that the ~~which~~ OFR uses for the purposes of conducting examinations of financial institutions to assess the performance and condition of such institutions. The OFR examiners use the manuals ~~are used by the examiners~~ as reference guidelines when conducting safety and soundness examinations of such financial institutions:

(a) Federal Financial Institutions Examination Council Bank Secrecy Act/Anti-Money Laundering Examination Manual (8/24/2007), which may be obtained electronically through the following website: http://www.ffiec.gov/bsa_aml_infobase/. ~~OFR Examination Procedures Manual (7/89)~~.

(b) Federal Deposit Insurance Corporation DSC Risk Management ~~Revised DOS~~ Manual of Examination Policies (12/2004 ~~Revised 6/95~~), which may be obtained electronically through the following website: http://www.fdic.gov/regulations/safety/manual/index.html.

(c) Federal Deposit Insurance Corporation Trust Examination Manual (05/12/2005), which may be obtained electronically through the following website: http://www.fdic.gov/regulations/examinations/trustmanual/. ~~Management Evaluation Guidelines (5/93).~~

(d) National Credit Union Administration Examiner's Guide (06/2002), which may be obtained electronically through the following website: http://www.ncua.gov/GenInfo/GuidesManuals/examiners_guide/examguide.aspx. ~~Examiner's Guide for the Core Examination Program (2/87)~~.

(e) State Credit Union Section Examiner's Guide (Revised 03/25/09 ~~7/90~~).

(f) The Federal Reserve Board's Examination Manual for U.S. Branches and Agencies of Foreign Banking Organizations (07/1997), which may be obtained electronically through the following website http://www.federalreserve.gov/boarddocs/supmanual/us_branches/usbranch.pdf. ~~Bureau of International Banking Examination Procedures Manual (3/90).~~

Rulemaking ~~Specific~~ Authority ~~120.53(1),~~ 655.012(2)~~(3)~~ FS. Law Implemented 655.045 FS. History–New 10-24-93, Formerly 3C-1.015, Amended 1-2-95, 6-4-95, 5-22-96, Formerly 3C-100.045, Amended _____.

Section II
Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NOS.:	RULE TITLES:
5C-3.001	Definitions
5C-3.002	General Requirements and Limitations
5C-3.003	Equine
5C-3.004	Cattle or Bison
5C-3.005	Goats or Sheep
5C-3.007	Swine
5C-3.009	Dogs or Cats
5C-3.011	Cervids (Farmed or Captive)
5C-3.012	Domestic Fowl, Poultry, Poultry Products and Ratites

PURPOSE AND EFFECT: The purpose and effect of this rule is to specify, detail and clarify the importation requirements by species for animals and certain animal products into Florida from other states.

SUMMARY: This rule proposes modifications and updates in the general requirements, definitions, and species-specific requirements, tests and documentation by complying with the current national disease status regarding interstate animal transportation, animal movement, and disease control.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency.

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

RULEMAKING AUTHORITY: 570.07(23), 585.002(4), 585.08(2)(a) FS.

LAW IMPLEMENTED: 570.07(15), 570.36(2), 585.003, 585.08(1), (2)(a), 585.11(1), (4), 585.14, 585.145(1), (2), 585.16, 828.29(1)(a), (2)(a) FS.

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

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: Dr. William C. Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 South Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; Fax: (850)410-0957. 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: Dr. William C. Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 South Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; Fax: (850)410-0957

THE FULL TEXT OF THE PROPOSED RULES IS:

IMPORTATION OF ANIMALS

5C-3.001 Definitions.

For the purpose of this chapter, the definitions in Section 585.01, F.S., and the following shall apply ~~words shall have the meaning indicated~~:

(1) Accredited Veterinarian. A state licensed veterinarian accredited ~~licensed in the state of origin and approved~~ by the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA, APHIS) to perform certain functions of federal and cooperative state-federal programs in accordance with the provisions of ~~Title 9 Code of Federal Regulations (~~9 CFR~~)~~ §§ 160 – ~~§~~ 162 (2009) ~~(2004)~~.

(2) Administrator. The Administrator of USDA, APHIS or any person authorized to act for the Administrator.

(3) Animal or Domestic Animal. Any animals that are maintained for private use or commercial purposes; including any equine such as horse, mule, ass, burro, zebra; any bovine such as bull, steer, ox, cow, heifer, calf, or bison; any other hoofed animal such as goat, sheep, swine, cervids; any domestic cat, dog, reptile or amphibian; any avian such as ratites, poultry, or other domesticated bird or fowl; or any captive, exotic or non-native animals. ~~Any equine, bovine, goat, sheep, swine, domestic cat, dog, poultry, ostrich, rhea or emu, or other domesticated beast or bird. The term "animal" shall include wild or game animals whenever necessary to effectively control or eradicate dangerous transmissible diseases or pests.~~

(4) Approved Livestock ~~All-Class~~ Market. A livestock market approved by the Administrator pursuant to 9 CFR ~~Part (§)~~ 71.20 (2009) ~~(2004)~~, where livestock in interstate movement are assembled for sale purposes ~~breeding, feeding, and slaughter swine are received, handled and released in accordance with Federal interstate regulations and applicable state regulations; and released in accordance with 9 CFR § 71 (2004), § 78 (2004), and § 85 (2004)~~.

~~(5) Approved Slaughter Market. A livestock market approved by the Administrator pursuant to 9 CFR § 71.20 (2004) where slaughter swine are received, handled and released in accordance with applicable state regulations and 9 CFR § 71 (2004), § 78 (2004), and § 85 (2004).~~

(5)~~(6)~~ Authorized Representative. An employee of the state or federal government, or a licensed veterinarian accredited by the USDA, who is authorized to conduct animal disease control and eradication activities.

(6)~~(7)~~ Avian Influenza (AI) or Exotic Newcastle Disease (END) – Affected State. Any state in which ~~High Path~~ Avian Influenza subtypes H5 or H7 or END virus has been diagnosed in poultry within the last ninety (90) days prior to importation into Florida.

(7) Cervidae Herd Health Plan. A Florida Department of Agriculture and Consumer Services (FDACS) disease surveillance plan for cervids as described in Chapter 5C-26, F.A.C.

(8) Cervids. Any farmed or captive member of the family Cervidae and hybrids, including deer, elk, moose, caribou, reindeer and related species that are raised or maintained in captivity for the production of meat and other agricultural products, for sport, or for exhibition.

(9)~~(8)~~ Cleaned and Disinfected. Free of organic matter and disinfected in accordance with 9 CFR §§ 71.7 and 71.10 – 71.12 (2009) ~~an approved agent~~.

~~(9) Commercial Production Swine. Swine that have been continuously managed with adequate facilities and practices to prevent exposure to either transitional or feral swine and so recognized by state animal health officials.~~

(10) Department. The Florida Department of Agriculture and Consumer Services.

(11)~~(10)~~ Division The Division of Animal Industry of the Florida Department of Agriculture and Consumer Services.

(12)~~(11)~~ Domestic Fowl. Any member of the c~~C~~lass Aves that is propagated or maintained under control of a person for commercial, exhibition or breeding purposes, or as pets.

(13) Endemic Disease. A disease will be characterized as endemic to a particular locality, region, state, or U.S. possession based on known positive cases, prevalence of disease, presence of competent vectors and/or evidence of natural transmission of the disease such that the disease is maintained in the population without external inputs.

(14) Equine. Any member of the family Equidae, including horses, mules, asses, and zebras.

(15)~~(12)~~ Feral Swine. Swine that have lived all (wild) or any part (feral) of their lives as ~~are~~ free-roaming.

(16)~~(13)~~ Import, Imported, Importation. The movement of animals into ~~the state of~~ Florida, from another state, United States (U.S.) possession, or foreign country.

(17)~~(14)~~ National Poultry Improvement Plan (NPIP). A cooperative state-federal-industry program for prevention and control of certain hatchery-disseminated diseases and for improvement of poultry and poultry products as provided in 9 CFR §§ 145 – ~~(2004) and §~~ 147 (2009) ~~(2004)~~.

(18)~~(15)~~ Official Certificate of Veterinary Inspection (OCVI). A legible record or certificate made on an official form from the animal's state of origin or from the USDA, or a Division approved electronic format issued and signed by veterinarians licensed and accredited in the animal's state of orgin for the purpose of certifying the official individual identification, test requirements, and health status of specific animals for movement, exhibition, and other designated purposes ~~issued by an authorized representative, and approved by the chief animal health official of the state of origin~~.

(19)~~(16)~~ Official Individual Identification. A unique individual animal identification ~~that is secure, traceable, and capable of carrying unique numbers from a central repository;~~ including~~, but not limited to~~:

(a) Official USDA Eartags. A tamper-resistant/ tamper-evident eartag, approved by USDA, APHIS, capable of providing a unique identification number for each animal, and capable of being recorded in a central repository. Such eartags must conform to one of the number systems identified in 9 CFR §71.1 (2009);

(b) Tattoos and Registered Brands. Ear, tail-web or flank tattoos, breed registration tattoos when accompanied by breed registration papers; or an official breed registration brand when accompanied by a brand registration certificate;

(c) Leg or wing bands for poultry;

(d) Color digital images or notarized color photographs of an equine signed by a state-licensed, USDA-accredited veterinarian; or

(e) Implanted electronic chip with a unique number recognized as International Organization for Standardization (ISO) compliant or that is accompanied by automated reader capable of capturing and recording the unique animal identification number. ~~official USDA ear tags that conform to the alphanumeric National Uniform Eartagging System, flank tattoo, tail web or ear tattoo, or lip tattoo using the National Uniform Tag code number assigned by USDA to the state of origin, or official leg or wing band, or any electronic identification device with a unique number that is recorded in a single central database, or other USDA-approved identification device that conforms to the alphanumeric National Uniform Eartagging System, or biometrics, or the digital image or notarized photograph of the animal signed by the licensed accredited veterinarian or notary public, drawing, or other forms of identification developed through technology in which natural physical marks such as signalments are recorded and/or documented. It may bear the valid premises identification used in conjunction with the producer's livestock production numbering system to provide a unique identification number. An owner's private brand or tattoo, even though permanent and registered in the state of origin, is not an acceptable individual animal identification for the purposes of entry into Florida.~~

(20) Owner-Shipper Statement. Any document signed by the owner-shipper as evidence of ownership or authority for possession of and for the transport of animals.

(21) Permit for Movement of Restricted Animals (VS Form 1-27 (JUN 89). A permit issued by an authorized representative prior to the interstate shipment of animals infected or exposed to dangerous transmissible regulated diseases, which shall include:

(a) The number of animals to be moved;

(b) The purpose for which the animals are to be moved;

(c) The points of origin and destination; and

(d) The consignor and consignee.

(22)~~(17)~~ Poultry. Chickens, turkeys, quail, pheasants, chukars, peafowl, guineas, ratites and waterfowl. The term also includes other domestic fowl used for commercial, exhibition or breeding purposes or as pets.

(23)~~(18)~~ Poultry and Eggs for Hatching Purposes. A specific designation of those species of domestic fowl and the qualified eggs produced by these that are eligible for testing and qualification under the supervision of the National Poultry Improvement Plan (NPIP) ~~including, but not limited to, chickens, turkeys, waterfowl, exhibition poultry and game birds. The term also includes other domestic fowl used for commercial, exhibition or breeding purposes or as pets~~.

(24)~~(19)~~ Poultry Products. Hatching eggs, chicks, poults, ~~table eggs,~~ litter, and offal, but does not include table eggs and processed poultry ~~meat~~ for human consumption.

(25)~~(20)~~ Prior Permission Number. Specific permission granted by the State Veterinarian or authorized representative prior to movement of certain animals and poultry into Florida. A Prior Permission Number will be granted when the Division determines that the animal(s) meets the requirements of this chapter. When prior permission is required by this chapter, the prior permission number must be written on the Official Certificate of Veterinary Inspection or Owner-Shipper Statement accompanying the animal(s). Such prior permission may be either written permission or issuance of a permission number requested by telephone or facsimile message. A prior permission number may be obtained by calling or faxing the Division of Animal Industry during normal business hours, phone: (850)410-0900, Fax: (850)410-0946 ~~Prior Permission. Written or verbal authorization by the Division prior to importation into Florida. An authorization number must be obtained and shown on the OCVI accompanying the animal~~.

(26) Production Swine. Swine that are maintained on a premises for breeding or feeding purposes and which have no direct contact with feral or transitional swine.

(27) Quarantine. Strict isolation imposed by the Department on animals or premises to prevent the spread of diseases or pests.

(28)~~(21)~~ Recognized Slaughtering Establishment. An animal slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. §§ 601-695 (2009) ~~et seq.~~), or equivalent of the animal's state of origin state meat inspection program.

(29)~~(22)~~ Restricted Animals. Animals that are quarantined, infected with, or exposed to any infectious or communicable disease.

(30) Service Animals. Any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability including, but not limited to: guiding individuals with impaired vision, alerting individuals with impaired hearing or intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or fetching dropped objects.

(31) State Veterinarian. The Director of the Division of Animal Industry of the Florida Department of Agriculture and Consumer Services.

~~(23) Specifically Approved Livestock Market. A stockyard, livestock market, buying station, concentration point or any other premises under state or federal veterinary supervision where livestock are assembled for sale or sale purposes and which has been approved by the Administrator as provided in 9 CFR § 71.20 (2004).~~

(32)~~(24)~~ Transitional Swine. Swine that have been, or have had the potential to be, exposed to feral swine.

(33)~~(25)~~ USDA, APHIS. The~~.~~ United States Department of Agriculture, Animal Plant Health Inspection Services.

(34)~~(26)~~ Vesicular Stomatitis (VS)-Affected State. Any state in which either of the VS virus serotypes New Jersey or Indiana has~~ve~~ been diagnosed and has one or more premises currently under state or USDA, APHIS quarantine ~~within the last 60 days prior to importation~~.

(35) Working Dogs. Any dog in the possession of a federal, military, state or local governmental agency or private organization that is trained for the purpose of human search and rescue, body recovery, arson detection, bomb detection, narcotics detection, food and agricultural product detection, criminal apprehension, police assistance or other related purposes, whether in the performance of such tasks or while traveling to and from such tasks.

(36)~~(27)~~ Forms and Materials. 9 CFR ~~§ 71 (2004),~~ §§ 71.1, 71.7, 71.10-12, 71.20 ~~(2004)~~ ~~§ 78 (2004), § 85 (2004),~~ 145 ~~-~~ ~~(2004), §~~ 147 ~~(2004)~~, 160-162 (2009) ~~(2004)~~, ~~and~~ the Federal Meat Inspection Act (21 U.S.C. §§ 601-695 (2009) ~~et seq.~~) are hereby incorporated by reference. Copies may be obtained from: www.gpoaccess.gov. Permit for Movement of Restricted Animals, VS Form 1-27 (JUN 89) may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 ~~the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328~~.

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2)(a) FS. Law Implemented 570.07(15), 570.36(2), 585.003, 585.08(2)(a), 585.11(1), (4), 585.145(1), (2), 585.16 FS. History–New 6-29-62, Amended 2-5-85, Formerly 5C-3.01, Amended 9-6-89, 3-23-94, 6-4-95, 12-12-04, _____.

5C-3.002 General Requirements and Limitations.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. Animals imported into Florida ~~the state~~ must be accompanied by an OCVI unless exempted by this rule. The OCVI must be ~~attached to the waybill or be~~ in the possession of the driver of the vehicle or person otherwise in charge of the animals. The OCVI must accompany the animals to their final destinations in Florida.

(a) ~~All~~ I~~i~~nformation R~~r~~equired. ~~on~~ T~~t~~he OCVI must be legible and fully completed by the issuing accredited veterinarian and must include the following:

1. The name and address of the consignor;

2. The name and address of the consignee;

3. The point of origin and premises identification number, if assigned by state officials in the animal's state of origin;

4. The point of destination;

5. The date of examination;

6. The number of animals examined;

7. The official individual identification of each animal, and the name or registered brand or tattoo number;

8. The sex, age, and breed of each identified animal;

9. Test results and herd or state status on certain diseases as specified in this chapter;

10. Prior permission number, if required;

11. A statement by the issuing veterinarian that the animals identified on the OCVI are free of signs of infectious or communicable disease; and

12. For equine ~~Equidae~~ only, the establishment or premises location at which the animal ~~horse~~ was examined, body temperature at examination, and color and markings ~~or digital image~~.

(b) Division Notification. A copy of the OCVI must be forwarded ~~immediately~~ to the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 S. Calhoun St., Tallahassee, FL 32399-0800.

(c) OCVI Expiration. The OCVI will be void thirty ~~after~~ (30) days from the date of inspection/issuance, with the exception ~~except~~ that OCVIs for equine ~~Equidae~~ may be extended as provided in subsection 5C-3.003(5), F.A.C.

(2) Owner-Shipper Statement ~~Proof of Ownership~~. Animals which are not required to be accompanied by ~~have~~ an OCVI for importation, as exempted by this chapter, ~~and animals being transported totally within the state~~ must be accompanied by an Owner-Shipper Statement signed by the owner or agent as evidence of ownership or authority for possession of the transported animals. These documents must disclose:

(a) The name and address of the consignor;

(b) The name and address of the consignee;

(c) The point of origin;

(d) The point of destination; ~~and~~

(e) The number of animals;

(f) A description of the animals sufficient to identify them for any and all purposes, and

(g) A prior permission number, if required.

(3) Prior Permission Number. A prior permission number is required on:

(a) All farmed or captive cervids (deer, elk, etc.);

(b) All hoofed animals from VS-affected states;

(c) Equine from Contagious Equine Metritis (CEM) affected countries;

(d) Equine consigned directly to a veterinary medical treatment facility for emergency medical care which do not have appropriate documentation for interstate movement;

(e) All poultry and poultry products;

(f) All domestic fowl and poultry and eggs for hatching purposes;

(g) Animals exposed to or infected with a contagious, infectious, communicable or dangerous transmissible disease;

(h) Cattle or bison from states with less than Accredited Tuberculosis-Free or Brucellosis Class-Free status;

(i) All swine; and

(j) Equine imported from U.S. possessions where Equine Piroplasmosis (EP) is endemic.

(4)~~(3)~~ Restricted Animals. All restricted animals must be accompanied by a Permit for Movement of Restricted Animals, VS Form 1-27 (JUN 89) permit, have prior permission number, and the prior permission number must be written on the Permit for Movement of Restricted Animals, VS Form 1-27 (JUN 89) for importation into Florida ~~the state~~ or to be transported within Florida ~~the state~~.

~~(4) Importation for Slaughter. Animals imported into the state for slaughter must be consigned directly to a recognized slaughtering establishment and must be slaughtered within 10 days after arrival at their destination.~~

(5) Vesicular Stomatitis.

(a) Certification for Vesicular Stomatitis (VS).

1. All hoofed animals, including horses, ruminants, swine, exotic and wild hoofed animals, originating from non-affected premises or within 10 miles of an affected premises in a VS-affected state must be accompanied by an OCVI, dated within five (5) days of entry or reentry into Florida. The OCVI must be signed by an Accredited Veterinarian. ~~which includes the following statement:~~

2. The following statement must be written on the OCVI by the examining Accredited Veterinarian: "All animals susceptible to Vesicular Stomatitis (VS) identified and included in this OCVI for shipment have been examined and found to be free from clinical signs and vectors of VS and have not been in contact with VS-affected animals ~~exposed to VS virus~~ and have not been within ten (10) miles of a VS-affected ~~infected~~ premises within the last thirty (30) days."

~~Documentation must also accompany the animals to show that the animals have been tested and found negative to an approved test for VS within the previous (10) days.~~

(b) Prior ~~P~~permission Number. Animals originating from non-affected premises in a VS-affected state will require a prior permission number. The prior permission number must be written on the OCVI.

(6) Violations. Violators of this rule chapter will be penalized in accordance with Rule 5C-30.003, F.A.C.

~~Animals entering the state in violation of the provisions of this chapter shall be stopped by an agent, or employee of the Division or by any FDACS law enforcement officer of the state of Florida or any subdivision of the state. Any person, firm, or association having charge, custody, or control of animals imported in violation of this rule will remove the animals from the state as directed by the Division.~~

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2)(a) FS. Law Implemented 570.07(15), 570.36(2), ~~534.081,~~ 585.11(1), ~~(2),~~ 585.145(1), (2), 585.16 FS. History–New 6-29-62, Amended 2-5-85, Formerly 5C-3.02, Amended 9-6-89, 3-23-94, 6-4-95, 12-12-04, _____.

5C-3.003 Equine ~~Equidae~~.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. An OCVI must accompany all equine ~~Equidae~~ imported into Florida ~~the state~~ except the following:

(a) Equine ~~Equidae~~ consigned directly to a veterinary medical treatment facility for emergency medical care ~~and placed under quarantine at the medical facility~~ until treatment is completed ~~it recovers~~ and the equine exits the state; or

(b) Equine ~~Equidae~~ accompanied by an Equine Event Extension document, ~~DACS-09051 Rev. 08/04,~~ Equine Interstate Passport Card, ~~DACS-09207 8/04,~~ or equivalent~~,~~ from ~~of~~ the animal's state of origin, signed by the State Veterinarian or chief animal health official as provided in subsection 5C-3.003(5), F.A.C.

(2) Prior Permission Number. A p~~P~~rior permission number must be obtained for:

(a) Equine ~~Equidae~~ consigned directly to a veterinary medical treatment facility for emergency medical care which do not have appropriate documentation for interstate movement;

(b) Equine ~~Equidae~~ imported from ~~a state or~~ U.S. possession where Equine P~~p~~iroplasmosis (EP) is endemic; or

(c) Equine ~~Equidae~~ imported into the state from countries where Contagious Equine Metritis (CEM) is endemic, or

(d) Equine imported into Florida from non-affected premises in VS-affected states.

(3) Equine Infectious Anemia (EIA) Test.

(a) All equine ~~Equidae~~ imported into Florida ~~the state~~ must be accompanied by evidence of an official negative EIA serologic test as provided in the Equine Infectious Anemia: Uniform Methods and Rules, January 10, 2007, APHIS 91-55-064, within twelve (12) months prior to importation, except the following:

1. Foals under six months of age accompanied by their dam which has met the EIA test requirements; and

2. Equine ~~Equidae~~ exempted from the OCVI requirement under paragraph 5C-3.003(1)(a), F.A.C.

(b) The EIA test information must be recorded on the OCVI, or Equine Event Extension document, ~~DACS-09051 Rev. 08/04,~~ or Equine Interstate Passport Card, ~~DACS-09207 8/04,~~ or equivalent~~,~~ from ~~of~~ the animal's state of origin, approved ~~signed~~ by the State Veterinarian or chief animal health official as provided in subsection 5C-3.003(5), F.A.C., and must include the following:

1. The date the EIA test sample was collected ~~of the test~~;

2. The result of the test;

3. The name of the testing laboratory; and

4. The laboratory accession number.

(4) Equine Piroplasmosis ~~Test~~ Requirements.

(a) The Commonwealth of Puerto Rico and the Virgin Islands of the United States have been determined to be endemic for Equine Piroplasmosis (EP) and equine moved from these areas to Florida are subject to the requirements of

paragraphs 5C-3.003(2)(b) and (4)(b), (c) and (d), F.A.C. Pursuant to Section 585.14, Florida Statutes, the Division of Animal Industry, under the direction of the State Veterinarian, shall publish notice of other localities, regions, states, or U.S. possessions, where Equine Piroplasmosis (EP) is determined to be endemic on its website (www.flanimalindustry.com) and in the Florida Administrative Weekly as necessary.

(b) Official Certificate of Veterinary Inspection (OCVI). Notwithstanding paragraph 5C-3.002(1)(c), F.A.C., for equine from localities, regions, states, or U.S. possessions where Equine Piroplasmosis (EP) is determined to be endemic, the inspection date of the Official Certificate of Veterinary Inspection (OCVI) that must accompany equine imported into or through the State of Florida shall be issued no more than 14 days prior to the entry of the equine into the state. The OCVI must also include the following statement: "All animals identified on this certificate have not been on a premises found positive for *Theileria equi* or under quarantine within the past 30 days, have been inspected and found free of ticks, and have been thoroughly treated with an approved acaricide labeled for use in equine within 14 days of entry."

(c) Testing. All equine ~~Equidae~~ imported into Florida from localities, regions, states, or U.S. possessions where Equine Piroplasmosis (EP) is determined to be endemic must be accompanied by evidence of a negative CELISA ~~official~~ test for both *Babesia caballi* and *Theileria equi* (*Babesia equi*), ~~as approved by the USDA~~ performed at the United States Department of Agriculture, Animal and Plant Health Inspection Service, National Veterinary Services Laboratories (USDA-APHIS-NVSL) or other laboratory authorized by the USDA-APHIS-NVSL ~~within 30 days prior to importation~~. The blood sample for the test must be been taken within 30 days prior to entry into Florida. The result and accession number must be listed on the OCVI.

(d) Tick Vectors. All equine identified on the OCVI as originating from localities, regions, states, or U.S. possessions where Equine Piroplasmosis (EP) is determined to be endemic must be examined for, and found free of, ticks and must be thoroughly treated for ticks with an United States Environmental Protection Agency (EPA) registered acaricide labeled for use in horses.

(e) Exemption. Equine from Florida consigned to localities, regions, states, or U.S. possessions where Equine Piroplasmosis (EP) is determined to be endemic that are returned to Florida within 30 days of the issuance of the Florida OCVI are exempt from the requirements of this rule.

~~(b) All Equidae meeting the above requirements for importation will be quarantined upon arrival at their destination. The Equidae will remain under quarantine until such time as negative official tests for B. *caballi* and B. *equi* are conducted at the owner's expense not less than 30 days nor more than 60 days after importation. Equidae which test positive for B. *caballi* or B. *equi* will remain under quarantine, with all treatment and related costs at the owner's expense, until:~~

~~1. The animal is treated by a Florida licensed and accredited veterinarian and is negative on retesting; or~~

~~2. Is returned to the point of origin under VS Form 1-27 (JUN 89); or~~

~~3. Is euthanized and disposed of by methods approved by the Division; or~~

~~4. Is moved directly to a recognized slaughtering establishment under VS Form 1-27 (JUN 89).~~

(5) Equine Event Extension document or Equine Interstate Passport Card. Equine Event Extension document, ~~DACS-09051 Rev. 08/04,~~ or Equine Interstate Passport Card, ~~DACS-09207 8/04,~~ or equivalent from the animal's state of origin, when used in place of an OCVI, must ~~will be issued to~~ certify the existence of an official negative EIA test within the previous twelve (12) months and a valid OCVI ~~Florida Official Equine Certificate of Veterinary Inspection~~. The Equine Event Extension document, Equine Interstate Passport Card, or equivalent from the animal's state of origin, ~~This card~~ will be valid for up to six months from date of issuance of the OCVI provided that:

(a) The purpose is ~~solely~~ to allow routine intrastate and interstate movement of equine to attend ~~between Florida and other states that have mutually agreed to recognize such Equine Event Extension, DACS-09051 Rev. 08/04, or Equine Interstate Passport Card, DACS-09207 08/04, or equivalent, to equine~~ events such as horse shows or exhibitions, fairs and ~~meets, races,~~ trail rides~~, or fox hunts; and~~. These documents may not be used for movement of equine for breeding purposes or change of ownership.

(b) The Equine Event Extension document or Equine Interstate Passport Card, or equivalent from the animal's state of origin shall ~~OCVI~~ include~~s~~ all other information required by subsections 5C-3.002(1) and 5C-3.003(3), F.A.C.~~; and~~

(c) The Equine Event Extension document or Equine Interstate Passport Card, or equivalent of the animal's state of origin ~~new~~ expiration date will not be later than the expiration date of the EIA test or six (6) months from date of issue of the OCVI.~~; and~~

(d) An Equine Event Extension document~~, DACS-09051 Rev. 08/04,~~ or Equine Interstate Passport Card~~, DACS-09207 08/04,~~ or equivalent from the animal's state of origin, does not supersede or replace the requirements of any given event; and

~~(e) An Equine Event Extension, DACS-09051 Rev. 08/04, or Equine Interstate Passport Card, DACS-09207 08/04, or equivalent will not be issued for an owner, owner's agent, or horse which has been the subject of cancellation of an Equine Event Extension, DACS-09051 Rev. 08/04, or Equine Interstate Passport Card, DACS-09207 08/04, or equivalent.~~

(e)~~(f)~~ An Equine Event Extension document, ~~DACS-09051 Rev. 08/04~~ or Equine Interstate Passport Card, ~~DACS-09207 08/04~~ may be applied for by Florida residents and owners of Florida-origin horses, by submitting an Application for Equine Event Extension, DACS-09078 Rev. 10/05 or an Application for Equine Interstate Passport Card, DACS-09219 Rev. 12/09, to the Division of Animal Industry, Florida Department of Agriculture & Consumer Services, 407 S. Calhoun St., Mayo Building, Tallahassee, Florida 32399-0800, Fax: (850)410-0957.~~; or through the Department's Licensing, Permits and Registration website: http://www.doacs.state.fl.us/ onestop/forms/09219.pdf.~~

(6) Brucellosis. Equine~~dae~~ which are positive to a brucellosis test or which show evidence of "poll evil" or "fistulous withers," whether draining or not, will not be allowed to enter the state for any purpose.

~~(7) Forms. Equine Event Extension, DACS-09051 Rev. 08/04, and Equine Interstate Passport Card, DACS-09207 08/04, are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 S. Calhoun St., Tallahassee, FL 32399-0800. USDA, APHIS VS Form 1-27 (JUN 89) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.~~

(7) Forms and Materials. Application for Equine Event Extension, DACS-09078, Rev. 10/05 and Application for Equine Interstate Passport Card, DACS-09219, Rev. 12/09 are hereby incorporated by reference. Applications may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 South Calhoun Street, Tallahassee, FL 32399-0800, by facsimile requests, Fax: (850)410-0946, or through the Department's Licensing, Permits and Registration website: http://www.doacs.state.fl.us/onestop/index.html.

The Equine Infectious Anemia: Uniform Methods and Rules, January 10, 2007, APHIS 91-55-064 is hereby incorporated by reference. Copies may be obtained by contacting: www.gpoaccess.gov.

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2) FS. Law Implemented 570.07(15), 570.36(2), 585.08(1), (2)(a), 585.14 585.145(1), (2), 585.16 FS. History–Amended 11-21-65, 6-26-66, 3-1-72, 10-15-73, 3-17-76, 9-14-82, 2-5-85, Formerly 5C-3.03, Amended 9-6-89, 3-23-94, 6-4-95, 12-12-04, _____.

5C-3.004 Cattle or Bison.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. All cattle or bison imported into Florida must be accompanied by an OCVI except the following:

(a) Steers for feeding purposes;

(b) Spayed heifers;

(c) Cattle or bison consigned directly to ~~specifically~~ approved livestock markets; ~~and~~

(d) Cattle or bison consigned directly to recognized slaughtering establishments; and

(e) Cattle or bison which are not required to have an OCVI, as exempted by this rule, that are accompanied by an Owner-Shipper Statement as provided in subsection 5C-3.002(2), F.A.C.

(2) Other Requirements and Limitations~~, General~~.

(a) Cattle or bison infected with or exposed to tuberculosis or brucellosis or which are positive to an organism detection test for paratuberculosis (Johne's Disease) may be imported only if consigned directly to a recognized slaughtering establishment. Such animals must be accompanied by a Permit for Movement of Restricted Animals, VS Form 1-27 (JUN 89) and must have a prior permission number. The prior permission number must be written on the Permit for Movement of Restricted Animals, VS Form 1-27 (JUN 89). ~~Restricted cattle must have prior permission and be accompanied by VS Form 1-27 (JUN 89);~~

~~(b) Cattle known to be infected with paratuberculosis (Johne's Disease) shall not be imported except to a recognized slaughtering establishment or to a specifically approved livestock market for sale to a recognized slaughtering establishment;~~

(b)~~(c)~~ Testing Requirements.

1. Tuberculosis Test.

a. Dairy cattle, six (6) months of age or older, which originate from accredited tuberculosis-free herds in tuberculosis-free states or areas, may enter Florida without tuberculosis testing ~~a tuberculosis test is not required for importation provided that the cattle originate from an Accredited Tuberculosis-Free Herd or State~~. The herd accreditation number and ~~or~~ state or area status and date of last negative herd test within the previous twelve (12) months must be listed on the OCVI.

b. Dairy cattle moved into Florida from adjacent states as part of normal ranching or farm operations between premises under common ownership or management are exempt from the tuberculosis testing requirements of this section if: ~~A negative tuberculosis test is required within 30 days prior to importation for cattle over 6 months of age that originate from a state or herd that is not an Accredited Tuberculosis-Free Herd or State~~

(i) They are moved from a closed herd or a herd which requires herd additions to be tested for tuberculosis prior to entry into the herd and

(ii) There is no change of ownership of the animals and the movement between premises does not exceed 50 miles.

c. Beef cattle or bison, six (6) months of age or older, which originate from an accredited tuberculosis-free herd or tuberculosis-free state or area may enter Florida without tuberculosis testing. The accredited tuberculosis-free herd number and the date of the last negative herd test within the previous twelve (12) months or the tuberculosis-free state or area status must be written on the OCVI.

d. All other dairy and beef cattle or bison, six (6) months of age or older, which are not otherwise exempt from negative tuberculosis test requirements, must test negative to an official tuberculosis test, as provided in the Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 1, 2005, APHIS 91-45-011, within thirty (30) days prior to entry into Florida. The test date and negative tuberculin test results must be recorded on the OCVI.

e. Rodeo Bulls or Roping Steers.

(i) Rodeo bulls or roping steers, six (6) months of age or older, performing in rodeo events must have a negative test for tuberculosis within twelve (12) months prior to being imported into Florida.

(ii) Rodeo bulls, six (6) months of age or older, imported for purposes other than performing in rodeo events must meet the requirements of subparagraph 5C-3.004(2)(b)1.b. or c., F.A.C. above.

f. All cattle or bison consigned directly to a recognized slaughtering establishment may enter Florida without tuberculosis testing.

2. Brucellosis Test.

a. A brucellosis test is not required for dairy and beef cattle or bison for importation into Florida provided that the animals ~~cattle~~:

(i) Originate from a ~~Certified Brucellosis Free Herd or~~ Brucellosis Class-Free State or Area; or

(ii) Originate from a Certified Brucellosis Free Herd. The herd certification number and date of the last negative herd test within the previous twelve (12) months must be listed on the OCVI; or

(iii)~~(ii)~~ Are official brucellosis ~~calfhood~~ vaccinated~~s~~ animals under 18 months of age, or are steers or spayed heifers; or

(iv) Are consigned directly to a recognized slaughtering establishment.

b. A negative brucellosis test, as provided in the Brucellosis Eradication: Uniform Methods and Rules, Effective October 1, 2003, APHIS 91-45-013, is required within thirty (30) days prior to importation for dairy and beef cattle or bison not exempted in sub-subparagraph 5C-3.004(2)(b)~~(c)~~2.a., F.A.C.~~, and which originate from a state or area not recognized as a Brucellosis Class-Free State or Area under the provisions of 9 CFR § 78 (2004).~~

~~c. The herd certification number or state status must be listed on the OCVI.~~

c.~~(3)~~ Rodeo Bulls.

~~(a) Tuberculosis Test. A negative tuberculosis test is required within 12 months prior to importation.~~

(i)~~(b) Brucellosis Test.~~ Rodeo bulls performing in rodeo events may be imported without tests provided the bulls are not changing ownership and are under eighteen (18) months of age; or individual bulls are negative to a brucellosis test, as provided in the Brucellosis Eradication: Uniform Methods and Rules, Effective October 1, 2003, APHIS 91-45-013, within twelve (12) months prior to importation.

(ii)~~(c)~~ Rodeo bulls imported for purposes other than performing in rodeo events must meet the requirements for importation in sub-subparagraphs ~~subsections~~ 5C-3.004~~(1) and~~ (2)(b)2.a.or b., F.A.C., above.

(3)~~(4)~~ Prior Permission Number. A p~~P~~rior permission number shall be required for all cattle or bison originating from:

(a) Non ~~states with less than~~ Tuberculosis Accredited-Free States or areas, or

(b) Non Brucellosis Class-Free States or areas, or

(c) VS Affected-States ~~classifications~~.

(4)~~(5)~~ Forms and Materials. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 1, 2005, APHIS 91-45-011 and Brucellosis Eradication: Uniform Methods and Rules, Effective October 1, 2003, APHIS 91-45-013, are hereby incorporated by reference. Copies may be obtained from: www.gpoaccess.gov. Permit for Movement of Restricted Animals, VS Form 1-27 (JUN 89) may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. ~~VS Form 1-27 (JUN 89) is and 9 CFR. § 78 (2004) are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.~~

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2) FS. Law Implemented 570.07(15), 570.36(2), 585.08(1), (2)(a), 585.145(1), (2), 585.16 FS. History–Amended 3-22-63, 8-20-64, 9-23-65, 7-25-66, 11-15-67, 3-1-68, 3-12-70, 7-1-70, 9-1-72, 4-5-77, 7-1-79, 7-1-80, 9-30-80, 8-9-81, 9-14-82, 6-26-83, 2-5-85, Formerly 5C-3.04, Amended 9-6-89, 3-23-94, 6-4-95, 12-12-04, _____.

5C-3.005 Goats or Sheep.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. All goats or sheep imported into Florida ~~the state~~, except goats or sheep consigned directly to recognized slaughtering establishments, must be accompanied by an OCVI. The OCVI must include the following:

(a) The official individual identification of each animal must conform to the identification guidelines of ~~as required in 9 CFR § 79.2 (2004) and § 79.3 (2004) and~~ the USDA, APHIS Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-079, June 1, 2005. ~~91-55-066 October 1, 2003; and~~ Approved methods of identification include:

1. Official USDA-APHIS-VS Scrapie eartags; or

2. Premises identification tattoos (must be legible and contain the flock number and unique animal number. The flock number is assigned by the USDA and is required to be on the OCVI); or

3. Official breed registry tattoos (must be accompanied by either the official breed registration certificate or an OCVI that includes the corresponding official registration number); or

4. Electronic microchip/implant (must be accompanied by owner statement of ID numbers, chip manufacturer, chip reader for verfication of placement and the USDA flock number recorded on the OCVI).

(b) A statement that each goat or sheep~~,~~ is free of the clinical signs of the diseases: caseous lymphadenitis, contagious ecthyma (Orf), chlamydial keratoconjunctivitis, scabies, scrapie, and contagious footrot.

(2) Prior Permission Number. A prior permission number shall be required for all sheep or goats originating from VS-affected states under state or USDA, APHIS quarantine. The prior permission number must be written on the OCVI.

(3)~~(2)~~ Immediate Slaughter Goats or Sheep. Slaughter goats or sheep are not required to have an OCVI, as exempted by this rule, but do require:

(a) Owner-Shipper Statement. Evidence of ownership or authority to transport the animals as provided in subsection 5C-3.002(2), F.A.C. ~~Goats or sheep older than 18 months of age must have an official individual identification as required in 9 CFR § 79.2 (2004) and § 79.3 (2004), and the Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-066, October 1, 2003.~~, and

(b) Official Identification. All goats or sheep entering Florida for slaughter purposes must be individually identified in accordance with paragraph 5C-3.005(1)(a), F.A.C. ~~Evidence of ownership or authority to transport the animals as provided in subsection 5C-3.002(2), F.A.C., must accompany the shipment.~~

(c) The goats or sheep must ~~will~~ be moved directly to a recognized slaughter establishment without stopping or unloading at other livestock facilities en route.

(4) Testing Requirements for Dairy Goats.

(a) Tuberculosis Test. Dairy goats ~~over~~ six (6) months of age or older must originate from an Accredited Tuberculosis-Free Herd, or have had a negative caudal fold tuberculosis test within ninety (90) days prior to importation. If originating from an Accredited Tuberculosis-Free Herd, the herd accreditation number and date of last herd accreditation test within the previous twelve (12) months must be written on the OCVI.

(b) Brucellosis Test. Dairy goats ~~over~~ six (6) months of age or older must originate from a Certified Brucellosis-Free Herd, or have had a negative brucellosis test within ninety (90) days prior to importation. If orginating from a Certified Brucellosis-Free Herd, the herd certification number and date of the last herd certification test within the previous twelve (12) months must be written on the OCVI.

