means those components of a regulated public water system regulated under Chapter 62-550, F.A.C., used in conveying water for human consumption from the water treatment plant to the consumer’s property, including pipes, tanks, pumps, and other constructed conveyances.

62-602.270 Eligibility for Operator Examinations.

(1) through (2) No change.

~~(3) In lieu of meeting the requirements described in subsection (1) above, applicants for a water distribution system operator examination shall be allowed one opportunity to take either a Level 1, 2, or 3 examination before May 1, 2011, if the applicant meets the criteria listed in paragraphs (a) through (d) below. If a passing score is not obtained on the first examination attempt, the applicant must successfully complete a Department approved Level 3 water distribution system operator training course and begin the licensure process as a Level 3 water distribution system operator in accordance with subsection (1) above. Applicants under this subsection (3) must meet the following criteria:~~

~~(a) For a Level 3 water distribution system operator examination, have a high school diploma or its equivalent and document at least 1.5 years (3,120 hours) of experience as defined in subsection 62-602.250(7), F.A.C.; or~~

~~(b) For a Level 2 water distribution system operator examination, have a high school diploma or its equivalent and document at least 4 years (8,320 hours) of experience as defined in subsection 62-602.250(7), F.A.C.; or~~

~~(e) For a Level 1 water distribution system operator examination, have a high school diploma or its equivalent and document at least 6.5 years (13,520 hours) of experience as defined in subsection 62-602.250(7), F.A.C.~~

#### 62-602.300 Qualifications for Operator Licensure.

To be eligible for licensure by the Department, the applicant shall:

(1) through (8) No change.

(9) In lieu of meeting the criteria in subsections (6), (7), or (8) above, applicants for a water distribution system operator license who meet the requirements listed in paragraphs (a), (b), or (c) below may apply for licensure to the Department before May 1, 2011.

(a) For licensure as a Level 3 water distribution system operator, the applicant must have received a high school diploma or its equivalent; have satisfactorily completed or instructed prior to [insert the effective date of this rule] one or more Department-approved water distribution system operator training courses that addressed operation and maintenance of water distribution systems, totaled no less than 20 contact hours, and included a Department-approved an end-of-course exam; and document at least 1 year (2,080 hours) of experience as defined in subsection 62-602.250(7), F.A.C.; or

(b) For licensure as a Level 2 water distribution system operator, the applicant must have received a high school diploma or its equivalent; have satisfactorily completed or instructed prior to [insert the effective date of this rule] one or more Department-approved water distribution system operator training courses that addressed operation and maintenance and troubleshooting of water distribution systems, totaled no less than 40 contact hours, and included a Department-approved an end-of-course exam; and document at least 3 years (6,240 hours) of experience as defined in subsection 62-602.250(7), F.A.C.; or

(c) For licensure as a Level 1 water distribution system operator, the applicant must have received a high school diploma or its equivalent; have satisfactorily completed or instructed prior to [insert the effective date of this paragraph] one or more Department-approved water distribution system operator training courses that addressed operation and maintenance and troubleshooting of water distribution systems and supervision of water distribution system personnel, totaled no less than 60 contact hours, and included a Department-approved an end-of-course exam; and document at least 5 years (10,400 hours) of experience as defined in subsection 62-602.250(7), F.A.C.

#### 62-602.360 Licensing Requirements for Non-Florida Operators.

Operators licensed in other states must meet the following requirements to obtain a Florida license:

(1) No change.

(2) Have successfully completed a Department-approved training course for the class or level of the license being requested no more than 5 years before the application.

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

~~(5)(4) Be provided one opportunity to obtain a passing score on the licensing examination, as provided for in paragraph 62-602.550(1)(a), for the class or level of license being requested. For the purpose of obtaining a license, the examination will satisfy the examination criterion for licensing for a period of four years from the date a passing score is obtained. If a passing score is not obtained on the first examination attempt, the applicant must complete a required training course for the class or level of the license being requested prior to resubmitting an application for examination. The required training course for the class or level of license being requested must have been completed no more than 5 years before the application for examination.~~

#### 62-602.560 Candidates' Post-Exam Review.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History—New 12-30-99, Amended 2-6-02, Repealed.

