

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

DATE AND TIME: February 22, 2010, 1:00 p.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: James Watford james.watford@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: James Watford james.watford@flor.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-8.0011	Standards Adopted
5F-8.0012	Bureau of Fair Rides Inspection Forms
5F-8.009	Inspections by Owner or Manager
5F-8.0125	Fencing and Gate Standards
5F-8.0127	Enforcement Actions and Administrative Penalties
5F-8.0128	Resolution of Violations, Settlement, and Additional Enforcement Remedies
5F-8.014	Training of Managers, Attendants, and Maintenance Persons
5F-8.015	Regulation of Go-Karts Tracks and Similar Vehicles
5F-8.016	Regulation of Water Parks
5F-8.025	Regulation of Bungy Operations
5F-8.050	Games

PURPOSE AND EFFECT: (1) to update and adopt current standards for the inspection of amusement rides (2) to revise Fair Rides Inspection Forms for the purpose of correcting revision dates & adopting changes to those forms adopted by the Bureau; (3) to adopt fencing and gate standards for all amusement rides operating within the state. (4) to adopt

guidelines for imposing administrative remedies when the Department determines there is a violation of the statute or rules; (5) to clarify guidelines for attendants in regards to go-kart track monitoring; (6) to clarify attendant responsibilities on all water related rides; and (7) to add an authorized game to those already approved to operate within the State.

SUMMARY: Rule 5F-8.011, F.A.C., Standards Adopted Update and Adopt current national standards for the inspection of amusement rides. Rule 5F-8.012, F.A.C., Bureau of Fair Rides Inspection Forms Update And Adopt Inspection Forms used by the Bureau and Industry. Rule 5F-8.009, F.A.C., Inspections by Owner or Manager Update language on owner/manager ride inspections. Rule 5F-8.0125, F.A.C., Fencing and Gate Standards Standardize fencing and gate standards for all amusement rides. Rule 5F-8.0126, F.A.C., Minor Rule Violations; Notice of Non-Compliance Adopt and standardize guidelines for imposing administrative penalties for violations. Rule 5F-8.0127, F.A.C., Enforcement Actions and Administrative Penalties Adopt and standardize guidelines for imposing administrative penalties for violations. Rule 5F-8.0128, F.A.C., Resolution of Violations, Settlement and Additional Enforcement Remedies Adopt and standardize guidelines for imposing administrative penalties for violations. Rule 5F-8.014, F.A.C., Training of Managers, Attendants and Maintenance Persons Updates reference and revises method of recording employee training. Rule 5F-8.015, F.A.C., Regulation of Go-Karts and Similar Vehicles Clarifies monitoring requirements for go-kart tracks, updates fencing requirements for go-kart tracks. Rule 5F-8.016, F.A.C., Regulation of Water Parks Updates operational and fencing requirements for water parks. Rule 5F-8.025, F.A.C., Regulation of Bungy Operations Updates fencing requirements for bungy operations. Rule 5F-8.050, F.A.C., Games Authorizes use of a new game in the State of Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have no significant 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: 616.165, 616.242(4) FS.

LAW IMPLEMENTED: 616.242 FS.

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

DATE AND TIME: Monday, March 1, 2010, 10:00 a.m.

PLACE: Eyster Auditorium, Florida Department of Agriculture and Consumer Services, Conner Building, 3125 Conner Blvd., Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Robert H. Jacobs, (850)488-9790. 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: Robert H. Jacobs, Bureau Chief of the Bureau of Fair Rides Inspections, 3125 Conner Blvd., Suite N., Tallahassee, Florida 32399-1650, phone: (850)488-9790

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 5F-8.0011 follows. See Florida Administrative Code for present text.)

5F-8.0011 Standards Adopted.

The following standards, materials and practices are hereby adopted and incorporated by reference and are available for public inspection during regular business hours at the Florida Department of Agriculture and Consumer Services, Division of Standards, 3125 Conner Boulevard, Suite N, Tallahassee, Florida 32399-1650.

(1) ASTM International Committee F-24 on Amusement Rides and Devices Designation.

(a) F 747-06 “Standard Terminology Relating to Amusement Rides and Devices.”

(b) F 770-06a “Standard Practice for Ownership and Operation of Amusement Rides and Devices.”

(c) F 846-92 (2009) “Standard Guide for Testing Performance of Amusement Rides and Devices.”

(d) F 853-05 “Standard Practice for Maintenance Procedures for Amusement Rides and Devices.”

(e) F 893-05a “Standard Guide for Inspection of Amusement Rides and Devices.”

(f) F 1159-03a “Standard Practice for Design and Manufacture of Patron Directed, Artificial Climbing Walls, Dry Slide, Coin Operated and Purposeful Water Immersion Amusement Rides and Devices and Air-Supported Structures.”

(g) F 1193-06 “Practice for Quality, Manufacture, and Construction of Amusement Rides and Devices.”

(h) F 1305-94 (2002) “Standard Guide for Classification of Amusement Ride and Device Related Injuries and Illnesses.”

(i) F 1957-99(2004) “Standard Test Method for Composite Foam Hardness-Durometer Hardness.”

(j) F 2007-07a “Standard Practice for Design, Manufacture, and Operation of Concession Go-Karts and Facilities.”

(k) F 2137-04 (2009) Practice for Measuring the Dynamic Characteristics of Amusement Rides and Devices.

(l) F 2291-09a “Standard Practice for Design of Amusement Rides and Devices.”

(m) F 2374-07a “Standard Practice for Design, Manufacture, Operation, and Maintenance of Inflatable Amusement Devices.”

(n) F 2375-09 “Practice for Design, Manufacture, Installation and Testing of Climbing Nets and Netting/Mesh Used in Amusement Rides, Devices, Play Areas, and Attractions.”

(o) F 2376-08 “Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems.”

(p) F 2460-07 “Standard Practice for Special Requirements for Bumper Boats.”

(q) F 2461-09 “Standard Practice for Manufacture, Construction, Operations, Maintenance and Water Quality of Interactive Aquatic Play Equipment.”

The above referenced F-24 Committee standards are compiled by ASTM International in the 2009 Annual Book of ASTM Standards, Volume 15.07. A copy of this publication or the individual standards can be obtained by contacting ASTM International, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, Pennsylvania 19428-2959; Phone (610)832-9500; www.astm.org.

(2) National Electrical Code (NEC) Handbook, Article 525, “Carnivals, Circuses, Fairs, and Similar Events.” 2008 Edition. A copy of this publication can be obtained by contacting the National Fire Protection Association at 1 Batterymarch Park, Quincy, Massachusetts 02169-7471; Phone 1(800)344-3555; www.nfpa.org.

(3) National Fire Protection Association (NFPA), Document 101, “Life Safety Code”, 2009 Edition, Chapters 3.3.32.10, 12.4.7, and 13.4.7, each entitled “Special Amusement Buildings.” The chapters listed in this section succeeded Chapters 8-4.6 and 9-4.6 of the “Life Safety Code.” A copy of this publication can be obtained by contacting the National Fire Protection Association at 1 Batterymarch Park, Quincy, Massachusetts: 02169-7471; Phone 1(800)344-3555; www.nfpa.org.

(4) ASTM International Designation E 543-08a, “Standard Specification for Agencies Performing Nondestructive Testing.” A copy of this publication can be obtained by contacting ASTM International, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, Pennsylvania 19428-2959; Phone (610)832-9500; www.astm.org.

(5) American Society for Nondestructive Testing (ASNT), Recommended Practice No. SNT-TC-1A, “Personnel Qualification and Certification in Nondestructive Testing,” 2006 Edition. A copy of this publication can be obtained by contacting the American Society For Nondestructive Testing, 1711 Arlingate Lane, Post Office Box 28518, Columbus, Ohio 43228-0518; phone 1(800)222-2768; www.asnt.org.

Rulemaking Specific Authority 616.165, 616.242(4) FS. Law Implemented ~~616.001~~, 616.242(4) FS. History–New 2-14-99, Amended 10-2-07, _____.

(Substantial rewording of Rule 5F-8.0012 follows. See Florida Administrative Code for present text.)

5F-8.0012 Bureau of Fair Rides Inspection Forms.

The following forms are hereby incorporated by reference. Copies of these publications may be obtained from the Division of Standards, Bureau of Fair Rides Inspection at 3125 Conner Boulevard, Suite N, Tallahassee, Florida 32399-1650 or online at www.doacs.state.fl.us/onestop/std/fairride.html.

Form Number	Revised	Title
DACS 03401	01/09	Invoice
DACS 03419	12/09	Amusement Ride Inspection Report
DACS 03420	12/09	Water Park Amusement Ride Inspection Report
DACS 03421	12/09	Go-kart Amusement Ride Inspection Report (Track)
DACS 03422	01/09	Go-kart Amusement Ride Inspection Report (Vehicle)
DACS 03423	12/09	Bungy Jump Inspection Report
DACS 03424	012/09	Owner's Daily Inspection Report (Carnival Type)
DACS 03425	012/09	Owner's Daily Inspection Report (Water Park)
DACS 03426	012/09	Owner's Daily Inspection Report (Go-kart Track/Vehicle)
DACS 03427	012/09	Owner's Daily Inspection Report (Bungy)
DACS 03428	01/09	Written Accident Report
DACS 03429	01/09	Request for Inspection or Reinspection
DACS 03430	01/09	Mechanical, Structural or Electrical Defect Report
DACS 03431	012/09	Employee Training Record
DACS 03432	01/09	Amusement Ride Annual Permit Application
DACS 03433	04/09	Affidavit of Compliance and Nondestructive Testing
DACS 03434	01/09	Affidavit of Annual Inspection for Exempt Facilities
DACS 03545	12/09	Stop Operation Order
DACS 03546	12/09	Out of Service Tag
DACS 03550	01/09	Inspection Certificate
DACS 03557	02/09	Fair Rides Immediate Final Order
DACS 03558	02/09	Fair Rides Immediate Final Order Release

Rulemaking Specific Authority 616.165, 616.242(4) FS. Law Implemented 616.242(4), (5), (6), (7), (10), (11), (14), (15), (16) FS. History–New 2-14-99, Amended 5-30-05, 10-2-07, _____.

5F-8.009 Inspections by Owner or Manager.

Prior to opening on each day of operation and prior to any inspection by the Department, the owner or manager of each amusement ride shall inspect and test the amusement ride in accordance with the requirements of Section 616.242(15), F.S., and record the inspection on the applicable Department form, DACS 03424, Rev. 12/09, Owner's Daily Inspection Report

(Carnival Type); DACS 03425, Rev. 12/09, Owner's Daily Inspection Report (Water Park); DACS 03426, Rev. 12/09, Owner's Daily Inspection Report (Go-kart Track and Vehicle); DACS 03427, Rev. 12/09, Owner's Daily Inspection Report (Bungy).

Rulemaking Specific Authority 616.165, 616.242(15) FS. Law Implemented 616.242(15) FS. History–New 9-15-92, Amended 2-23-94, 2-14-99, 5-30-05, _____.

5F-8.0125 Fencing and Gate Standards.

ASTM International, F-24 Committee Designations F 1159-03a and F 2291-09a and the following shall be the fencing and gate standards for amusement rides:

(1) Amusement ride train crossing points may use railroad type protection devices.

(2) Natural barriers (ponds or streams, earthen mounds and shrubs or other vegetation) may be utilized when such barriers serve to prevent spectators or riders from gaining access or otherwise coming in contact or close proximity with amusement rides prior to, during or after operation.

Rulemaking Authority 616.165, 616.242(4)(c) FS. Law Implemented 616.242 FS. History–New _____.

5F-8.0127 Enforcement Actions and Administrative Penalties.

(1) This rule sets forth the guidelines the Department will follow in imposing the penalties authorized under Chapter 616, Florida Statutes. The purpose of the guidelines is to give notice of the range of penalties which normally will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$2,500 per violation, per day. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(2) The Department will enforce compliance with Chapter 616, Florida Statutes, and this rule chapter by issuing an administrative complaint, a stop operation order, out of service tag, or an immediate final order for violations of Chapter 616, Florida Statutes, and this rule chapter.

(3) Stop Operation Orders. A stop operation order is necessary to effectuate the statutory duties of the Department in the interest of public health, safety, and welfare and is necessary to promote patron safety in the design, construction, assembly, disassembly, maintenance, and operation of amusement rides in Florida. A stop operation order will be used to prohibit the operation of an amusement ride that fails to comply with the requirements of Chapter 616, F.S.s, or this rule chapter.

(4) Nothing in this chapter shall limit the ability of the Department to informally dispose of administrative actions by settlement agreement, consent order, or other lawful means.

(5) Rule Not All-Inclusive. This rule contains illustrative violations. It does not, and is not intended to encompass all possible violations of statute or Department rule that might be committed by any person. The absence of any violation from this rule chapter shall in no way be construed to indicate that the violation does not cause harm to the public or is not subject to a penalty. In any instance where the violation is not listed in this rule chapter, the penalty will be determined by consideration of:

(a) The closest analogous violation, if any, that is listed in this rule; and

(b) The mitigating or aggravating factors listed in this rule.

(6) Aggravating and Mitigating Factors. The Department will consider aggravating and mitigating factors in determining penalties for violations of Chapter 616, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation.

(a) Aggravating Factors:

1. The violation caused, or has the potential to cause, serious injury to a person.

2. The violation endangered the public safety or welfare.

3. Previous violations for the same or a similar offense that resulted in enforcement action.

4. The violation occurred for more than 24 hours.

5. The violation was repeated within three years.

6. The violator impeded, or otherwise failed to cooperate with, the Department's inspection or investigation.

7. Previous disciplinary action against the violator in this or any other jurisdiction and the deterrent effect of the penalty imposed.

8. Undue delay in initiating or completing, or failure to take, affirmative or corrective action after receipt of notice of the violation.

9. The violator's prior knowledge of Chapter 616, F.S. and Chapter 5F-8, F.A.C.

10. Whether the violation resulted from negligence or an intentional act.

11. The cost of the enforcement action.

12. The number of other violations proven in the same proceeding.

13. The benefit to the violator.

(b) Mitigating Factors:

1. Any documented efforts by the violator at rehabilitation.

2. Whether intentional actions of another party prevented the violator from complying with the applicable laws or rules.

3. Financial hardship.

4. Acts of God or nature that impairs the ability of the violator to comply with Chapter 616, F.S., or Chapter 5F-8, F.A.C.

5. The violation has a low risk of, or did not result in, harm to the public health, safety, or welfare.

6. The violator expeditiously took affirmative or corrective action after it received written notification of the violation.

7. The number and seriousness of the counts in the administrative complaint.

8. The disciplinary history of the person committing the violation.

9. If a repeat violation, whether three years has passed since the prior violation.

(7) The provisions of this rule chapter shall not be construed so as to prohibit or limit any other civil action or criminal prosecution that may be brought.

(8) In addition to the penalties established in this rule, the Department reserves the right to seek to recover any other costs, penalties, attorney's fees, court costs, service fees, collection costs, and damages allowed by law. Additionally, the Department reserves the right to seek to recover any costs, penalties, attorney's fees, court costs, service fees, collection costs, and costs resulting from a payment that is returned for insufficient funds to the Department.

(9) Penalties.

(a) Notice of Noncompliance. Any Department investigation or inspection which reveals minor violations of this rule chapter in which the Department determines that the violator was unaware of the rule or unclear as to how to comply with it will result in the issuance of a notice of noncompliance as the Department's first response to the violation. For the purposes of this rule, the following violations shall result in the issuance of a notice of noncompliance for the first violation only:

1. Failure to maintain or make immediately available to the Department upon request the required Owner's Daily Inspection Reports.

2. Failure to maintain or make immediately available to the Department upon request employee training records (employee trained, but no records).

3. Failure to provide the Department a copy of the manufacturer's operating instructions, operating fact sheet, or written manufacturer's bulletins.

4. Failure to maintain the required operations manual written in the English language for each go-kart and go-kart track that includes a detailed scaled drawing of the go-kart type course, manufacturer's maintenance instructions and specification for each go-kart, and written emergency plans.

5. Failure to maintain the required operations manual written in the English language for water parks that contain general maintenance and cleanup procedures, equipment operation instructions and written emergency plans.