(c) Test Exemptions. There are no tuberculosis or brucellosis test requirements for meat type, companion or pygmy goats.

(5) Materials. ~~9 CFR § 79.2 (2007~~4), ~~§ 79.3 (2004), and T~~the USDA Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-079, June 1, 2005 ~~91-55-066, October 1, 2003~~ are hereby incorporated by reference. Copies may be obtained from: www.gpoaccess.gov ~~the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328~~.

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2) FS. Law Implemented 570.07(15), 570.36(2), 585.08(1), (2)(a), 585.145(1), (2), 585.16 FS. History–New 6-29-62, Amended 2-5-85, Formerly 5C-3.05, Amended 9-6-89, 3-23-94, 6-4-95, 12-12-04, _____.

5C-3.007 Swine.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. All swine imported into Florida ~~the state~~, except swine consigned directly to a recognized slaughtering establishment or an approved livestock market for sale to slaughter, must be accompanied by an OCVI. Swine exempted from the OCVI requirement must be accompanied by an Owner-Shipper Statement as provided in subsection 5C-3.002(2), F.A.C.

(2) Prior Permission Number. A prior permission number is required on all swine imported into Florida. The prior permission number must be written on the OCVI or Owner-Shipper Statement accompanying the animals. ~~Prior permission is required for all swine imported originating from any state with less than a Validated Brucellosis-Free State, or Pseudorabies Stage IV or V (Pseudorabies-Free) State status or Transitional swine from any state, except swine consigned directly to a recognized slaughtering establishment~~.

(3) Test Required ~~Breeding, Exhibition and Pet Swine~~.

(a) Brucellosis Test. ~~Swine imported for breeding, exhibition or pet purposes must:~~

1. Swine six (6) months of age or older imported into Florida for breeding, exhibition or pet purposes must:

a.~~1.~~ Originate from herds not known to be infected with or exposed to brucellosis and be accompanied by proof of an official negative brucellosis test, as provided in 9 CFR § 78.33(b)(2) (2009), conducted within thirty (30) days prior to importation; or

b.~~2.~~ Be ~~commercial~~ production swine that originate directly from a Validated Brucellosis-Free State; or

c.~~3.~~ Originate directly from a Validated Brucellosis-Free Herd. The Validated Brucellosis-Free Herd number and the date of the last certification test within the past twelve (12) months ~~expiration or state status~~ must be written ~~listed~~ on the OCVI.

2. Feeder Swine. Swine imported into Florida for feeder purposes must:

a. Originate from herds not known to be infected with or exposed to swine brucellosis and be accompanied by proof of an official negative brucellosis test, as provided in 9 CFR § 78.33(b)(2) (2009), conducted within thirty (30) days prior to importation into Florida; or

b. Originate from Validated Brucellosis-Free Herds; or

c. Be production swine that originate and are shipped directly from a farm of origin in a Swine Brucellosis Stage III (Free) State.

(b) Pseudorabies Test. ~~Swine entering the state for breeding, exhibition or pet purposes must:~~

1. Swine six (6) months of age or older imported into Florida for breeding, exhibition or pet purposes must:

a.~~1.~~ Originate from a herd not known to be infected with or exposed to pseudorabies and be accompanied by proof of an official negative pseudorabies test, as provided in 9 CFR §§ 85.1 and 85.7(c)(2) (2009), conducted within thirty (30) days prior to importation; or

~~2. Originate from a Qualified Pseudorabies-Negative (QN) Herd; or~~

b.~~3.~~ Be ~~commercial~~ production swine that originate directly from a Pseudorabies Stage IV or V (Pseudorabies-Free) State, or~~.~~

c. Originate from a Qualified Pseudorabies-Negative (QN) Feeder Pig Herd.

2.~~(4)~~ Feeder Swine.

~~(a) Brucellosis Test.~~ Swine imported into Florida for feeder purposes must: ~~originate from herds not known to be infected with or exposed to brucellosis.~~

~~(b) Pseudorabies Tests. Swine imported for feeder purposes must:~~

a.~~1.~~ Originate from herds not known to be infected with or exposed to pseudorabies and be accompanied by proof of an official negative pseudorabies test, as provided in 9 CFR § 85.1 (2009), conducted within thirty (30) days prior to importation; or

b.~~2.~~ Originate from a Qualified Pseudorabies-Negative (QN) Herd; or

c.~~3.~~ Originate from a Pseudorabies-Monitored Feeder Pig (MFPH) Herd; or

d.~~4.~~ Be ~~commercial~~ production swine that originate directly from or shipped directly from the farm of origin in a Pseudorabies Stage III, IV, or V (Pseudorabies-Free) State.

3.~~(5)~~ Immediate Slaughter Swine.

~~(a) Commercial Production~~ Swine not known to be infected with or exposed to brucellosis or pseudorabies may enter Florida ~~the state~~ without tests, for slaughter purposes, provided they are accompanied by an Owner-Shipper Statement and a prior permission number. The prior permission number must be written on the accompanying document. Such swine must be ~~restrictions provided they are~~:

a.~~1.~~ Consigned directly to a recognized ~~an approved~~ slaughtering establishment; or

b.~~2.~~ Consigned directly to an approved livestock ~~slaughter~~ market ~~or an approved all class market~~ and then sold ~~directly to another approved slaughter market or~~ to a recognized slaughtering establishment.

4.~~(b)~~ Feral and t~~T~~ransitional swine ~~and swine known to be infected with or exposed to pseudorabies or brucellosis must have prior permission and be accompanied by VS Form 1-27 (JUN 89) and~~ may be imported into Florida provided: ~~the swine are consigned directly to a recognized slaughtering establishment.~~

~~(c) Evidence of ownership or authority to transport the animals as provided in subsection 5C-3.002(2), F.A.C., must accompany the shipment.~~

a. They have tested negative for pseudorabies and brucellosis, as provided in 9 CFR §§ 85.1 and 78.33(b)(2) (2009), on two (2) consecutive official tests conducted not less than thirty (30) days apart with the last test being within thirty (30) days of importation;

b. They have a prior permission number; and

c. They are accompanied by an OCVI. The prior permission number must be written on the OCVI.

(4) Materials. 9 CFR §§ 78.33(b)(2), 71.85.1 and 85.7(c)(2) (2009), are hereby incorporated by reference. Copies may be obtained from: www.gpoaccess.gov. ~~Forms. VS Form 1-27 (JUN 89) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.~~

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2) FS. Law Implemented 570.07(15), 570.36(2), 585.08(1), (2)(a), 585.145(1), (2), 585.16 FS. History–Amended 3-24-65, 11-7-67, 6-20-68, 1-1-71, 3-1-72, 8-4-77, 2-5-85, 10-23-85, Formerly 5C-3.07, Amended 9-6-89, 3-23-94, 12-12-04, _____.

5C-3.009 Dogs or ~~Domestic~~ Cats.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. All dogs or ~~domestic~~ cats imported into Florida ~~this state~~, except dogs or ~~domestic~~ cats imported for exhibition purposes only and that will remain in the state less than six (6) months and any service animal or working dog, must be accompanied by an OCVI stating that they are:

(a) Free from signs of any infectious or communicable disease;

(b) Did not originate within an area under quarantine for rabies; and

(c) Not known to have a history of exposure to a rabies-infected animal prior to importation.

(2) Dogs or Cats for Sale Requirements for Importation.

(a) Each dog or cat imported into Florida must:

1. Be accompanied by an OCVI, and

2. Meet the minimum standards for vaccinations, tests, and anthelmintic treatments, and be eight (8) weeks of age or older as specified in Section 828.29, F.S.

(b) Evidence of Compliance with Section 828.29, F.S., shall accompany the owner or agent having jurisdiction of such dogs or cats imported into Florida or to which ownership is being transferred.

(3)~~(2)~~ Rabies Vaccination. Dogs or ~~and domestic~~ cats, including exhibition dogs or cats or service animals and working dogs, three (3) months of age and older transported into Florida ~~the state~~ must have a current rabies vaccination ~~with a USDA-approved rabies vaccine~~.

(4)~~(3)~~ Prior Permission Number. Dogs or ~~domestic~~ cats originating from areas under quarantine for rabies must have a prior permission number from the Division as provided in subsection 5C-3.002(3), F.A.C. The prior permission number must be written on the OCVI.

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2) FS. Law Implemented 570.07(15), 570.36(2), 585.08(1), (2)(a), 585.145(1), (2), 585.16, 828.29(1)(a), (2)(a) FS. History–New 6-29-62, Amended 2-5-85, Formerly 5C-3.09, Amended 9-6-89, 3-23-94, 6-4-95, 12-12-04, _____.

5C-3.011 Cervids (Farmed or Captive) ~~Cervidae~~.

(1) Chronic Wasting Disease (CWD) Herd Status. ~~OCVI Required.~~

(a) All cervids~~ae~~ imported into Florida must originate from herds that are enrolled in a CWD herd certification program, as provided in 9 CFR § 55, Subpart B (2009), in the state from which the originating herd is located, and ~~the state, except cervidae consigned directly to a recognized slaughtering establishment, must be accompanied by an OCVI. The OCVI must list the official individual identification of each animal, and the date and results of any required test as provided in Rule 5C-26.005, F.A.C~~.

(b) The originating herd must have participated in the program for the previous five (5) years with no cases of CWD reported.

(2) Official Certificate of Veterinary Inspection (OCVI) Required.

(a) All cervids imported into Florida, except those consigned to a recognized slaughtering establishment, must be accompanied by an OCVI. The OCVI must list the official identification of each animal, the date and negative results for any required tests as provided below, and a prior permission number ~~Prior Permission. All cervidae imported into the state, except cervidae consigned directly to a recognized slaughtering establishment, must have prior permission and meet the requirements of Chapter 5C-26, F.A.C~~.

(b) All information required on the OCVI shall be fully completed by the issuing accredited veterinarian and shall include:

1. The name, physical address and phone number of the consignor;

2. The name, physical address and phone number of the consignee;

3. The point of origin;

4. The point of destination;

5. The date of examination;

6. The number of animals examined;

7. The official individual identification number of each cervid;

8. The age, sex, and breed of each animal;

9. The test results and CWD herd status for brucellosis and tuberculosis as specified in Rule 5C-26.005, F.A.C.

10. A statement by the issuing accredited veterinarian that the animals identified on the OCVI are free of signs of infectious, communicable or neurologic disease;

11. The phone number of the issuing accredited veterinarian;

12. The purpose for which the animals are being moved;

13. The CWD herd status of the herd of origin; and

14. The prior permission number.

(c) A copy of the OCVI shall be forwarded immediately via facsimile message, Fax: (850)410-0946, to the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, prior to shipment for review and verification that import requirements have been met and issuance of a prior permission number.

(d) The OCVI shall be void thirty (30) days after issuance.

(3) Prior Permission Number.

(a) All cervids imported into Florida, must have a prior permission number. The prior permission number must be written on the OCVI or owner-shipper statement accompanying the animals.

(4) Testing Requirements and Exemptions.

(a) Chronic Wasting Disease Test. There is no test presently required for importation of cervids into Florida. However, the animal(s) imported must meet the requirements of subsection 5C-3.011(1), F.A.C., prior to importation.

(b) Tuberculosis Test.

1. Cervids from an Accredited Tuberculosis-Free Herd, as provided in 9 CFR § 77.33(f) (2009), are exempt from this test. The herd status must be listed on the accompanying OCVI.

2. Cervids which do not originate from Accredited Tuberculosis-Free Herds and are not known to be affected with or exposed to tuberculosis may be imported into Florida if they are:

a. Under six (6) months of age; or

b. Originate from a herd which has been classified negative to an official tuberculosis test, as provided in 9 CFR § 77.20 (2009), of all eligible animals conducted within the past

twelve (12) months, and the animals to be imported are negative to a second official tuberculosis test conducted within ninety (90) days of importation; or

c. The animals to be imported have two (2) consecutive negative official tuberculosis tests, as provided in 9 CFR § 77.20 (2009), conducted not less than ninety (90) days apart, the second test conducted within ninety (90) days prior to importation, with animals isolated from all other members of the herd during the testing period.

d. The official tuberculosis test results and dates of tests must be recorded on the OCVI accompanying the animals.

(c) Brucellosis Test.

1. Cervids originating from a Certified Brucellosis-Free Herd as defined in the USDA, APHIS, Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 2003, APHIS 91-45-16, are exempt from this test. The herd status must be listed on the accompanying OCVI.

2. Cervids which do not originate from Certified Brucellosis-Free Herds and are not known to be affected with or exposed to brucellosis may be imported if they are:

a. Under six (6) months of age; or

b. Sexually intact animals, six (6) months of age or older, and negative to an official brucellosis test, as provided in the Brucellosis in Cervidae: Uniform Methods and Rules, Effective September 30, 2003, APHIS 91-45-16, conducted within ninety (90) days prior to importation. The official brucellosis negative test results must be recorded on the OCVI accompanying the animals.

(5) Consignee shall possess a valid Florida Fish and Wildlife Conservation Commission (FWCC) Game Farm license (GFL) and meet the requirements of Section 379.302, F.S., for operation of private game preserves and farms, unless imported for slaughter.

(6) Consignee's herd shall be registered and comply with requirements of the Florida Department of Agriculture and Consumer Services Cervidae Herd Health Plan as provided in Chapter 5C-26, F.A.C., unless imported for slaughter.

(7) Movement to Slaughter. All cervids imported into Florida for immediate slaughter must be consigned to a recognized slaughtering establishment and accompanied by an Owner-Shipper Statement and a prior permission number. The prior permission number must be written on the Owner-Shipper Statement.

(8) Materials. 9 CFR § 55, Subpart B (2009), 9 CFR §§ 77.20 and 77.33(f) (2009), and USDA, APHIS Brucellosis Cervidae, Uniform Methods and Rules APHIS 91-45-16 (September 30, 2003) are hereby incorporated by reference. Copies may be obtained from: www.gpoaccess.gov ~~the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328~~.

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2) FS. Law Implemented 570.07(15), 570.36(2), 585.08(1), (2)(a), 585.145(1), (2) FS. History–New 3-23-94, Amended 12-12-04, _____.

5C-3.012 Domestic Fowl, Poultry, Poultry Products and Ratites.

(1) Official Certificate of Veterinary Inspection (OCVI) Required. All domestic fowl, poultry and eggs for hatching purposes imported into Florida ~~the state~~, unless exempted by this chapter, must be accompanied by an OCVI. Poultry and hatching eggs classified under provisions of the National Poultry Improvement Plan (NPIP) may substitute Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005 ~~AUG 95~~), ~~Report of Sales of Hatching Eggs, Chicks and Poults,~~ for the OCVI. Racing pigeons that are transported out of Florida ~~the state~~ for racing purposes in a sealed crate(s) and reenter Florida ~~the state~~ with unbroken seals or poultry consigned directly to a recognized slaughtering establishment are exempt from the OCVI importation requirements.

(2) Prior Permission Number. A p~~P~~rior permission number is required on the accompanying documentation for importation of all domestic fowl and poultry and eggs for hatching purposes except:

(a) Poultry consigned directly to a recognized slaughtering establishment;

(b) Individual exotic and pet birds and racing pigeons returning to Florida in unbroken, sealed containers;

(c) Exhibition birds originating in NPIP participating flocks in Florida and ~~are~~ returning to Florida ~~the state~~.

(3) ~~Pullorum-Typhoid~~ Testing Requirements.

(a) An official negative test for Pullorum-Typhoid, as provided in 9 CFR §§ 147.1-147.5 (2009), is required within thirty (30) days of importation into Florida for poultry or on the flock from which hatching eggs originate that do not meet the requirements in paragraph 5C-3.012(3)(b), F.A.C.

(b) Exemptions to the test requirements. No test is required for the following:

1. Importing poultry or eggs for hatching purposes originating from flocks classified under provisions of the NPIP as U. S. Pullorum-Typhoid Clean, as provided in 9 CFR §§ 145.23(b), 145.33(b), 145.43(b), 145.53(b) and 145.63(b) (2009), or from flocks that have met comparable standards of the poultry disease control authority of the state of origin;

2. Quail, pheasants, ~~pigeons~~ and other birds used strictly for hunting purposes and which are consigned directly to a Florida Fish and Wildlife Conservation Commission-licensed hunting preserve;

~~3. Racing pigeons entering the state for release for return to state of origin;~~

3.~~4.~~ Ratites;

4.~~5.~~ Waterfowl imported for exhibition purposes;

5.~~6.~~ Exotic birds or other pet birds and pigeons;

6.~~7.~~ Exhibition birds originating from NPIP-participating flocks in Florida returning to Florida ~~the state~~. These birds must be accompanied by proof of a valid NPIP flock testing record for pullorum-typhoid indicating that the flock test, in accordance with a 9 CFR § 145.53(b) (2009), was conducted within the previous twelve (12) months or proof of a valid NPIP participant card current within the past twelve (12) months; or

7. Poultry consigned directly to a recognized slaughtering establishment.

~~(4) Backyard poultry flocks that are not used for commercial or exhibition purposes, entering the state without prior permission, must be quarantined to their destination until the birds are found to be negative to an official Pullorum-Typhoid test and any other tests required by the State Veterinarian. The tests will be conducted by an authorized representative of the Division.~~

(4)~~(5)~~ Importations from an Avian Influenza (AI) or Exotic Newcastle Disease (END)-Affected State.

(a) Quarantine Areas. No domestic fowl, live poultry or poultry products or hatching eggs originating from a quarantine area may enter Florida except for imported birds that have completed USDA quarantine and import test requirements and are approved for entry into Florida by the State Veterinarian.

~~Approval. All domestic fowl, live poultry or poultry products from an AI- or END-affected state(s) will be considered for approval by the State Veterinarian on a case-by-case basis following a risk assessment.~~

(b) Non-quarantine Areas.

1. Approval – Domestic fowl, live poultry or poultry products from non-quarantine areas will be considered for approval for shipment into Florida on a case-by-case basis following a risk assessment.

2.~~(b)~~ Documentation. Poultry or poultry products must originate from a flock that is U.S. Avian Influenza Clean, as provided in 9 CFR §§ 145.23(h), 145.33(l), 145.43(g) and 145.53(e) (2009), ~~NPIP AI Clean~~ and the shipment is accompanied by a Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005 ~~AUG 95~~), ~~or VS Form 1-27 (JUN 89),~~ or OCVI indicating poultry or poultry product originates from an AI- or END-negative flock, listing the description of birds, test date, test results, and the name of testing laboratory.

3.~~(c)~~ Prior permission number. All domestic fowl, live poultry or poultry products will require prior permission number which must be written on the accompanying documentation ~~originating from AI- or END-affected states~~.

~~(d) Quarantine. All domestic fowl, poultry or poultry products originating from AI- or END-affected states will remain under quarantine at destination for a period of time not less than 14 days and will be subject to inspection by an authorized representative.~~

~~(e) Quarantine Area. No domestic fowl, live poultry or poultry products originating from a quarantine area may enter Florida.~~

~~(f) Purpose of Movement. No domestic fowl or poultry can enter Florida from an AI- or END-affected state for the purpose of being offered for sale, exchange or exhibition, or any market channel.~~

~~(g) Containers for Shipment. Chicks or hatching eggs approved for import into Florida must be transported in new, disposable containers. Chicks may be transported in non-disposable containers if protocol for cleaning and disinfection and reuse is approved by the Division. All shipments will be required to be sealed at origin and seal broken by an authorized representative at destination. A statement verifying these requirements must be included on a VS Form 9-3 AUG 95), VS Form 1-27 (JUN 89), or OCVI. Disposable containers must be properly disposed of at point of destination.~~

~~(h) Domestic Fowl, Poultry or Poultry Products Originating from Florida. Domestic fowl, poultry or poultry products originating from Florida that have been transported into an AI- or END-affected state will not return to Florida until the above requirements in subsection 5C-3.0012(5), F.A.C., have been met.~~

~~(i) Chicks or Eggs. No chicks or eggs originating from a hatchery that received eggs from a positive AI or END flock within 90 days may enter Florida.~~

~~(j) Vehicles. All vehicles associated with transporting domestic fowl, poultry or poultry products from AI- or END-affected states must be clean and disinfected prior to loading poultry or poultry products. In addition, the loaded vehicle shall have tires and undercarriage clean and disinfected after leaving premises and prior to entry into Florida. A statement verifying compliance to the requirement must be included on VS Form 9-3 (AUG 95), VS Form 1-27 (JUN 89), or OCVI or other applicable document. Vehicles will be inspected by FDACS at destination to ensure compliance.~~

~~(k) Restrictions. The restrictions specified in subsection 5C-3.0012(5), F.A.C., will remain in effect for a period of ninety (90) days from last date an AI or END premises was depopulated.~~

(5) Containers for Shipment. All imported domestic fowl, poultry, and eggs for hatching purposes must be shipped in new or properly cleaned and disinfected reusable containers.

(6) Forms and Materials. 9 CFR §§ 145.23(b), (h), 145.33(b), (l), 145.43(b), (g) 145.53(b), (e), 145.63(b), and 147.1-147.5 (2009), are hereby incorporated by reference. Copies may be obtained from: www.gpoaccess.gov. Report of

Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (AUG 2005) may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. ~~Forms. VS Form 9-3 (JUN 98 AUG 95), Report of Sales of Hatching Eggs, Chicks and Poults, and VS Form 1-27 (JUN 89), are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.~~

Rulemaking ~~Specific~~ Authority 570.07(23), 585.002(4), 585.08(2) FS. Law Implemented 570.07(15), 570.36(2), 585.08(1), (2)(a), 585.145(1), (2), 585.16 FS. History–New 3-23-94, Amended 12-12-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian, Director, Division of Animal Industry, Room 330, 407 South Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; Fax: (850)410-0957

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NOS.:	RULE TITLES:
5C-30.001	Definitions
5C-30.002	Procedures for Inspection of Animals to be Imported into or Moved Within the State
5C-30.003	Penalties
5C-30.004	Incorporated Materials

PURPOSE AND EFFECT: This new rule provides definitions, incorporated materials, procedures for inspection of animals to be imported or moved within the state and to provide for penalties of violations of Title 5C.

SUMMARY: The new rule will provide procedures for quarantine and release of quarantine of animals moved into or within the state and implementation of penalties for violations related to such movements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency.

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

RULEMAKING AUTHORITY: 570.07(23), 585.002(4), 585.08(2)(a) FS.

LAW IMPLEMENTED: 570.07(15), 570.36(2), 585.003, 585.08(2)(a), 585.145(1)(2), 585.16, 585.23, 585.40 FS.

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

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: Dr. William C. Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 South Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; Fax: (850)410-0957. 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: Dr. William C. Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Room 332, 407 South Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; Fax: (850)410-0957

THE FULL TEXT OF THE PROPOSED RULES IS:

DIVISION OF ANIMAL INDUSTRY ENFORCEMENT AND PENALTIES

5C-30.001 Definitions.

(1) Animal or Domestic Animal. Any animals that are maintained for private use or commercial purposes; including any equine such as horse, mule, ass, burro, zebra; any bovine such as bull, steer, ox, cow, heifer, calf, or bison; any other hoofed animal such as goat, sheep, swine, or cervids; any domestic cat, dog, reptile or amphibian; any avian such as ratites, poultry, or other domesticated bird or fowl; or any captive, exotic or non-native animals.

(2) Dangerous Transmissible Diseases. Those animal diseases or pests listed or described in Rule 5C-20.002, F.A.C.

(3) Department Representative. An employee of the state or federal government who has been authorized by the Division to issue a Notice of Quarantine.

(4) Division. The Division of Animal Industry of the Florida Department of Agriculture and Consumer Services.

(5) Quarantine. A strict isolation and restriction of movement of animals infected with, suspected of being infected with, or exposed to dangerous transmissible diseases or other infectious diseases or pests that may be foreign or newly emerging and that may result in significant animal loss, economic damage or are suspected of causing human illness, to a premises or area, to prevent the spread of diseases or pests. The lack of appropriate health documentation as provided in

Chapters 5C-3 and 5C-4, F.A.C., and Chapter 585, F.S., is sufficient to determine that there is a risk of disease transmission requiring quarantine.

(a) Animal Quarantine. Quarantine of animals to specified premises.

(b) Area Quarantine. Quarantine of specified geographic areas within the state.

Rulemaking Authority 570.07(23), 585.002(4), 585.08(2)(a) FS. Law Implemented 570.07(15), 570.36(2), 585.003, 585.08(2)(a), 585.145(1), (2), 585.16, 585.23, 585.40 FS. History–New _____.

5C-30.002 Procedures for Inspection of Animals to be Imported into or Moved within the State.

(1) Any person importing animals into the State of Florida or moving animals within the state is subject to inspection by a Department representative to determine whether the animal has the appropriate health documentation as provided in Chapters 5C-3 and 5C-4, F.A.C., and Chapter 585, F.S., shows signs of illness, or is deceased.

(a) Inspections will generally occur at the interdiction stations maintained by the Office of Agricultural Law Enforcement of the Department. This inspection does not replace or limit the ability of the Department to inspect premises or transport vehicles at other locations for violations as provided in Section 570.07(2), F.S.

(b) Any person transporting animals into or within the state shall present the animals for inspection whenever there is a Department interdiction station of the Office of Agricultural Law Enforcement on their route.

(c) At the interdiction stations, a Department representative shall inspect all animals being transported into or within the state. The transporter, owner or operator transporting animals into or within the state is responsible for ensuring that each animal moved into or within the state is accompanied by the appropriate health documentation.

(2) The department may refuse entry into the state or quarantine, any animal that is not accompanied by the appropriate health documentation, any animal showing signs of illness, or dead animals.

(3) Where any health documentation for an animal being transported into or within the state is missing or inadequate, where there are animals showing signs of illnesses, or where there are dead animals, the Department representative shall follow the procedures outlined in Table I, Rule 5C-30.003, F.A.C., in determining the appropriate action for a violation. In addition to refusal of entry or quarantine, the Department may issue Advisory Notices or impose administrative fines in accordance with Table I, Rule 5C-30.003, F.A.C.

(4) Any animal required to be quarantined to destination or to premises of origin shall be maintained in strict isolation, until such time as a Department representative releases the animal from quarantine.

(5) When the Department determines that the threat of disease ceases to exist and/or animal health requirements have been met, a Department representative will provide notification that the quarantine has been released and is no longer in effect.

Rulemaking Authority 570.07(23), 585.002(4), 585.08(2)(a) FS. Law Implemented 570.07(15), 570.36(2), 585.003, 585.08(2)(a), 585.145(1)(2), 585.16, 585.23, 585.40 FS. History–New _____.

5C-30.003 Penalties.

(1) Any person importing animals into or moving animals within the state without the appropriate health documentation as required in Chapters 5C-3 and 5C-4, F.A.C., or animals that show signs of illness or infection, or dead animals, are subject to penalties as prescribed in this section.

(2) The provision of specified penalties in this rule shall not preclude the Department from seeking any legal remedy or injunctive relief available under its authorizing statutes.

(3) The penalties for failure to comply with the health standards for importation or intrastate movement of animals are as provided in Table #1.

TABLE #1
Decision and Penalty Matrix for Division of Animal Industry Movement Violations

Division of Animal Industry – AI	Equine Infectious Anemia – EIA	Individually identified – ID
National Poultry Improvement Plan – NPIP	Official Certificate of Veterinary Inspection – OCVI (valid for 30 days)	
Pullorum-Typhoid – PT Test	Tuberculosis – TB	

SPECIES	VIOLATION	INTRASTATE (Within State)	INTERSTATE (Import into State)	ADMINISTRATIVE ACTION
All Animals	Use of forged, altered or counterfeited document.	Quarantine back to premises of origin. *The violator could be charged criminally, to be determined by OALE.	Refuse entry into state. *The violator could be charged criminally, to be determined by OALE.	1st $500 2nd $2,500 3rd $5,000 4th and subsequent violations within 24 months of last violation – $10,000.
All Animals	Animals showing signs of illness or dead animals.	Contact Division of Animal Industry.	Quarantine to premises of destination or refuse entry based upon signs presented and/or clinical evaluation.	Contact Division of Animal Industry.
All Animals	Movement of animals in violation of quarantine.	Quarantine back to premises of origin. *The violator could be charged criminally, to be determined by OALE.	Refuse entry into state. *The violator could be charged criminally, to be determined by OALE.	1st $500 2nd $2,500 3rd $5,000 4th and subsequent violations within 24 months of last violation – $10,000.
All Animals (Except poultry and deer-see below).	No prior permission number.	N/A	Allow entry into state. Division of Animal Industry will contact issuing veterinarian.	1st Advisory Notice 2nd Advisory Notice 3rd and subsequent violations within 24 months of last violation – refuse entry into state.
Cattle and Bison (Bovine)	No tuberculosis (TB) test, brucellosis test, ID, or invalid OCVI /no OCVI.	N/A	Quarantine to destination.	1st Quarantine 2nd Quarantine 3rd and subsequent violations within 24 months of last violation – refuse entry into state.
Deer (Cervidae)	No OCVI or prior permission.	Quarantine back to premises of origin.	Refuse entry into state.	Intrastate Movement Quarantine back to premises of origin. Interstate Movement- Refuse entry into state.
Goats and Sheep (Caprine and Ovine)	No ID (USDA scrapie tags-required unless consigned to a USDA-approved livestock market).	Quarantine back to premises of origin.	Refuse entry into state.	Intrastate Quarantine back to premises of origin. Interstate Refuse entry into state.

Goats and Sheep (Caprine and Ovine)	No OCVI/invalid OCVI, TB test, or brucellosis test.	N/A	Quarantine to destination.	1st Quarantine 2nd Quarantine 3rd and subsequent violations within 24 months of last violation – refuse entry into state.
Goats and Sheep (Caprine and Ovine)	No veterinary disease-free statement as required in 5C-3.005(b), F.A.C.	N/A	Advisory notice.	Advisory notice.
Horses (Equine)	No EIA test, outdated EIA test, EIA not accurate/ legible, or EIA does not match horse.	Quarantine back to premises of origin.	Refuse entry into state if consigned to a show, sale or exhibition. All other shipments-refuse entry into state or call a Florida veterinarian, at owner's expense, to submit EIA test and quarantine to destination.	Intrastate: Quarantine back to premises of origin. Interstate: Refuse entry or quarantine to destination with pending EIA test.
Horses (Equine)	No OCVI, invalid OCVI, or OCVI does not match the horse.	N/A	Call a Florida veterinarian to issue OCVI, at owner's expense, and allow entry. If no veterinarian is available, then quarantine to destination.	1st Quarantine 2nd Quarantine 3rd and subsequent violations within 24 months of last violation – refuse entry into state.
Horses (Equine)	No equine piroplasmosis (EP) test or treatment if from endemic area.	Quarantine back to premises of origin.	Refuse entry into state.	Refuse entry.
Horses (Equine)	No temperature reading on OCVI.	N/A	Allow entry into state and issue an advisory notice.	Advisory notice.
Pigs (Swine/Porcine)	No pseudorabies test, brucellosis test, no ID, or OCVI/invalid OCVI.	N/A	Quarantine to destination.	1st Quarantine 2nd Quarantine 3rd and subsequent violations within 24 months of last violation – refuse entry into state.
Poultry (Avian)	No OCVI/invalid OCVI, PT test, or NPIP/VS 9-3.	N/A	Refuse entry into state.	Refuse entry into state.
Poultry (Avian)	No prior permission number with VS 9-3.	N/A	Allow entry and issue an advisory notice.	1st Advisory notice. 2nd Advisory notice. 3rd and subsequent violations within 24 months of last violation – refuse entry into state.

Poultry (Avian)	No prior permission number with OCVI.	N/A	Allow entry to a single destination and quarantine.	1st Quarantine 2nd Quarantine 3rd and subsequent violations within 24 months of last violation – refuse entry into state.

*The penalties in Table #1 are listed in the order that they will apply with each succeeding violation.

(4) Resolution of Violations, Settlement, and Additional Enforcement Remedies – The Department and person charged with a violation may agree to resolve violations prior to an administrative hearing, or enter into settlement pursuant to Section 120.57(4), Florida Statutes. The penalties addressed in this rule shall not be construed to limit the authority of the Department to resolve violations prior to or after initiation of any administrative action or to settle with any party. The Department shall utilize all available remedies to ensure compliance including administrative action, civil actions, settlements, and referrals for criminal prosecution. The Department shall enforce a failure to comply with an agreement to resolve violations or a settlement agreement with the penalties and remedies provided in the agreement and as authorized by Chapter 120 or Chapters 570 and 585, Florida Statutes.

Rulemaking Authority 570.07(23), 585.002(4), 585.08(2)(a) FS. Law Implemented 570.07(15), 570.36(2), 585.003, 585.007(1), 585.08(2)(a), 585.145(1)(2), 585.16, 585.23, 585.40 FS. New .

5C-30.004 Incorporated Materials.

(1) For purposes of Sections 585.08 and 585.145, F.S., and pursuant to this rule, a Department representative who is not at a department interdiction station and who executes a Notice of Quarantine shall utilize form DACS-09030 Rev. 12/09, Notice of Quarantine. A Department representative at a Department interdiction station shall issue DACS-09163 Rev. 12/09, Notice of Quarantine – Interdiction Stations or DACS-09239 Rev. 12/09, Refuse Entry Notice – Interdiction Stations. A Department representative shall post DACS-09090 Rev. 12/09, Quarantine Sign, at the location of the animal quarantine. This sign shall not be removed by anyone other than a Department representative. When the Department determines that the threat of disease ceases to exist and/or animal health requirements have been met, a Department representative will provide notification that the quarantine has been released and is no longer in effect by issuing DACS-09028 Rev. 12/09, Release of Quarantine.

(2) When an Advisory Notice is prescribed by rule for a particular violation, a Department representative shall issue DACS-09238 Rev. 12/09, Advisory Notice – Interdiction Stations.

(3) All of the foregoing forms are hereby incorporated by reference. Samples of the foregoing forms may be viewed or obtained by contacting the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 South Calhoun Street, Room 331, Mayo Building, Tallahassee, Florida 32399-0800 or by visiting: http://www.doacs.state.fl.us/onestop/index.html.

Rulemaking Authority 570.07(23), 585.002(4), 585.08(2)(a) FS. Law Implemented 570.07(15), 570.36(2), 585.003, 585.08(2)(a), 585.145(1)(2), 585.16, 585.23, 585.40 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Thomas J. Holt, State Veterinarian, Director, Division of Animal Industry, Room 330, 407 South Calhoun Street, Tallahassee, FL 32399-0800; Phone: (850)410-0900; Fax: (850)410-0957

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF REVENUE

RULE NO.: RULE TITLE:
12-3.007 Delegation of Authority

PURPOSE AND EFFECT: Section 120.54(1)(k), F.S., as amended by section 5, Chapter 2008-104, L.O.F., requires the Governor and Cabinet, as head of the Department of Revenue, to approve the publication of a notice of intended rulemaking. Prior to this law change, the Governor and Cabinet, under specific conditions, delegated this function to the Executive Director of the Department under Rule 12-3.007, F.A.C. (Delegation of Authority). The purpose of this rulemaking is to remove that delegation of authority and to provide that the Governor and Cabinet will authorize the Department to publish a notice of rulemaking to conduct a public rule hearing and to file and certify proposed rule changes.

SUMMARY: The proposed amendments to Rule 12-3.007, F.A.C. (Delegation of Authority): (1) remove obsolete language that does not reflect the requirement provided in Section 120.54(1)(k), F.S.; (2) provide that the Department will publish a notice of rulemaking to conduct public hearings after obtaining approval by the Governor and Cabinet; and (3) provide that the Department will file and certify proposed rule changes only after they have been approved by the Governor and Cabinet, as provided in Section 120.54(3)(e)1., 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.

RULEMAKING AUTHORITY: 213.06(1) FS.

LAW IMPLEMENTED: 20.05, 20.21, 120.54 FS.

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

DATE AND TIME: January 27, 2010, 1:30 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULE IS:

12-3.007 Delegation of Authority.

(1) Authority to take the following action is hereby delegated by the Governor and Cabinet acting as the head of the Department of Revenue to the Executive Director of the Department or the Executive Director's designee:

(a) through (g) No change.

(h) To act on behalf of the agency in carrying out the provisions of Chapter 120, F.S., unless prohibited by law or by directives issued by the Governor and Cabinet acting as the head of the Department. This delegation specifically includes, but is not limited to, the following:

1.a.(I) To publish a notice of intended rulemaking, after approval of such proposed notice by the Governor and Cabinet pursuant to Section 120.54(1)(k), F.S. ~~To initiate rulemaking by publishing a notice of intended action. However, before a notice of intended action is published, the Department must submit the proposed notice, including the proposed rule text, to the Governor and each member of the Cabinet. Upon the written request of the Governor or any member of the Cabinet, the Department shall submit the proposed rules for action by the Governor and Cabinet at the next appropriate Cabinet meeting. If, after being given 10 working days to review the Department's proposed notice of intended action and rule text, neither the Governor nor any member of the Cabinet notifies the Department of his or her objection to such publication, the Department may proceed to initiate rulemaking pursuant to Section 120.54(3)(a)1., F.S. The power to determine whether proposed rules should be approved for final adoption is hereby reserved to the Governor and Cabinet acting as the head of the Department.~~

(II) To certify that a proposed rule has been approved by the Governor and Cabinet pursuant to Section 120.54(3)(e)1., F.S.

(III) To file with the Department of State the approved rule pursuant to Section 120.54(3)(e)1., F.S.

b. To explain in writing when appropriate why a rule development workshop is unnecessary.

2. through 10. No change.

(i) through (n) No change.

(2) No change.

Rulemaking ~~Specific~~ Authority 213.06(1), 409.2557 FS. Law Implemented 20.05, 20.21, 72.011(1), (3), 120.54, 120.565, 120.569(2), 120.57(1), (2), (3), 120.63(1), 120.74(2), 195.095, 213.05, 213.21, 213.22, 409.2557 FS. History–New 7-14-80, Amended 12-31-81, 8-29-85, 11-6-85, Formerly 12-3.07, Amended 5-18-86, 12-20-92, 12-6-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, p. 4635). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

DEPARTMENT OF REVENUE

RULE NO.:	RULE TITLE:
12-13.009	Closing Agreements

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12-13.009, F.A.C. (Closing Agreements), is to revise the rule to reflect the statutory requirement in Section 213.21(1), F.S., that written agreements are required when the amount of a taxpayer's assessment of tax, interest, or penalty compromised by the Department exceeds $30,000.

SUMMARY: The proposed amendments to Rule 12-13.009, F.A.C. (Closing Agreements), provide that written agreements are required when the amount of a taxpayer's assessment of tax, interest, or penalty compromised by the Department exceeds $30,000.

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

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

RULEMAKING AUTHORITY: 213.06(1), 213.21(5) FS.

LAW IMPLEMENTED: 120.55(1)(a)4., 213.05, 213.21 FS.

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

DATE AND TIME: January 27, 2010, 1:30 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULE IS:

12-13.009 Closing Agreements.

(1) A written closing agreement is ~~shall be~~ necessary to settle or compromise tax, interest, or penalty when a tax matter relates to an ~~audit~~ assessment ~~or billing~~ where the amount compromised is in excess of $30,000 or to a matter in an informal protest in Technical Assistance and Dispute Resolution. Settlement or compromise of tax matters in litigation must ~~shall~~ be pursuant to a written settlement agreement, court order, or similar written document reflecting the agreement reached between the taxpayer and the Department. In all other cases of compromise or settlement, the signature and name of the person exercising the Department's authority, the reason for the compromise or settlement, and the date the action was taken is required to ~~shall~~ be placed on the taxpayer's written request or ~~shall otherwise be~~ documented in the Department's records of the compromise or settlement.

(2) through (5) No change.

Rulemaking ~~Specific~~ Authority 213.06(1), 213.21(5) FS. Law Implemented 120.55(1)(a)4., 213.05, 213.21 FS. History–New 5-23-89, Amended 8-10-92, 5-18-94, 10-24-96, 10-2-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4635-4636). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.005	Admissions
12A-1.085	Exemption for Qualified Production Companies
12A-1.097	Public Use Forms

PURPOSE AND EFFECT: Effective July 1, 2009, the exemption from the tax on admission charges to certain events sponsored by a governmental entity, sports authority, or sports commission provided in Section 212.04(2)(a)2.b., F.S., expired. The purpose of the proposed amendments to Rule 12A-1.005, F.S., is to remove provisions regarding this exemption from the rule.

