

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: RULE TITLE:
1S-2.039 FVRS Voter Registration Processes
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 44, November 6, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.: RULE TITLES:
5F-8.0011 Standards Adopted
5F-8.016 Regulation of Water Parks
 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. 36, No. 5, February 5, 2010 issue of the Florida Administrative Weekly.

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) through (b) No change.

(c) F 846-92 (reapproved 2003) (~~2009~~) “Standard Guide for Testing Performance of Amusement Rides and Devices.”

(d) through (f) No change.

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

(h) through (j) No change.

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

(l) through (m) No change.

(n) F 2375-09 (2009) “Standard Practice for Design, Manufacture, Installation and Testing of Climbing Nets and Netting/Mesh Used in Amusement Rides, Devices, Play Areas, and Attractions.”

(o) through (p) No change.

(q) F 2461-09 (2009) “Standard Practice for Manufacture, Construction, Operations, and Maintenance ~~and Water Quality of Interactive Aquatic Play Equipment.~~”

(2) through (5) No change.

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

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 the all rules for safe operations patron safety set out in the owner’s operations manual and in manufacturer’s requirements.

(7) through (8) No change.

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-4.02451 Performance Standards, Skills, and
 Competencies for the Endorsement
 in English for Speakers of Other
 Languages

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. 36, No. 6, February 12, 2010 issue of the Florida Administrative Weekly.

Section 1.1.e in the publication Florida Teacher Standards for ESOL Endorsement 2010 as incorporated by reference in Rule 6A-4.02451 has been amended to read:

Domain 1: Culture (Cross-Cultural Communications)

Standard 1: Culture as a factor in ELLs’ Learning

Teachers will know and apply understanding of theories related to the effect of culture in language learning and school achievement for ELLs from diverse backgrounds. Teachers will identify and understand the nature and role of culture, cultural groups, and individual cultural identities.

Performance indicators

1.1.a – 1.1.d No change

1.1.e. Understand and apply knowledge about home/school connections to build partnerships with ELLs’ families (e.g., Parent Leadership Councils).

1.1.f No change.

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Affairs

RULE NOS.:	RULE TITLES:
9B-43.0031	Definitions
9B-43.0041	Application Process and Administrative Requirements
9B-43.0045	Specific Requirements for Competitive Categories
9B-43.0051	Grant Administration and Project Implementation
9B-43.0081	Nonrecurring CDBG Funding

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 36, No. 7, February 19, 2010, issue of the Florida Administrative Weekly.

The changes are to the proposed rule and the application manual incorporated by reference in the rule. Application manual changes include revisions, in the Housing category, to activity goal points and clarification for when sewer/ water hookups are a complementary or primary activity and, in the Neighborhood Revitalization category, a requirement that water and sewer hookups occur in a service area where other activities are occurring. Some changes are in response to comments received at a public hearing held on March 16, 2010 in Tallahassee. Other changes are technical corrections for incorrect citations, typographical errors, and other non-substantive changes.

9B-43.0031 Definitions.

The Florida Small Cities Community Development Block Grant (CDBG) Program is governed by definitions provided in the Housing and Community Development Act of 1974, as amended, and Title 24 C.F.R. 570, Subparts A, C, I, J, K, M and Appendix A, both incorporated herein by reference for use throughout this chapter, as effective on 00-00-00. These and other documents referenced in this rule are available either on the Department's CDBG program website pages or upon request from the CDBG program office. The following additional definitions are provided for clarification.

- (1) No change.
- (2) "Administrative costs" include the payment of all reasonable costs of management, coordination, monitoring, and evaluation, and similar costs and carrying charges, related to the planning and execution of community development activities which are funded in whole or in part under the Florida Small Cities Community Development Block Grant Program. Administrative costs shall include all costs of administration, including general administration, planning and urban design, and project administration costs. Excluded from administrative costs are:

(a) Architectural, engineering and associated construction observation costs where State law or 24 C.F.R. Part 85, as effective on 00-00-00, requires sealed construction documents to obtain a building permit;

- (b) through (c) No change.
- (3) No change.
- (4) through (13) No change.
- (14) "Income" means annual income as defined by the U.S. Department of Housing and Urban Development as set forth in 24 CFR Section 5.609, incorporated herein by reference, as effective on 00-00-00.
- (15) through (26) No change.

(27) One hundred year floodplain or "100 year floodplain" means the area subject to a one percent or greater chance of flooding in any given year as specified in 24 C.F.R. Section 55.2(b)(1), incorporated herein by reference, as effective on 00-00-00, and used throughout this chapter.

- (28) through (35) No change.
- (36) "Section 3" means Section 3 of the Housing and Community Development Act of 1974 ~~1968~~, as amended, and the implementing regulation, 24 C.F.R. Part 135, incorporated herein by reference, as effective on 00-00-00, relating to employment and other economic opportunities for lower income persons.

(37) through (39) No change.

Rulemaking Authority 290.048 FS. Law Implemented 290.042, 290.043 FS. History—New 5-23-06, Amended _____.

9B-43.0041 Application Process and Administrative Requirements.

- (1) through (2) No change.
- (3) Citizen Participation Requirements.

(a) The applicant shall demonstrate that the citizen participation requirements required by this rule, sections 104(a)(1) and (2) and 106(d)(5)(C) of Title I of the Housing and Community Development Act of 1974, and Section 290.046(5), F.S., with public notice provided in accordance with subsection 9B-43.0031(35) Rule 9B-43.003, F.A.C., have been satisfied. Each applicant shall certify that it is following a Citizen Participation Plan pursuant to Section 104(a)(3) of Title I of the Housing and Community Development Act of 1974. The local government must inform and involve its citizens in the project planning and selection, and decision-making process regarding all CDBG-funded projects. These requirements are:

- 1. through 4. No change.
- 5. Both public hearings shall be given proper public notice as defined in subsection 9B-43.0031(35), F.A.C. Rule 9B-43.002 Program Definitions (35), herein. The advertisement for the second public hearing on the application shall not occur until after the date of the first public hearing; and

6. No change.

(b) No change.

(4) Application Preparation and Submission.

(a) through (b) No change.

(c) Application Forms. Application forms are in the application manuals, CDBG-A-1 Application for Funding, effective as of _____, hereby incorporated into this rule by reference, ~~effective as of 00-00-00~~, and which ~~is~~ are available from the Department of Community Affairs at the address specified in the NOFA. CDBG-A-1 includes the individual applications for the different program categories of CDBG funding:

1. through 4. No change.

(d) No change.

(e) No change.

1. through 2. No change.

3. For each additional engineering service as defined in subsection 9B-43.0031(3), F.A.C., and for preliminary engineering, the local government shall negotiate a reasonable fee for the service following procurement procedures in 24 C.F.R. 85.36, incorporated herein by reference, as effective on _____ ~~00-00-00~~.

4. through 5. No change.

(f) through (h) No change.

(5) National Objective and Public Benefit Documentation.

(a) No change.

1. through 3. No change.

4. Applications must demonstrate they meet the criteria specified in 24 CFR 570.483 for complying with a national objective and per 24 CFR 570.483, that they meeting public benefit standards as outlined in 24 CFR 483, and that they address community need as outlined in Sections 290.046(3)(a)-(d), F.S. Each annual action plan will identify which national objective(s) will be considered for funding.

5. No change.

(b) Public Benefit Achievement. Determination of benefit to persons of low to moderate income is established through the following methods:

1. No change.

2. Random Sample Survey Methodology – A sample-based survey of the beneficiaries must use the “Household Income Verification Certification Form,” included located in the Application Manual, which must correspond with the random sampling requirements established by HUD in Notice CPD-05-06, issued on July 26, 2005, and incorporated herein by reference as effective on 5-23-06.

a. through b. No change.

3. through 6. No change.

(6) Beneficiaries of Public Improvements.

(a) through (b) No change.

(c) For activities where hookups or connections are required as a condition for beneficiary access to a CDBG funded public improvement, hookup or connection fees shall not be charged to very-low, low or moderate-income beneficiaries. Further, none of the project construction costs shall be charged to very-low, low or moderate income beneficiaries. All very low, low and moderate income beneficiaries in a Neighborhood Revitalization project service area with hookups as an activity shall be hooked up unless they, or the property owner in the case of rental property, provide written notice that they do not desire a hookup. If such written notice cannot be obtained, the household income survey form shall note such refusal to provide written notice.

(d) through (f) No change.

(7) Interlocal Agreements for Applicants with Activities Outside Their Jurisdiction.

(a) Prior to application submission, a written interlocal agreement shall be executed by all local governments in whose jurisdictions the CDBG activities will be undertaken. The interlocal agreement must authorize the applying local government to undertake the activities outside its jurisdiction, giving the concurrence of the other local government(s) with the activity and committing resources by one or both local governments, or some other entity which has provided written assurance, to maintain the activity. Such an interlocal agreement must be submitted with the application for funding.

(b) through (f) No change.

(8) through (9) No change.

(10) Application Scoring. Once an application is submitted to the Department, no aspect of the application may be revised to improve the score or broaden the scope of the project.

(a) No change.

(b) Community-wide Needs Scores (CWNS) for All Categories. The Department shall calculate the community-wide needs score from the most recent and uniformly available federal and State data for all jurisdictions eligible to apply. Current decennial U.S. Census data shall be used unless otherwise noted. Data shall be further defined as:

1. through 4. No change.

5. Method of Calculation. ~~All eligible local governments shall be compared on the factors identified in paragraph 9B-43.0041(10)(a), F.A.C. Eligible local governments shall be compared on each factor with all other applicants in their population group as designated in paragraph 9B-43.0041(1)(c), F.A.C. Calculating each applicant's score shall include the following steps:~~

a. Prior to calculating actual CWN scores, the Department prepares a spreadsheet that reflects the above information (numbers of persons below poverty, 1.01+ housing units and LMI population) for each eligible applicant. Eligible local governments are then compared by the three factors identified above.

Eligible applicants are compared by these factors with all other applicants in their population group:

LMI Population

1 – 499

500 – 1,249\$750,000

1,250 – 3,999

4,000 – 10,549

10,550 and above

Population groupings are based on HUD modified census figures summarizing low and moderate income population.

Calculating each applicant's score includes the following steps:

The highest statistic in each population group for each factor is the basis for relative comparison of all other eligible local governments in the population group. For each eligible local government, the percentage calculated is then multiplied by the maximum number of points available for that particular factor. The score for factors are summed for each eligible local government to determine the community-wide needs score.

~~The highest statistic in each population group for each factor identified in paragraph 9B 43.0041(10)(a), F.A.C., shall be the basis for relative comparison of all other eligible local governments in the population group.~~

~~statistic on factor _____~~

~~_____ = percentage to be used as factor multiplier~~

~~highest statistic on factor population group~~

b. through c. No change.

(c) through (h) No change.

(11) No change.

Rulemaking Authority 290.048 FS. Law Implemented 290.044, 290.046, 290.047, 290.0475 FS. History—New 5-23-06, Amended 2-26-07, _____.

9B-43.0045 Specific Requirements for Competitive Categories.

(1) Program Requirements for Neighborhood Revitalization.

(a) through (b) No change.

(c) Service Area Requirements.

1. An activity conducted in a primarily residential service area will be considered to benefit low-and moderate-income persons when at least 51 percent of the residents of that service area are low- and moderate-income persons. Such a service area must contain all households that will benefit from the activity. All activities shall meet the national objective of LMI benefit as specified in 24 C.F.R. 570.483(b), as effective on _____ 00-00-00. Sewer and water hookups shall only be performed in a service area in conjunction other activities. ~~When all construction is limited to direct benefit activities (e.g., water or sewer hookups), no service area is needed because all households benefitting from the activity must be LMI.~~

2. through 5. No change.

(2) Program Requirements for Housing.

(a) through (b) No change.

(c) Low and Moderate Income Benefit for Housing.

1. No change.

2. Activities involving rehabilitation or acquisition of property to provide housing shall be considered to directly benefit low and moderate income persons only to the extent that such housing shall, upon completion, be occupied by low and moderate income persons, and for rental units the units must be occupied by low and moderate income persons at affordable rents pursuant to 24 C.F.R. 92.252, incorporated herein by reference, as effective on _____.

3. Water or sewer hookups may ~~only~~ be performed under this category as a complementary activity in conjunction with rehabilitation of a home. Water or sewer hookups must be performed under this category if there are no other activities besides the hookups other than related activities on the property required for the hookups, such as abandonment of a septic tank or modification of plumbing.

(d) The applicant shall adopt and implement procedures to fulfill regulatory and statutory requirements relating to Lead-Based Paint pursuant to 24 C.F.R. 570.487, 24 C.F.R. ~~35 36 and 37~~, Subparts B, J and R, incorporated herein by reference, all as effective on ~~March 28, 2002~~ _____, and ~~Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 1251 et seq.)~~. The recipient is required to:

1. through 6. No change.

