

Section II Proposed Rules

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NO.: 9B-70.002
 RULE TITLE: Commission Approval and Accreditation of Advanced Building Code Training Courses

PURPOSE AND EFFECT: Correct a cross-reference and implement a system of self-affirmation for revisions to accredited courses.

SUMMARY: The Florida Building Commission updates the building code every three years. Courses accredited by the Commission often require minor modification for consistency with the updated code. The rule is amended to permit an expeditious process for accreditation of the revisions to accredited courses resulting from code changes that relies upon affirmation by the course provider. A cross-reference is also corrected.

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

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

RULEMAKING AUTHORITY: 553.841(2) FS.

LAW IMPLEMENTED: 553.841 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: August 17, 2010, 10:00 a.m. or as soon thereafter as the matter comes before the Commission in accordance with its agenda

PLACE: Department of Community Affairs, Sadowski Building, Room 250L, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824

THE FULL TEXT OF THE PROPOSED RULE IS:

9B-70.002 Commission Approval and Accreditation of Advanced Building Code Training Courses.

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

(f) On or before the effective date of changes to the Florida Building Code, providers shall either designate on the Building Code Information System at www.floridabuilding.org that the course is not affected by the code changes or update the existing accredited courses affected by the code changes and submit for accreditation. If the course is not affected by the code changes, the course's status shall remain active. The code version that initiated the update and reaccreditation process must be noted on the application. Accreditation of revisions to ~~approved~~ accredited courses ~~and courses in alternative formats to approved accredited courses~~ shall be accomplished in the same manner as described in paragraphs (a) through (f) hereof, except that only the revision submitted shall be subject to review and these courses shall be approved by the administrator of the education program subject to ratification by the Florida Building Commission.

(g) If an approved accredited course requires revision to correct or update a reference, table, diagram, or quoted provision of code, law, or administrative rule, the training provider may submit the revised course and complete Form 9B-70.002(4)(a), effective , adopted herein by reference and available from the Building Code Information System at www.floridabuilding.org. The training provider must list the exact change, the specific location of the change, and reason for the change in the course and affirm this is the only change. The changes to the course shall be approved by the administrator of the education program subject to ratification by the Florida Building Commission.

(h) A change to the delivery format of an approved accredited course must be submitted for accreditation.

(4) Course Content and Accreditor Review. Accreditors shall review courses submitted by registered providers to determine if the course accurately presents the technical and administrative responsibilities reflected in the current edition of the Florida Building Code, or future editions of the Code if the accreditor is reviewing a course revised to comply with an updated edition of the Florida Building Code in accordance with paragraph ~~(3)~~(4)(f) of this rule or Florida Statutes or rules related to the Florida Building Code. Accreditors shall not mutually accredit each others' courses. The accreditor shall determine if the course meets the following minimum criteria:

(a) through (m) No change.

(5) through (7) No change.

Rulemaking Authority 553.841(2) FS. Law Implemented 553.841 FS. History--New 6-8-05, Amended 4-30-07, 6-12-08, 3-4-09, 11-2-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Building Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 7, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-501.301 RULE TITLE: Law Libraries
 PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to remove the requirement that inmate law clerks be presented with a certificate of completion of training by the department's Central Office.
 SUMMARY: The proposed rule removes the requirement that Central Office provide inmate law clerks with a certificate upon completion of law clerk training.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.
 Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
 RULEMAKING AUTHORITY: 944.09, 944.11 FS.
 LAW IMPLEMENTED: 20.315, 944.09, 944.11 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

- 33-501.301 Law Libraries.
- (1) through (6) No change.

(7) Use of Inmates as Clerks in Law Libraries.

(a) through (d) No change.

(e) Law clerk training program. Central office library services shall develop a training program to provide inmates who work in law libraries with knowledge of legal research and writing, use of specific legal research materials to include digital or non-print resources in the law library collection, the law and rules of criminal law and post-conviction remedies, prisoners' civil rights, and other subject matter identified as necessary for an inmate law clerk to provide meaningful assistance to inmates. ~~Inmates who successfully complete the law clerk training program shall be given a certificate by central office library services documenting successful completion of the program, and a notation shall be recorded in the department's offender database.~~ Central office library services will document an inmate's successful completion of the law clerk training program in the department's offender database.—Central office library services shall revoke or suspend certification for commission of acts prohibited by this section or for failure to satisfactorily perform the duties assigned to an inmate law clerk.