In cooperation with the Department, the Office of Film and Entertainment has expedited the application process for a production company qualified under Section 288.1258, F.S., to receive the sales tax exemption provided in Sections 212.031(1)(a)9., 212.06(1)(b), and 212.08(5)(f) and (12), F.S. An electronic application process has replaced the hard-copy application process. Currently, qualified production companies are required to extend the exemption certificate issued by the Department to vendors to purchase qualified items tax-exempt. To assist those vendors in verifying the exemption, the Department has provided additional information on the exemption certificate on how vendors are able to verify the exemption. The purpose of the proposed amendments to Rule 12A-1.085, F.A.C. (Exemption for Qualified Production Companies), is to update the rule to reflect these changes.

The purpose of the proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), is to: (1) remove the adoption of the hard-copy application previously used in the administration of the exemption for qualified production companies provided in Section 288.1258, F.S.; and (2) to adopt, by reference, revisions to the Certificate of Exemption for Entertainment Industry Qualified Production Company (Form DR-231).

SUMMARY: The proposed amendments to Rule 12A-1.005, F.A.C. (Admissions), remove the exemption from the tax on admission charges to certain events sponsored by a governmental entity, sports authority, or sports commission provided in Section 212.04(2)(a)2.b., F.S., from the rule.

The proposed amendments to Rule 12A-1.085, F.A.C. (Exemption for Qualified Production Companies): (1) provide that any production company desiring to obtain an exemption certificate under Section 288.1258, F.S., must complete the Entertainment Industry Tax Exemption Application at www.filminflorida.com; (2) remove provisions regarding the application and the renewal application previously used by the Department for this purpose; and (3) adopt revisions to the Certificate of Exemption for Entertainment Industry Qualified Production Company (Form DR-231) that provide information on how a dealer is able to verify the exemption granted to a qualified production company.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms): (1) remove the adoption, by reference, of forms that are no longer used in the administration of the exemption for qualified production companies provided in Section 288.1258, F.S.; and (2) adopt, by reference, revisions to the Certificate of Exemption for Entertainment Industry Qualified Production Company (Form DR-231).

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

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

RULEMAKING AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 288.1258(4)(c), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7), 616.260 FS.

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

DATE AND TIME: January 27, 2010, 1:30 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.005 Admissions.

(1) No change.

(2) EXEMPT ADMISSIONS. The following admissions are exempt from the tax imposed under Section 212.04, F.S.:

(a) through (f) No change.

~~(g) Admission charges to an event held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility are exempt when:~~

~~1. The event is sponsored by a sports authority or commission, exempt from federal income tax under the provisions of s. 501(c)(3) of the Internal Revenue Code, as amended, that is contracted with a county or municipal government for the purpose of promoting and attracting sports tourism events to the community or is sponsored by a governmental entity;~~

~~2. 100 percent of the funds at risk belong to the sponsoring entity;~~

~~3. 100 percent of the risk of success or failure lies with the sponsoring entity; and~~

~~4. The talent for the event is not derived exclusively from students or faculty.~~

(h) through (k) renumbered (g) through (j) No change.

(3) through (6) No change.

Rulemaking ~~Specific~~ Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6), (7), 616.260 FS. History–Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05, _____.

12A-1.085 Exemption for Qualified Production Companies.

(1) For purposes of this rule, a "qualified production company" means any company engaged in this state in the production of motion pictures, made-for-TV motion pictures, television series, commercial advertising, music videos, or sound recordings that has been approved by the Governor's Office of ~~the~~ Film and Entertainment ~~Commissioner~~ and has obtained a Certificate of Exemption for Entertainment Industry Qualified Production Company from the Department ~~of~~ Revenue.

(2)(a) Any production company conducting motion picture, television or sound recording business in this state desiring to obtain a Certificate of Exemption from the Department must ~~file with the Department of Revenue~~:

1. Complete the Entertainment Industry Tax Exemption Application at www.filminflorida.com ~~An Entertainment Industry Qualified Production Company Application for Certificate of Exemption (Form DR-230, incorporated by reference in Rule 12A-1.097, F.A.C.)~~; and

2. Provide documentation ~~Documentation~~ sufficient to substantiate the applicant's claim for qualification as a production company pursuant to Section 288.1258, F.S.

(b) No change.

(c) Qualified production companies that hold a Certificate of Exemption for Entertainment Industry Qualified Production Company issued for a period of 90 consecutive days may request an extension of their certificates. Qualified production companies that hold a Certificate of Exemption issued for 12 consecutive months may renew their certificates annually for up to five years. To request an extension or a renewal of a certificate, qualified production companies must complete the Entertainment Industry Tax Exemption Application at www.filminflorida.com ~~file an Application for Renewal or Extension of Entertainment Industry Exemption Certificate (Form DR-232, incorporated by reference in Rule 12A-1.097, F.A.C.), with the Office of the Film Commissioner~~. Upon approval by the Governor's Office of ~~the~~ Film and Entertainment ~~Commissioner~~, an extension to the 90-day certificate or a renewal of the 12-month certificate will be issued by the Department.

(3) through (5) No change.

~~(6) Copies of Form DR-230 (Entertainment Industry Qualified Production Company Application for Certificate of Exemption), Form DR-230N (Information and Instructions for Completing Entertainment Industry Qualified Production Company Application for Certificate of Exemption), Form DR-232 (Application for Renewal or Extension of Entertainment Industry Exemption Certificate), and Form DR-232N (Application for Renewal or Extension of Exemption Certificate Instructions) are available, without cost, by: 1) calling the Offices of the Film Commissioner at (877)352-3456; or, 2) downloading selected forms from the Office of the Film Commissioner's Internet site at www.filminflorida.com; or, 3) from any local Film Commission offices throughout Florida. These forms are also available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's FAX on Demand System at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (www.myflorida.com/dor). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

Rulemaking ~~Specific~~ Authority 212.17(6), 212.18(2), 213.06(1), 288.1258(4)(c) FS. Law Implemented 212.031(1)(a)9., 212.06(1)(b), 212.08(5)(f), (12), 288.1258 FS. History–New 2-21-77, Amended 5-28-85, Formerly 12A-1.85, Amended 3-12-86, 12-13-88, 10-21-01, _____.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) Copies of these forms, except those denoted by an asterisk (*), are available, without cost, by one or more of the following methods: 1) downloading the form from the Department's Internet site at www.myflorida.com/dor/forms; or, 2) calling the Department at (800)352-3671, Monday through Friday, 8:00 a.m. to 7:00 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

(b) Forms (certifications) specifically denoted by an asterisk (*) are issued by the Department upon final approval of the appropriate application. Defaced copies of certifications, for purposes of example, may be obtained by written request directed to:

Department of Revenue
Taxpayer Services
5050 West Tennessee Street ~~1379 Blountstown Highway~~
Tallahassee, Florida 32399-0100 ~~32304~~.

Form Number	Title	Effective Date

(2) through (19) No change.

(20)~~(a) DR-230~~	~~Entertainment Industry Qualified Production Company Application for Certificate of Exemption (R. 03/01)~~	~~08/92~~
~~(b) DR-230N~~	~~Information and Instructions for Completing Entertainment Industry Qualified Production Company Application for Certificate of Exemption (R. 03/01)~~	~~10/01~~
~~(c)~~ DR-231*	Certificate of Exemption for Entertainment Industry Qualified Production Company (R. 08/09 ~~N. 01/01~~)	____ ~~10/01~~
~~(d) DR-232~~	~~Application for Renewal or Extension of Entertainment Industry Exemption Certificate (N. 03/01)~~	~~10/01~~
~~(e) DR-232N~~	~~Application for Renewal or Extension of Exemption Certificate Instructions (Form DR-232) (N. 03/01)~~	~~10/01~~

(21) through (23) No change.

Rulemaking Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History–New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09, 9-1-09, _____.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: RULE TITLE:

12B-8.001 Premium Tax; Rate and Computation

PURPOSE AND EFFECT: Section 3, Chapter 2009-108, L.O.F., expands the tax credit for contributions to nonprofit scholarship funding organizations to the insurance premium tax. The purpose of the proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), is to update the rule to include this law change.

SUMMARY: The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation): (1) include provisions for the credit for contributions to a nonprofit scholarship funding organizations in the list of credits against the insurance premium tax; (2) provide that contributions to nonprofit scholarship funding organizations are not payments of estimated tax or installment payments; and (3) provide that the provisions of Section 220.187, F.S., and Rule 12C-1.0187, F.A.C., apply to the credit for contributions to a nonprofit scholarship funding organization.

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

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

RULEMAKING AUTHORITY: 213.06(1), 220.183(4)(d), 288.99(11), 624.5105(6) FS.

LAW IMPLEMENTED: 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12, 213.05, 213.235, 220.183(3), 220.187, 288.99(11), 624.4621, 624.46226, 624.4625, 624.475, 624.509, 624.5092, 624.50921, 624.510, 624.5105, 624.51055, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS.

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

DATE AND TIME: January 27, 2010, 1:30 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.001 Premium Tax; Rate and Computation.

(1) through (2) No change.

(3) Credits Against the Tax.

(a) through (e) No change.

(f) Credit for Contributions to Nonprofit Scholarship Funding Organizations.

1. Section 624.51055, F.S., provides a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship funding organization, as provided in Section 220.187, F.S., against any net tax due for a taxable year under Section 624.509(1), F.S. However, the credit may not exceed 75 percent of the tax due under Section 624.509(1), F.S., after deducting from such tax:

a. Deductions for assessments made pursuant to Section 440.51, F.S. (workers compensation administrative assessments);

b. Credits for taxes paid under Sections 175.101 and 185.08, F.S. (firefighter's and police officers' pension trust funds); and,

c. Credits for income taxes and emergency excise taxes paid under Chapters 220 and 221, F.S., and the salary credit allowed under Section 624.509(5), F.S., as these are limited by Section 624.509(6), F.S. (the 65 percent limitation).

2. Contributions to a nonprofit scholarship funding organization are not payments of estimated tax or installment payments.

3. The provisions of Section 220.187, F.S., regarding definitions, the credit application process, the rescindment provisions, the preservation of credit provisions, and the administrative provisions, including the three year credit carryover provision, and the provisions of Rule 12C-1.0187, F.A.C., apply to the credit against the insurance premium tax for contributions to nonprofit scholarship funding organizations.

4. Applicants subject to the insurance premium tax imposed under Section 624.509(1), F.S., may only claim credit for eligible contributions they made to a nonprofit scholarship funding organization against their insurance premium tax liability.

(4) through (9) No change.

Rulemaking ~~Specific~~ Authority 213.06(1), 220.183(4)(d), 288.99(11), 624.5105(4)(b) FS. Law Implemented 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12, 213.05, 213.235, 220.183(3), 220.187, 288.99(11), 624.4621, 624.46226, 624.4625, 624.475, 624.509, 624.5092, 624.50921, 624.510, 624.5105, 624.51055, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS. History–New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01, 8-1-02, 6-20-06, 9-1-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4638-4639). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NOS.:	RULE TITLES:
12C-1.0186	Credit for Florida Alternative Minimum Tax
12C-1.018	Credits for Contributions to Nonprofit Scholarship Funding Organizations
12C-1.051	Forms

PURPOSE AND EFFECT: Chapter 2009-108, L.O.F., expands the Florida Tax Credit Scholarship Program to allow insurers, who make contributions to nonprofit funding organizations, to take a tax credit against the insurance premium tax imposed under Section 624.509, F.S. Chapter 2008-227, L.O.F., eliminated the Florida renewable energy production credit from the alternative minimum tax credit calculation. The purpose of the proposed amendments to Rule 12C-1.0186, F.A.C. (Credit for Florida Alternative Minimum Tax), Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms), is to update these rules and the forms used by the Department to administer the credit for contributions to nonprofit scholarship funding organizations authorized under Sections 220.187 and 624.51055, F.S., and to update provisions on the calculation of the amount of the alternative minimum tax.

SUMMARY: The proposed amendments to Rule 12C-1.0186, F.A.C. (Credit for Florida Alternative Minimum Tax), Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations), and Rule 12C-1.051, F.A.C. (Forms), reflect the changes to the calculation of the alternative minimum tax credit imposed by Chapters 2008-227 and 2009-108, L.O.F., and the expansion of the Florida Nonprofit Scholarship Program provided in Chapter 2009-108, L.O.F.

The proposed amendments to Rule 12C-1.0186, F.A.C. (Credit for Florida Alternative Minimum Tax), provide that the amount of the alternative minimum tax credit is computed without application of the tax credit for contributions to nonprofit scholarship funding organizations or the tax credit for renewable energy production.

The proposed amendments to Rule 12C-1.0187, F.A.C. (Credits for Contributions to Nonprofit Scholarship Funding Organizations): (1) provide that insurers may claim a credit against their insurance premium tax liability for eligible contributions made to a nonprofit scholarship funding organization; (2) clarify that contributions to nonprofit scholarship funding organizations are not payments of

estimated tax or installment payments required under Chapter 220, F.S., or Section 624.5092, F.S.; and (3) remove unnecessary provisions regarding the annual list of eligible nonprofit scholarship funding organizations provided by the Department of Education.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, changes to Form F-1160 (Application for Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations), and Form F-1161 (Application for Rescindment of Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations).

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

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

RULEMAKING AUTHORITY: 213.06(1), 220.187, 220.192(7), 220.193(4), 220.51 FS.

LAW IMPLEMENTED: 213.05, 213.35, 213.755, 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.192, 220.193, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.51055 FS.

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

DATE AND TIME: January 27, 2010, 1:30 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-1.0186 Credit for Florida Alternative Minimum Tax.

(1) If the Florida alternative minimum tax is paid pursuant to Section 220.11(3), F.S., or the Florida alternative minimum tax is offset by the credits provided in Sections 220.187 or 220.193, F.S., an alternative minimum tax credit is allowed by Section 220.186, F.S., in subsequent years.

(2) The amount of the alternative minimum tax credit is equal to the excess of the alternative minimum tax ~~AMT~~ paid over the amount of regular corporate income tax without application of the credits provided in Sections 220.187 or 220.193, F.S., that would have otherwise been due. There is no limitation on the total dollar amount of the credit.

(3) through (4) No change.

Rulemaking ~~Specific~~ Authority 213.06(1), 220.187(12), 220.193(4), 220.51 FS. Law Implemented 220.186, 220.187, 220.193 FS. History–New 12-7-92, Amended _____.

12C-1.0187 Credits for Contributions to Nonprofit Scholarship Funding Organizations.

(1) An Application for Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations ~~(SFO)~~ (Form F-1160, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to receive such credit. Applicants subject to the insurance premium tax imposed under Section 624.509, F.S., may only claim credit for eligible contributions they made to a nonprofit scholarship funding organization against their insurance premium tax liability. All other taxpayers may only claim the credit for eligible contributions made to a nonprofit scholarship funding organization against their corporate income tax liability. Contributions to a nonprofit scholarship funding organization are not payments of estimated tax or installment payments.

(a) through (c) No change.

(2) through (3) No change.

(4) A taxpayer is required to make a separate application for each nonprofit scholarship funding organization ~~SFO~~ it intends to support or any carry forward credit it would like to use.

(5) through (6) No change.

(7) A ~~Effective for tax years beginning on or after January 1, 2006, a~~ taxpayer may apply to the Department for rescindment of all or part of a previously approved credit allocation for a contribution to a nonprofit scholarship funding organization ~~an SFO~~, or a credit carryforward. The rescindment will be approved unless: (1) the taxpayer has had more than one approved rescindment of this credit within the last three (3) tax years; (2) the previously approved credit allocation amount to be rescinded has been claimed as a credit on a previously filed Florida corporate income tax or insurance premium tax return; or (3) the allocation year is closed for all taxpayers. The allocation for a particular year is closed for all

taxpayers at the end of the subsequent calendar year. For example, the allocation year beginning January 1, 2009 ~~2006~~, closes for all taxpayers on December 31, 2010 ~~2007~~, regardless whether the annual allotment has been reached, because there are no more tax years remaining open that began in calendar year 2009 ~~2006~~ as of December 31, 2010 ~~2007~~.

(a) An Application for Rescindment of Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations ~~(SFOs)~~ (Form F-1161, incorporated by reference in Rule 12C-1.051, F.A.C.) must be filed with the Department to rescind all or part of a previously approved credit allocation or credit carryforward allocation.

(b) through (d) No change.

~~(8) The Department and the Department of Education shall develop a cooperative agreement to assist in the administration of this section. The Department of Education shall be responsible for submitting to the Department, by March 15 of each year, a list of eligible nonprofit scholarship funding organizations that meet the eligibility requirements and for monitoring eligibility of nonprofit scholarship funding organizations that meet the eligibility requirements, eligibility of nonpublic schools that meet the requirements, and eligibility of expenditures under this credit provision.~~

Rulemaking ~~Specific~~ Authority 213.06(1), 220.187, 220.51 FS. Law Implemented 213.05, 213.35, 213.755, 220.03(1), 220.131, 220.187, 220.44, 624.51055 FS. History–New 3-15-04, Amended 4-5-07, _____.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) through (11) No change.		
(12)(a) F-1160	Application for Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organizations ~~(SFOs)~~ (R. 07/09 ~~07/08~~)	____ ~~01/09~~
(b) F-1161	Application for Rescindment of Corporate Income Tax and Insurance Premium Tax Credit for Contributions to Nonprofit Scholarship Funding Organization ~~(SFOs)~~ (R. 07/09 ~~07/08~~)	____ ~~01/09~~

(13) through (14) No change.

Rulemaking ~~Specific~~ Authority 213.06(1), 220.187, 220.192(7), 220.193(4), 220.51 FS. Law Implemented 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.192, 220.193, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04, 624.51055 FS. History–New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05 5-1-06, 1-1-08, 1-27-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4639-4640). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NOS.:	RULE TITLES:
12C-1.0191	Capital Investment Tax Credit Program
12C-1.0192	Renewable Energy Technologies Investment Tax Credit
12C-1.0193	Florida Renewable Energy Production Credit
12C-1.051	Forms

PURPOSE AND EFFECT: Section 10, Chapter 2008-227, L.O.F., authorizes businesses which located a new solar panel manufacturing facility in Florida generating at least 400 jobs with an average salary of at least $50,000, to assign or transfer a capital investment tax credit granted to the business. The purpose of the amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), is to include provisions on how businesses may transfer a capital investment tax credit.

The purpose of the proposed creation of Rule 12C-1.0192, F.A.C. (Renewable Energy Technologies Investment Tax Credit), is to provide for the administration of Section 220.192, F.S., including provisions for a taxpayer to transfer the tax credit to another taxpayer, as authorized by section 11, Chapter 2008-227, L.O.F. When adopted, this rule will incorporate the procedures for applying for an allocation of the Florida

renewable energy technologies investment tax credit, for claiming the credit on a Florida corporate income tax return, and for transferring the tax credit.

The purpose of the proposed creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), is to provide for the administration of Section 220.193, F.S., created by section 13, Chapter 2006-230, L.O.F., and amended by section 12, Chapter 2008-227, L.O.F. When adopted, this rule will incorporate the procedures for applying for an allocation of the Florida renewable energy production credit, for claiming the credit on a Florida corporate income tax return, and for transferring the credit to another taxpayer.

The purpose of the proposed amendments to Rule 12C-1.051, F.A.C. (Forms), is to adopt, by reference, the Application for Florida Renewable Energy Production Credit Allocation (Form F-1193) and the Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T). Form F-1193T is used by taxpayers to notify the Department of intent to transfer a Florida renewable energy production credit (authorized by section 13, Chapter 2006-230, L.O.F.), a Florida renewable energy technologies investment tax credit (authorized by section 11, Chapter 2008-227, L.O.F.), or a capital investment tax credit (authorized by section 10, Chapter 2008-227, L.O.F.).

SUMMARY: The proposed amendments to Rule 12C-1.0191, F.A.C. (Capital Investment Tax Credit Program), provide that: (1) a business which located a new solar panel manufacturing facility in Florida generating at least 400 jobs with an average salary of at least $50,000, and received a capital investment tax credit may assign or transfer the credit to another business by filing Form F-1193T (Notice of Intent to Transfer a Florida Energy Tax Credit) with the Department; (2) the transfer must be verified by the Department prior to the transferor claiming the credit; and (3) the letter of authorization from the Department must be attached to the return upon which the credit is claimed.

The creation of Rule 12C-1.0192, F.A.C. (Renewable Energy Technologies Investment Tax Credit), provides that: (1) a business must apply to the Florida Energy and Climate Commission for an allocation of the renewable energies technologies investment tax credit; (2) the use of the credit is limited to the year in which it is authorized to the business; (3) a business may transfer the credit to another business by applying to the Department on Form F-1193T (Notice of Intent to Transfer a Florida Energy Tax Credit); (4) the Department will issue a letter of authorization to transfer the credit; and (5) the letter of authorization from the Department must be attached to the return upon which the credit is claimed.

The creation of Rule 12C-1.0193, F.A.C. (Florida Renewable Energy Production Credit), provides that: (1) renewable energy facilities placed in service after May 1, 2006, and existing renewable energy facilities that meet the required increase in production and sale of electricity from a renewable energy source, must file an Application for Florida Renewable Energy Product Credit Allocation (Form F-1193) with the Department by February 1 of each year; (2) by March 1 of each year, the Department will notify eligible taxpayers of the amount of credit they may claim on their corporate income tax return; (3) unused credits may be transferred to another entity one time by applying to the Department on Form F-1193T (Notice of Intent to Transfer a Florida Energy Tax Credit); (4) the Department will issue a letter of authorization to transfer the credit; (5) the letter of authorization must be attached to the return upon which the credit is claimed; and (6) documentation to substantiate and support entitlement to the credit must be maintained by those facilities for which the credit is authorized.

The proposed amendments to Rule 12C-1.051, F.A.C. (Forms), adopt, by reference, the Application for Florida Renewable Energy Production Credit Allocation (Form F-1193) and the Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T). Form F-1193T is used by taxpayers to notify the Department of intent to transfer a Florida renewable energy production credit (authorized by section 13, Chapter 2006-230, L.O.F.), a Florida renewable energy technologies investment tax credit (authorized by section 11, Chapter 2008-227, L.O.F.), or a capital investment tax credit (authorized by section 10, Chapter 2008-227, L.O.F.).

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

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

RULEMAKING AUTHORITY: 213.06(1), 220.191(8), 220.192(5), (7), 220.193, 220.51 FS.

LAW IMPLEMENTED: 213.35, 213.755, 220.02(8), 220.03(1), 220.11, 220.12, 220.13(1), (2), 220.131, 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.192, 220.193, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS.

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

DATE AND TIME: January 27, 2010, 1:30 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-1.0191 Capital Investment Tax Credit Program.

(1) through (4) No change.

(5) A qualifying business that establishes a qualifying project that includes locating a new solar panel manufacturing facility in Florida that generates a minimum of 400 jobs within six months after commencement of operations with an average salary of at least $50,000, may assign or transfer its capital investment tax credit, or any portion thereof, to any other business. The amount of credit that may be transferred in any year is the lesser of (1) the qualifying business's Florida corporate income tax liability for the tax year, or (2) the credit amount granted for the tax year. A business receiving the transferred credit may use the credit only in the year received, and the credit may not be used in any other tax year. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer a capital investment tax credit for which a transfer is provided. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed.

(6)~~(5)~~ Taxpayers making application for the Capital Investment Tax Credit or transferring a capital investment tax credit should refer to Section 220.191, F.S., for the definition of terms, statutory requirements, and other pertinent guidelines.

Rulemaking ~~Specific~~ Authority 213.06(1), 220.191(8)~~(7)~~, 220.51 FS. Law Implemented 220.191 FS. History–New 8-4-05, Amended 4-5-07, _____.

12C-1.0192 Renewable Energy Technologies Investment Tax Credit.

(1) Taxpayers wishing to obtain an allocation of renewable energy technologies investment tax credit must apply to the Florida Energy and Climate Commission, as provided in Section 220.192, F.S.

(2) For tax years beginning on or after January 1, 2009, a corporation, general partnership, limited partnership, limited liability company, unincorporated business, or any other business entity or subsequent transferee may transfer the renewable energy technologies investment tax credit, in whole or in part, to any taxpayer by written agreement. A taxpayer receiving the transferred credit may apply the credit with the same effect as if the transferee had incurred the eligible costs. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer a renewable energy technologies investment tax credit. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed.

Rulemaking Authority 213.06(1), 220.192(5), (7), 220.51 FS. Law Implemented 220.192 FS. History–New _____.

12C-1.0193 Florida Renewable Energy Production Credit.

(1) A Florida Renewable Energy Production Credit is provided in Section 220.193, F.S., for the sale of electricity from a new Florida renewable energy facility operationally placed in service after May 1, 2006, and for increases of more than five percent (5%) in the production and sale of electricity from renewable energy sources at an existing Florida renewable energy facility. The terms "sale" and "sold" include the use of electricity by the producer of such electricity from renewable sources if such use reduces the amount of electricity that the producer would otherwise have to purchase. To claim the credit, an Application for Florida Renewable Energy Production Credit Allocation (Form F-1193, incorporated by reference in Rule 12C-1.051, F.A.C.), must be filed with the Department on or before February 1 of each year for an allocation of credit. The allocation of credit is based upon the applicant's increased production and sales of electricity and the increased production and sales of all applicants. On or before March 1 of each year, the Department will notify eligible taxpayers by letter of the amount of credit that is allocated to them and the tax year in which the taxpayer may claim the credit on its Florida corporate income tax return. A copy of this letter must be attached to the taxpayer's Florida corporate income tax return on which the credit is taken.

(2) Taxpayers that increase both production and sales of renewable electrical energy by more than five percent (5%) over the 2005 calendar year for each expanded Florida renewable energy facility may submit one application each year for each qualifying facility. For a new Florida renewable energy facility, the credit is based on the taxpayer's sale of the

facility's entire electrical production. A taxpayer may not transfer its right to apply for a credit to another taxpayer. Florida Renewable Energy Production credits may only be taken once against the Florida corporate income tax, may not be carried back to an earlier tax year, and must be taken in the order prescribed in Section 220.02(8), F.S. A taxpayer claiming the credit on its Florida corporate income tax return must add back the amount of the credit to its Florida net income. Credit amounts that are not granted in full or in part due to the annual $5 million limitation are not eligible for a Florida Renewable Energy Production credit in later years.

(3) The Florida Renewable Energy Production Credit may be transferred in a merger or acquisition. In addition, unused credits may be transferred one time (outside a merger or acquisition) to another taxpayer in whole or in increments of not less than twenty-five percent (25%) of the remaining credit. Taxpayers are required to file a Notice of Intent to Transfer A Florida Energy Tax Credit (Form F-1193T, incorporated by reference in Rule 12C-1.051, F.A.C.) to transfer the unused renewable energy production credits available for transfer. The transfer must be verified by the Department prior to the transferee claiming the credit. Within 15 days of receipt of a completed Form F-1193T, the Department will notify the transferor and the transferee by letter of the amount of tax credit authorized for transfer. A copy of the letter from the Department allowing the transfer must be attached by the transferee to the Florida Corporate Income/Franchise and Emergency Excise Tax Return (Form F-1120, incorporated by reference in Rule 12C-1.051, F.A.C.) on which the credit is claimed. The transfer of a credit does not affect the time for taking the credit, and the credit is subject to the same limitations imposed on the transferor.

(4) Every taxpayer claiming a Florida Renewable Energy Production Credit must retain documentation that substantiates and supports the credit, a copy of the letter received from the Department granting the credit, a schedule reconciling all credit carryovers, transfers, and sales, and a copy of the letter from the Department allowing the transfer until tax imposed by Chapter 220, F.S., may no longer be determined and assessed under Section 95.091(3), F.S. Documentation to substantiate and support the credit includes: production records or other evidence of the amount of electricity produced; evidence of the increase in production and sales of electricity over the 2005 calendar year by an expanded facility; and evidence establishing that the electricity was produced from renewable energy.

Rulemaking Authority 213.06(1), 220.193, 220.51 FS. Law Implemented 213.35, 220.02(8), 220.03(1), 220.131, 220.193, 220.21 FS. History–New ____.

12C-1.051 Forms.

(1)(a) The following forms and instructions are used by the Department in its administration of the corporate income tax and franchise tax. These forms are hereby incorporated by reference in this rule.

(b) No change.

Form Number	Title	Effective Date
(2) through (12) No change.		
(13)(a) F-1193	Application for Florida Renewable Energy Production Credit Allocation (R. 01/09)	____
(b) F-1193T	Notice of Intent to Transfer A Florida Energy Tax Credit (R. 12/09)	____

(13) through (14) renumbered (14) through (15) No change.

Rulemaking ~~Specific~~ Authority 213.06(1), 220.192(5), (7), 220.193(4), 220.51 FS. Law Implemented 213.755(1), 220.11, 220.12, 220.13(1), (2), 220.14, 220.15, 220.16, 220.181, 220.182, 220.183, 220.184, 220.1845, 220.185, 220.186, 220.187, 220.1895, 220.19, 220.191, 220.192, 220.193, 220.21, 220.211, 220.22, 220.221, 220.222, 220.23, 220.24, 220.241, 220.31, 220.32, 220.33, 220.34, 220.41, 220.42, 220.43, 220.44, 220.51, 220.721, 220.723, 220.725, 220.737, 220.801, 220.803, 220.805, 220.807, 220.809, 221.04 FS. History–New 9-26-77, Amended 12-18-83, Formerly 12C-1.51, Amended 12-21-88, 12-31-89, 1-31-91, 4-8-92, 12-7-92, 1-3-96, 3-18-96, 3-13-00, 6-19-01, 8-1-02, 6-19-03, 3-15-04, 9-24-04, 6-28-05 5-1-06, 4-5-07, 1-1-08, 1-27-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4640-4641). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NO.:	RULE TITLE:
12C-1.0221	Returns, Notices, and Elections; Signing and Verification

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), is to provide procedures for how and when the Department will accept an

electronic signature of the preparer of a corporate income tax return or notice when the tax return preparer is other than the taxpayer.

SUMMARY: The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), provide that the inclusion of the preparer's name on an electronically-filed corporate income tax return or notice: (1) means that the return or notice has been signed by the tax return preparer; (2) meets the requirement that the tax return preparer must have examined the information on the return or notice and must declare that it is true, correct, and complete to the best of the preparer's knowledge and belief; and (3) follows the requirements of Internal Revenue Notice 2004-54 (Alternative Methods of Signing for Income Tax Return Preparers).

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

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

RULEMAKING AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 213.755, 220.221, 220.23(2)(a) FS.

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

DATE AND TIME: January 27, 2010, 1:30 p.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

THE FULL TEXT OF THE PROPOSED RULE IS:

12C-1.0221 Returns, Notices, and Elections; Signing and Verification.

(1) through (2) No change.

(3) Each return or notice required to be filed under this code shall be verified by a written declaration that is made under the penalties of perjury. A return prepared for the taxpayer by another person shall contain a declaration by the preparer that it was prepared on the basis of all information of which the preparer has knowledge.

(a) Florida corporate income tax returns (Form F-1120), amended returns (Form F-1120X), and partnership information returns (Form F-1065) shall contain a declaration, under the penalties of perjury, that the officer, partner, or fiduciary signing the return has examined the return, including accompanying schedules and statements, and declares that to the best of his or her knowledge and belief the return is true, correct, and complete. If such returns are prepared by a person other than the taxpayer, the preparer shall declare, under penalties of perjury, that the return, accompanying schedules, and statements are true, correct, and complete to the best of his or her knowledge and belief based on all of the information of which he or she has any knowledge.

(b) Affiliations schedules (Form F-851) shall contain a declaration, under the penalties of perjury, that the officer or fiduciary signing the schedule has examined the information and statements contained therein and declares to the best of his or her knowledge and belief that the schedule is true and correct.

(c) Florida tentative income tax return and application for extension of time to file income tax return (Form F-7004) and authorization and consent of subsidiary corporation to be included in a consolidated return (Form F-1122) shall contain a declaration, under the penalties of perjury, that the person signing such form has been authorized to sign the form and that the information and statements therein are true and correct to the best of his or her knowledge and belief.

(4) No change.

(5) Tax Return Preparers Other Than the Taxpayer.

(a) If an electronically filed return is prepared by a person other than the taxpayer, the declaration of the preparer that such return or notice was prepared on the basis of all information of which he or she has any knowledge shall be deemed to be signed when the preparer includes his or her name in the completed electronic return data identified as preparer information.

(b) When the preparer includes his or her name in the completed electronic return data identified as preparer information, it will also be deemed to serve as the written declaration made under penalties of perjury in accordance with subsection (3).

(c) The requirements of Internal Revenue Notice 2004-54, Alternative Methods of Signing for Income Tax Return Preparers (August 16, 2004, herein incorporated by reference), will be followed regarding the signature of a tax return preparer (other than the taxpayer) for returns submitted electronically to a taxpayer and filed with the Department by the taxpayer.

(d) All filed returns, including electronically-filed returns, prepared by a person other than the taxpayer, must include all information that is required on the return for paid preparers, including the firm name of the preparer (or individual name for a self-employed preparer) and address, and the preparer's tax identification number and federal employer identification number.

Rulemaking ~~Specific~~ Authority 213.06(1), 220.51 FS. Law Implemented 213.755, 220.221, 220.23(2)(a) FS. History–New 3-5-80, Amended 12-18-83, Formerly 12C-1.221, Amended 12-21-88, 4-8-92, 1-28-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, Department of Revenue, P.O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4111

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, p. 4641). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on September 25, 2009 (Vol. 35, No. 38, pp. 4637-4638). A rule development workshop was conducted on October 13, 2009. No comments were received by the Department.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.301	Conditions for Issuance of Permits
40D-2.801	Water Use Caution Areas

PURPOSE AND EFFECT: To amend Chapter 40D-2, F.A.C., and Part B, Basis of Review, of the Water Use Permit Information Manual to set forth the permitting criteria applicable to new and renewal water use permit applications and water use permittees that will be governed by the Minimum Flows and Levels Recovery Strategy and Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area (the "Comprehensive Plan"). The Comprehensive Plan is encompassed within rule amendments to Chapter 40D-80, F.A.C. that are simultaneously with this rulemaking being proposed for adoption.

SUMMARY: The proposed amendments revise the Conditions for Issuance of Permits, Part B, Basis of Review, of the Water Use Permit Information Manual, and the Northern Tampa Bay Water Use Caution Area ("NTBWUCA") provisions to reflect the permitting criteria for wetlands, lakes, streams, springs, saltwater intrusion/aquifers levels and minimum flows and levels applicable to water withdrawals within the Northern Tampa Bay Water Use Caution Area through the year 2020 that will be governed by the Comprehensive Plan. The revised permitting criteria, together with all other permitting criteria, if satisfied, allows for the renewal of Tampa Bay Water's Central System Facilities that are currently permitted pursuant to rules that will expire in December 2010. The Comprehensive Plan is encompassed within rule amendments to Chapter 40D-80, F.A.C., that are simultaneously with this rulemaking being proposed for adoption. The amendments also clarify the purpose for which a water use caution area is established.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule revisions to Chapters 40D-2 and 40D-80, F.A.C., establish Minimum Flow and Level recovery and prevention strategy elements and other necessary rule elements to address unacceptable adverse environmental impacts and Minimum Flows and Level impacts in the Northern Tampa Bay Water Use Caution Area. These revisions continue existing requirements for applicants and existing permittees, except as to certain provisions for renewal of Tampa Bay Water's Consolidated Permit for the Central

System Facilities. Tampa Bay Water is currently permitted for the Central System Facilities pursuant to the terms of the Partnership Agreement and related rules which expire on December 31, 2010. The amendments impose no additional requirements to applicants or existing water use permittees other than Tampa Bay Water. A number of the requirements for Tampa Bay Water currently exist as part of the Partnership Agreement or as permit or rule conditions, and therefore, impose no additional cost. New assessment and reporting requirements related to stream and spring flow impacts may require additional monitoring sites, input and analysis of monitoring data, and possibly revisions to the Optimized Regional Operations Plan. For the District, evaluation, processing and monitoring of available information to assess the impacts remaining in 2020 may create a one-time additional cost. Small businesses, including those that may be applicants or existing permittees, are not expected to incur costs resulting from the proposed rule. No changes in state or local government revenues are anticipated.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.079(4)(a), 373.083(5), 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.196, 373.1963, 373.216, 373.217, 373.219, 373.223, 373.227, 373.228, 373.229, 373.2295, 373.239, 373.243, 373.250 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: Annette Zielinski, Sr. Administrative Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-2.091 Publications Incorporated by Reference.

(1) The following publications are hereby incorporated by reference into this Chapter, and are available from the District's website at www.watermatters.org or from the District upon request:

(a) Water Use Permit Information Manual Part B, "Basis of Review" (_____) ~~(11-2-09)~~, and~~;~~

(b) No change.

(2) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.079(4)(a), 373.085(5), 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History–New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, 2-13-08, 2-18-08, 4-7-08, 5-12-08, 7-20-08, 9-10-08, 12-30-08, 1-20-09, 3-26-09, 7-1-09, 8-30-09, 11-2-09, _____.

40D-2.301 Conditions for Issuance of Permits.

(1) In order to obtain a Water Use Permit, an Applicant must demonstrate that the water use is reasonable and beneficial, is in the public interest, and will not interfere with any existing legal use of water, by providing reasonable assurances, on both an individual and a cumulative basis, that the water use:

(a) Is necessary to fulfill a certain reasonable demand;

(b) Will not cause quantity or quality changes that adversely impact the water resources, including both surface and ground waters;

(c) Will comply with the provisions of 4.2 of the Basis of Review described in Rule 40D-2.091, F.A.C. regarding ~~not cause~~ adverse ~~environmental~~ impacts to wetlands, lakes, streams, estuaries, fish and wildlife or other natural resources;

(d) Will not interfere with a reservation of water as set forth in Rule 40D-2.302, F.A.C.

(e) Will comply with the provisions of 4.3 of the Basis of Review described in Rule 40D-2.091, F.A.C., regarding minimum flows and levels;

(f) Will utilize the lowest water quality the Applicant has the ability to use, provided that its use does not interfere with the recovery of a water body to its established MFL and it is not a source that is either currently or projected to be adversely impacted;

(g) Will comply with the provisions of 4.5 of the Basis of Review described in Rule 40D-2.091, F.A.C. regarding ~~not significantly induce~~ saline water intrusion;

(h) Will not cause pollution of the aquifer;

(i) Will not adversely impact offsite land uses existing at the time of the application;

(j) Will not adversely impact an existing legal withdrawal:

(k) Will incorporate water conservation measures;

(l) Will incorporate use of Alternative Water Supplies to the greatest extent practicable;

(m) Will not cause water to go to waste; and

(n) Will not otherwise be harmful to the water resources within the District.

(2) through (3) No change.

Rulemaking ~~Specific~~ Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.223, 373.229 FS. History–Readopted 10-5-74, Amended 12-31-74, 2-6-78, 7-5-78, Formerly 16J-2.11, 16J-2.111, Amended 1-25-81, 10-1-89, 2-10-93, 8-3-00, 4-14-02, 1-1-07, _____.

40D-2.801 Water Use Caution Areas.

(1) When the Governing Board determines that regional action is necessary to address cumulative water withdrawals which are causing or may cause adverse impacts to the water and related natural ~~land~~ resources or the public interest, it shall declare, delineate, or modify Water Use Caution Areas. The Governing Board shall declare a Water Use Caution Area by adopting a rule or issuing an order imposing special requirements for existing water users and permit applicants to prevent or remedy impacts to water and related natural resources or the public interest ~~land site-specific problems~~.

(2) No change.

(3) The regions described in this Rule have been declared Water Use Caution Areas by the District Governing Board. This Rule reaffirms the declaration of Water Use Caution Areas and creates conditions to be applied to water users in those areas.

(a) Northern Tampa Bay Water Use Caution Area. To address groundwater ~~ground water~~ withdrawals that have resulted in lowering of lake levels, destruction or deterioration of wetlands, reduction in streamflow, and salt water intrusion, the Governing Board declared portions of northern Hillsborough County, southwestern Pasco County, and all of Pinellas County a Water Use Caution Area on June 28, 1989, pursuant to Resolution Number 934. The Governing Board approved expansion of the boundaries of the Water Use Caution Area in June 2007.