(e) Rehabilitation of all housing units addressed in any way with CDBG funds must be in compliance with the current Florida Building Code for Existing Buildings, as well as implementing local Building Codes and local Maintenance Codes. If housing units must be replaced, construction of new units must be in full compliance with the current Florida Building Code.

(f) When CDBG funds are expended to acquire property through a voluntary process for the purpose of assisting low and moderate-income households to relocate out of a 100 year floodplain, the following shall apply:

1. Future development of the property acquired shall be prohibited but uses which do not increase the property's impervious surface are allowed;

2. through 5. No change.

(3) Program Requirements for Commercial Revitalization. Applications submitted under this category shall be designed to preserve ~~conserve~~ and revitalize commercial areas, which serve primarily low and moderate income persons.

(a) through (b) No change.

(c) Service Area Requirements. Activities in Commercial Revitalization projects are considered to serve the entire jurisdiction in which they are to be undertaken, unless the applicant can justify a smaller service area (e.g., a CRA in a portion of a county). The applicant shall document, using census data or a survey, that least 51 percent of beneficiaries in

the service area are low and moderate-income persons. A survey shall comply with the requirements specified in paragraph subparagraph 9B-43.0041(5)(b)2, F.A.C.

(d) Requirements for Rehabilitation of Commercial Buildings. If CDBG funds will be used for rehabilitation of commercial buildings, the local government must prepare, receive Departmental approval, and then adopt procedures for providing rehabilitation assistance to building units occupied by businesses through the Rehabilitation of Commercial Buildings activity before requesting funds for that activity. The procedures shall include at a minimum, but not be limited to, the following:

1. through 5. No change.

6. Provide that businesses residing in a building rehabilitated with CDBG funds shall comply with the provisions of 24 CFR 8, (HUD's implementing regulation of Section 504 of the Rehabilitative Act of 1973 (29 U.S.C. Section 794), incorporated herein by reference, as it relates to employment discrimination and facility accessibility;

7. through 10. No change.

11. The façade ~~only~~ of a vacant building may be addressed only if it is part of an overall building façade renovation effort in a contiguous area.

12. No change.

13. CDBG funds for Commercial Revitalization activities shall not be used as grants or loans for working capital, inventory or supplies, or for interior repairs and renovations, except for repairs necessary to correct code violations or removal of architectural barriers to handicap access and correction of architectural barriers to handicap access in public buildings located in the project area pursuant to the requirements of 24 C.F.R. Part 8, adopted herein by reference, as effective _____.

(4) Program Requirements for Economic Development.

(a) Applications submitted under this category shall be for the creation or retention of jobs, of which at least 51 percent are for low and moderate income persons. A governmental entity cannot be a Participating Party.

(b) Prohibited Uses of Funds.

1. Funds shall not be used for working capital, inventory or supplies ~~or to refinance existing debt~~.

2. Direct assistance to a non-public entity shall not be in the form of a grant.

3. through 5. No change.

6. Funds cannot be used for a loan to a non-public entity which is determined not to be appropriate as defined in 24 C.F.R. 570.482(e), as effective on March 28, 2002.

(c) Eligibility Requirements for Loans.

1. Determining Eligibility for loans to non-public entities. All Economic Development applications submitted to the Department shall be screened to determine if the amount of any

loan assistance to a private, for-profit entity; a private, non-profit entity; a neighborhood based organization; a local development organization; or other ~~not for non~~-profit entities is appropriate to carry out the Economic Development project. A financial underwriting analysis of the project shall be conducted to determine that the minimum amount of assistance is being requested, that the terms and interest rates are appropriate given the entity's debt service capacity, and that the entity has the ability to meet the proposed debt service, given historical financial statements, data and reasonable projections of revenues and operating expenses, if applicable.

2. No change.

3. If based on the Department's review of the financial underwriting analysis for the assistance, the funds requested exceeds the funds necessary, the application request shall be reduced by the Department.

4. The local government shall provide to the Department a financial underwriting analysis and other Participating Party documentation not required at the time of application. The underwriting analysis must meet the requirements of 24 C.F.R. Section 570.482(e), as effective on March 28, 2002, and Appendix A. The underwriting analysis must be prepared by a certified public accountant, a commercial lending underwriter, a financial professional employed by the local government or the Participating Party, or some other financial or economic development professional, and shall verify:

a. through f. No change.

5. through 6. No change.

(d) through (h) No change.

(5) No change.

Rulemaking Authority 290.048 FS. Law Implemented 290.043, 290.044, 290.046 FS. History--New _____.

9B-43.0051 Grant Administration and Project Implementation.

(1) Environmental Review. CDBG subgrant recipients must comply with the procedures set forth in 24 CFR Part 58, Environmental Review Procedures for Title I Community Development Block Grant Programs, incorporated herein by reference, and 40 CFR Section 1500-~~1508~~ 45-8, National Environmental Policy Act Regulations, incorporated herein by reference, both as effective on 00-00-00.

(2) Procurement. CDBG funds shall be used to obtain commodities and services only in accordance with written procurement procedures adopted by the recipient and shall comply with the provisions of 24 C.F.R. Section 85.36, incorporated herein by reference, as effective on 00-00-00, and for covered professional services contracts, Section 287.055, F.S. (Consultants Competitive Negotiation Act).

(a) Any procurement which requires public notice in a newspaper based on the local CDBG procurement policy shall be published in a daily newspaper of general circulation in a

nearby federal Office of Management and Budget (OMB) designated metropolitan statistical area (MSA). Alternatively, a local government may substitute such notice with any solicitation procedure which generates at least three responsible and responsive bids or proposals which can be considered. Such procedure shall allow at least 12 days for receipt of the proposals or bids.

(b) through (c) No change.

(d) Under Section 290.047(5), F.S., a local government is permitted to contract with the same entity for more than one service, provided that the local government can document that the entity is either (i) the sole source or (ii) was determined, through the Request for Proposals process, to be the proposer most advantageous to the local government. ~~Different Unlike~~ services, such as program administration and engineering services, shall not be combined in a single contract except for design-build contracts procured in accordance with Section 287.055, F.S. If separate procurements result in one firm selected for application and administration services, those services may be combined into one contract provided there are separate scopes of work and a separate fee for each service.

(e) through (h) No change.

(3) through (6) No change.

(7) Audit Requirements.

(a) The annual financial audit report ~~shall~~ ~~should~~ be accompanied by management letters and the recipient's response to all findings, including corrective actions to be taken. A Single Audit under OMB Circular A-133, incorporated herein by reference, as effective on _____ 00-00-00, or an attestation statement that a Single Audit is not required, must be received from a local government with either an open or administratively closed contract by the June 30 deadline date, or a penalty will be assessed. A 25 point penalty will be assessed for audits not received by the June 30 deadline. A 10 point penalty will be assessed for attestation statements not received by the June 30 deadline. The penalty will expire two years from the date that the audit or attestation statement was received.

(b) through (f) No change.

(8) Displacement and Relocation.

(a) No change.

(b) If the CDBG ~~project funded activity~~ involves the acquisition of real property by the local government, regardless of whether such acquisition is funded from the CDBG grant, or causes displacement of persons or businesses, the local government shall comply with 49 CFR 24 (the implementing regulation of the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970"), incorporated herein by reference, as effective on _____ 00-00-00 federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," as amended shall apply. For activities resulting in displacement of persons or businesses that do not involve the acquisition of real property, and thus not

subject to the "Uniform Act," the local government's local written policy shall identify the assistance it elects to provide for such persons or businesses.

(c) No change.

(9) through (11) No change.

(12) Direct Benefit. The eligibility of households receiving direct benefit, including water or sewer hookups, shall be established no earlier than one year before the work is performed. Eligibility documentation shall include third party ~~documentation verification~~ of household income and source(s) regardless of the value of the direct benefit.

Rulemaking Authority 290.048 FS. Law Implemented 290.044, 290.046, 290.047, 290.0475 FS. History--New 5-23-06, Amended 2-26-07, _____.

9B-43.0081 Nonrecurring CDBG Funding.

(1) No change.

(2) The objective of nonrecurring disaster funding is to address disaster relief, long-term recovery, ~~and~~ to restore housing and infrastructure, and other activities allowed under the applicable Federal Register notice, particularly that which affects persons who are of low and moderate income that suffered damage or loss as a result of the disaster. Funds may be made available to both Urban Entitlements and participants of the Florida Small Cities CDBG Program, federally designated Indian Tribes and nonprofit organizations.

(3) through (9) No change.

(10) Amendments. All proposed subgrant agreement amendments must be approved by the Department.

(a) Documentation Required. All proposed subgrant agreement amendments must be approved by the Department.

1. through 6. No change.

~~7. Signature of the Chief Elected Official on Form DCA 07.02, Request for Amendment, provided by the Department upon request, which is hereby incorporated by reference, or documentation from the local governing body authorizing the proposed amendment.~~

(11) No change.

Rulemaking Authority 290.048 FS. Law Implemented 290.043 FS. History--New _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.:

RULE TITLE:

40D-2.091

Publications Incorporated by Reference

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. 52, December 31, 2009 issue of the Florida Administrative Weekly.

Section 7.3 8. of Part B, Basis of Review of the Water Use Permit Information, which is incorporated by reference in Rule 40D-2.091, F.A.C., is changed to address concerns from the Joint Administrative Procedures Committee. The change provides that compliance with certain permitting criteria by applicants and permittees in the Northern Tampa Bay Water Use Caution Area are subject to the Comprehensive Plan set forth in Rule 40D-80.073, F.A.C., as specified by the Plan.

Section 7.3 8. Of Part B of the Basis of Review of the Water Use Permit Information Manual, incorporated by reference in paragraph 40D-2.091(1)(a), F.A.C., will now reads as follows:

Water Use Permit Information Manual

Part B, Basis of Review

7.0 WATER USE CAUTION AREAS

7.3 NORTHERN TAMPA BAY WATER USE CAUTION AREA

1. through 7. No change.

8. Compliance with the Comprehensive Plan.

Compliance by permittees with the standard permitting criteria for wetlands, lakes, streams, springs and aquifer levels set forth in Sections 4.2, 4.3.A and 4.5 of Part B, Basis of Review, Water Use Permit Information Manual incorporated in Rule 40D-2.091, F.A.C., shall be as specified in the Comprehensive Plan set forth in Rule 40D-80.073, F.A.C. In all other respects, permittees shall be governed by the criteria set forth in Rule 40D-2.301, F.A.C.

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

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

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 35, No. 52, December 31, 2009 issue of the Florida Administrative Weekly.

Changes are made to address concerns from the Joint Administrative Procedures Committee. The changes include language to provide that the recovery and mitigation actions to be undertaken by the permittee for the eleven wellfields described in the proposed rule are generally applicable requirements for all permittees with groundwater withdrawals of 90 MGD or greater in the Northern Tampa Bay Water Use

Caution Area. The changes also renumber existing subsections and incorporate by reference a funding agreement referenced in the District’s current rules. The changes are shown below.

40D-80.073 Comprehensive Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area, and the Hillsborough River Strategy.

(1) Overview.

This rule sets forth the Minimum Flows and Levels Recovery Strategy and Environmental Resources Recovery Plan for the Northern Tampa Bay Water Use Caution Area (the “Comprehensive Plan”). The Comprehensive Plan addresses water use permittees whose withdrawals are located within the Northern Tampa Bay Water Use Caution Area (“NTBWUCA”). Within the NTBWUCA, certain wetlands, lakes, streams, springs and aquifer levels have been impacted by lower groundwater levels resulting from groundwater withdrawals. Within the area of surficial aquifer impacts as generally depicted in Figure 80-1, the Central System Facilities, as described below, account for the majority of groundwater withdrawals. For this reason, the Central System Facilities are the primary focus of the Comprehensive Plan as other users’ water withdrawals result in relatively minimal water resource impacts within the area generally depicted on Figure 80-1. The objective of this Comprehensive Plan is to achieve recovery of MFL waterbodies and avoidance and mitigation of unacceptable adverse impacts to wetlands, lakes, streams, springs and aquifer levels. The provisions of the Comprehensive Plan specifically applicable to permittees with groundwater withdrawals of 90 MGD or greater (“90 MGD Facilities”), including Tampa Bay Water’s Central System Facilities, are contained in subsections 40D-80.073(2) and (3), F.A.C., below. All other water use permittees are addressed in subsections 40D-80.073(4) and (8), F.A.C., below. Other provisions applicable to permittees are included in subsections 40D-80.073(5), (6), and (7), F.A.C. The Comprehensive Plan is effective through December 31, 2020.