(f) through (q) No change.

(8) through (11) No change.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 20.315, 944.09, 944.11 FS. History--New 4-6-93, Amended 7-3-94, 11-2-94, 4-28-96, 9-30-96, 12-7-97, Formerly 33-3.0055, Amended 2-15-01, 11-4-01, 12-23-03, 1-7-07, 1-6-09, 6-16-09, 4-19-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter McNeil, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.659 RULE TITLE: Forms and Instructions
 PURPOSE AND EFFECT: The purpose of this rulemaking is to list a revised State of Florida Permit Application to Construct, Repair, Modify or Abandon a Well, to be numbered as District Form No. LEG-R.040.01 (6/10) and a revised State of Florida Well Completion Report, to be numbered as Form No. LEG-R.005.02 (6/10). The effect will be to make the District-adopted forms identical to revised forms proposed for statewide use by the Department of Environmental Protection.
 SUMMARY: The District is undertaking rulemaking to amend Rules 40D-3.101 and 40D-3.411, F.A.C., to adopt standardized forms for well construction permit applications and well

completion reports which are submitted to document the well construction work. These newly-adopted forms will also be listed in Rule 40D-1.659, F.A.C.

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

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.149, 373.171, 373.337 FS.

LAW IMPLEMENTED: 373.083, 373.0831(3), 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Southwest Florida Water Management District, Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dianne Lee, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211, ext 4657

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter or into a specific District rule as indicated. Copies of these forms may be obtained from the District offices or the District’s website at www.watermatters.org.

(1) Ground Water

(a) through (c) No change.

(d) State of Florida Permit Application to Construct, Repair, Modify or Abandon a Well, Form No. LEG-R.040.01 (6/10) LEG-R.040.00 (4/09), incorporated by reference in subsection 40D-3.101(1), F.A.C.

(e) Well Completion Report, Form No. LEG-R.005.02 (6/10) LEG-R.005.01 (4/09), incorporated by reference in paragraph 40D-3.411(1)(a), F.A.C.

(f) through (kk) No change.

(2) through (3) No change.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.083, 373.0831(3), 373.083(5), 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS. History–New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05(1) and (2), 10-19-05(5), 10-19-05(20), 2-6-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, 10-26-09, 1-27-10, 4-12-10, 4-27-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tony Gilboy, Well Construction Regulation Manager

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2010

DEPARTMENT OF MANAGEMENT SERVICES

Division of Administrative Hearings

RULE NOS.:	RULE TITLES:
60Q-6.102	Definitions
60Q-6.103	Pleadings and Proposed Orders
60Q-6.104	Representation and Appearance of Counsel
60Q-6.105	Commencing a Case; Subsequent Petitions
60Q-6.106	Consolidation and Venue
60Q-6.107	Amendment and Dismissal of Petition for Benefits
60Q-6.108	Filing and Service
60Q-6.110	Mediation, Generally
60Q-6.111	Authority and Duties of Mediator
60Q-6.113	Pretrial Procedure
60Q-6.114	Discovery
60Q-6.115	Motion Practice
60Q-6.116	Prosecution of Claim and Petition for Benefits

- 60Q-6.117 Emergency Conferences
- 60Q-6.118 Expedited Hearings
- 60Q-6.120 Summary Final Order
- 60Q-6.122 Motion for Re-hearing and Amending or Vacating Order
- 60Q-6.123 Settlements under Section 440.20(11), Florida Statutes
- 60Q-6.124 Payment of Attorney’s Fees and Costs Other Than Pursuant to Section 440.20(11), Florida Statutes
- 60Q-6.125 Sanctions
- 60Q-6.128 Destruction of Obsolete Records

PURPOSE AND EFFECT: Procedural rules for adjudication of workers’ compensation claims were implemented on February 23, 2003, and amended in 2006, pursuant to the mandate in Section 440.45, Florida Statutes, that the Office of the Judges of Compensation Claims adopt procedural rules. Since Sections 440.015 and 440.44(2), Florida Statutes, require that the workers’ compensation system be efficient and self-executing and that the Division of Administrative Hearings assume an active and forceful role in achieving that goal, it is necessary to amend the existing rules to conform with subsequent statutory changes and to incorporate changes that will improve the adjudicatory process based upon experience in utilizing the existing rules.