1. No change.

2. Regulations specifically applicable to this Water Use Caution Area are set forth ~~contained~~ in "Sections 4.2, 4.3, 4.5 and 7.3, Part B, Basis of Review, of the Water Use Permit Information Manual and are in addition to all other regulations set forth in Chapter 40D-2, F.A.C., and Part B and Part D of the Water Use Permit Information Manual, incorporated by reference in Rule 40D-2.091, F.A.C."

3. through 4. No change.

(b) 1. through 4. No change.

5. Any permit with a withdrawal point located within the boundaries of the SWUCA is deemed to be within the SWUCA. Permits with permitted withdrawals in more than one Water Use Caution Area (WUCA) shall be subject to the conservation and reporting requirements of the WUCA within which the majority of permitted quantities are withdrawn, or projected to be withdrawn, in addition to all other rule criteria, including Minimum Flows and Levels requirements, as set forth in Chapter 40D-2, F.A.C., and the Water Use Permit Information Manual incorporated by reference in Rule 40D-2.091, F.A.C ~~Basis of Review~~. Nothing in the rules and Basis of Review ~~for Water Use Permitting~~ specific to the SWUCA shall be interpreted or applied in any manner that would interfere with the Comprehensive ~~Recovery~~ Plan ~~Strategy~~ for the Northern Tampa Bay Area as outlined in Rule 40D-80.073, F.A.C.~~, or the Northern Tampa Bay New Water Supply and Ground Water Withdrawal Reduction Agreement.~~

6.through 7. No change.

(c) No change.

Rulemaking ~~Specific~~ Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.0395, 373.042, 373.0421, 373.171, 373.216, 373.219, 373.223 FS. History–Readopted 10-5-74, Formerly 16J-3.30, Amended 10-1-89, 11-15-90, 3-1-91, 7-29-93, 1-1-03, 1-1-07, 10-1-07, 2-13-08, 4-7-08, _____.

The following provisions are changed in the Water Use Permit Information Manual, Part B, Basis of Review, which is incorporated by reference in Rule 40D-2.091, F.A.C.:

Water Use Permit Information Manual

Part B, Basis of Review

CHAPTER 4 CONDITIONS FOR ISSUANCE – TECHNICAL CRITERIA

4.2 ENVIRONMENTAL IMPACTS

The following sentence is added to section 4.2 as a new last paragraph just before the subsection titled "A. Wetlands":

Compliance with the performance standards for permittees encompassed within the Comprehensive Plan set forth in Rule 40D-80.073, F.A.C., shall be addressed as specified in Rule 40D-80.073, F.A.C.

Revised _____

4.3 MINIMUM FLOWS AND LEVELS

The following changes are made to the subsection titled "A. Withdrawals That Affect Water bodies for Which Minimum Flows and Levels Have Been Adopted within Those Portions of Hillsborough County north of State Road 60, and Pasco and Pinellas Counties (hereinafter the "Area"):

A. Withdrawals That Affect Water Bodies for Which Minimum Flows and Levels Have Been Adopted Within the Northern Tampa Bay Water Use Caution Area ~~Within Those Portions of Hillsborough County north of State Road 60, and Pasco and Pinellas Counties (hereinafter the "Area")~~. In establishing Minimum Flows and Levels, the District has determined that the actual water levels in many of the water bodies for which Minimum Flows and Levels have been established are below the Minimum Flow and Level. The District is implementing a recovery strategy to address water bodies that are below their Minimum Flows and Levels. The recovery strategy, and associated mitigation plan, referred to as the Comprehensive Plan, is described in Rule 40D-80.073, F.A.C. ~~The District is expeditiously implementing a recovery strategy for the Area in keeping with the District's legislative mandate pursuant to Sections 373.036, 373.0361, 373.0421, 373.0831, 373.1962 and 373.1963, F.S., to resolve the water supply and water resource impact concerns of the Northern Tampa Bay Area in a cooperative manner with the water suppliers and interested parties. This Section 4.3 A. and Chapter 40D-80, F.A.C., set forth the regulatory portion of the first phase (through~~

~~December 31, 2010) of the recovery strategy for the Area.~~ The following requirements of this Section 4.3 A. effectuate part of the Comprehensive Plan ~~that recovery strategy~~ and shall be effective only through December 31, 2020 ~~2010~~**.** ~~The District will evaluate the state of knowledge of these matters in 2010. Based on that evaluation, the District may revise this Section 4.3 A. as appropriate~~. Compliance with Section 4.3 A. does not, by itself, satisfy the other conditions for issuance ~~requirements~~ of Chapter 40D-2, F.A.C., including Rule 40D-2.301, F.A.C ~~for new withdrawals proposed after August 3, 2000~~.

1. For New Withdrawals Proposed After August 3, 2000, Except For Withdrawals Subject to 4.3 A.2. Below.

a. Where above Minimum Flow or Level – For water bodies that are predicted to be impacted by the proposed withdrawal and where the actual flow or level is at or above a Minimum Flow or Level, withdrawals shall be limited to that quantity, as may be further limited by other provisions of Rule 40D-2.301, F.A.C., and this Basis of Review, that does not cause the actual flow to fall below the Minimum Flow, nor cause the actual level to fall below the Minimum Level on a long-term average basis (the "Baseline Quantity"). For purposes of this Section 4.3 A., "long-term" means a period which spans the range of hydrologic conditions which can be expected to occur based upon historical records, ranging from high water levels to low water levels. In the context of a predictive model simulation, a long-term simulation will be insensitive to temporal fluctuations in withdrawal rates and hydrologic conditions, so as to simulate steady-state average conditions. In the context of an average water level, the average will reflect the expected range and frequency of levels based upon historic conditions. This period will vary because reasonable scientific judgment is necessary to establish the factors to be used in the assessment of each application depending on the geology and climate of the area of withdrawal, the depth of and number of wells and the quantity to be withdrawn.

i. If the withdrawal of the requested quantity of water does not meet the condition in 4.3 A.1.a. above, the applicant shall identify the Baseline Quantity, and the District shall consider, as may be further limited by other provisions of Rule 40D-2.301, F.A.C., and this Basis of Review, the authorization of the additional quantity of water to be withdrawn where the applicant:

(1) Demonstrates that there are no reasonable means to modify the proposed withdrawal to meet the conditions in 4.3 A.1.a., including the use of alternative supplies, to reduce or replace the amount of the requested quantity exceeding the Baseline Quantity. Cost shall not be the sole basis for determining whether the means are reasonable; and

(2) Provides reasonable assurance that significant harm will be prevented to the wetlands and surface water bodies that could be affected by the proposed withdrawal if the requested quantity is withdrawn; and

(3) Demonstrates that any measures used to provide the reasonable assurance specified in 4.3 A.1.a.i(2) above will not cause a violation of any of the criteria listed in paragraphs 40D-2.301(1)(a)-(n), Rule 40D-4.301 or 40D-4.302, F.A.C., as applicable.

(1) The measures proposed may include hydration of affected water bodies or modification of existing drainage structures to prevent significant harm to affected water bodies, provided that the measures within the EMP minimize the need for supplemental hydration to the greatest extent practical.

ii. To support whether the applicant has provided reasonable assurance pursuant to 4.3 A.1.a.i(2) above, the applicant must submit an environmental management plan ("EMP") for approval by the District describing the measures to be used to prevent significant harm from withdrawal of the requested quantity. The EMP must include a monitoring program for early detection of impacts to wetlands and surface water bodies that could be affected by the proposed withdrawal and an implementation scheme for corrective actions to prevent unacceptable adverse impacts. The EMP shall include provisions to evaluate changes in water quality, water levels, vegetation, and fish and wildlife. The EMP shall also include clear thresholds as to when the implementation scheme will be initiated. The implementation scheme shall include details as to how the proposed measures will be effected, the methods to be followed in order to functionally replicate the natural hydrologic regime of affected water bodies, and efforts to be undertaken to minimize the effects of changes in water chemistry. The implementation scheme shall also require reduction of pumping to the Baseline Quantity as a corrective action if no other measures, including supplemental hydration, are successful in preventing unacceptable adverse impacts to wetlands and surface water bodies due to withdrawals. An approved EMP shall be incorporated as a special condition to any permit issued.

(2) If supplemental hydration is proposed, the applicant will be required to identify in the application and monitor a representative number of wetlands in the vicinity of the withdrawal. The monitored wetlands shall include a representative number of MFL or MFL surrogate wetlands not receiving supplemental hydration. An MFL surrogate wetland is the nearest wetland site of the same type and condition to the proposed withdrawal that is not anticipated to require supplemental hydration. The monitored wetlands shall also include, where available, non-MFL wetlands not receiving hydration as well as MFL and non-MFL wetlands proposed for supplemental hydration.

(3) A representative number of wetlands is a number of a particular type or types of wetland**s**, in the vicinity of the withdrawal, sufficient to adequately determine the hydrologic response of the wetlands and surface water bodies that could be affected by the proposed withdrawal to rainfall and water withdrawals.

(4) If supplemental hydration is proposed to rehydrate lakes or wetlands, in order for a water use permit authorizing the Requested Quantity to be issued, the applicant shall demonstrate that ~~Governing Board must determine whether~~**:**

(A) The measures within the proposed EMP minimize the quantity of water required for supplemental hydration by raising water levels by filling or blocking ditches, removing culverts or outflows, or other alterations, where practical and feasible, and whether such alterations will achieve the applicable minimum level (where the measures proposed by the application identify the need for specific Environmental Resource Permits, such permits must be obtained prior to withdrawal of the requested quantities);

(B) The applicant has proposed use of the lowest quality of water for rehydration which is scientifically, technically and environmentally feasible to prevent unacceptable adverse impacts;

(C) Measures within the proposed EMP minimize the need for ground water hydration to the greatest extent practical based on the quantity, frequency and duration of the anticipated use;

(D) The measures within the proposed EMP minimize or avoid the potential for unacceptable adverse impacts to water quality or fish and wildlife in the wetland or surface water body receiving supplemental hydration, and, if such a potential exists, the EMP contains adequate measures to detect impacts at an early stage and to prevent unacceptable adverse impacts in an expeditious manner;

(E) The measures within the proposed EMP minimize or avoid the potential for the establishment or spread of undesirable aquatic vegetation in the wetland or surface water body receiving supplemental hydration and, if such a potential exists, the EMP contains adequate measures to detect vegetative changes at an early stage and to prevent undesirable vegetative changes in an expeditious manner;

(F) The quantity of water needed for supplemental hydration is outweighed by the quantity of water made available for other uses;

(G) The quantity of water needed for supplemental hydration is reasonable compared to the unacceptable adverse impacts to be prevented;

(H) The unacceptable adverse impact to be prevented by supplemental hydration results in benefits that outweigh the potential for impacts caused by the additional withdrawal; and

(I) The quantity of the water used for supplemental hydration is reasonable considering the proportion expected to percolate into the aquifer.

iii. Wetlands or other surface water bodies receiving supplemental hydration must have flow meters to measure the quantity of supplemental hydration water used at each site. This information shall be reported to the District as required by permit condition.

iv. Pursuant to Chapter 373, F.S., and Chapter 40D-2, F.A.C., permits may be conditioned to include aquifer regulatory levels intended to achieve compliance with one or more of the Chapter 40D-2, F.A.C., conditions for issuance, including paragraph 40D-2.301(1)(d), F.A.C., Minimum Flows and Levels criteria. The aquifer regulatory level that will be appropriate for any particular permit, considering all conditions for issuance, is the level that results from the more stringent condition.

v. If supplemental hydration with ground water is proposed pursuant to paragraph 4.3 A.1.a.i. and 4.3 A.1.a.ii, the applicant will be required to propose a Floridan aquifer regulatory level for each of the MFL wetlands (defined in 4.3 A.1.a.vi.(2)(A) below) or MFL surrogate wetlands not receiving supplemental hydration in the vicinity of the proposed water use permit. The aquifer regulatory level for each MFL wetland or MFL surrogate wetland not receiving supplemental hydration with ground water shall be the Floridan aquifer level that does not cause the Minimum Level to be exceeded on a long-term basis, based solely on withdrawal management. The aquifer regulatory level for MFL wetlands receiving supplemental hydration with ground water shall be the Floridan aquifer level taking into account the benefits of the hydration.

vi. The procedures described below are those applicable to the determination of an aquifer regulatory level relating to paragraph 40D-2.301(1)(e)~~(d)~~, F.A.C., where the District ~~Governing Board~~ authorizes a quantity of Upper Floridan aquifer ground water pursuant to 4.3 A.1.a.i. where an applicant proposes prevention measures, and shall be determined for, and specified in**,** any permit issued as follows:

(1) The aquifer regulatory level is the long-term average potentiometric level that will not result in significant harm to a water body for which a Minimum Flow or Level has been established in Chapter 40D-8, F.A.C., taking into account the effects of prevention measures such as hydration on the impacted Minimum Flow or Level. The aquifer regulatory level for the Upper Floridan aquifer shall be proposed by the water use permit applicant with the permit application for review, modification as needed, and approval by the District as part of any permit issued. The aquifer regulatory level will be used to determine the annual average daily quantity for the permit that does not result in significant harm to water resources taking into account prevention measures such as hydration. The aquifer regulatory level is one of several long-term compliance tools that are evaluated by the District, but is not a mechanism to control withdrawals on a short term basis. The aquifer regulatory level and the quantities granted

based on this level shall be adjusted if data indicate that significant harm is occurring because of the withdrawals or if data indicates that additional withdrawals can be permitted without causing significant harm.

(2) The aquifer regulatory level for the Upper Floridan aquifer shall be calculated based on the relationship between the potentiometric level of the Upper Floridan aquifer and water levels in the surficial aquifer system and associated wetlands and lakes, taking into account the measures proposed by the applicant to prevent the significantly harmful impacts of withdrawals. The Floridan aquifer regulatory levels associated with MFL wetlands or MFL surrogate wetlands not receiving supplemental hydration, shall be equal to the Floridan aquifer level that does not cause the Minimum Level to be exceeded on a long-term basis, based solely on withdrawal management. The Floridan aquifer regulatory level associated with MFL wetlands that receive supplemental hydration shall be determined according to the following guidelines:

(A) Determine the historic average Upper Floridan aquifer potentiometric level in the vicinity of the wetland or lake for which a minimum wetland level or minimum lake level has been established in Chapter 40D-8, F.A.C. (Referred to hereafter as "MFL wetland" or "MFL lake," as applicable). The historic average potentiometric level is estimated for each site as follows:

(i) If an Upper Floridan aquifer monitor well is located in the vicinity, and if the available pre-withdrawal potentiometric level data are sufficient to capture the expected long-term range of pre-withdrawal potentiometric levels, then the historic average potentiometric level is calculated by taking the average of the pre-withdrawal potentiometric level data.

(ii) If an Upper Floridan aquifer monitor well is located in the vicinity, and if the available pre-withdrawal potentiometric level data are not sufficient to capture the expected long-term range of pre-withdrawal potentiometric levels, then the historic average potentiometric level shall be estimated using best available data and methods. Methods may include correlation of the available pre-withdrawal potentiometric level data to historic potentiometric data in other areas of the region and estimating the historic average potentiometric level at the site in question using statistical analysis.

(iii) If no pre-withdrawal potentiometric level data for an existing Upper Floridan aquifer monitor well in the vicinity are available, then the historic average potentiometric level is determined by adding the absolute value of the estimated current average cumulative drawdown at the well to the current average potentiometric level of the well.

(iv) If no Upper Floridan aquifer monitor well exists in the vicinity of each MFL lake or MFL wetland, the historic average potentiometric level can be determined based on an evaluation of regional aquifer potentiometric level data, including potentiometric surface maps.

(B) Estimate the resulting cumulative Upper Floridan aquifer potentiometric level drawdown at the location of the MFL wetland or MFL lake utilizing acceptable ground water flow models or analytical techniques**,** resulting from the proposed and existing withdrawals, taking into account the effect of the prevention measures proposed by the permit applicant such that the drawdown together with the prevention measures will not cause significant harm to the MFL wetland or MFL lake (hereinafter referred to as the "Resulting Drawdown").

(C) Subtract the Resulting Drawdown from the historic average potentiometric level to calculate the aquifer regulatory level.

(D) The Resulting Drawdown shall be determined using industry-standard ground water flow models or analytical techniques, based on best available aquifer-characteristic information, simulating long-term average water use and hydrologic conditions.

vii. If the District ~~Board~~ determines that reasonable assurances have been provided pursuant to 4.3 A.1.a., the District ~~Board~~ shall authorize the additional quantity of water to be withdrawn.

b. For new quantities that affect a water body that is below Minimum Flow or Level – requests for withdrawals of new quantities of water that are projected to impact a water body which is below its minimum flow or level shall not be approved unless the new quantities are used solely for furthering the attainment of the objective set forth in the Comprehensive ~~Recovery~~ Plan ~~recovery strategy~~ in Rule 40D-80.073, F.A.C.

2.~~e~~. Quantities Authorized to Be Withdrawn as of August 3, 2000.

a.~~i.~~ Where above Minimum Flow or Level – For water bodies that are affected by ~~the~~ withdrawals, and where the actual flow or level is at or above a Minimum Flow or Level, withdrawals, including those from the Tampa Bay Water Central System Facilities, shall be evaluated pursuant to 4.3 A.1.a. above.

b.~~ii.~~ Where below Minimum Flow or Level – For water bodies that are affected by the withdrawal and where the actual flow or level is below a Minimum Flow or Level:

i.~~(A)~~ Tampa Bay Water Central System Facilities ~~Wellfields~~.

Compliance with established Minimum Flows and Levels for waterbodies that are adversely impacted by withdrawals from the Tampa Bay Water Central System Facilities shall be addressed as specified in Sections 4.3 A. and 7.3 8., Part B, Basis of Review, of the Water Use Permit Information Manual and Rule 40D-80.073, F.A.C. ~~The Central System Wellfields (i.e., Cosme-Odessa, Eldridge-Wilde, Section 21, South Pasco, Cypress Creek, Cross Bar Ranch, Starkey, Morris Bridge, Northwest Hillsborough Regional, Cypress Bridge, and North Pasco) are encompassed within a recovery strategy referenced~~

~~in Rule 40D-80.073, F.A.C., and are controlled by the New Water Supply and Ground Water Reduction Agreement (Agreement) through the term of the Agreement. Recovery to Wetland and Lake Minimum Levels for wetlands and lakes described in and established in subsection 40D-8.623(3) and 40D-8.624(12), F.A.C., is the objective of the recovery strategy under Rule 40D-80.073, F.A.C., and reductions in ground water withdrawals from the Central System Wellfields to reduce the impacts of withdrawals on wetlands and lakes is an objective of the Agreement. Therefore, withdrawals from these Wellfields shall not be required to comply with the Minimum Flows and Levels established within the area described in Section 4.3 A. during the term of the Agreement, nor shall Aquifer Regulatory Levels as set forth in Section 4.3 A.1.a.v. be applied to these Wellfields during the term of the Agreement.~~

ii.~~(B)~~ Other Existing Permittees as of August 3, 2000.

Compliance with the performance standards for permittees encompassed within the Comprehensive Plan set forth in Rule 40D-80.073, F.A.C., shall be addressed as specified in Rule 40D-80.073, F.A.C.

~~Permittees not subject to 4.3 A.2.b.i. above within this Area who apply for renewal shall reduce the impacts, if any, of their withdrawals, as set forth in subsection 40D-80.073(5), F.A.C., and therefore are not required to comply with the Minimum Flows and Levels established within this Area through the period of the first phase of the recovery strategy, ending December 31, 2010.~~

Revised 11-2-09, _____.

4.5 SALINE WATER INTRUSION

The following sentence is added to section 4.5 as a new last paragraph:

Compliance with the performance standards for permittees encompassed within the Comprehensive Plan set forth in Rule 40D-80.073, F.A.C., shall be addressed as specified in Rule 40D-80.073, F.A.C.

Revised 1-1-07, _____.

7.0 WATER USE CAUTION AREAS

7.3 NORTHERN TAMPA BAY WATER USE CAUTION AREA

1. through 7. No change.

8. Tampa Bay Water Central System Facilities Permitting

From the 1930's through the 1990's eleven wellfields were developed within the Northern Tampa Bay Water Use Caution Area (the "Area"). Those wellfields are Cosme-Odessa, Eldridge-Wilde, Section 21, South Pasco, Cypress Creek, Cross Bar Ranch, Starkey, Morris Bridge, Northwest Hillsborough Regional, Cypress Bridge, and North Pasco, and are collectively hereinafter referred to as the Central System Facilities. The Central System Facilities are operating under Water Use Permit No. 2011771 (the "Consolidated Permit"). The Consolidated Permit will expire on December 31, 2010. The predominant cause of the lowered aquifer levels in the vicinity of the Central System Facilities is groundwater withdrawals from the Central System Facilities. As a result, wetlands, lakes, streams, springs and aquifer levels in the vicinity of the Central System Facilities have been impacted by reduced water flows and levels. In addition to the impacts occurring to wetlands, lakes, streams, springs and aquifer levels, the existing water levels and flows in certain wetlands, lakes, streams, springs and aquifer levels are below the Minimum Flows or Levels established by the District. The recovery strategy developed by the District and ending December 31, 2010, has had the effect of increasing water levels and flows and improving the condition of many wetlands, lakes, streams, springs and aquifer levels in the Area due to the reduction of groundwater withdrawal from the Central System Facilities. However, compliance with permitting criteria of Rule 40D-2.301, F.A.C. has not been demonstrated since the current permitted withdrawal limit of 90 MGD on a 12-month moving average basis will have only been in effect for two years when the permit expires. Since these facilities supply potable water to Pinellas, Pasco, and Hillsborough counties and evaluation of the effect of the reduced withdrawal rate has not been completed, the District has determined that it is in the public interest and consistent with the objectives of the District to develop a second phase titled Recovery and Mitigation Plan. This Plan includes renewal of the Consolidated Permit based on this Section 7.3.8 and Rule 40D-80.073, F.A.C., in lieu of the standard permitting criteria for wetlands, lakes, streams, springs and aquifer levels set forth in Sections 4.2, 4.3.A and 4.5 of Part B, Basis of Review, Water Use Permit Information Manual incorporated in Rule 40D-2.091, F.A.C. In all other respects, the renewal of the Consolidated Permit shall be governed by the criteria set forth in Rule 40D-2.301, F.A.C. ~~As part of the establishment of minimum flows and levels pursuant to Sections 373.042 and 373.0421, F.S., the District is implementing a recovery strategy. The Northern Tampa Bay New Water Supply and Ground Water Withdrawal Reduction Agreement ("Partnership Agreement") is part of that recovery strategy. An integral part of the recovery strategy is issuance of water use permits and the procedures applicable to the issuance of those permits. Criteria for issuance of those permits will be governed by this Section 7.3.8. The procedure and rule criteria applicable to the issuance of water use permits for the Cross Bar Ranch, Cypress Creek, Cypress Bridge, Starkey, North Pasco, South Pasco, Eldridge-Wilde, Cosme-Odessa, Section 21, Morris Bridge and Northwest Hillsborough Regional Wellfields ("Central System") are those procedures and criteria set forth in the Partnership Agreement, which is incorporated herein by reference and available from the District upon request. This rule shall apply only to consolidated and non-consolidated permits as defined under the Partnership Agreement. The procedures and criteria set forth in the Partnership Agreement shall supersede and replaced all conflicting District rules, if any. Upon termination of the water use permits issued~~

~~pursuant to this Section, or December 31, 2010, whichever is first, this District's then existing rules would thereafter apply to the issuance of water use permits for the Central System~~.

Revised

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Weber, Water Use Permitting Program Director, Strategic Program Office, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4303

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.:	RULE TITLE:
40D-80.073	Comprehensive Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area, and the Hillsborough River Strategy

PURPOSE AND EFFECT: To amend Chapter 40D-80, F.A.C., to establish the Minimum Flows and Levels Recovery Strategy and Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area (the "Comprehensive Plan"). The Comprehensive Plan is proposed to govern through 2020 the recovery and mitigation actions to be undertaken by water use permit applicants and permittees with withdrawals that adversely impact lakes, wetlands, streams, springs and aquifers within the Northern Tampa Bay Water Use Caution Area.

SUMMARY: The proposed amendments set forth the Minimum Flows and Levels Recovery Strategy and Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area (the "Comprehensive Plan"). The Comprehensive Plan addresses water use permittees and applicants whose withdrawals are located within the Northern Tampa Bay Water Use Caution Area ("NTBWUCA") through the year 2020. Existing rules are extended and expanded beyond the existing 2010 termination to provide for all water use permittees, except Tampa Bay Water, consideration of certain factors in determining the permittee's responsibility to implement measures to reduce unacceptable adverse impacts to Minimum Flows and Levels and other environmental features. Comprehensive Plan amendments relating to Tampa Bay Water include: that a renewal of the Consolidated Permit is limited to 10 years (through 2020) for not more than 90 MGD; a provision for a temporary exceedance of 90 MGD during extreme drought; continue use of an Operations Plan that optimizes Central System Facilities to minimize environmental stress in the wellfield area; continuation of the use of Floridan Aquifer Recovery Management Levels as long-term guidelines for allocating groundwater withdrawals within the Operations Plan; implementation of an Environmental Management Plan for the environmental monitoring of groundwater impacts, continuation of ongoing Phase 1 Mitigation feasibility and implementation of projects for identified sites; a provision for implementation of a Consolidated Permit Recovery Assessment Plan to evaluate recovery and identify potential options to address remaining impacts; and water conservation reporting by TBW/Member Governments. The existing provision limiting new permitted quantities to those that contribute to the attainment of the objective of the existing recovery strategy that expires in 2010 is now applicable to the Comprehensive Plan. The amendments provide that progress toward attainment of the objective of the Comprehensive Plan will be evaluated in 2020 when developing a strategy for the second renewal of the Consolidated Permit and a third phase of the Comprehensive Plan.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule revisions to Chapters 40D-2 and 40D-80, F.A.C., establish Minimum Flow and Level recovery and prevention strategy elements and other necessary rule elements to address unacceptable adverse environmental impacts and Minimum Flows and Level impacts in the Northern Tampa Bay Water Use Caution Area. These revisions continue existing requirements for applicants and existing permittees, except as to certain provisions for renewal of Tampa Bay Water's Consolidated Permit for the Central System Facilities. Tampa Bay Water is currently permitted for the Central System Facilities pursuant to the terms of the Partnership Agreement and related rules which expire on December 31, 2010. The amendments impose no additional requirements to applicants or existing water use permittees other than Tampa Bay Water. A number of the requirements for Tampa Bay Water currently exist as part of the Partnership Agreement or as permit or rule conditions, and therefore, impose no additional cost. New assessment and reporting requirements related to stream and spring flow impacts may require additional monitoring sites, input and analysis of monitoring data, and possibly revisions to the Optimized Regional Operations Plan. For the District, evaluation, processing and monitoring of available information to assess the impacts remaining in 2020 may create a one-time additional cost. Small businesses, including those that may be applicants or existing permittees, are not expected to incur costs resulting from the proposed rule. No changes in state or local government revenues are anticipated.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.171, 373, 373.0421, 373.0831, 373.1963 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Annette Zielinski, Sr. Administrative Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-80.073 Comprehensive Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area, and the Hillsborough River Strategy ~~Regulatory Portion of Recovery Strategy For Pasco, Northern Hillsborough and Pinellas Counties~~.

(1) Overview: ~~Background.~~

This rule sets forth the Minimum Flows and Levels Recovery Strategy and Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area (the "Comprehensive Plan"). The Comprehensive Plan addresses water use permittees whose withdrawals are located within the Northern Tampa Bay Water Use Caution Area ("NTBWUCA"). Within the NTBWUCA, certain wetlands, lakes, streams, springs and aquifer levels have been impacted by lower groundwater levels resulting from groundwater withdrawals. Within the area of surficial aquifer impacts as generally depicted in Figure 80-1, the Central System Facilities, as described below, account for the majority of groundwater withdrawals. For this reason, the Central System Facilities are the primary focus of the Comprehensive Plan as other users' water withdrawals result in relatively minimal water resource impacts within the area generally depicted on Figure 80-1. The objective of this Comprehensive Plan is to achieve recovery of MFL waterbodies and avoidance and mitigation of unacceptable adverse impacts to wetlands, lakes, streams, springs and aquifer levels. The provisions of the Comprehensive Plan specifically applicable to Tampa Bay Water's Central System Facilities are contained in subsections 40D-80.073(2) and (3), F.A.C., below. All other water use permittees are addressed in subsections 40D-80.073(4) and (8), F.A.C., below. Other provisions applicable to permittees are included in subsections 40D-80.073(5), (6), and (7), F.A.C. The Comprehensive Plan is effective through December 31, 2020. ~~Chapter 96-339, Laws of Florida, requires the District to establish Minimum Flows and Levels for priority waters within Pasco, Hillsborough and Pinellas Counties by October 1, 1997. The District has so established Minimum Flows and Levels within Pasco, Hillsborough North of State Road 60, and Pinellas Counties (the "Northern Tampa Bay Area" or "Area"). Those Minimum Flows and Levels are contained within Chapter 40D-8, F.A.C. In establishing those Flows and Levels, the District has determined that the existing water levels in many of the priority waters are below the Minimum Flows or Levels. This section sets forth the regulatory portion of the first phase of the Recovery Strategy for the Area.~~

(2) Tampa Bay Water's Central System Facilities. ~~Objective of Recovery Strategy.~~

(a) From the 1930's through the 1990's eleven wellfields were developed within the Northern Tampa Bay Water Use Caution Area. Those wellfields are Cosme-Odessa, Eldridge-Wilde, Section 21, South Pasco, Cypress Creek, Cross Bar Ranch, Starkey, Morris Bridge, Northwest Hillsborough Regional, Cypress Bridge and North Pasco, and are collectively hereinafter referred to as the Central System Facilities. The Central System Facilities are operating under Water Use Permit No. 2011771 (the "Consolidated Permit"). Groundwater withdrawals from the Central System Facilities have caused lowered aquifer levels in and near the Central System Facilities. In 1974, pursuant to Chapter 373, F.S., the District established a permitting system to assure that such use is consistent with the overall objectives of the District and is not harmful to the water resources of the area. ~~All water use permittees within the Area are addressed by this Rule 40D-80.073, F.A.C. However, Tampa Bay Water (formerly known as the West Coast Regional Water Supply Authority), Pinellas County, Pasco County, the City of New Port Richey, Hillsborough County, the City of Tampa, and the City of St. Petersburg, the last six listed referred to as "Member Governments," water supply facilities account for the majority of water withdrawals within the Area. For this reason, these facilities are the primary focus of the portion of the recovery strategy encompassed by this Rule 40D-80.073, F.A.C. Those facilities are the following wellfields: Cosme-Odessa, Eldridge-Wilde, Section 21, South Pasco, Cypress Creek, Cross Bar Ranch, Starkey, Morris Bridge, Northwest Hillsborough Regional, Cypress Bridge, and North Pasco, (the "Central System Facilities"). Other users' water withdrawals result in relatively minimal water resource impacts, and they are addressed in subsection 40D-80.073(5), F.A.C.~~

(b) Pursuant to Chapter 96-339, Laws of Florida, the District established Minimum Flows and Levels for priority waters within Pasco, Hillsborough and Pinellas Counties which became effective in 2000. Those Minimum Flows and Levels are contained within Chapter 40D-8, F.A.C. The District determined that groundwater withdrawals have contributed to existing water levels and flows in many of these priority waters being below the established Minimum Flows or Levels. To address unacceptable adverse impacts caused by the Central System Facilities, the District implemented a recovery strategy and mitigation plan ("Recovery and Mitigation Plan"), the first phase of which occurred between 1998 and 2010 and resulted in the phased reduction of the permitted withdrawal rate of the Central System Facilities from 158 Million Gallons per Day

(MGD) in 1998 to 121 MGD in 2003, and to 90 MGD on a 12-month moving average basis in 2008. The recovery strategy included the District and Tampa Bay Water and its Member Governments entering into the Northern Tampa Bay New Water Supply and Ground Water Withdrawal Reduction Agreement (the "Agreement") in 1998. The Agreement has constituted that portion of the first phase of the District's recovery strategy that is specifically applicable to the Central System Facilities. The Agreement has governed the development of new water supplies, reduction of groundwater withdrawals, litigation and administrative hearings between the District, Tampa Bay Water and its Member Governments. The Agreement also governed the District's financial assistance to Tampa Bay Water to develop the new water supplies and achieve the reduction of groundwater withdrawals from the Central System Facilities. The Agreement expires on December 31, 2010. Consistent with the Agreement, Tampa Bay Water has constructed an enhanced surface water system, which includes a surface water treatment facility (which treats surface water flows from the Alafia River, the Tampa Bypass Canal and the Hillsborough River), an offstream reservoir, the Brandon Urban Dispersed Wellfield, a seawater desalination facility, and an integrated regional delivery system. Further, Tampa Bay Water has reported that the Member Governments have exceeded the 17 MGD reduction in water demand through conservation contemplated under the Agreement. Water supplied by these facilities and conservation allowed Tampa Bay Water to meet the required phased reductions in groundwater withdrawals. ~~While the Area has recently seen cyclical low levels of precipitation, the predominant cause of the lowered surficial water table in the vicinity of the Central System Facilities is the ground water withdrawals from the Central System Facilities. As a result, in the vicinity of the Central System Facilities, wetlands and lakes have been and continued to be impacted by reduced water levels, including wetlands and lakes for which minimum wetlands and lake levels have been established. Recovery to Wetland and Lake Minimum Levels for wetlands and lakes described in and established in subsection 40D-8.623(3), Table 8-1 and 40D-8.624(12), Table 8-2, F.A.C., is the objective of this Rule 40D-80.073, F.A.C. This portion of the Recovery Strategy for the Area is effective through December 31, 2010.~~

(c) Although the Recovery and Mitigation Plan has had the effect of increasing water levels and flows and improving the condition of many wetlands, lakes, streams, springs and aquifer levels due to the reduction of groundwater withdrawals from the Central System Facilities, compliance with the criteria of Rule 40D-2.301, F.A.C., has not been demonstrated.

(d) Since the Central System Facilities supply potable water to Pinellas, Pasco, and Hillsborough counties and evaluation of the effect of the reduced withdrawal rate has not been completed, the District has determined it is in the public interest and consistent with the objectives of the District to develop a second phase of the Recovery and Mitigation Plan. This section sets forth the regulatory portion of the second phase of the Recovery and Mitigation Plan.

(e) This Recovery and Mitigation Plan is a comprehensive approach to address unacceptable adverse impacts and Minimum Flows and Levels impacts to wetlands, lakes, streams, springs and aquifer levels caused by groundwater withdrawals from the Central System Facilities. This Plan sets forth the criteria to address recovery to Minimum Flows and Levels as well as avoidance and mitigation of unacceptable adverse environmental impacts as described in Sections 4.2, 4.3, and 4.5 in Part B, Basis of Review, of the Water Use Permit Information Manual, incorporated by reference in Rule 40D-2.091, F.A.C. This Recovery and Mitigation Plan allows renewal of the Consolidated Permit based, in part, on continued environmental assessment and mitigation, and further development of a plan to avoid or mitigate unacceptable adverse impacts to wetlands, lakes, streams, springs and aquifer levels attributable to groundwater withdrawals from the Central System Facilities.

(f) Central System Facilities Withdrawals and Duration – The Central System Facilities shall be limited in the renewal of the Consolidated Permit as follows:

1. Total annual average daily withdrawal shall not exceed a rate of 90 MGD on a 12-month moving average basis, except as provided in subparagraph 2., below. Tampa Bay Water shall undertake its best efforts to maintain the total withdrawal rate at or below 90 MGD so that the impacts of sustained withdrawals at that rate can be assessed during the second phase of the Recovery and Mitigation Plan. The duration of the Consolidated Permit shall be for a period of 10 years. Withdrawals from the Central System Facilities shall be optimized to minimize environmental stresses in or near the wellfields as provided in the Operations Plan described in paragraph (g), below.

2. During the course of this Recovery and Mitigation Plan, Tampa Bay Water will be performing a renovation project on the C.W. Bill Young Regional Reservoir (the "Reservoir"). During the period of the renovation project, Tampa Bay Water's withdrawals from the Central System Facilities are limited to a total annual average daily withdrawal rate of 90 MGD on a 12-month moving average basis, except as provided below:

a. The period during which withdrawals may be greater than 90 MGD on a 12-month moving average basis ("Exception Period") begins when:

(i) Tampa Bay Water demonstrates the date that the Reservoir cannot produce water supply and the renovation project has begun, and

(ii) The District has determined that hydrologic factors exist that are contributing to a water supply deficit. These factors include the designated water resource indicators in the

District's water shortage plan and stream flow and rainfall conditions in the Alafia and/or the Hillsborough River watersheds, and

(iii) Tampa Bay Water demonstrates there are not sufficient surface water, desalination and other interconnected sources available that would allow the Consolidated Permit withdrawals to remain at or below 90 MGD on a 12-month moving average basis, and

(iv) Tampa Bay Water and its member governments demonstrate that they have complied with any Board or Executive water shortage or emergency order relating to water supply.

b. The Exception Period shall end on the date on which the earlier of the following occurs:

(i) 36 months after the period begins, or,

(ii) When water stored in the C.W. Bill Young Regional Reservoir equals 11.0 billion gallons.

c. During the Exception Period, Tampa Bay Water shall maximize its authorized use of alternative water supply sources, including the Alafia River and Hillsborough River/Tampa Bypass Canal system, the desalination plant and other available interconnected sources in order to minimize groundwater withdrawals from the Central System Facilities. A monthly report demonstrating the maximized use of these sources shall be submitted to the District.

d. During the Exception Period, Tampa Bay Water and its Member Governments shall comply with any Board or Executive water shortage or emergency order relating to Tampa Bay Water's or a Member Government's water supply.

e. The District shall notify Tampa Bay Water of the beginning and ending dates of the Exception Period.

f. Compliance with the 90 MGD on a 12-month moving annual average basis is tolled during the Exception Period and compliance shall recommence beginning 365 days from the date the Exception Period ends.

g. Tampa Bay Water shall use its best efforts to minimize the period of the renovation project and reduce the duration of the Exception Period.

(g) Operations Plan.

1. Optimization of Tampa Bay Water's Central System Facilities is critical to the success of the second phase of the Recovery and Mitigation Plan. To this end, Tampa Bay Water shall continue to implement and refine the Operations Plan which was submitted to the District as part of the first phase of the Recovery and Mitigation Plan. Tampa Bay Water shall submit to the District an updated Operations Plan with the renewal application of the Consolidated Permit that describes how Tampa Bay Water will operate its water supply system with the intent to increase groundwater levels and minimize environmental stresses caused by the Central System Facilities. To fully evaluate optimization, it is essential for Tampa Bay Water to operate the Central System Facilities at or below 90 MGD on a 12 month moving average basis for a sustained period of time that encompasses a wide spectrum of climatic conditions, therefore the focus of the Operations Plan during the second phase of the Recovery and Mitigation Plan is the operation of the Central System Facilities. Included in the Operations Plan is the optimized Regional Operations Plan ("OROP") which is an optimization model, input data sets, constraint data sets, and other models used to establish boundary conditions. The OROP shall continue to be used to define and control how wellfield withdrawal points from the Central System Facilities will be operated to avoid or minimize environmental stress. Throughout the term of the renewed Consolidated Permit, any proposed change to the optimization formulation or operations protocol or OROP models included in the Consolidated Permit renewal application will require prior District approval. Tampa Bay Water shall submit to the District an Operations Plan report by July 10 of years 2012, 2014, 2016, 2018 and in conjunction with the application to renew the Consolidated Permit. The report shall document updates to the Operations Plan submitted with the Consolidated Permit renewal application, provide a work plan that encompasses the upcoming two years, include activities approved in Tampa Bay Water's budget for the upcoming year that starts October 1 and provide summary information and data on Operations Plan activities during the preceding reporting period.