(2) 90 MGD Facilities, including Tampa Bay Water’s Central System Facilities.

(a) From the 1930’s through the 1990’s eleven wellfields were developed within the ~~NTBWUCA Northern Tampa Bay Water Use Caution Area~~. Those wellfields are Cosme-Odesa, Eldridge-Wilde, Section 21, South Pasco, Cypress Creek, Cross Bar Ranch, Starkey, Morris Bridge, Northwest Hillsborough Regional, Cypress Bridge and North Pasco, and are collectively hereinafter referred to as the Central System Facilities. The Central System Facilities are operating under Water Use Permit No. 2011771 (the “Consolidated Permit”). Groundwater withdrawals from the Central System Facilities have caused lowered aquifer levels in and near the Central System Facilities. In 1974, pursuant to Chapter 373, F.S., the District established a permitting system to assure that such use is consistent with the overall objectives of the District and is not harmful to the water resources of the area.

(b) Pursuant to Chapter 96-339, Laws of Florida, the District established Minimum Flows and Levels for priority waters within Pasco, Hillsborough and Pinellas Counties which became effective in 2000. Those Minimum Flows and Levels are contained within Chapter 40D-8, F.A.C. The District determined that groundwater withdrawals have contributed to existing water levels and flows in many of these priority waters being below the established Minimum Flows or Levels. To address unacceptable adverse impacts caused by the Central System Facilities, the District implemented a recovery strategy, ~~and mitigation plan (“Recovery and Mitigation Plan”)~~, the first phase of which occurred between 1998 and 2010 and resulted in the phased reduction of the permitted withdrawal rate of the Central System Facilities from 158 Million Gallons per Day (MGD) in 1998 to 121 MGD in 2003, and to 90 MGD on a 12-month moving average basis in 2008. The recovery strategy included the District and Tampa Bay Water and its Member Governments entering into the Northern Tampa Bay New Water Supply and Ground Water Withdrawal Reduction Agreement (the “Agreement”) in 1998. The Agreement has constituted that portion of the first phase of the District’s recovery strategy that is specifically applicable to the Central System Facilities. The Agreement has governed the development of new water supplies, reduction of groundwater withdrawals, litigation and administrative hearings between the District, Tampa Bay Water and its Member Governments. The Agreement also governed the District’s financial assistance to Tampa Bay Water to develop the new water supplies and achieve the reduction of groundwater withdrawals from the Central System Facilities. The Agreement expires on December 31, 2010. Consistent with the Agreement, Tampa Bay Water has constructed an enhanced surface water system, which includes a surface water treatment facility (which treats surface water flows from the Alafia River, the Tampa Bypass Canal and the Hillsborough River), an offstream reservoir, the Brandon Urban Dispersed Wellfield, a seawater desalination facility, and an integrated regional delivery system. Further, Tampa Bay Water has reported that the Member Governments have exceeded the 17 MGD reduction in water demand through conservation contemplated under the Agreement. Water supplied by these facilities and conservation allowed Tampa Bay Water to meet the required phased reductions in groundwater withdrawals.

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

(d) Since the Central System Facilities supply potable water to Pinellas, Pasco, and Hillsborough counties and evaluation of the effect of the reduced withdrawal rate has not been completed, the District has determined it is in the public

interest and consistent with the objectives of the District to develop this Comprehensive Plan ~~a second phase of the Recovery and Mitigation Plan~~. This section sets forth the regulatory portion of the second phase of the recovery strategy ~~and addresses mitigation~~ Recovery and Mitigation Plan.

(e) ~~The provisions of subsection 40D-80.073(2), F.A.C., are This Recovery and Mitigation Plan~~ is a comprehensive approach to address unacceptable adverse impacts and Minimum Flows and Levels impacts to wetlands, lakes, streams, springs and aquifer levels caused by groundwater withdrawals from 90 MGD Facilities, including the Central System Facilities. This Plan sets forth the criteria to address recovery to Minimum Flows and Levels as well as avoidance and mitigation of unacceptable adverse environmental impacts as described in Sections 4.2, 4.3, and 4.5 in Part B, Basis of Review, of the Water Use Permit Information Manual, incorporated by reference in Rule 40D-2.091, F.A.C. ~~The Comprehensive Plan This Recovery and Mitigation Plan~~ allows renewal of permits for 90 MGD Facilities, including the Consolidated Permit based, in part, on continued environmental assessment and mitigation, and further development of a plan to avoid or mitigate unacceptable adverse impacts to wetlands, lakes, streams, springs and aquifer levels attributable to groundwater withdrawals from 90 MGD Facilities, including the Central System Facilities.

(f) 90 MGD Facilities, including the Central System Facilities, Withdrawals and Duration – 90 MGD Facilities, including ~~t~~The Central System Facilities, shall be limited in the renewal of their permits, including the Consolidated Permit as follows:

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

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

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

(i) Permittees of 90 MGD Facilities, including Tampa Bay Water, demonstrate ~~demonstrates~~ the date that the Reservoir cannot produce water supply and the renovation project has begun, and

(ii) No change.

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

(iv) Permittees of 90 MGD Facilities, including Tampa Bay Water and its member governments, demonstrate that they have complied with any Board or Executive water shortage or emergency order relating to water supply.

b. No change.

c. During the Exception Period, permittees of 90 MGD Facilities, including Tampa Bay Water, shall maximize ~~their~~ its authorized use of alternative water supply sources, including the Alafia River and Hillsborough River/Tampa Bypass Canal system, the desalination plant and other available interconnected sources in order to minimize groundwater withdrawals from 90 MGD Facilities, including the Central System Facilities. A monthly report demonstrating the maximized use of these sources shall be submitted to the District.

d. During the Exception Period, permittees of 90 MGD Facilities, including Tampa Bay Water and its Member Governments, shall comply with any Board or Executive water shortage or emergency order relating to Permittees of 90 MGD Facilities, including Tampa Bay Water’s or a Member Government’s water supply.

e. The District shall notify a permittee of 90 MGD Facilities, including Tampa Bay Water, of the beginning and ending dates of the Exception Period.

f. No change.

g. Permittees of 90 MGD Facilities, including Tampa Bay Water, shall use ~~their~~ its best efforts to minimize the period of the renovation project and reduce the duration of the Exception Period.

(g) Operations Plan

1. Optimization of 90 MGD Facilities, including Tampa Bay Water’s Central System Facilities, is critical to the success of ~~this the second~~ phase of the ~~Comprehensive Recovery and Mitigation~~ Plan. To this end, permittees of 90 MGD Facilities, including Tampa Bay Water, shall continue to implement and refine ~~an~~ the Operations Plan which was submitted to the District as part of the first phase of the ~~recovery strategy~~ ~~Recovery and Mitigation Plan~~. Permittees of 90 MGD

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

2. The Operations Plan shall:

a. Define how the permittee, including Tampa Bay Water, will operate 90 MGD Facilities, including the Central System Facilities;

b. Provide the protocol under which the permittee, including Tampa Bay Water will select among 90 MGD Facilities, including the Central System Facilities, to meet demand;

c. Provide the protocol under which the permittee, including Tampa Bay Water, will rotate among 90 MGD Facilities, including the Central System Facilities, to avoid or minimize environmental stresses;

d. Rely upon groundwater ~~ground-water~~ elevation target levels in the aquifer systems as a surrogate for water levels in wetlands and lakes, and flows in streams and springs at a specified set of existing and proposed monitor wells, to gauge environmental stresses in and around 90 MGD Facilities, including the Central System Facilities, the wellfields wherein increased groundwater ~~ground-water~~ elevations will denote reduced environmental stresses;

e. Include procedures for analyzing relationships between the distribution and rate of withdrawal at 90 MGD Facilities, including the Central System Facilities, the well fields, flow rates in rivers and streams; and the associated Floridan, and surficial aquifer system levels, using available models;

f. Include procedures for selecting optimal scenarios for the distribution and rate of groundwater ~~ground-water~~ withdrawals from 90 MGD Facilities, including the Central System Facilities, the well fields using available mathematically-based optimization software, based on projected demand and operating system constraints, such that groundwater ~~ground-water~~ levels in the surficial aquifer system are maximized according to a specified weighting/ranking system as a surrogate for water levels in wetlands and lakes and flow in rivers and streams.

g. through i. No change.

(h) Environmental Management Plan, Phase 1 Mitigation Plan, and ~~Consolidated~~ Permit Recovery Assessment Plan – An essential component of ~~this the second~~ phase of the ~~Comprehensive Recovery and Mitigation~~ Plan is Tampa Bay Water's continued assessment of unacceptable adverse environmental impacts related to groundwater withdrawals from the Central System Facilities. During the recovery strategy period, first phase of the Recovery and Mitigation Plan, Tampa Bay Water developed an Environmental Management Plan ("EMP") and a Phase 1 Mitigation Plan. Under this ~~second~~ phase of the ~~Comprehensive Recovery and Mitigation~~ Plan, Tampa Bay Water shall continue to implement the EMP and the Phase 1 Mitigation Plan, and permittees of 90 MGD Facilities, including Tampa Bay Water shall develop a ~~Consolidated~~ Permit Recovery Assessment Plan, all as described below.

1. The ~~EMP Environmental Management Plan~~ ("EMP") that was developed for the Central System Facilities during under the recovery strategy period first phase of the Recovery and Mitigation Plan addresses the monitoring of water resources and environmental systems in the vicinity of the Central System Facilities, assesses water resources and environmental systems for impact by groundwater withdrawals from the Central System Facilities, and coordinates with Tampa Bay Water's Operations Plan to facilitate wellfield

operational changes to address persistent water level impacts attributed to Central System Facility withdrawals. A revised EMP shall be submitted with the renewal application for the Consolidated Permit and shall be implemented throughout the duration of the renewed Consolidated Permit. EMPs shall be submitted with renewal applications for all other 90 MGD Facilities. A new or a ~~The~~ revised EMP shall, as applicable:

a. Identify and propose a list or a revised list of monitoring sites within the areas potentially affected by the 90 MGD Facilities or the Central System Facilities and unaffected control/reference sites;

b. Define and describe the monitoring and data collection methods and reports utilized for documenting the hydrologic and biologic conditions of surface water bodies in and near the 90 MGD Facilities or Central System Facilities; and

c. Describe the process used to determine impacts to water bodies in and near the 90 MGD Facilities or Central System Facilities and the procedures used to attempt corrective action through Operations Plan changes.

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

3. The ~~Consolidated~~ Permit Recovery Assessment Plan will evaluate the recovery of water resource and environmental systems attributable to reduction of the groundwater withdrawals from the 90 MGD Facilities or Central System Facilities, as applicable, to a long-term average of 90 MGD, identify any remaining unacceptable adverse impacts caused by the 90 MGD Facilities or Central System Facilities withdrawals, as applicable, at a long-term average rate of 90 MGD, and will identify and evaluate potential options to address any remaining unacceptable adverse impacts at the time of the renewal of 90 MGD Facilities permits or the

Consolidated Permit renewal in 2020. The remaining unacceptable adverse impacts will be determined through an update of the assessment of impact previously performed as part of the Phase 1 Mitigation effort. As part of this effort, permittees of 90 MGD Facilities, including Tampa Bay Water, shall:

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

b. Submit status reports to the District on a frequency to be defined in the renewed permit for 90 MGD Facilities and the Consolidated Permit demonstrating ongoing progress of the development of the ~~Consolidated~~ Permit Recovery Assessment Plan throughout the duration of this ~~second~~ phase of the Comprehensive Recovery and Mitigation Plan.

c. Submit the final results of the ~~Consolidated~~ Permit Recovery Assessment Plan with the application for the second renewal of 90 MGD Facilities, including the Consolidated Permit, in 2020.

4. Nothing contained in this rule shall be construed to require permittees of 90 MGD Facilities, including Tampa Bay Water, to be responsible for more than its proportionate share of impacts to a Minimum Flow and Levels waterbody that fails to meet, due to impacts from groundwater ~~ground-water~~ withdrawals, the established minimum flow or level.

(i) Water Conservation – Water conservation as a means to reduce demand for withdrawals is a key element of the Comprehensive Recovery and Mitigation Plan. The issuance of Wholesale Water Use Permits for Member Governments of permittees of 90 MGD Facilities whose withdrawals and use are not covered by other water use permits is essential to this element. Until Wholesale Water Use Permits are obtained by the Member Governments of permittees of 90 MGD Facilities, as required by Chapter 40D-2, F.A.C., each permittee of 90 MGD Facilities, including Tampa Bay Water, shall report on the permittee's Authority's, as applicable, and the Member Governments' per capita rates, water losses, reclaimed water use, residential water use, and the following measures to reduce water demand. During the term of the renewed permit, permittees of 90 MGD Facilities, including Tampa Bay Water, shall only be responsible for reporting data for any Member Government that does not have a water use permit or a wholesale water use permit that requires such reporting. In the year following the year in which a Member Government is required by permit to report this data, the permittees of 90 MGD Facilities, including Tampa Bay Water, shall no longer be required to submit the data on behalf of the Member Government. This Report shall detail the evaluation of the below-listed measures, the findings and conclusions, and the schedule for implementing selected measures.