#### 62-602.570 Formal Administrative Hearing Petition and Pre-Hearing Review Request.

Under Sections 120.569 and 120.57, F.S., and Rules 62-110.106, 28-106.201 and 28-106.301, F.A.C., a candidate who has taken and failed an examination may petition for an administrative hearing under the following terms and conditions:

~~(1) Except as noted in subsection (2) below, All petitions for administrative hearings shall be filed no later than 21 days after the applicant receives the Department's grade notification letter. No petition received more than 21 days from the date of receipt of the grade notification letter will be accepted. The petition shall conform to Rule 28-106.201, F.A.C., when material facts are in dispute, or Rule 28-106.301, F.A.C., when no material facts are in dispute.~~

~~(2) For a candidate who elects to review the examination under subsection 62-602.560(1), F.A.C., the petition for a hearing must be filed no later than 21 days after the post-examination review or no later than 21 days after the date of the letter notifying the candidate that his or her challenge was found to be without merit.~~

~~(3) No petition received more than 21 days from the date specified in subsections (1) or (2), as applicable, will be accepted. The petition shall conform to Rule 28-106.201, F.A.C., when material facts are in dispute, or Rule 28-106.301, F.A.C., when no material facts are in dispute.~~

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

~~(5) If the candidate chose to file a petition for administrative hearing before a post-examination review and later requests such review, the candidate will be required to pay~~

~~the post-examination review fee before a pre-hearing review is scheduled. The procedures for post-examination review in Rule 62-602.560, F.A.C., shall apply.~~

~~(3)(6)~~ No change.

62-602.600 Fees for Operator Examinations and Licensure.

The following fees are required for the activities associated with operator examination and licensing.

(1) through (5) No change.

~~(6) A fee of \$75 will be required for examination reviews conducted in accordance with Rule 62-602.560, F.A.C.~~

~~(6)(7)~~ No change.

62-602.650 Duties of Operators.

An operator is responsible for performing treatment plant or water distribution system operation and maintenance duties in a ~~responsible and professional~~ manner consistent with standard operating practices. The duties shall be the following:

(1) through (5) No change.

62-602.720 Inactive Status of License.

(1) through (3) No change.

(4) The license of an inactive licensee that does not achieve active status within two years following the end of the most recent licensing period shall be expired, and subsequent licensure will require meeting all the requirements for initial licensure at or below the class or level which he/she was licensed the highest class or level previously obtained.

62-602.850 Disciplinary Guidelines.

(4) When the Department finds that a person, who is subject to regulation under Sections 403.865 through 403.876, F.S., has violated any of the provisions set forth in Rule 62-602.800 or 62-602.870, F.A.C., or Sections 403.865 through 403.876, F.S., it shall issue an administrative order imposing appropriate penalties for each count within the ranges recommended in the following disciplinary guidelines:

(a) through (g) renumbered (1) through (7) No change.

~~(8)(h)~~ Failure to comply with the provisions of Rule 62-602.650, F.A.C. The recommended penalty for failure to submit reports in a timely manner, or to maintain operation and maintenance logs, as required by Rule 62-602.650, F.A.C., is from a minimum issuance of a probation letter to a maximum administrative fine of \$100 per day of the occurrence up to a maximum of \$1,000 for the offense. The recommended penalty for failure to report unpermitted discharges, interruption of service, plant upsets, or the failure to report the production of drinking water that does not meet the applicable requirements is from a minimum of a suspension of license of 1 year, up to a maximum of revocation of license. The recommended penalty for failure to perform treatment plant or water distribution system operation in a manner consistent with standard operating practices, or failure to comply with any other provision of Rule 62-602.650, F.A.C., is from a minimum

administrative fine of \$100 per day of the occurrence up to a maximum of \$1,000 for the offense. ~~The actual penalty imposed depends upon the severity of the violation to cause harm to the environment, or to endanger the public's or plant employees' health or safety.~~

~~(j) Failure to comply with any Department order previously entered in a disciplinary hearing. The recommended penalty is from a minimum of license suspension for 1 year for failure to comply with one order, up to a maximum of license revocation for failure to comply with more than one order.~~

~~(9)(i)~~ Checks for licensure, license renewal, examination, or examination review returned for insufficient funds. The recommended penalty is suspension of license until the full fees are received, including the charge for insufficient funds.