2. The Operations Plan shall:

a. Define how Tampa Bay Water will operate the Central System Facilities;

b. Provide the protocol under which Tampa Bay Water will select among the Central System Facilities to meet demand;

c. Provide the protocol under which Tampa Bay Water will rotate among the Central System Facilities to avoid or minimize environmental stresses;

d. Rely upon ground water elevation target levels in the aquifer systems as a surrogate for water levels in wetlands and lakes, and flows in streams and springs at a specified set of existing and proposed monitor wells, to gauge environmental stresses in and around the well fields wherein increased ground water elevations will denote reduced environmental stresses;

e. Include procedures for analyzing relationships between the distribution and rate of withdrawal at the well fields, flow rates in rivers and streams; and the associated Floridan, and surficial aquifer system levels, using available models;

f. Include procedures for selecting optimal scenarios for the distribution and rate of ground water withdrawals from the well fields, using available mathematically-based optimization software, based on projected demand and operating system constraints, such that ground water levels in the surficial aquifer system are maximized according to a specified weighting/ranking system as a surrogate for water levels in wetlands and lakes and flow in rivers and streams.

g. Include in the optimization analysis a weighting/ranking system to enable priority factors to be applied to reduce environmental stress preferentially at selected locations, with such factors to be associated with the specified surficial aquifer monitor wells;

h. Propose a set of surficial aquifer monitor wells as well as a priority weighting system for those wells; and

i. Provide data and software for all models used in the OROP.

(h) Environmental Management Plan, Phase 1 Mitigation Plan, and Consolidated Permit Recovery Assessment Plan – An essential component of the second phase of the Recovery and Mitigation Plan is Tampa Bay Water's continued assessment of unacceptable adverse environmental impacts related to groundwater withdrawals from the Central System Facilities. During the first phase of the Recovery and Mitigation Plan, Tampa Bay Water developed an Environmental Management Plan (EMP) and a Phase 1 Mitigation Plan. Under this second phase of the Recovery and Mitigation Plan, Tampa Bay Water shall continue to implement the EMP and the Phase 1 Mitigation Plan, and develop a Consolidated Permit Recovery Assessment Plan, all as described below.

1. The Environmental Management Plan ("EMP") that was developed for the Central System Facilities under the first phase of the Recovery and Mitigation Plan addresses the monitoring of water resources and environmental systems in the vicinity of the Central System Facilities, assesses water resources and environmental systems for impact by groundwater withdrawals from the Central System Facilities, and coordinates with Tampa Bay Water's Operations Plan to facilitate wellfield operational changes to address persistent water level impacts attributed to Central System Facility withdrawals. A revised EMP shall be submitted with the renewal application for the Consolidated Permit and shall be implemented throughout the duration of the renewed Consolidated Permit. The revised EMP shall:

a. Identify and propose a revised list of monitoring sites within the areas potentially affected by the Central System Facilities and unaffected control/reference sites;

b. Define and describe the monitoring and data collection methods and reports utilized for documenting the hydrologic and biologic conditions of surface water bodies in and near the Central System Facilities; and

c. Describe the process used to determine impacts to water bodies in and near the Central System Facilities and the procedures used to attempt corrective action through Operations Plan changes.

2. The Phase 1 Mitigation Plan that was developed for the Central System Facilities under the first phase of the Recovery and Mitigation Plan assessed and prioritized, as candidate sites for mitigation, those lakes and wetlands that were predicted to not fully recover following the reduction in groundwater withdrawals from the Central System Facilities to a long-term average of 90 MGD. Conceptual mitigation projects were developed for the highest priority water bodies and Tampa Bay Water has been evaluating and implementing these projects, where feasible. Evaluation and implementation of these conceptual Phase 1 Mitigation Plan projects, where feasible, shall be continued throughout the duration of the renewed Consolidated Permit. In addition, Tampa Bay Water shall revise the list of candidate water bodies to include any sites monitored through the EMP that are impacted by Central System Facilities withdrawals and are predicted to not fully recover at a long-term average withdrawal rate of 90 MGD from the Central System Facilities.

3. The Consolidated Permit Recovery Assessment Plan will evaluate the recovery of water resource and environmental systems attributable to reduction of the groundwater withdrawals from the Central System Facilities to a long-term average of 90 MGD, identify any remaining unacceptable adverse impacts caused by the Central System Facilities withdrawals at a long-term average rate of 90 MGD, and will identify and evaluate potential options to address any remaining unacceptable adverse impacts at the time of the Consolidated Permit renewal in 2020. The remaining unacceptable adverse impacts will be determined through an update of the assessment of impact previously performed as part of the Phase 1 Mitigation effort. As part of this effort, Tampa Bay Water shall:

a. Work cooperatively with the District throughout this second phase of the Recovery and Mitigation Plan to discuss the ongoing development of the Consolidated Permit Recovery Assessment Plan.

b. Submit status reports to the District on a frequency to be defined in the renewed Consolidated Permit demonstrating ongoing progress of the development of the Consolidated Permit Recovery Assessment Plan throughout the duration of this second phase of the Recovery and Mitigation Plan.

c. Submit the final results of the Consolidated Permit Recovery Assessment Plan with the application for the second renewal of the Consolidated Permit in 2020.

4. Nothing contained in this rule shall be construed to require Tampa Bay Water to be responsible for more than its proportionate share of impacts to a Minimum Flow and Levels waterbody that fails to meet, due to impacts from ground water withdrawals, the established minimum flow or level.

(i) Water Conservation – Water conservation as a means to reduce demand for withdrawals is a key element of the Recovery and Mitigation Plan. The issuance of Wholesale Water Use Permits for Member Governments whose withdrawals and use are not covered by other water use permits is essential to this element. Until Wholesale Water Use Permits are obtained by the Member Governments as required by Chapter 40D-2, F.A.C., Tampa Bay Water shall report on the Authority's, as applicable, and the Member Governments' per

capita rates, water losses, reclaimed water use, residential water use, and the following measures to reduce water demand. During the term of the renewed permit, Tampa Bay Water shall only be responsible for reporting data for any Member Government that does not have a water use permit or a wholesale water use permit that requires such reporting. In the year following the year in which a Member Government is required by permit to report this data, Tampa Bay Water shall no longer be required to submit the data on behalf of the Member Government. This Report shall detail the evaluation of the below-listed measures, the findings and conclusions, and the schedule for implementing selected measures.

1. Toilet rebate/replacement
2. Fixture retrofit
3. Clothes washer rebate/replacement
4. Dishwasher rebate/replacement
5. Irrigation and landscape evaluation
6. Irrigation/landscape rebate
7. Cisterns/rain water harvesting rebate
8. Industrial/commercial/institutional audits and repair
9. Florida-Friendly landscape principles
10. Water Conservation Education
11. Water-conserving rate structures and drought rates
12. Multi-family residential metering

In addition to the above, Tampa Bay Water shall report the quantity of water distributed from each source and the recipients and non-Member Government information required by the Public Supply Annual Report.

~~(3) Recovery Strategy Elements for Tampa Bay Water and Member Governments.~~

~~(a) The District and Tampa Bay Water ("TBW") and Member Governments have entered into the Northern Tampa Bay New Water Supply and Ground Water Withdrawal Reduction Agreement (the "Agreement"). The Agreement constitutes that portion of the District's recovery strategy that is specifically applicable to the Central System Facilities as provided for in Sections 373.036, 373.0361, 373.0421(2), 373.0831 and 373.1963, Florida Statutes. The Agreement governs the development of new water supplies, reduction of pumpage, litigation and administrative hearings between the District, TBW and its Member Governments and the District's financial assistance to the TBW to achieve new water supplies and reduction of pumpage at the Central System Facilities all of which contribute to the attainment of the objective of this portion of the recovery strategy. The Agreement makes available to TBW from the District $183,000,000.00 to be used for new water supply development projects excluding ground water sources and including alternative sources of potable water and regionally significant transmission pipelines. Independently, the Tampa Bay Water Master Water Plan provides for the development of at least 85 million gallons per day (mgd) annual average daily quantity of additional water supply sources and partially offsets additional water supply needs for growth by increased conservation and demand management.~~

(3)~~(b)~~ Recovery Management – The ~~pumping~~ reductions in groundwater withdrawals required for the Central System Facilities were the principal means of achieving the objective of the first phase of the Recovery and Mitigation Plan. The use of sound decision protocols to determine groundwater withdrawal distribution and assessment of the remaining impacts at or below 90 MGD on a 12-month moving average basis are necessary components of this second phase of the Recovery and Mitigation Plan. ~~under the Agreement shall be implemented by the TBW and Member Governments as specified below as the principal means of achieving the objective of this Rule 40D-80.073, F.A.C. Additionally,~~ The ~~the~~ Floridan Aquifer Recovery Management Levels set forth in Table 80-1 below shall be used as long-term guidelines for allocating groundwater withdrawals within the Operations Plan~~, submitted to the District by TBW pursuant to the Agreement and shall be reevaluated in 2010~~. The Floridan Aquifer Recovery Management Levels are based on the hydrogeologic properties and environmental conditions in the Northern Tampa Bay Area, and are set to advise and guide in determining planned groundwater ~~ground water~~ withdrawal rates ~~in 2007~~, but not as the sole basis by which the District will approve or disapprove the Operations Plan and any amendments or updates.

Table 80-1 Floridan Aquifer Recovery Management Levels

Well Name	Latitude	Longitude	Recovery Management Levels (feet NGVD 1929)
1. RMP8D1	280342	823256	26.8
2. PZ-3	281446	823342	40.5
3. Cosme 3	280608	823529	27.6
4. SR 52 and 581	281926	822129	73.3
5. Morris Bridge 1	280652	822042	28.2
6. James 11	280653	823415	33.1
7. Morris Bridge 13	280656	821751	30.1
8. Berger	280700	822942	44.5
9. Hillsborough 13	280703	823027	40.3
10. Wolfe	282305	823015	52.0
11. Debuel	280741	822709	55.4
~~12. DGW-4~~	~~280829~~	~~822008~~	~~43.7~~
12~~3~~. Calm 33A	280834	823435	33.2
13~~4~~. EW11	280905	823905	16.2
14~~5~~. Lutz Park	280913	822832	56.8
15~~6~~. Lutz Lake Fern	280921	822230	43.4
16~~7~~. EW N4	280945	823804	27.6
17~~8~~. EW 2N	281011	823905	18.9
18~~9~~. MW2-1000	281019	822114	58.7
19.~~20~~. SP42	281036	823056	47.7
20~~1~~. Matts	281102	822924	60.1
~~22. Starkey 707~~	~~281454~~	~~823802~~	~~27.6~~
21~~3~~. SR54	281144	823046	49.6
~~24. DMW500~~	~~281204~~	~~822238~~	~~51.0~~
22~~5~~. Starkey Regional	281312	823616	32.6
23~~6~~. MW1	281447	823542	31.6
24~~7~~. Pasco 13	281559	822645	72.5
25~~8~~. NPMW-11	281631	823411	41.0
26~~9~~. TMR4D	281650	822444	58.3
27~~30~~. TMR1D	281719	822246	61.1

2831. TMR3D	281745	822342	59.5
2932. NPMW-7	281825	823405	44.1
303. TMR-2	281845	822240	68.5
314. SR52 East	281918	822645	73.1
325. SR52 West	282010	823737	51.9
336. SRW	282035	822839	69.3
347. CB1SED	282100	822628	71.3
358. SERW	282206	822711	63.7
369. CB3ED	282221	822419	69.1
3740. Citrus Park	280437	823426	29.4

(c) Periodic Review of Recovery Strategy.

1. The District shall review the recovery strategy periodically to assess the progress of strategy elements. The District will evaluate the water resource recovery attained in light of the reductions in quantities withdrawn achieved based on an evaluation of whether wetland and lake stage frequency data indicate that wetland and lake water levels are improving.

2. These reviews shall consider reports generated by the TBW and the Member Governments describing the status of all additional sources either developed or in development to offset water withdrawals from Central System Facilities as well as any other water supply and water resource information available to the District.

3. The information considered by the District pursuant to subparagraphs (c)1. and 2. above is intended to be also considered during preparation of the update pursuant to Section 373.036, F.S., which is due in 2003, of the District's Water Management Plan as it relates to the water supply assessment for the West-Central Planning Region.

(4) Hillsborough River Strategy. Beginning November 25, 2007, the Minimum Flow for the Lower Hillsborough River shall be as provided in subsection 40D-8.041(1), F.A.C., to be achieved on the time schedule as set forth below. The District and the City of Tampa (City) shall measure the delivery of water to the base of the dam relative to their respective elements as described below. The City shall report this information to the District monthly on the 15th day of the following month. In addition, the City shall submit a quarterly written report of all activities and all progress towards timely completion of its elements of the recovery strategy. Such reports will be submitted to the District within 15 calendar days after each calendar year quarter.

(a) The District and the City have entered into the Joint Funding Agreement Between The Southwest Florida Water Management District and The City of Tampa For Implementation of Recovery Projects To Meet Minimum Flows Of The Lower Hillsborough River (the "Agreement"). The Agreement and subsection 40D-80.073(4), F.A.C., constitute the District's recovery strategy for the Lower Hillsborough River required by Section 373.0421(2), F.S., and shall not compromise public health, safety and welfare.

(b) The schedule to achieve the Minimum Flows for the Lower Hillsborough River is as follows:

1. Sulphur Springs – Beginning on November 25, 2007, the City shall be required to provide 10 cubic feet per second (cfs) of water to the base of the City's dam each day provided such use will not compromise public health, safety and welfare.

2. Tampa Bypass Canal Diversions – By January 1, 2008, provided that any permit that may be required is approved, the District shall divert up to 7.1 million gallons of water on any given day from the District's Tampa Bypass Canal ("TBC") to the Hillsborough River at the District's Structure 161. The District shall then deliver water from the Hillsborough River immediately above the City's dam to the base of the City's dam to help meet the minimum flow requirements of the Lower Hillsborough River. Such diversions shall not occur if public health, safety and welfare will be compromised.

a. The District shall complete a comprehensive analysis of these diversions within 90 days of the first year of operation to identify and subsequently make any mechanical or efficiency adjustments that may be necessary. The District shall use its best efforts to expedite obtaining any permit that may be needed to undertake these actions.

b. By October 1, 2013, provided that the transmission pipeline has been constructed and is operational, all of the water diverted from the TBC middle pool under this provision to help meet the minimum flow shall be provided to the Lower Hillsborough River per subparagraph 40D-80.073(4)(b)7., F.A.C.

c. These diversions shall be prioritized as follows:

(i) Priority Source One – Diversions From the TBC Middle Pool When the TBC Middle Pool is Above 12.0 feet NGVD (1929 or its 1988 equivalent), and There is Flow of at Least 11 cfs Over the District's Structure 162 – On days when the TBC middle pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), as measured by the downstream gauge at the District's Structure 161, and there is flow of at least 11 cfs over the District's Structure 162, the District shall divert water from the TBC middle pool to the Hillsborough River.

A. The District shall then deliver 75 percent of any water diverted from the TBC to the Hillsborough River under this provision to the Lower Hillsborough River. Delivery of 75 percent of the water diverted from the TBC addresses concerns about potential losses due to subsurface leakage, evaporation and transpiration. This delivery shall be from the Hillsborough River just above the City's dam to the base of the City's dam, and shall supplement diversions from Sulphur Springs, Blue Sink and Morris Bridge Sink, as they are implemented, and as described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 8., F.A.C.

B. The TBC middle pool diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River set forth in subsection 40D-8.041(1), F.A.C., but will not exceed 7.1 million gallons on any given day.

C. Such diversions shall cease from the TBC middle pool if the elevation difference between the TBC middle and lower pools exceeds 7.0 feet.

D. On days when flow over the Hillsborough River Dam naturally exceeds 20 cfs during the months of July through March or 24 cfs during the months of April through June and when diversions from the TBC middle pool are not needed to replenish the supply from Storage Projects described in paragraphs 40D-80.073(4)(c) and (d), F.A.C., diversions from the TBC middle pool shall not occur, and any flows in the TBC lower pool above elevation 9.0 feet NGVD (1929 or its 1988 equivalent), shall be available for water supply.

E. Prior to October 1, 2013, and during the months of March through June, on days when some water is needed from the TBC middle pool to help meet the minimum flow for the Lower Hillsborough River, all available water from the TBC middle pool not needed to be diverted in accordance with SWFWMD Water Use Permit No. 20006675 but not exceeding 7.1 million gallons on any given day will be diverted to the Hillsborough River. Water delivered to the Hillsborough River in excess of that needed to help meet the minimum flow of the Lower Hillsborough River shall remain in the Hillsborough River above the dam. Keeping this water in the Hillsborough River above the dam will reduce the time and quantities of supplemental flow needed to help meet the minimum flow requirements.

F. During the months of July through February, on days when water is needed from the TBC middle pool to help meet the minimum flow of the Lower Hillsborough River, only that amount of water needed to help meet the minimum flow but not in excess of 7.1 million gallons on any given day shall be diverted from the TBC middle pool to the Hillsborough River, and any water in the TBC middle and lower pools above elevations 12.0 and 9.0 feet NGVD (1929 or its 1988 equivalent), respectively, shall be available for water supply.

(ii) Priority Source Two – Diversions When the TBC Middle Pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), and the Flow Over the District's Structure 162 is Less Than 11 cfs – On days when the TBC middle pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), as measured by the downstream gauge at the District's Structure 161, and the flow over the District's Structure 162 is less than 11 cfs, the District shall divert water from the TBC middle pool to the Hillsborough River.

A. The District shall then deliver 75 percent of any water diverted from the TBC middle pool to the Hillsborough River under this provision to the Lower Hillsborough River. Delivery of 75 percent of the water diverted from the TBC addresses concerns about potential losses due to subsurface leakage, evaporation and transpiration. This delivery shall be from the Hillsborough River just above the City's dam to immediately below the City's dam, and shall supplement diversions from Sulphur Springs, Blue Sink and Morris Bridge Sink, as they are implemented, and as described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 8., F.A.C.

B. The TBC middle pool diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River, but will not exceed 7.1 million gallons on any given day.

I. On days such diversions occur, the District will divert from the TBC lower pool to the TBC middle pool quantity equivalent to that diverted by the District from the TBC middle pool to the Hillsborough River.

II. Such diversions shall cease from both the TBC middle and lower pool when the stage of the TBC lower pool reaches 6.0 feet NGVD (1929 or its 1988 equivalent), as measured by the gauge at the District's Structure 160, or the elevation difference between the TBC middle and lower pools exceeds 7.0 feet.

C. Once the stage in the TBC lower pool is below 8.7 feet NGVD (1929 or its 1988 equivalent), withdrawals from this priority source to help meet the minimum flow for the lower Hillsborough River are considered withdrawals from the storage of the TBC lower pool. When the stage in the TBC lower pool is below 8.7 feet NGVD (1929 or its 1988 equivalent), the following restrictions apply:

I. At no time shall withdrawals from the lower pool to help meet the minimum flow for the lower Hillsborough River cause the stage in the lower pool to go below 6.0 feet NGVD (1929 or its 1988 equivalent), or cause the elevation difference between the TBC middle and lower pools to exceed 7.0 feet, as measured on either side of the District's Structure 162.

II. If supplemental flows are required to help meet the lower Hillsborough River minimum flow from this Priority Source, once withdrawals begin from storage they will continue until the TBC lower pool reaches an elevation of 6.0 feet NGVD (1929 or its 1988 equivalent). At such time as either of the conditions set forth in sub-subparagraph 40D-80.073(4)(b)2.(ii)C.I., F.A.C., above, are met, the District shall cease withdrawals from the TBC lower pool. The District shall only reinitiate withdrawals from the TBC lower pool when its elevation equals or exceeds 9.0 feet NGVD (1929 or its 1988 equivalent), for 20 consecutive days, which is defined as the TBC lower pool replenishment.

III. The total withdrawn from storage on any given day shall not exceed 7.1 million gallons on any given day.

IV. Withdrawals from storage will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(4)(b), (c) and (d), F.A.C.

(iii) Priority Source Three – Diversions When TBC Middle Pool Elevations are Between 10.0 and 12.0 Feet NGVD (1929 or its 1988 equivalent) – The District will make

all reasonable efforts to obtain authorization from the United States Army Corps of Engineers to allow the withdrawals of up to 7.1 million gallons on any given day from the TBC middle pool to aid in the Lower Hillsborough River minimum flow requirements when the TBC middle pool is below 12.0 feet and above 10.0 feet NGVD (1929 or its 1988 equivalent).

A. These diversions will only occur when the stage of the TBC lower pool has reached 6.0 feet NGVD (1929 or its 1988 equivalent), or the TBC lower pool is in a state of replenishment as described in sub-subparagraph 40D-80.073(4)(b)2.(ii)C.II., F.A.C. These diversions will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(4)(b), (c) and (d), F.A.C., but will not exceed 7.1 million gallons on any given day.

B. These diversions shall cease if the elevation difference between the Hillsborough River and TBC middle pool exceeds 9.5 feet, if approved by the United States Army Corps of Engineers, as measured on either side of the District's Structure 161, or if the elevation difference between the TBC middle and lower pools exceeds 7.0 feet, as measured on either side of the District's Structure 162.

C. Diversions associated with this provision will not occur until the water transmission pipeline as set forth in subparagraph 40D-80.073(4)(b)7., F.A.C., is completed or by October 1, 2013, whichever is sooner. Once the stage in the TBC middle pool is below 12.0 feet NGVD (1929 or its 1988 equivalent), withdrawals to help meet the minimum flow for the Lower Hillsborough River are considered withdrawals from the storage of the TBC middle pool. When the stage is below 12.0 feet NGVD (1929 or its 1988 equivalent), the following restrictions apply:

I. At no time shall withdrawals from the TBC middle pool to help meet the minimum flow for the Lower Hillsborough River cause the stage in the middle pool to go below 10.0 feet NGVD (1929 or 1988 equivalent), or cause the elevation difference between the TBC middle pool and Hillsborough River to exceed 9.5 feet, as measured on either side of the District's Structure 161, or cause the elevation difference between the TBC middle and lower pools to exceed 7.0 feet, as measured on either side of the District's Structure 162.

II. If supplemental flows are required to help meet the Lower Hillsborough River minimum flow from this Priority Source, once withdrawals begin from storage they will continue until the TBC middle pool reaches an elevation of 10.0 feet NGVD (1929 or its 1988 equivalent). At such time as either of the conditions set forth in sub-subparagraph 40D-80.073(4)(b)2.c.(iii)C.I., F.A.C., above, are met, the District shall cease withdrawals from the TBC middle pool. The District shall only reinitiate withdrawals from the TBC middle pool when its elevation equals or exceeds 12.0 feet NGVD (1929 or its 1988 equivalent), for 20 consecutive days, which is defined as the TBC Pool Replenishment, and there is less than 11 cfs of flow over the District's Structure 162.

III. The total withdrawn from storage on any one day shall not exceed 7.1 million gallons.

IV. Withdrawals from storage will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(4)(b), (c) and (d), F.A.C.

3. Sulphur Springs Project.

a. By October 1, 2009, and as specified in the Agreement, the City shall complete the modification of the lower weir to provide to the base of the dam all available flow from Sulphur Springs not needed to maintain the minimum flow for manatees as set forth in paragraph 40D-8.041(2)(b), F.A.C.

b. By October 1, 2010, the City shall complete the construction of the upper gates and the pump station to provide to the base of the dam all available flow from Sulphur Springs not needed to maintain the minimum flow for manatees as set forth in paragraph 40D-8.041(2)(b), F.A.C.

c. By October 1, 2012, and as specified in the Agreement, the City is to provide to the base of the dam all available flow, from Sulphur Springs not needed to maintain the minimum flow for Sulphur Springs as set forth in paragraph 40D-8.041(2)(a), F.A.C.

(i) These diversions shall not exceed 11.6 million gallons on any given day.

(ii) The City is authorized to use any remaining quantities at Sulphur Springs for water supply purposes consistent with SWFWMD Water Use Permit No. 20002062.

d. Additionally, beginning on October 1, 2010, on days when the minimum flow requirements are being adjusted for the Lower Hillsborough River, as described in paragraph 40D-8.041(1)(b), F.A.C., and there is flow at Sulphur Springs in excess of the quantity needed to help meet the adjusted flow as described in paragraph 40D-8.041(1)(b), F.A.C., and the minimum flow requirements in paragraph 40D-8041(2)(b), F.A.C., and the City is not using such flow to augment the Hillsborough River above the dam, the City shall move such quantity to the base of the City's dam up to the unadjusted quantities described in paragraph 40D-8.041(1)(b), F.A.C.

4. Blue Sink Analysis – By October 1, 2010, and as specified in the Agreement, the City in cooperation with the District shall complete a thorough cost/benefit analysis to divert all available flow from Blue Sink in north Tampa to a location to help meet the minimum flow or to the base of the City's dam.

5. Transmission Pipeline Evaluation – By October 1, 2010, and as specified in the Agreement, the City shall complete a thorough design development evaluation to construct a water

~~transmission pipeline from the TBC middle pool to the City's David L. Tippin Water Treatment Facility, including a spur to just below the City's dam.~~

~~6. Blue Sink Project – By October 1, 2011, and as specified in the Agreement, the City will provide all available flow from Blue Sink project to help meet the minimum flow provided that all required permits are approved, and it is determined that the project is feasible. Once developed, all water from this source shall be used to the extent that flow is available to help meet the minimum flow for the Lower Hillsborough River.~~

~~7. Transmission Pipeline Project – By October 1, 2013, and as specified in the Agreement, the City shall complete the water transmission pipeline described in subparagraph 40D-80.073(4)(b)5., F.A.C., and move the water the District will move as specified in sub-paragraphs 40D-80.073(4)(b)2. and 8., F.A.C., to the Lower Hillsborough River directly below the dam as needed to help meet the minimum flow or to transport water in accordance with SWFWMD Water Use Permit No. 20006675.~~

~~a. This transmission line will eliminate all adjustment for losses described in subparagraphs 40D-80.073(4)(b)2. and 8., F.A.C.~~

~~b. Additionally, the City will provide an additional flow of 1.9 million gallons each day to the base of the dam from the TBC middle pool provided that water is being transported in accordance with SWFWMD Water Use Permit No. 20006675. This additional 1.9 million gallons each day is anticipated to be part of the water savings associated with this transmission pipeline.~~

~~c. Once the pipeline is completed, the 1.9 million gallons each day of additional flow provided by the City as part of the water savings associated with the pipeline will be used in preference to all other sources except Sulphur Springs and Blue Sink to help meet the minimum flow for the Lower Hillsborough River.~~

~~d. In the event that this pipeline is not substantially completed by October 1, 2013, or that the City did not provide the District with a minimum ninety (90) days notice prior to October 1, 2013, of the delay of completion of the pipe due to circumstances beyond its control, then, the City will be responsible for delivering the flows the District was previously obligated to divert from the TBC middle pool to the Hillsborough River and then to immediately below the City's dam under subparagraphs 40D-80.073(4)(b)2. and 8., F.A.C.; except that the District shall continue to be responsible to pump water from the TBC lower pool to the middle pool as described in sub-subparagraph 40D-80.073(4)(b)2.b., F.A.C., and from Morris Bridge Sink to the TBC middle pool as described in subparagraph 40D-80.073(4)(b)8., F.A.C.~~

~~e. The City shall also provide the 1.9 million gallons each day if needed to help meet the flow described in this provision, from some other permitable source and is obligated to do so pursuant to d. above.~~

~~8. Morris Bridge Sink Project.~~

~~a. By October 1, 2012, or earlier, and upon completion of the project, provided that any permit that may be required is approved, the District shall divert up to 3.9 million gallons of water on any given day from the Morris Bridge Sink to the TBC middle pool.~~

~~(i) The Morris Bridge Sink diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River, after utilizing the quantity diverted from Sulphur Springs, Blue Sink and the 1.9 million gallons of water savings each day anticipated from the transmission pipeline, as they are implemented, and as described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 7., F.A.C.~~

~~(ii) However, on days when TBW does not draw the TBC lower pool down to 9.0 feet NGVD (1929 or its 1988 equivalent) for water supply purposes, and supplemental flow is needed for the Lower Hillsborough River minimum flow requirements beyond water that can be delivered from Sulphur Springs, Blue Sink and the 1.9 million gallons of water savings each day anticipated from the transmission pipeline described in subparagraphs 40D-80.073(4)(b)1., 3., 6. and 7., F.A.C., the District shall divert up to 7.1 million gallons on any given day from the TBC lower pool to the TBC middle pool prior to diverting flows from the Morris Bridge Sink to the TBC middle pool.~~

~~(iii) The District shall cease to divert water from the TBC lower pool under this provision once the elevation of the TBC lower pool reaches 9.0 feet NGVD (1929 or its 1988 equivalent).~~

~~b. Prior to the completion of the pipeline described in subparagraph 40D-80.073(4)(b)7., F.A.C., the District shall transfer any water delivered to the TBC middle pool from the Morris Bridge Sink or the TBC lower pool under this provision to the Hillsborough River near the District's Structure 161.~~

~~(i) These deliveries shall be made on the same day the District delivers water from the Morris Bridge Sink or the TBC lower pool.~~

~~(ii) The District shall then deliver 75 percent of any water diverted to the Hillsborough River under this provision to the Lower Hillsborough River. This delivery shall be from the Hillsborough River just above the City's dam to immediately below the City's dam.~~

~~(iii) The deliveries of the water from the Morris Bridge Sink to the TBC middle pool then on to the Hillsborough River are in addition to any other diversions from the TBC middle pool to the Hillsborough River described in subparagraphs 40D-80.073(4)(b)2. and 8., F.A.C.~~

~~c. Once the City completes the water transmission pipeline described in subparagraphs 40D-80.073(4)(b)5. and 7., F.A.C., or as may be otherwise responsible for delivering the flows the District was previously obligated to divert pursuant to subparagraph 40D-80.073(4)(b)7., F.A.C., the City shall move any water the District delivers to the TBC middle pool from Morris Bridge Sink or the TBC lower pool under this provision to the Lower Hillsborough River directly below the dam. Such delivery by the City will occur on the same day the District delivers the water from the Morris Bridge Sink or the TBC lower pool to the TBC middle pool.~~

~~d. At no time shall withdrawals from the TBC under this provision cause:~~

~~(i) The elevation difference between the TBC middle pool and Hillsborough River to exceed 9.5 feet as measured on either side of the District's Structure 161; or~~

~~(ii) The elevation difference between the TBC middle and lower pools to exceed 7.0 feet as measured on either side of the District's Structure 162.~~

~~9. Beginning October 1, 2017, the City shall be required to meet the minimum flows at the base of the dam as set forth in subsection 40D-8.041(1), F.A.C.~~

~~(c) The City and the District shall, as specified in the Agreement, cooperate in the evaluation of options for storage of water ("Storage Projects") such as aquifer storage and recovery (ASR), and additional source options (e.g., diversions from Morris Bridge Sink greater than those described in subparagraph 40D-80.073(4)(b)8., F.A.C.), in sufficient permitable quantities, that upon discharge to the base of the dam, together with the other sources of flow described in paragraph 40D-80.073(4)(b), F.A.C., will meet the minimum flows beginning October 1, 2017, or earlier.~~

~~(d) The City may propose for District approval additional source or storage projects that when completed may be used in lieu of all or part of one or more sources described in subparagraphs 40D-80.073(4)(b)2.-8., F.A.C.~~

~~(e) Any District sponsored project, which shall include evaluation of up to 3.9 million gallons per day of additional quantities other than those identified in subparagraph 40D-80.073(4)(b)8., F.A.C., from the Morris Bridge Sink, shall be implemented by the District no later than October 1, 2017, provided that it is deemed feasible by the District, to eliminate or reduce the need to divert water from the TBC middle and lower pool storage as described in subparagraph 40D-80.073(4)(b)2., F.A.C. Such projects shall be implemented only after receiving any required permits.~~

~~(f) Each spring, beginning in 2008, the District shall review the recovery strategy to assess the progress of implementation of the recovery strategy and report that progress to the Governing Board. This annual review and report shall include identification of the Storage Projects or other additional sources options that will be operational by October 1, 2017. If and when developed, Storage Projects or other additional source options to supply supplemental flows to meet the minimum flow will be used in preference to removal of water from storage in either the middle or lower pools of the TBC as described in paragraph 40D-80.073(4)(b), F.A.C.~~

~~(g) The City and the District shall continue the existing monitoring and analysis of the water resources within the Lower Hillsborough River and the District shall provide this information to the Governing Board as part of the annual review and report described in paragraph (4)(d), above.~~

~~(h) In 2013, and for each five year period through 2023, the District shall evaluate the hydrology, dissolved oxygen, salinity, temperature, pH and biologic results achieved from implementation of the recovery strategy for the prior five years, including the duration, frequency and impacts of the adjusted minimum flow as described in paragraph 40D-8.041(1)(b), F.A.C. As part of the evaluation the District will assess the recording systems used to monitor these parameters. The District shall also monitor and evaluate the effect the Recovery Strategy is having on water levels in the Hillsborough River above the City's dam to at least Fletcher Avenue. The District will evaluate all projects described in this Recovery Strategy relative to their potential to cause unacceptable adverse impacts prior to their implementation.~~

~~(i) In conjunction with recovery of the Lower Hillsborough River and to enhance restoration of McKay Bay and Palm River estuary, the District intends to undertake a wetland restoration project adjacent to McKay Bay. The City agrees to contribute to the project by providing up to 7.1 million gallons on any given day of reclaimed water, as needed for the project. Within five years of completion of this wetland project, and for two subsequent five year periods thereafter, the District shall review the hydrologic, dissolved oxygen, salinity, temperature, pH and biologic results achieved from the implementation of the restoration project and other similar District projects that may occur.~~

(4)~~(5)~~ Comprehensive Plan ~~Recovery Strategy~~ Element~~s~~ Relating to Other Existing Water Use Permittees.

In conjunction with the development of a recovery strategy developed pursuant to Section 373.0421(2), F.S., and in addition to applicable permitting requirements contained in Rule 40D-2.301, F.A.C., existing permittees whose water withdrawals impact Minimum Flows or Levels will be evaluated upon permit renewal to determine the permittee's practical ability to implement measures to reduce its impacts on the Flow or Level or unacceptably adversely impacted environmental feature during the period of recovery. For purposes of this Chapter, in areas where the existing flow or level is below the Minimum Flow or Level, any measurable drawdown or flow reduction at a location where a Minimum Flow or Level is established or to an or unacceptably adversely impacted environmental feature is deemed to be a water

withdrawal impact. The items that shall be considered in determining the permittee's responsibility to implement measures to reduce impacts are:

(a) The proportionate amount of impact that the permittee's water withdrawals have on the Minimum Flow or Level or other unacceptably adverse impact;

(b) The cost to the permittee to implement the measures;

(c) The time that it will take the permittee to fully implement the measures;

(d) Any unavoidable public health, safety or welfare emergency that would be caused by implementation of the measures;

(e) Whether the water resources benefits gained from implementation of the permittee's measures to attain the Minimum Flow or Level or mitigate the unacceptably adversely impacted environmental feature outweigh water resources impacts that may result from the measures; and

(f) Alternative actions or programs in lieu of or in combination with reductions in withdrawals that will contribute to the attainment of the Minimum Flow or Level or mitigate the unacceptably adversely impacted environmental feature and will optimize the net positive effect on the impacted water resources.

(5)~~(6)~~ Supplemental Hydration of Wetlands and Lakes.

In addition to the reduction of groundwater withdrawals ~~pumpage~~, the development of new water supplies and wellfield operational changes addressed by the Comprehensive Plan ~~recovery strategy, provisions, of this Rule 40D-80.073,~~ supplemental hydration of wetlands and lakes that are unacceptably adversely impacted or are below their established Minimum Levels through the use of ground water in appropriate circumstances will contribute to the attainment of the objective of the Comprehensive Plan ~~recovery strategy~~. The circumstances under which supplemental hydration using ground water will be considered an appropriate recovery mechanism are set forth in Section 4.3 A.1.a.ii.(4) and 4.3 A.1.b. of the Basis of Review For Water Use Permit Applications which is incorporated by reference in Rule 40D-2.091, F.A.C., and is available upon request to the District.

(6)~~(7)~~ Applications for New Quantities.

Requests for withdrawals of new quantities of water that are projected to impact a water body which is unacceptably adversely impacted or below its Minimum Flow or Level shall not be approved unless they contribute to the attainment of the objective set forth in the Comprehensive Plan ~~recovery strategy~~ in subsection ~~Rule~~ 40D-80.073(1), F.A.C.

(7)~~(8)~~ 2020 ~~2010~~ Evaluation of the Comprehensive Plan ~~Recovery Strategy~~.

The District shall review the information available during 2020 to determine whether it is sufficient to fully assess remaining impacts from Tampa Bay Water's Central System Facilities at a withdrawal rate of 90 MGD on a 12-month moving average basis. This information will be considered when developing a strategy for the second renewal of the Consolidated Permit and a third phase of the Comprehensive Plan. Additionally, the District will determine whether the third phase of the Comprehensive Plan is necessary to address other permittees. ~~This recovery strategy is in keeping with the District's legislative mandate pursuant to Sections 373.036, 373.0361, 373.0421, 373.0831, 373.1962 and 373.1963, F.S., to resolve the water supply and water resource impact concerns of the Northern Tampa Bay Area in a cooperative manner with the water suppliers and interested parties. The portion of the District's recovery strategy embodied within this Rule 40D-80.073, F.A.C., is the first regulatory phase of a long-term approach toward eventual attainment of the minimum flows and levels established in Chapter 40D-8, F.A.C., for priority waters in the Northern Tampa Bay Area. Except as to subsection 40D-80.073(4), F.A.C., this phase of the recovery strategy is through the year 2010 based on the current knowledge of the state of the water resources of the Area, the technology for water supply development including alternative sources and conservation and existing and future reasonable-beneficial uses. In addition, it is possible that this phase will achieve recovery to the minimum flows and levels but it is impossible to determine whether this will occur given that it is unknown which recovery management mechanisms will be utilized by water use permittees. Except as to the Lower Hillsborough River, Sulphur Springs and the Tampa Bypass Canal, the District will evaluate the state of knowledge of these matters in 2010, including analysis of all information and reports submitted pursuant to Rule 40D-80.073(3)(c), F.A.C., data collected and analyzed and relationships determined pursuant to subsection 40D-8.011(5), F.A.C., regarding the minimum flows and levels for the priority waters in the area (The "MFLs") and the Central System Facilities. Based on that analysis and evaluation, on or before December 31, 2010, except as to the Lower Hillsborough River, Sulphur Springs and the Tampa Bypass Canal, the District shall initiate rulemaking to 1) revise the MFLs (the "New MFLs"), as necessary; 2) adopt rules to implement the existing or the New MFLs (The "Implementation Rules"); and 3) revise this Rule 40D-80.073, F.A.C., to incorporate a second phase to this Recovery Strategy ("Recovery Strategy Rules"), as necessary, consistent with Subsection 373.0421(2), F.S. In the event that the District determines that it is not necessary to initiate rulemaking to adopt New MFLs, and a substantially affected person is granted an administrative hearing to challenge the Implementation Rules or the Recovery Strategy Rules, and the MFL Rules, the District will not object to a motion to consolidate the hearings.~~

(8) Hillsborough River Strategy.

Beginning November 25, 2007, the Minimum Flow for the Lower Hillsborough River shall be as provided in subsection 40D-8.041(1), F.A.C., to be achieved on the time schedule as set forth below. The District and the City of Tampa (City) shall

measure the delivery of water to the base of the dam relative to their respective elements as described below. The City shall report this information to the District monthly on the 15th day of the following month. In addition, the City shall submit a quarterly written report of all activities and all progress towards timely completion of its elements of the recovery strategy. Such reports will be submitted to the District within 15 calendar days after each calendar year quarter.

(a) The District and the City have entered into the Joint Funding Agreement Between The Southwest Florida Water Management District and The City of Tampa For Implementation of Recovery Projects To Meet Minimum Flows Of The Lower Hillsborough River (the "Agreement"). The Agreement and subsection 40D-80.073(8), F.A.C., constitute the District's recovery strategy for the Lower Hillsborough River required by Section 373.0421(2), F.S., and shall not compromise public health, safety and welfare.

(b) The schedule to achieve the Minimum Flows for the Lower Hillsborough River is as follows:

1. Sulphur Springs – Beginning on November 25, 2007, the City shall be required to provide 10 cubic feet per second (cfs) of water to the base of the City's dam each day-provided such use will not compromise public health, safety and welfare.