1. Toilet rebate/replacement.
2. Fixture retrofit.

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

In addition to the above, permittees of 90 MGD Facilities, including Tampa Bay Water, shall report the quantity of water distributed from each source and the recipients and non-Member Government information required by the Public Supply Annual Report.

(3) Recovery Management – The reductions in groundwater withdrawals required for the Central System Facilities were the principal means of achieving the objective of the first phase of the recovery strategy ~~Recovery and Mitigation Plan~~. The use of sound decision protocols to determine groundwater withdrawal distribution and assessment of the remaining impacts at or below 90 MGD on a 12-month moving average basis are necessary components of the Comprehensive Plan ~~this second phase of the Recovery and Mitigation Plan~~. The Floridan Aquifer Recovery Management Levels set forth in Table 80-1 below shall be used as long-term guidelines for allocating groundwater withdrawals within the Operations Plan. The Floridan Aquifer Recovery Management Levels are based on the hydrogeologic properties and environmental conditions in the Northern Tampa Bay Area, and are set to advise and guide in determining planned groundwater withdrawal rates, but not as the sole basis by which the District will approve or disapprove the Operations Plan and any amendments or updates.

Table 80-1 No change.

(4) No change.

(5) Supplemental Hydration of Wetlands and Lakes.

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

(6) No change.

(7) 2020 Evaluation of the Comprehensive Plan.

The District shall review the information available during 2020 to determine whether it is sufficient to fully assess remaining impacts from Tampa Bay Water’s Central System Facilities at a withdrawal rate of 90 MGD on a 12-month moving average basis. This information will be considered when developing a strategy for the second renewal of the Consolidated Permit and ~~another a third~~ phase of the Comprehensive Plan. Additionally, the District will determine whether ~~another the third~~ phase of the Comprehensive Plan is necessary to address other permittees.

(8) Hillsborough River Strategy.

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

(a) The District and the City have entered into the Joint Funding Agreement Between The Southwest Florida Water Management District and The City of Tampa For Implementation of Recovery Projects To Meet Minimum Flows of the Lower Hillsborough River, dated October 19, 2007, (the “Funding Agreement”), which is incorporated herein by reference. A copy of the Funding Agreement is available from the District upon request. The Funding Agreement and subsection 40D-80.073(8), F.A.C., constitute the District’s recovery strategy for the Lower Hillsborough River required by Section 373.0421(2), F.S., and shall not compromise public health, safety and welfare.

(b) 1. through 2. No change.

3. Sulphur Springs Project.

a. By October 1, 2009, and as specified in the Funding Agreement incorporated in paragraph (8)(a) above, the City shall complete the modification of the lower weir to provide to the base of the dam all available flow from Sulphur Springs not needed to maintain the minimum flow for manatees as set forth in paragraph 40D-8.041(2)(b), F.A.C.

b. No change.

c. By October 1, 2012, and as specified in the Funding Agreement incorporated in paragraph (8)(a) above, the City is to provide to the base of the dam all available flow, from Sulphur Springs not needed to maintain the minimum flow for Sulphur Springs as set forth in paragraph 40D-8.041(2)(a), F.A.C.

(i) through (ii) No change.

d. No change.

4. Blue Sink Analysis – By October 1, 2010, and as specified in the Agreement incorporated in paragraph (8)(a) above, the City in cooperation with the District shall complete a thorough cost/benefit analysis to divert all available flow from Blue Sink in north Tampa to a location to help meet the minimum flow or to the base of the City’s dam.

5. Transmission Pipeline Evaluation – By October 1, 2010, and as specified in the Funding Agreement incorporated in paragraph (8)(a) above, the City shall complete a thorough design development evaluation to construct a water transmission pipeline from the TBC middle pool to the City’s David L. Tippin Water Treatment Facility, including a spur to just below the City’s dam.

6. Blue Sink Project – By October 1, 2011, and as specified in the Funding Agreement incorporated in paragraph (8)(a) above, the City will provide all available flow from Blue Sink project to help meet the minimum flow provided that all required permits are approved, and it is determined that the project is feasible. Once developed, all water from this source shall be used to the extent that flow is available to help meet the minimum flow for the Lower Hillsborough River.

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

a. through e. No change.

8. through 9. No change.

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

Figure 80-1 No change

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-4.025

RULE TITLE:
Assistive Care Services

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 36, No. 5, February 5, 2010 issue of the Florida Administrative Weekly.

The amendment to Rule 59G-4.025, F.A.C., Assistive Care Services, incorporates by reference in rule the Florida Medicaid Assistive Care Services Coverage and Limitations Handbook, July 2009. The following changes have been made to the handbook.

Page 1-1 Legal Authority. Paragraph two is changed to read as follows: "The Florida Medicaid Assistive Care Services Program is authorized by Chapter 409; Section 409.906(25), Florida Statutes (F.S.), and Rule 59G-4.025, Florida Administrative Code (F.A.C.)."

Page 1-5 Assistive Care Provider Responsibilities.

Number 9 is changed to read as follows: "Provide all ACS recipients with a personal needs allowance (PNA) in an amount equal to that set by Rule 65A-2.036, F.A.C."

Number 12 is changed to read as follows: "Comply with the requirements of Rule Division 59G, F.A.C., the Florida Medicaid Provider General Handbook; the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, and the Assistive Care Services Coverage and Limitations Handbook."

APPENDIX C

Page C-1 ACTIVITIES. Paragraph is changed to read as follows: "The activities on this form match those listed on the Department of Elder Affairs Health Assessment Instrument, DOEA Form 701B, and the service components on the Certification for Medical Necessity for Assistive Care Services, AHCA-Med Serv Form 035. If the individual does not need any help with an activity, check "Independent."

Page C-3 MANAGING MONEY. Paragraph is changed to read as follows: "Assistance includes: Facility staff manages resident's funds as Representative Payee or Power of Attorney. Such assistance must comply with Section 429.24, Florida Statutes.

Example of an expected outcome for managing money: Resident's funds will be spent as desired by the resident."

Page C-4 Completion of Service Plan. The second bullet is changed to read as follows:

The service plan must be signed by the resident except:

- If the resident has a representative or designee established pursuant to Section 429.02, Florida Statutes, that person may sign the form on the resident's behalf.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

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

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 36, No. 5, February 5, 2010 issue of the Florida Administrative Weekly.

The amendment to Rule 59G-4.340, F.A.C., incorporates by reference the Florida Medicaid Visual Services Coverage and Limitations Handbook, updated January 2010. The following revision has been made to the handbook.

Page 1-2 of the Visual Services handbook has been changed as follows:

- Provider Qualifications
- Licensure

To enroll as a Medicaid visual service provider, the applicant must be currently licensed to practice as an:

- Ophthalmologist under Chapter 458, F.S.;
- Optometrist under Chapter 463, F.S.; or
- Optician as defined under Chapter 484, Part 1, F.S.

Note: See Chapter 2 in the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, for additional information regarding out-of-state providers and services. All Medicaid Provider Handbooks are available on the Medicaid Web Portal at <http://mymedicaid-florida.com>. Select Public Information for Providers, Provider Support, and Provider Handbooks.

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-13.083
 RULE TITLE: Developmental Disabilities Waiver Services

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 9, March 5, 2010 issue of the Florida Administrative Weekly.

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. There are approximately 10,000 providers of Developmental Disabilities Home and Community-Based Waiver that will be required to comply with the changes in the Coverage and Limitations Handbook that is incorporated by reference. The changes are the result of recommendations made by a work group of advocates, waiver service providers, and staff from the Agency for Persons with Disabilities and the Agency for Health Care Administration. The changes will benefit effected providers by reducing the reporting requirements by service.

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.

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE NOS.:	RULE TITLES:
60BB-10.003	Participant Eligibility Requirements
60BB-10.007	Position Requirements
60BB-10.009	Reapplying for Temporary Cash Assistance Due to an Unanticipated Emergency

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 36, No. 5, February 5, 2010 issue of the Florida Administrative Weekly.

60BB-10.003 Participant Eligibility Requirements.

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

- (1) through (2) No change.
- (3) Be an individual who meets the following requirements:
 - (a) through (c) No change.
 - (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) No change.

60BB-10.007 Position Requirements.

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

- (a) No change.
- (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; ~~and~~

(d) Provide the same wages, benefits, and working conditions as are provided to other employees who are performing a substantially equivalent job.

(2) No change.

(3) In no case will a position be subsidized for more than 12 months.

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 receiving a short-term non-recurring diversion service 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. Consistent with subsection 65A-4.212(3), F.A.C., 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 ~~exists~~ the regional workforce board designee must so indicate on Form AWI SEP 0001(b). If a demonstrated emergency exists, the individual will not be required to repay the value of short-term non-recurring diversion services; however, the individual must complete the work registration process ~~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 short-term non-recurring diversion 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.

The Rulemaking Authority for Rules 60BB-10.001 through 60BB-10.009 is changed as follows: Section 445.004(5)(c), Florida Statutes.

RULEMAKING AUTHORITY: 445.004(5)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE 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.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NOS.:	RULE TITLES:
61A-1.0101	Product Displays Exception
61A-1.01010	Expendable Retailer Advertising Specialties Exception

- 61A-1.01011 Durable Retailer Advertising Specialties Exception
- 61A-1.01012 Consumer Advertising Specialties Exception
- 61A-1.01013 Inside Signs Advertising Brands Exception
- 61A-1.01014 Brand Images
- 61A-1.01015 Advertising Vendor Locations Where Brand Sold Exception
- 61A-1.01018 Trade Shows and Conventions Exception
- 61A-1.0102 Private Labels
- 61A-1.01021 Split or Mixed Cases Exceptions
- 61A-1.01022 Combination Packages
- 61A-1.01024 Alcoholic Beverage Samples Exception
- 61A-1.0103 Consumer Premium Offers Exception
- 61A-1.0104 Consumer Sweepstakes, Drawings, or Contests Exception
- 61A-1.0105 Vendor's Property Included in Contests or Sweepstakes Exception
- 61A-1.0106 Vendor-Sponsored Tournaments Exception
- 61A-1.0107 Returns of Damaged Products
- 61A-1.0108 Returns of Undamaged Products

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 34, No. 3, January 18, 2008 issue of the Florida Administrative Weekly.

61A-1.0101 Product Displays Exception.

(1) ~~Industry members~~ ~~Manufacturers and distributors~~ may give, loan, or sell alcoholic beverage product displays to vendors, for use on a vendor's licensed premises, to include wine racks, bins, barrels, casks, shelving, or similar product display items which are separated from a vendor's ordinary shelves and used primarily to hold and display factory sealed products of the provider for sale to customers at room temperature or cold. Such displays shall not have, or be used to provide, a any secondary function, other than advertising, which would such as that function to provided by equipment, including refrigeration; furniture; or other fixtures.

(2) ~~Industry members~~ ~~Manufacturers and distributors~~ may transport, install, assemble and disassemble their own product displays on a vendor's licensed premises. Industry members may require the vendor to purchase a minimum amount of the product advertised on the display in a quantity necessary for the completion of the display.

(3) The value of any product display, excluding transportation, installation, and disassembly costs, shall not exceed \$300 per brand, and the total value of all product displays at any one time on any one vendor's licensed premises

shall not exceed \$300 per brand. Industry members ~~Manufacturers and distributors~~ shall not pool or combine dollar limitations in order to provide a vendor a product display valued in excess of \$300 per brand.

(4) The product display shall bear product or industry member information that is conspicuous and permanently inscribed or securely affixed to the product display. The vendor's name, business name, website address, logo, and address may be part of the product display.

(5) Payments of slotting fees for alcoholic beverages shall not be made to vendors. A slotting fee is defined as any form of assistance given by an industry member ~~manufacturer or distributor~~ to a vendor to purchase or rent additional, particular, favorable, or dedicated display, shelf, cooler, storage or warehouse space for alcoholic beverages.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History--New_____.

61A-1.01010 Expendable Retailer Advertising Specialties Exception.

