

LAW IMPLEMENTED: 624.307(1), 627.6498(4), 627.6675(3), 641.3922(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: April 15, 2008, 1:30 p.m.

PLACE: 143 Larson Building, 200 E. Gaines St., 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 5 days before the workshop/meeting by contacting: Gerry Smith at gerry.smith@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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gerry Smith gerry.smith@fldfs.com

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

Section II Proposed Rules

DEPARTMENT OF TRANSPORTATION

RULE NOS.:	RULE TITLES:
14-20.0025	Definitions
14-20.003	Placement of Shelters
14-20.0032	Placement of Benches
14-20.0033	Competitive Public Bidding of Advertising
14-20.004	Public Transit Bus Stops
14-20.010	General Use Permit

PURPOSE AND EFFECT: Rule Chapter 14-20, F.A.C., is being restructured into a Part I and Part II, with the existing rules on bus stops, shelters, and benches remaining in Part I, and a new Part II General Use Permits. Three existing rules are being amended and one rule is to be repealed. The rule chapter title is being expanded to "Use of Department Right of Way" with the existing rules addressed in this amendment becoming Part I "Bus Stops, Benches, and Transit Shelters."

SUMMARY: A new rule on General Use Permits is being adopted. The existing rules in the chapter will be in Part I with the new rule being in Part II. The overall rule chapter title is expanded to Use of Department Right of Way. Three existing rules related to bus stops, benches, and transit shelters are being amended and one rule is to be repealed. The rule chapter

title is being expanded to "Use of Department Right of Way" with the existing rules addressed in this amendment becoming Part I "Bus Stops, Benches, and Transit Shelters."

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: 334.044(2), 337.408(4), (6) FS.

LAW IMPLEMENTED: 334.044(13), 335.02(1), 337.408 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

USE OF DEPARTMENT RIGHT OF WAY BUS STOPS, SHELTERS, AND BENCHES PART I BUS STOPS, SHELTERS, AND BENCHES

14-20.0025 Definitions.

(1) "Bench" means a seat designed for seating two or more persons, which is placed along a regular transit bus route at or near recognized transit bus stops.

(2)(4) "Department" means the Florida Department of Transportation.

(3)(2) "School Bus" means as defined in Section 316.003, F.S. any motor vehicle that complies with the color and identification requirements of Chapter 234, F.S., and is used to transport children to or from school or in connection with school activities.

(3) "School Bus Shelter" ~~means a structure or facility located at a site designated and approved by the local school board to protect awaiting school children from the elements.~~

(4) "School Bus Stop" ~~means a site designated and approved by the local school board for the purpose of loading and unloading school children.~~

(4)(5) "Shelter" means a structure or facility located at a designated site to protect passengers from the elements. "Shelter" refers to both public transit bus shelters and school bus shelters.

(5)(6) "Transit Bus" means any motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(7) “Transit Bus Shelter” means a structure or facility located at a site designated and approved by the operating transit agency to protect passengers from the elements.

(8) “Transit Bus Stop” means a site designated and approved by the operating transit agency for the purpose of loading and unloading passengers.

(9) “Transit Bus Bench” means a seat designed for seating two or more persons, which is placed along a regular transit bus route at or near recognized transit bus stops.

Specific Authority 334.044(2), ~~337.408(4), (6)~~ FS. Law Implemented ~~334.044(13), 335.02(1), 337.408~~ FS. History—New 12-26-90, Amended 5-15-97, _____.

14-20.003 Placement of ~~Transit and School Bus~~ Shelters.

The appropriate city or county government in whose jurisdiction a ~~transit or school bus~~ shelter is to be located may approve, by written authorization, the erection and placement of a shelter. ~~A shelter may be located on the right of way of a road Federal Aid Highway or State Highway when it complies with the following:~~

~~(1) Shelters may be erected upon approval of proposed shelter locations and building plans, by the appropriate city or county government.~~

~~(1)(2) A transit bus shelter may be erected only at bus stops designated by a public transit agency or (3) A school bus shelter may be erected only at bus stops designated by the local school board and identified as having service a minimum of ten times in a five-day period, excluding weekends and holidays.~~

~~(4) Transit bus shelters shall be located at a minimum of 12 feet from an intersection, as measured along the tangent line of the state road beginning at the point of the intersection of the radius of the connecting road and tangent of the state road.~~

~~(5) School bus shelters shall be located at a minimum of 50 feet from an intersection, as measured along the tangent line of the state road beginning at the point of the intersection of the radius of the connecting road and the tangent of the state road.~~

~~(2)(6) School bus shelters erected outside of the urban limits shall be spaced so that no more than two shelters are erected per mile of two-lane highway and no more than four shelters are erected per mile on highways with four or more lanes having a minimum of five foot unpaved median or a physical barrier.~~

~~(3)(7) Shelters are prohibited in medians and on limited access facilities.~~

~~(4)(8) The shelter location must meet the set back and minimum clear recovery zone requirements as established detailed in the Department’s Design Standards, Roadway and Traffic Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System, Index Number 700, entitled “Design Criteria Related to Highway Safety”²² incorporated herein by reference. Copies of Index Number 700 are available at: www.dot.state.fl.us/rddesign/designstandards/standards.htm. The Department’s~~

~~Roadway and Traffic Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System is incorporated by reference in Rule 14-85.004, F.A.C.~~

~~(5)(9) Shelters shall not be located within 15 feet of any fire hydrant or handicapped parking space.~~

~~(6)(10) A shelter shall not obstruct any sidewalk, bike path, pedestrian path, driveway, drainage structure, or ditch, etc., and shall provide at least three feet of clearance for pedestrian traffic.~~

~~(7)(11) Prior to the installation of the shelter, the impacted utility companies must be notified to determine location of utilities and prevent conflicts.~~

~~(8)(12) All shelter utility connections shall comply with Rule 14-46.001, F.A.C., and must be approved by the appropriate city or county building department.~~

~~(9)(13) The owner of abutting property shall be notified by certified mail of the proposed shelter location if there will be advertising. Such owner of the abutting property shall be provided an opportunity to comment.~~

~~(10)(14) Advertising on a shelter shall be no greater than 72 inches by 60 inches per side of the shelter including the roof. There shall be no more than one advertisement per side.~~

~~(11)(15) Companies engaged in the business of outdoor advertising shall obtain and maintain a current license pursuant to Section 479.04, F.S., and Rule 14-10.003, F.A.C.~~

~~(12)(16) Flashing lights on shelters are prohibited. All lights must be placed or shielded so they do not interfere with motorists on the roadway. Lights are not permitted for the sole purpose of illuminating advertising.~~

~~(13)(17) Sides and internal dividers in shelters shall be constructed in a manner to provide visibility of waiting passengers to passing traffic and pedestrians. All transparent materials will be shatterproof. No shelter shall be located in such manner, or be constructed of such materials, so as to adversely affect sight distances at any intersection or to obstruct the view of traffic signs or other traffic control devices.~~

~~(14)(18) The maximum height of a shelter cannot exceed ten feet.~~

~~(15)(19) Shelters must be securely attached to their foundations and must provide for a clear opening between the structure and the ground or foundation to facilitate cleaning and to preclude the accumulation of debris.~~

~~(16)(20) Shelters shall be properly maintained as to aesthetics, function, and safety. If the Department finds any shelter in violation of any portion of this rule, except those determined to be a safety hazard endanger life or property, the Department shall provide written notice of the violation to the appropriate city or county government, who shall correct the violation or remove the shelter within 30 days after receipt of the notice. If the Department finds any shelter to be a safety~~

~~hazard danger to life or property~~, the Department ~~will~~ shall provide notice to the appropriate city or local government, who shall take immediate steps to make the shelter safe or remove the shelter. If the condition or location of a shelter is not corrected in accordance with the Department's notice, the Department will cause the shelter to be moved or removed and seek the cost of removal from the appropriate city or county government.