2. Tampa Bypass Canal Diversions – By January 1, 2008, provided that any permit that may be required is approved, the District shall divert up to 7.1 million gallons of water on any given day from the District's Tampa Bypass Canal ("TBC") to the Hillsborough River at the District's Structure 161. The District shall then deliver water from the Hillsborough River immediately above the City's dam to the base of the City's dam to help meet the minimum flow requirements of the Lower Hillsborough River. Such diversions shall not occur if public health, safety and welfare will be compromised.

a. The District shall complete a comprehensive analysis of these diversions within 90 days of the first year of operation to identify and subsequently make any mechanical or efficiency adjustments that may be necessary. The District shall use its best efforts to expedite obtaining any permit that may be needed to undertake these actions.

b. By October 1, 2013, provided that the transmission pipeline has been constructed and is operational, all of the water diverted from the TBC middle pool under this provision to help meet the minimum flow shall be provided to the Lower Hillsborough River per subparagraph 40D-80.073(8)(b)7., F.A.C.

c. These diversions shall be prioritized as follows:

(i) Priority Source One – Diversions From the TBC Middle Pool When the TBC Middle Pool is Above 12.0 feet NGVD (1929 or its 1988 equivalent), and There is Flow of at Least 11 cfs Over the District's Structure 162 – On days when the TBC middle pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), as measured by the downstream gauge at the District's Structure 161, and there is flow of at least 11 cfs over the District's Structure 162, the District shall divert water from the TBC middle pool to the Hillsborough River.

A. The District shall then deliver 75 percent of any water diverted from the TBC to the Hillsborough River under this provision to the Lower Hillsborough River. Delivery of 75 percent of the water diverted from the TBC addresses concerns about potential losses due to subsurface leakage, evaporation and transpiration. This delivery shall be from the Hillsborough River just above the City's dam to the base of the City's dam, and shall supplement diversions from Sulphur Springs, Blue Sink and Morris Bridge Sink, as they are implemented, and as described in subparagraphs 40D-80.073(8)(b)1., 3., 6. and 8., F.A.C.

B. The TBC middle pool diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River set forth in subsection 40D-8.041(1), F.A.C., but will not exceed 7.1 million gallons on any given day.

C. Such diversions shall cease from the TBC middle pool if the elevation difference between the TBC middle and lower pools exceeds 7.0 feet.

D. On days when flow over the Hillsborough River Dam naturally exceeds 20 cfs during the months of July through March or 24 cfs during the months of April through June and when diversions from the TBC middle pool are not needed to replenish the supply from Storage Projects described in paragraphs 40D-80.073(8)(c) and (d), F.A.C., diversions from the TBC middle pool shall not occur, and any flows in the TBC lower pool above elevation 9.0 feet NGVD (1929 or its 1988 equivalent), shall be available for water supply.

E. Prior to October 1, 2013, and during the months of March through June, on days when some water is needed from the TBC middle pool to help meet the minimum flow for the Lower Hillsborough River, all available water from the TBC middle pool not needed to be diverted in accordance with SWFWMD Water Use Permit No. 20006675 but not exceeding 7.1 million gallons on any given day will be diverted to the Hillsborough River. Water delivered to the Hillsborough River in excess of that needed to help meet the minimum flow of the Lower Hillsborough River shall remain in the Hillsborough River above the dam. Keeping this water in the Hillsborough River above the dam will reduce the time and quantities of supplemental flow needed to help meet the minimum flow requirements.

F. During the months of July through February, on days when water is needed from the TBC middle pool to help meet the minimum flow of the Lower Hillsborough River, only that amount of water needed to help meet the minimum flow but not in excess of 7.1 million gallons on any given day shall be diverted from the TBC middle pool to the Hillsborough River,

and any water in the TBC middle and lower pools above elevations 12.0 and 9.0 feet NGVD (1929 or its 1988 equivalent), respectively, shall be available for water supply.

(ii) Priority Source Two – Diversions When the TBC Middle Pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), and the Flow Over the District's Structure 162 is Less Than 11 cfs – On days when the TBC middle pool is above 12.0 feet NGVD (1929 or its 1988 equivalent), as measured by the downstream gauge at the District's Structure 161, and the flow over the District's Structure 162 is less than 11 cfs, the District shall divert water from the TBC middle pool to the Hillsborough River.

A. The District shall then deliver 75 percent of any water diverted from the TBC middle pool to the Hillsborough River under this provision to the Lower Hillsborough River. Delivery of 75 percent of the water diverted from the TBC addresses concerns about potential losses due to subsurface leakage, evaporation and transpiration. This delivery shall be from the Hillsborough River just above the City's dam to immediately below the City's dam, and shall supplement diversions from Sulphur Springs, Blue Sink and Morris Bridge Sink, as they are implemented, and as described in subparagraphs 40D-80.073(8)(b)1., 3., 6. and 8., F.A.C.

B. The TBC middle pool diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River, but will not exceed 7.1 million gallons on any given day.

I. On days such diversions occur, the District will divert from the TBC lower pool to the TBC middle pool quantity equivalent to that diverted by the District from the TBC middle pool to the Hillsborough River.

II. Such diversions shall cease from both the TBC middle and lower pool when the stage of the TBC lower pool reaches 6.0 feet NGVD (1929 or its 1988 equivalent), as measured by the gauge at the District's Structure 160, or the elevation difference between the TBC middle and lower pools exceeds 7.0 feet.

C. Once the stage in the TBC lower pool is below 8.7 feet NGVD (1929 or its 1988 equivalent), withdrawals from this priority source to help meet the minimum flow for the lower Hillsborough River are considered withdrawals from the storage of the TBC lower pool. When the stage in the TBC lower pool is below 8.7 feet NGVD (1929 or its 1988 equivalent), the following restrictions apply:

I. At no time shall withdrawals from the lower pool to help meet the minimum flow for the lower Hillsborough River cause the stage in the lower pool to go below 6.0 feet NGVD (1929 or its 1988 equivalent), or cause the elevation difference between the TBC middle and lower pools to exceed 7.0 feet, as measured on either side of the District's Structure 162.

II. If supplemental flows are required to help meet the lower Hillsborough River minimum flow from this Priority Source, once withdrawals begin from storage they will continue until the TBC lower pool reaches an elevation of 6.0 feet NGVD (1929 or its 1988 equivalent). At such time as either of the conditions set forth in sub-subparagraph 40D-80.073(8)(b)2.(ii)C.I., F.A.C., above, are met, the District shall cease withdrawals from the TBC lower pool. The District shall only reinitiate withdrawals from the TBC lower pool when its elevation equals or exceeds 9.0 feet NGVD (1929 or its 1988 equivalent), for 20 consecutive days, which is defined as the TBC lower pool replenishment.

III. The total withdrawn from storage on any given day shall not exceed 7.1 million gallons on any given day.

IV. Withdrawals from storage will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(8)(b), (c) and (d), F.A.C.

(iii) Priority Source Three – Diversions When TBC Middle Pool Elevations are Between 10.0 and 12.0 Feet NGVD (1929 or its 1988 equivalent) – The District will make all reasonable efforts to obtain authorization from the United States Army Corps of Engineers to allow the withdrawals of up to 7.1 million gallons on any given day from the TBC middle pool to aid in the Lower Hillsborough River minimum flow requirements when the TBC middle pool is below 12.0 feet and above 10.0 feet NGVD (1929 or its 1988 equivalent).

A. These diversions will only occur when the stage of the TBC lower pool has reached 6.0 feet NGVD (1929 or its 1988 equivalent), or the TBC lower pool is in a state of replenishment as described in sub-subparagraph 40D-80.073(8)(b)2.(ii)C.II., F.A.C. These diversions will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(8)(b), (c) and (d), F.A.C., but will not exceed 7.1 million gallons on any given day.

B. These diversions shall cease if the elevation difference between the Hillsborough River and TBC middle pool exceeds 9.5 feet, if approved by the United States Army Corps of Engineers, as measured on either side of the District's Structure 161, or if the elevation difference between the TBC middle and lower pools exceeds 7.0 feet, as measured on either side of the District's Structure 162.

C. Diversions associated with this provision will not occur until the water transmission pipeline as set forth in subparagraph 40D-80.073(8)(b)7., F.A.C., is completed or by October 1, 2013, whichever is sooner. Once the stage in the TBC middle pool is below 12.0 feet NGVD (1929 or its 1988 equivalent), withdrawals to help meet the minimum flow for the Lower Hillsborough River are considered withdrawals

from the storage of the TBC middle pool. When the stage is below 12.0 feet NGVD (1929 or its 1988 equivalent), the following restrictions apply:

I. At no time shall withdrawals from the TBC middle pool to help meet the minimum flow for the Lower Hillsborough River cause the stage in the middle pool to go below 10.0 feet NGVD (1929 or 1988 equivalent), or cause the elevation difference between the TBC middle pool and Hillsborough River to exceed 9.5 feet, as measured on either side of the District's Structure 161, or cause the elevation difference between the TBC middle and lower pools to exceed 7.0 feet, as measured on either side of the District's Structure 162.

II. If supplemental flows are required to help meet the Lower Hillsborough River minimum flow from this Priority Source, once withdrawals begin from storage they will continue until the TBC middle pool reaches an elevation of 10.0 feet NGVD (1929 or its 1988 equivalent). At such time as either of the conditions set forth in sub-subparagraph 40D-80.073(8)(b)2.c.(iii)C.I., F.A.C., above, are met, the District shall cease withdrawals from the TBC middle pool. The District shall only reinitiate withdrawals from the TBC middle pool when its elevation equals or exceeds 12.0 feet NGVD (1929 or its 1988 equivalent), for 20 consecutive days, which is defined as the TBC Pool Replenishment, and there is less than 11 cfs of flow over the District's Structure 162.

III. The total withdrawn from storage on any one day shall not exceed 7.1 million gallons.

IV. Withdrawals from storage will be limited to the quantity needed to help achieve the minimum flow requirements of the Lower Hillsborough River after utilizing the quantity diverted from all other sources, as they are implemented, and as described in paragraphs 40D-80.073(8)(b), (c) and (d), F.A.C.

3. Sulphur Springs Project.

a. By October 1, 2009, and as specified in the Agreement, the City shall complete the modification of the lower weir to provide to the base of the dam all available flow from Sulphur Springs not needed to maintain the minimum flow for manatees as set forth in paragraph 40D-8.041(2)(b), F.A.C.

b. By October 1, 2010, the City shall complete the construction of the upper gates and the pump station to provide to the base of the dam all available flow from Sulphur Springs not needed to maintain the minimum flow for manatees as set forth in paragraph 40D-8.041(2)(b), F.A.C.

c. By October 1, 2012, and as specified in the Agreement, the City is to provide to the base of the dam all available flow, from Sulphur Springs not needed to maintain the minimum flow for Sulphur Springs as set forth in paragraph 40D-8.041(2)(a), F.A.C.

(i) These diversions shall not exceed 11.6 million gallons on any given day.

(ii) The City is authorized to use any remaining quantities at Sulphur Springs for water supply purposes consistent with SWFWMD Water Use Permit No. 20002062.

d. Additionally, beginning on October 1, 2010, on days when the minimum flow requirements are being adjusted for the Lower Hillsborough River, as described in paragraph 40D-8.041(1)(b), F.A.C., and there is flow at Sulphur Springs in excess of the quantity needed to help meet the adjusted flow as described in paragraph 40D-8.041(1)(b), F.A.C., and the minimum flow requirements in paragraph 40D-8041(2)(b), F.A.C., and the City is not using such flow to augment the Hillsborough River above the dam, the City shall move such quantity to the base of the City's dam up to the unadjusted quantities described in paragraph 40D-8.041(1)(b), F.A.C.

4. Blue Sink Analysis – By October 1, 2010, and as specified in the Agreement, the City in cooperation with the District shall complete a thorough cost/benefit analysis to divert all available flow from Blue Sink in north Tampa to a location to help meet the minimum flow or to the base of the City's dam.

5. Transmission Pipeline Evaluation – By October 1, 2010, and as specified in the Agreement, the City shall complete a thorough design development evaluation to construct a water transmission pipeline from the TBC middle pool to the City's David L. Tippin Water Treatment Facility, including a spur to just below the City's dam.

6. Blue Sink Project – By October 1, 2011, and as specified in the Agreement, the City will provide all available flow from Blue Sink project to help meet the minimum flow provided that all required permits are approved, and it is determined that the project is feasible. Once developed, all water from this source shall be used to the extent that flow is available to help meet the minimum flow for the Lower Hillsborough River.

7. Transmission Pipeline Project – By October 1, 2013, and as specified in the Agreement, the City shall complete the water transmission pipeline described in subparagraph 40D-80.073(8)(b)5., F.A.C., and move the water the District will move as specified in sub-paragraphs 40D-80.073(8)(b)2. and 8., F.A.C., to the Lower Hillsborough River directly below the dam as needed to help meet the minimum flow or to transport water in accordance with SWFWMD Water Use Permit No. 20006675.

a. This transmission line will eliminate all adjustment for losses described in subparagraphs 40D-80.073(8)(b)2. and 8., F.A.C.

b. Additionally, the City will provide an additional flow of 1.9 million gallons each day to the base of the dam from the TBC middle pool provided that water is being transported in accordance with SWFWMD Water Use Permit No. 20006675. This additional 1.9 million gallons each day is anticipated to be part of the water savings associated with this transmission pipeline.

c. Once the pipeline is completed, the 1.9 million gallons each day of additional flow provided by the City as part of the water savings associated with the pipeline will be used in

preference to all other sources except Sulphur Springs and Blue Sink to help meet the minimum flow for the Lower Hillsborough River.

d. In the event that this pipeline is not substantially completed by October 1, 2013, or that the City did not provide the District with a minimum ninety (90) days notice prior to October 1, 2013, of the delay of completion of the pipe due to circumstances beyond its control, then, the City will be responsible for delivering the flows the District was previously obligated to divert from the TBC middle pool to the Hillsborough River and then to immediately below the City's dam under subparagraphs 40D-80.073(8)(b)2. and 8., F.A.C.; except that the District shall continue to be responsible to pump water from the TBC lower pool to the middle pool as described in sub-subparagraph 40D-80.073(8)(b)2.b., F.A.C., and from Morris Bridge Sink to the TBC middle pool as described in subparagraph 40D-80.073(8)(b)8., F.A.C.

e. The City shall also provide the 1.9 million gallons each day if needed to help meet the flow described in this provision, from some other permitable source and is obligated to do so pursuant to d. above.

8. Morris Bridge Sink Project.

a. By October 1, 2012, or earlier, and upon completion of the project, provided that any permit that may be required is approved, the District shall divert up to 3.9 million gallons of water on any given day from the Morris Bridge Sink to the TBC middle pool.

(i) The Morris Bridge Sink diversions will be limited to the quantity needed to achieve the minimum flow requirements of the Lower Hillsborough River, after utilizing the quantity diverted from Sulphur Springs, Blue Sink and the 1.9 million gallons of water savings each day anticipated from the transmission pipeline, as they are implemented, and as described in subparagraphs 40D-80.073(8)(b)1., 3., 6. and 7., F.A.C.

(ii) However, on days when TBW does not draw the TBC lower pool down to 9.0 feet NGVD (1929 or its 1988 equivalent) for water supply purposes, and supplemental flow is needed for the Lower Hillsborough River minimum flow requirements beyond water that can be delivered from Sulphur Springs, Blue Sink and the 1.9 million gallons of water savings each day anticipated from the transmission pipeline described in subparagraphs 40D-80.073(8)(b)1., 3., 6. and 7., F.A.C., the District shall divert up to 7.1 million gallons on any given day from the TBC lower pool to the TBC middle pool prior to diverting flows from the Morris Bridge Sink to the TBC middle pool.

(iii) The District shall cease to divert water from the TBC lower pool under this provision once the elevation of the TBC lower pool reaches 9.0 feet NGVD (1929 or its 1988 equivalent).

b. Prior to the completion of the pipeline described in subparagraph 40D-80.073(8)(b)7., F.A.C., the District shall transfer any water delivered to the TBC middle pool from the Morris Bridge Sink or the TBC lower pool under this provision to the Hillsborough River near the District's Structure 161.

(i) These deliveries shall be made on the same day the District delivers water from the Morris Bridge Sink or the TBC lower pool.

(ii) The District shall then deliver 75 percent of any water diverted to the Hillsborough River under this provision to the Lower Hillsborough River. This delivery shall be from the Hillsborough River just above the City's dam to immediately below the City's dam.

(iii) The deliveries of the water from the Morris Bridge Sink to the TBC middle pool then on to the Hillsborough River are in addition to any other diversions from the TBC middle pool to the Hillsborough River described in subparagraphs 40D-80.073(8)(b)2. and 8., F.A.C.

c. Once the City completes the water transmission pipeline described in subparagraphs 40D-80.073(8)(b)5. and 7., F.A.C., or as may be otherwise responsible for delivering the flows the District was previously obligated to divert pursuant to subparagraph 40D-80.073(8)(b)7., F.A.C., the City shall move any water the District delivers to the TBC middle pool from Morris Bridge Sink or the TBC lower pool under this provision to the Lower Hillsborough River directly below the dam. Such delivery by the City will occur on the same day the District delivers the water from the Morris Bridge Sink or the TBC lower pool to the TBC middle pool.

d. At no time shall withdrawals from the TBC under this provision cause:

(i) The elevation difference between the TBC middle pool and Hillsborough River to exceed 9.5 feet as measured on either side of the District's Structure 161; or

(ii) The elevation difference between the TBC middle and lower pools to exceed 7.0 feet as measured on either side of the District's Structure 162.

9. Beginning October 1, 2017, the City shall be required to meet the minimum flows at the base of the dam as set forth in subsection 40D-8.041(1), F.A.C.

(c) The City and the District shall, as specified in the Agreement, cooperate in the evaluation of options for storage of water ("Storage Projects") such as aquifer storage and recovery (ASR), and additional source options (e.g., diversions from Morris Bridge Sink greater than those described in subparagraph 40D-80.073(8)(b)8., F.A.C.), in sufficient permitable quantities, that upon discharge to the base of the dam, together with the other sources of flow described in paragraph 40D-80.073(8)(b), F.A.C., will meet the minimum flows beginning October 1, 2017, or earlier.

(d) The City may propose for District approval additional source or storage projects that when completed may be used in lieu of all or part of one or more sources described in subparagraphs 40D-80.073(8)(b)2.-8., F.A.C.

(e) Any District sponsored project, which shall include evaluation of up to 3.9 million gallons per day of additional quantities other than those identified in subparagraph 40D-80.073(8)(b)8., F.A.C., from the Morris Bridge Sink, shall be implemented by the District no later than October 1, 2017, provided that it is deemed feasible by the District, to eliminate or reduce the need to divert water from the TBC middle and lower pool storage as described in subparagraph 40D-80.073(8)(b)2., F.A.C. Such projects shall be implemented only after receiving any required permits.

(f) Each spring, beginning in 2008, the District shall review the recovery strategy to assess the progress of implementation of the recovery strategy and report that progress to the Governing Board. This annual review and report shall include identification of the Storage Projects or other additional sources options that will be operational by October 1, 2017. If and when developed, Storage Projects or other additional source options to supply supplemental flows to meet the minimum flow will be used in preference to removal of water from storage in either the middle or lower pools of the TBC as described in paragraph 40D-80.073(8)(b), F.A.C.

(g) The City and the District shall continue the existing monitoring and analysis of the water resources within the Lower Hillsborough River and the District shall provide this information to the Governing Board as part of the annual review and report described in paragraph (8)(d), above.

(h) In 2013, and for each five year period through 2023, the District shall evaluate the hydrology, dissolved oxygen, salinity, temperature, pH and biologic results achieved from implementation of the recovery strategy for the prior five years, including the duration, frequency and impacts of the adjusted minimum flow as described in paragraph 40D-8.041(1)(b), F.A.C. As part of the evaluation the District will assess the recording systems used to monitor these parameters. The District shall also monitor and evaluate the effect the Recovery Strategy is having on water levels in the Hillsborough River above the City's dam to at least Fletcher Avenue. The District will evaluate all projects described in this Recovery Strategy relative to their potential to cause unacceptable adverse impacts prior to their implementation.

(i) In conjunction with recovery of the Lower Hillsborough River and to enhance restoration of McKay Bay and Palm River estuary, the District intends to undertake a wetland restoration project adjacent to McKay Bay. The City agrees to contribute to the project by providing up to 7.1 million gallons on any given day of reclaimed water, as needed for the project. Within five years of completion of this wetland project, and for two subsequent five year periods thereafter, the District shall review the hydrologic, dissolved oxygen, salinity, temperature, pH and biologic results achieved from the implementation of the restoration project and other similar District projects that may occur.

Rulemaking ~~Specific~~ Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.171, 373.0421, 373.0831, 373.1963 FS. History–New 8-3-00, Amended 11-25-07, _____.

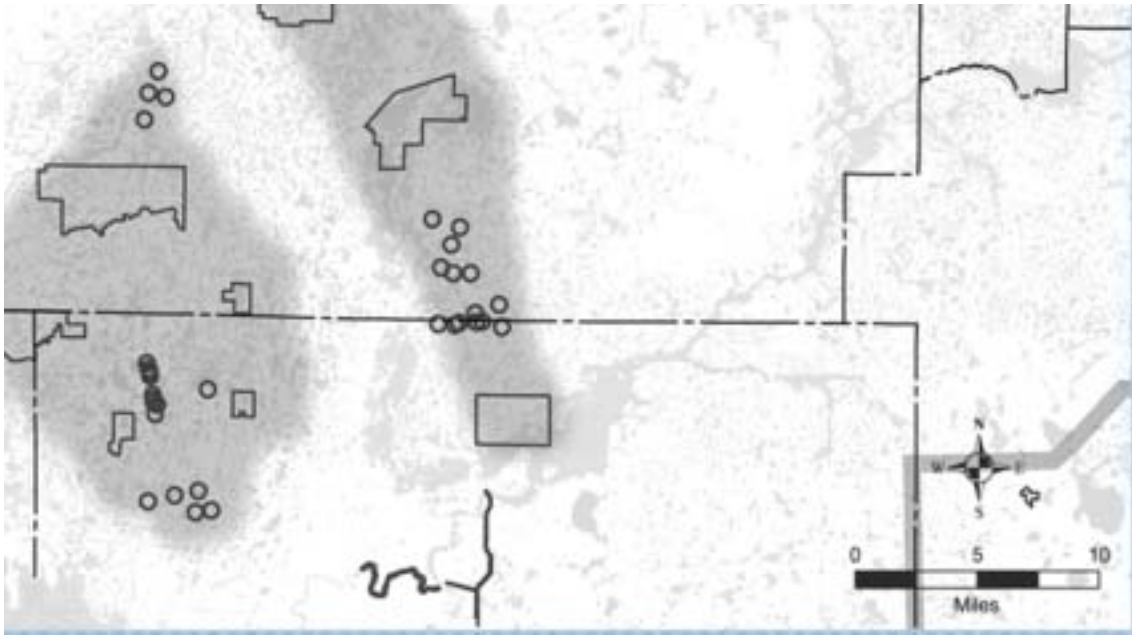
NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Weber, Water Use Permitting Program Director, Strategic Program Office, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4303

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

Figure 80-1. Generalized area of surficial aquifer impacts as of 1998 (shaded).



Wellfield Boundary

Generalized Impacts Area

Pasco Co.

Hillsborough Co. **Pinellas Co.**

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: RULE TITLE:
61J2-24.001 Disciplinary Guidelines

PURPOSE AND EFFECT: To change affect provisions relating to designated penalties in compliance with Section 455.2273, F.S.

SUMMARY: This rule changes affect provisions relating to designated penalties in compliance with Section 455.2273, F.S.

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

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

RULEMAKING AUTHORITY: 455.2273, 475.05 FS.

LAW IMPLEMENTED: 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial Rewording of Rule 61J2-24.001 follows. See Florida Administrative Code for present text.)

61J2-24.001 Disciplinary Guidelines.

(1) Pursuant to Section 455.2273, F.S., the Commission sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon licensees guilty of violating Chapter 455 or 475, F.S. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which normally will be imposed for each count during a formal or an informal hearing. For purposes of this rule, the order of penalties, ranging from lowest to highest, is: reprimand, fine, probation, suspension, and revocation or denial. Pursuant to Section 475.25(1), F.S., combinations of these penalties are permissible by law. Nothing in this rule shall preclude any discipline imposed upon a licensee pursuant to a stipulation or settlement agreement, nor shall the range of penalties set forth in this rule preclude the Probable Cause Panel from issuing a letter of guidance.

(2) As provided in Section 475.25(1), F.S., the Commission may, in addition to other disciplinary penalties, place a licensee on probation. The placement of the licensee on probation shall be for such a period of time and subject to such conditions as the Commission may specify. Standard probationary conditions may include, but are not limited to, requiring the licensee: to attend pre-licensure courses; to satisfactorily complete a pre-licensure course; to attend post-licensure courses; to satisfactorily complete a post-licensure course; to attend continuing education courses; to submit to and successfully complete the state-administered examination; to be subject to periodic inspections and interviews by a DBPR investigator; if a broker, to place the license on a broker associate status; or, if a broker, to file escrow account status reports with the Commission or with a DBPR investigator at such intervals as may be prescribed.

(3) The penalties are as listed unless aggravating or mitigating circumstances apply pursuant to subsection (4). The verbal identification of offenses is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION	MINIMUM PENALTY	MAXIMUM PENALTY
(a) Section 475.22, F.S. Broker fails to maintain office and sign at entrance of office.	(a) Reprimand	(a) 90-day suspension
(b) Section 475.24, F.S. Failure to register a branch office	(b) Reprimand	(b) 90-day suspension
(c) Section 475.25(1)(b), F.S. Guilty of Fraud, misrepresentation, and dishonest dealing.	(c) $250 administrative fine	(c) $5,000 administrative fine and revocation
Concealment, false promises, false pretenses by trick, scheme or device.	$250 administrative fine	$5,000 administrative fine and revocation
Culpable negligence or breach of trust.	$250 administrative fine	$5,000 administrative fine and revocation

Guilty of violating a duty imposed by law or by the terms of a listing agreement; aided, assisted or conspired with another; or formed an intent, design or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design or scheme.	$250 administrative fine	$5,000 administrative fine and revocation
(d) Section 475.25(1)(c), F.S. False, deceptive or misleading advertising.	(d) $250 administrative fine	(d) $5,000 administrative fine and revocation
(e) Section 475.25(1)(d), F.S. Failed to account or deliver to any person as required by agreement or law, escrowed property.	(e) $250 administrative fine	(e) $5,000 administrative fine and revocation
(f) Section 475.25(1)(e), F.S. Violated any rule or order or provision under Chapters 475 and 455, F.S.	(f) $250 administrative fine	(f) $5,000 administrative fine and revocation
(g) Section 475.25(1)(f), F.S. Convicted or found guilty of a crime related to real estate or involving moral turpitude or fraudulent or dishonest dealing.	(g) $250 administrative fine	(g) $5,000 administrative fine and revocation
(h) Section 475.25(1)(g), F.S. Has license disciplined or acted against or an application denied by another jurisdiction.	(h) $250 administrative fine	(h) $5,000 administrative fine and revocation
(i) Section 475.25(1)(h), F.S. Has shared a commission with or paid a fee to a person not properly licensed under Chapter 475, F.S.	(i) $250 administrative fine	(i) $5,000 administrative fine and revocation
(j) Section 475.25(1)(i), F.S. Impairment by drunkenness, or use of drugs or temporary mental derangement.	(j) Suspension for the period of incapacity	(j) Suspension for the period of incapacity
(k) Section 475.25(1)(j), F.S. Rendered an opinion that the title to property sold is good or merchantable when not based on opinion of a licensed attorney or has failed to advise prospective.	(k) $250 administrative fine	(k) $5,000 administrative fine and revocation
buyer to consult an attorney on the merchantability of title or to obtain title insurance.		
(l) Section 475.25(1)(k), F.S. Has failed, if a broker, to deposit any money in an escrow account immediately upon receipt until.	(l) $250 administrative fine	(l) $5,000 administrative fine and revocation
disbursement is properly authorized. Has failed, if a sales associate, to place any money to be escrowed with his registered employer.		

(m) Section 475.25(1)(l), F.S. Has made or filed a report or record which the licensee knows to be false or willfully failed to file a report or record or willfully impeded such filing as required by State or Federal Law.	(m) $250 administrative fine	(m) $5,000 administrative fine and revocation
(n) Section 475.25(1)(m), F.S. Obtained a license by fraud, misrepresentation or concealment.	(n) $250 administrative fine	(n) $5,000 administrative fine and revocation
(o) Section 475.25(1)(n), F.S. Confined in jail, prison or mental institution; or through mental disease can no longer practice with skill and safety.	(o) $250 administrative fine	(o) $5,000 administrative fine and revocation
(p) Section 475.25(1)(o), F.S. Guilty for the second time of misconduct in the practice of real estate that demonstrates incompetent, dishonest or negligent dealings with investors.	(p) $250 administrative fine	(p) $5,000 administrative fine and revocation
(q) Section 475.25(1)(p), F.S. Failed to give Commission 30 day written notice after a guilty or nolo contendere plea or convicted of any felony.	(q) $250 administrative fine	(q) $5,000 administrative fine and revocation
(r) Section 475.25(1)(r), F.S. Failed to follow the requirements of a written listing agreement.	(r) $250 administrative fine	(r) $5,000 administrative fine and revocation
(s) Section 475.25(1)(s), F.S. Has had a registration suspended, revoked or otherwise acted against in any jurisdiction.	(s) $250 administrative fine	(s) $5,000 administrative fine and revocation
(t) Section 475.25(1)(t), F.S. Violated the Uniform Standards of Professional Appraisal Practice as defined in Section 475.611, F.S.	(t) $250 administrative fine	(t) $5,000 administrative fine and revocation
(u) Section 475.25(1)(u), F.S. Has failed, if a broker, to direct, control, or manage a broker associate or sales associate employed by such broker.	(u) $250 administrative fine	(u) $5,000 administrative fine and revocation
(v) Section 475.25(1)(v), F.S. Has failed, if a broker, to review the brokerage's trust accounting procedures in order to ensure compliance with this chapter.	(v) $250 administrative fine	(v) $5,000 administrative fine and revocation
(w) Section 475.42(1)(a), F.S. Practice without a valid and current license.	(w) $250 administrative fine	(w) $5,000 administrative fine and revocation
(x) Section 475.42(1)(b), F.S. Practicing beyond scope as a sales associate.	(x) $250 administrative fine	(x) $5,000 administrative fine and revocation

(y) Section 475.42(1)(c), F.S. Broker employs a sales associate who is not the holder of a valid and current license.	(y) $250 administrative fine	(y) $5,000 administrative fine and revocation
(z) Section 475.42(1)(d), F.S. A sales associate shall not collect any money in connection with any real estate brokerage transaction except in the name of the employer.	(z) $250 administrative fine	(z) $5,000 administrative fine and revocation
(aa) Section 475.42(1)(e), F.S. A violation of any order or rule of the Commission	(aa) $250 administrative fine	(aa) $5,000 administrative fine and revocation
(bb) Section 475.42(1)(g), F.S. Makes false affidavit or affirmation or false testimony before the Commission	(bb) $250 administrative fine	(bb) $5,000 administrative fine and revocation
(cc) Section 475.42(1)(h), F.S. Fails to comply with subpoena	(cc) $250 administrative fine	(cc) $5,000 administrative fine and revocation
(dd) Section 475.42(1)(i), F.S. Obstructs or hinders the enforcement of Chapter 475, F.S.	(dd) $250 administrative fine	(dd) $5,000 administrative fine and revocation
(ee) Section 475.42(1)(j), F.S. No broker or sales associate shall place upon the public records any false, void or unauthorized information that affects the title or encumbers any real property.	(ee) $250 administrative fine	(ee) $5,000 administrative fine and revocation
(ff) Section 475.42(1)(k), F.S. Failed to register trade name with the Commission.	(ff) $250 administrative fine	(ff) $5,000 administrative fine and revocation
(gg) Section 475.42(1)(l), F.S. No person shall knowingly conceal information relating to violations of Chapter 475, F.S.	(gg) $250 administrative fine	(gg) $5,000 administrative fine and revocation
(hh) Section 475.42(1)(m), F.S. Fails to have a current license as a broker or sales associate while listing or selling one or more timeshare periods per year.	(hh) $250 administrative fine	(hh) $5,000 administrative fine and revocation
(ii) Section 475.42(1)(n), F.S. Licensee fails to disclose all material aspects of the resale of timeshare period or timeshare plan and the rights and obligations of both buyer or seller.	(ii) $250 administrative fine	(ii) $5,000 administrative fine and revocation
(jj) Section 475.42(1)(o), F.S. Publication of false or misleading information; promotion of sales, leases and rentals.	(jj) $250 administrative fine	(jj) $5,000 administrative fine and revocation

(kk) Section 475.451, F.S. School teaching real estate practice fails to obtain a permit from the department and does not abide by regulations of Chapter 475, F.S., and rules adopted by the Commission.	(kk) $250 administrative fine	(kk) $5,000 administrative fine and revocation
(ll) Section 475.453, F.S. Broker or sales associate participates in any rental information transaction that fails to follow the guidelines adopted by the Commission and Chapter 475, F.S.	(ll) $250 administrative fine	(ll) $5,000 administrative fine and revocation
(mm) Section 475.5015, F.S. Failure to keep and make available to the department such books, accounts, and records as will enable the department to determine whether the broker is in compliance with the provisions of this chapter	(mm) $250 administrative fine	(mm) $5,000 administrative fine and revocation
(nn) Section 455.227(1)(s), F.S. Failing to comply with the educational course requirements for domestic violence	(nn) $250 administrative fine	(nn) $5,000 administrative fine and revocation
(oo) Section 455.227(1)(t), F.S. Failing to report in writing to the board or, if there is no board, to the department within 30 days after the licensee is convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction.	(oo) $250 administrative fine	(oo) $5,000 administrative fine and revocation
(pp) Section 455.227(1)(u), F.S. Termination from a treatment program for impaired practitioners as described in s. 456.076 for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program	(pp) $250 administrative fine	(pp) $5,000 administrative fine and revocation

(4)(a) When either the Petitioner or Respondent is able to demonstrate aggravating or mitigating circumstances to the Commission in a Section 120.57(2), F.S., hearing or to a Division of Administrative Hearings hearing officer in a Section 120.57(1), F.S., hearing by clear and convincing evidence, the Commission or hearing officer shall be entitled to deviate from the above guidelines in imposing or recommending discipline, respectively, upon a licensee. Whenever the Petitioner or Respondent intends to introduce such evidence to the Commission in a Section 120.57(2), F.S., hearing, advance notice of no less than seven (7) days shall be given to the other party or else the evidence can be properly excluded by the Commission.

(b) Aggravating or mitigating circumstances may include, but are not limited to, the following:

1. The degree of harm to the consumer or public.

2. The number of counts in the Administrative Complaint.

3. The disciplinary history of the licensee.

4. The status of the licensee at the time the offense was committed.

5. The degree of financial hardship incurred by a licensee as a result of the imposition of a fine or suspension of the license.

6. Violation of the provision of Chapter 475, F.S., wherein a letter of guidance as provided in Section 455.225(4), F.S., previously has been issued to the licensee.

Rulemaking ~~Specific~~ Authority 455.2273, 475.05 FS. Law Implemented 455.227, 455.2273, 475.22, 475.24, 475.25, 475.42, ~~475.421, 475.422, 475.452,~~ 475.453~~, 475.455, 475.482~~ FS. History–New 11-24-86, Amended 10-13-88, 4-20-89, 5-20-90, 12-29-91, 11-8-92, 6-28-93, Formerly 21V-24.001, Amended 11-16-93, 2-29-96, 12-30-97, 11-29-98, 1-18-00, 2-5-04, 1-30-06, 12-25-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 1, 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-210.200	Definitions
62-210.900	Forms and Instructions

PURPOSE AND EFFECT: The proposed rule amendments delete definitions and remove language on department forms related to the vacated federal Clean Air Mercury Rule (CAMR). The amendments also reinstate the Acid Rain Phase II NOx Compliance Plan form, which was inadvertently deleted in a previous rulemaking.

SUMMARY: The proposed rule updates the department's air regulatory requirements for electric power plants resulting from discontinuance of the federal mercury emissions trading program (Hg Budget Program) and the need to reinstate a form used by the department in implementing the federal Acid Rain Program.

Rule 62-210.200, F.A.C., is referenced by a number of other rules. The amendments will have no effect in the following referencing rules: Rules 62-4.050, 62-4.510, 62-204.200, 62-210.220, 62-210.300, 62-210.340. 62-210.370, 62-212.100, 62-212.500, 62-212.720, 62-213.202, 62-213.300, 62-213400, 62-213.410, 62-213.412, 62-213.420, 62-213.440, 62-213.450, 62-214.100, 62-214.370, 62-296.100, 62-296.340, 62-296.401, 62-296.417, 62-296.470, 62-296.600 and 62-297.100, F.A.C. The amendments will cause the following referencing rules to no longer reference any CAMR requirements: Rules 62-213.100 and 62-213.420, F.A.C.

Rule 62-210.900, F.A.C., is also referenced by a number of other rules The amendments will have no effect in the following referencing rules: Rules 62-4.120, 62-4.510, 62-210.200, 62-210.300, 62-210.310, 62-210.370, 62-212.100, 62-212.720, 62-213.405, 62-213.420, 63-213.450, 62-214.340, and 62-214.370, F.A.C. The amendments will cause the following referencing rules to no longer reference any CAMR requirements: Rules 62-213.405, 62-213.413, 62-213.415, 62-213.420, 62-213.430, 62-214.320, and 62-214.360, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 403.061 FS.

LAW IMPLEMENTED: 403.061 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: Thursday, January 28, 2010, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, Division of Air Resource Management, 111 South Magnolia Drive, Suite 23, Director's Conference Room, 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 48 days before the workshop/meeting by contacting: Ms. Lynn Scearce at (850)921-9551. 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: Ms. Terri Long at (850)921-9556 or terri.long@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-210.200 Definitions.

The following words and phrases when used in this chapter and in Chapters 62-212, 62-213, 62-214, 62-296, and 62-297, F.A.C., shall, unless the context clearly indicates otherwise, have the following meanings:

(1) through (24) No change.

(25) "Alternate Designated Representative" –

(a) through (b) No change.

~~(c) For the purposes of the Hg Budget Trading Program, alternate designated representative shall mean "alternate Hg designated representative" as defined in 40 C.F.R. § 60.4102, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(26) through (88) No change.

(89) "Commence Operation" –

(a) through (b) No change.

~~(c) For the purposes of the Hg Budget Trading Program, commence operation shall mean "commence operation" as defined in 40 C.F.R. § 60.4102, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(c)~~(d)~~ Otherwise, to set into operation any emissions unit for any purpose.

(90) through (112) No change.

(113) "Designated Representative" –

(a) through (b) No change.

~~(c) For the purposes of the Hg Budget Trading Program, designated representative shall mean "Hg designated representative" as defined in 40 C.F.R. § 60.4102, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(114) through (156) No change.

~~(157) "Hg" – The regulated air pollutant mercury.~~

~~(158) "Hg Allowance" – A limited authorization issued by the Department to emit one ounce of mercury during a control period of the specified calendar year for which the authorization is allocated, or of any calendar year thereafter, under the Hg Budget Trading Program.~~

~~(159) "Hg Budget Part" or "Hg Budget Permit" – DEP Form No. 62-210.900(1)(c), completed and certified by the designated representative and incorporated as a part of the Title V source permit or air construction permit. The Hg Budget Part shall specify the Hg Budget Trading Program requirements applicable to the Hg Budget source, to each Hg Budget unit at the source, and to the owners and operators and the designated representative of the Hg Budget source and each such Hg Budget unit.~~

~~(160) "Hg Budget Source" – A facility that includes one or more Hg Budget units.~~

~~(161) "Hg Budget Trading Program" – The program implemented at Rule 62-296.480, F.A.C., which, upon approval by the U.S. Environmental Protection Agency, requires Hg Budget units in Florida to participate in the multi-state air pollution control and emission reduction program administered by the U.S. Environmental Protection Agency pursuant to 40 C.F.R. Part 60, Subpart HHHH, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

~~(162) "Hg Budget Unit" – A unit that is subject to the Hg Budget Trading Program pursuant to 40 C.F.R. § 60.4104, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(163) through (336) renumbered (157) through (330) No change.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History–Formerly 17-2.100, Amended 2-9-93, 11-28-93, Formerly 17-210.200, Amended 11-23-94, 4-18-95, 1-2-96, 3-13-96, 3-21-96, 8-15-96, 10-7-96, 10-15-96, 5-20-97, 11-13-97, 2-5-98, 2-11-99, 4-16-01, 2-19-03, 4-1-05, 7-6-05, 2-2-06, 4-1-06, 9-4-06, 9-6-06, 1-10-07, 5-9-07, 7-16-07, 3-16-08, 10-12-08, 6-29-09, _____.