(b) Minor Violations. A violation of Chapter 616, F.S., or this rule chapter is a minor violation if it does not result in economic or physical harm to a person or adversely affect the

public health, safety, or welfare or create a significant threat of such harm. Minor violations shall result in the imposition of an administrative fine against the owner of the amusement ride of \$250 per violation, per day. Aggravating factors as defined in paragraph (6)(a) of this rule shall warrant the adjustment of the fine upward and mitigating factors as defined in paragraph (6)(b) of this rule shall warrant the adjustment of the fine downward, but no fine shall exceed the statutory maximum as outlined in Section 616.242(19)(a), F.S. For the purposes of this rule, the following violations shall be considered minor violations:

1. Failure to maintain or make immediately available to the Department upon request the required Owner's Daily Inspection Reports.
2. Failure to maintain or make immediately available to the Department upon request employee training records (employee trained, but no records).
3. Failure to provide the Department a copy of the manufacturer's operating instructions, operating fact sheet, or written manufacturer's bulletins.
4. Failure to maintain the required operations manual written in the English language for each go-kart and go-kart track that includes a detailed scaled drawing of the go-kart type course, manufacturer's maintenance instructions and specification for each go-kart, and written emergency plans.
5. Failure to maintain the required operations manual written in the English language for water parks that contain general maintenance and cleanup procedures, equipment operation instructions and written emergency plans.
6. Failure to report an accident as required by Section 616.242, F.S.

(c) Major Violations. A violation of a Chapter 616, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare or creates a significant threat of such harm. Major violations shall result in the imposition of an administrative fine against the owner of the amusement ride of \$1,000 per violation, per day or suspension of the owner's permit or inspection certificate for not more than one year or revocation the owner's permit or inspection certificate or any combination thereof. Aggravating factors as defined in paragraph (6)(a) of this rule shall warrant the adjustment of the fine upward and mitigating factors as defined in paragraph (6)(b) of this rule shall warrant the adjustment of the fine downward, but no fine shall exceed the statutory maximum as outlined in Section 616.242(19)(a), F.S. For the purposes of this rule, the following violations shall be considered major violations due to their high potential for consumer harm:

1. Operation of an amusement ride by an employee(s) who is/are not trained to operate or maintain the ride.
2. Operating an amusement ride in a manner or circumstance that presents a risk of serious injury to patrons, which does not result in a reportable accident.

3. Operating an amusement ride with a structural, mechanical or electrical defect, that affects patron safety, of which the owner or manager has knowledge, or through the exercise of reasonable diligence, should have knowledge, which does not result in a reportable accident.

4. Operating an amusement ride in a manner or circumstance that presents a risk of serious injury to patrons, which results in a reportable accident.

5. Operating an amusement ride with a structural, mechanical or electrical defect, that affects patron safety, of which the owner or manager has knowledge, or through the exercise of reasonable diligence, should have knowledge, which results in a reportable accident.

6. Operating an amusement ride which has not been inspected and tested by the owner or manager in accordance with the requirements of Section 616.242(15), F.S.

7. Operating an amusement ride without a current permit, affidavit of compliance/non-destructive testing, inspection certificate, insurance or bond or any combination of each.

8. Operating an amusement ride by an employee who is under the influence of drugs or alcohol.

9. Operating an amusement ride that has undergone a major modification without certification from a professional engineer that the amusement ride is in compliance with Section 616.242, F.S. or Chapter 5F-8, F.A.C.

10. Operating an amusement ride in violation of any order of the Department, or any court, or an Immediate Final Order.

11. Failure to provide track safety barriers that are constructed to prevent a vehicle from overturning or running over or under the barrier, as required by paragraph 5F-8.015(6)(b), F.A.C.

12. Failure to describe and demonstrate to patrons emergency signals prior to operation of vehicles, as required by paragraph 5F-8.015(4)(n), F.A.C.

13. Failure to instruct patrons as to safe operation procedures, as required by paragraph 5F-8.015(4)(o), F.A.C.

14. Failure to enforce rules for safe operations, as required by paragraph 5F-8.015(4)(p), F.A.C.

15. Operation of an amusement ride at a speed in excess of its maximum safe operating speed.

Rulemaking Authority 616.165, 616.242(4) FS. Law Implemented 616.242(4)(b), (18), (19) FS. History—New _____.

5F-8.0128 Resolution of Violations, Settlement, and Additional Enforcement Remedies.

(1) The Department and person charged with a violation may agree to resolve violations prior to an administrative hearing, or may enter into settlement pursuant to Section 120.57(4), F.S. The penalties addressed in this rule chapter 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 Chapter 616, F.S.

(2) Failure to respond to an administrative complaint shall result in the entry of a Default Final Order against the violator or entity responsible for the violation. The Department shall impose administrative fines in a Default Final Order equal to the maximum amount allowable under Section 616.242(19), F.S.

(3) A failure to comply with either a Final Order or a Default Final Order of the Department shall result in revocation the owner's permit or inspection certificate and an administrative fine against the owner of the amusement ride of \$2,500 per violation, per day. Additional penalties shall be sought through the enforcement of the order in circuit court.

Rulemaking Specific Authority 616.165, 616.242(4) FS. Law Implemented 616.242(4)(b), (18), (19) FS. History–New _____.

5F-8.014 Training of Managers, Attendants and Maintenance Persons.

The owner or manager shall maintain a record of employee training required by Section 616.242(16), F.S., on Department Form DACS 03431, Rev. 12/09, Employee Training Record.

Rulemaking Specific Authority 616.165, 616.242(4) FS. Law Implemented 616.242(16) FS. History–New 7-31-94, Amended 2-14-99, 5-30-05, _____.

5F-8.015 Regulation of Go-kart Tracks and Similar Vehicles.

(1) through (3) No change.

(4) Operations.

(a) through (d) No change.

(e) Every section of a track shall be monitored during its operation. Go-kart attendants shall be positioned so that they can observe go-kart operations and reach any section of the go-kart track immediately. In addition, observation of go-kart facility operations may be supplemented This shall be done visually by attendants or by electronic visual and audio means. Attendants shall not be engaged in the operation of other amusement rides although they may observe go-kart operations on an adjacent track.

(f) through (p) No change.

(5) No change.

(6) Track and Course Requirements.

(a) through (d) No change.

(e) Every track shall be surrounded by a fence or barrier. Fencing and gates shall be in accordance with Rule 5F-8.0125, F.A.C. Fences manufactured after January 1, 1993 shall be in accordance with ASTM F 24 Committee Standard F 1159 92 (4th Edition 1992).

(f) through (g) No change.

(7) through (9) No change.

Rulemaking Specific Authority 616.165, 616.242(15) FS. Law Implemented 616.242 FS. History–New 7-31-94, Amended 2-14-99, _____.

5F-8.016 Regulation of Water Parks.

(1) through (5) No change.

(6) Operations.

(a) The owner/manager shall operate each water related amusement ride in accordance with its operations manual and manufacturer requirements.

(b) Owners or attendants shall instruct all patrons as to safe operation procedures.

(c) Owners or attendants shall enforce all rules for safe operations.

(7) Criteria.

(a) No change.

(b) The water park shall be fenced. Fencing and gates shall be in accordance with Rule 5F-8.0125, F.A.C. or otherwise effectively guarded. Individual water related amusement rides need not be fenced when the water park is fenced or provided with barriers.

(c) through (d) No change.

(8) No change.

Rulemaking Specific Authority 616.165, 616.242(4)(c) FS. Law Implemented 616.242(4) FS. History–New 12-6-93, Amended 2-14-99, _____.

5F-8.025 Regulation of Bungy Operations.

(1) through (24) No change.

(25) Fences.

(a) through (d) No change.

(e) Fencing and gates shall be in accordance with Rule 5F-8.0125, F.A.C.

(26) through (44) No change.

Rulemaking Specific Authority 616.165, 616.242(4)(c), (6) FS. Law Implemented 616.242 FS. History–New 11-11-92, Amended 6-13-93, 9-21-93, 2-23-94, 4-15-94, 7-5-94, 5-7-96, 2-14-99, _____.

5F-8.050 Games.

(1) through (3) No change.

(4) Authorized Games. The following games when operated in accordance with the operating standards and procedures prescribed by this rule may be exhibited at public fairs and expositions:

(a) through (zz) No change.

(aaa) Sweeper Game. Turntables are made of 1/4" mirror measuring 16 1/4" in diameter. Sweeper arms are 9" in length and made of steel. Prize pucks are 1 1/2" lengths with a diameter of 3/4" to 1 1/2". Only the patron can activate the sweeper arm by pushing the start button located in a wooden box.

(aaa) through (fff) renumbered (bbb) through (ggg) No change.

Rulemaking Specific Authority 616.241(10), 616.242(4) FS. Law Implemented 616.241(10) FS. History--New 5-8-94, Amended 2-14-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Isadore Rommes, Director, Division of Standards
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner of Agriculture
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 2010

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."

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE NOS.:	RULE TITLES:
18-1.002	Definitions
18-1.006	Appraisal Procedures, Report Requirements and Determining Maximum Amounts
18-1.007	Appraiser Eligibility and Selection

PURPOSE AND EFFECT: The purpose of this amendment is to make the appropriate changes to the Rule 18-1, F.A.C., reflecting the recent legislative changes to Section 253.025, F.S. Pursuant to Section 253.025(6)(f), F.S., the Board of Trustees shall adopt a rule providing for waiver of sales history in appraisal reports where it is cost prohibitive compared to the value of the parcel. Furthermore, pursuant to Section 253.025(6)(e), F.S., changes to paragraph 18-1.007(5)(b), F.A.C., are proposed for consistency among conservation and non-conservation land acquisitions in regards to the appraisal review requirements based on the value of the parcel. The proposed changes will revise subsection 18-1.002(29), F.A.C., and the Supplemental Appraisal Standards for Board of Trustees Land to update the citation of the Uniform Standards of Professional Appraisal Practice to the version effective January 1, 2010. Finally, the adoption by reference of the Supplemental Appraisal Standards for Board of Trustees Land is moved from subsection 18-1.006(1), F.A.C., to definitions in subsection 18-1.002(27), F.A.C.

SUMMARY: The rule amendments will do the following: provide appraisal procedures for state lands acquisition.

Rule 18-1.002, F.A.C., is referenced in two rules. The amendments will have no effect in the referencing rule of: Rule 18-21.003, F.A.C. The amendments will update the definition references of Rule 18-1.002, in Rule 18-2.017, F.A.C.

Rule 18-1.007, F.A.C., is also referenced in several rules. The amendments will have no effect in the following referencing rules: Rules 1A-1.007, 62D-5.058 and 62D-5.071, F.A.C.

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: 253.03, 253.025, 259.041 FS. LAW IMPLEMENTED: 253.025, 259.041 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: Mike Herran, DEP, Division of State Lands, Bureau of Appraisal, 3900 Commonwealth Blvd., MS 110, Tallahassee FL 32399-3000, (850)245-2658, mike.herran@dep.state.fl.us. 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: Mike Herran, DEP, Division of State Lands, Bureau of Appraisal, 3900 Commonwealth Blvd., MS 110, Tallahassee FL 32399-3000, (850)245-2658, mike.herran@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

18-1.002 Definitions.

When used in this chapter, the following shall have the indicated meaning unless the context clearly indicates otherwise:

(1) through (26) No change.

(27) "Supplemental standards" means the Supplemental Appraisal Standards for Board of Trustees Land, dated [effective date] ~~April 14, 2008~~, hereby adopted by reference, which contains appraisal requirements that establish public policy and add to the standard appraisal procedures and practices of the appraisal profession for the development and reporting of all appraisal services, including those outlined in Chapters 253 and 259, F.S., adopted by the Board of Trustees of the Internal Improvement Trust Fund, available on the internet at: <http://www.dep.state.fl.us/lands/appraisal/> or by sending a request to: Department of Environmental Protection,

Bureau of Appraisal, 3900 Commonwealth Boulevard, M.S. 110, Tallahassee, Florida 32399-3000 or by phone at (850)245-2658 or by fax at (850)245-2668.

(28) No change.

(29) "USPAP" means the Uniform Standards of Professional Appraisal Practice, effective ~~January 1, 2010~~ July 1, 2006, which contains the generally accepted standards of the appraisal profession that deal with the procedures to be followed in developing an appraisal, analysis, or opinion and the manner in which such appraisal, analysis, or opinion is communicated, as promulgated by the Appraisal Foundation, available on the internet at: <http://www.apraisalfoundation.org> or by directing your request to: The Appraisal Foundation, 1155 15th Street, N.W., Suite 1111, Washington, DC 20005.

~~Rulemaking Specific~~ Authority 253.03, 253.025, 259.041 FS. Law Implemented 253.025, 259.041 FS. History--New 6-16-86, Amended 4-6-89, 1-29-90, 10-30-91, 4-14-08, _____.

18-1.006 Appraisal Procedures, Report Requirements and Determining Maximum Amounts.

(1) The development and reporting of all appraisal services by the fee appraiser shall be consistent with the USPAP, Supplemental Standards, this chapter and the specific assignment. ~~The Supplemental Standards are hereby adopted by reference.~~

(2) through (3) No change.

(4) In accordance with Section 253.025(6)(f), F.S., the appraisal report shall be accompanied by a sales history of the parcel for the prior five years, with the following exceptions:

(a) The appraisal assignment consists of 25 or more parcels, and

(b) Each parcel is 20 acres or less in size, and

(c) The most recent ad valorem tax assessment for each parcel is \$75,000 or less, excluding tax exemptions.

(5) through (9) No change.

~~Rulemaking Specific~~ Authority 253.025, 259.041 FS. Law Implemented 253.025, 259.041, 373.139 FS. History--New 6-16-86, Amended 4-6-89, 1-29-90, 1-2-91, 10-30-91, 4-14-08, _____.

18-1.007 Appraiser Eligibility and Selection.

(1) through (4) No change.

(5) Appraisal reviews are appraisal services that will be conducted for each assignment by qualified review appraisers in accordance with the USPAP competency requirements. Appraisal review reports shall be submitted to the Chief Appraiser or his designee for approval.

(a) ~~In accordance with Section 259.041, F.S., conservation land acquisition appraisals, f~~or acquisition parcels with values greater than \$500,000 an appraisal review will be developed and reported according to the requirements of Standard 3 of the USPAP, the Supplemental Standards, this chapter, and the specific requirements of the assignment. For acquisition parcels with values of \$500,000 or less, a cursory review by the

Bureau of Appraisal will be conducted for assurance that requirements of the assignment were met. For every 20th appraisal for conservation land acquisition with a value of \$500,000 or less, a Standard 3 review, as described above, will be developed and reported for quality assurance purposes.

~~(b) In accordance with Section 253.025, F.S., non-conservation land acquisition appraisals, for parcels with values greater than \$250,000 an appraisal review will be developed and reported according to the requirements of Standard 3 of the USPAP, the Supplemental Standards, this chapter, and the specific requirements of the assignment. For parcels with values of \$250,000 or less, a cursory review by the Bureau of Appraisal will be conducted for assurance that requirements of the assignment were met.~~

~~(b)(e)~~ No change.

(6) No change.

~~Rulemaking Specific~~ Authority 253.03, 259.041 FS. Law Implemented 259.041 FS. History--New 6-16-86, Amended 1-29-90, 10-30-91, 4-14-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Herran, listed above

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Internal Improvement Trust Fund of the State of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 30, 2009

STATE BOARD OF ADMINISTRATION

RULE NOS.:	RULE TITLES:
19-8.010	Reimbursement Contract
19-8.012	Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund Due to Limited Exposure
19-8.013	Revenue Bonds Issued Pursuant to Section 215.555(6), F.S.
19-8.029	Insurer Reporting Requirements
19-8.030	Insurer Responsibilities

PURPOSE AND EFFECT: The State Board of Administration, Florida Hurricane Catastrophe Fund, seeks to amend the rules listed above to implement Section 215.555, Florida Statutes, including the changes made to the law during 2009.

SUMMARY: The rules are being amended to reflect the 2009 legislative change in the contract year dates, to reflect the Administrator's new address, and throughout non-substantive changes are made for consistency or clarity. Other than the contract year date, substantive changes are as follows: Rule

19-8.010, F.A.C., Reimbursement Contract, is being amended to adopt the 2010 Contract Year Reimbursement Contract, including Addenda. Other than the contract year date change, there are no substantive changes to Rule 19-8.012, F.A.C., Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund due to Limited Exposure. Rule 19-8.013, F.A.C., Revenue Bonds Issued Pursuant to Section 215.555(6), F.S., is being amended, for administrative purposes, to change the look-back period for determining the Florida Hurricane Catastrophe Fund's rate of return for purposes of interest calculation from a 5 month look-back to a 4 month look-back. Rule 19-8.029, F.A.C., Insurer Reporting Requirements, is being amended to adopt the 2010 Data Call and 2010 Interim and Proof of Loss forms. Rule 19-8.030, F.A.C., Insurer Responsibilities, is being amended to adopt Exposure and Loss Examination Preparation Instructions and to adopt the 2010 Proof of Loss forms, L1A and L1B.