~~(17)(21)~~ Whenever necessary for the construction, repair, improvement, maintenance, safe and efficient operation, alteration, or relocation of all, or any portion of a ~~s~~State ~~r~~Road, ~~as determined by the Department~~, any bus shelter and appurtenances thereto, authorized by this ~~r~~Rule, shall be immediately removed from ~~the said State Road r~~Right of ~~w~~Way or shall be reset or relocated thereon as required by the Department, at the expense of the shelter owner ~~unless reimbursement is authorized by separate agreement~~. In the event the relocation of said shelters is scheduled to be done simultaneously with the Department's construction work, the shelter owner shall coordinate with the Department before proceeding. The shelter owner shall cooperate with the Department's contractor to arrange the sequence of work so as not to delay the work of the Department's contractor and shall defend any legal claims of the Department's contractor due to delays caused by the shelter owner's failure to comply with the approved schedule. The shelter owner shall not be responsible for delays for reasons beyond the shelter owner's reasonable control.

Specific Authority 334.044(2), ~~337.408(6)~~ 337.408(6) FS. Law Implemented 334.044(13), 335.02(1), 337.408 FS. History--New 12-11-79, Amended 6-24-81, Formerly 14-20.03, Amended 12-26-90, 5-15-97, 7-16-98, _____.

14-20.0032 Placement of ~~Transit Bus~~ Benches.

The Department allows placement and maintenance of ~~transit bus~~ benches on the right of way of a ~~Federal Aid highway or~~ state highway pursuant to written approval by the appropriate city or county government within whose jurisdiction the bench is to be located. All bus benches shall be subject to the following:

- (1) ~~Transit bus~~ Benches placed on the right of way shall not exceed 74 inches in length, 28 inches in depth, and 44 inches in height.
- (2) Any bench placed on any part of a sidewalk shall leave at least three feet clearance for pedestrian traffic between the bench and the nearest edge of the road.
- (3) ~~Transit bus~~ Benches shall not be placed in the median of any divided highway or on limited access facilities.
- (4) Unless otherwise herein provided, ~~transit bus~~ benches shall be placed only at recognized transit stops. However, only the minimum number of benches necessary to accommodate the comfort and convenience of the general public shall be erected or maintained.

~~(5)~~ Benches may be placed at points of pedestrian convenience other than recognized transit bus stops, where, in the judgment of the appropriate city or county government, there exists a necessity for such seating or where such seating would otherwise serve the public interest and shall comply with all other requirements placed upon transit bus benches in Rule 14-20.0032. However, only the minimum number of benches necessary to accommodate the comfort and convenience of the general public shall be erected or maintained.

~~(5)(6)~~ If the Department finds any bench in violation of any portion of this rule, except those determined to be a ~~safety hazard endanger life or property~~, the Department shall provide written notice of the violation to the owner of the bench, or the appropriate city or county government, who shall correct the violation or remove the ~~bench shelter~~ within 30 days after receipt of the notice. If the Department finds any bench to be a ~~safety hazard danger to life or property~~, the Department ~~will~~ shall provide notice to the owner of the bench, or the appropriate city or county government, who shall take immediate steps to make the bench safe or remove the bench. If the condition or location of a bench is not corrected in accordance with the Department's notice, the Department will cause the bench to be moved or removed and seek the cost of removal from the owner of the bench.

~~(6)(7)~~ Commercial advertising shall be displayed upon a ~~transit bus~~ bench only on either the front or rear surface of the backrest area.

~~(7)(8)~~ Advertising displayed on a ~~transit bus~~ bench shall not be greater than 72 inches in length nor greater than 24 inches in height, and no advertising displayed upon a bench shall be of a reflectorized material.

~~(8)(9)~~ The ~~transit bus~~ bench location must meet the set back and minimum clear recovery zone requirements ~~established as detailed in the Florida Department's Design Standards of Transportation's Roadway and Traffic Design Standards~~, Index Number 700, entitled "~~Design Criteria Related to Highway Safety~~" (incorporated ~~herein~~ by reference in Rule 14-85.004, F.A.C.). Copies of the Index Number 700 are available at: www.dot.state.fl.us/rddesign/designstandards/standards.htm.

~~(10)~~ Any ~~transit bus~~ bench that was in service prior to April 1, 1992 may be replaced with a bus bench of the same size or smaller, if the bench is damaged or destroyed or otherwise becomes unusable.

~~(11)~~ Any ~~transit bus~~ bench placed at points of public convenience which violates any portion of this rule shall be subject to removal upon 30 days notice if the violation is not corrected.

~~(9)(12)~~ Whenever necessary for the construction, repair, improvement, maintenance, safe and efficient operation, alteration, or relocation of all, or any portion of a ~~s~~State ~~r~~Road, ~~as determined by the Department~~, any bus bench and

appurtenances thereto, authorized by this Rule, shall be immediately removed from said ~~s~~State ~~r~~Road ~~r~~Right of ~~w~~Way or shall be reset or relocated thereon as required by the Department, at the expense of the bench owner ~~unless reimbursement is authorized by separate agreement~~. In the event the relocation of said benches is scheduled to be done simultaneously with the Department's construction work, the bench owner shall coordinate with the Department before proceeding. The bench owner shall cooperate with the Department's contractor to arrange the sequence of work so as not to delay the work of the Department's contractor and shall defend any legal claims of the Department's contractor due to delays caused by the bench owner's failure to comply with the approved schedule. The bench owner shall not be responsible for delays for reasons beyond the bench owner's reasonable control.

Specific Authority 334.044(2), ~~337.408(4)~~ FS. Law Implemented 334.044(13), 335.024(1), ~~337.408~~ FS. History--New 12-26-90, Amended 8-11-92, 5-15-97, 7-16-98, _____.

14-20.0033 Competitive Public Bidding of Advertising.

Specific Authority 334.044(2) FS. Law Implemented 337.407, 337.408, 479.04 FS. History--New 12-26-90, Repealed _____.

14-20.004 Public Transit Bus Stops.

(1) The operator of a ~~public~~ transit bus system may designate a "Bus Stop" within the boundaries of the right of way of a ~~s~~State road highway.

(2) The location of a transit bus stop site on a ~~s~~State road highway right of way is dictated by the needs of the riding public and the route availability of the public transit system.

~~(3) The following restraints and controls are established to aid in identifying, mitigating and minimizing hazardous conditions at existing and proposed transit bus stop sites: The site selection and establishment of a transit bus stop shall provide the maximum safety to the users of the public transit system and vehicular and pedestrian traffic. If a transit bus stop is located at a site deemed to be unsafe by the Department, modification or removal shall be required by the Department and shall be at the expense of the transit bus system.~~

~~(4) With the exception of Sections 14-20.004(8) and (9)(a) the operator of a public transit bus system shall indicate or mark the bus stop in accordance with the Manual on Uniform Traffic Control Devices, incorporated by reference under Rule 14-15.010, F.A.C.~~

~~(5) The identification of existing unsafe conditions at transit bus stop sites shall be brought to the attention of the Department by the respective operator of a transit system so that the Department can take corrective action. Verbal notification shall be followed up in writing within 24 hours.~~

~~(5)(6) Transit bus stops are prohibited in medians.~~

(6) Signs shall not be installed where such signing interferes with the functions or visibility of existing traffic control devices.

~~(7) The support for attaching transit bus stop signs shall be placed in accordance with the Department's Roadway and Traffic Design Standard Index Number 17302 (incorporated by reference in Rule 14-85.004, F.A.C.).~~

~~(7)(8) Transit bus stop signs may be attached to an existing sign support provided that there is no more than one other supplementary sign already in place.~~

~~(a) It can be located in accordance with height and lateral placement requirements of the Department's Roadway and Traffic Design Standard Index Number 17302, entitled "Typical Sections for One Column Sign Placement" (incorporated by reference in Rule 14-85.004, F.A.C.).~~

~~(b) There is no more than one other supplementary sign already in place.~~

(8) Transit bus stop signs shall be attached to supports meeting the location, height, and lateral placement requirements established in the Department's Design Standards, Index Number 17302, incorporated herein by reference. Copies of Index Number 17302 are available at:

~~(9) Inspections will be conducted by the Department to assist in the implementation and administration of this rule chapter.~~

Specific Authority 334.044(2), ~~341.041(3)~~ FS. Law Implemented ~~334.044(13)~~, 335.02(1), 337.408 FS. History--New 10-6-82, Formerly 14-20.04, Amended 12-26-90, 5-15-97, _____.