62-210.900 Forms and Instructions.

The forms used by the Department in the stationary source control program are adopted and incorporated by reference in this section. The forms are listed by rule number, which is also the form number, with the subject, title and effective date. Copies of forms may be obtained by writing to the Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or by accessing the Division's website at www.dep.state.fl.us/air. The requirement of subsection 62-4.050(2), F.A.C., to file application forms in quadruplicate is waived if an air permit application is submitted using the Department's electronic application form.

(1) Application for Air Permit – Long Form, Form and Instructions (DEP Form No. 62-210.900(1), Effective_____~~3-16-08~~).

(a) No change.

1. through 2. No change.

3. Phase II NOx Compliance Plan, Form and Instructions (DEP Form No. 62-210.900(1)(a)3., Effective_____.).

(b) No change.

~~(c) Hg Budget Part, Form and Instructions (DEP Form No. 62-210.900(1)(c), Effective 3-16-08).~~

(c)~~(d)~~ Acid Rain~~,~~ and CAIR~~, and Hg Budget~~ Retired Unit Exemption, Form and Instructions (DEP Form No. 62-210.900(1)(c)~~(d)~~, Effective_____.~~3-16-08~~).

(2) through (7) No change.

Rulemaking ~~Specific~~ Authority 403.061 FS. Law Implemented 403.061, 403.087, 403.815 FS. History–New 2-9-93, Amended 7-20-94, Formerly 17-210.900, Amended 11-23-94, 7-6-95, 3-21-96, 1-6-98, 2-11-99, 4-16-01, 6-21-01, 6-16-03, 2-2-06, 3-16-08, 7-3-08, 10-12-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Joseph Kahn, Director, Division of Air Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-213.205	Annual Emissions Fee
62-213.420	Permit Applications
62-213.440	Permit Content
62-213.460	Permit Shield

PURPOSE AND EFFECT: The proposed rule amendments delete language in Florida's air permitting program related to the vacated federal Clean Air Mercury Rule (CAMR).

SUMMARY: The proposed amendments eliminate the federal mercury trading provisions (Hg Budget Program) in Title V air operation permits for electric power plants.

Rule 62-213.205, F.A.C., is referenced by a number of rules. The amendments will have no effect in the following referencing rules: Rules 62-4.050, 62-4.090, 62-4.510, 62-210.100, 62-210.220, 62-210.310, 62-210.350. 62-212.720, 62-213.300, 62-213.420, 62-214.300, 62-214.320, 62-214.370 and 62-214.420, F.A.C. The amendments will cause the following referencing rules to no longer reference any CAMR requirements: Rules 62-210.200, 62-210.300, 62-213.415, 62-296.470 and 62-296.480, F.A.C.

Rule 62-213.420, F.A.C., is also referenced by a number of rules. The amendments will have no effect in the following referencing rules: Rules 62-4.050, 62-4.090, 62-4.510, 62-210.100, 62-210.220, 62-210.310, 62-210.350. 62-212.720, 62-213.300, 62-213.405, 62-213.440, 62-214.300, 62-214.320, 62-214.360, 62-214.370 and 62-214.420, F.A.C. The amendments will cause the following referencing rules to no longer reference any CAMR requirements: Rules 62-210.200, 62-210.300, 62-213.412, 62-213.415, 62-296.470 and 62-296.480, F.A.C.

Rule 62-213.440, F.A.C., is also referenced by a number of rules. The amendments will have no effect in the following referencing rules: Rules 62-4.050, 62-4.090, 62-4.510, 62-210.100, 62-210.220, 62-210.310, 62-210.350, 62-212.720, 62-213.300, 62-213.405, 62-213.412, 62-213.420, 62-214.300, 62-214.320, 62-214.370 and 62-214.420, F.A.C. The amendments will cause the following referencing rules to no longer reference any CAMR requirements: Rules 62-210.200, 62-210.300, 62-296.470 and 62-296.480, F.A.C.

Rule 62-213.440, F.A.C., is also referenced by a number of rules. The amendments to will have no effect in the following referencing rules: Rules 62-4.050, 62-4.090, 62-4.510, 62-210.100, 62-210.220, 62-210.310, 62-210.350. 62-212.720, 62-213.300, 62-213.405, 62-213.420, 62-214.300, 62-214.320, 62-214.370 and 62-214.420, F.A.C. The amendments will cause the the following referencing rules to no longer reference any CAMR requirements: Rules 62-210.200, 62-210.300, 62-213.410, 62-213.412, 62-296.470 and 62-296.480, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 403.061, 403.087, 403.0872 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.0872 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: Thursday, January 28, 2010, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, Division of Air Resource Management, 111 South Magnolia Drive, Suite 23, Director's Conference Room, 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 48 hours before the workshop/meeting by contacting: Ms. Lynn Scearce at (850)921-9551. 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: Ms. Terri Long at (850)921-9556 or terri.long@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-213.205 Annual Emissions Fee.

Each Title V source permitted to operate in this state must pay between January 15 and March 1 of each year, upon written notice as provided in the Title V permit, an annual emissions fee in an amount determined as set forth in subsection 62-213.205(1), F.A.C.

(1) Emissions Fee Calculation and Payment. Each Title V source must calculate the annual fee, based upon the source's previous year's emissions, by multiplying the applicable annual emissions fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent certification, construction permit or operation permit, times the annual hours of operation allowed by specific condition; provided, however, that:

(a) through (d) No change.

(e) For any Title V source that emits less of any regulated air pollutant than allowed by specific condition, the annual fee calculation for such pollutant may, at a responsible official's option, be based upon emissions determined as follows:

1. The Department will accept, for fee purposes, emissions determined by means of data from a certified continuous emissions monitor which, for other than an acid rain source~~,~~ or CAIR source, ~~or Hg Budget source,~~ meets the certification and quality assurance requirements of Appendices B and F of 40 C.F.R. Part 60, or for an acid rain source~~,~~ or CAIR source, ~~or Hg Budget source,~~ meets the certification and quality assurance requirements of 40 C.F.R. Part 75, which are adopted and incorporated by reference in Rule 62-204.800, F.A.C. Stack gas volumetric flow rates will be determined using, if available at the source, calibrated flowmeters with recorders that record data on a continuous basis. In the absence of a flowmeter, flow rates will be determined by the average flow rate for the three most recent stack tests that were conducted at 90 percent to 100 percent of the maximum allowable operating rate for the unit. If three such stack tests have not been conducted, the average of the latest two tests conducted at the 90 percent to 100 percent level will be used. If two or more such tests have not been conducted, the results of the latest test conducted at the 90 percent to 100 percent level shall be used. For purposes of this determination, a stack test shall consist of all test runs required under subsection 62-297.310(1), F.A.C. Flow rates as determined in this paragraph shall be used with continuous emission monitors to determine the mass emissions for fee purposes.

2. through 3. No change.

(f) through (k) No change.

(2) through (4) No change.

Rulemaking ~~Specific~~ Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872 FS. History–New 12-21-92, Amended 11-25-93, Formerly 17-213.200, Amended 11-23-94, 1-1-96, 3-13-96, 6-25-96, 2-11-99, 1-3-01, 4-16-01, 6-2-02, 1-9-08, 3-16-08, _____.

62-213.420 Permit Applications.

(1) Duty to Apply. For each Title V source, the owner or operator shall submit a timely and complete permit application in compliance with the requirements of this section and subsections 62-4.050(1) through (3), F.A.C.

(a) Timely Application.

1. through 4. No change.

~~5. For purposes of the Hg Budget Part form (DEP form number 62-210.900(1)(c)), a timely application is one that is submitted as follows.~~

~~a. For a Hg Budget unit covered by a Title V permit prior to May 1, 2008, a certified Hg Budget Part form shall be submitted to the Department by May 1, 2008. The form shall be submitted as part of a Title V permit revision application.~~

~~b. For a Hg Budget unit not covered by a Title V permit prior to May 1, 2008, a certified Hg Budget Part form shall be submitted to the Department prior to the unit commencing operation. The form shall be incorporated into the Title V permit upon issuance of an initial, revised, or renewal Title V permit, whichever comes first.~~

~~c. A Hg Budget Part form shall be submitted simultaneously with any Title V permit renewal application for a Hg Budget source.~~

(b) Complete Application.

1. No change.

2. The application shall be deemed complete sixty days after receipt, unless the Department, within sixty days after receipt of a certified application for permit, permit revision or permit renewal, requests additional documentation or information needed to process the application. An applicant making timely and complete application for permit, or for permit renewal, shall continue to operate the source under the authority and provisions of any existing valid permit or Florida Electrical Power Plant Siting Certification, and in accordance with applicable requirements of the Acid Rain Program~~,~~ and ~~application requirements of the~~ CAIR Program, ~~and applicable requirements of the Hg Budget Trading Program,~~ until the conclusion of proceedings associated with its permit application or until the new permit becomes effective, whichever is later, provided the applicant complies with all the provisions of subparagraphs 62-213.420(1)(b)3., F.A.C. Failure of the Department to request additional information within sixty days of receipt of a properly signed application shall not impair the Department's ability to request additional information pursuant to subparagraphs 62-213.420(1)(b)3., F.A.C.

3. through 5. No change.

(2) through (6) No change.

~~(7) Hg Budget Part Form. For a source subject to the Hg Budget Program, there shall be included in the Title V permit application a certified Hg Budget Part form (DEP form number 62-210.900(1)(c)) that contains requirements concerning all Hg Budget units at the Hg Budget source for which the application is submitted, in the format prescribed by DEP form number 62-210.900(1)(d).~~

Rulemaking ~~Specific~~ Authority 403.061, 403.087 FS. Law Implemented 403.061, 403.0872 FS. History–New 11-28-93, Amended 4-17-94, Formerly 17-213.420, Amended 11-23-94, 4-2-95, 10-11-95, 3-13-96, 3-20-96, 6-25-96, 10-7-96, 11-13-97, 2-11-99, 7-15-99, 1-3-01, 4-16-01, 6-2-02, 3-16-08, _____.

62-213.440 Permit Content.

(1) Standard Permit Requirements. Each permit issued under this chapter shall incorporate all applicable requirements for the Title V source and for each method of operation proposed by the applicant and approved by the Department. Each such permit shall include all emission limitations and standards, including those operational requirements and

limitations that assure compliance with all applicable requirements, with citation to the Department's rule authority for each term or condition, and identification of any difference in form from the applicable requirement upon which the term or condition is based. However, when there are multiple, redundant, or conflicting applicable requirements, these provisions can be reduced to a single streamlined term or condition that is the most stringent of the multiple applicable requirements. In addition, the Department shall label permit terms or conditions "not federally enforceable" consistent with 40 C.F.R. § 70.6(b)(2), adopted and incorporated by reference at Rule 62-204.800, F.A.C. Emissions units or pollutant-emitting activities within a Title V source determined to be insignificant pursuant to subsection 62-213.430(6), F.A.C., shall be identified. Whenever any condition or requirement of a Title V permit is added, changed, or deleted during the term of the permit, any such previous condition shall be documented with the permit for the duration of the term and any such new or changed condition shall include a condition effective date.

(a) through (b) No change.

(c) Emission Allowances. The Acid Rain Part of a Title V permit shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the Federal Acid Rain Program. The CAIR Part of a Title V permit shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the CAIR Program. ~~The Hg Budget Part of a Title V permit shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the Hg Budget Trading Program.~~ The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

1. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Federal Acid Rain Program~~,~~ or the CAIR Program, ~~or the Hg Budget Trading Program,~~ provided that such increases do not require a permit revision pursuant to Rule 62-213.400, F.A.C. Each CAIR Part incorporates every allocation, transfer, or deduction of a CAIR NO_x or CAIR NO_x ozone season allowance to or from the compliance account of the CAIR source covered by the permit, upon recording by the Administrator. ~~Each Hg Budget Part incorporates every allocation, transfer, or deduction of a Hg allowance to or from the compliance account of the Hg Budget source covered by the permit, upon recording by the Administrator.~~

2. No limit shall be placed on the number of allowances held by the source under the Federal Acid Rain Program~~,~~ or the CAIR Program~~, or the Hg Budget Trading Program~~.

3. Allowances shall be accounted for under the Federal Acid Rain Program~~,~~ or the CAIR Program~~, or the Hg Budget Trading Program~~.

4. Each CAIR Part incorporates the definitions of terms under 40 C.F.R. §§ 96.102, 96.202, and 96.302, adopted and incorporated by reference at Rule 62-204.800, F.A.C. ~~Each Hg Budget Part incorporates the definitions of terms under 40 CFR 60.4102, adopted and incorporated by reference in Rule 62-204.800, F.A.C.~~

(d) No change.

(2) No change.

(3) Statement of Compliance.

(a) For each applicable requirement, the permit shall contain:

1. No change.

2. A requirement that the source submit a Statement of Compliance with all terms and conditions of the permit that includes all the provisions of 40 C.F.R. § 70.6(c)(5)(iii), incorporated by reference at Rule 62-204.800, F.A.C. Such statements shall be accompanied by certification in accordance with subsection 62-213.420(4), F.A.C., for Title V requirements, ~~and~~ with Rule 62-214.350, F.A.C., for Acid Rain requirements, and with Rule 62-296.470, F.A.C., for CAIR Program requirements~~, and with Rule 62-296.480, F.A.C, for Hg Budget Trading Program requirements~~. Such statement shall be submitted (postmarked) to the Department and EPA:

a. through b. No change.

3. No change.

(b) No change.

(4) Periodic Monitoring.

(a) No change.

(b) Monitoring performed pursuant to any of the following satisfies periodic monitoring for that applicable requirement:

1. through 5. No change.

~~6. Hg Budget Trading Program requirements for which monitoring requirements are established pursuant to 40 C.F.R. Part 75, adopted and incorporated by reference at Rule 62-204.800, F.A.C.~~

Rulemaking ~~Specific~~ Authority 403.061, 403.087 FS. Law Implemented 403.087, 403.0872 FS. History–New 11-28-93, Amended 4-17-94, Formerly 17-213.440, Amended 11-23-94, 4-18-95, 3-13-96, 3-20-96, 11-13-97, 4-7-98, 2-11-99, 7-15-99, 1-3-01, 4-16-01, 6-2-02, 3-16-08, _____.

62-213.460 Permit Shield.

Except as provided in this chapter, compliance with the terms and conditions of a permit issued pursuant to this chapter shall, as of the effective date of the permit, be deemed compliance with any applicable requirements in effect, provided that the source included such applicable requirements in the permit application. Nothing in this section or in any permit shall alter or affect the ability of EPA or the Department to deal with an emergency, the liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time

of permit issuance, or the requirements of the Federal Acid Rain Program~~,~~ or the CAIR Program~~, or the Hg Budget Trading Program~~.

Rulemaking ~~Specific~~ Authority 403.061, 403.0872 FS. Law Implemented 403.087, 403.0872 FS. History–New 11-28-93, Formerly 17-213.460, Amended 11-23-94, 1-3-01, 3-16-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Joseph Kahn, Director, Division of Air Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
62-214.320 Applications

PURPOSE AND EFFECT: The proposed rule amendments clarify the requirement that an Acid Rain Part application be submitted at the time of permit renewal and correct rule language listing required application forms.

SUMMARY: The proposed amendments clarify and correct provisions related to the department's implementation of the federal Acid Rain Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 403.061, 403.087, 403.0872 FS.

LAW IMPLEMENTED: 403.061, 403.0872 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: Thursday, January 28, 2010, 10:00 a.m.

PLACE: Department of Environmental Protection, Division of Air Resource Management, 111 South Magnolia Drive, Suite 23, Director's Conference Room, 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 48 hours before the workshop/meeting by contacting: Ms. Lynn Scearce at (850)921-9551. 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: Ms. Terri Long at (850)921-9556 or terri.long@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-214.320 Applications.

The designated representative of any Title V source containing an Acid Rain unit shall submit to the Department a complete Acid Rain Part application no later than the applicable deadline of this section. The Acid Rain Part application shall be submitted pursuant to this chapter and to Rule 62-213.420, F.A.C. The designated representative of an Acid Rain Source has the option of filing the Acid Rain Part application as a separate document from the Title V Air Operation Permit application and requesting separate processing. The Department shall process the Acid Rain Part application pursuant to Chapter 62-213, F.A.C. The owners and operators of such source and any Acid Rain unit at the source shall not operate the source or unit without a Title V permit which includes an Acid Rain Part, except that a source having a valid air construction or operation permit or a site certification pursuant to the Florida Electrical Power Plant Siting Act and for which the designated representative has submitted a timely and complete initial Acid Rain Part application shall be deemed in compliance with the Federal Acid Rain Program requirements provided that the designated representative submits all timely supplemental information as provided at Rule 62-213.420, F.A.C., and provided the source operates in compliance with the terms and conditions of the Acid Rain Part application during the Department's processing of the application.

(1) Timeliness. The designated representative shall submit a complete Acid Rain Part application as set forth below and at each renewal:

(a) through (i) No change.

(2) Information Requirements for Applications. The designated representative shall submit a complete Acid Rain Part application using DEP Form No. 62-210.900(1)(a) and DEP Form Nos. 62-210.900(1)(a)1., ~~and~~ 2., and 3., as appropriate, and including the following:

(a) through (g) No change.

Rulemaking ~~Specific~~ Authority 403.061, 403.087, 403.0872 FS. Law Implemented 403.031, 403.061, 403.0872 FS. History–New 1-3-95, Amended 7-6-95, 12-10-97, 1-3-01, 4-16-01, 6-2-02, 3-16-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Joseph Kahn, Director, Division of Air Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-296.412	Dry Cleaning Facilities
62-296.418	Bulk Gasoline Plants
62-296.500	Reasonably Available Control Technology (RACT) – Volatile Organic Compounds (VOC) and Nitrogen Oxides (NOx) Emitting Facilities

PURPOSE AND EFFECT: The proposed rule amendments eliminate obsolete language relating to ozone nonattainment areas. Florida currently has no ozone nonattainment areas.

SUMMARY: The proposed rule amendments update the department's stationary-source air pollutant emission standards to eliminate obsolete language in three rule sections that makes the rules applicable in ozone nonattainment areas.

Rule 62-296.412, F.A.C., is referenced in several rules. The amendments will have no effect in the following referencing rules: Rules 62-204.220, 62-204.320, 62-210.100, 62-213.400, 62-213.412, 62-296.100, 62-296.700 and 62-296.712, F.A.C. The amendments will no longer refer to obsolete language in the following rules: Rules 62-210.200 and 62-213.300, F.A.C.

Rule 62-296.418, F.A.C., is also referenced in several rules. The amendments will have no effect in the following referencing rules: Rules 62-204.220, 62-204.320, 62-210.100, 62-210.300, 62-210.310, 62-213.400, 62-213.412 and 62-296.100, F.A.C. The amendments will no longer refer to obsolete language in the following rule: Rule 62-210.200, F.A.C.

Rule 62-296.500, F.A.C., is also referenced in several rules. The amendments will have no effect in the following referencing rules: Rules 62-204.200, 62-204.220, 62-204.320, 62-210.100, 62-210.300, 62-212.500, 62-213.400, 62-213.412, 62-296.100 and 62-296.570, F.A.C. The amendments will no longer refer to obsolete language in the following rule: Rule 62-210.200, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 403.061 FS.

LAW IMPLEMENTED: 403.061 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: Thursday, January 28, 2010, 10:00 a.m.

PLACE: Florida Department of Environmental Protection, Division of Air Resource Management, 111 South Magnolia Drive, Suite 23, Director's Conference Room, 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 48 days before the workshop/meeting by contacting: Ms. Lynn Scearce at (850)921-9551. 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: Ms. Terri Long at (850)921-9556 or terri.long@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-296.412 Dry Cleaning Facilities.

(1) through (3) No change.

(4) Petroleum solvent dry cleaning facilities~~,~~ located in areas designated as ~~ozone nonattainment or~~ air quality maintenance areas for ozone under Rule 62-204.340, F.A.C., ~~as defined in Chapter 62-275, F.A.C.,~~ (including the respective metropolitan statistical areas) and all such facilities located in ozone attainment areas~~,~~ with solvent consumption equal to or greater than 9,750 and 15,000 gallons per year, respectively, shall comply with the following:

(a) through (d) No change.

(5) No change.

Rulemaking ~~Specific~~ Authority 403.061, 403.8055 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History–Formerly 17-2.600(12), 17-296.412, Amended 11-23-94, 4-18-95, 1-1-96, 3-13-96, 6-25-96, 10-7-96, _____.

62-296.418 Bulk Gasoline Plants.

(1) The owner or operator of a bulk gasoline plant that has begun operation prior to August 1, 2007, is located in an area designated as an ~~a nonattainment area or~~ air quality maintenance area for ozone under Rule 62-204.340, F.A.C., and has an average annual daily throughput of more than 2,000 gallons (7,570 liters) shall comply with the following requirements.

(a) through (b) No change.

(2) No change.

Rulemaking ~~Specific~~ Authority 403.061 FS. Law Implemented 403.031, 403.061, 403.087 FS. History–New 5-9-07, Amended _____.

62-296.500 Reasonably Available Control Technology (RACT) – Volatile Organic Compounds (VOC) and Nitrogen Oxides (NOx) Emitting Facilities.

(1) Applicability.

(a) The specific emission limiting standards and other requirements of Rules 62-296.500 through 62-296.516, F.A.C., shall apply to existing VOC-emitting facilities in areas ~~all~~ designated as ~~ozone nonattainment and~~ air quality maintenance areas for ozone under Rule 62-204.340, F.A.C. In addition, the emission limiting standards of these rules shall apply to new and modified VOC-emitting facilities in areas ~~all~~ designated as ~~ozone nonattainment and~~ air quality maintenance areas for ozone under Rule 62-204.340, F.A.C., except those new and modified VOC-emitting facilities which have been or would be subject to review pursuant to 40 C.F.R. § 52.21 or Rule 17-2.17 (repealed), 17-2.500 (transferred), 17-2.510 (transferred), 62-212.400 or 62-212.500, F.A.C.

(b) No change.

(2) through (6) No change.

Rulemaking ~~Specific~~ Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History–Formerly 17-2.650(1)-(1)(f), Amended 2-2-93, 3-17-94, Formerly 17-296.500, Amended 11-23-94, 1-1-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Joseph Kahn, Director, Division of Air Resource Management

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mr. Michael W. Sole, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 19, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.:	RULE TITLE:
64B5-4.002	Advertising and Soliciting by Dentists

PURPOSE AND EFFECT: To add language regarding how dentists may advertise specialty recognition.

SUMMARY: The Board proposes to add language regarding how dentists may advertise specialty recognition.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this 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.

RULEMAKING AUTHORITY: 466.004(4), 466.019 FS.

LAW IMPLEMENTED: 466.019, 466.028(1)(d) 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, FL 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-4.002 Advertising and Soliciting by Dentists.

(1) As used in the rules of the Board, the terms "advertisement" and "advertising" shall mean any statements, oral or written, disseminated to or before the public or any portion thereof with the intent of furthering the purpose, either directly or indirectly, of selling professional services, or offering to perform professional services, or inducing members of the public to enter into any obligation relating to such professional services. The provisions of this rule shall apply to media exposure of any nature regardless of whether it is in the form of paid advertising.

(2) All advertising in any media must identify the Florida licensed dentist, who assumes total responsibility for the advertisement. The term "identify" shall mean the use of the license number of the dentist as it appears on his license and renewal certificate or the use of the licensee's commonly used name together with the current address and telephone number the licensee has on file with the Department.

(3) No dentist shall disseminate or cause the dissemination of any advertisement or advertising which is in any way fraudulent, false, deceptive, or misleading in form or content. Additionally, no dentist shall disseminate or cause the dissemination of any advertisement or advertising which:

(a) Contains misrepresentations of fact;

(b) Is likely to mislead or deceive because in its context or in the context in which it is presented it makes only a partial disclosure of relevant facts;

(c) Contains laudatory statements about the dentist or group of dentists;

(d) Is intended or is likely to create false, unjustified expectations of favorable results;

(e) Relates to the quality of dental services provided as compared to other available dental services;

(f) Contains other representations or implications that in reasonable probability will cause an ordinary prudent person to misunderstand or to be deceived. For example, it is fraudulent, false, deceptive, and misleading for a dentist who utilizes the laser in his dental practice to advertise that the use of lasers is painless, heals faster, or provides better results than other dental procedures. However, a dentist may advertise that he treats patients with a laser in certain instances.

(g) Is intended or is likely to appeal primarily to a layperson's fears.

(h) States or implies that the dentist has received formal recognition as a specialist in any aspect of the practice of dentistry, unless the dentist has in fact received such recognition and such recognizing agency is approved by the Board. However, a dentist may use on letterhead or advertising a reference to the dentist's specialty recognition received from a recognizing agency that has not been approved by the Board only if the letterhead or advertising also contains in the same print size or volume the statement that "The specialty recognition identified herein has been received from a private organization not affiliated with or recognized by the Florida Board of Dentistry." For purposes of this rule, the Board approves the dental specialty certifying agencies recognized by the American Dental Association and the Commission on Dental Accreditation as recognizing agencies, and such other recognizing agencies as may request and receive future approval by the Board.

(4) In person and telephone solicitation of dental services by a dentist or his agent poses an inherent danger to the public because such advertising cannot be supervised, may exert pressure, and often demands an immediate response without affording the recipient an opportunity for comparison or reflection. Unlike an advertisement appearing in print or on television or radio, in person and telephone solicitation does not simply provide information and leave the recipient free to act or not, but is ripe with the potential for overbearing persuasion. Accordingly, in person and telephone solicitation of dental services by a dentist or his agent is prohibited. The term "solicitation" as used in this rule does not include in person or telephone communication by a dentist or his or her agent with a patient or former patient for purposes of scheduling an appointment or offering follow-up care.

(5) Advertising which includes the name of a person who is not either actually involved in the practice of dentistry at the advertised location or an owner of the practice being advertised is not permitted. However, to facilitate the smooth transition of a practice after its sale from one licensee to another, it is permissible to identify the previous owner in advertising by the new owner for a reasonable period of time not to exceed a period of 2 years. This rule does not provide authority to use a previous owner's name in any advertising without first obtaining that licensee's written permission to do so.

(6) Any dentist who advertises by, through or with a referral service shall be held responsible for the content of such advertising and all such advertisements shall comply with this rule and contain the following:

(a) A statement that the advertisement is for a dental referral service and is in behalf of the dentist members of the referral service.

(b) A statement that the referral service refers only to those dentists who have paid or been otherwise selected for membership in the referral service.

(c) A statement that membership in the referral service is limited by the referral agency.

(d) A statement that dentists who receive referrals from the referral service charge no more than their usual and customary professional fees for service.

(e) These required statements shall be present in reasonably recognizable print or volume equivalent to the size or volume of other information in the advertisement.

(7) No licensee may use, or cause the use of the term "sleep dentistry" in any advertisement, unless the licensee possesses a valid general anesthesia permit issued by the Board of Dentistry pursuant to the requirement of subsection 64B5-14.003(1) and Rule 64B5-14.005, F.A.C.

Rulemaking ~~Specific~~ Authority 466.004(4), 466.019 FS. Law Implemented 466.019, 466.028(1)(d) FS. History–New 7-7-87, Amended 1-11-89, 10-29-90, 4-24-91, 7-14-92, Formerly 21G-4.002, Amended 3-30-94, Formerly 61F5-4.002, 59Q-4.002, Amended 5-20-01, 1-29-03, 2-26-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: RULE TITLE:

64B14-5.004 Provider Application

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete language that applicants need to submit a completed Continuing Education Provider Application Form (Form No. DH-MQA 1024) and to renumber accordingly.

SUMMARY: The rule amendment will delete the application form and renumber accordingly.

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

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

RULEMAKING AUTHORITY: 456.013(8), 468.806 FS.

LAW IMPLEMENTED: 456.013(8), 468.806 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists /MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-5.004 Provider Application.

~~(1) Applicants for approval as a continuing education provider shall submit a completed Continuing Education Provider Application (Form No. DH-MQA-1024, effective 12/1/99, incorporated herein by reference), with the application fee stated in Rule 64B14-2.010, F.A.C. The Form may be obtained from the Board office 4052 Bald Cypress Way, BIN C-07, Tallahassee, Florida 32399-3257.~~

Providers seeking Board approval shall meet the following requirements:

(1)~~(2)~~ Provide an identifiable person to be responsible for ensuring that each program presented under their provider number meets program requirements set forth in subsection (3) below.

(2)~~(3)~~ Retain a "sign-in-sheet" with the signature of participants and copies of any promotional materials for at least 3 years following the course.

(3)~~(4)~~ Provide each participant with a certificate of attendance verifying the program has been completed. The certificate shall not be issued until completion of the program and shall contain the provider's name and number title of program, and program number, instructor, date, number of contact hours of credit, the licensee's name and license number.

(4)~~(5)~~ Notify the Board of any significant changes relative to the maintenance of standards as set forth in these rules.

(5)~~(6)~~ Each program presented by an approved provider shall meet the standards of subsection 64B14-5.003(2) or (3) and Rule 64B14-5.004, F.A.C.

(6)~~(7)~~ The Board retains the right and authority to audit and/or monitor programs given by any provider. The board will rescind provider status if the provider has disseminated any false or misleading information in connection with the continuing education program or if the provider has failed to conform to these rules or the rules of the Board.

(7)~~(8)~~ Provider numbers must be renewed biennially on or before the renewal date for licenses under Chapter 468, Part XIV, F.S. The provider must return the renewal form provided by the department together with the renewal fee stated in Rule 64B14-2.010, F.A.C. If the renewal form and renewal fee are not received by the department on or before the renewal date, the provider must submit a new application and, if approved, receive a new provider number.

Rulemaking ~~Specific~~ Authority 456.013(8), 468.806 FS. Law Implemented 456.013(8), 468.806 FS. History–New 5-18-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: RULE TITLE:

64B14-7.001 Standards of Practice

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify standards of practice.

SUMMARY: The rule amendment will clarify the rule in the practice of prosthetics and orthotics.

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

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

RULEMAKING AUTHORITY: 468.802, 468.806 FS.

LAW IMPLEMENTED: 456.013, 456.024, 468.806 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists /MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-7.001 Standards of Practice.

(1) Pursuant to a licensed physician's written prescription, the orthotist, prosthetist, resident, internship or pedorthist orthotic fitter or orthotic fitter assistant shall assume the responsibility for assessing the patient, planning the patient's treatment plan, ~~program~~ and directing the program. No licensee shall implement a prescription that, in the licensee's judgment, is contraindicated. No change shall be made in the prescription without the authorization of the prescribing physician.

(2) The licensee's or registrant's ~~orthotist, prosthetist, or pedorthist's~~ professional responsibilities include:

(a) through (g) No change.

(h) Prior to rendering services, ~~A~~ advising the patient or guardian, in terms which the patient or guardian can understand, of the nature and purpose of the services to be

rendered, the nature and purposes of the prescribed device, ~~and~~ the treatment plan, ~~techniques for~~ use and care of an orthosis or prosthesis, and an estimate of delivery time and financial responsibilities.

(i) No change.

(3) Sexual misconduct in the practice of "Orthotics/Prosthetics" by any person licensed under this chapter is prohibited. Sexual misconduct in the practice of orthotics/ prosthetics means exercising influence within the licensee-patient relationship for purposes of engaging a patient in sexual activity.

(4) It is below the standards of practice for any person licensed under this chapter ~~orthotists/prosthetists~~ to practice if they are unable to practice with reasonable skill and safety to patients by reason of illness, use of alcohol, drugs, narcotics or chemicals, or any other type of material, or as a result of any mental or physical condition.

(5) It is below the standard of practice and prohibited under this section for any person licensed under this chapter to delegate or assign activities, tasks or procedures that fall within the scope of any practice defined in Section 468.80, F.S., to support personnel, without providing direct supervision for the performance of the activities, tasks or procedures. Direct Supervision requires:

(a) The licensed orthotist, prosthetist, orthotist/prosthetist, or pedorthist to provide a physical evaluation of each patient's orthotic and or prosthetic needs and may delegate appropriate duties to support personnel. However, the licensed practitioner shall physically evaluate the effectiveness, appropriateness and fit of all devices within the scope of the licensed practitioner's licensure practice requirements, including those repaired devices in which the repairs affect the fit, physical structure or biomechanical function of the device, on every patient, prior to the delivery of the device;

(b) For the purpose of replacement of worn or broken components which do not in any way alter the fit, physical structure or biomechanical functioning of the existing device, direct supervision of support personnel providing repairs to orthoses or prosthesis means the aforementioned repair must be approved by the appropriately licensed practitioner prior to beginning of repairs. The responsible licensed practitioner must at all times be accessible by two way communication, enabling the supervisor to respond to questions relating to the repair.

Rulemaking ~~Specific~~ Authority 468.802 FS. Law Implemented 456.063(1), 456.072(1)(o), (u), 468.802, 468.808 FS. History–New 7-1-98, Amended 10-24-04, 1-16-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 20, 2009

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: RULE TITLE:
64B14-7.004 Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to change the calculation of the fine imposition.

SUMMARY: The rule amendment will change the calculation of the fine imposed.

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

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

RULEMAKING AUTHORITY: 456.072, 456.077 FS.

LAW IMPLEMENTED: 456.072, 456.077 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Orthotists and Prosthetists /MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-7.004 Citations.

Pursuant to Section 456.077, F.S., the Board designates the following as citation violations:

(1) through (4) No change.

(5) Failure of the licensee to satisfy continuing education requirements established by the board: Fine of $100 per hour of continuing education not completed ~~$500~~.

(6) through (8) No change.

Rulemaking ~~Specific~~ Authority 456.072, 456.077 FS. Law Implemented 456.072, 456.077 FS. History–New 7-1-98, Amended 3-19-02, 10-24-04, 4-25-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 20, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: RULE TITLE:
64B16-26.1003 Active License Renewal Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment to provide a biennial registration renewal fee for registered pharmacy technicians and a fee for unlicensed activity; to provide an update of the biennial license renewal fee for an active pharmacist and the biennial license renewal fee for a consultant pharmacist.

SUMMARY: A biennial registration fee for registered pharmacy technicians and an unlicensed activity fee will be provided. A biennial license renewal fee for active pharmacists and consultant pharmacists will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Rebecca Poston, Executive Director, at the address listed below.

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

RULEMAKING AUTHORITY: 456.036, 465.005, 465.008, 465.0125, 465.0126 FS.

LAW IMPLEMENTED: 456.036, 456.065(3), 465.008, 465.0125, 465.0126, 465.014 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.1003 Active License Renewal Fees.

(1) The biennial license renewal fee for an active pharmacist license shall be $250 ~~$245~~ plus a $5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(2) The biennial license renewal fee for a consultant pharmacist active license shall be $100 ~~$50~~ plus a $5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(3) No change.

(4) The biennial registration renewal fee for a registered pharmacy technician shall be $50 plus $5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

Rulemaking ~~Specific~~ Authority 456.036, 465.005, 465.008, 465.0125, 465.0126 FS. Law Implemented 456.036, 456.065(3), 465.008, 465.0125, 465.0126 FS. History–New 1-11-05, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2009

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

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.: RULE TITLE:
64B19-11.001 Examination

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language regarding the application for reexamination forms.

SUMMARY: The rule amendment will add new language regarding the application for reexamination forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below.The following is a summary of the SERC:

• It is estimated that the proposed change may affect approximately 150 applicants over the next five years.

• The only costs incurred by the Division of Medical Quality Assurance are rule-making.

• The proposed changes may have an impact on small businesses if applicantion for licensure is reconsidered by the Board and then denied.

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

RULEMAKING AUTHORITY: 456.017(1)(b), (c), 490.004(4) FS.

LAW IMPLEMENTED: 456.017(1)(b), (c), (d), (6), 490.005 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: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-11.001 Examination.

(1) through (3) No change.

(4)(a) A candidate for licensure by examination who fails to pass one part of the examination shall only be required to retake and pass that part of the examination which was failed.

The application for re-examination of the Florida laws and rules examination shall be made on the Re-Examination Application /Laws and Rules Exam form DH-MQA 1221 (revised 10/09, hereby adopted and incorporated by reference). The application for re-examination of the EPPP shall be made on the Re-Examination Application/National Exam form DH-MQA 1222 (revised 10/09, hereby adopted and incorporated by reference. Upon notice from the Department's Testing Services Unit of an applicant's unsuccessful scores(s), the Board Office will send the appropriate re-examination form(s) to the affected applicant.

(b) No change.

Rulemaking ~~Specific~~ Authority 456.017(1)(b), (c), 490.004(4) FS. Law Implemented 456.017(1)(b), (c), (d), (6), 490.005 FS. History–New 4-4-82, Amended 7-11-84, Formerly 21U-11.03, Amended 2-19-86, 12-30-86, 3-10-87, 11-21-88, 3-5-90, 1-16-92, Formerly 21U-11.003, Amended 6-14-94, Formerly 61F13-11.003, Amended 1-7-96, 6-26-97, Formerly 59AA-11.001, Amended 2-21-99, 5-1-00, 1-10-01, 8-5-01, 4-26-04, 5-10-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.:	RULE TITLE:
64B19-12.002	Application and Examination Fee for Licensure by Examination; Review Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the examination fee.

SUMMARY: The rule amendment will modify the examination fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that although it estimates receipt of approximately 2,523 licensure application over the next five years, small businesses would not be affected by this rule. However, a SERC was prepared for review.

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

RULEMAKING AUTHORITY: 456.013(2), 490.004(4), 490.005(1)(a) FS.

LAW IMPLEMENTED: 456.013(2), 456.017, 490.005(1)(a) 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: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-12.002 Application and Examination Fee for Licensure by Examination; Review Fee.

(1) through (2) No change.

(3) In addition to the application fee specified above, each applicant for certification for examination shall submit a laws and rules examination fee of $150.00 ~~$75.00~~.

(4) No change.

(5) An applicant who wishes to review the applicant's own Florida laws and rules examination shall remit a fee of $150.00 ~~$75.00~~.

Rulemaking ~~Specific~~ Authority 456.013(2), 490.004(4), 490.005(1)(a) FS. Law Implemented 456.013(2), 456.017, 490.005(1)(a) FS. History–New 2-22-82, Amended 7-2-84, Formerly 21U-12.02, Amended 11-21-88, 8-12-90, 1-16-92, Formerly 21U-12.002, Amended 10-12-93, 6-14-94, Formerly 61F13-12.002, Amended 1-7-96, 6-26-97, Formerly 59AA-12.002, Amended 12-3-98, 6-28-00, 8-8-01, 2-12-04, 10-31-05, 1-28-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 25, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.:	RULE TITLE:
64B19-12.003	Reexamination Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the reexamination fee.

SUMMARY: The rule amendment will modify the reexamination fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost was prepared and voted upon. The Board determined that small businesses would not be affected by this rule. However, a Statement of Estimated Regulatory Cost was prepared for review.

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

RULEMAKING AUTHORITY: 456.017(2), 490.004(4) FS.

LAW IMPLEMENTED: 456.017(1)(c), (2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-12.003 Reexamination Fee.

The reexamination fee for only the Florida laws and rules examination is $150.00 ~~$75.00~~. Additional fees will be required by the examination vendor.

Rulemaking ~~Specific~~ Authority 456.017(2), 490.004(4) FS. Law Implemented 456.017(1)(c), (2) FS. History–New 2-22-82, Amended 7-11-84, Formerly 21U-12.03, Amended 7-18-88, 8-12-90, 1-16-92, Formerly 21U-12.003, Amended 10-12-93, Formerly 61F13-12.003, Amended 1-7-96, Formerly 59AA-12.003, Amended 12-3-98, 1-10-01, 8-8-01, 2-12-04, 10-31-05, 4-8-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Board of Psychology

RULE NO.:	RULE TITLE:
64B19-17.002	Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the disciplinary guidelines for licensed psychologists and psychology licensure applicants; to reflect the inclusion of new and existing ground for discipline referenced in Section 456.072, F.S., and to make technical updates to existing violations to include references to the applicable underlying statute in Chapter 456, F.S.