(1) When the specialties advertise wine or spirituous beverages, wine or spirituous beverages industry members ~~manufacturers and distributors of wine or spirits~~ may give or sell, and when the specialties advertise malt beverages, malt beverages industry members ~~manufacturers and distributors of malt beverages~~ may sell, at a cost not less than the actual cost of the industry member who purchased them, expendable retailer advertising specialties of nominal value such as coasters; paper, plastic or styrofoam cups; foam scrapers; placemats; back bar mats; menu cards; meal checks; paper napkins; trays; thermometers; alcoholic beverage lists; and similar specialties. Alcoholic beverage lists, menus, and menu cards shall not contain any information other than advertising, alcoholic beverages, and prices. If a manufacturer or distributor provides a vendor with glassware, pitchers, carafes or similar containers made of other materials, such containers are not expendable retailer advertising specialties, and shall be sold at a cost not less than the actual cost of the industry member who purchased them.

(2) The specialties may advertise a brand or industry member. The vendor's name, business name, website address, logo, and business address may be printed on these specialties items, which shall be intended for use by the vendor or consumers on the vendor's licensed premises.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History--New_____.

61A-1.01011 Durable Retailer Advertising Specialties Exception.

~~When the specialties advertise malt beverages, manufacturers and distributors of malt beverages may sell, at a cost not less than the actual cost of the industry member who purchased them, without limitation in total value of such specialties~~

~~provided to a vendor, durable retailer advertising specialties including pool table lights, mirrors, clocks, calendars, and similar specialties bearing substantial advertising material. Durable retailer advertising specialties have a secondary value or purpose, which makes them more than inside signs, but shall not include product displays, equipment, furnishings, or furniture. If the durable retailer advertising specialties are loaned or rented, then the manufacturer or distributor may service such specialties. Such specialties shall only be intended for use on a vendor's licensed premises.~~

~~(1) Durable retailer advertising specialties shall bear permanently inscribed, substantial advertising intended to promote the brand or industry member being advertised, and differ from inside signs in that they have a secondary function. Such secondary function is limited to passive functions only, such as providing illumination, reflection, the time, the date, or similar limited functions.~~

~~(a) Durable retailer advertising specialties include pool table lights, picnic-table umbrellas, mirrors, clocks, calendars and similar specialties.~~

~~(b) Durable retailer advertising specialties do not include, product displays, equipment (refrigerators, grills), furniture (tables, chairs), other furnishings (wallpaper, deck awnings), or other fixtures (sinks, dishwashers) and similar items which exceed the passive function limitation. Additional examples of items that are not durable retailer advertising specialties are entertainment equipment (televisions, radios, computers), sports equipment (footballs, soccer goals), amusement or leisure equipment (table games, dart boards) and recreational equipment (tents, bicycles, canoes).~~

~~(2) Wine or spirituous beverages industry members may give or sell durable retailer advertising specialties to a vendor, for use only on a vendor's licensed premises, when such specialties advertise wine or spirituous beverages.~~

~~(3) Malt beverages industry members may rent, loan or sell durable retailer advertising specialties to a vendor, for use only on vendor's licensed premises, when such specialties advertise malt beverages.~~

~~(a) When an industry member sells such specialties to a vendor it shall be at a cost not less than the actual cost of the industry member who purchased them.~~

~~(b) Without limitation in total value, such specialties may be loaned or rented without charge for an indefinite duration and the industry member may maintain and service such specialties.~~

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New _____.

61A-1.01012 Consumer Advertising Specialties Exception.

(1) When the specialties advertise wine or spirituous beverages, wine or spirituous beverages industry members ~~manufacturers and distributors of wine or spirits~~ may give or

sell to a vendor consumer advertising specialties of nominal value bearing substantial brand or industry member advertising designed to be carried away by the consumer, including trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, T-shirts, caps, visors, and similar specialties.

(2) When the specialties advertise malt beverages, malt beverage industry members ~~manufacturers and distributors of malt beverages~~ may sell to a vendor consumer advertising specialties of nominal value bearing substantial brand advertising designed to be carried away by the consumer, including trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, T-shirts, caps, visors, and similar specialties to vendors at no less than the actual cost of the industry member who initially purchased them, unless the manufacturer or distributor gives the items directly to consumers on the vendor's licensed premises.

(3) Industry members ~~Manufacturers and distributors~~ shall not provide assistance to a vendor for allowing the industry member ~~manufacturer or distributor~~ to give specialties directly to consumers on the vendor's licensed premises.

(4) The vendor's name, business name, website address, logo, and business address may be printed on these specialties items.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New _____.

61A-1.01013 Inside Signs Advertising Brands Exception.

(1) Industry members ~~Manufacturers and distributors~~ may give, sell, lend, or furnish inside signs advertising brands to vendors such as neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material authorized by Sections 561.42(1), (11), and (12), F.S., to be displayed or used in the interior of a vendor's licensed premises. The signs must advertise brands sold by the vendor.

(2) The signs may include the vendor's name, business name, website address, logo and business address; however, identification of vendors shall be relatively inconspicuous in relation to the entire advertisement. The only additional information permitted on the sign is price or a space for the price of the alcoholic beverage product advertised on the signs.

(3) Vendors shall not have more than one neon or electric sign per manufacturer's brand in its window or windows.

(4) Items that provide a secondary function, such as providing the time, the date, reflection, or reading light, shall be considered durable retailer advertising specialties.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New _____.

61A-1.01014 Brand Images.

(1) Industry members ~~A manufacturer or distributor~~ may provide to any vendors without conditions copy-ready images of alcoholic beverage brands, brand logos, industry member logos, responsibility messages, or products in any format.

(2) "Copy-ready" images are those images ready to be reproduced for immediate use in advertising.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.01015 Advertising Vendor Locations Where Brand Sold Exception.

(1) If an advertisement includes two or more unaffiliated vendors, industry members ~~manufacturers and distributors~~ may use vendors' names and addresses in brand advertisements to indicate vendors from whom consumers can purchase the advertised brands. Unaffiliated vendors are those vendors not affiliated through having common ownership, being members of the same pool buying group, or being members of the same advertising cooperative. The advertisement shall identify vendors relatively inconspicuously in relation to the entire advertisement. Such advertising is not considered cooperative advertising as long as no vendor shares in the cost of the advertising.

(2) Industry members ~~Manufacturers and distributors~~ shall not underwrite any vendor's publications or events through the purchase of advertising or sponsorships.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.01018 Trade Shows and Conventions Exception.

(1) Industry members ~~Manufacturers and distributors~~ may participate in non-profit vendor association trade shows and conventions. Participation may include:

- (a) Displaying products;
- (b) Renting display space at normal trade show rates;
- (c) Paying normal registration fees;
- (d) Purchasing tickets to functions;
- (e) Providing samples to attendees;
- (f) Conducting tastings for attendees;
- (g) Providing hospitality independent of sponsored activities by the association or any member vendors; and

(h) Purchasing advertisements in publications distributed during conventions and trade shows. Payments for all such advertisements shall not exceed \$300 per year to any non-profit vendor association.

(2) Industry members ~~A malt beverage manufacturer or distributor~~ may provide any expendable retailer advertising specialties, durable retailer advertising specialties, or consumer advertising specialties to a non-profit vendor association. ~~Where the specialties advertise malt beverages, S~~such

specialties may only be provided pursuant to the conditions and limitations of Rules 61A-1.01010, 61A-1.01011, and 61A-1.01012, F.A.C.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.0102 Private Labels.

(1) Beer, wine, and spirituous liquors may be manufactured under a vendor's trademark. The vendor may be the exclusive outlet for the product if the vendor maintains ownership of the trademark. The vendor shall not set the price of private label products with the manufacturer or distributor. Pricing shall be independently established by the manufacturer and the distributor.

(2) When a vendor's business name is the same as the brand name, the vendor may display an outside sign so long as the purpose of the sign is clearly to promote the business name and not the alcoholic beverage brand.

(3) The vendor may be paid royalties and other contractual payments if the right to the trademark is sold by the vendor.

Rulemaking Authority 561.11, 561.42, 563.045(4), 564.045(6), 565.095(6) FS. Law Implemented 561.08, 561.42 563.045(1), 564.045(5), 565.095(5) FS. History–New_____.

61A-1.01021 Split or Mixed Cases Exception.

Distributors may offer a split or mixed case containing more than one brand or more than one size of the same brand of alcoholic beverage to vendors. Distributors must have, and uniformly follow, a written policy applying to all vendors if an add-on fee is charged for any split or mixed cases.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.01022 Combination Packages.

Industry members ~~Manufacturers and distributors~~ may package and distributors may offer and sell to vendors, non-alcoholic beverages or products combined packaged with alcoholic beverages in an integrated package that is ready for sale to the consumer.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.01024 Alcoholic Beverage Samples Exception.

(1) A distributor may give a sample of distilled spirituous beverages ~~spirits~~, wine, or malt beverages to a vendor if that vendor has not purchased the brand or received a sample of the brand within the preceding twelve months. However, if ownership of a distributor or vendor is transferred to a new entity, the distributor is eligible to give, and the vendor is eligible to receive, new samples.

(2) Samples of malt beverages shall not exceed three gallons per brand to each licensed premises; samples of wine shall not exceed three liters per brand to each licensed premises; and samples of spirituous beverages ~~spirits~~ shall not exceed three liters per brand to each licensed premises.

(3) If a particular product is not available in a size within the quantity limitations of this section, a distributor may furnish to a vendor the next larger size.

(4) Any withdrawal of tax paid samples from the inventory of a distributor as permitted herein must be substantiated by an invoice to a licensed vendor. The invoice shall include:

- (a) Distributor’s name and address.
- (b) Date invoice was prepared.
- (c) Identification of the product as a sample.
- (d) Identification of salesman.
- (e) Name and address and license number of the vendor.
- (f) Brand name.
- (g) Number of containers and size of containers used in sampling.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.0103 Consumer Premium Offers Exception.

(1) Premium offer means value-added merchandise, travel, or services held out to consumers in exchange for their purchase of an alcoholic product, sometimes referred to as “product gift” or “gift with sales promotion.”

(2) ~~Industry members~~ ~~Manufacturers and distributors~~ may furnish premium offers on products to consumers with proof of purchase and may provide vendors with point-of-sale advertising and order forms.

(3) ~~The p~~ Premium offers shall be made available to all vendors who wish to participate. The premium offers shall be offered in quantities reasonably calculated to accommodate the individual vendor’s level of sales during the promotion period. The premium ~~offers~~ shall not be placed on any vendor’s licensed premises for display.

(4) The vendor’s name, business name, website address, logo, and business address may be printed on these premiums items.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.0104 Consumer Sweepstakes, Drawings, or Contests Exception.

(1) ~~Industry members~~ ~~Manufacturers and distributors~~ may provide entry forms, rules, advertising materials, and a box or other similar container in which to collect completed entry forms to vendors. These advertising materials must be offered to all vendors who wish to participate in quantities reasonably calculated to accommodate the individual vendor’s level of sales during the promotion period. The prize or giveaway shall not be placed on any vendor’s licensed premises for display.

(2) Sweepstakes, drawings, and contests shall not require proof of purchase to enter and shall be open for the general public to participate; however, no vendor or vendor’s employee or agent shall be eligible to participate or win. A means of entry may be provided with a purchased alcoholic beverage, so long as an alternative means of entry not requiring a purchase is made available.

(3) Vendors shall not collect completed entry forms, and the selection of winners shall not occur at a vendor’s place of business. Any completed entry forms deposited on the vendor’s licensed premises shall be collected by the industry member ~~manufacturer or distributor~~. Live or electronic contests sponsored by industry members ~~manufacturers or distributors~~ shall not be held at a vendor’s place of business.

Rulemaking authority 561.11 FS. Law Implemented 561.08, 561.42 FS, History–New_____.

61A-1.0105 Vendor’s Property Included in Contests or Sweepstakes Exception.

(1) ~~Industry members~~ ~~Manufacturers and distributors~~ may administer consumer contests and sweepstakes that include a vendor’s property as the prize. However, the contest or sweepstakes shall not be a joint venture with a vendor. Any contest or sweepstakes prizes purchased by the industry member ~~manufacturer or distributor~~ shall be purchased at a cost which is not more than the cost charged to the general public. Any room rental fee paid by the industry member ~~manufacturer or distributor~~ to the vendor shall be no more than the vendor’s normal rate.

(2) ~~Industry members~~ ~~Manufacturers and distributors~~ may use the names and pictures of the vendor’s properties related to prizes awarded to consumers. Any reference to a vendor, other than the identification of the specific property included in the contest or sweepstakes, shall be relatively inconspicuous in relation to the total advertisement or entry form.

Rulemaking Authority 561.11 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.0106 Vendor-Sponsored Tournaments Exception.