PART II GENERAL USE PERMITS

14-20.010 General Use Permit.

(1) Purpose. This rule is adopted to authorize use of and to control the right of way on the State Highway System, for purposes not addressed by other rules of the Department, a lease agreement of State owned property entered into pursuant to Section 337.25(5), F.S., or other agreements.

(2) Definitions. All terms in this rule shall have the same meaning as defined in Section 334.03, F.S. Additionally, the following terms are defined as:

(a) "Applicant" means the person or entity requesting a General Use Permit.

(b) "Department" means the Florida Department of Transportation.

(c) "General Use Permit" means a temporary use of the right of way of the State Highway System authorized by the Department and not prohibited by, nor authorized and regulated by other local, state, or federal laws, rules, or regulations. General use permits do not authorize possessory, exclusive, or permanent use of the right of way. General use permits shall not create contractual rights on behalf of an applicant or permittee. General use permits are revokable at any time by the Department.

(d) "Governmental Entity" means as defined in Section 11.45, F.S.

(e) "Modification" means relocation or alteration or cessation of a permitted general use.

(3) Prior to filing an application, all applicants can request a pre-application meeting to review the proposed general use with Department permits personnel. This review will be performed by the Department without a fee. The pre-application meeting is advisory only.

(4) General Criteria.

(a) A complete application shall consist of a General Use Permit Application, Form 850-040-05, Rev. 05/07, completed by the applicant, with original signatures, and any site plans, drawings, or other information required by this rule. Form 850-040-05, Rev. 05/07, is hereby incorporated by reference and made a part of this rule. The form is available from any local Area Operations Center/Maintenance Office, District Maintenance Office, Turnpike Office or Department website: www.dot.state.fl.us/proceduraldocuments. No use will be permitted which interferes with safety, operation, aesthetics, and maintenance of the State Highway System, utilities, or right of way.

(b) If the applicant desires to have a representative sign and submit the application, a notarized letter of authorization from the applicant designating the authorized representative shall be submitted with the application.

(c) If the applicant is an entity, the applicant shall furnish the name, title, address, telephone number, and other contact information if any, of the responsible officer or authorized agent.

(d) The application shall identify the location of the proposed activity, including the county, state road, section, and mile post numbers, and the location and type of existing utilities.

(e) The applicant shall provide a complete and detailed description of the proposed use and duration to be permitted.

(f) The applicant shall include all approvals and permits which are required by other governmental entities for the proposed use.

(g) An incomplete application will not be processed or considered for issuance of a general use permit. An application is incomplete until all completed forms and required information have been provided to the Department.

(5) Examples of situations where general use permits shall not be issued are the following:

(a) Permanent construction in the right of way.

(b) Traffic control devices or features.

(c) Permanent signs.

(d) Landscaping.

(e) Utilities.

(f) Parades or other events requiring temporary road closure.

(g) Bus benches or shelters, modular news racks, or waste receptacles.

(h) Connections to the State Highway System.

(i) Overhanging encroachments.

(j) Drainage connections.

(6) The issuance of a general use permit shall not restrict the Department's right to take immediate action authorized under Section 120.60(6), F.S.

Specific Authority 334.044(2), 337.405, 337.406 FS. Law Implemented 334.03, 334.044(13), (28), 334.187, 335.02(1), 337.405, 337.406 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Cook, Traffic Services Manager, Office of Maintenance
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 25, 2008

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."

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-4.005
 RULE TITLE: Maximum Account Balance Limit
 PURPOSE AND EFFECT: To update the reference to the College Cost and Financial Aid Handbook.

SUMMARY: This rule change is being made to update the Florida Prepaid College Plan Maximum Account Balance Limit.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98, 1009.981 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 21, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.005 Maximum Account Balance Limit.

(1) The maximum account balance limit shall be determined annually by the Board. The maximum account balance limit shall be calculated by multiplying the qualified higher education expenses, including tuition fees, room and board, and supplies, at the most expensive eligible educational institution, as reported in College Handbook 2008, ~~College Cost and Financial Aid Handbook 2006~~ published by the College Board, by seven (7), and rounding the resulting product downward to the nearest \$1,000.00 increment. The maximum account balance limit shall not exceed the amount permitted pursuant to s. 529 of the Internal Revenue Code. The Board will publish the amount of the maximum account balance limit annually in the Florida Administrative Weekly. The redemption value of an advance payment contract plus the account balance of an account in the Florida College Investment Plan, for the same beneficiary shall not exceed the maximum account balance limit.

(2) through (4) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98, 1009.981 FS. History--New 11-27-02, Amended 12-28-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 29, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.003
RULE TITLE: Participation Agreement
PURPOSE AND EFFECT: To update the Florida College Investment Plan Participation Agreement Form.
SUMMARY: This rule change is being made to update the Florida College Investment Plan Participation Agreement Form.
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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.81(2) 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 21, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.003 Participation Agreement.

(1) The contract between the Board and a benefactor shall consist of the benefactor's completed application and the participation agreement. The Florida College Investment Plan Participation Agreement, Form No. FPCB ~~2008-4~~ ~~2007-4~~, is hereby incorporated by reference. The form may be obtained from the Board by calling 1(800)552-GRAD (4723) (prompt 1).

(2) through (4) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(2) FS. History--New 11-27-02, Amended 12-28-04, 6-2-05, 7-17-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 29, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.005
RULE TITLE: Maximum Account Balance Limit
PURPOSE AND EFFECT: To update the reference to the College Cost and Financial Aid Handbook.
SUMMARY: This rule change is being made to update the Florida Prepaid College Plan Maximum Account Balance Limit.

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: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98, 1009.81 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 21, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.005 Maximum Account Balance Limit.

(1) The maximum account balance limit shall be determined annually by the Board. The maximum account balance limit shall be calculated by multiplying the qualified higher education expenses, including tuition fees, room and board, and supplies, at the most expensive eligible educational institution, as reported in College Handbook 2008, ~~College Cost and Financial Aid Handbook 2006~~ published by the College Board, by seven (7), and rounding the resulting product downward to the nearest \$1,000.00 increment. The maximum account balance limit shall not exceed the amount permitted pursuant to s. 529 of the Internal Revenue Code. The Board will publish the amount of the maximum account balance limit annually in the Florida Administrative Weekly. The account balance for a designated beneficiary plus the redemption value of an advance payment contract under the Florida Prepaid College Plan for the same beneficiary shall not exceed the account balance limit. However, accounts for a designated beneficiary that have reached the maximum account balance limit may continue to accrue investment earnings. The redemption value of an advance payment contract shall be as provided in subsection 19B-4.005(2), F.A.C.

(2) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98, 1009.981 FS. History--New 5-30-02, Amended 11-27-03, 12-28-03, 7-13-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 5, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 29, 2008

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.302
 RULE TITLE: Copying Services for Inmates

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide clarity regarding inmate copying services.

SUMMARY: The proposed rule amends Rule 33-501.302, F.A.C. to clarify: the definition of criminal proceeding to include a proceeding to challenge a probation revocation; that copying services are provided only for documents already in an inmate's possession. Also clarifies the procedures regarding requests for records made during the course of discovery in the following ways: that an inmate is required to produce an order or pleading requiring production of records in order to view records; that with regard to discovery documents copies will not be provided unless the inmate has sufficient funds to cover the cost of the copying; and that the rule does not provide for placement of a lien.