SUMMARY: The procedural rule revisions improve definitions, encourage electronic filing, streamline the consolidation of cases, promote the timely resolution of attorney’s fees and costs, discourage duplicate and unnecessary filings, encourage timely orders, streamline mediation, require meaningful pretrial stipulations, promote timely discovery, provide for telephonic administration of oaths, streamline motion practice, and provide for appointment of expert medical advisors, with a resulting more efficient and self-executing adjudicatory process.

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

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

RULEMAKING AUTHORITY: 61.14(8)(a), 440.25(4)(g), (h), 440.44(7), 440.45(1), (4) FS.

LAW IMPLEMENTED: 61.14(8)(a), 440.015, 440.192, 440.20, 440.25, 440.29(2), 440.33, 440.34, 440.44, 440.45(1) FS.

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

DATE AND TIME: Wednesday, August 18, 2010, 8:00 a.m. – 9:30 a.m.

PLACE: TAMPA Room, Marriott World Center, 8701 World Center Drive, Orlando, Florida 32821

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Administrative Law Judge Linda M. Rigot, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060, (850)488-9675

THE FULL TEXT OF THE PROPOSED RULES IS:

60Q-6.102 Definitions.

(1) through (3) No change.

(4) “Office of the Judges of Compensation Claims” (OJCC) means ~~is~~ the office within the Department of Management Services, Division of Administrative Hearings, where the deputy chief judge and judges of compensation claims preside.

(5) “Electronic transmission” or “electronic filing” means uploaded to the appropriate case docket using the electronic judges of compensation claims’ e-filing system (e-JCC) accessed transmitted through a link on the OJCC website at www.jcc.state.fl.us identified for that purpose.

(6) “Electronic signature” means that a graphic version of the e-JCC user’s signature or “s/” followed by the e-JCC user’s typewritten name is deemed to be the legal equivalent of the e-JCC user’s handwritten signature.

~~(7)(6)~~ “Filed” means received by the clerk of the OJCC Office of the Judges of Compensation Claims in Tallahassee ~~or by the judge as provided in subsection 60Q-6.108(1), F.A.C.~~

(7) through (10) renumbered (8) through (11) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06, _____.

60Q-6.103 Pleadings and Proposed Orders.

(1) Pleadings. All documents filed with the OJCC ~~or with the judge shall~~

(a) Be typewritten or printed on 8 1/2" by 11" ~~unfolded~~ white paper, unless filed by electronic transmission;

(b) No change.

(c) Contain the signature, or the electronic ~~equivalent of the signature~~ if filed electronically, of the party in interest or, if represented, the party’s attorney of record;

(d) Contain the style of the proceeding; the case number, if any; the date of accident; ~~the name of the party~~ on whose behalf the document is filed; the subject matter of the document; and the name, mailing address, e-mail address, and

telephone number of the party or, if represented, the party's attorney of record (including the attorney's Florida Bar number) filing the document; ~~and~~

(e) Contain a certificate of service representing that copies have been served on all parties or, if represented, their attorneys of record. The certificate shall include a statement of the method of service used for each party or attorney; and

(f) Not be accompanied by separate correspondence.

(2) Exempt information. Except for the employee's social security number or equivalent on petitions for benefits and responses thereto, no pleading shall contain information exempt from public records disclosure. Exempt information shall be supplied in connection with a pleading only to the extent it is necessary ~~for~~ ~~to~~ the judge's determination of disputed matters or required by Florida Statutes and shall be appended to a pleading in a separate document conspicuously marked "Exempt Information".

(3) No change.

(4) Proposed Orders. Except as provided in subsection 60Q-6.115(3), F.A.C., proposed orders shall not be submitted unless requested by the judge, ~~and shall be accompanied by pre-addressed, postage-paid envelopes.~~ They shall be clearly identified as proposed orders and shall be sent to all other parties or, if represented, their attorneys of record prior to being submitted to the judge. Proposed orders shall be a separate document and not be included as a part of ~~a~~ ~~the~~ motion.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192(1), (2)(a), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.104 Representation and Appearance of Counsel.