[Although the Notice of Proposed Rule indicated no changes to subparagraphs 62-602.850(2)(a)1. and (2)(b)2.-4., F.A.C., based on comments from the Joint Administrative Procedures Committee, the entire subsection is being deleted.]

~~(2) The Department shall be entitled to deviate from the above guidelines upon a showing of aggravating or mitigating circumstances by the accused before any imposition of a final penalty.~~

~~(a) Aggravating circumstances are circumstances that justify deviating from the above disciplinary guidelines and cause the increase of a penalty beyond the maximum level of discipline in the guidelines. These are:~~

~~1. History of previous violations of these rules.~~

~~2. For negligence, the magnitude and scope of the damage inflicted upon the environment, treatment plant or water distribution system, treatment plant or water distribution system employees, or general public by the operator's misfeasance.~~

~~(b) Mitigating circumstances are circumstances that justify deviating from the above disciplinary guidelines and cause the reduction of a penalty below the minimum level of discipline in the guidelines. These are:~~

~~1. For negligence, the nature of the treatment plant or water distribution system in question and lack of danger to the environment or public health, safety and welfare resulting from the operator's misfeasance.~~

~~2. Lack of previous disciplinary history in this or any other jurisdiction wherein the operator practices his profession.~~

~~3. Restitution of any damages suffered by the operator's client.~~

~~4. Steps taken by the operator to ensure that similar violations will not occur.~~

62-602.870 Suspension and Revocation of Operator License.

(1) No change.

(2) The Department shall permanently revoke a license for any one of the following reasons:

(a) through (b) No change.

(c) A finding by the Department that negligence in the performance of duties as an operator has resulted in harm ~~a threat~~ to public health or safety; or harm ~~to~~ the environment.

(d) No change.

(3) through (6) No change.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-699.200	Definitions
62-699.310	Classification and Staffing of Plants
62-699.311	Additional Classification and Staffing Requirements

**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. 20, May 18, 2007 issue of the Florida Administrative Weekly.

62-699.200 Definitions.

For the purposes of this chapter, the following words, phrases, or terms shall have the following meaning.

(1) “APPROVED COUNTY HEALTH DEPARTMENT” means Broward, Hillsborough, Lee, Manatee, Miami-Dade, Palm Beach, Polk, Sarasota, or Volusia a County Health Departments pursuant to designated by the Department of Health and approved by the Department of Environmental Protection as having a qualified sanitary engineering staff to perform the duties described in Section 403.862(1)(c), F.S.

(1) through (4) No change.

(5) “DELEGATED LOCAL PROGRAM” means Broward County (collection systems only), Miami-Dade County, Hillsborough County, Palm Beach County, or Sarasota County pursuant to pursuant to any county, municipality, or combination thereof that has established, and administers, a pollution control program approved by the Department of Environmental Protection in compliance with Section 403.182, F.S.

(6) through (23) No change.

62-699.310 Classification and Staffing of Domestic Wastewater or Water Treatment Plants and Water Distribution Systems.

This section applies to all domestic wastewater treatment plant permittees or suppliers of water except suppliers of water who own or operate a transient non-community water system serving only businesses other than public food service establishments and using only ground water as a source of supply. Licensed operators are not required for transient non-community water systems serving only businesses other than public food service establishments and using only ground water as a source of supply.

(1) No change.

(2) Permittees and suppliers of water shall employ licensed operators on-site at their domestic wastewater or water treatment plant(s) to fulfill the time and ~~or~~ visit requirements specified in paragraphs (a) through (e) below. Beginning May 1, 2011, suppliers of water shall employ licensed operators to staff their water distribution system as specified in paragraph (f) below.

(a) through (f) No change.

1. through 2. No change.

[Footnote]

<sup>1</sup> Water distribution system operation and maintenance activities that may affect water quality or quantity include the following: cleaning (swabbing, pigging, scraping, or air-purging) existing water mains; tapping, depressurizing/dewatering, or disinfecting existing or repaired water mains; dewatering, cleaning, or disinfecting existing or repaired finished-water storage tanks; and manually operating existing pumps, or adjusting automatic pump controls or automatic control valves, as necessary to regulate water distribution system flows or pressures.

62-699.311 Additional Classification and Staffing Requirements.

(1) through (3) No change.