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: 944.09, 945.6038 FS.

LAW IMPLEMENTED: 944.09, 945.6038 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: Jamie Leigh Jordan, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-501.302 Copying Services for Inmates.

(1) All institutions and facilities shall provide photographic copying services to inmates submitting legal documents and accompanying evidentiary materials to judicial or administrative forums. Copying services as described in this rule shall only be provided for documents already in the inmate's possession. An inmate wishing to obtain documents from the department shall utilize Rule 33-601.901, F.A.C., or the discovery process in active litigation. No provision of this

section shall be implemented in such a way as to conflict with any administrative order, administrative rule, judicial rule or judicial order.

(2) Definitions.

(a) through (b) No change.

(c) Criminal proceeding: refers to a proceeding brought in a judicial or administrative forum to challenge a felony or misdemeanor conviction or sentence, a probation revocation, a parole or conditional release date established by the Florida Parole Commission, or revocation of parole or conditional release. It also includes a proceeding brought to obtain executive clemency.

(d) through (f) No change.

(3) Documents will be copied only if they are necessary to initiate a legal or administrative action or if they must be filed or served in a pending legal or administrative action. Except as otherwise provided in this rule, the number of copies made shall be the number required to be filed and served according to the rules of the judicial or administrative forum, or required per order of the judicial or administrative forum, plus one copy for the inmate to keep if the original is filed or served.

(a) through (c) No change.

~~(d) Requests for records made during the course of discovery. Inmates shall produce an order from a judicial or administrative forum, or pleading from opposing litigants or opposing counsel, requiring the production of records prior to copying. Only the specific records requested shall be copied and only one copy of the records shall be provided unless a judicial or administrative forum orders otherwise. If the discovery request relates to a civil proceeding, the inmate shall be charged for the copies as provided in this section.~~

(4) through (7) No change.

(8) Requests for records made during the course of discovery. Inmates shall produce an order from a judicial or administrative forum, or pleading from opposing litigants or opposing counsel, requiring the production of records before being allowed to examine the records. Copies will not be provided unless the inmate has a sufficient balance in his account, unencumbered by liens, to cover the cost of the copying.

~~(9)~~(8) No change.

Specific Authority 944.09, 945.6038 FS. Law Implemented 944.09, 945.6038 FS. History—New 10-6-83, Formerly 33-3.051, Amended 6-13-88, 8-20-89, 2-12-91, 4-10-94, 4-21-96, 6-29-98, Formerly 33-3.0051, 33-602.405, Amended 4-29-04, 8-5-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 15, 2008

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: 40B-4.3020
RULE TITLE: Content of Works of the District Development Permit Applications

PURPOSE AND EFFECT: The purpose of the rule development is to update this section of Chapter 40B-4, Florida Administrative Code, based on review of a proposed Application for General Works of the District Development Permit by Joint Administrative Procedures Committee. The effect of the proposed rule amendments will be to provide for more efficient processing of applications by ensuring better comprehension of the subject rules.

SUMMARY: This proposed rule development will codify an additional criterion for content for Application for General Works of the District Development Permit, and will provide for more efficient processing of applications by ensuring better comprehension of the subject rules.

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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.084, 373.085, 373.086 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: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-4.3020 Content of Works of the District Development Permit Applications.

(1) Applications for a general works of the district development permit shall be filed with the district and shall contain the following:

(a) Form 40B-1.901(11), "Application for General Work of the District Development Permit," Suwannee River Water Management District, January 29, 2001, hereby incorporated by reference and which contains the following:

1. (a) The applicant's name and complete address including zip code;

~~2.(b)~~ The owner's name and complete address if applicant is other than the owner;

~~3.(e)~~ If applicable, the name, complete address, phone number, and contact person of the applicant or owner;

~~(b)(4)~~ Copies of all permits received from local units of government, state, or federal agencies, ~~specifically a copy of the building or development permit issued by the appropriate unit of local government~~, including any variances issued thereto, and a copy of the onsite sewage disposal system permit issued by the Florida Department of Health under Chapter 64E-6, F.A.C.;

~~(c)(e)~~ A site plan to scale showing all improvements, work, or works with any conditions or limitations placed thereon prepared by a Florida licensed professional engineer or surveyor including plan and profile views with relevant elevations noted such as the elevation of the lowest structural member and benchmark shown. The site plan shall show the location of all trees to be removed which are greater than six inches diameter as measured at four feet, six inches above the natural ground; and

~~(d)(f)~~ A building plan prepared or submitted by a Florida licensed engineer or architect, showing profile and detail views of the pilings, the elevation of the lowest structural member, and any building components within the area below the 100-year flood/one percent annual chance of flood elevation; and

(e) Any supporting calculations, designs, surveys, or applicable documents, which in the applicant's opinion, may support the application.

(f) If the applicant is only constructing a dock, boardwalk or deck according to paragraph 40B-4.3030(9)(12)(a) and (b), F.A.C., the site plan may be prepared by the applicant.

(g) Applicants must provide copies of legal documents demonstrating ownership.

(2) Applications for individual or conceptual approval works of the district development permits shall be filed with the district and shall contain the following:

(a) Form 40B-1.901(13), "Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/ Federal Dredge and Fill Permit," Effective January 29, 2001, hereby adopted by reference and which contains the following:

~~1.(a)~~ The applicant's name and complete address including zip code;

~~2.(b)~~ The owner's name and complete address if applicant is other than the owner;

~~3.(e)~~ If applicable, the name, complete address, phone number, and contact person of the owner.

~~4.(d)~~ General project information including:

~~a.1-~~ The applicant's project name or identification number;

~~b.2-~~ The project location relative to county, section, township, and range, or a metes and bounds description;

~~c.3-~~ The total project area in acres;

~~d.4-~~ The total land area owned or controlled by the applicant or owner which is contiguous with the project area;

~~e.5-~~ A description of the scope of the proposed project including the land uses to be served;

~~f.6-~~ A description of the proposed surfacewater management system or work;

~~g.7-~~ A description of the water body or area which will receive any proposed discharges from the system; and

~~h.8-~~ Anticipated beginning and ending date of construction or alteration.

~~(b)(3)~~ Copies of all permits received from, or applications made to, local units of government, state, or federal agencies.

~~(c)(4)~~ A site plan to scale showing all improvements, work, or works with any conditions or limitations placed thereon.

~~(d)(5)~~ Any supporting calculations, designs, surveys, or applicable legal documents, which in the applicant's opinion, support the application.

~~(e)(6)~~ Copies of engineer or surveyor certifications required by this chapter.

(f) Applicants must provide copies of legal documents demonstrating ownership.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086 FS. History--New 9-25-85, Amended 3-19-86, 9-13-04, 8-8-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NO.: 40C-3.035
RULE TITLE: Agreements

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to incorporate by reference the amended water well permitting delegation agreement between St. Johns River Water Management District and the Florida Department of Health-Marion County Health Department.

SUMMARY: The proposed rule amendment would incorporate by reference the District's amended water well permitting delegation agreement with the Florida Department of Health-Marion County Health Department allowing for

regulation of the construction, repair, and abandonment of water wells unless these wells are in a Chapter 62-524, F.A.C., delineated area.

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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.046, 373.083, 373.309 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: Following the regularly scheduled Regulatory/Governing Board Meeting, which begins at May 13, 2008, 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177-2529

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: Sandy Bertram, Assistant District Clerk at (386)329-4127. 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: Norma K. Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32178-2529, (386)329-4459, Suncom 860-4459, email address nmesser@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-3.035 Agreements.

The Governing Board hereby incorporates by reference the following documents:

(1) through (15) No change.