~~Industry members~~ ~~Manufacturers and distributors~~ may participate in vendor-sponsored tournaments and contests but must pay no more than normal entry fees. Industry members ~~Manufacturers and distributors~~ shall not advertise, co-sponsor, underwrite, or contribute in time, money, gifts or provide any other assistance prohibited by Section 561.42(1), F.S.

Rulemaking authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

61A-1.0107 Returns of Damaged Products.

(1) Vendors who make a request for return of ~~may return~~ ~~damaged products to distributors.~~ ~~Vendors shall notify distributors of damaged products received from the distributor within fifteen ten days after delivery~~ may receive in order to

obtain a credit or exchange of product, cash, or a credit against outstanding indebtedness. Products are damaged if they exhibit product deterioration, leaking containers, damaged labels or missing or mutilated tamper evident closures. Damaged products shall be verified by the distributor's representative prior to issuing a credit or exchange. Damaged products shall be exchanged in exact quantities with products of near or equal value made by the same manufacturer and in the same size containers unless a credit or cash is issued at the time of the return with supporting documentation. Products damaged by vendors or vendors' customers shall not be returned to the distributor for cash, credit or exchange and will be the vendor's liability.

(2) Distributors shall maintain records of vendor requests for return of damaged products with reference made to the original invoice showing the delivery date and any credit memo issued. Distributors shall make and keep a transaction record of all exchanges detailing the date, the licensed vendor, business name and address, the vendor's license number, and the product exchanged for products, cash, or credit.

(3) No return of the product shall be permitted if the vendor's request is made more than ~~fifteen~~ ~~ten~~ days after the delivery date, except in the following circumstances: unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective _____. This form may be obtained from the Department's website at <http://www.myflorida.com/dbpr/abt/index.html>.

(a) Recall. When a manufacturer has issued a product recall that affects multiple unaffiliated vendors, as defined in Rule 61A-1.01015, F.A.C., the recalled product may be returned for exchange, cash, or credit as provided in subsection (1) of this rule.

(b) Product Deterioration. When a product has deteriorated due to manufacturing or packaging problems, the product may be returned for exchange, cash, or credit as provided in subsection (1) of this rule. No product may be returned due to deterioration that could have occurred because of vendor conduct; because of any event that occurred on the vendor's premises; or because of any event that occurred after the product was transferred to the vendor.

(4) If product is returned in excess of fifteen days after receipt using the exception listed in paragraph (3)(a) of this rule, documentation of the recall must be maintained with the record made by the distributor pursuant to subsection (1) of this rule. If product is returned in excess of fifteen days after receipt using the exception listed in paragraph (3)(b) of this rule, the product must be inspected and verified by the distributor and the division prior to the return. Documentation of the verification must be added to the record made by the distributor pursuant to subsection (1) of this rule. All records must be made available to the division upon request.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History—New _____.

61A-1.0108 Returns of Undamaged Products.

(1) ~~Distributors shall not make consignment sales to vendors.~~ Vendors who make a request for return of undamaged products within ~~ten~~ five days after delivery may receive shall be entitled to cash or a credit against outstanding indebtedness within ten days after the request and at the same time the distributor picks up the products. Distributors must make and keep a transaction record of all exchanges detailing the request, the date, the licensed vendor, business name and address, the vendor's license number, and the product returned for cash, or credit. The distributor shall document the request on the credit or refund memo. The five-day requirement excludes days that either the vendor or the distributor are closed for business.

(2) No return of the product shall be permitted if the vendor's request is made more than ~~ten~~ five days after the delivery date, except in the following circumstances: unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective _____.

(a) Products which may no longer be lawfully sold. Any situation where, due to a change in regulation or administrative procedure over which the vendor or employee/agent of the vendor has no control, i.e. a particular brand or size is no longer permitted to be sold, may be corrected through return of the product for cash or credit against outstanding indebtedness.

(b) Termination of business. Any time a vendor terminates operations products on hand at the time of termination may be returned for cash or credit against outstanding indebtedness. This does not include a temporary seasonal shutdown.

(c) Change in product. Any time a vendor's inventory of product has been changed in formula, proof, label, or container, the product may be returned for equal quantities of the new version of the product. This does not include the return or exchange of products for which there is only a limited or seasonal demand, such as holiday decanters and certain distinctive bottles.

(d) Discontinued products. Any time the production or importation of a product is discontinued, a vendor's inventory of the discontinued product may be returned for cash or credit against outstanding indebtedness.

(e) Seasonal dealers. Any time a vendor who is only open for a portion of the year, has product remaining at closure that will spoil in the off-season, those products may be returned for cash or credit against existing indebtedness.

(3) If product is returned in excess of ten days after receipt using the exceptions listed in paragraphs (2)(a) through (e) of this rule, documentation of the qualifying event must be maintained with the record made by the distributor pursuant to subsection (1) of this rule. All records must be made available to the division upon request.

(4) Distributors shall not make consignment sales to vendors. Vendors shall not attempt the return or exchange of product because the product is overstocked or slow-moving.

Rulemaking Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History--New_____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NOS.:	RULE TITLES:
61D-14.002	Application Requirements
61D-14.005	Occupational License Requirements for Individual Persons
61D-14.006	Occupational License Application Requirements for Business Entities
61D-14.008	Occupational License Renewal Application

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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.002 Application Requirements.

(1) through (a) No change.

(b) Be filed on Form DBPR PMW-3400, Permitholder Application for Annual Slot Machine License, effective _____, adopted herein by reference, which form is also listed in Rule 61D-15.001, F.A.C., and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035; and incorporated by Rule 61D-15.001, F.A.C.;

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

2. Form DBPR PMW-3460, Request for Release of Information and Authorization to Release Information, effective _____, adopted herein by reference, which form is also listed in Rule 61D-15.001, F.A.C., and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035, and incorporated by Rule 61D-15.001, F.A.C.; authorizing the division and FDLE to obtain any record held by a financial or public institution.

(h) through (k) No change.

(l) Include a complete Form DBPR PMW-3470, Surety Bond for Florida Slot Machine Licensee, effective _____, adopted herein by reference, which form is also listed in Rule 61D-15.001, F.A.C., and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035 and incorporated by Rule 61D-15.001, F.A.C. This form provides proof of a bond,

in the amount of at least 2 million dollars (\$2,000,000.00) payable to the Governor of the State of Florida and his or her successors in office. The bond required by this section must:

1. through 2. No change.

3. State that upon the principal's failure to comply with Chapter 551, F.S., and Chapter 61D-14, F.A.C., including ~~but not limited to the principal's~~ failure to promptly pay all gaming fees and taxes when due and demanded, the Director of the Division of Pari-Mutuel Wagering of the Department of Business and Professional Regulation (DBPR) may make demand upon the surety for the payment of the amount of the default to also include any fines or administrative penalties imposed as a result of a default by said principal up to but not to exceed the amount of its liability as defined by this bond;

4. through 6. No change.

7. Include the signatures of the Corporate President, Secretary, and attorney in fact (as required) and Florida Registered Agent Resident Agent licensed in the State of Florida, and the printed name and address of that Registered Resident Agent.

(m) through (n) No change.

(o) Include a copy of each policy required by Sections 551.104(4)(i);

(p) Provide a list summarizing all administrative, civil, or criminal proceedings initiated by any governmental agency or entity, including all judgments or final decisions entered in such proceedings, that would affect the license status of the applicant or any affiliate of the applicant pursuant to Sections 550.054, 550.1815, and 551.104, F.S., as well as additionally provide, when specifically requested by the division, copies of any complaint, pleading, and any final order, judgment, or other final disposition in any such administrative, civil, or criminal proceeding. Include a copy of:

~~1. All administrative, civil, or criminal proceedings that have been initiated by any governmental agency or any other state or federal agency and all judgments entered as the result of any completed proceedings that would affect the license status of the applicant or any affiliate of the applicant pursuant to Sections 550.054, 550.1815, and 551.104, F.S.; and~~

~~2. Each complaint, pleading, and any final order, judgment, or other final judicial disposition for each administrative, civil, or criminal proceeding disclosed.~~

(q) through (4)(b) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented ~~49.07,~~ 551.103(1)(a), (b), (f), (g), 551.104(4), (10), 551.106(1), 551.118 FS. History--New 6-25-06, Amended_____.

61D-14.005 Occupational License Requirements for Individual Persons.

(1) through (a) No change.

1. Will be a security, ~~surveillance~~, or supervisory employee who requires access to the slot gaming floor of a slot machine facility, or a surveillance employee;

2. through (c) No change.

(2) As part of the initial application for or renewal of a slot machine occupational license provided in Section 551.107, F.S., an applicant shall submit the following information on Form DBPR PMW-3410, Slot Machine Individual Occupational License Application, effective _____, or Form DBPR PMW-3415, Slot Machine Individual Occupational License Renewal Application, effective _____, adopted herein by reference, which forms are also listed in Rule 61D-15.001, F.A.C., and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035; and incorporated by Rule 61D-15.001, F.A.C.;

(a) through (3)(c)2. No change.

3. Any period of unemployment in excess of one month in the previous ten years.

(d) No change.

(e) A Form DBPR PMW-3460, Authorization for Release of Information, adopted by reference in Rule 61D-14.002, F.A.C., and incorporated by Rule 61D-15.001, F.A.C.; signed by the individual.

(4) No change.

(a) A duly completed original Form DBPR PMW-3410, Slot Machine Individual Occupational License Application, adopted by reference in subsection (2) above, and incorporated by Rule 61D-15.001, F.A.C.; in accordance with subsection (3);

(b) through (7) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(b), 551.107(4)(a), 551.108 FS. History—New 6-25-06, Amended 12-6-06, _____.

61D-14.006 Occupational License Application Requirements for Business Entities.

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

(2) An application for a business slot machine occupational license shall be made on Form DBPR PMW-3420, Slot Machine Business Entity Occupational License Application, effective _____, adopted herein by reference, which form is also listed in Rule 61D-15.001, F.A.C., and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035, which is adopted and incorporated by Rule 61D-15.001, F.A.C.

(3) Failure to include the following information as required by Form DBPR PMW-3420, Slot Machine Business Entity Occupational License Application, adopted by reference

in subsection (2) above, which is adopted and incorporated by Rule 61D-15.001, F.A.C.; shall constitute grounds to deny the incomplete license application:

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

2. A Form DBPR PMW-3460, Authorization for Release of Information, adopted by reference in Rule 61D-14.002, F.A.C., and incorporated by Rule 61D-15.001, F.A.C.; signed by the individual.

(i) through (k) No change.

1. A list ~~of~~ of the applicable license, permit, or registry required in order to participate in any legal gaming operation, including any license which has been relinquished in lieu of prosecution;

2. No change.

3. A copy of all court ~~and~~ or administrative records regarding any denial, suspension, or revocation of a license, permit, or certification issued by any governmental agency.

(l) through (o)2.a. No change.

b. A copy of all court ~~and~~ or administrative records concerning the charge and final order regarding any crime for which the corporation or officer or director was convicted.

3. No change.

(4) The following exemptions apply if a business entity chooses to submit itself for consideration under the requirements of paragraph (1)(c) above for the division's approval. The following changes and agreement of terms of such submission apply regarding that entity's Form DBPR PMW-3420, Slot Machine Business Entity Occupational License Application, adopted by reference in subsection (2) above, and incorporated by Rule 61D-15.001, F.A.C.; and any subsequent enforcement action regarding the business entity or entity employee's conduct:

(a) through (c) No change.

~~(d) The information required on Form DBPR PMW 3430, Business Entity Internal Control Information, adopted and incorporated by Rule 61D-15.001, F.A.C., shall be limited to that business activity conducted within the State of Florida;~~

~~(d)(e)~~ The business entity remains responsible for all required certifications as to accuracy of the information contained on the application for that business entity, notwithstanding the fact the Senior Manager represents the entity on that application; and

~~(e)(f)~~ The entity's Form DBPR PMW-3420, Slot Machine Business Entity Occupational License Application, adopted by reference in subsection (2) above, and incorporated by Rule 61D-15.001, F.A.C.; shall be signed by an officer qualified to bind the corporation at the corporate level to contracts and similar agreements. The corporate officer's signature shall attest to the accuracy and completeness of all information submitted on the application, without reservation; ~~and~~

~~(g) All other requirements for application pursuant to this rule remain unchanged.~~

(5) through (9) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(a), (b), 551.107 FS. History–New 7-30-06, Amended

61D-14.008 Occupational License Renewal Application.

(1) The application for renewal of a slot machine occupational license shall ~~be made under oath~~ and include:

(a) A completed original Form DBPR PMW-3415, Slot Machine Individual Occupational License Renewal Application, adopted by reference in Rule 61D-14.005, F.A.C., or Form DBPR PMW-3425, Slot Machine Business Entity Occupational License Renewal Application, effective _____, adopted herein by reference, which forms are also listed in Rule 61D-15.001, F.A.C., and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035; and incorporated by Rule 61D-15.001, F.A.C.; and

(b) The fees to be paid as provided in Rule 61D-14.011, F.A.C.; and

(c) through (5)(a) No change.