(1) Appearance of Counsel. An attorney who files a petition or claim on behalf of a party has entered an appearance and shall be deemed the party's attorney of record. All other attorneys appearing for a party in an existing case shall file promptly with the judge a notice of appearance and serve copies on all other parties or, if represented, ~~the parties' their~~ attorneys of record. The notice of appearance shall include the style of the proceeding; the case number; the name of the party on whose behalf the attorney is appearing; and the name, mailing address, e-mail address, telephone number, and Florida Bar number of the attorney. Attorneys shall keep their e-JCC profile current by logging into e-JCC and updating their mailing addresses, e-mail addresses, and telephone numbers when such information changes.

(2) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.105 Commencing a Case; Subsequent Petitions.

(1) through (2) No change.

(3) For any claim within the jurisdiction of the OJCC but not subject to a petition for benefits, the claimant shall file with the clerk of the OJCC ~~the pleading setting forth the claim together with~~ a request for assignment of case number.

(4) through (5) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.106 Consolidation and Venue.

(1) No change.

(2) Any motion to consolidate cases shall be filed in only the lowest-numbered case sought to be consolidated and shall be resolved by the judge to whom that case is assigned. Any consolidation of two or more cases shall thereafter be designated as consolidated under the lowest case number of those consolidated, and shall be assigned to the judge then assigned to that lowest case number.

(3) A motion to change venue shall be filed with the judge and shall contain the signatures of the moving party ~~all parties~~, or, if represented, the party's ~~their~~ attorneys of record.

(4) through (5) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(d), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.107 Amendment and Dismissal of Petition for Benefits.

(1) No change.

(2) A petition may only be amended by written stipulation of the parties or by order of the judge, except that changes of addresses, e-mail addresses, or phone numbers of parties or, if represented, their attorneys of record can be accomplished by filing a notice of change ~~with the assigned judge.~~

(3) Prior to dismissing any petition for failure to prosecute, the judge shall issue an order to show cause and allow 10 days for a response to the order.

(4) Any party seeking an order determining the entitlement to or amount of attorney's fees or costs shall file the motion therefor within 365 days after the provision of benefits, dismissal of claim, judicial order, or appellate mandate from which the movant claims attorney's fees or costs are due. Untimely motions or petitions for attorney's fees or costs will be dismissed.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, 440.25(4)(d), (i), 440.44(2), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.108 Filing and Service.

(1) Filing.

(a) All documents ~~petitions, amended petitions, responses to petitions, and requests for assignment of case number and initial pleadings relating thereto~~ shall be filed with the OJCC,

except documents filed by parties who are not represented by an attorney, shall be filed by electronic means through the OJCC website. Any document filed in paper form by U.S. mail, facsimile, or delivery shall be filed only with the OJCC clerk in Tallahassee. Except as otherwise provided in these rules, all motions, notices, pleadings, voluntary dismissals, any stipulations changing the issues pending in the case, or other documents shall be filed only with the judge. Documents shall be filed by only one method, e-filing, facsimile, or U.S. mail, and shall not be filed multiple times. Duplicate filings will not be docketed and will be destroyed.

(b) Any pleading or other paper filed in a proceeding shall be served on all other parties or, if represented, their attorneys of record at the time the document is filed. Service shall be by electronic mail, facsimile, or U.S. mail.

(c) The following documents shall not be filed with the OJCC or with the judge unless relevant to an issue to be heard and not more than ten days but at least two days before the scheduled hearing: requests or notices to produce and objections or responses thereto, deposition transcripts, correspondence between counsel or parties, correspondence to the judge or the judge's staff, subpoenas and returns of service.

(d) Except for filing using e-JCC, Facsimile or other electronic transmission of documents to the judge shall be used only when the judge authorizes such use for that document; otherwise, the document will not be considered.