(16) An agreement between Florida Department of Health-Marion County Health Department and St. Johns River Water Management District entitled Amended Water Well Permitting Delegation Agreement dated (effective date) ~~May 18, 2006~~.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.046, 373.083, 373.309 FS. History—New 10-14-84, Amended 12-5-85, Formerly 40C-3.035, 40C-3.0035, Amended 1-8-96, 4-21-96, 7-21-96, 12-22-96, 3-10-97, 1-3-00, 9-6-01, 6-25-02, 7-24-02, 1-11-06, 5-18-06, 5-24-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Catherine Walker, Division Director, Division of Water Use Regulation, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (321)231-0194

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

DEPARTMENT OF ELDER AFFAIRS

Federal Aging Programs

RULE NOS.:	RULE TITLES:
58A-5.0191	Staff Training Requirements and Competency Test
58A-5.035	Waivers

PURPOSE AND EFFECT: These amendments involved rules for ASSISTED LIVING FACILITIES. The purpose of the proposed rule amendments to Rule 58A-5.0191, F.A.C., is to revise and add clarifying language. The proposed amendments to Rule 58A-5.035, F.A.C., is intended to clarify waiver requirements for assisted living facilities under Chapter 429, Part I, F.S., and other waiver requirements under Chapter 120, F.S.

SUMMARY: Staff training requirements and documentation, and clarification of waiver requirements under Chapter 429, Part I, F.S., and Chapter 120, 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: 429.07, 429.178, 429.41, 429.52 FS.

LAW IMPLEMENTED: 429.07, 429.075, 429.178, 429.41, 429.52 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: April 23, 2008, 9:30 a.m. – 10:30 a.m., EDT

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conference Room 225F, Tallahassee, Florida 32399-7000

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 72 hours before the workshop/meeting by contacting: Jim Crochet, Department of Elder Affairs, 4040

Esplanade Way, Tallahassee, Florida 32399-7000; Telephone Number: (850)414-2000, SunCom 994-2000; Email address: crochethj@elderaffairs.org. 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: Jim Crochet, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; Telephone Number: (850)414-2000, SunCom 994-2000; Email address: crochethj@elderaffairs.org

THE FULL TEXT OF THE PROPOSED RULES IS:

58A-5.0191 Staff Training Requirements and Competency Test.

(1) ASSISTED LIVING FACILITY CORE TRAINING REQUIREMENTS AND COMPETENCY TEST.

(a) The assisted living facility core training requirements established by the department pursuant to Section 429.52, F.S., shall consist of a minimum of 26 hours of training plus a competency test.

(b) through (e) No change.

(2) through (4) No change.

(5) ASSISTANCE WITH SELF-ADMINISTERED MEDICATION AND MEDICATION MANAGEMENT. Unlicensed persons who will be providing assistance with self-administered medications as described in Rule 58A-5.0185, F.A.C., must meet the training requirements pursuant to Section 429.52(5), F.S., receive a minimum of 4 hours of training prior to assuming this responsibility ~~and must receive relevant in-service training every year thereafter.~~ Courses provided in fulfillment of this requirement must meet the following criteria:

(a) through (c) No change.

(6) through (10) No change.

(11) TRAINING DOCUMENTATION AND MONITORING.

(a) Except as otherwise noted, certificates, or copies of certificates, of any training required by this rule ~~must shall~~ be documented in the facility's personnel files. ~~The which~~ documentation must shall include the following: subject matter of the training program, the trainee's name, the date of attendance, the training provider's name, signature and credentials, professional license number if applicable, and the number of hours of training.

1. The title of the training program;

2. The subject matter of the training program;

3. The training program agenda;

4. The number of hours of the training program;

5. The trainee's name, dates of participation, and location of the training program;

6. The training provider's name, dated signature and credentials, the number of hours of the training program, and professional license number, if applicable.

(b) Upon successful completion of training pursuant to this rule, the training provider must issue a certificate to the trainee shall be issued a certificate by the training provider as specified in this rule.

(c) The facility must provide the Department of Elder Affairs and the Agency for Health Care Administration with training documentation and training certificates for review, as requested. The department and agency reserve the right to attend and monitor all facility in-service training, which are intended to meet regulatory requirements.

Specific Authority 429.07, 429.178, 429.41, 429.52 FS. Law Implemented 429.07, 429.075, 429.178, 429.41, 429.52 FS. History--New 9-30-92, Formerly 10A-5.0191, Amended 10-30-95, 6-2-96, 4-20-98, 11-2-98, 10-17-99, 7-5-05, 7-30-06, 10-9-06, _____.

(Substantial rewording of Rule 58A-5.035 follows. See Florida Administrative Code for the present text.)

58A-5.035 Waivers.

The agency, in consultation with the department, may waive rules promulgated pursuant to Part I, Chapter 429 F.S., if the waiver request meets the conditions set forth in Section 429.41(4), F.S., and demonstrates and evaluates innovative or cost-effective congregate care alternatives which will enable individuals to age in place.

(1) Application Process.

(a) Licensed assisted living facilities proposing a waiver under this statute must submit the request in writing. All requests must include the facility name and address, license number, administrator's name and contact information for the requestor, or its attorney. Petitions for waiver of rules other than for the objectives detailed in Section 429.41(4), F.S., including emergency waivers, will not be considered under this section but should follow the petition for waiver provisions of Section 120.542, F.S., and Rule Chapter 28.104, Variance or Waiver, F.A.C.

(b) The written request must address the elements required in Section 429.41(4), F.S. In addition, the following information must be included in order to demonstrate how a waiver of the stated rule will permit development of a concept that will achieve the purpose of the underlying statute.

1. The rule or rules for which the waiver is requested.

2. The licensee's anticipated date or dates for implementation of the concept.

3. If applying based on cost-effectiveness or cost-savings, a cost-benefit analysis of the proposed alternative to both residents or potential residents as well as facility operations.

4. An analysis of the impact the alternative will have on the relevant local community, including any barriers such as zoning or use issues, which may need resolution prior to implementation.

5. Specific performance measures with an annual projection of objectives and goals to be achieved broken into quarterly increments or an annual projection of outcome measures, if the concept will be implemented in less than 90 days.

6. If applying based on cost-effectiveness or cost-savings, an annual budget projection for the proposed alternative broken into quarterly increments.

(c) A waiver can be requested at the time of the initial license application, relicensure, or any time during the licensure period.

(d) Waiver requests must be submitted to the Agency for Health Care Administration, Assisted Living Unit, 2727 Mahan Drive, Mail Stop 30, Tallahassee, Florida 32308-5403.

(2) In accordance with Section 120.542(6), F.S., the agency shall post notice of the request within fifteen (15) days of receipt of the request. The agency shall make any requests for additional information within 30 days of receipt of the request. If additional information is provided, the agency may request clarification of only that information no later than 30 days following receipt of the information. The agency shall have no more than 90 days from the receipt of the request to enter a response to the request for waiver unless by mutual agreement of the agency and requestor.

(3) The agency, in consultation with the department, will evaluate all requests in light of the likelihood the concept as described in detail will achieve the underlying statutory objectives of innovative or cost effective congregate care alternatives to enable individuals to age in place as provided in Section 429.41(4), F.S. Waivers may be granted only so long as there is reasonable assurance that the health, safety or welfare of residents will not be endangered by the waiver.

(4) The agency shall grant or deny the request for waiver and enter an order summarizing the facts it relied on and reasons supporting its decision. The agency must provide notice of its order as described in Section 120.542(8), F.S. The requestor shall be advised that a denial of the request may be reviewed as provided in subsection (5) of this rule.

(5) Report of Findings. A facility that has been granted a waiver must submit an annual report within 12 months of the order granting the waiver as specified in Section 429.41(3)(b), F.S. If the report is not submitted as required, the agency may revoke the waiver.

(a) The agency will review the report of findings to determine whether the waiver shall be renewed or revoked. The agency shall enter an order providing the general basis for making its decision and notify the licensee of its opportunity to seek review of a revocation in accordance with Sections 120.569 and 120.57, F.S. and Rule 28-106.111, F.A.C.

(b) The agency may also consider other material which is available relative to this review.

(c) A waiver is effective unless revoked by the agency or superseded by statutory or regulatory change.