SUMMARY: The rule amendment will modify the disciplinary guidelines for licensed psychologists and psychology licensure applicants; to reflect the inclusion of new and existing ground for discipline referenced in Section 456.072, F.S., and to make technical updates to existing violations to include references to the applicable underlying statute in Chapter 456, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below. The following is a summary of the SERC:

• The proposed changes would affect any licensed psychologist or applicant who is found to be in violation of any of the newly added or modified sections set forth in the disciplinary guidelines.

• The only costs incurred by the Division of Medical Quality Assurance are rule-making costs as well as costs associated with enforcing the proposed changes.

• The proposed changes, particularly (1)(ff) and (1)(ii), will have a significant impact on small businesses.

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

RULEMAKING AUTHORITY: 456.079, 490.004(4) FS.

LAW IMPLEMENTED: 456.072, 456.079, 490.009 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: Allen Hall, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-17.002 Disciplinary Guidelines.

(1) When the Board finds that an applicant or a licensee has committed any of the acts set forth in Section 456.072(1) or 490.009(2), F.S., it shall issue a final order imposing one or more of the penalties listed in Section 456.072(2), F.S., as recommended in the following disciplinary guidelines. The descriptions of violations are only a summary; the full language of each statutory provision cited must be consulted in order to determine the conduct involved. The guidelines are presented as a range of penalties that may be imposed from minimum to maximum.

PENALTY RANGE			
VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
(a) Attempting to obtain, or renewing a license by bribery or fraudulent misrepresentation (Sections 490.009(1)(a) and 456.072(1)(h), F.S.)	Revocation or permanent denial of licensure and $10,000 fine. If unintentional, then from granting licensure with Probation to Suspension or denial of licensure for a minimum of 2 years to Revocation or permanent denial of licensure, and fine up to $10,000.	Revocation or permanent denial of licensure, and $10,000 fine. If unintentional, then from granting licensure with Probation to Suspension or denial of licensure for a minimum of 2 years to Revocation or permanent denial of licensure, and fine up to $10,000.	Revocation or permanent denial of licensure, and $10,000 fine. If unintentional, then from granting licensure with Probation to Suspension or denial of licensure for a minimum of 2 years to Revocation or permanent denial of licensure, and fine up to $10,000.
(b) License disciplined by another jurisdiction (Sections 490.009(1)(b) and 456.072(1)(f), F.S.)	Imposition of discipline that would have been imposed had the violation occurred in Florida and fine of up to $10,000.	Imposition of discipline that would have been imposed had the violation occurred in Florida and fine of up to $10,000.	Revocation and a $10,000 fine.
Case of Applicant	From granting licensure with Probation or denial of licensure for up to 2 years to permanent denial of licensure, and fine up to $10,000.	From granting licensure with Probation or denial of licensure for up to 2 years to permanent denial of licensure, and fine up to $10,000.	Permanent denial of license
(c) Criminal conviction relating to psychology (Sections 490.009(1)(c) and 456.072(1)(c), F.S.)	From Suspension and a fine up to $10,000 to Revocation.	From Suspension and a $10,000 fine to Revocation.	Revocation.
Case of Applicant	From granting licensure with Probation or denial of licensure for up to 2 years to permanent denial of licensure, and fine up to $10,000.	From granting licensure with Probation or denial of licensure for up to 2 years to permanent denial of licensure, and fine up to $10,000.	Permanent denial of license.
(d) False, deceptive or misleading advertising (Sections 490.009(1)(d) and 456.072(1)(m), F.S.)	From Reprimand and Probation to Suspension, and a $10,000 fine. If unintentional, from Reprimand and a $1,000 fine to Probation and a fine up to $5,000.	From Reprimand and Suspension to Revocation, and a $10,000 fine. If unintentional, from Reprimand, Probation and a $5,000 fine to Suspension and a fine up to $10,000.	Revocation and a $10,000 fine. If unintentional, from Suspension to Revocation, and a $10,000 fine.
(e) Advertising, practicing, or attempting to practice under another name (Section 490.009(1)(e), F.S.)	From Reprimand and Probation to Suspension, and a $10,000 fine. If unintentional, from Reprimand and a $1,000 fine to Probation and a fine up to $10,000.	From Reprimand and Suspension to Revocation, and a $10,000 fine. If unintentional, from Reprimand, Probation, and a $1,000 fine to Suspension and a fine up to $10,000.	Revocation and a $10,000 fine. If unintentional, from Reprimand, Suspension, and a $10,000 fine to Revocation.
(f) Maintaining a wrongful professional association (Section 490.009(1)(f), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Probation, and a $5,000 fine to Revocation and a fine up to $10,000.	From Reprimand and Suspension to Revocation, and a $10,000 fine.
(g) Knowingly aiding, assisting, procuring, or advising a non-licensed person (Sections 490.009(1)(g) and 456.072(1)(j), F.S.)	From Reprimand, Probation, and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.

(h) Failing to perform any statutory or legal obligation (Sections 490.009(1)(h) and 456.072(1)(k), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(i) Willingly making or filing a false report, etc. (Sections 409.009(1)(i) and 456.072(1)(l), F.S.)	From Reprimand to Revocation, and a $10,000 fine.	From Reprimand and Suspension to Revocation, and a $10,000 fine.	Revocation and a $10,000 fine.
(j) Paying or receiving a kickback, etc. (Section 490.009(1)(j), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(k) Sexual misconduct or battery on a patient (Sections 490.009(1)(k), and 456.072(1)(v), F.S.)	From Suspension followed by Probation to Revocation, and a fine from $5,000 up to $10,000.	Revocation and a fine from $5,000 up to $10,000.	Revocation and a $10,000 fine.
Case of Applicant	Permanent denial of licensure.	Permanent denial of licensure.	Permanent denial of licensure.
(l) Making misleading, deceptive, untrue, or fraudulent representations, etc. (Sections 409.009(1)(l) and 456.072(1)(m), F.S.)	Reprimand, Probation and a $10,000 fine. If unintentional, Reprimand and a fine from $1,000 up to $10,000.	From Reprimand and Suspension to Revocation, and a $10,000 fine. If unintentional, Reprimand and Probation, and a fine from $1,000 up to $10,000.	Revocation and a $10,000 fine. If unintentional, Reprimand and Suspension, and a fine from $5,000 up to $10,000.
(m) Soliciting through fraud, intimidation, undue influence, etc. (Section 490.009(1)(m), F.S.)	From Reprimand to Revocation, and a $10,000 fine.	From Reprimand and Suspension to Revocation, and a $10,000 fine.	Revocation and a $10,000 fine.
(n) Failing to provide records, etc. (Section 490.009(1)(n), F.S.)	From Reprimand to Suspension, and a fine from $1,000 up to $10,000.	From Reprimand to Suspension, and a fine from $5,000 up to $10,000.	From Reprimand and Suspension to Revocation, and a $10,000 fine.
(o) Failing to respond to Department within 30 days, etc. (Section 490.009(1)(o), F.S.)	Suspension until compliance and a fine from $1,000 up to $10,000.	Suspension until compliance and a fine from $5,000 up to $10,000.	From Suspension until compliance to Revocation, and a $10,000 fine.
(p) Incompetence (mental or physical impairment), etc. (Section 490.009(1)(p), F.S., and 456.072(1)(z))	From Suspension, followed by Probation, mental and physical evaluations to Revocation and a fine from $1,000 up to $10,000.	From Suspension, followed by Probation, mental and physical evaluations to Revocation and a fine from $1,000 up to $10,000.	Revocation.
(q) Violating provisions of Chapter 490 or 456, F.S., or any rules pursuant thereto, (Sections 490.009(1)(w), ~~and~~ 456.072(1)(b), and 456.072(1)(dd), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(r) Experimentation without informed consent (Section 490.009(1)(q), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(s) Negligence (Section 490.009(1)(r), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(t) Delegating professional responsibilities (Sections 490.009(1)(s) and 456.072(1)(p), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(u) Violating any lawful order (Sections 490.009(1)(t) and 456.072(1)(q), F.S.)	Suspension until compliance and a fine from $1,000 up to $10,000.	Suspension until compliance and a fine from $1,000 up to $10,000.	Revocation.
(v) Failing to maintain confidence (Section 490.009(1)(u), F.S.)	Reprimand and a fine from $1,000 up to $5,000.	From Reprimand to Revocation, and a fine from $5,000 up to $10,000.	Revocation and $10,000 fine.

(w) Identifying or damaging research clients (Section 490.009(1)(v), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(x) Failure to comply with continuing education for domestic violence. (Section 456.072(1)(s), F.S)	$250 fine and Suspension until compliance.	Reprimand, $500 fine and Suspension until compliance.	Reprimand, $1,000 fine and Suspension until compliance.
(y) Exercising influence on the patient or client for financial gain (Section 456.072(1)(n), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(z) Improperly interfering with an investigation (Section 456.072(1)(r), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
Case of Applicant	From granting licensure with Probation or denial of licensure for up to 2 years to permanent denial of licensure, and fine up to $10,000.	From granting licensure with Probation or denial of licensure for up to 2 years to permanent denial of licensure, and fine up to $10,000.	Permanent denial of license.
(aa) Performing or attempting to perform wrong health care services (Section 456.072(1)(bb), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(bb) Termination from impaired practitioner treatment program (Section 456.072(1)(hh), F.S.)	From Suspension and a fine up to $10,000 to Revocation.	From Suspension and a fine up to $10,000 to Revocation.	Revocation.
(cc) Failure to identify through written notice, or orally to a patient the type of license under which the practitioner is practicing. Any advertisement for health care services naming the practitioner must identify the type of license the practitioner holds. (Section 456.072(1)(e), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(dd) Failure to report another licensee in violation. (Section 456.072(1)(i), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(ee) Practicing beyond scope permitted. (Section 456.072(1)(o), F.S.)	From Reprimand and a $1,000 fine to Revocation and a fine up to $10,000.	From Reprimand, Suspension, and a $5,000 fine to Revocation and a fine up to $10,000.	Revocation and a $10,000 fine.
(ff) Failing to report to the Board within thirty (30) days after the licensee has been convicted of a crime in any jurisdiction. (Section 456.072(1)(x), F.S.	From a Reprimand and an administrative fine up to $1,000.00.	From a Reprimand to Suspension of license, and an administrative fine up to $5,000.00.	From Suspension to Revocation of license, and an administrative fine up to $10,000.00.
(gg) Being convicted of, or entering a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 USC s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 USC ss. 1320a-7b, relating to the Medicaid program. (456.072(1)(ii), F.S.)	Revocation and a fine of $10,000, or in the case of application for licensure, denial of license.		

(hh) Failing to remit the sum owed to the state for overpayment from the Medicaid program pursuant to a final order, judgment, or settlement. (456.072(1)(jj), F.S.)	From a Reprimand to Probation of the license, and an administrative fine up to $1,000.00.	From a Reprimand to Suspension of license, and an administrative fine up to $5,000.00.	From Suspension to Revocation of license, and an administrative fine up to $10,000.00
(ii) Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program. (456.072(1)(kk), F.S.)	From a Reprimand of the license and an administrative fine up to $1,000.00 to Revocation and a fine up to $10,000.	From a Reprimand to Suspension of license, and an administrative fine up to $5,000.00 up to Revocation and a fine up to $10,000.	From Suspension to Revocation of license, and an administrative fine of $1,000.00 to $5,000.00 up to Revocation and a fine up to $10,000.
(jj) Being convicted of, or entering into a plea of guilty or nolo contendere to, any misdemeanor or felony, regardless of adjudication, which relates to health care fraud. (456.072(1)(ll), F.S.)	Revocation and a fine of $10,000, or in the case of application for licensure, denial of license.		

(2) through (3) No change.

Rulemaking ~~Specific~~ Authority 456.079, 490.004(4) FS. Law Implemented 456.072, 456.079, 490.009 FS. History–New 11-24-86, Amended 7-18-88, 4-26-93, Formerly 21U-18.003, Amended 6-14-94, Formerly 61F13-18.003, Amended 1-9-96, Formerly 59AA-17.002, Amended 9-18-97, 9-26-01, 3-25-02, 4-3-05, 1-2-06, 12-31-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Psychology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Psychology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Dental Laboratories

RULE NO.: RULE TITLE:
64B27-1.002 Dental Laboratory Biennial Registration

PURPOSE AND EFFECT: To incorporate by reference into rule a registration form for dental labs in accordance with legislation passed during the 2009 Session.

SUMMARY: This rule incorporates an application form including questions required by Section 456.0635(2), Florida Statutes.

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

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

RULEMAKING AUTHORITY: 466.038 FS.

LAW IMPLEMENTED: 466.032(1), 455.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B27-1.002 Dental Laboratory Biennial Registration**.**

The Department shall issue a registration certificate entitling the holder to operate a dental laboratory for a period of two years, after the Department has received from the registering person, firm, or corporation:

(1) The registration form DH-MQA 1228 (12/09), incorporated by reference, which can be obtained from the dental laboratory office, 4052 Bald Cypress Way, Bin C08, Tallahassee, Florida 32399-3258 or at www.doh.state.fl.us/mqa/dentistry, ~~provided by the Department~~

(2) through (3) No change.

Rulemaking ~~Specific~~ Authority 466.038 FS. Law Implemented 466.032(1), 455.033 FS. History–New 2-10-93, Formerly 21-29.002, 61E4-1.002, Amended 10-29-95, Formerly 59CC-1.002, Amended 1-9-02, 10-23-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sue Foster

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 11, 2009

DEPARTMENT OF HEALTH

Division of Emergency Medical Operations

RULE NOS.:	RULE TITLES:
64J-1.001	Definitions
64J-1.004	Medical Direction
64J-1.008	Emergency Medical Technician
64J-1.009	Paramedic
64J-1.020	Training Programs
64J-1.0202	EMS Recertification Training Programs

PURPOSE AND EFFECT: The purpose and effect is to develop rule language to provide clarification on the application processes for EMS training centers, medical director participation, documentation needed for site reviews, training center equipment lists; allowing the Medical Directors to assume the responsibility for the use of a glucometer, administration of aspirin, and use of any medicated auto injector by an EMT, which will have the effect of improving the care given to patients in the prehospital setting; to ensure EMTs and paramedics are trained in pediatric education every two years which will have the effect of improving and expanding pediatric prehospital care; to create rule that defines the portion/percentage of the ALS field internship that may be done on an ALS permitted vehicle other than an ambulance, which will have the effect of expanding the opportunities to certify prehospital care givers in a more efficient manner while maintaining the integrity of education in the prehospital care setting; and to redefine the Certificate of Public Convenience and Necessity definition in Rule 64J-1.001, F.A.C., for the effect of clarifying the term "licensee" and the provision of services.

SUMMARY: The proposed rules will specify EMS training and continuing education training program requirements, expand the scope of practice for EMT's, update EMT and paramedic pediatric continuing education to align with national trends, expand paramedic field internship scheduling opportunities, and add clarification to the definition of COPCN.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The department has determined the proposed rules do not have an impact on small businesses, therefore no Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 401.27(2), 401.27(6)a, 401.35 FS.

LAW IMPLEMENTED: 401.23(7), 401.25(2)(d), 401.2701(1)(a)6., 401.2701(1)(b)2., 401.425 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: January 26, 2010, 2:00 p.m. – 3:00 p.m.

PLACE: Teleconference Call Public Hearing. We request that parties from the same agency utilize one line if possible to allow other participants to dial in Toll free conference number: 1(888)808-6959; Conference code: 1454440

In lieu of a public hearing, written comments may be submitted by January 26, 2009 to Lisa Walker, Government Analyst II, at the address below. REQUEST FOR HEARING MUST BE RECEIVED IN WRITING.

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 24 hours before the workshop/meeting by contacting: Lisa Walker, Government Analyst II at the contact information below. 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: Lisa Walker, Government Analyst II, Bureau of EMS, 4052 Bald Cypress Way, Bin C-18, Tallahassee, FL 32399, email: Lisa_Walker2@doh.state.fl.us; phone: (850)245-4440 ext. *2733; fax: (850)488-9408

THE FULL TEXT OF THE PROPOSED RULES IS:

64J-1.001 Definitions.

In addition to the definitions provided in Sections 395.401, 395.4001, 401.107, and 401.23, F.S., the following definitions apply to these rules:

(1) through (3) No change.

(4) "Certificate of Public Convenience and Necessity (COPCN)" ~~or COPCN~~ means a written statement or document, issued by the governing board of a county, granting permission for ~~writing permitting~~ an applicant or licensee to provide services authorized by a license issued under Chapter 401, Part III, F.S.~~, not exceeding the authorization of their expected or actual license,~~ for the benefit of the population of that county or the benefit of the population of some geographic area of that county ~~thereof~~. No COPCN from one county may interfere with the prerogatives asserted by another county regarding COPCN.

(5) through (16) No change.

(17) "Out-of-state trained emergency medical technician or paramedic" means a person with a current certification or registration as an emergency medical technician or paramedic from any state or territory of the United States, other than Florida, that was conditioned upon that person being a trained emergency medical technician or paramedic.

(18)~~(17)~~ Patient Care Record – means the record used by each EMS provider to document patient care, treatment and transport activities that at a minimum includes the information required under paragraphs 64J-1.003(5)(a), (b), Rule 64J-1.014, subsection 64J-2.002(5), subsections 64J-2.004(5), (6) and (7), 64J-2.005(4), F.A.C.

(19)~~(18)~~ Pediatric Trauma Patient – as defined in Rule 64J-2.001, F.A.C.

(20) "Skills Practice" means the practice of psychomotor skills and techniques by a student in the skills laboratory and clinical environments until they are proficient in basic or advanced life support techniques, as applicable. The skills laboratory shall precede the clinical environment for each skill and technique.

(21) "Trained emergency medical technician or paramedic" means an emergency medical technician or paramedic who has successfully completed the United States Department of Transportation emergency medical technician or paramedic training curriculum (which training may have occurred in any state or territory of the United States, including Florida).

(22)~~(19)~~ Training Program – means an educational institution having one designated program director, one designated medical director, and single budget entity; for the purposes of providing EMT or paramedic education programs, as approved by the department.

(23) "Training Program Medical Records" – means the medical records of the student.

(24) "Training Program Records" must include records of student participation and attendance in class, skills laboratory, hospital clinical, and field training; the hospital and field training records must include patient care reports completed by the student and preceptor evaluations of the student. Student records may be kept by hard copy or electronically and must be maintained for a minimum of five years.

(25)~~(20)~~ Transfer or transport – Air, land or water vehicle transportation, by vehicles not exempted under Section 401.33, F.S., of sick or injured persons requiring or likely to require medical attention during such transportation.

(26)~~(21)~~ Trauma – as defined in Rule 64J-2.001, F.A.C.

(27)~~(22)~~ Trauma Alert – as defined in Rule 64J-2.001, F.A.C.

(28)~~(23)~~ Trauma Alert Patient – as defined in Rule 64J-2.001, F.A.C.

(29)~~(24)~~ Trauma Patient – as defined in Rule 64J-2.001, F.A.C.

(30)~~(25)~~ Trauma Registry – as defined in Rule 64J-2.001, F.A.C.

(31)~~(26)~~ Trauma Transport Protocols (TTPs) – as defined in Rule 64J-2.001, F.A.C.

Rulemaking Authority 381.0011(13), 395.401, 395.4025(13), 395.405, 401.121, 401.35 FS. Law Implemented 381.0011, 395.4001, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, 395.4045, 395.405, 401.121, 401.211, 401.23, 401.25, 401.35, 401.435 FS. History–New 4-26-84, Amended 3-11-85, Formerly 10D-66.485, Amended 11-2-86, 4-12-88, 8-3-88, 8-7-89, 6-6-90, 12-10-92, 11-30-93, 10-2-94, 1-26-97, Formerly 10D-66.0485, Amended 8-4-98, 7-14-99, 2-20-00, 11-3-02, 6-9-05, 10-24-05, 4-22-07, Formerly 64E-2.001, Amended 1-12-09, 11-5-09,_____.

64J-1.004 Medical Direction.

(1) through (4)(f) No change.

(g) Assume direct responsibility for: the use ~~by an EMT~~ of an automatic or semi-automatic defibrillator; the use of a glucometer; the administration of aspirin; the use of any medicated auto injector; the performance of airway patency techniques including airway adjuncts, not to include endotracheal intubation~~, by an EMT~~; and on routine interfacility transports, the monitoring and maintenance of non-medicated I.V.s by an EMT. The medical director shall ensure that the EMT is trained to perform these procedures; shall establish written protocols for the performance of these procedures; and shall provide written evidence to the department documenting compliance with provisions of this paragraph.

(h) through (k) No change.

(l) Medical Directors ~~If he is a medical director~~ of a training program shall:

1. through 2. No change.

3. Maintain current instructor level training in Advanced Cardiac Life Support (ACLS), or equivalent, or Advanced Trauma Life Support (ATLS), maintain provider or instructor level training in International Trauma Life Support (ITLS), ~~or~~ Prehospital Trauma Life Support (PHTLS), or Advanced Trauma Life Support (ATLS); and Advanced Pediatric Life Support (APLS), Pediatric Advanced Life Support (PALS), ~~or~~ Pediatric Education for Prehospital Professionals (PEPP), or Emergency Pediatric Care (EPC).

4. through 6. No change.

7. The training program shall provide written documentation to the Department that confirms the Medical Director has reviewed and approved all policies, procedures, and methods used for the ~~Participate in the recruitment, selection, and~~ orientation of instructors and preceptors.

8. The training program shall provide written documentation to the Department that confirms the Medical Director has reviewed and approved all student testing procedures, evaluators and assessment tools used for each comprehensive final written (cognitive) and practical examination (psychomotor skills) for EMT and paramedic students. The Medical Director shall review each student's performance on the comprehensive final written (cognitive) and practical examination (psychomotor skills) before certifying a student has successfully completed all phases of the educational program and are proficient in basic or

advanced life support techniques, as applicable. ~~Participate in student selection, mid-term evaluation and final practical examination of students.~~

(5) No change.

Rulemaking ~~Specific~~ Authority 381.0011, 395.405, 401.265, 401.272, 401.35, 499.05 FS. Law Implemented 401.23, 401.24, 401.25, 401.26, 401.265, 401.27, 401.281, 401.2915, 401.30, 401.34, 401.35, 401.41, 401.411, 499.005 FS. History–New 8-7-89, Amended 6-6-90, 12-10-92, 1-26-97, Formerly 10D-66.0505, Amended 8-4-98, 1-3-99, 2-20-00, 4-15-01, 11-19-01, 10-24-05, 12-18-06, Formerly 64E-2.004, Amended _____.

64J-1.008 Emergency Medical Technician.

(1) through (2) No change.

(a) Complete 30 hours of EMT refresher training based on the 1996 U.S. DOT EMT-Basic National Standard Refresher Curriculum, to include adult and pediatric education with a minimum of two hours in pediatric emergencies, an additional 2 hours of HIV AIDS refresher training, in accordance with Section 381.0034, F.S.; and maintain a current CPR card as provided in Section 401.27(4)(e)2., F.S., and Rule 64J-1.022, F.A.C., CPR shall be included in the 30 hours of refresher training, provided that the CPR training is taken with a continuing education provider recognized by the department pursuant to Section 401.2715, F.S. The 1996 U.S. DOT EMT-Basic National Standard Refresher Curriculum shall be the criteria for department approval of refresher training courses. The department shall accept either the affirmation of a licensed EMS provider's medical director; or a certificate of completion of refresher training from a department approved Florida training program or a department approved continuing education provider as proof of compliance with the above requirements. The 1996 U.S. DOT EMT-Basic National Standard Refresher Curriculum is incorporated by reference and available for purchase from the Government Printing Office by telephoning (202)512-1800 or writing to the Government Printing Office, Superintendent of Documents, Post Office Box 371954, Pittsburg, PA 15250-7954.

(b) through (4)(c) No change.

Rulemaking Authority 381.0011, 381.0034, 381.0035, 401.23, 401.27, 401.35 FS. Law Implemented 381.001, 401.23, 401.27, 401.34, 401.35, 401.41, 401.411, 401.414 FS. History–New 11-29-82, Amended 4-26-84, 3-11-85, Formerly 10D-66.56, Amended 11-2-86, 4-12-88, 8-3-88, 12-10-92, 11-30-93, 12-10-95, 1-26-97, Formerly 10D-66.056, Amended 8-4-98, 1-3-99, 9-3-00, 4-15-01, 6-3-02, 11-3-02, 10-24-05, 1-11-06, 1-23-07, 10-16-07, Formerly 64E-2.008, Amended 11-22-09, _____.

64J-1.009 Paramedic.

(1) through (2) No change.

(2)(a) Complete 30 hours of paramedic refresher training based on the 1998 U.S. D.O.T. EMT-Paramedic NSC, to include adult and pediatric education with a minimum of two hours in pediatric emergencies, an additional 2 hours of HIV AIDS refresher training in accordance with Section 381.0034, F.S., and also maintain a current Advanced Cardiac Life Support (ACLS) card as provided in Section 401.27(4)(e)2., F.S., and Rule 64J-1.022, F.A.C. ACLS shall be included in the 30 hours of refresher training, provided that the ACLS training includes the continuing education criteria recognized by the department pursuant to Section 401.2715, F.S. The department shall accept either the affirmation of a licensed EMS provider's medical director; or a certificate of completion of refresher training from a department approved Florida training program, or a department approved continuing education provider as proof of compliance with the above requirements.

(b) through (4) No change.

Rulemaking Authority 381.0011, 381.0034, 381.0035, 401.27, 401.35 FS. Law Implemented 381.001, 401.23, 401.27, 401.34, 401.35, 401.41, 401.411, 401.414 FS. History–New 11-29-82, Amended 4-26-84, 3-11-85, Formerly 10D-66.57, Amended 4-12-88, 8-3-88, 12-10-92, 11-30-93, 12-10-95, 1-26-97, Formerly 10D-66.057, Amended 8-4-98, 1-3-99, 9-3-00, 4-15-01, 6-3-02, 11-3-02, 10-24-05, 1-23-07, 10-16-07, Formerly 64E-2.009, Amended 11-22-09, _____.

64J-1.020 Training Programs.

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

(c) Paramedic training programs may allow up to 20% of the field internship experience to be done aboard an advanced life support permitted vehicle other than an ambulance.

(d)~~(c)~~ Each applicant shall receive a scheduled site visit by the department. Any paramedic training program that is accredited by the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP) has the option to request that the department schedule its site visit to the institution in conjunction with the CoAEMSP site visit to avoid duplication of effort and unnecessary interruption of the student learning environment.

(e)~~(d)~~ Course directors shall submit a roster of students eligible to take the state certification examination to the department within 14 days after course completion but not before course completion. This roster shall be signed by the program director.

(2) through (4) No change.

(5) Approved training programs that wish to offer EMT or Paramedic training programs after their approval expiration date must apply to the department. An entity shall submit a completed DH Form 1698, December 2008, Application for Approval of an Emergency Medical Services (EMS) Training Program, which is incorporated by reference and available from the department, as defined by subsection 64J-1.001(9), F.A.C., or at http://www.fl-ems.com. The application must be received by the department not less than 90 days before the training programs approval expiration date and no earlier than 180 days prior to the approval expiration date.

(6) Emergency Medical Technician (EMT) training program course length shall be a minimum of 250 hours. EMT students shall not have less than five (5) patient contacts

resulting in the student accompanying the patient to the hospital. Student to Instructor ratios shall not exceed 6:1 during the skills laboratory phase of the program.

(7) Paramedic training program course length shall be a minimum of 1100 hours that includes the recommended hours listed in the United States Department of Transportation, National Highway Traffic Safety Administration's, 1998 EMT-Paramedic National Standard Curriculum for classroom, skills laboratory, hospital clinical, and field internship.

(8) Training Programs shall adhere to the Department of Education's Emergency Medical Technician and Paramedic July 2009 Curriculum Frameworks.

(9) Florida approved Emergency Medical Technician Training Programs must have at a minimum the equipment and supplies listed in Table (I).

(10) Florida approved paramedic Training Programs must have at a minimum the equipment and supplies listed in Table I and Table II.

(11) All equipment and supplies must be appropriate to the objective being taught, in good working order, and available in sufficient quantity for the students enrolled. There must be sufficient equipment so that not more than six students are required to learn on a single piece of equipment at any one time.

TABLE I
EMERGENCY MEDICAL TECHNICIAN BASIC TRAINING PROGRAM
REQUIRED EQUIPMENT AND SUPPLIES

AIRWAY	
Oral pharyngeal airways	(Adult, Child, & Infant)
Nasal pharyngeal airways	(Adult, Child, & Infant)
Bag valve mask	(Adult, Child, & Infant)
Pocket mask with one way valve	(Adult)
SUCTION	
Portable suction unit	(Battery Powered & Manual)
Connecting tubing	
Soft tip suction catheters	(Sizes 6-18 French)
Rigid suction tip	
Meconium Aspirator	
Bulb syringe	
Oxygen (O2) and Supplies	
O_2 tank with wrench	
Regulator with high flow port	
Demand valve **	
Bite sticks	
High concentration mask	(Adult, Child, & Infant)
Simple face mask	(Adult, Child, & Infant)
Nasal cannulas	(Adult, Child, & Infant)
Venturi mask	(Adult)
O_2 tubing	
Nebulizer	
DIAGNOSTIC EQUIPMENT	
Blood pressure cuffs	(Thigh, Large Adult, Adult, Child, and Infant)
Stethoscopes	(Adult & Pediatric)
Teaching stethoscopes	
Thermometer	
Penlights	
INFECTION CONTROL	
Gloves (latex, non-latex, & powder free)	(All Sizes)
Disinfectant	
Biohazard trash bags	
Sharps container**	
Personal protective equipment	(Gown, Eye & Face Shields)
PHARMACEUTICALS	
Insta glucose	
Epi Pen trainer	
Activated charcoal	
Placebo inhalers	
Nitroglycerin	(May be simulated)
MEDICAL TRAINING EQUIPMENT	
AED trainer with pads**	(Adult & Child)
CPR manikins	(Adult, Child & Infant)
Airway manikins **	(Adult, Child & Infant)
Childbirth manikins**	
Full body basic life support manikins	(Adult & Child)
Moulage kit **	
IMMOBILIZATION AND ETRICATION	
Non-wood long spine board with straps	(Adult & Pediatric)
Short board	(Adult & Pediatric)
Vest style immobilization device with straps	(Adults)
C-collars	(Adult Child & Pediatric)
Head immobilizers	(Adult & Pediatric)
Basket stretcher **	
Scoop stretcher**	
Car seat **	(Child & Infant)
Flexible stretcher **	

Patient restraints	
SPLINTS	
Traction splints (two out of the three)	(Adult & Pediatric)
Vacuum	(Assorted sizes)
Air	(Assorted sizes)
Padded board splints	(Assorted sizes)
PATIENT TRANSPORT EQUIPMENT	
Stretcher with straps	(Must be capable of multi level positioning)
Stair chair with straps	
BANDAGES AND DRESSINGS	
Elastic bandage	
Roller gauze	
Non-sterile or sterile sponges	
Abdominal pads	
Multi trauma dressing	
Non-adherent dressing	
Petroleum gauze	
Triangular bandages	
Eye pads	
Band-aids	
Tape	(Assorted sizes)
Cold packs	
Burn sheets	(May be simulated)
OB kits	
Tongue depressors	
MISCELLANEOUS	
Trauma shears	
Ring cutter with extra blades	
Emergency/Survival blanket	
Jump bag	
Helmets	(Open & Full face)
Football Helmet and Shoulder Pads **	

Items marked with a double asterisk are not required to be present at all sites during active classes. The program must demonstrate that these items are available from other sites within the program or by written contract with another agency.

PARAMEDIC TRAINING PROGRAM EQUIPMENT AND SUPPLIES

In addition to equipment and supplies required for EMT Training Programs

AIRWAY	
Esophageal intubation detector	(Two out of three)
Colorimetric CO2 detector	(Adult & Pediatric)
Bulb type intubation detector	(Adult)
Syringe type intubation Detector	(Adult)
Endotracheal tubes	(Sizes 2.5-8)
Naso-gastric tubes	(Assorted sizes)
Commercial manufactured tube holder	(Adult & Pediatric)
Laryngoscope handles with batteries	(Adult & Pediatric)
Laryngoscope with Macintosh and miller blades	(Complete set of each)
Replacement laryngoscope light bulbs	
Stylettes	(Assorted sizes)
Lighted stylettes	(Adult)
Cricothyrotomy kit**	
Pneumothorax kit**	
Superglotic airways	
OXYGEN AND SUPPLIES	
Continuous Positive Airway Pressure (CPAP) with Circuits and Mask **	(Adult)
Automatic Ventilator with Circuits Mask and Peep Valve**	(Adult & Pediatric)
DIAGNOSTIC EQUIPMENT	
Glucometer with lancets and test strips	
CARDIOLOGY SUPPLIES	
Cardiac monitor capable of defibrillation with cables	
Cardiac monitor capable of defibrillation, 12 lead EKG, and pacing, with cables. and wave form end title carbon monoxide detector capable of printing.	
Battery support system with spare batteries	
EKG paper	
Rhythm generator capable of generating 3 or 4 lead displays	
Rhythm generator capable of generating 12 lead rhythms	
IV AND PHARMACEUTICALS SUPPLIES	
IV catheters	(Sizes 22 – 14 gauges)
Butterfly needles	(Assorted Sizes)
Blood collection tubes	
Vacutainer device with luer adapter	
Syringes	(Sizes 3-20cc)
Hypodermic needles	(Sizes 25-18 gauge)
Intraosseous Needles	
Practice medication ampoules, vials, and premeasured syringes	
Macrodrips IV sets	
Microdrips IV sets	
IV extension sets	

3 way stop cocks
Buretrol solution set
IV fluids
IV start kits

ADVANCED LIFE SUPPORT PHARHAOCOLOGICAL DRUGS
(May be commercially packaged or simulated)
Atropine
Dextrose
Furosemide
Magnesium
Nalaxone
Sodium Bicarbnate
Epinephrine 1:10000
Epinephrine 1:1000
Lidocaine
Amiodarone
Dopamine
Vasopressin
Procinamide
Adenosine
Digoxin
Verapamil
Cardizem
Morphine Sulfate
Nitroglycerin
Aspirin
Lidocaine drip
Dopamine drip

MEDICAL TRAINING EQUIPMENT

IV trainer	(Adult)
Cricothyrotomy mankins**	(Adult)
Intraosseous trainer**	(Pediatric)
IM and Sub-Q injection trainer**	(Adult & Pediatric)
Pneumothorax trainer**	(Adult)
Full body advanced life support manikins**	(Adult, Child, & Infant)
Consumable parts for all trainers **	(Adult, Child, & Infant)

MISCELLANEOUS ITEMS
Triage tags
Two-way communication radios or walkie-talkie
Length-Base resuscitation device
Items marked with a double asterisk are not required to be present at all sites during active classes. The program must demonstrate that these items are available from other sites within the program or by written contract with another agency.

~~(5) Commencing with the effective date of this rule and expiring December 1 of even numbered years thereafter, entities not licensed as an emergency medical services provider or a department approved Florida training program shall be approved to conduct EMT or paramedic recertification training providing they meet the requirements contained in Section 401.2715, F.S., and this section. To be approved as an EMS Recertification Training Program, each applicant shall:~~

~~(a) Submit DH Form 1698C, February 2001, Application for Review of Continuing Education Offering which is incorporated by reference and available from the department.~~

~~(b) Submit a non-refundable fee of $300 for approval of continuing education which is valid for a period of 2 years concurrently with the EMT and paramedic recertification cycle.~~

~~(c) Submit the following for each course offering:~~

~~1. Behavioral objectives:~~

~~a. Describe expected learner outcomes in terms that can be evaluated, are attainable and are relevant to current US DOT NSC.~~

~~b. Determine teaching methodology and plan for evaluation.~~

~~2. Subject matter:~~

~~a. Shall reflect the professional educational needs of the student.~~

~~b. Currency and accuracy will be documented by references/bibliography.~~

~~3. Faculty qualifications:~~

~~a. Provide evidence of academic credentials or expertise in the subject matter.~~

~~b. When the subject matter includes advanced life support, a physician, nurse or paramedic with expertise in the content area shall be involved in the planning and instruction.~~

~~4. Medical Direction:~~

~~a. Provide evidence of current contract with a physician who has experience in emergency medicine, trauma or appropriate certification in prehospital care.~~

~~b. Responsibilities of physician shall be clearly stated on contract.~~

~~5. Teaching strategies:~~

~~a. Learning experiences and teaching methods, relative to emergency medical services, are utilized to achieve the objectives.~~

~~b. Adult education principles are employed in teaching strategies.~~

~~c. Time is allowed for each activity to ensure opportunity for each student to meet the objectives.~~

~~6. Evaluation methods: Evidence shall be submitted that participants are given an opportunity to evaluate learning experiences, instructional methods, facilities and resources used.~~

~~7. Contact hour criteria:~~

~~a. All offerings shall be at least 50 minutes in length which is equivalent to 1 contact hour.~~

~~b. Increments of 25 minutes will be accepted if the offering extends beyond 1 contact hour.~~

~~(6) All training offered for the purpose of recertification of EMTs and paramedics shall be documented through a system of record keeping which shall include: program title, course outline, course objectives, dates offered, name of instructor, contact hours and roster of attendees. Each entity shall submit a roster of students that have completed training to the department within 14 days after completion but not before course completion. The course director shall sign this roster.~~

~~(7) Recertification Training Programs, which maintain current approval from the department, and have an assigned approval code, may submit additional courses for approval during the current recertification cycle without paying an additional fee. The training program shall comply with the other requirements contained in subsection 64J-1.020(5), F.A.C.~~

~~(8) The department shall periodically conduct monitoring site visits to entities conducting recertification training to verify that the training is being documented through record keeping that verifies compliance with the recertification requirements of Rules 64J-1.008 and 64J-1.009, F.A.C., for all training conducted. These training records shall be retained for a minimum of 4 years, which shall include the 2 year period within each certification cycle and the immediate 2 year period following that certification cycle.~~

~~(9) A medical director's affirmation of completion of recertification training as provided in Section 401.2715(3), F.S., is the physician's confirmation that the certificate holder has completed recertification training consisting of at least 30 hours, and is based on the requirements of paragraph 64J-1.008(2)(a) or 64J-1.009(2)(a), F.A.C.~~

Rulemaking ~~Specific~~ Authority 401.27, 401.2715 FS. Law Implemented 401.27, 401.2715 FS. History–New 9-3-00, Amended 4-15-01, 4-21-02, 11-3-02, 12-18-06, 10-16-07, Formerly 64E-2.036, Amended _____.

64J-1.0202 EMS Recertification Training Programs.

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b. Determine teaching methodology and plan for evaluation.

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a. Shall reflect the professional educational needs of the student.

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a. Learning experiences and teaching methods, relative to emergency medical services, are utilized to achieve the objectives.

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Rulemaking Authority 401.27, 401.2715 FS. Law Implemented 401.27, 401.2715 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: John C. Bixler, Chief, Bureau of Emergency Medical Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana Viamonte Ros, State Surgeon General, Florida Department of Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 18, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 13, 2009 Vol. 35, No. 10; July 24, 2009 Vol. 35, No. 29

Section III
Notices of Changes, Corrections and Withdrawals

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.:	RULE TITLE:
40E-2.091	Publications Incorporated by Reference

NOTICE OF PUBLIC HEARING

The South Florida Water Management District announces a change of hearing regarding the above rule, as noticed in Vol. 35, No. 49, December 11, 2009, Florida Administrative Weekly.

DATE AND TIME: February 11, 2010, 9:00 a.m.

PLACE: South Florida Water Management District, B-1 Auditorium, 3301 Gun Club Road, West Palm Beach, FL 33406.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Public hearing on the adoption of amendments to Rules 40E-10.021, 40E-10.031, 40E-10.041, 40E-2.091 and 40E-20.091, F.A.C., and new Rule 40E-10.051, F.A.C., to identify the quantity, location and timing of waters reserved from allocation for the protection of fish and wildlife in the North Fork of the St. Lucie River in support of the Comprehensive Everglades Restoration Plan for the Indian River Lagoon-South Project.

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: South Florida Water Management District Clerk, (800)432-2045, ext. 2087 or (561)682-2087. 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).

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-10.021	Definitions
40E-10.031	Water Reservations
40E-10.041	Water Reservation Areas: Lower West Coast Planning Area
40E-10.051	Water Reservation Areas: Upper East Coast Planning Area

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