(e) Any document, whether filed by electronic or other means, received by the OJCC ~~or the judge~~ after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

(f) Any attorney, party, or other person who ~~elect to~~ files any document by electronic transmission shall be responsible for any delay, disruption, interruption of the electronic signals, and readability of the document, and accepts the full risk that the document may not be properly filed as a result.

(g) Any document filed electronically shall be uploaded individually, except that exhibits, supporting documents, and proposed orders for any motion may be filed along with the motion. In naming uploaded motions, counsel shall specifically identify the type of motion by naming the relief sought. In naming depositions filed electronically, counsel shall include the deponent's name and the date of the deposition. If an uploaded document is specifically intended as a hearing exhibit at the time of filing, the name shall also include "proposed hearing exhibit" and the date of the scheduled hearing. All uploaded documents shall include sufficient specificity in naming to allow identification of the document from the docket remark.

(h) If a document is filed in error using e-JCC, the filing party shall file the document in the correct case docket and separately file a notice of the error in the case that contains the erroneously-filed document.

(i) The clerk of the OJCC shall, upon order of the assigned judge, place a document under seal and render it thereby viewable only upon further order of the assigned judge.

(2) Service. Service is effectuated by:

(a) Handing the document # to the party or, if represented, the party's attorney of record;

(b) Leaving the document # at the attorney's office with a clerk or other person in charge or leaving it in a conspicuous place in the office;

(c) If the office is closed or the person to be served has no office, leaving the document # at the person's residence with a member of the person's family above 15 years of age and informing that person of the contents;

(d) Placing the document # in the United States mail; or

(e) Transmitting the document # by facsimile or by electronic transmission, including electronic mail.

(3) through (6) No change.

(7) All orders shall be electronically filed with the OJCC in Tallahassee on the same day that the order is transmitted to the parties by electronic transmission or U.S. mail.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.192, 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06, _____.

60Q-6.110 Mediation, Generally.

(1) No change.

(2) Parties who have agreed to private mediation or to re-schedule private mediation shall file with the judge at least 30 days prior to any scheduled mediation a notice substituting private mediation for state mediation or re-scheduling private mediation. If such notice is filed less than 30 days prior, it shall be treated as a motion, and attendance and participation at the scheduled state mediation shall not be excused, absent an order finding good cause to excuse this time requirement. The notice shall include the name of the private mediator, along with the date and time of the private mediation and shall state that the private mediation meets the statutory deadline, unless the deadline is waived by all parties.

(a) The deputy chief judge shall assign a mediation date for each petition filed. Within 40 days after the filing of the earliest petition for benefits awaiting mediation, the parties may agree to coordinate with the assigned judge an alternate state mediation date which meets the 130-day statutory deadline. Any such change in date shall be considered a re-scheduling and not a continuance of the mediation.

(b) After the state mediation has been noticed on the 40th day following the filing of the earliest petition for benefits awaiting mediation, the state mediation shall not be continued unless first granted by the judge upon agreement of the parties or upon proper motion filed no later than 30 days before the date of the scheduled state mediation, unless the mediation notice is sent to the parties less than 30 days prior to the noticed mediation.

(c) The state mediation conference may not be re-scheduled or continued to occur after the 130-day statutory deadline unless first granted by the judge upon proper motion demonstrating that the basis for the continuance arises from circumstances beyond the movant's control or for other good cause shown. The motion shall be filed no later than 30 days before the date of the scheduled state mediation absent an emergency.

(3) No change.

(4) If the parties settle all issues, or all issues except for attorney's fees, prior to the scheduled mediation conference, the attorney or unrepresented claimant who has filed a petition for benefits must file a pleading in order to cancel the corresponding mediation they shall immediately notify the mediator and the judge in writing. The pleading must be filed prior to the scheduled mediation and shall indicate the manner in which each issue was resolved.

(5) The following persons shall attend the mediation conference: the claimant; the claims representative of the carrier/servicing agent, which representative must have full authority to settle the issues; the employer, if uninsured; the insured or self-insured employer, if the employer/servicing agent does not have full authority to settle the issues; and the attorneys for the parties. The appearance of an attorney for a party does not dispense with the required attendance of the party. No party shall one may appear at the mediation conference by telephone unless such appearance is approved in advance by the mediator. Any party appearing by telephone has stipulated to be bound by that party's attorney of record's signature on the mediation report.