(4) Upon written request by the permittee or supplier of water, the Department shall approve in writing, in accordance with paragraph (a) or (b) below, reduction in staffing requirements under paragraph 62-699.310(2)(a) or (e), F.A.C., ~~For proposed new domestic wastewater or water treatment plants that are under an electronic surveillance system, automatic control system, or electronic control system and for existing domestic wastewater or water treatment plants that are under an electronic surveillance system, automatic control system, or electronic control system and that have been in compliance with applicable water quality standards and applicable operation and maintenance requirements for the past year, the daily staffing requirements in paragraph 62-699.310(2)(a) or (e), F.A.C., shall be reduced in accordance with paragraph (a) or (b) below upon written request by the permittee or supplier of water and written approval by the Department.~~ However, if the Department approves a reduction in staffing requirements under this subsection and the plant’s electronic surveillance system, automatic control system, or electronic control system subsequently malfunctions or fails, the Department’s approval of reduced staffing requirements shall be considered temporarily revoked while the plant’s electronic surveillance system, automatic control system, or electronic control system is not functioning properly.

(a) through (b) No change.

(5) through (6) No change.

(7) Upon written request by the supplier of water, the Department shall approve in writing, in accordance with paragraphs (a) through (d) below, reduction in staffing

requirements under subparagraph 62-699.310(2)(e)5., F.A.C., ~~f~~For proposed new Category V water treatment plants that are connected to the same water distribution system and for existing Category V water treatment plants that are connected to the same water distribution system and that have been in compliance with applicable water quality standards and applicable operation and maintenance requirements for the past year, ~~the staffing requirements in subparagraph 62-699.310(2)(e)5., F.A.C., shall be reduced in accordance with paragraphs (a) through (d) below upon written request by the supplier of water and written approval by the Department.~~

(a) through (d) No change.

(8) Upon written request by the permittee or supplier of water, the Department shall approve in writing, in accordance with paragraphs (a) and (b) below, reduction in staffing requirements under paragraph 62-699.310(2)(a) or (e), F.A.C., ~~f~~For existing domestic wastewater or water treatment plants that are treating or producing less than the permitted capacity of the plant and that have been in compliance with applicable water quality standards and applicable operation and maintenance requirements for the past year, ~~the staffing requirements in paragraph 62-699.310(2)(a) or (e), F.A.C., shall be reduced in accordance with paragraphs (a) and (b) below upon written request by the permittee or supplier of water and written approval by the Department.~~

(a) through (b) No change.

(9) through (12) No change.

(13) Upon written request by the permittee or supplier of water, the Department shall approve in writing an interchange of weekend visits with the same number of required weekdays of staffing ~~f~~For domestic wastewater or water treatment plants that have greater influent flow or water production on weekends than on weekdays, ~~required weekend visits may be interchanged with the same number of required weekdays of staffing upon written request by the permittee or supplier of water and written approval by the Department.~~ The total number of days per week that a plant is staffed versus visited shall not be reduced.

(14) No change.

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-15.030  
RULE TITLE: One Time Fee

**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. 32, August 10, 2007 issue of the Florida Administrative Weekly.

The change is in response to an inadvertent error of duplicative language in subsections (1)(c) and (2). The actual language approved by the Board for paragraph (1)(c) should read as follows:

(c) The Department shall not reinstate or reactivate the license of any individual who has failed to pay the one time fee set forth above.

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

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Consumer Services**

RULE NO.: 69J-8.004  
RULE TITLE: Qualification and Certification of Neutral Evaluators

**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. 13, March 30, 2007 issue of the Florida Administrative Weekly.

These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

The text of form DFS-H2-1783, Neutral Evaluator Application, in subsection 69J-8.004(1), F.A.C., has been modified to remove the field requesting the social security number.

The remainder of the reads as previously published.

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NO.: 69O-137.013  
RULE TITLE: Florida Hurricane Catastrophe Fund Assessment Information Gathering

**NOTICE OF CONTINUATION**

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 31, August 3, 2007 Florida Administrative Weekly has been continued from August 28, 2007 to September 19, 2007.

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NOS.: 69O-157.301, 69O-157.302, 69O-157.303, 69O-157.304  
RULE TITLES: Rate Increase Standards, Facility Only Rates, Home Health Care Only Rates, Comprehensive Only Rates

**NOTICE OF CONTINUATION**

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 31, August 3, 2007 Florida Administrative Weekly has been continued from August 28, 2007 to September 19, 2007.