(d) In reviewing the report of findings, the agency, in consultation with the department, shall assess whether statutory or regulatory changes should be pursued to enable other facilities to adopt the same practices.

Specific Authority 429.41 FS. Law Implemented 429.41 FS. History—New 9-30-92, Formerly 10A-5.035, Amended 10-30-95,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Crochet

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: E. Douglas Beach, Ph.D., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007 and November 2, 2007

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.: 62-304.330
RULE TITLE: Pensacola Bay TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt fecal coliform Total Maximum Daily Load (TMDLs), and their allocations, for Bayou Chico, Jones Creek, Jackson Creek, Bayou Chico Beach and Sanders Beach.

SUMMARY: These TMDLs address the fecal coliform impairment in Bayou Chico, Jones Creek, Jackson Creek, Bayou Chico Beach and Sanders Beach, which were verified as impaired by fecal coliform using the methodology established in Chapter 62-303, Identification of Impaired Surface Waters, Florida Administrative Code. The methodology used to develop the TMDLs was the load duration curve method.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Department does not plan to prepare a Statement of Estimated Regulatory Cost (SERC) for this proposed Rule.

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

SPECIFIC AUTHORITY: 403.061, 403.067 FS.
LAW IMPLEMENTED: 403.031, 403.061, 403.062, 403.067 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 24, 2008, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room A204, 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: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Water Resource Management, Bureau of Watershed Management, Mail Station 3560, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8431

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.330 Pensacola Bay TMDLs.

(1) Fecal Coliform TMDL for Bayou Chico, Jones Creek, Jackson Creek, Bayou Chico Beach and Sanders Beach. The Total Maximum Daily Load is 400 counts/100 ml and is allocated as follows:

(a) A Wasteload Allocation for wastewater point sources is not applicable.

(b) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1998 to 2005 period, will require a 61 percent reduction at sources contributing to exceedances of the criteria.

(c) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1998 to 2005 period, will require a 61 percent reduction at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi Drew, Deputy Secretary Regulatory Programs and Energy, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.335
 RULE TITLE: Perdido Bay TMDLs

PURPOSE AND EFFECT: The purpose of this rule is to adopt fecal coliform Total Maximum Daily Loads (TMDLs), and their allocations, for Elevenmile Creek and Tenmile Creek.

SUMMARY: These TMDLs address the fecal coliform impairment in Elevenmile Creek and Tenmile Creek, which were verified as impaired by fecal coliform using the methodology established in Chapter 62-303, Identification of Impaired Surface Waters, Florida Administrative Code. The methods used to develop these TMDLs were the load duration curve method and percent reduction method for Elevenmile Creek and Tenmile Creek, respectively.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Department does not plan to prepare a Statement of Estimated Regulatory Cost (SERC) for this proposed Rule.

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

SPECIFIC AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.062, 403.067 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 24, 2008, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room A204, 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: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Water Resource Management, Bureau of Watershed Management, Mail Station 3560, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8431

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.335 Perdido Bay TMDLs.

(1) Fecal Coliform TMDL for Elevenmile Creek (US 90). The Total Maximum Daily Load is 400 counts/100 ml and is allocated as follows:

(a) The Wasteload Allocation for wastewater point sources subject to the Department's National Pollutant Discharge Elimination System Permitting Program is to meet the Class III water quality criteria for fecal coliform in Chapter 62-302, F.A.C..

(b) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1972 to 2006 period, will require a 63 percent reduction at sources contributing to exceedances of the criteria.

(c) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1972 to 2006 period, will require a 63 percent reduction at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(2) Fecal Coliform TMDL for Elevenmile Creek (State Road 297A). The Total Maximum Daily Load is 400 counts/100 ml and is allocated as follows:

(a) The Wasteload Allocation for wastewater point sources subject to the Department's National Pollutant Discharge Elimination System Permitting Program is to meet the Class III water quality criteria for fecal coliform in Chapter 62-302, F.A.C..

(b) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1972 to 2006 period, will require a 66 percent reduction at sources contributing to exceedances of the criteria.

(c) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1972 to 2006 period, will require a 66 percent reduction at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(3) Fecal Coliform TMDL for Tenmile Creek. The Total Maximum Daily Load for Fecal Coliforms for Tenmile Creek is 400 counts/100 ml and is allocated as follows:

(a) A Wasteload Allocation for wastewater point sources is not applicable.

(b) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1972 to 2006 period, will require a 43 percent reduction at sources contributing to exceedances of the criteria.

(c) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1972 to 2006 period, will require a 43 percent reduction at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Water Resource Management
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi Drew, Deputy Secretary Regulatory Programs and Energy, Department of Environmental Protection
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.435
 RULE TITLE: Upper East Coast Basin TMDLS Spruce Creek

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDLs), and their allocations, for fecal coliforms, biochemical oxygen demand (BOD), and phosphorus for Spruce Creek.

SUMMARY: These TMDLs address fecal coliform and dissolved oxygen (DO) impairment in Spruce Creek, which was verified as impaired by fecal coliforms, BOD, and phosphorus using the methodology established in Chapter 62-303, Identification of Impaired Surface Waters, Florida Administrative Code. For the phosphorus and DO TMDLs, water quality targets were identified using statistical regression equations established between dissolved oxygen and BOD concentrations, and between dissolved oxygen and total phosphorus concentrations. The percent reduction method was used to develop the fecal coliform TMDL.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Department does not plan to prepare a Statement of Estimated Regulatory Cost (SERC) for this proposed Rule.

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

SPECIFIC AUTHORITY: 403.061, 403.067 FS.
 LAW IMPLEMENTED: 403.031, 403.061, 403.062, 403.067 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 24, 2008, 10:00 a.m.
 PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room A204, 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: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Water Resource Management, Bureau of Watershed Management, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.435 Upper East Coast Basin TMDLs Spruce Creek.

(1) The Total Maximum Daily Load for the freshwater segment of Spruce Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1997 to 2005 period, will require a 53 percent reduction at sources contributing to exceedances of the criteria.

(b) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1997 to 2005 period, will require a 53 percent reduction at sources contributing to exceedances of the criteria, and

(c) The Margin of Safety is implicit.

(d) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(2) The Total Maximum Daily Load for the marine segment of Spruce Creek is based on achieving the Class 3 marine minimum dissolved oxygen criterion of 4.0 mg/L, and is allocated as follows:

(a) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is a 25 percent reduction of current anthropogenic 5 day biochemical oxygen demand (BOD₅) loading, and a 27 percent reduction of current anthropogenic total phosphorus (TP) loading based on measured concentrations from the 1992 to 2005 period.

(b) The Load Allocation for nonpoint sources is a 25 percent reduction of current anthropogenic 5 day biochemical oxygen demand (BOD₅) loading, and a 27 percent reduction of current anthropogenic total phosphorus (TP) loading based on measured concentrations from the 1992 to 2005 period, and

(c) The Margin of Safety is implicit.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Drew Bartlett, Deputy Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi Drew, Deputy Secretary Regulatory Programs and Energy, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.520
RULE TITLE: Indian River Lagoon TMDLS

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDLs), and their allocations, for fecal coliforms for Crane Creek and the Eau Gallie River.

SUMMARY: These TMDLs address the fecal coliform impairment in Crane Creek and the Eau Gallie River, which were verified as impaired by fecal coliforms using the methodology established in Chapter 62-303, Identification of Impaired Surface Waters, Florida Administrative Code. The methodologies used to develop the TMDLs were the load duration curve method and percent reduction method for Crane Creek and the Eau Gallie River, respectively.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Department does not plan to prepare a Statement of Estimated Regulatory Cost (SERC) for this proposed Rule.

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

SPECIFIC AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.062, 403.067 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 24, 2008, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room A204, 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: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Water Resource Management, Bureau of Watershed Management, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.520 Indian River Lagoon TMDLs.