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: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2), (3), (4), (5), (6), (7), (10), (16), (17) 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: March 17, 2010, 2:00 p.m. – 4:00 p.m. (ET).

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tracy Allen, Senior FHCF Attorney, State Board of Administration, P. O. Box 13300, Tallahassee, Florida 32317-3300; telephone (850)413-1341; email tracy.allen@sbafla.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tracy Allen at the number or email listed above.

THE FULL TEXT OF THE PROPOSED RULES IS:

19-8.010 Reimbursement Contract.

(1) through (15) No change.

(16) The reimbursement contract for the 2010 contract year, including all Addenda, required by Section 215.555(4), F.S., which is called Form FHCF-2010K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #() and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/10, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2010 through December 31, 2010.

~~(17)~~(16) Copies of the reimbursement contract may be obtained from the FHCF website, www.sbafla.com/fhcf or by contacting the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, Florida 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308 and the telephone number is (850)413-1341.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-31-94, Amended 8-29-95, 5-19-96, 6-19-97, 5-28-98, 5-17-99, 9-13-99, 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, 5-29-05, 11-13-05, 5-10-06, 9-5-06, 5-8-07, 8-13-07, 6-8-08, 9-2-08, 3-30-09, 8-23-09, _____.

19-8.012 Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund Due to Limited Exposure.

(1) No change.

(2) Procedures to Determine Ineligibility for Participation in the Fund.

(a) An insurer must apply for ineligibility from participation in the Fund if it has surrendered its certificate of authority to write insurance in Florida. To apply, the insurer shall submit a written request for ineligibility stating that it will have no covered policies, as that term is defined in Section 215.555(2)(c), F.S., after May 31 of the year for which the ineligibility is sought and provide a copy of the Office of Insurance Regulation Order, if any, revoking the insurer's authority to write insurance in Florida. The request shall be sent to the Fund's Administrator, Paragon Strategic Solutions Inc., at 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, MN 55437 ~~8200 Norman Center Drive, Bloomington, Minnesota 55437.~~

(b) An insurer which is not surrendering its certificate to write insurance in Florida must apply for ineligibility from participation in the Fund if it no longer has any covered policies in force, as that term is defined in Section 215.555(2)(c), F.S. To apply, the insurer shall submit a written request for a determination regarding its ineligibility for participation. The request shall be sent, no later than September 1 of the current contract year, to the Fund's Administrator, Paragon Strategic Solutions Inc., at 8200

~~Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, MN 55437 8200 Norman Center Drive, Bloomington, Minnesota 55437~~, and shall contain the following information:

1. through 2. No change.

3. Form FHCF-E1, "Statement related to Covered Policies as defined in Section 215.555(2)(c), F.S.," rev. 05/08, signed by two executive officers attesting to the fact that the insurer writes no covered policies. Form FHCF-E1 is hereby adopted and incorporated by reference into this rule. The form may be obtained from the Fund's Administrator at the address stated in this paragraph.

(c) through (3)(b) No change.

(c) The request shall be sent to the Fund's Administrator, Paragon Strategic Solutions Inc., at ~~8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, MN 55437~~ ~~8200 Norman Center Drive, Bloomington, Minnesota 55437~~. The insurer shall submit the following information no later than September 1 of the current contract year:

1. through 2. No change.

3. Form FHCF-E2, "Information regarding De Minimis FHCF Covered Policies In-force at June 30, _____," rev. 05/09. Form FHCF-E2 is hereby adopted and incorporated by reference into this rule. The form may be obtained from the Fund's Administrator at the address stated in this paragraph.

4. Form FHCF-E3, "Statement related to De Minimis Aggregate Exposure for Covered Policies as defined in Section 215.555(2)(c), F.S., on behalf of _____," rev. 05/08, signed by two executive officers attesting to the fact that the insurer writes no covered policies with an aggregate exposure of \$10 million or more. Form FHCF-E3 rev. 05/08, is hereby adopted and incorporated by reference into this rule. The form may be obtained from the Fund's Administrator at the address stated in this paragraph.

(d)1. No change.

2. If the Board determines that the insurer has an aggregate exposure of less than \$10 million for covered policies, as defined in Section 215.555(2)(c), F.S., and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., and that granting the exemption will not adversely affect the actuarial soundness of the Fund, the Board will notify the insurer that its request has been approved and note that the insurer must immediately notify the Board if its exposure becomes \$10 million or more in the aggregate. If this occurs, the insurer will be treated as a "new participant" and will be subject to the provisions of subparagraph 19-8.028(4)(c)3., F.A.C., if its exposure becomes \$10 million or more during the period from June 1 through November 30 or will be subject to the provisions of subparagraph 19-8.028(4)(c)4., F.A.C., if its exposure becomes \$10 million or more during the period from December 1 through May 31 for contract years prior to the 2010 contract

year, or if its exposure becomes \$10 million or more during the period from December 1 through December 31 beginning with the 2010 contract year.

(e) through (g) No change.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2)(c), (3), (4), (5) FS. History--New 2-17-97, Amended 6-2-02, 5-13-03, 5-19-04, 5-29-05, 5-10-06, 6-8-08, 3-30-09, _____.

19-8.013 Revenue Bonds Issued Pursuant to Section 215.555(6), F.S.

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

(e) Balance of the Fund and Fund Balance have the same meaning given to Balance of the Fund as of December 31 in Article V of the Reimbursement Contract adopted by and incorporated by reference into Rule 19-8.010, F.A.C.

(f) No change.

(g) Contract Year, prior to June 1, 2010, means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year. The period of time which begins at 12:00:01 Eastern Time on June 1, 2010 and ends at 12:00 p.m. midnight on December 31, 2010 shall be considered the 2010 Contract Year. All Contract Years beginning after December 31, 2010 shall begin at 12:00:01 Eastern Time on January 1 of each calendar year and end at 12:00 p.m. midnight on December 31 of that calendar year. ~~means the time period that begins June 1 of each calendar year and ends May 31 of the following calendar year.~~

(h) through (4)(e)2. No change.

3. The Emergency Assessment is subject to interest on delinquent remittances at the average rate earned by the Board for the FHCF for the first ~~four~~ five months of the Contract Year for which such information is available plus 5%. The Emergency Assessment is also subject to annual adjustments by the Board in order to meet debt obligations.

(5) No change.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2), (3), (4), (5), (6), (7) FS. History--New 9-18-97, Amended 12-3-98, 9-12-00, 6-1-03, 5-19-04, 5-29-05, 5-10-06, 9-5-06, 6-8-08, 3-30-09, _____.

19-8.029 Insurer Reporting Requirements.

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

(c) Contract Year, prior to June 1, 2010, means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year. The period of time which begins at 12:00:01 Eastern Time on June 1, 2010 and ends at 12:00 p.m. midnight on December 31, 2010 shall be considered the 2010 Contract Year. All Contract Years beginning after December 31, 2010 shall begin at 12:00:01 Eastern Time on January 1 of each calendar year and end at 12:00 p.m. midnight on December 31 of that calendar year.

Contract Year means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year.

(d) through (4)(k) No change.

(l) For the 2010 Contract Year, the reporting shall be in accordance with Form FHCF-D1A, "Florida Hurricane Catastrophe Fund 2010 Data Call," rev. 05/10, hereby adopted and incorporated by reference into this rule. The form may be obtained from the Fund's Administrator at the address stated in subsection (6) below. A new participant writing covered policies on or after June 1 but prior to December 1, shall report its actual exposure as of December 31 of the Contract Year on or before March 1 of the following calendar year, to the Administrator.

(5) No change.

(6) All the forms adopted and incorporated by reference in this rule may be obtained from: Administrator, Florida Hurricane Catastrophe Fund, Paragon Strategic Solutions Inc., 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, MN 55437 8200 Norman Center Drive, Bloomington, Minnesota 55437.

(7)(a) through (e) No change.

(f) For the 2010 Contract Year, the applicable Interim Loss Report is the "Contract Year 2010 Interim Loss Report, Florida Hurricane Catastrophe Fund (FHCF)", FHCF-L1A, rev. 05/10, which is hereby adopted and incorporated by reference into this rule. The applicable Proof of Loss Report is the "Contract Year 2010 Proof of Loss Report, Florida Hurricane Catastrophe Fund (FHCF)", FHCF-L1B, rev. 05/10, which is hereby adopted and incorporated by reference into this rule. The forms may be obtained from the Fund's Administrator at the address stated in subsection (6) above.

(8) Company Contact Information: Companies must submit Form FHCF C-1, Company Contact Information, rev. 05/10 ~~05/09~~, by June 1 of each Contract Year. This form must be updated by the Company as the information provided thereon changes. The FHCF shall have the right to rely upon the information provided by the Company to the FHCF on this form until receipt by the FHCF of a new properly completed and notarized FHCF C-1 from the Company. The form may be obtained from the Fund's Administrator at the address stated in subsection (6) above.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2), (3), (4), (5), (6), (7), (15) FS. History—New 5-17-99, Amended 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, 5-29-05, 5-10-06, 5-8-07, 6-8-08, 3-30-09, 8-2-09, _____.

19-8.030 Insurer Responsibilities.

(1) through (3)(d) No change.

(e) Contract Year, prior to June 1, 2010, means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year. The period of time which

begins at 12:00:01 Eastern Time on June 1, 2010 and ends at 12:00 p.m. midnight on December 31, 2010 shall be considered the 2010 Contract Year. All Contract Years beginning after December 31, 2010 shall begin at 12:00:01 Eastern Time on January 1 of each calendar year and end at 12:00 p.m. midnight on December 31 of that calendar year.

(f) through (n) No change.

(4) Reimbursement Contract.

(a) Current Participants: The Reimbursement Contracts are annual contracts ~~effective from June 1 of each Contract Year through May 31 of each Contract Year~~. Each Insurer required to participate in the FHCF must designate a coverage level in the annual Reimbursement Contract, make any required selections therein and execute the Reimbursement Contract and applicable Addenda so that the Contract, including the schedules and applicable Addenda, have been received by June 1 of each Contract Year.

(b) New Participants during the period of June 1 through November 30: Those Insurers that first begin writing Covered Policies from June 1 through November 30 of a Contract Year are "New Participants." New Participants must designate a coverage level in the annual Reimbursement Contract, make any required selections therein, and execute the Contract and applicable Addenda simultaneously with issuing the first Covered Policy. The completed and executed Reimbursement Contract, including all required selections, schedules and applicable Addenda, must be returned no later than 30 days after the effective date of the first Covered Policy.

(c)1. For Contract Years prior to the 2010 Contract Year, New Participants during the period of December 1 through May 31: Those Insurers that first begin writing Covered Policies from December 1 through May 31 of a Contract Year, along with the Insurers described in paragraph (b) immediately above, are "New Participants." However, these Insurers shall not complete and submit the Data Call (Form FHCF-D1A) but shall meet all other requirements for New Participants.

2. For Contract Years 2010 and later, New Participants during the period of December 1 through December 31: Those Insurers that first begin writing Covered Policies from December 1 through December 31 of a Contract Year, along with the Insurers described in paragraph (b) above, are New Participants. However, these Insurers shall not complete and submit the Data Call (Form FHCF-D1A) but shall meet all other requirements for New Participants.

(d) Optional coverages authorized by law must be chosen by current participants by executing and returning the applicable Addenda to the Reimbursement Contract by June 1 of the relevant Contract Year. New Participants choosing optional coverage must execute and return the applicable Addenda to the Reimbursement Contract for the relevant Contract Year prior to the time in which a covered loss occurs

and within ~~30~~ thirty days of writing its first covered policy. Any current or New Participant ~~new participant~~ failing to meet these deadlines shall not be eligible for such optional coverage.

(5)(a) No change.

(b) Current Participants: Each Insurer, with Covered Policies as of June 1 of a Contract Year must participate in the FHCF and must complete and submit the Data Call. The Data Call is incorporated into Rule 19-8.029, F.A.C., and is due, correctly completed, no later than September 1 ~~of the Contract Year.~~

(c) through (6)(a) No change.

(b) New Participants during the period of June 1 through November 30: Those Insurers that first begin writing Covered Policies from June 1 through November 30 of a Contract Year must submit a payment of \$1,000 on or before the date indicated on the invoice. Once a New Participant's ~~this new participant's~~ Data Call, ~~which is filed on or before March 1 of the Contract Year,~~ has been reviewed by the Administrator and the company's actual Reimbursement Premium has been determined on its actual exposure, an invoice with the amount due, if any, will be sent to the Company by the Administrator. Payment, if any amounts are shown as due on the invoice, is due within 30 days from the date on the invoice. In no event will the Premium be less than the \$1,000.

1. For Contract Years prior to the 2010 Contract Year, the New Participant's Data Call is due on or before March 1 of the Contract Year.

2. For Contract Years 2010 and later, the New Participant's Data Call is due on or before March 1 of the following calendar year.

(c) ~~New Participants during the period of December 1 through May 31:~~

1. For Contract Years prior to the 2010 Contract Year, those ~~Those~~ Insurers that first begin writing Covered Policies from December 1 through May 31 of a Contract Year shall pay a \$1,000 Premium within 30 ~~thirty~~ days from the date on the invoice sent to the Insurer by the FHCF.

2. For Contract Years 2010 and later, those Insurers that first begin writing Covered Policies from December 1 through December 31 of a Contract Year shall pay a \$1,000 Premium within 30 days from the date on the invoice sent to the Insurer by the FHCF.

(d) through (7) No change.

(a) Advance Examination Record Requirements: Within 30 days from the date on the letter from the FHCF, Companies are required to provide the FHCF with the records indicated in the applicable Contract Year's ~~Form FHCF-EAP1,~~ "Exposure Examination Advance Preparation Instructions" ~~rev. 05/08~~ or in the applicable Contract Year's ~~Form FHCF-LAP1~~ "Loss Reimbursement Examination Advance Preparation Instructions" ~~rev. 05/08~~. An extension of 30 days may be

granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the participant.

1. For Contract Years prior to the 2003/2004 Contract Year, Form FHCF-API as revised for each Contract Year, is the applicable Exposure Examination Advance Preparation Instructions form to use.

2. For the 2004/2005 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Audit – Contract Year 2004 Advance Preparation Instructions," FHCF-API, rev. 5/04. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2004 Advance Preparation Instructions," FHCF-LAP1, rev. 05/2006.

3. For the 2005/2006 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2005 Advance Preparation Instructions," FHCF-API, rev. 5/05. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2005 Advance Preparation Instructions," FHCF-LAP1, rev. 05/07.

4. For the 2006/2007 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2006 Advance Preparation Instructions," FHCF-EAP1, rev. 5/2006. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, new 05/2006.

5. For the 2007/2008 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2007 Advance Preparation Instructions," FHCF-EAP1, rev. 05/07. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, rev. 05/07.

6. For the 2008/2009 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2008 Advance Preparation Instructions," FHCF-EAP1, rev. 05/08. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, rev. 05/08.

7. For the 2009/2010 Contract Year, the applicable exposure examination instructions form is the “Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2009 Advance Preparation Instructions,” FHCF-EAPI, rev. 05/09. The applicable loss examination instructions form is the “Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions,” FHCF-LAPI, rev. 05/09.

8. For the 2010 Contract Year, the applicable exposure examination instructions form is the “Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2010 Advance Preparation Instructions,” FHCF-EAPI, rev. 05/10. The applicable loss examination instructions form is the “Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2010 Advance Preparation Instructions,” FHCF-LAPI, rev. 05/10.

These forms are hereby adopted and incorporated by reference into this rule. Copies of these forms may be obtained from the FHCF website, www.sbafla.com/fhcf or by contacting the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, Florida 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308.

(b) On-site Examination Record Requirements: The FHCF-EAPI, “Exposure Examination Advance Preparation Instructions” form and the FHCF-LAPI, “Loss Reimbursement Examination Advance Preparation Instructions” form each contains ~~contain~~ a list of the information that the Companies must have available, on-site, on the date the exposure or loss examination is to begin. These records must be made available to the FHCF examiner upon request.

(c) Response to the FHCF Examination Report: Within 30 days from the date of the letter accompanying the examination report, a Company must provide a written response to the FHCF. The response must indicate whether the Company agrees with the recommendation of the examination report. If the Company disagrees with the examination findings, the reason for the disagreement will be outlined in the response and the Company will provide supporting information to support its objection. An extension of 30 days will be granted if the Company can show that the need for additional time is due to circumstances beyond the reasonable control of the Company.