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NO.: RULE TITLE:  
 69O-167.015 Uniform Home Grading Scale to Grade the Ability of a Home to Withstand Wind Loads from Tropical Storms or Hurricanes

**NOTICE OF CONTINUATION**

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 31, August 3, 2007 Florida Administrative Weekly has been continued from August 28, 2007 to September 19, 2007.

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NOS.: RULE TITLES:  
 69O-170.005 Use of Filed Rates  
 69O-170.006 Rate Manual Filings and Revisions  
 69O-170.007 Annual Rate Filings  
 69O-170.013 Filing Procedures for Property and Casualty Insurance Rates, Rules, Underwriting Guidelines, and Forms  
 69O-170.0135 Actuarial Memorandum  
 69O-170.014 Homeowners Insurance Ratemaking and Rate Filing Procedures  
 69O-170.0141 Dwelling Insurance Ratemaking and Rate Filing Procedures  
 69O-170.0142 Ratemaking and Rate Filing Procedures for Commercial Residential Insurance and All Other Lines  
 69O-170.0143 Ratemaking and Rate Filing Procedures for Liability Insurance for Medical Malpractice  
 69O-170.0155 Forms

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 46, November 12, 2004 issue of the Florida Administrative Weekly has been withdrawn.

**FINANCIAL SERVICES COMMISSION**

**OIR – Insurance Regulation**

RULE NO.: RULE TITLE:  
 69O-171.003 Reports by Insurers of Professional Liability Claims and Actions Required

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 8, February 24, 2006 issue of the Florida Administrative Weekly.

The changed proposed rule will read:

69O-171.003 Reports by Insurers of Professional Liability Claims and Actions Required.

(1)(a) Each entity identified in Section 627.912(1)(a), or 627.912(5), F.S., self insurer authorized under Section 627.357, F.S., and each insurer or joint underwriting association providing professional liability insurance to a practitioner of medicine licensed pursuant to the provisions of Chapter 458, F.S., to a practitioner of osteopathic medicine licensed pursuant to the provisions of Chapter 459, F.S., to a podiatric physician licensed pursuant to the provisions of Chapter 461, F.S., to a dentist licensed pursuant to the provisions of Chapter 466, F.S., to a hospital licensed pursuant to the provisions of Chapter 395, F.S., to crisis stabilization units licensed under Part IV of Chapter 394, F.S., to a health maintenance organization certified under Part I of Chapter 641, F.S., to clinics included in Chapter 390, F.S., to an ambulatory surgical center as defined in Section 395.002, F.S., or to a member of the Florida Bar, shall report to the Office of Insurance Regulation (Office) any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of such insured’s professional services or based on a claimed performance of professional services without consent. In any calendar year in which no claim or action for damages has been closed, the entity shall file a “No Claim Submission Report”. Each such entity insurer or self insurer required to report under this rule shall submit such information to the Office using the “Professional Liability Claims Reporting System” (“PLCR”) located at <https://apps.fldfs.com/plcr>, Form OIR-A1-1672 (1-06). The PLCR is incorporated and adopted by reference, electronically by using computer software provided by the Office. A copy of the judgment or settlement must be provided along with any other information required by the Office that is not included in the computer software. The following forms have been converted into the software provided by the Office ~~are hereby incorporated by reference, and shall take effect on the effective date of this rule amendment: Form OIR 303 (5/99) “Florida Medical Professional Liability Insurance Claims Report” and OIR 304 (5/99) “Lawyers Professional Liability Closed Claim Reporting Form.”~~ Professional liability closed claim reports must be filed by the insurer if the claim resulted in:

(a) A final judgment in any amount; or

(b) In addition to the requirements set forth in Section 627.912(2), F.S., and to assist the Office in its analysis and evaluation of the nature, causes, location, cost and damages involved in professional liability cases, reports shall contain: A settlement in any amount.