(b) Longer than one year after expiration of the original license shall be required to make application using Form DBPR PMW-3410, Slot Machine Individual Occupational License Application, adopted by reference in Rule 61D-14.005, F.A.C., and incorporated by Rule 61D-15.001, F.A.C.; and shall provide the information required pursuant to Rule 61D-14.005, F.A.C.

(6) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(a), (b), 551.107(4) FS. History–New 6-25-06, Amended

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-14.0055
RULE TITLE: Temporary Individual Slot Machine Occupational License

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 44, November 6, 2009 issue of the Florida Administrative Weekly.

61D-14.0055 Temporary Individual Slot Machine Occupational License.

(1) The division shall issue a temporary individual slot machine occupational license, general or professional, when the following conditions are met within 30 days of receipt of the application submitted pursuant to subsection 61D-14.005(2), F.A.C.:

(a) through (4)(b) No change.

Rulemaking Authority 551.103(1), 551.1045, 551.122 FS. Law Implemented 551.1045, 551.107 FS. History–New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-14.020
RULE TITLE: Excluded Persons
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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.020 Excluded Persons.

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

(3) The excluded person’s name shall be entered on each slot machine licensee’s Exclusion List, and each slot machine licensee shall make every reasonable effort to remove any ensure that the listed individual ~~is excluded~~ from its facility facilities.

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

~~(e) If obtainable, a photograph, and the date of the photo or a photo taken by the slot machine licensee’s surveillance department;~~

~~(e)(f)~~ A brief explanation of why the person has been excluded; and

~~(f)(g)~~ The length of time of exclusion that includes the start date of exclusion.

(5) If obtainable, a photograph of the excluded person shall be kept on file in the surveillance department.

~~(6)(5)~~ If the slot machine licensee withholds winnings from any excluded person, such withheld winnings shall be included in the slot machine licensee’s revenues pursuant to subsection 61D-14.081(5), F.A.C.

~~(7)(6)~~ The slot machine licensee’s agents or employees shall immediately inform the slot machine licensee’s security department whenever an excluded person enters or attempts to enter, or is found present at a slot machine licensee’s facility from which that person has been excluded. The security department shall:

~~(a) Immediately notify the division or FDLE of the presence of the excluded person in any area of the gaming establishment;~~

~~(a)(b)~~ Request such excluded person to not enter or if on the premises to immediately leave; and

~~(b)(e)~~ Notify the appropriate law enforcement agency and the division if such excluded person fails to comply with the request of the licensee, its agents or employees.

~~(7) Permitting a person excluded by a final order of the division to remain at a slot machine licensed facility is a violation of these rules.~~

(8) If a slot machine licensee seeks to remove an individual from the Exclusion List who has excluded himself or herself, the licensee must notify the division at 1400 W. Commercial Blvd., Ft. Lauderdale, FL 33309, at least 14 days prior to the requested removal date. The request shall be delivered on the date of the request to the division. The slot machine licensee shall submit a request to the division that includes the following information on the individual the licensee seeks to remove from the Exclusion List:

(a) through (h) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(g), (i), 551.112, 551.118 FS. History—New 6-25-06, Amended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: RULE TITLE:
61D-14.023 Slot Machine Doors and
 Compartment
 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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.023 Slot Machine Base Doors.

All slot machine external base cabinet doors shall be permanently sealed or locked. If the facility chooses to lock the external base cabinet door, the facility shall employ a division approved keyed lock for that purpose.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1) FS. History—New 6-25-06, Amended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: RULE TITLE:
61D-14.036 Slot Machine Tournament
 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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.036 Slot Machine Tournament.

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

(c) Disable normal mode of play ~~Default to disabled for the tournament mode of play option~~ for those machines selected for tournament play.

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

(e) Not communicate any accounting information to the facility based monitoring system during tournament play.

(5) The facility based monitoring system shall create an electronic entry in the event log for any slot machine entered into tournament mode.

~~(a) Logically remove all games enabled for tournament play from the normal recording sequence for reporting purposes; and~~

~~(b) Record each time a specific slot machine is used for tournament play.~~

(6) No change.

(7) The slot machine licensee shall provide a report of electronic meter readings from its facility based monitoring system to the division for each of its slot machines designated for tournament play immediately before the machine is enabled in the tournament mode of play and after the machine is returned to normal mode of play. ~~is:~~

~~(a) Enabled; and~~

~~(b) Disabled.~~

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1) FS. History—New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: RULE TITLE:
61D-14.038 Percentage Payout and Odds
 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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.038 Percentage Payout and Odds.

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

(b) The actual number of plays since the installation of the game for the game's lifetime;

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

~~(b) Remove the game from play;~~

~~(b)(e)~~ Recompute the slot machine game payout percentage using the FBMS; and

~~(c)(d)~~ Determine whether the recomputation of the payout percentage reveals that the slot machine game falls within or outside of the volatility range.

~~(8) Based on the result of the recomputations required in subsection (6) of this rule, the slot machine licensee shall either:~~

~~(a) Return the slot machine game to play if the recomputed payout percentage is within the volatility range; or~~

~~(b) Contact an independent test laboratory licensed by the state to investigate the slot machine game if the recomputed payout percentage is not within the volatility range. The slot machine licensee shall require the laboratory to investigate the~~

slot machine game's operation and provide the licensee with a written recomputation of the payout percentage and a determination that the slot machine game is operating within or outside of its volatility range.

(9) If, in two consecutive quarterly reports, a slot machine game fails to remain within its volatility range, the division will verify the slot machine licensee shall remove the slot machine game from play until the slot machine game operating software program is replaced with an operating software program that meets the requirements of the testing in subsection (1) of this rule.

(10) through (c) No change.

(d) Any record regarding software operating program verification by the division programs were replaced pursuant to subsection (9)(8) of this rule.

(11) The records generated under this rule shall be maintained consistent with Rule 61D-14.080, F.A.C.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(c), (d), (e), (h), 551.104(4)(j) FS. History—New 6-25-06, Amended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-14.041
 RULE TITLE: Randomness Requirements and Game Play Auditing

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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.041 Randomness Requirements and Game Play Auditing.

(1) through (3) No change.

(4) For purposes of this rule “false hope” or “extra visual encouragement” or “subliminal message” is defined as:

(a) Any system representation of a letter, word, message, symbol, sign, or gaming outcome that can not be seen by the naked eye alone that may encourage continued slot machine play; or

(b) Any letter, word, message, symbol, sign, or gaming outcome that may be detected scientifically through slow motion execution of the program in a frame-by-frame analysis revealing a letter, word, message, symbol, sign, or gaming outcome that is otherwise not immediately discernable by the naked eye during credit play.

(5) No slot machine authorized for play in Florida shall (after selection of the game outcome) display:

(a) Any letter, word, message, symbol, sign, or gaming outcome, however briefly, that constitutes false hope or extra visual encouragement or subliminal message of any nature; or

(b) A variable secondary decision after the selection of the game outcome; or

(c) Any letter, word, message, symbol, or sign that indicates the patron is getting close to a win or that the chance to win is improved by another play.

(6) Prior to submitting a game to an independent test laboratory licensed by the state (laboratory) for examination, the manufacturer and/or distributor seeking certification of the machine and/or game shall provide written certification to the laboratory as part of the final game approval documentation that the manufacturer and/or distributor has:

(a) Performed a line-by-line review of all source code not previously certified for use in Florida;

(b) Ensured that the code provides the reviewer with accurate descriptive labeling, header comment blocks, and lists of subroutines sufficient to permit thorough review and analysis;

(c) Certified to the laboratory that all code modules are directly and actively related to the audio and video conduct of game play, record retention, monitoring system operation and/or troubleshooting;

(d) Certified that the game does not violate any of the language in Rule 61D-14.041, F.A.C., and that the game does not display any letter, word, message, sign, symbol, or gaming outcome, however briefly, which constitutes false hope or extra visual encouragement to continue play, or subliminal message of any nature.

(7) As part of the final certification to the division, the laboratory shall provide written certification as part of the final game testing documentation attesting to the fact that as part of its examination of the machine and/or game for compliance with Florida Statutes, the laboratory has:

(a) Performed a line-by-line review of the source code;

(b) Found that the code provides the laboratory with accurate descriptive labeling, header comment blocks, and lists of subroutines sufficient to permit thorough review and analysis;

(c) Certified that all code modules are directly and actively related to the audio and video conduct of game play, record retention, monitoring system operation and/or troubleshooting;

(d) Not found any unused or unexplained code modules present during the laboratory examination; and

(e) Certified that the machine and/or game complies with the language in Rule 61D-14.041, F.A.C., does not display any letter, word, message, symbol, sign, or gaming outcome, however briefly, which constitutes false hope, extra visual encouragement to continue play, or a subliminal message of any nature.

(4)(8) The laboratory shall include a copy of each of the certifications required under this rule as part of the formal approval documentation certifying the machine and/or game for play in Florida to the division.

~~(5)(9)~~ Any misstatements, omissions or errors in the required certification provided by either the laboratory or the manufacturer and/or distributor is a violation of rules governing slot machine gaming.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(c), (e), (g) FS. History—New 7-5-06, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-14.044
 RULE TITLE: Identification of Program Storage Media, and Slot Machine Technical Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.044 Identification of Program Storage Media, and Slot Machine Technical Requirements.

(1) All program storage media, both writable or non-writable, including EPROMs, Digital Versatile Disc (DVD), Compact Disk – Read Only Memory (CD-ROM), and any other type of program storage media devices shall:

(a) Be marked with information to identify the software and revision level ~~of the information stored in the devices;~~

(b) through (6) No change.

(a) Require a supervisor's ~~intervention and~~ authorization ~~to correct;~~

(b) Be recorded in a machine an error accounting correction log that shall:

1. Be maintained in each slot machine under that slot machine's serial number;

2. through (10)(c) No change.

(d) Not be cleared automatically, but shall require division approval of and presence for a full RAM clear that is performed by a slot machine ~~lead~~ technician the facility has determined to be qualified to perform the task or a more senior employee.

(11) through (14) No change.

(a) Sustained loss ~~Loss~~ of communication with the FBMS ~~for longer than 90 minutes;~~

(b) through (19)(a) No change.

1. Cease further game play;

2. through (20)(d) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(c), (d), (e), (f), (g) FS. History—New 8-13-06, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-14.047
 RULE TITLE: Facility Based Monitoring System and Computer Diagnostics

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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.047 Facility Based Monitoring System and Computer Diagnostics.

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

(b) Not permit a configuration setting change that causes an obstruction or interruption to the electronic accounting meters, affect the integrity of the slot machine, or communications without a RAM clear as provided in subsection 61D-14.044~~(11)(8)~~, F.A.C.

(3) For the purposes of this rule, an interface element is any system component external to the operation of a slot machine that assists in the collection and processing of data sent to the FBMS, such as a slot machine interface board (SMIB). All interface elements shall:

(a) through (4)(a) No change.

(b) Secure Encrypt all accounting data communications in accordance with the facility's internal controls.

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

(7) The FBMS shall create:

~~(a) Not permit the alteration of any accounting or event log information without the approval of a supervisor;~~

~~(b) Create~~ an audit log for any alterations of any accounting or event log information. The audit log must include at least:

~~(a)1-~~ The name of the data element altered;

~~(b)2-~~ The value of the data element:

~~1.a-~~ Prior to data alteration; and

~~2.b-~~ After data alteration.

~~a.3-~~ The time and date of alteration for each data element alteration event; and

~~b.4-~~ The identification of the:

~~a-~~ The individual who performed the alteration; ~~and~~

~~b-~~ The supervisor approving the alteration.

(8) through (b) No change.

(9) The data contained in the FBMS shall be backed-up ~~or saved daily in some form of back-up data records maintained~~ on removable computer storage media. The back-up data records shall be sufficient to reconstruct the entire day's activity.

(a) In addition to the requirements of Rule 61D-14.080, F.A.C., a readily accessible ~~ready~~ copy of the back-up data records shall be stored for a minimum of 120 days secured in an industry standard two-hour fire and water resistant storage device either on-site or ~~at an~~ off-site ~~location~~.

(b) through (11)(a) No change.

(b) Keep a log of all error conditions ~~Notify the system administrator of any error condition;~~

(c) through (13)(l) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(e), (g), (i), 551.104(4)(f) FS. History—New 8-13-06, Amended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: RULE TITLE:

61D-14.053 Key Controls

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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.053 Key Controls.

(1) through (4)(c) No change.