(1) Fecal Coliform TMDL for Crane Creek. The Total Maximum Daily Load is an annual median of 1.23 x 10¹¹ colonies/day and is allocated as follows:

(a) The Wasteload Allocation for the Melbourne/Grant Street Wastewater Treatment Facility is 1.21 x 10¹⁰ colonies/day. The Wasteload Allocation is only allowed during the maximum five-day Mechanical Integrity Test period, as defined in the Department permit.

(b) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1999 through 2007 period, will require a 56 percent reduction at sources contributing to exceedances of the criteria.

(c) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1999 through 2007 period, will require a 56 percent reduction at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(2) Fecal Coliform TMDL for Eau Gallie River. The Total Maximum Daily Load for Fecal Coliforms for Eau Gallie River is 400 counts/100 ml and is allocated as follows:

(a) A Wasteload Allocation for wastewater point sources is not applicable.

(b) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1999 through 2007 period, will require a 81 percent reduction at sources contributing to exceedances of the criteria.

(c) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 1999 through 2007 period, will require a 81 percent reduction at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions need to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background condition.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi Drew, Deputy Secretary Regulatory Programs and Energy, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 21, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.645 RULE TITLE: Springs Coast Basin TMDLS

PURPOSE AND EFFECT: The purpose of the proposed rule is to establish the Total Maximum Daily Loads (TMDLs), and their allocations, for the Klosterman Bayou Run tidal segment and the Saint Joes Creek freshwater segment.

SUMMARY: These TMDLs address the fecal coliform bacteria impairment in the Klosterman Bayou Run tidal segment and the Saint Joes Creek freshwater segment, which were verified as impaired by fecal coliform using the methodology established in Chapter 62-303, Identification of Impaired Surface Waters, Florida Administrative Code. A discussion of each impaired water follows:

Klosterman Bayou Run tidal segment: The TMDL for Klosterman Bayou Run is for fecal coliform bacteria and was based on the "percent reduction" methodology. Under this method, the percent reduction needed to meet the applicable criterion is calculated for each measured value above the criterion, and then the median of the percent reductions is calculated to determine the percent reduction in fecal coliform loading needed for the bayou to meet the applicable water quality criteria for fecal coliform bacteria.

Saint Joes Creek freshwater segment: The TMDL for Saint Joes Creek is for fecal coliform bacteria, and was developed using the load duration method. The TMDL provides the percent reduction in fecal coliform loading needed for the creek to meet the applicable water quality criteria for fecal coliform bacteria.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Department does not plan to prepare a Statement of Estimated Regulatory Cost (SERC) for this proposed Rule.

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

SPECIFIC AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.062, 403.067 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 24, 2008, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room A204, Tallahassee, Florida

Pursuant to the Americans with Disabilities Act, any person requiring special accommodations to participate in the hearing is asked to advise the agency at least 5 days before the hearing by calling Ms. Pat Waters at (850)245-8449. If you are hearing or speech impaired, please contact the Florida Relay Service by calling (800)955-8771 (TDD) or (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jan Mandrup-Poulsen, Division of Water Resource Management, Bureau of Watershed Management, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.645 Springs Coast Basin TMDLS.

(1) Klosterman Bayou Run Tidal Segment. The Total Maximum Daily Load for Klosterman Bayou Run is 400 counts/100 ml for fecal coliform, and is allocated as follows:

(a) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2006 period, is a 52 percent reduction of current fecal coliform loading.

(b) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2006 period, is a 52 percent reduction of current fecal coliform loading, and

(c) The Margin of Safety is implicit.

(2) Saint Joes Creek Freshwater Segment. The Total Maximum Daily Loads for the Saint Joes Creek freshwater segment are established as follows: the Main Channel is a median of 4.1×10^{10} colonies/day for fecal coliform and the Miles Creek tributary is a median of 3.2×10^{10} colonies/day for fecal coliform, and are allocated as follows:

(a) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2004 to 2006 period, is a 50 percent reduction of current fecal coliform loading to the Saint Joes Creek Main Channel and based on the measured concentrations from the 2005 to 2006 period, is a 57 percent reduction of fecal coliform loading to the Saint Joes Creek Miles Creek tributary.

(b) The Load Allocation for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2004 to 2006 period is a 50 percent reduction of current fecal coliform loading to the Saint Joes Creek Main Channel and based on the measured concentrations from the 2005 to 2006 period, is a 57 percent reduction of fecal coliform loading to the Saint Joes Creek Miles Creek tributary, and

(c) The Margin of Safety is implicit.

(d) While the Load Allocation and Wasteload Allocation for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal coliform concentrations. However, it is not the intent of the TMDL to abate natural background conditions.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Water Resource Management.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi Drew, Deputy Secretary Regulatory Programs and Energy, Department of Environmental Protection.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED: March 21, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.:

RULE TITLE:

62-304.725

Southeast Coast Basin TMDLs

PURPOSE AND EFFECT: The Department is to adopt nutrient Total Maximum Daily Load (TMDL) and their allocations for the Pompano Canal.

SUMMARY: The TMDL addresses the nutrient impairment in the Pompano Canal, which was verified as impaired by nutrients using the methodology established in Chapter 62-303, Identification of Impaired Surface Waters, Florida Administrative Code. The methodology used for developing this TMDL includes using a simple regression model as the best method available to estimate the loading capacity of the canal.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Department does not plan to prepare a Statement of Estimated Regulatory Cost (SERC) for this proposed Rule.

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: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.031, 403.061, 403.062, 403.067 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 24, 2008, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room A204, 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: Mrs. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Water Resource Management, Bureau of Watershed Management, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.725 Southeast Coast Basin TMDLs.

The Total Maximum Daily Load for the Pompano Canal is 11,590.98 pounds per year (lbs/yr) of Total Nitrogen (TN) and 923.66 pounds per year (lbs/yr) of Total Phosphorus (TP), and is allocated as follows:

(1) There are no permitted National Pollutant Discharge Elimination System wastewater discharges to the Pompano Canal. As such, the Wasteload Allocation (WLA) for wastewater discharges is not applicable.

(2) The Wasteload Allocation for discharges subject to the Department's National Pollutant Discharge Elimination System Municipal Stormwater Permitting Program is a 15.8 percent reduction of current anthropogenic Total Nitrogen (TN) loading and a 13.6 percent reduction of current anthropogenic Total Phosphorus (TP) loading, based on measured concentrations from the 1999 to 2002 time period.

(3) The Load Allocation for nonpoint sources is a 15.8 percent reduction of current anthropogenic Total Nitrogen (TN) loading and a 13.6 percent reduction of current anthropogenic Total Phosphorus (TP) loading based, on measured concentrations from the 1999 to 2002 time period, and

(4) The Margin of Safety is implicit.

Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi Drew, Deputy Secretary Regulatory Programs and Energy, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2008

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Agency for Persons with Disabilities

RULE NOS.:	RULE TITLES:
65G-4.0021	Tier Waivers
65G-4.0022	Tier One Waiver

65G-4.0023	Tier Two Waiver
65G-4.0024	Tier Three Waiver
65G-4.0025	Tier Four Waiver

PURPOSE AND EFFECT: To comply with Section 393.0661(3), F.S., requiring the Agency to implement a four-tiered waiver system to serve clients with developmental disabilities.

SUMMARY: Section 393.0661(3), F.S., requires that the agency shall assign all clients receiving waiver services through a developmental disabilities waiver to a tier based on a valid assessment instrument, client characteristics, and other appropriate assessment methods. These rules will implement that requirement.

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: 393.0661(3) FS.

LAW IMPLEMENTED: 393.0661(3) FS.

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

DATE AND TIME: April 24, 2008, 1:00 p.m. – 4:30 p.m.

PLACE: Agency for Persons with Disabilities, Conference Room 301, 4030 Esplanade Way, Tallahassee, FL 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 three hours before the workshop/meeting by contacting: Linda Mabile, Bureau Chief, through Deb Blizzard at (850)921-4189. 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: Linda Mabile, Bureau Chief, through Deb Blizzard at (850)921-4189

THE FULL TEXT OF THE PROPOSED RULES IS:

65G-4.0021 Tier Waivers.