1. The type of entity insured, which will include but not be limited to hospitals, individuals or other facilities;
2. The field of medicine in which a physician practices;
3. The facility license or registration number, if available;

4. The amount the insurance company has set aside to pay the claim as of the closing date of the claim;

5. The names of all known defendants;

6. Whether or not the claim was closed due to a jury verdict or settlement;

7. The county in which the injury occurred; and

8. The date on which payment was made.

(2) Each authorized insurer, risk retention group, joint underwriting association and surplus lines insurer shall annually report to the Office on or before May 1 of each calendar year a reconciliation of all paid claims and loss adjustment expenses reported pursuant to Section 627.912, F.S., and direct loss and loss adjustment expenses paid in the State of Florida and reported in their National Association of Insurance Commissioners annual statement. Such reconciliation shall be reported using the method as described in paragraph (1)(a) and shall include but not be limited to the following:

(a) Payments on claims not closed in previous calendar year;

(b) Payments made prior to January 1 on claims closed during the previous calendar year;

(c) Losses paid on claims not settled under Florida law but which are reported in the NAIC annual statement;

(d) Payments on claims reported on policies written in another state;

(e) Reimbursements received;

(f) Rounding and statistical adjustments (explanatory documentation must be provided);

(g) Un-reconciled amounts (explanatory documentation must be provided);

(h) Closed claim subtractions; and

(i) Closed claim additions.

(3)(2) Any self-insurance program established under Section 1004.24 240.213, F.S., shall report, using such method as described in paragraph (1)(a), in duplicate to the Office of Insurance Regulation any claim or action for damages for personal injuries claimed to have been caused by error, omission, or negligence in the performance of professional services provided by the Board of Regents through an employee or agent of the Board of Regents, including practitioners of medicine licensed under Chapter 458, F.S., practitioners of osteopathic medicine licensed under Chapter 459, F.S., podiatric physicians licensed under Chapter 461, F.S., and dentists licensed under Chapter 466, F.S., or based on a claimed performance of professional services without consent if the claim resulted in a final judgment in any amount, or a settlement in any amount.

(4)(3) Reports are due no later than 30 days after the claim has been closed, following the occurrence of one of the events listed in paragraph (a) or (b) above. "No Claim Submission Reports" are due no later than May 1st of each year. Entities

not filing a closed claim or a "No Claim Submission Report" will be subject to fines and penalties as listed in Section 627.912, F.S. A closed claim report which is inaccurate, incomplete, or not properly formatted will be returned unprocessed and will be considered late until an accurate, complete and properly formatted report is received.

(4) The Office shall impose a fine of \$250 per day per case, but not to exceed a total of \$1,000 per case against an insurer or self insurer that violates the professional liability closed claim reporting requirements. This applies to claims closed on or after October 1, 1997.

(5) Section 627.912(1)(a), F.S., states that a claim must be reported to the Office if it resulted in a final judgment in any amount, a settlement in any amount, or a final disposition of a medical malpractice claim resulting in no indemnity payment on behalf of the insured. Pursuant to this paragraph, the following triggers the requirement of Section 627.912, F.S., to report a claim to the Office: Copies of the Professional Liability Closed Claim Software are available from the Office of Insurance Regulation, Bureau of Property and Casualty Forms and Rates, Room 238.14, Larson Building, Tallahassee, Florida 32399-0300, (850)413-5346.

(a) Any judgment that has been entered against any health care provider identified in paragraph 627.912(1)(a), F.S., for which all appeals as a matter of right have been exhausted or for which the time period for filing such an appeal has expired.

(b)1. The execution of an agreement between a health care provider identified in paragraph 627.912(1)(a), F.S., or an entity required to report under that paragraph and a recipient of professional services by the provider to settle damages purported to arise from the provision of professional services, which agreement includes the payment of at least one dollar; or

2. The payment of any money by any of the entities required to report under paragraph 627.912(1)(a), F.S., on behalf of any health care provider identified in that paragraph for damages purported to arise from professional services rendered.

(c) The final disposition of a medical malpractice claim for which no indemnity payment was made on behalf of the insured but for which there were loss adjustment expenses (LAE) paid in excess of twenty-five hundred dollars (\$2,500).

(d) As used in paragraph (c) a medical malpractice claim means an assertion that the recipient of one of the health services identified in paragraph 627.912(1)(a), F.S., received personal injuries as a result of error, omission, or negligence in the performance of such health service or received such health service without consent, and for which the insurer has set indemnification reserves.

(e) As used in paragraph (c) final disposition means the insurer has brought down all reserves and closed its file.

(6) The data provided to the Office via the PLCR may be accessed at the Office's web site at [www.flor.com](http://www.flor.com).