(d) The name and designated slot licensee ~~occupational license~~ number of the security person escorting the employee with the key to the secure area as a second signature signing out the key;

(e) The name and designated slot licensee ~~occupational license~~ number of the security person issuing the key;

(f) The name and designated slot licensee ~~occupational license~~ number of the employee and security person, providing the escort, returning the key; and

(g) through (5)(c) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(b), (e), (g), (i), 551.104(4)(h) FS. History—New 6-25-06, Amended.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: RULE TITLE:

61D-14.075 Jackpot and Credit Meter Payouts Not Paid Directly From the Slot Machine

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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.075 Jackpot Payouts Not Paid Directly From the Slot Machine.

(1) through (2)(c)4.b. No change.

(3) Each series of manual jackpot payout slips shall be a ~~three-part form that is:~~

(a) A three-part form in a bound booklet from which the original and first duplicate jackpot payout slips may be detached while the second duplicate jackpot payout slip remains in the bound booklet; and inserted in a locked jackpot payout dispenser system. The jackpot payout dispenser system shall:

1. ~~Permit all three parts of individual jackpot payout slips in the series to be written upon simultaneously while still in the dispenser; and~~

2. ~~Discharge the original and duplicate jackpot payout slips while the triplicate jackpot payout slip remains in a continuous unbroken form in the jackpot payout dispenser system;~~

(b) Maintained so that only those employees responsible for controlling all unused jackpot payout slips identified in sub paragraph (2)(c)3. of this rule:

1. Control and account for the unused supply of jackpot payout slips; and

2. ~~Place all jackpot payout slips in the locked jackpot payout dispenser system;~~

3. Take the completed booklets of the second duplicate Remove the triplicate copies of those jackpot payout slips to the accounting department for reconciliation. issued from the locked jackpot payout dispenser system; and

4. ~~Control access to the triplicate copy of the jackpot payout slips at all times.~~

(c) Under constant surveillance coverage over the use and storage of the booklets as provided in the facility's internal controls.

(4) through (5)(c) No change.

(d) The date and time the jackpot occurred; and

(e) The amount to be paid from the cashier's cage; ~~and~~

~~(f) The time of preparation of the jackpot payout form.~~

(6) through (9)(b)2. No change.

a. The slot machine licensee shall notify the surveillance department to provide coverage of the slot machine area involved; remove the designated slot machine involved in the jackpot from play; retain all surveillance records regarding the designated slot machine; notify the division FDLE of the jackpot and broken or tampered division security tape; and secure the designated slot machine until such time as the division representative FDLE investigator may make a determination regarding the jackpot;

b. A An FDLE and division representative shall conduct an investigation, including a verification check of game-related storage media and obtain confirmation that all documents are complete and legible;

c. through (11)(b) No change.

(c) Include all details of each cash/prize jackpot option transaction on Form DBPR PMW-3680, Slot Jackpot Prize/Cash Option Report, effective _____, adopted herein by reference, which form is also listed in Rule 61D-15.001, F.A.C., and can be obtained at www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035, which is adopted and incorporated by Rule 61D-15.001, F.A.C.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(c), (d), (g), (i) FS. History—New 6-25-06, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NOS.:	RULE TITLES:
61D-14.096	Requirement for Shipment of All Slot Machines and Software Components
61D-14.097	Responsibility for Control of Slot Machine or Slot Machine Component Shipment
61D-14.098	Slot Machine Seal

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. 21, May 29, 2009 issue of the Florida Administrative Weekly.

61D-14.096 Requirement for Shipment of All Slot Machines and ~~Software Slot Machine~~ Components.

(1) This rule applies to the shipment of any slot machine or ~~software slot machine~~ component, such as EPROMs, flash cards, or CDs/DVDs, as defined in Chapter 551, F.S., and Chapter 61D-14, F.A.C., whether the item or items are being shipped into, out of, or within the State of Florida to a:

(a) through (e) No change.

(2) The information and material required to request shipment of any slot machine or ~~software slot machine~~ component shall include the following:

(a) The submission of a completed paper or electronic Form DBPR PMW-3900, Slot Machine and Component Application for Shipment, effective _____, and Form DBPR PMW-3910, Slot Machine and Component Application Shipment Record, effective _____, both adopted herein by reference, and incorporated by Rule 61D-15.001, F.A.C., to the Chief of Slot Operations, Division of Pari-Mutuel Wagering, North Broward Service Center, 1400 W. Commercial Blvd., Ft. Lauderdale, Florida 33309-3787, which forms are also listed in Rule 61D-15.001, F.A.C., and can be obtained at

www.myfloridalicense.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035; and

(b) A pre-certification that equipment being proposed for shipment into the state for use at locations designated in paragraphs (1)(a) through (d) meet all requirements for slot machines and ~~software slot machine~~ components in the State of Florida.

(3) Shipment of any slot machine or ~~software slot machine~~ component shall comply with the following requirements:

(a) No slot machine or ~~software slot machine~~ component that will be shipped through the state pursuant to the requirements of Chapter 551, F.S., can be shipped until the Chief of Slot Operations or his or her designee provides formal signed approval for that shipment. The division shall provide written approval to the shipper by hand-delivery, mail or electronic means such as email or FAX.

(b) No change.

(c) All slot machines and ~~software slot machine~~ components must be shipped in the following manner:

1. through 2. No change.

3. All ~~slot machine software components central processing unit (CPU) main boards and erasable programmable read-only memory (EPROM) units~~ shall be delivered separately or encased in a separate compartment within a larger freight compartment or freight trailer. Each compartment shall bear a shipping seal. The required shipping seal shall be applied at the shipper's point of origin. Alternatively, the ~~software slot machine or slot machine~~ component may be shipped intact within a locked slot machine the logic compartment ~~locked and rendered inoperable~~ so long as the key to such lock is shipped to the Division of Pari-Mutuel Wagering, Division of Slot Operations, 1400 West Commercial Boulevard, Suite 165, Ft. Lauderdale, Florida 33309 ~~separately from the slot machine or slot machine software component.~~

4. through (e)1. No change.

2. Immediate refusal of the entire shipment and the return of the entire shipment to the originating shipment location ~~and notification to FDLE.~~

(4) No change.

Rulemaking Authority 551.103(1), 551.109(2)(a), (b), 551.122 FS. Law Implemented 551.103(1)(c), (e), (i), 551.109(2)(a), (b) FS. History—New _____.

61D-14.097 Responsibility for Control of Slot Machine or Slot Machine Component Shipment.

(1) No change.

(2) Licensed manufacturers and distributors must request approval from the Chief of Slot Operations, Division of Pari-Mutuel Wagering, North Broward Service Center, 1400 W.

Commercial Blvd., Ft. Lauderdale, Florida 33309-3787, or his or her designee for shipment into, out of, or within the State of Florida at least five days in advance of the proposed shipment date to or from an approved destination in Florida.

(3) through (6)(f)3. No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(c), (e), (i), 551.109(2)(a), (b) FS. History–New _____.

61D-14.098 Slot Machine Seal.

(1) When a slot machine is initially received in the State of Florida, the Chief of Slot Operations or his or her designee shall affix a slot machine pre-numbered state identification seal to the slot machine’s cabinet. The slot machine seal shall be located on the outside of the slot machine cabinet next to other identification labels on the slot machine cabinet to clearly identify that the machine has been inspected and accepted by division personnel.

(2) through (3)(c)5.b.(III) No change.

Rulemaking Authority 551.103(1), 551.122 FS. Law Implemented 551.103(1)(c), (e), (i) FS. History–New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE NO.: 61D-15.001
 RULE TITLE: Incorporated and Approved Forms
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 13, April 2, 2010 issue of the Florida Administrative Weekly.

61D-15.001 Incorporated and Approved Forms.

The following is a list of all forms that have been adopted by reference that are used with now incorporated which are to be used by the Division in its dealing with the slot operators and licensees who conduct slot gaming. A copy of these forms may be obtained at www.myfloridalicense.com/dbpr/pmw or www.myflorida.com/dbpr/pmw or by contacting the Division of Pari-Mutuel Wagering at 1940 North Monroe Street, Tallahassee, Florida 32399-1035. ~~The effective date of each of these forms is the promulgation date of this rule.~~

FORM NUMBER	FORM TITLE SUBJECT	EFFECTIVE DATE
(1) DBPR PMW-3400	Permitholder Application for Annual Slot Machine License	=====
(2) DBPR PMW-3405	Permitholder Renewal Application for Annual Slot Machine License Renewal	=====
(3) DBPR PMW-3410	Slot Machine Individual Occupational License Application	=====
(4) DBPR PMW-3415	Slot Machine Individual Occupational License Renewal Application	=====
(5) DBPR PMW-3420	Slot Machine Business Entity Occupational License Application	=====

(6) DBPR PMW-3425	Slot Machine Business Entity Occupational License Renewal Application	=====
(7) DBPR PMW-3430	Business Entity Internal Control Information	=====
(8) DBPR PMW-3435	Affidavit of Truth	=====
(9) DBPR PMW-3440	Professional or Business Employee Supplemental Information	=====
(7)(40) DBPR PMW-3450	Slot Machine Occupational License Upgrade Application	=====
(8)(41) DBPR PMW-3460	Authorization for Release of Information	=====
(9)(42) DBPR PMW-3470	Surety Bond for Florida Slot Machine Licensee	=====
(10)(43) DBPR PMW-3660	Slot Operations Monthly Remittance Report	=====
(11)(44) DBPR PMW-3670	Slot Operations Cumulative Monthly Remittance Report	=====
(12)(45) DBPR PMW-3680	Slot Jackpot Prize/Cash Option Report	7-5-06
(13)(46) DBPR PMW-3900	Slot Machine and Component Application for Shipment	=====
(14)(47) DBPR PMW-3910	Slot Machine and Component Application Shipment Record	=====

Rulemaking Authority 551.103, 551.1045, 551.114, 551.122 FS. Law Implemented 551.103, 551.104, 551.1045, 551.106, 551.107, 551.114, 551.118, 559.79(2) FS. History–New 7-5-06, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NO.: 61J2-17.014
 RULE TITLE: Guest Lecturers
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above Rule Development, as noticed in Vol. 34, No. 8, February 22, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NOS.: 64B3-9.001, 64B3-9.002, 64B3-9.004
 RULE TITLES: Application Fees, Initial Licensure Fees, Active Status Renewal Licensure Fee

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 8, February 26, 2010 issue of the Florida Administrative Weekly.

The PURPOSE AND EFFECT and SUMMARY statements are being corrected to read as “The Board proposes the rules amendment to clarify the application and licensure fees.”

The correction does not affect the substance of the rules as they appeared in the Florida Administrative Weekly as outlined above.

The person to be contacted regarding this rule is: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257.

DEPARTMENT OF HEALTH

Board of Respiratory Care

RULE NO.: RULE TITLE:
64B32-5.001 Disciplinary Guidelines

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly.

The rule notice incorrectly stated that the Board determined that small business would not be affected by this rule. A Statement of Estimated Regulatory Costs was prepared and the Board determined that small business would be affected by this rule. The following is a Summary of the Statement of Estimated Regulatory Costs:

1. The proposed changes will affect any licensed respiratory therapist or applicant who is found to be in violation of any of the newly added sections set forth in the disciplinary guidelines.

2. The costs to be incurred are rule making costs and compliance monitoring when financial, probationary or suspension penalties are imposed upon licensees or applicants.

3. Transactional costs are expected to be incurred by applicants or other entities by the proposed modifications.

4. The new questions are the result of SB 1986 that modified Section 456.0635, Florida Statutes. The proposed rule is expected to impact small business, small counties or small cities since the rule change is being made to implement the new requirements in Section 456.0635, Florida Statutes.

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

The correction does not affect the substance of the rule as it appeared in the Florida Administrative Weekly as outlined above.

The person to be contacted regarding this rule is: Allen Hall, Executive Director, Board of Respiratory Care Specialists/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: RULE TITLE:
65A-1.303 Assets

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly.

(4) Vehicles. The vehicle asset for determination for of whether a vehicle is an asset for food stamps and/or cash assistance benefits will be completed purposes depends on the use of the vehicle, whether the vehicle is licensed or unlicensed, and the vehicle’s equity value. The determination must be made in accordance with Section 414.075, F.S., and 7 CFR 273.8. Vehicles are excluded as assets in the eligibility determination for food stamps as provided in 7 C.F.R. § 273.8(f)(4).

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.: RULE TITLE:
65A-1.704 Family-Related Medicaid Eligibility Determination Process

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 13, April 2, 2010 issue of the Florida Administrative Weekly.

DATE AND TIME: May 3, 2010, 1:30 p.m.

**Section IV
Emergency Rules**

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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