(d) Resubmissions as a Result of a Completed Examination: A Company required to resubmit exposure data as a result of the examination must do so within 30 days of the date on the letter from the FHCF notifying the Company of the need to resubmit. An extension of 30 days will be granted if the Company can show that the need for additional time is due to circumstances beyond the reasonable control of the Company.

(8) Loss Reporting. Participating Insurers are required to file the following two types of loss reports at the times prescribed in Rule 19-8.029, F.A.C. Form FHCF-L1A, “Florida Hurricane Catastrophe Fund Interim Loss Report,” for the applicable Contract Year and Form FHCF-L1B, “Florida Hurricane Catastrophe Fund Proof of Loss Report,” for the applicable Contract Year.

(a) For the Contract Year 2006-2007, the applicable “Florida Hurricane Catastrophe Fund Interim Loss Report,” is the FHCF-L1A rev. 05/06 and the applicable “Florida Hurricane Catastrophe Fund Proof of Loss Report,” is the FHCF-L1B rev. 05/06.

(b) For the Contract Year 2007-2008, the applicable “Florida Hurricane Catastrophe Fund Interim Loss Report,” is the FHCF-L1A rev. 05/07 and the applicable “Florida Hurricane Catastrophe Fund Proof of Loss Report,” is the FHCF-L1B rev. 05/07.

(c) For the Contract Year 2008-2009, the applicable “Florida Hurricane Catastrophe Fund Interim Loss Report,” is the FHCF-L1A rev. 05/08 and the applicable “Florida Hurricane Catastrophe Fund Proof of Loss Report,” is the FHCF-L1B rev. 05/08.

(d) For the Contract Year 2009-2010, the applicable “Florida Hurricane Catastrophe Fund Interim Loss Report,” is the FHCF-L1A rev. 05/09 and the applicable “Florida Hurricane Catastrophe Fund Proof of Loss Report,” is the FHCF-L1B rev. 05/09. These forms are hereby adopted and incorporated by reference into this rule.

(e) For the Contract Year 2010, the applicable “Florida Hurricane Catastrophe Fund Interim Loss Report,” is the FHCF-L1A rev. 05/10 and the applicable “Florida Hurricane Catastrophe Fund Proof of Loss Report,” is the FHCF-L1B rev. 05/10. These forms are hereby adopted and incorporated by reference into this rule.

These forms are hereby adopted and incorporated by reference into this rule ~~and These forms~~ may be obtained from the Fund’s Administrator, Paragon Strategic Solutions Inc., 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, 8200 Norman Center Drive, Bloomington, Minnesota 55437. Companies must submit a detailed claims listing (in a delimited ASCII format) to support the losses reported in the FHCF-L1B, Proof of Loss Report, at the same time it submits its first Proof of Loss Report for a specific Covered Event that qualifies the company for reimbursement under that Covered Event, and should be prepared to supply a detailed claims listing for any subsequent Proof of Loss Report upon request. Refer to Form FHCF-LAPI for the required file layout. The Proof of Loss Report and the detailed claims listing are required to be sent to the FHCF Administrator, Paragon Strategic Solutions Inc., at the address listed above. If your company submits its Proof of Loss Reports electronically through the FHCF’s Online Claims System at www.sbafla.com/fhcf, the detailed claims listing may be attached to the Company’s submission.

(9)(a) through (b) No change.

(c) Consequences for Failure to meet the requirements contained in the FHCF-EAPI, "Exposure Examination Advance Preparation Instructions," the FHCF-LAPI, "Loss Reimbursement Examination Advance Preparation Instructions," or the on-site examination record requirements in a timely manner: In addition to other penalties or consequences, the FHCF has the authority, pursuant to Section 215.555(4)(f), F.S., to require that the Insurer pay for the following services under the circumstances outlined below:

1. through (11) No change.

(12) Company Contact Information: Companies must submit Form FHCF-C1, Company Contact Information, by June 1 of each Contract Year to the FHCF Administrator, Paragon Strategic Solutions Inc., 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, 8200 Norman Center Drive, Bloomington, Minnesota 55437. This form must be updated by the Company as the information provided thereon changes. The FHCF shall have the right to rely upon the information provided by the Company to the FHCF on this form until receipt by the FHCF of a new properly completed and notarized FHCF C-1 from the Company.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-13-03, Amended 5-19-04, 5-29-05, 5-10-06, 5-8-07, 8-13-07, 6-8-08, 3-30-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jack E. Nicholson, FHCF Chief Operating Officer, State Board of Administration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2010

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

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: RULE TITLE:
40B-1.901 General

PURPOSE AND EFFECT: The purpose of the proposed rule is to unincorporate the forms in subsections 40B-1.901(1) through (9) and (11) through (12), F.A.C. In accordance with subparagraph 120.55(1)(a)4., Florida Statutes, the forms will be incorporated by reference into the appropriate corresponding rules.

SUMMARY: This proposed rule will unincorporate these forms from this rule.

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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.118, 373.413, 373.416, 373.426 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Welch, Rules Coordinator, SRWMD, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-1.901 General.

The District maintains a list of forms which is updated annually and is available upon request. All district forms and instructions may be obtained at the District headquarters or requested by mail or telephone and are hereby incorporated by reference as follows:

(1) The form entitled Water Use Permit Status Form, form number 40B-2.041A, is incorporated by reference in Rule 40B-2.041, F.A.C. ~~40B-2-1 Application for General Water Use Permit—Agricultural Irrigation and Livestock Uses, Effective January 29, 2001;~~

(2) The form entitled Application for Water Use Permit Agricultural Use, form number 40B-2.041B, is incorporated by reference in Rule 40B-2.041, F.A.C. ~~40B-2-2 Application for General Water Use Permit—Commercial/Industrial, Water Utility, and Other Uses, Effective January 29, 2001;~~

(3) The form entitled Application for Water Use Permit Augmentation/Other Use, form number 40B-2.041C, is incorporated by reference in Rule 40B-2.041, F.A.C. ~~40B-2-3 Application for General Water Use Permit—Nursery, Landscape Irrigation, and Other Uses, Effective January 29, 2001;~~

(4) The form entitled Application for Water Use Permit Commercial Use, form number 40B-2.041D, is incorporated by reference in Rule 40B-2.041, F.A.C. ~~40B-2-4 General Water Use Permit—Supplemental Public Supply Information, October 1, 1982;~~

(5) The form entitled Application for Water Use Permit Potable Water Supply Use, form number 40B-2.041E, is incorporated by reference in Rule 40B-2.041, F.A.C. ~~40B-2-5 Application for an Individual Water Use Permit, October 1, 1982;~~

(6) The form entitled Water Use Permit Transfer Form, form number 40B-2.351A, is incorporated by reference in Rule 40B-2.351, F.A.C. 40B-2-6 Individual Water Use Permit Application—Supplemental Groundwater Withdrawal Site Description, October 1, 1982;

(7) The form previously incorporated in this subsection is no longer valid 40B-2-7 Individual Water Use Permit Application—Supplemental Surfacewater Withdrawal Site Description, October 1, 1982;

(8) The form previously incorporated in this subsection is no longer valid 40B-2-8 Water Use—Consent Form, October 1, 1982;

(9) The form previously incorporated in this subsection is no longer valid 40B-2-9 Water Use Permit, Effective January 29, 2001;

(10) 40B-1.901(10) Notice of Intent to Construct a Minor Surface Water Management System Pursuant to paragraph 40B-4.2010(1) or (2)(a), F.A.C., Effective January 29, 2001;

(11) The form entitled 40B-1.901(11) Application for General Work of the District Development Permit for District Floodways, form number 40B-4.3020A, is incorporated by reference in Rule 40B-4.3020, F.A.C., Effective July 7, 2008;

(12) The form entitled 40B-1.901(12) Petition for a Formal Wetland and Surface Water Determination, form number 40B-400.046A, is incorporated by reference in Rule 40B-400.046, F.A.C., Effective January 29, 2001;

(13) through (17) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 9-15-81, Amended 3-17-88, 12-21-88, 10-8-89, 6-17-93, 10-3-95, 1-3-96, 6-22-99, 1-29-01, 5-15-05, 7-7-08,_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 12, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 29, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.025 RULE TITLE: Assistive Care Services

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-4.025, F.A.C., Assistive Care Services, is to incorporate by reference in rule the Florida Medicaid Assistive Care Services Coverage and Limitations Handbook, July 2009, and to update the reference to the Florida Medicaid Provider

Reimbursement Handbook, CMS-1500. The effect of the amendment will permit the Agency to implement updated policies and procedures that have been made to the new handbook.

SUMMARY: Rule 59G-4.025, F.A.C., Assistive Care Services, is being revised to clarify and update information provided in the new Florida Medicaid Assistive Care Services Coverage and Limitations Handbook, July 2009, which is incorporated by reference. The new handbook is a separate handbook from the Assisted Living for the Elderly Waiver Services Program.

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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.912 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:

DATE AND TIME: Monday, March 1, 2010, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida 32308-5407

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carol Schultz, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7349, schultzc@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.025 Assistive Care Services.

(1) No change.

(2) All assistive care service providers enrolled in Medicaid program must be in compliance with the Florida Medicaid Assistive Care Services ~~and Assisted Living for the Elderly Waiver~~ Coverage and Limitations Handbook, July 2009 which is incorporated by reference in ~~Rule 59G-8.200, F.A.C.,~~ and the Florida Medicaid Provider Reimbursement Handbook, ~~CMS-1500 HCFA-1500 and Child Health Check-Up 221,~~ which is incorporated by reference in Rule 59G-4.001 ~~59G-5.020,~~ F.A.C. Both handbooks are available from the Medicaid fiscal agent’s Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Provider Contact Center at (800)289-7799 and selecting Option 7.

(3) The following forms that are included in the Florida Medicaid Assistive Care Services Coverage and Limitations Handbook are incorporated by reference:

(a) Appendix B contains the Certification of Medical Necessity for Medicaid Assistive Care Services, AHCA-Med Serv Form 035, July 2009, one page. The form is available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Forms or by photocopying it from the handbook.

(b) Appendix C contains the Resident Service Plan for Assistive Care Services, AHCA-Med Serv Form 036, July 2009, three pages. The form is available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Forms or by photocopying it from the handbook.

(c) Appendix D contains the Resident Service Log for Medicaid Assistive Care Services, AHCA-Med Serv Form 037, July 2009, one page. The form is available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Forms or by photocopying it from the handbook.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.906, 409.912 FS. History—New 11-28-01, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carol Schultz

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 15, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 8, 2009

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.340
 RULE TITLE: Visual Services

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-4.340, F.A.C., is to incorporate by reference the Florida Medicaid Visual Services Coverage and Limitations Handbook, updated January 2010. The effect of the handbook update includes a reduction in Medicaid coverage for eyeglass frames and lenses for recipients age 21 and older and clarification of Visual Services policy.

SUMMARY: The proposed amendment to Rule 59G-4.340, F.A.C., revises and updates the Florida Medicaid Visual Services Coverage and Limitations Handbook to include a reduction in Medicaid coverage for eyeglass frames and lenses for recipients age 21 and older and clarifies Visual Services policy.

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: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 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:

DATE AND TIME: Wednesday, March 3, 2010, 11:00 a.m. – 12:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida 32308-5407

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: Kathryn Stephens at the Bureau of Medicaid Services, (850)922-7314. 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: Kathryn Stephens, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, e-mail: stepheka@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.340 Visual Services.

(1) No change.

(2) All visual services practitioners enrolled in the Medicaid program must be in compliance with the provisions of the Florida Medicaid Visual Services Coverage and Limitations Handbook, updated January 2010 ~~January 2006, updated January 2007~~, which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's Web Portal website at <http://mymedicaid-florida.com> ~~<http://floridamedicaid.acs-inc.com>~~. Click on Public Information for Providers, then on Provider Support, and then on Provider Handbooks. Paper copies of the handbooks may be obtained by calling the Provider Contact Center Inquiry at (800)289-7799 ~~377-8216~~ and selecting Option 7.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 7-30-80, Formerly 10C-7.521, Amended 4-20-93, 8-25-93, Formerly 10C-7.0521, Amended 12-21-97, 10-13-98, 6-10-99, 4-23-00, 1-23-02, 2-20-03, 8-5-03, 10-12-04, 8-18-05, 5-22-06, 4-4-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kathryn Stephens
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 21, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 2, 2009

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE NOS.:	RULE TITLES:
60BB-10.001	Purpose, Intent and General Principles
60BB-10.002	Definitions
60BB-10.003	Participant Eligibility Requirements
60BB-10.004	How to Participate
60BB-10.005	Support Services
60BB-10.006	Employer Participation
60BB-10.007	Position Requirements
60BB-10.008	Cost Sharing or Matching
60BB-10.009	Reapplying for Temporary Cash Assistance Due to an Unanticipated Emergency

PURPOSE AND EFFECT: The new rules set forth in this Notice of Proposed Rule implement emergency assistance under the Temporary Assistance for Needy Families (TANF) Program. The United States Congress passed the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) to provide emergency assistance to qualifying states during the country’s economic downturn. Subtitle B of the Act creates the Emergency Contingency Fund for State Temporary Assistance for Needy Families Program (“Emergency Fund”), and authorizes states that have an increase in assistance caseloads to request federal grant money in fiscal year 2009 and fiscal year 2010. The Emergency Fund provides grants equal to 80 percent of a state’s increased TANF and maintenance-of-effort expenditures on basic assistance, non-recurrent short-term benefits, and subsidized employment to help families unable to find jobs or to help families with low earnings during this difficult economic time. Florida is receiving grant money from the United States Department of Health and Human Services to, among other things, create subsidized employment projects. Participants must satisfy eligibility criteria to engage in the subsidized employment projects. Therefore, a need exists to adopt a new rule which sets forth these eligibility criteria.

SUMMARY: The new rules establish a subsidized employment program, provide definitions, describe eligibility criteria for employers and participants, establish position requirements, provide for cost sharing or matching, and incorporate various forms that must be filed with the Agency to participate in the program.

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: 445.004(c) FS.

LAW IMPLEMENTED: 445.004, 445.024(1)(b), 445.024(1)(c) 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:

DATE AND TIME: February 26, 2010, 9:00 a.m.

PLACE: Agency for Workforce Innovation, 107 East Madison Street, Tallahassee, Florida 32399-4128, Conference Room B-049. Additionally, the following teleconference number is available: Dial-in-Number: (888)808-6959 Conference Code: 2457448#

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James Landsberg, Deputy General Counsel, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, MSC #110, Tallahassee, Florida 32399-4128, (850)245-7150

THE FULL TEXT OF THE PROPOSED RULES IS:

SUBSIDIZED EMPLOYMENT PROGRAM

60BB-10.001 Purpose, Intent, and General Principles.

Temporary Assistance for Needy Families (TANF) work activities are designed to assist the participant in obtaining employment to achieve economic self-sufficiency. TANF participants who apply for or currently receive cash assistance, as well as other persons who meet TANF eligibility requirements and all other requirements of this rule may be eligible for subsidized employment. Participation will be contingent upon funding, the availability of jobs, and on the employers’ ultimate selection.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.002 Definitions.

The following words, phrases, or terms, as used in this rule, shall have the following meanings:

(1) “Parent/Relative Caregiver” means the mother, legal father, natural or biological father, maternal relatives, relatives of the legal father, and relatives of the natural or biological

father. The dependent child must be related within the fifth degree (no greater than the first cousin once removed) to the caretaker relative.

(2) "Participating Employer" means a public agency, nonprofit private agency, or private employer that agrees to participate in a subsidized employment project.

(3) "Eligible Individual" means a person who has been determined eligible to participate in a TANF-funded subsidized employment project.

(4) "Qualified Participant" means a TANF eligible individual who meets the requirements for participation in a TANF funded subsidized employment project and has the job skills required by the employer participating in the project. Referral of a Qualified Participant to an employer does not guarantee selection for subsidized employment.

(5) "Subsidized Employment" means employment for which the employer receives a TANF subsidy to offset some or all the wages and costs of employing a TANF eligible participant. Public agencies, nonprofit private agencies, and private employers are eligible to participate.

(6) "Diversion" means immediate assistance to secure or retain employment as an alternative to welfare (cash assistance), and includes linking a person to a job opportunity as a first option.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.003 Participant Eligibility Requirements.