(1) The Agency for Persons with Disabilities will assign clients of home and community-based waiver services for persons with developmental disabilities to one of the four Tier Waivers created by Section 393.0661, Florida Statutes (2007). The Agency will determine the Tier Waiver for which the client is eligible and assign the client to that waiver based on the developmental disabilities waiver criteria and limitations provided in Chapters 393 and 409, F.S., Rule Chapter 59G-13, F.A.C., and this rule Chapter and the Agency's evaluation of the following information:

(a) The client's level of need in functional, medical, and behavioral areas, as determined through Agency evaluation of client characteristics, the Agency approved assessment process, and support planning information;

(b) The client's service needs as determined through the Agency's prior service authorization process to be medically necessary;

(c) The client's age and the current living setting; and

(d) The availability of supports and services from other sources, including natural and community supports.

(2) The services described by the Developmental Disabilities Waiver Services Coverage and Limitations Handbook, July 2007 (hereinafter referred to as the "DD Handbook"), adopted by Rule 59G-13.080, F.A.C. and incorporated herein by reference, are available to clients of the Developmental Disabilities Waiver (hereinafter called "the Tier One Waiver"), the Developmental Disabilities Tier Two Waiver (hereinafter called "the Tier Two Waiver"), and Developmental Disabilities Tier Three Waiver (hereinafter called "the Tier Three Waiver"). The following services described in the DD Handbook are available to clients assigned to the Tier Four Waiver (presently known as The Family and Supported Living Waiver):

(a) Adult Day Training;

(b) Behavior Analysis;

(c) Behavior Assistance;

(d) Consumable Medical Supplies;

(e) Durable Medical Equipment;

(f) Environmental Accessibility Adaptations;

(g) In-Home Support Service;

(h) Personal Emergency Response System;

(i) Respite Care;

(j) Support Coordination;

(k) Supported Employment;

(l) Supported Living Coaching; and

(m) Transportation.

(3) The total billings in any quarter of the state's fiscal year for any service a client is authorized to receive shall not exceed twenty-five percent (25%) of the total annual cost plan budget for that service.

(4) For all Tiers client must utilize all available State Plan Medicaid services including, but not limited to, personal care assistance, therapies, and medical services, that duplicate the waiver services proposed for the client. A client shall not be provided waiver services that duplicate available State Plan Medicaid Services including, but not limited to, personal care assistance, therapies, and medical services.

(5) The Agency will review a client's tier eligibility when a client has a significant change in circumstance or condition that impacts on the client's health, safety, or welfare or when a change in the client's plan of care is required to avoid institutionalization. The information identifying and

documenting a significant change in circumstance or condition that necessitates additional or different services must be submitted by the client's Waiver Support Coordinator to the appropriate Agency Area office for determination.

(6) This rule shall take effect July 1, 2008.

Specific Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS. History--New 7-1-08.

65G-4.0022 Tier One Waiver.

(1) The Tier One Waiver is limited to clients that the Agency has determined meet at least one of the following criteria:

(a) The client's needs for medical or adaptive services cannot be met in Tiers Two, Three, and Four and are essential for avoiding institutionalization, or

(b) The client possesses behavioral problems that are exceptional in intensity, duration, or frequency with resulting service needs that cannot be met in tiers Two, Three, and Four, and the client presents a substantial risk of harm to themselves or others.

(2) Clients living in a licensed residential facility receiving any of the following services shall be assigned to the Tier One Waiver:

(a) Intensive behavioral residential habilitation services;

(b) Behavior focus residential habilitation services at the moderate or above level of support; or

(c) Standard residential habilitation at the extensive 1, or higher, level of support; or

(d) Special medical home care.

(3) Nursing service needs that can be met through the Tier Two, Tier Three, or Tier Four Waivers are not "services" or "service needs" that support assignment to the Tier One Waiver.

(4) This rule shall take effect July 1, 2008.

Specific Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS. History--New 7-1-08.

65G-4.0023 Tier Two Waiver.

The total budget in a cost plan year for each Tier Two Waiver client shall not exceed \$55,000. The Tier Two Waiver is limited to clients who meet the following criteria:

(1) The client's service needs include placement in a licensed residential facility and authorization for greater than five hours per day of residential habilitation services; or

(2) The client is in supported living and is authorized to receive more than six hours a day of in-home support services.

(3) This rule shall take effect July 1, 2008.

Specific Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS. History--New 7-1-08.

65G-4.0024 Tier Three Waiver.

(1) The total budget in a cost plan year for each Tier Three Waiver client shall not exceed \$35,000. A client must meet at least one of the following criteria for assignment to the Tier Three Waiver:

(a) The client resides in a licensed residential facility and is not eligible for the Tier One Waiver or the Tier Two Waiver; or

(b) The client is 21 or older, resides in their own home and receives Live-in In-Home Support Services and is not eligible for the Tier One Waiver or the Tier Two Waiver; or

(c) The client is 21 or older and is authorized to receive Personal Care Assistance services at the moderate level of support as defined in the DD Handbook.

(d) The client is 21 or older and is authorized to receive Skilled or Private Duty Nursing Services and not eligible for the Tier One Waiver or the Tier Two Waiver; or

(e) The client is 22 or older and is authorized to receive services of a behavior analyst and/or a behavior assistant.

(f) The client is under the age of 22 and authorized to receive the combined services of a behavior analyst and/or a behavior assistant for more than 60 hours per month and is not eligible for the Tier One Waiver or the Tier Two Waiver.

(g) The client is 21 or older and is authorized to receive at least one of the following services:

(i) Occupational Therapy; or

(ii) Physical Therapy; or

(iii) Speech Therapy; or

(iv) Respiratory Therapy.

(2) This rule shall take effect July 1, 2008.

Specific Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS. History--New 7-1-08.

65G-4.0025 Tier Four Waiver.

(1) The total budget in a cost plan year for each Tier Four Waiver client shall not exceed \$14,792 per year.

(2) Clients who are not eligible for assignment to the Tier One Waiver, the Tier Two Waiver, or the Tier Three Waiver shall be assigned to the Tier Four Waiver. The criteria for the Tier 4 Waiver includes, but is not limited to:

(a) Clients who are currently assigned to receive services through the Family and Supported Living Waiver unless there is a significant change in condition or circumstance as described in subsection 65G-4.0021(4), F.A.C.; or

(b) Clients who are under the age of 22 and residing in their own home or the family home, or

(c) Clients who are dependent children who reside in residential facilities licensed by the Department of Children and Families under Section 409.175 F.S.;

(3) This rule shall take effect July 1, 2008.

Specific Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS. History--New 7-1-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda Mabile, Bureau Chief, Home and Community-Based Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jane E. Johnson, Director, Agency for Persons with Disabilities

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

RULE NO.:	RULE TITLE:
5E-14.142	Responsibilities and Duties – Records, Reports, Advertising, Applications

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. 34, No. 6, February 8, 2008 issue of the Florida Administrative Weekly.

5E-14.142 Responsibilities and Duties – Records, Reports, Advertising, Applications.

(1) through (2) No change.

(3) Advertising:

(a) Pest control advertising on service vehicles, in telephone directories or other advertising media shall in all cases be factual and shall be set forth only under the licensee's name or trade name registered with the Department. Unregistered fictitious names are prohibited.

(b) All pest control telephone directory advertising, including ~~direct dial~~ long distance lines shall in all cases show the licensee's name or trade name registered with the Department, complete licensed business location address from where services will be performed and telephone numbers. ~~Blind (unidentified) telephone numbers are prohibited. All telephone numbers used in the solicitation and acceptance of pest control shall terminate in the licensed business location.~~

(c) Solicitation and acceptance of pest control must be performed by an identification card holder whether performed in person or by telephone.

(4) through (8) No change.