To be eligible for consideration for participation in the TANF subsidized employment project, the individual must:

(1) Be a TANF participant currently receiving temporary cash assistance who is available for immediate employment, or

(2) Be an applicant for temporary cash assistance who has been determined eligible for TANF funded cash assistance, or

(3) Be an individual who meets the following requirements:

(a) Have a gross family income at or below 200% of the Federal Poverty Guidelines, as established annually by the United States Department of Health and Human Services, for the 30 days preceding application to participate in the program;

(b) Be a United States citizen or qualified non-citizen defined in Section 414.095(3), F.S.;

(c) Be a legal resident of the State of Florida;

(d) Be a pregnant woman in the ninth month of pregnancy, or in the third trimester of pregnancy if her physician restricts her from work, or a parent or caretaker relative of an unmarried dependent child under age 18, or a full time student who is under the age of 19 and who resides in the home; and

(e) Provide a social security number or proof of application for a social security number.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.004 How to Participate.

(1) Current TANF Participants. A regional workforce board may review its current TANF caseload to identify individuals who are currently receiving cash assistance who meet the job skill requirements of a job created by a subsidized employment project. Temporary cash assistance recipients participating in the Welfare Transition Program may also request to be considered for the subsidized employment program. The regional workforce board shall refer eligible, qualified participants who volunteer to participate to the participating employer for consideration for the subsidized employment position. A TANF participant or other eligible person who is currently receiving cash assistance who enters subsidized employment must sign Form AWI SEP 0011, *TANF Subsidized Employment Program Agreement* (effective 12/09), incorporated herein by reference and available at: <http://www.floridajobs.org/workforce/backtowork/forms.html>.

(2) An applicant for TANF temporary cash assistance. Individuals who have made application for temporary cash assistance and have been determined eligible for such assistance will be considered for participation in a subsidized employment project as a TANF diversion activity if that individual meets the job skill requirements of a job created by a subsidized employment project. The regional workforce board shall refer eligible, qualified individuals who wish to participate to the participating employer for consideration for the subsidized employment position. A TANF applicant who enters subsidized employment must sign Form AWI-SEP 0011, *TANF Subsidized Employment Program Agreement*.

(3) A person who meets the eligibility standards listed under Rule 60BB-10.003(3), who is neither a temporary cash assistance applicant nor current recipient of temporary cash assistance may contact or be contacted by a regional workforce board, Florida career center or other designated entity. Program staff will collect the information necessary to determine if the individual is TANF eligible by completing Form AWI-SEP 0005(c), *Request for TANF Funds/Eligibility Determination – 2009/2010* (effective 12/09), incorporated by reference and available at: <http://www.floridajobs.org/workforce/backtowork/forms.html>. If the individual is determined TANF eligible, the program staff will determine if the individual meets the job skill requirements of a job created by a subsidized employment project. The program staff shall refer qualified individuals who are found eligible for the subsidized employment project to participating employers for consideration for the subsidized employment position. The TANF eligible individual who enters subsidized employment must sign Form AWI SEP 0011, *TANF Subsidized Employment Program Agreement*.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.005 Support Services.

Participation in a Subsidized Employment program does not exclude the participant from eligibility for support services such as transportation assistance and child care. The participant may obtain information about, and apply for support services through, the regional workforce board. Support services are provided based on program eligibility and funding availability. If resources do not permit the provision of needed support services, the regional workforce board may prioritize or otherwise limit provision of support services. This section does not constitute an entitlement to support services.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.006 Employer Participation.

(1) Participation in the Subsidized Employment Program is contingent upon funding by the Florida Legislature and the receipt of grant funds from the United States Department of Health and Human Services. Public and Private Sector employers interested in the subsidized employment program must complete Form AWI SEP 0012, *Subsidized Employment Program Employer Information Sheet* (effective 12/09), incorporated by reference and available at: <http://www.floridajobs.org/workforce/backtowork/forms.html>, that provides contact information for the participating employer, the number of subsidized employment positions needed and a description of the job skills required for each subsidized employment position, an attached budget narrative that details the costs of the project, and a written commitment by the employer to contribute any required funding to support the project and agreement to provide all necessary supervision and training for the subsidized positions.

(2) The Regional Workforce Board will evaluate a proposed subsidized employment project using the following criteria:

(a) Verification that the employer is registered with the Florida Department of State, Division of Corporations, and is authorized to conduct business in Florida;

(b) The commitment from the employer to contribute the amount of cash and/or in-kind services needed to cover any costs not reimbursed from the TANF Contingency Fund;

(c) The commitment from the employer to provide all necessary supervision and training for the employees placed into subsidized positions;

(d) The capability of the participating employer to implement the project on its scheduled timetable;

(e) The financial capability of the participating employer to advance the payroll costs for the project; and

(f) With respect to private, for profit employers, the commitment of the employer to retain participants in jobs after the period of subsidization ends.

(3) The Regional Workforce Board or its agent shall enter into a Subsidized Employment contract with each participating employer. The contract shall, at a minimum, include the following terms:

(a) The beginning date of employment;

(b) The hourly wage to be paid to the qualified participant;

(c) The number of hours scheduled per week;

(d) The months for which the subsidy is available;

(e) The amount of the subsidy; and

(f) The time period for reimbursement.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.007 Position Requirements.

(1) To qualify for the employment subsidy, the position must:

(a) Pay an hourly wage not less than the minimum wage in Florida;

(b) Meet the same health, safety, and nondiscrimination standards established under federal, state, or local laws that otherwise apply to other individuals engaged in similar activities who are not participants in the subsidized employment program; and

(c) Comply with 45 C.F.R. Section 261.70. A subsidized employment position cannot be created if another individual is on layoff from the same or any substantially equivalent job, or if the employer has terminated the employment of any regular employee or caused an involuntary reduction in its work force in order to fill the vacancy with a subsidized worker.

(2) The Agency will subsidize a wage not to exceed \$40,579.00, which is the Florida annual average wage for 2008, as published by the Florida Agency for Workforce Innovation, Labor Market Statistics Center, Quarterly Census of Employment and Wages Program, produced in cooperation with the U.S. Department of Labor, Bureau of Labor Statistics.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.008 Cost Sharing or Matching.

Allowable costs incurred by the employer may be applied to the cost of employee wages, benefits, supervision, and training for TANF eligible individuals participating in an approved subsidized employment project, provided that:

(1) Any cash or in-kind contributions meet the requirements of 2 C.F.R. Part 215.23;

(2) Any use of in-kind contributions is approved in advance by the Regional Workforce Board; and

(3) The cash and or in-kind costs have not already been used as a matching contribution for another federally-funded program.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History—New _____.

60BB-10.009 Reapplying for Temporary Cash Assistance Due to an Unanticipated Emergency.

If an individual placed with an employer as a part of the subsidized employment program who agreed not to apply for temporary cash assistance within six months of beginning the program, unless an unanticipated emergency situation arises, applies for temporary cash assistance within that six month period, the participant must be referred to the regional workforce board at application for temporary cash assistance to complete the work registration process. The regional workforce board's subsidized employment program staff must determine if a demonstrated emergency exists by completing Form AWI 0001(b), *Subsidized Employment Diversion Services Emergency Determination* (effective 12/09), incorporated by reference and available at: <http://www.floridajobs.org/workforce/backtowork/forms.html>. If the regional workforce board determines that an emergency exists the participant must follow the process established in Chapter 65A, F.A.C. If the regional workforce board determines that the family does not meet emergency criteria and the work registration process is completed, the Department of Children and Families will complete the eligibility determination process using information provided by the regional workforce board to calculate the repayment value of any services provided to the family. The repayment amount shall be deducted from any temporary cash assistance benefit for which the family is otherwise eligible and may be prorated over eight months.

Rulemaking Authority 445.004(1)(c) FS. Law Implemented 445.004, 445.024(1)(b), 445.024(1)(c) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
James Landsberg, Deputy General Counsel, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, MSC #110, Tallahassee, Florida 32399-4128, (850)245-7150

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia R. Lorenzo, Director, Agency for Workforce Innovation, 107 East Madison Street, Tallahassee, Florida 32399-4128

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-19.0051
RULE TITLE: Notice of Noncompliance

PURPOSE AND EFFECT: To add language in compliance with new statutory requirements.

SUMMARY: The Board proposes to add language in compliance with new statutory requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs 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: 455.225 FS.

LAW IMPLEMENTED: 455.224 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: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-19.0051 Notice of Noncompliance.

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

(d) Failing to report a criminal conviction or plea of nolo contendere, regardless of adjudication, pursuant to Section 455.227(1)(t), F.S., if the conviction or plea occurred prior to July 1, 2009. This subsection shall remain in effect until July 1, 2012.

(2) No change.

Rulemaking Specific Authority 455.225 FS. Law Implemented 455.224 FS. History--New 4-2-00, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Professional Engineers

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 2, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 20, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-620.100
 RULE TITLE: Scope/Applicability/References

PURPOSE, EFFECT AND SUMMARY: The proposed amendments revise existing Department rules that adopt by reference federal requirements for concentrated animal feeding operations (CAFO). EPA revised their rules as of November 20, 2008 (effective December 22, 2008) in Title 40 of the Code of Federal Regulations, and the Department is adopting these new requirements.

RULEMAKING AUTHORITY: 403.061, 403.087, 403.0885 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.088, 403.0885 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Mary K. Smith, 2600 Blair Stone Road, M.S. 3545, Tallahassee, Florida 32399-2400, (850)245-8591, mary.k.smith@dep.state.fl.us.

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-620.100 Scope/Applicability/References.

(1) through (2) No change.

(3) References. The Department adopts and incorporates by reference the following sections of Title 40 of the Code of Federal Regulations (CFR) revised as of July 1, ~~2009~~ 2007, or later as specifically indicated, and the Department Guide to Permitting Wastewater Facilities or Activities Under Chapter 62-620, F.A.C., dated 7-10-06. Copies of these documents may be obtained by writing the Department of Environmental Protection, Bureau of Water Facilities Regulation, 2600 Blair Stone Road, MS 3535, Tallahassee, Florida 32399-2400.

(a) through (s) No change.

(t) 40 CFR 122.23(a) through ~~(g)(f)~~, containing the scope, permit coverage requirements, determinations, dates for permit applications and definitions for concentrated animal feeding operations.

(u) 40 CFR 122.63(h), making it a minor permit modification to incorporate changes to a nutrient management plan. ~~40 CFR 122.23(g)(1) through (2), containing due dates for the submission of permit applications for concentrated animal feeding operations, except that the due date shall be~~

~~December 31, 2004 for dairies and February 27, 2009, for all other facilities addressed in 122.23(g)(2), amended July 24, 2007, at 72 FR 40245.~~

(v) 40 CFR 412, containing effluent guidelines and standards for concentrated animal feeding operations (CAFO) point source category. ~~40 CFR 122.23(g)(3) through (6), containing due dates for the submission of permit applications, except that the due date shall be December 31, 2004 for dairies and February 27, 2009, for all other facilities addressed in 122.23(g)(3)(iii), amended July 24, 2007, at 72 FR 40245.~~

(w) through (z) No change.

(4) No change.

Rulemaking Specific Authority 403.061, 403.087, 403.0885 FS. Law Implemented 403.061, 403.087, 403.088, 403.0885 FS. History—New 11-29-94, Amended 12-24-96, 3-2-00, 10-22-00, 10-23-00, 6-1-01, 8-25-03, 12-8-03, 12-23-04, 2-7-06, 3-13-06, 6-19-06, 7-10-06, 10-16-07, 11-28-07, 2-17-09, _____.

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-8.020
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the disciplinary guidelines.

SUMMARY: The rule amendment will modify the disciplinary guidelines.

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(2)(d), 456.079, 484.005 FS.

LAW IMPLEMENTED: 456.072, 456.079, 484.014 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: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-8.020 Disciplinary Guidelines.

(1) through (5)(o) No change.

<p>(p) 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.)</p>	<p>(p) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</p>		
<p>(q) 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.)</p>	<p>(q) From a letter of concern to probation of the license, and an administrative fine of \$500.00 to \$1000.00.</p>	<p>(q) From a reprimand to suspension of license, and an administrative fine of \$1000.00 to \$5,000.00.</p>	<p>(q) From suspension to revocation of license, and an administrative fine of \$5,000.00 to \$10,000.00.</p>
<p>(r) Being terminated from the state Medicaid program, or any other state Medicaid program, or the federal Medicare program. (456.072(1)(kk), F.S.)</p>	<p>(r) From a letter of concern to probation of the license, and an administrative fine of \$500.00 to \$1000.00.</p>	<p>(r) From a reprimand to suspension of license, and an administrative fine of \$1,000.00 to \$5,000.00.</p>	<p>(r) From suspension to revocation of license, and an administrative fine of \$1,000.00 to \$5,000.00.</p>
<p>(s) 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.)</p>	<p>(s) Revocation and a fine of \$10,000, or in the case of application for licensure, denial of license.</p>		

(6) No change.

Rulemaking Specific Authority 456.072(2)(d), 456.079, 484.005 FS. Law Implemented 456.072, 456.079, 484.014 FS. History—New 3-5-87, Amended 3-30-89, 4-22-90, 12-23-90, 1-27-93, Formerly 21P-8.020, Amended 5-2-94, Formerly 61G13-8.020, 59U-8.020, Amended 12-3-01, 3-16-04, 5-25-06, 6-24-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 2, 2009

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-9.0015
RULE TITLE: Application for Examination and Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the application form.

SUMMARY: The rule amendment will modify the application form.

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

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

RULEMAKING AUTHORITY: 456.013, 456.017, 456.072, 484.005, 484.007, 484.014(2) FS.

LAW IMPLEMENTED: 456.013, 456.017, 456.072, 484.007, 484.014(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.0015 Application for Examination and Licensure.

(1) Any person seeking licensure as an optician shall submit to the Board a completed application to take the examination on Form DH-MQA 1065, Application for Licensure Examination, (revised 11/09 03/09), hereby adopted and incorporated by reference, which can be obtained from the Board of Opticianry's website at www.doh.state.fl.us/mqa/opticianry. The application shall be accompanied with the application fee specified in Rule 64B12-11.002, F.A.C., which is non-refundable, and the examination fee specified in Rule 64B-1.016, F.A.C., which shall be refunded if the applicant is denied examination or does not timely complete application.

(2) through (6) No change.

Rulemaking Authority 456.013, 456.017, 456.072, 484.005, 484.007, 484.014(2) FS. Law Implemented 456.013, 456.017, 456.072, 484.007, 484.014(2) FS. History--New 3-30-89, Amended 3-29-92, 2-18-93, Formerly 21P-9.0015, Amended 5-2-94, Formerly 61G13-9.0015, 59U-9.0015, Amended 1-4-98, 11-28-02, 8-28-05, 5-25-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 2, 2009

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-9.002
RULE TITLE: Re-Examination
PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the application form.
SUMMARY: The rule amendment will modify the application form.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 456.017(2), 484.005 FS.
LAW IMPLEMENTED: 456.017(2) FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.002 Re-Examination.

An applicant who fails any portion of the state examination for licensure shall be required to pay the re-examination fee as set forth in Rule 64B-1.016, F.A.C., and to retake only that portion of the examination on which the applicant has not yet achieved a passing grade. However, an applicant may only retake any portion twice and must complete the allowed retakes within 2 years of the original failed examination date. An applicant who has not achieved a passing score on all portions of the original examination within 2 years of the original examination date must apply for and take the entire current licensure examination excluding ABO and NCLE, provided current certification is maintained. An applicant seeking to retake any portion of the state examination for licensure as described above shall submit to the Board a completed application on Form DH-MQA 1190, Re-Examination Application (revised 11/09 03/09), hereby adopted and incorporated by reference, which can be obtained from the Board of Opticianry's website at www.doh.state.fl.us/mqa/opticianry.

Rulemaking Authority 456.017(2), 484.005 FS. Law Implemented 456.017(2) FS. History--New 12-6-79, Amended 8-29-85, Formerly 21P-9.02, Amended 3-10-86, 3-5-87, Formerly 21P-9.002, Amended 5-2-94, Formerly 61G13-9.002, 59U-9.002, Amended 8-28-05, 6-17-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 2, 2009

DEPARTMENT OF HEALTH

Board of Opticianry

RULE NO.: 64B12-16.003
RULE TITLE: Apprenticeship Requirements and Training Program
PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the procedures regarding apprenticeship requirements and training program.
SUMMARY: The rule amendment will clarify the procedures regarding apprenticeship requirements and training program.
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: 484.005 FS.

LAW IMPLEMENTED: 484.002, 484.007(1)(d)4. FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-16.003 Apprenticeship Requirements and Training Program.

(1) Any persons seeking to be registered as an apprentice optician shall submit to the Board an Apprentice Optician Application (Form DH-MQA 1180, revised 11/09 ~~03/09~~), hereby adopted and incorporated by reference, which can be obtained from the Board's website at www.doh.state.fl.us/mqa/opticianry. All apprenticeship training must be conducted by the sponsor(s) with whom the apprentice is currently registered with the Agency. Credits shall be granted to apprentices if the training is properly documented according to this rule. An apprentice shall not receive credit for any training received from a person other than the properly registered sponsor(s). However, an apprentice can receive credit for attending continuing education courses by a board-approved provider pursuant to this rule.

(2) through (6) No change.

Rulemaking Authority 484.005 FS. Law Implemented 484.002, 484.007(1)(d)4. FS. History—New 10-12-80, Amended 8-31-83, 8-30-84, Formerly 21P-16.03, Amended 3-5-87, 7-15-87, 1-26-88, 3-30-89, 10-17-90, 5-27-92, 9-30-92, 1-27-93, Formerly 21P-16.003, Amended 9-14-93, 5-2-94, Formerly 61G13-16.003, Amended 2-21-96, 4-23-97, Formerly 59U-16.003, Amended 10-1-97, 2-16-99, 6-25-02, 4-11-06, 9-27-06, 4-19-07, 11-20-07, 5-25-09, 11-29-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 6, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 2, 2009

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.:	RULE TITLE:
64B13-3.009	False, Fraudulent, Deceptive and Misleading Advertising Prohibited; Policy; Definitions; Affirmative Disclosure

PURPOSE AND EFFECT: The Board is revising the font of the disclaimer for advertising free or discounted services.

SUMMARY: The font size for advertising free or discounted services is being revised.

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: 463.005 FS.

LAW IMPLEMENTED: 456.072(1)(a), (m), 463.014, 463.016(1)(f), (g) 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 Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-3.009 False, Fraudulent, Deceptive and Misleading Advertising Prohibited; Policy; Definitions; Affirmative Disclosure.

(1) through (7) No change.

(8) Any advertisement for free or discounted services must contain the disclaimer required by Section 456.062, F.S., in at least Times New Roman 14 ~~40~~ point font size or Courier New 12 ~~44~~ point font or in equivalent size fonts size.

Rulemaking Specific Authority 463.005 FS. Law Implemented 456.072(1)(a), (m), 463.014, 463.016(1)(f), (g) FS. History—New 11-13-79, Amended 4-17-80, 8-20-81, Formerly 21Q-3.09, Amended 1-8-86, 12-16-86, Formerly 21Q-3.009, 61F8-3.009, 59V-3.009, Amended 1-2-02, 11-13-06, 11-5-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 30, 2009

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

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: 64B14-7.0011
 RULE TITLE: Practitioner and Resident Identification

PURPOSE AND EFFECT: The Board proposes to clarify size of the photograph for the identification badge.

SUMMARY: The rule amendment will clarify the size of photograph for identification badges.

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: 468.808, 468.8095 FS.

LAW IMPLEMENTED: 468.808, 468.8095 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:

64B14-7.0011 Practitioner and Resident Identification.

(1) Each licensed practitioner and each resident shall conspicuously display a current license issued by the Department and a photograph at his or her practice location.

(2) Each licensed practitioner and each resident shall wear an identification badge containing the information required by Section 468.8095, F.S., and a personal photograph of no less than 3/4 inch square in size, that is a minimum size of 2 by 3 inches with the text in a font equal to at least Times New Roman 14 point font or Courier New 12 point font.

(3) All unlicensed support personnel shall wear an identification badge that identifies the person as support personnel and meets the requirements set forth in subsection (2) above.

Rulemaking Specific Authority 468.808, 468.8095 FS. Law Implemented 468.808, 468.8095 FS. History--New 3-22-09, 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, 2008

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

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-12.003
 RULE TITLE: Applications for Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to incorporate by reference the updated application for DH-MQA 1029, (Revised 11/09).

SUMMARY: The rule amendment will to incorporate by reference the updated application for DH-MQA 1029, (Revised 11/09).

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: 456.031(4), 456.033(7), 459.0055(1)(i) FS.

LAW IMPLEMENTED: 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 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: Kaye Howerton, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-12.003 Applications for Licensure.

(1) Applications for licensure by examination must include a completed application form and appropriate fee as set forth in Section 459.0055, F.S., and subsection 64B15-10.002(1), F.A.C. The instructions and application form, DH-MQA 1029, (~~Revised- 11/09 6/08~~), entitled "Application For Licensure" is hereby incorporated by reference, and may be obtained from the Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256. Such application and fee shall expire one year from the date on which the application is initially received by the Board. After a period of one year a new application and fee must be submitted.

(2) through (3) No change.

Rulemaking Authority 456.031(4), 456.033(7), 459.005, 459.0055(1)(i) FS. Law Implemented 456.031(2), 456.033(6), 459.0055, 459.006, 459.007 FS. History--New 6-4-91, Formerly 21R-12.003, 61F9-12.003, Amended 10-15 -95, Formerly 59W-12.003, Amended 9-26-00, 3-9-03, 6-1-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: November 13, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: May 8, 2009

DEPARTMENT OF HEALTH

Council of Licensed Midwifery

RULE NO.: 64B24-3.004 RULE TITLE: Endorsement Fee
PURPOSE AND EFFECT: To lower the fee charged to applicants for licensure as a midwife by endorsement.
SUMMARY: The department determined to reduce the \$500 fee to \$250 for licensure by endorsement.
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. This rule has a positive impact on small business by making it less costly for small business midwives to obtain a license in Florida.
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: 467.005, 467.0135 FS.
LAW IMPLEMENTED: 467.0135(6) 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: Kaye Howerton, Executive Director, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3250

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-3.004 Endorsement Fee
The endorsement fee shall be ~~\$250~~ **\$500**.
Rulemaking Specific Authority 467.005, 467.0135 FS. Law Implemented 467.0135(6) FS. History—New 1-26-94, Formerly 61E8-3.004, Amended 8-15-95, Formerly 59DD-3.004, Amended 12-23-97, 11-10-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kaye Howerton
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: January 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: October 30, 2009

**FISH AND WILDLIFE CONSERVATION
COMMISSION**

Manatees

RULE NO.: 68C-22.026 RULE TITLE: Sarasota County Zones
PURPOSE AND EFFECT: The purpose of the proposed rule making action is to improve protection of manatees and manatee habitat in Sarasota County by amending the existing regulations that limit allowable motorboat speed in portions of the county. These actions are being proposed after considering: [1] new information, analyses, and reports that have been collected, performed, or prepared since the existing zones were established; [2] existing federal manatee protection regulations in portions of the county; and [3] recommendations made by the Sarasota County Local Rule Review Committee that was formed pursuant to Section 379.2431(2)(f), F.S. The effect of the action would be to amend the zones that limit allowable motorboat speed in portions of the county and to revise other provisions of the rule, including those pertaining to the availability of permits for commercial fishing and professional fishing guide activities.
SUMMARY: New or expanded manatee protection zones would be added in the western portion of Sarasota Bay in the vicinity of New Pass and Bird Key, while the Manatee County portion of the existing zone in the Buttonwood Harbor area would be removed. Seven segments of the Intracoastal Waterway channel (totaling approximately 2.6 miles) between Siesta Key and Forked Creek (in Lemon Bay) would be changed from 25 MPH to Slow Speed, and the existing zone at Venice Inlet would be extended approximately 450 feet westward (into) the inlet. Zones would also be added in a section of Little Sarasota Bay to mirror the existing federal zones. The maps accompanying this notice show only those areas where the zones would change. Adoption of the proposed changes would increase the amount of area regulated for manatee protection in the county by 3% (313 acres) and increase the amount of time required to transit the county in the Intracoastal Waterway by 15 minutes. The section of the rule dealing with permits for commercial fishers and professional fishing guides would be amended to narrow the permits to cover only commercial fishing net-setting activities. Other changes to the rule would amend the preamble language to make it consistent with current statutory and rule language and otherwise clean up zone descriptions to improve accuracy and make the descriptions easier to understand.
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 the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 379.2431(2)(g), (n), (o) FS.

LAW IMPLEMENTED: 379.2431(2)(d), (g), (k), (n), (o) FS.

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

DATE AND TIME: Tuesday, March 2, 2010, 6:00 p.m.

PLACE: North County Administration Center, Board Chambers, 1660 Ringling Boulevard, Sarasota, FL

THE FINAL PUBLIC HEARING WILL BE HELD BY THE COMMISSION AT THE DATES, TIME, AND PLACE SHOWN BELOW:

DATES AND TIME: April 28-29, 2010, 8:30 a.m. – 5:00 p.m.

PLACE: Florida Public Safety Institute, 215 Academy Street, Havana, FL

Another notice will be published in the F.A.W. to confirm the date and location of the final hearing. The Commission's agenda for this meeting will indicate the specific day when this item is scheduled to be addressed.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in either of these hearings is asked to advise the agency at least 5 days before the hearing by contacting the FWC at (850)488-6411. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Scott Calleson, Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 68C-22.026 follows. See Florida Administrative Code for present text.)

68C-22.026 Sarasota and Associated County (~~Parts of Manatee and Charlotte~~) Zones.

(1) The Commission hereby designates the waters within Sarasota County (and a small portion of Charlotte County), as described below, as areas where manatee sightings are frequent and where the best available information supports the conclusion that manatees inhabit these areas on a regular or periodic basis. The primary purpose of this rule is to protect manatees from harmful collisions with motorboats and from harassment by establishing safe havens and regulating the speed and operation of motorboats within these designated areas. A secondary purpose is to protect manatee habitat.

(a) In consideration of balancing the rights of fishers, boaters, and water skiers to use the waters of the state for recreational and commercial purposes (as applicable under

Section 379.2431(2)(k), F.S.), with the need to provide manatee protection, the Commission has examined the need for limited lanes, corridors, or unregulated areas that allow higher speeds through or within regulated areas. Such lanes, corridors, or areas are provided in those locations where the Commission determined they are consistent with manatee protection needs. Access to the NO ENTRY zones designated hereunder will be provided in accordance with the procedures set forth in Rule 68C-22.003, F.A.C.

(b) All zones include all associated and navigable tributaries, lakes, creeks, coves, bends, backwaters, canals, channels and boat basins, and other waterways unless otherwise designated or excluded. Coordinates used in the descriptions of zone boundaries are referenced to the North American Datum of 1983 (NAD83).

(2) The following year-round zones are established within the coastal waters of Sarasota County:

(a) SLOW SPEED –

1. Buttonwood Harbor, Cranes Bayou Area: All waters of Buttonwood Harbor and Cranes Bayou; and, all waters of Sarasota Bay, north of Buttonwood Harbor, east of Longboat Key, south of the Manatee County line, and west of a line that bears 6° from the westernmost point of Buttonwood Point (approximate latitude 27° 23' 10" North, approximate longitude 82° 37' 47" West);

2. Whitaker Bayou Area: All waters of Whitaker Bayou south of the centerline of the 27th Street Bridge; and, those waters of Sarasota Bay within 300 feet of the eastern shoreline of Sarasota Bay, south of a line that bears 270° from a point at the intersection of the northern shoreline of Whitaker Bayou with the eastern shoreline of Sarasota Bay (approximate latitude 27° 21' 12" North, approximate longitude 82° 33' 08" West), and north of the westerly extension of the seawall forming the northern shore of the entrance to the Hyatt Boat Basin;

3. New Pass: All waters of New Pass and Sarasota Bay, south and west of a line that begins at the northeasternmost tip of Quick Point on Longboat Key (approximate latitude 27° 20' 20" North, approximate longitude 82° 34' 55" West) and bears 345° for a distance of approximately 400 feet to Point No. 1 in Sarasota Bay (latitude 27° 20' 24" North, longitude 82° 34' 56" West) then bears 87° for a distance of approximately 2285 feet to Point No. 2 in Sarasota Bay (latitude 27° 20' 25" North, longitude 82° 34' 31" West) then bears 128° for a distance of approximately 1130 feet to Point No. 3 in Sarasota Bay (latitude 27° 20' 18" North, longitude 82° 34' 21" West) roughly 600 feet east of Lighted Green Channel Marker "13" (latitude 27° 20' 18" North, longitude 82° 34' 28" West), north of Lido Key, City Island, and a line running from the northernmost point of City Island to the aforementioned Point No. 3, and northeast of a line that bears 320° through Green Day Marker "9" (approximate latitude 27° 19' 53" North, approximate longitude 82° 35' 04" West);

4. City Island Lagoon Area: All waters of Sarasota Bay, including the City Island Lagoon area, southwest of a line that bears 125° from a point in Sarasota Bay (latitude 27° 20' 18" North, longitude 82° 34' 21" West) to the northernmost point of Bird Key (approximate latitude 27° 19' 45" North, approximate longitude 82° 33' 31" West), northwest of Bird Key and Coon Key and the centerline of the John Ringling Boulevard Bridges (connecting Bird Key to Coon Key and Coon Key to St. Armands Key), northeast of St. Armands Key and the shoreline of City Island adjacent to John Ringling Parkway running northwest from St. Armands Key and the centerline of the John Ringling Parkway Bridge connecting St. Armands Key to City Island, and southeast of Lido Key, City Island, and a line running from the northernmost point of City Island to the aforementioned point in Sarasota Bay;

5. Lido Key Area: All waters of Sarasota Bay south of Coon Key and St. Armands Key and the centerline of the John Ringling Boulevard Bridges (connecting Bird Key to Coon Key, Coon Key to St. Armands Key, and St. Armands Key to Lido Key), east of Lido Key, west of Bird Key and the centerlines of the Bird Key Drive Bridges and the Wild Turkey Lane Bridge, and northwest of a line that bears 218° from the southernmost point of Bird Key (approximate latitude 27° 18' 36" North, approximate longitude 82° 33' 36" West) to a point on the eastern shoreline of Lido Key (approximate latitude 27° 18' 17" North, approximate longitude 82° 33' 53" West), except as otherwise designated under paragraph (2)(e);

6. Bird Key Area: All waters of the basin on the northeast side of Bird Key east of the centerline of the northern Bird Key Drive Bridge; and, those waters of Sarasota Bay west of a line that begins at a point on the eastern shoreline of Bird Key (approximate latitude 27° 19' 16" North, approximate longitude 82° 33' 21" West) roughly 850 feet southeast of the northernmost point of land containing Meadow Lark Drive, then bears 19° for a distance of approximately 350 feet to Point No. 1 in Sarasota Bay (latitude 27° 19' 19" North, longitude 82° 33' 19" West) then bears 344° for a distance of approximately 1150 feet to Point No. 2 in Sarasota Bay (latitude 27° 19' 30" North, longitude 82° 33' 23" West) then bears 315° for a distance of approximately 1080 feet to the line's terminus at a point on the northeast shoreline of Bird Key (approximate latitude 27° 19' 38" North, approximate longitude 82° 33' 31" West);

7. Hudson Bayou Area: All waters of Hudson Bayou to its headwaters and that part of Sarasota Bay within 300 feet of the general contour of the eastern shoreline of Sarasota Bay, south of a line that bears 270° from a point at the intersection of the northern shoreline of Hudson Bayou with the eastern shoreline of Sarasota Bay (approximate latitude 27° 19' 29" North, approximate longitude 82° 32' 28" West), and north of a line that bears 270° from a point on the southwestern shoreline of the peninsula that contains Vista Drive (approximate latitude 27° 18' 59" North, approximate longitude 82° 32' 43" West);

8. Roberts Bay Area (north): All waters of Roberts Bay south of the centerline of the Siesta Drive Bridge (State Road 789) (connecting Bay Island with the mainland) and north of a line located 775 feet south of and parallel with a line that bears 78° running through Green Intracoastal Waterway Channel Marker "75" (approximate latitude 27° 16' 46" North, approximate longitude 82° 32' 41" West), including all waters of Hansen Bayou south of the general contour of the northern shoreline of Siesta Key, South Coconut Bayou, Coconut Bayou, and all waters associated with the Grand Canal waterway system throughout Siesta Key, except as otherwise designated under paragraphs (2)(d) and (2)(e);

9. Little Sarasota Bay, Phillippi Creek Area: All waters of Little Sarasota Bay south of a line located 775 feet south of and parallel with a line that bears 78° running through Flashing Green Intracoastal Waterway Channel Marker "75" (approximate latitude 27° 16' 46" North, approximate longitude 82° 32' 41" West), and north of a line located 250 feet south of and parallel with a line that bears 50° running through Green Intracoastal Waterway Channel Marker "61" (approximate latitude 27° 15' 07" North, approximate longitude 82° 31' 48" West); and, all waters of Phillippi Creek southwest of the dam located northeast of the Tuttle Avenue Bridge;

10. Little Sarasota Bay Area: All waters of Little Sarasota Bay, including all waters of Blind Pass Lagoon, Midnight Pass Lagoon, North Creek and Catfish Creek to the headwaters of said creeks, south of a line located 250 feet south of and parallel with a line that bears 50° running through Green Intracoastal Waterway Channel Marker "61" (approximate latitude 27° 15' 07" North, approximate longitude 82° 31' 48" West), and north of the centerline of the Blackburn Point Bridge (County Road 789), except as otherwise designated under paragraph (2)(e);

11. Little Sarasota Bay, Dryman Bay and South Creek Area: All waters of Little Sarasota Bay, Dryman Bay, and Blackburn Bay south of the centerline of the Blackburn Point Bridge and north of a line that bears 90° running through Green Intracoastal Waterway Channel Marker "23" (approximate latitude 27° 09' 38" North, approximate longitude 82° 29' 03" West); and, all waters of South Creek to the dam in Oscar Scherer State Park;

12. Blackburn Bay Area: All waters of Blackburn Bay south of a line that bears 90° running through Green Intracoastal Waterway Channel Marker "23" (approximate latitude 27° 09' 38" North, approximate longitude 82° 29' 03" West), and north of a line that bears 90° running through Green Intracoastal Waterway Channel Marker "13" (approximate latitude 27° 07' 53" North, approximate longitude 82° 28' 13" West), except as otherwise designated under paragraph (2)(e);

13. Blackburn Bay, Lyons Bay, Dona Bay, Shakett Creek and Venice Inlet Area: All waters of Blackburn Bay, Lyons Bay, Dona Bay, and Venice Inlet, south of a line that bears 90°

running through Green Intracoastal Waterway Channel Marker "13" (approximate latitude 27° 07' 53" North, approximate longitude 82° 28' 13" West), north of a line that bears approximately 68° running through Red Intracoastal Waterway Channel Marker "16" (approximate latitude 27° 06' 47" North, approximate longitude 82° 27' 37" West) to the northernmost tip of land of the Enchanted Island Subdivision containing Anchorage Drive (approximate latitude 27° 06' 51" North, approximate longitude 82° 27' 26" West), and, east of a line that bears 170° running through Green Venice Inlet Day Beacon "3" (approximate latitude 27° 06' 48" North, approximate longitude 82° 28' 02" West); and all waters of Shakett Creek south of the control structure southwest of Interstate Highway 75, including all waters of Fox Creek and Salt Creek to the headwaters of said creeks;

14. Roberts Bay (south) Area: Those waters of Roberts Bay, as follows, except as otherwise designated under paragraph (2)(e):

a. Those waters of Roberts Bay south of a line that bears approximately 68° running through Red Intracoastal Waterway Channel Marker "16" (approximate latitude 27° 06' 47" North, approximate longitude 82° 27' 37" West) to the northernmost tip of land of the Enchanted Island Subdivision containing Anchorage Drive (approximate latitude 27° 06' 51" North, approximate longitude 82° 27' 26" West), and, and west of a line that bears 360° running through Red Intracoastal Waterway Channel Marker "12" (approximate latitude 27° 06' 34" North, approximate longitude 82° 27' 19" West); and

b. Those waters of Roberts Bay east of a line that bears 360° running through Red Intracoastal Waterway Channel Marker "12" (approximate latitude 27° 06' 34" North, approximate longitude 82° 27' 19" West), northwest of a line that bears 60° running through Red Intracoastal Waterway Channel Marker "8" (approximate latitude 27° 06' 26" North, approximate longitude 82° 26' 54" West), south of the northern boundary of the main marked channel of the Intracoastal Waterway between Red Intracoastal Waterway Channel Marker "12" and Red Intracoastal Waterway Channel Marker "10" (approximate latitude 27° 06' 34" North, approximate longitude 82° 27' 00" West), and south of a line that bears 60° from Red Intracoastal Waterway Channel Marker "10" to the eastern shoreline of Roberts Bay;

15. Roberts Bay (South), Curry Creek and Blackburn Canal Area: Those waters of Roberts Bay within 100 feet of the general contour of the eastern shoreline of Roberts Bay west of U.S. Highway 41, north of a line that bears 60° from Red Intracoastal Waterway Channel Marker "10" (approximate latitude 27° 06' 34" North, approximate longitude 82° 27' 00" West) to the eastern shoreline of Roberts Bay, and east of a line that bears 180° from a point on the northern shoreline of Roberts Bay (approximate latitude 27° 06' 49" North,

approximate longitude 82° 27' 01" West); and, all waters of Curry Creek from Roberts Bay to the Myakka River, and all waters of Blackburn Canal to its headwaters;

16. Hatchett Creek: All waters of Hatchett Creek west of the centerline of U.S. Highway 41 (Venice By-Pass), south of a line that bears 60° running through Red Intracoastal Waterway Channel Marker "8" (approximate latitude 27° 06' 26" North, approximate longitude 82° 26' 54" West), and north of a line that bears 25° located 400 feet southeast of the centerline of the U.S. 41 (Business) Bridge, as measured along the centerline of the Intracoastal Waterway;

17. Country Club Estates Area: All waters of the boat basin serving the Country Club Estates mobile home park, southwest of the general contour of the southwestern shoreline of the Venice Airport Canal; and

18. Alligator Creek, Lemon Bay Area: All waters of Alligator Creek southwest of the centerline of the U.S. Highway 41 Bridge; and, all waters of Lemon Bay southeast of a line that bears 50° running through Red Intracoastal Waterway Channel Marker "52" (approximate latitude 27° 02' 46" North, approximate longitude 82° 25' 59" West), and north of the Sarasota/Charlotte County line, except as otherwise designated under paragraphs (2)(b) and (2)(e).

(b) IDLE SPEED –

1. Hyatt Boat Basin: All waters of the Hyatt Boat Basin and that portion of Sarasota Bay east of a line that bears 180° from a point in Sarasota Bay (approximate latitude 27° 20' 19" North, approximate longitude 82° 33' 07" West) 300 feet west of the corner of the seawall at the southwest corner of the Hyatt site (approximate latitude 27° 20' 19" North, approximate longitude 82° 33' 03" West), and south of a line that bears 90° from the aforementioned point in Sarasota Bay to the corner of the seawall at the southwest corner of the Hyatt site; and

2. Forked Creek Area: All waters of Forked Creek east of its confluence with Lemon Bay; and, all waters of Waterford Canal, Windsor Canal, Greenlawn Channel, Fairview Channel, and North Branch.

(c) NO ENTRY – Pansy Bayou: All waters of that body of water commonly known as Pansy Bayou (being that body of water north and west of St. Armands Key), west of the centerline of the northbound lane of John Ringling Parkway, and north of the centerline of the westbound lane of John Ringling Boulevard.

(d) MAXIMUM 35 MPH –

1. Roberts Bay (north) Area: Those waters of Roberts Bay surrounding the spoil island commonly referred to as "Skiers Island" located approximately 700 feet west of the Intracoastal Waterway near Green Intracoastal Waterway Channel Marker "79" (approximate latitude 27° 17' 18" North, approximate longitude 82° 32' 47" West), bounded on the north by a line that bears 90° located 300 feet north of the northernmost tip of the shoreline of the spoil island, bounded on the south by a line that bears 90° located 300 feet south of the southernmost tip of

the shoreline of the spoil island, bounded on the west by a line 300 feet west of and parallel with the general contour of the western shoreline of the spoil island, and bounded on the east by the western boundary of the main marked channel of the Intracoastal Waterway; and

2. Roberts Bay (south) Area: Those waters of Roberts Bay, east of a line that bears 360° running through Red Intracoastal Waterway Channel Marker “12” (approximate latitude 27° 06' 34" North, approximate longitude 82° 27' 19" West), north of the northern boundary of the main marked channel of the Intracoastal Waterway between Red Intracoastal Waterway Channel Marker “12” and Red Intracoastal Waterway Channel Marker “10” (approximate latitude 27° 06' 34" North, approximate longitude 82° 27' 00" West) and a line that bears 60° from Red Intracoastal Waterway Channel Marker “10” to the eastern shoreline of Roberts Bay, and west of U.S. Highway 41, excluding those waters within 100 feet of the shoreline as designated under subparagraph (2)(a)15.

(e) MAXIMUM 25 MPH –

1. Lido Key Area: All waters of the unnamed main marked channel south of the centerline of the John Ringling Boulevard Bridge connecting Bird Key to Coon Key, and north of a line that bears 218° from the southernmost point of Bird Key (approximate latitude 27° 18' 36" North, approximate longitude 82° 33' 36" West) to a point on the eastern shoreline of Lido Key (approximate latitude 27° 18' 17" North, approximate longitude 82° 33' 53" West);

2. Roberts Bay (north): All waters of the main marked channel of the Intracoastal Waterway south of a line that bears 90° from the southernmost point of Big Edward’s Island (approximate latitude 27° 17' 436" North, approximate longitude 82° 32' 48" West), and north of a line that bears 78° running through Green Intracoastal Waterway Channel Marker “75” (approximate latitude 27° 16' 46" North, approximate longitude 82° 32' 41" West);

3. Little Sarasota Bay Area: All waters of the main marked channel of the Intracoastal Waterway south of a line located 250 feet south of and parallel with a line that bears 50° running through Green Intracoastal Waterway Channel Marker “61” (approximate latitude 27° 15' 07" North, approximate longitude 82° 31' 48" West), and north of the centerline of the Blackburn Point Bridge (County Road 789);

4. Blackburn Bay Area: All waters of the main marked channel of the Intracoastal Waterway south of a line that bears 90° running through Green Intracoastal Waterway Channel Marker “23” (approximate latitude 27° 09' 38" North, approximate longitude 82° 29' 03" West), and north of a line that bears 78° running through Green Intracoastal Waterway Channel Marker “15” (approximate latitude 27° 08' 25" North, approximate longitude 82° 28' 16" West);

5. Roberts Bay (south) Area: All waters of the main marked channel of the Intracoastal Waterway south of a line that bears approximately 68° running through Red Intracoastal

Waterway Channel Marker “16” (approximate latitude 27° 06' 47" North, approximate longitude 82° 27' 37" West) and northwest of a line that bears 60° running through Red Intracoastal Waterway Channel Marker “8” (approximate latitude 27° 06' 26" North, approximate longitude 82° 26' 54" West);

6. Venice Airport Canal: All waters of the Venice Airport Canal, south of a line that bears 25° located 400 feet southeast of the centerline of the U.S. 41 (Business) Bridge, as measured along the centerline of the Intracoastal Waterway, and northwest of a line that bears 50° running through Red Intracoastal Waterway Channel Marker “52” (approximate latitude 27° 02' 46" North, approximate longitude 82° 25' 59" West), except those waters northwest of the canal associated with Red Lake;

7. North Lemon Bay Area: All waters of the main marked channel of the Intracoastal Waterway southeast of a line that bears 50° running through Red Intracoastal Waterway Channel Marker “52” (approximate latitude 27° 02' 46" North, approximate longitude 82° 25' 59" West), and north of the centerline of the Manasota Beach Bridge (County Road 774);

8. Central Lemon Bay Area: All waters of the main marked channel of the Intracoastal Waterway south of a line 1000 feet south of and parallel with the centerline of the Manasota Beach Bridge (County Road 774) and north of a line 1400 feet south of and parallel with a line that bears 57° running through Green Intracoastal Waterway Channel Marker “39” (approximate latitude 26° 59' 52" North, approximate longitude 82° 24' 07" West); and,

9. South Lemon Bay Area: All waters of the main marked channel of the Intracoastal Waterway south of a line 1100 feet north of and parallel with a line that bears 53° running through Green Intracoastal Waterway Channel Marker “37” (approximate latitude 26° 59' 10" North, approximate longitude 82° 23' 36" West, and north of the Sarasota County/Charlotte County line.

(3) The following year-round and seasonal zones are established within the Myakka River-Big Slough area of Sarasota County and associated waters of Charlotte County:

(a) SLOW SPEED –

1. Myakka River Area: All waters of the Myakka River northwest of the Sarasota County/Charlotte County line and southwest of the western line of Myakka River State Park (said line being the westerly line of Section 7, Township 38 South, Range 20 East), including all associated waters in and around the Warm Mineral Springs development, and Deer Prairie Creek to its headwaters, excluding the section of Salt Creek and Warm Mineral Springs upstream (northeast) of the weir (approximate latitude 27° 03' 17" North, approximate longitude 82° 15' 52" West) located approximately 2300 feet downstream (southwest) of the headwaters of Warm Mineral

Springs and also excluding the area otherwise designated for seasonal regulation under paragraph (3)(b) when said seasonal zone is in effect; and

2. Big Slough Area: Those waters of Big Slough and associated waterways northeast of the Myakka River and southwest of the dam north of U.S. Highway 41.

(b) NO ENTRY (November 15 – March 15) – Warm Mineral Springs/Salt Creek Area: Those waters of Salt Creek and Warm Mineral Springs north of the centerline of U.S. Highway 41, south of the weir (approximate latitude 27° 03' 17" North, approximate longitude 82° 15' 52" West) located approximately 2300 feet downstream (southwest) of the headwaters of Warm Mineral Springs, and west of a line bearing 6° from a point (approximate latitude 27° 02' 56" North, approximate longitude 82° 15' 43" West) on the southern shoreline of Salt Creek approximately 2600 feet east of the confluence with the Warm Mineral Springs run.

(4) Commercial Fishing Permits: The following provisions pertain to the issuance of permits to allow individuals engaged in commercial fishing activities to operate their vessels in specified areas at speeds greater than the speed limits established under subsection (2) above. Procedures related to the application for and the review and issuance of these permits are as set forth in Rule 68C-22.003, F.A.C.

(a) Permits shall be limited as follows:

1. Permits shall only be available for the zones or portions of zones described under subparagraphs (2)(a)1., (2)(a)2., (2)(a)9. through (2)(a)17., and (2)(a)19., above;

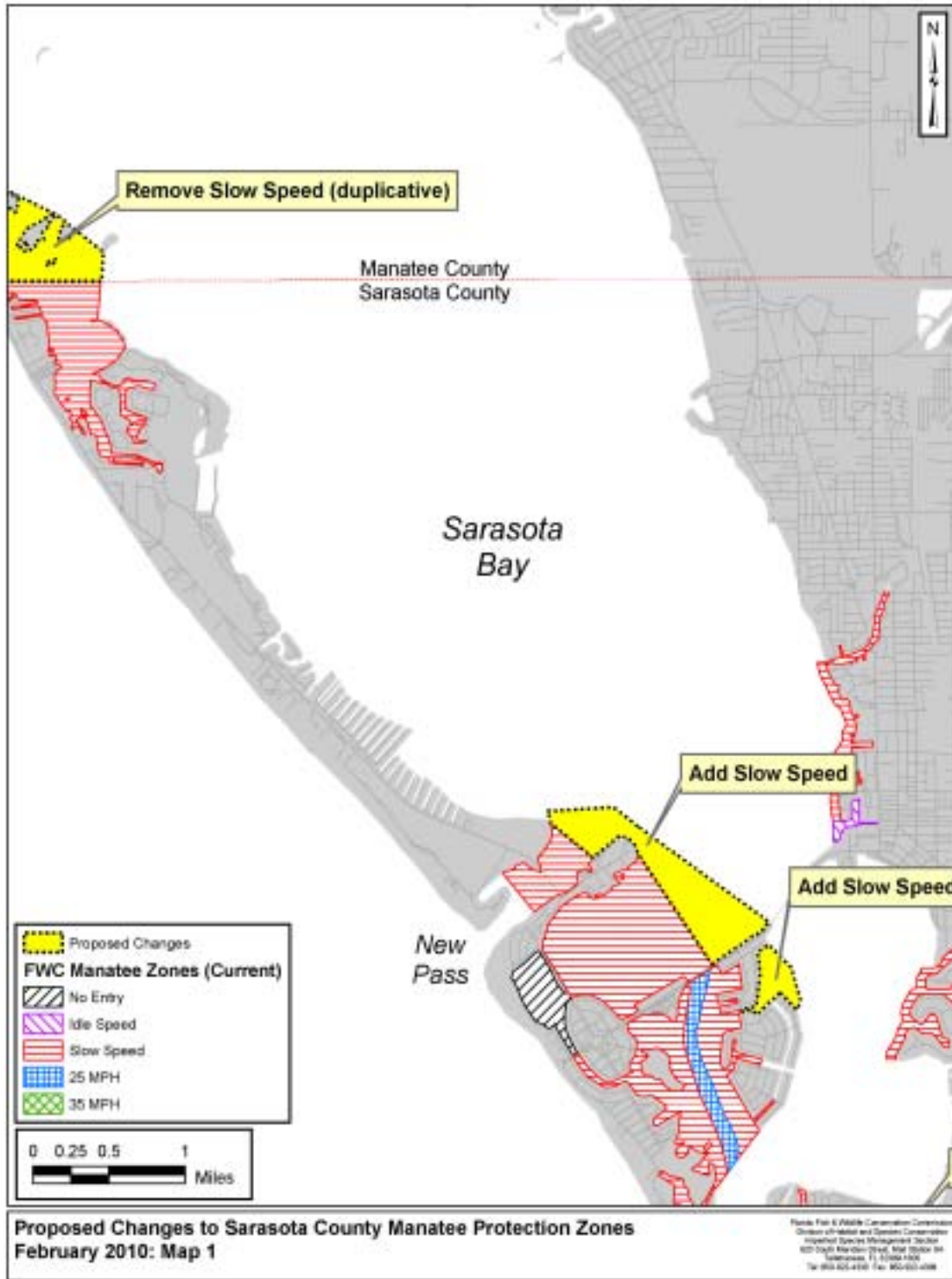
2. Permits shall not apply on weekends or on the holidays identified in Section 110.117, F.S.; and,

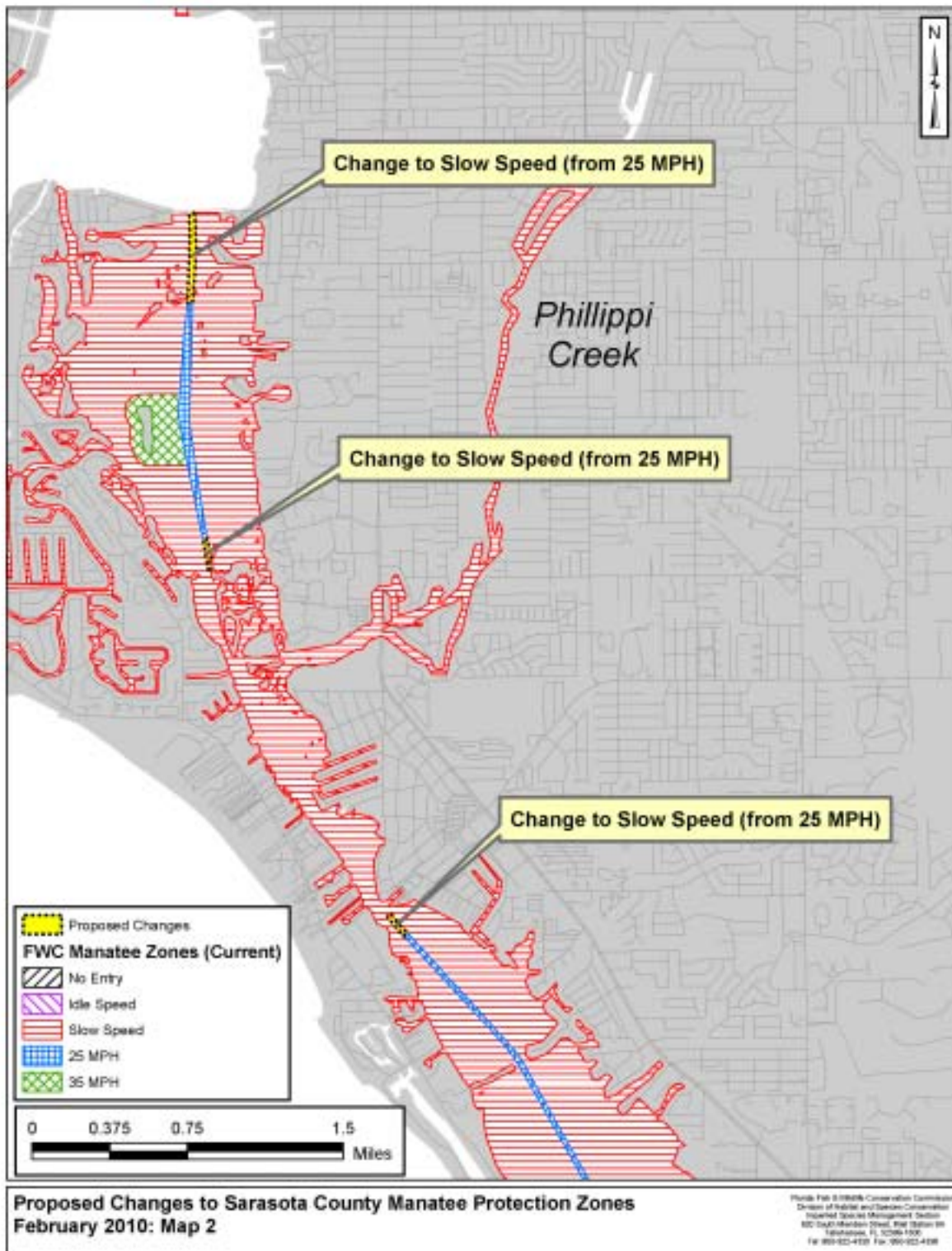
3. Permits shall only apply to commercial fishing activities for the setting of nets to encircle fish, and shall only allow speeds up to 20 mph.

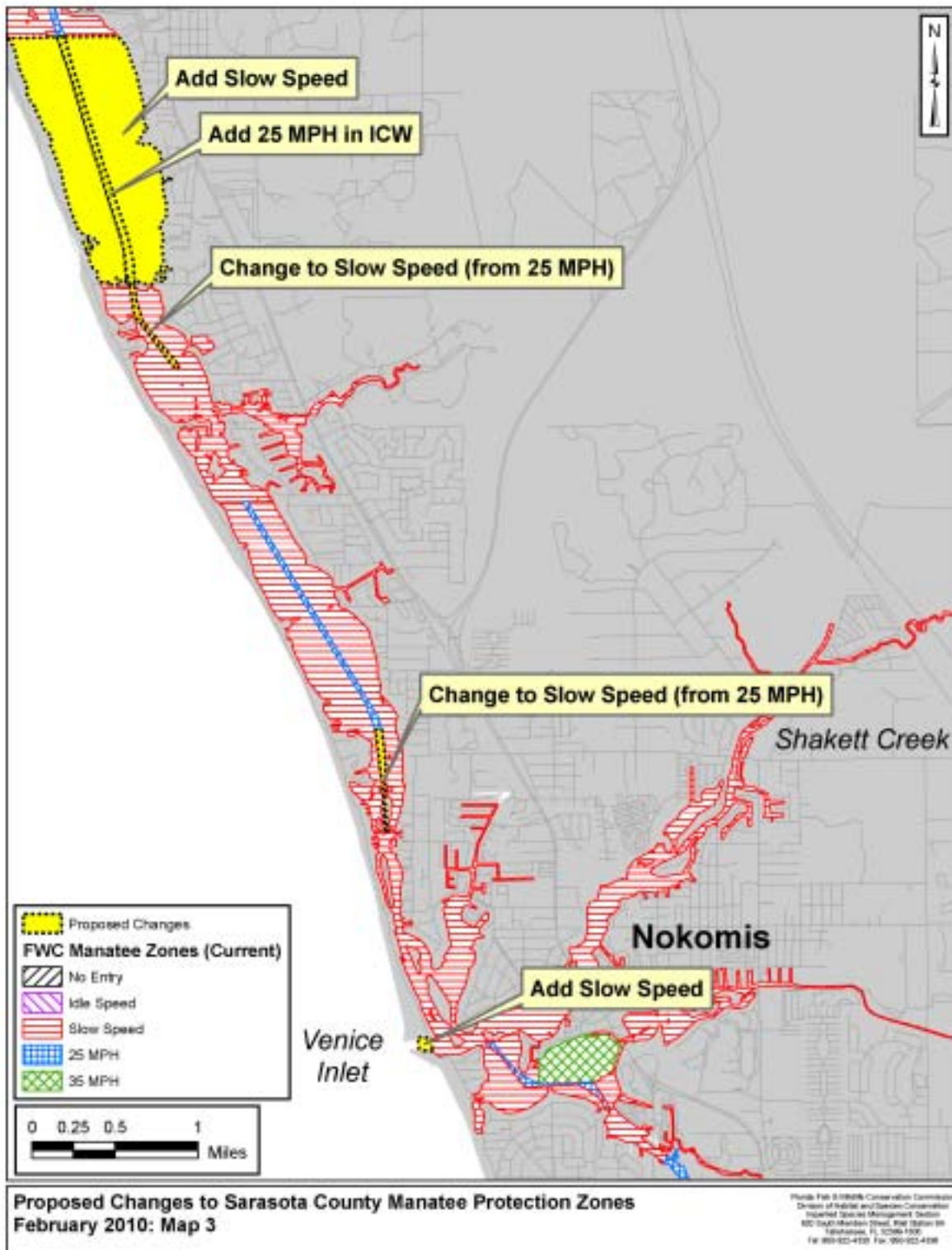
(b) Permit applications may be obtained from the Commission's Law Enforcement office at 5110 Gandy Boulevard, Tampa, Florida, or by contacting the Commission's Division of Law Enforcement (Boating and Waterways Section) at 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)488-5600.

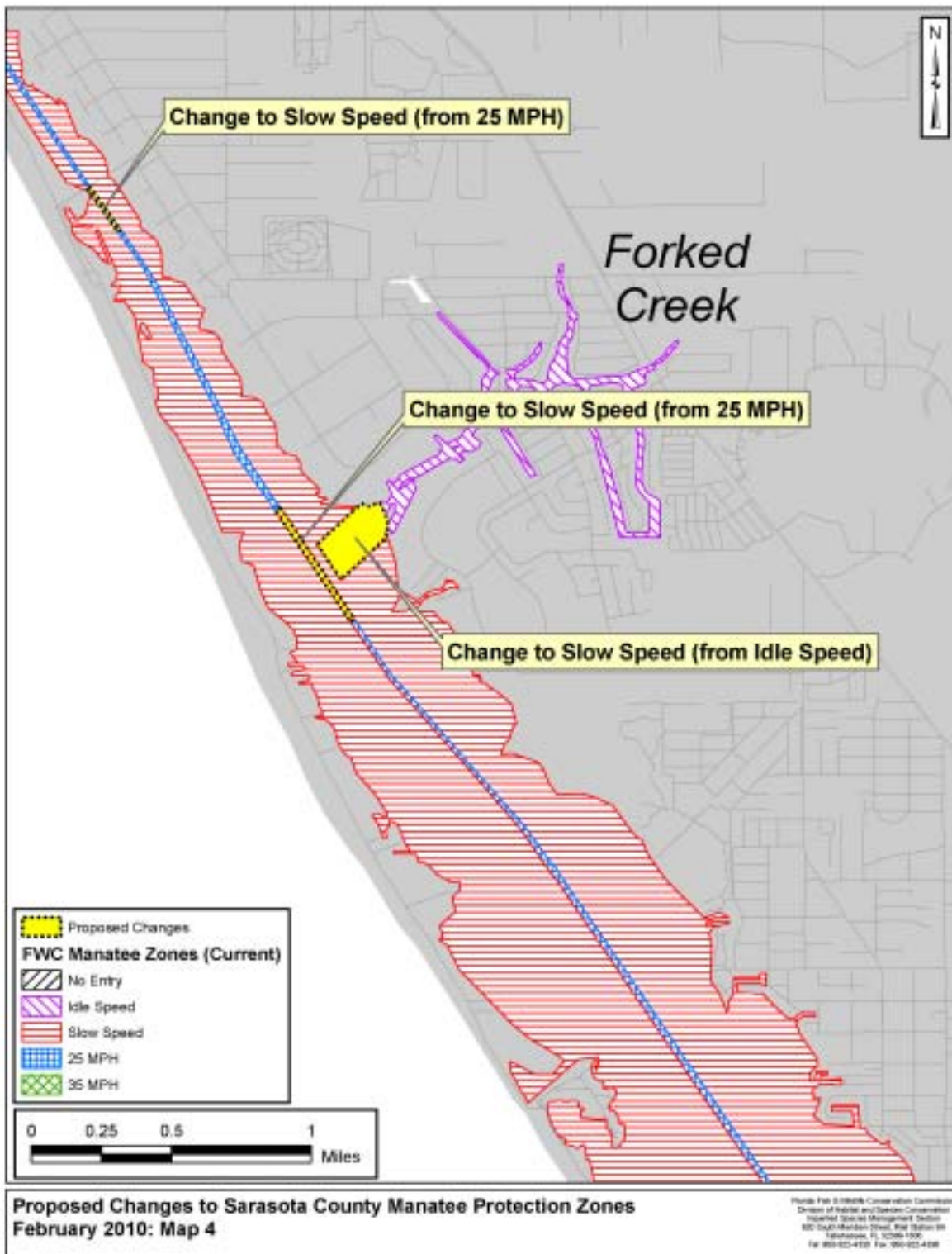
(5) The zones described in subsections 68C-22.026(2) and (3), F.A.C., are depicted on the following maps labeled "Sarasota County Manatee Protection Zones." The maps are intended as depictions of the above-described zones. In the event of conflict between the maps and descriptions, the descriptions shall prevail.

(6) The amendments to Rule 68C-22.026, F.A.C., as approved by the Commission on [insert approval date], shall take effect as soon as the regulatory markers are posted.









Rulemaking Specific Authority 379.2431 370.12(2)(g), (n), (o) FS.
 Law Implemented 379.2431 370.12(2)(d), (g), (f), (k), (n), (o) FS.
 History–New 1-27-92, Formerly 16N-22.026, 62N-22.026, Amended
 12-12-02,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Mr. Tim Breault, Director of the Division of Habitat and
 Species Conservation

NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Commissioners of the Florida Fish and
 Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: December 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: November 25, 2009

Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF AGRICULTURE AND CONSUMER
 SERVICES**

Division of Standards

RULE NOS.:	RULE TITLES:
5F-8.0011	Standards Adopted
5F-8.0012	Bureau of Fair Rides Inspection Forms
5F-8.009	Inspections by Owner or Manager
5F-8.0125	Fencing and Gate Standards
5F-8.0126	Minor Rule Violations; Notice of Non-Compliance
5F-8.0127	Enforcement Actions and Administrative Penalties
5F-8.0128	Resolution of Violations, Settlement, and Additional Enforcement Remedies
5F-8.014	Training of Managers, Attendants, and Maintenance Persons
5F-8.015	Regulation of Go-Karts and Similar Vehicles
5F-8.016	Regulation of Water Parks
5F-8.025	Regulation of Bungy Operations
5F-8.050	Games

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 3, January 22, 2010 issue of the Florida Administrative Weekly.

The February 9, 2010 Rule Development Workshop that was posted on January 22, 2010 was incorrectly posted and should have been posted as a Proposed Rule Hearing which has now been scheduled for March 1, 2010.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.099811	Differentiated Accountability State System of School Improvement

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 50, December 18, 2009 issue of the Florida Administrative Weekly.

This is a new rule.

6A-1.099811 Differentiated Accountability State System of School Improvement.

The purpose of this rule is to set forth the Differentiated Accountability State System of School Improvement, to set forth the framework for categorizing how well schools are meeting Adequate Yearly Progress criteria, to define the level of assistance provided to schools, and to identify the support systems and strategies to be implemented by schools and districts.

(1) Definitions. The following definitions shall be used in this rule:

(a) “Adequate Yearly Progress” or “AYP” means that the AYP criteria for demonstrating progress toward state proficiency goals were met by each subgroup.

(b) “Annual goals” or “state proficiency goals” means the annual targets for the percent of students who meet grade level proficiency in reading and mathematics as established in “Adequate Yearly Progress Benchmarks in Florida” of the 2009 Guide to Calculating Adequate Yearly Progress (AYP), Technical Assistance Paper dated June 2009, which is hereby adopted by reference and made part of this rule and accessible at <http://schoolgrades.fldoe.org/pdf/0809/2009AYPTAP.pdf>. Proficiency on the FCAT is attained at scoring level 3 or higher in reading and mathematics on a 5-level range. Proficiency on the Florida Alternate Assessment is attained at scoring level 4 or higher on a 9-level range.

(c) “AYP Count” means the value assigned to a school that did not achieve AYP for two (2) consecutive years, starting from the 2002-03 school year. The school is assigned a value of one (1) AYP count if the school failed to make AYP for two (2) consecutive years and increases by one (1) for each year that the school fails to achieve AYP.

(d) “Benchmark Baseline Assessment” means a diagnostic assessment given at the beginning of the year to evaluate students’ strengths and weaknesses on grade-level skills in reading, mathematics, science, and writing.

(e) “Benchmark Mid-Year Assessment” means a diagnostic assessment given at the mid-point of a school year to evaluate students’ progress on grade-level skills in reading, mathematics, science, and writing.