(a) The mediator shall have discretion to allow any party and/or that party's attorney of record to appear at the mediation conference by telephone upon the party's written request furnished to the mediator and the opposing party or, if represented, the party's attorney of record no fewer than 5 days prior to the mediation conference. The expense of telephonic attendance shall be borne by the person or party attending by telephone.

(b) Any person attending mediation telephonically shall provide an e-mail address for use in exchanging documents during the mediation unless good cause is shown to the mediator at least five days prior to the mediation. Any mediation attended telephonically is not concluded until the signed report is returned to the mediator. The signed report shall be returned by the end of the business day unless excused by the mediator.

(6) Failure to attend the mediation conference without having shown good cause or failure to appear at the mediation conference with full authority to resolve the issues shall may subject the party or the attorney to sanctions.

(7) Immediately following the conclusion of a the mediation conference in an open OJCC case, the mediator, whether state, adjunct, or private, shall prepare a report stating

which issues or claims in dispute are resolved and which remain unresolved, and whether the parties completed a pretrial stipulation. The report shall identify by filing date each petition mediated. The claimant shall file with the judge within five business days of the mediation conference the mediator's report and mediation settlement agreement, if any, together with any pretrial stipulation executed by the parties.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(1)-(4), 440.45(1)(a), (4) FS. History--New 2-23-03, Amended 11-1-06,_____.

60Q-6.111 Authority and Duties of Mediator.

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

~~(c) The mediator shall have discretion to allow any party to appear at the mediation conference by telephone upon the party's written request furnished to the mediator and the opposing party or, if represented, the party's attorney of record no fewer than 5 days prior to the mediation conference.~~

(2) through (4) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(1)-(4), 440.45(1)(a), (4) FS. History--New 2-23-03, Amended 11-1-06,_____.

60Q-6.113 Pretrial Procedure.

(1) No change.

(2) The parties or, if represented, their attorneys of record shall confer and complete a written pretrial stipulation and file it no later than 2 business days before the pretrial hearing. The judge may cancel the pretrial hearing if the stipulation is timely filed. In pretrial stipulations and at any pretrial hearing, the parties shall:

(a) State the claims and defenses. Any claims that are ripe, due, and owing, and all available defenses not raised in the pretrial stipulation are waived unless thereafter amended by the judge for good cause shown. State and simplify the issues including bifurcation of compensability;

(b) State each party's position on the date of accident; jurisdiction over the subject matter and over the parties; venue; and timely notice of the pretrial hearing and of the final hearing;

~~(c)(b)~~ No change.

~~(d)(e) Identify Examine and mark all exhibits including (except for impeachment and rebuttal exhibits) for identification;~~

~~(e)(d) Identify Furnish the opposing party with the names, and addresses, and telephone numbers of all witnesses, including (except for impeachment and rebuttal witnesses), and state whether the witnesses identifying those who will testify in person, by telephone, or by deposition;~~

~~(f)(e)~~ No change.

~~(g)(f)~~ No change.

(3) Unless good cause is shown, a party's failure to cooperate in the preparation and filing of a joint pretrial stipulation shall result in the imposition of appropriate sanctions, including, but not limited to, the striking of claims and/or defenses.

(3) through (5) renumbered (4) through (6) No change.

(7) No discovery shall be permitted within 10 days of the final hearing absent prior approval by the judge for good cause shown or by agreement of the parties.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(2)-(4), 440.29(2), 440.33(1), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06,_____.

60Q-6.114 Discovery.

(1) Any party may commence with discovery methods specifically authorized by statute, including depositions, issuance of subpoenas and requests for production prior to or after invoking the jurisdiction of the judge.

(2) No change.

(a) No change.

(b) Approval of the judge is not necessary to take a deposition by telephone. If a deposition is taken by telephone, the oath shall be administered in the physical presence of the witness by a notary public or other person authorized by law to administer oaths, unless the parties stipulate to administration of the oath telephonically.

(3) through (5) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.30, 440.33(1), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06,_____.

60Q-6.115 Motion Practice.

(1) Any request for an order or for other relief shall be by motion and shall have a title describing the relief requested. The judge may treat a non-standard request for relief from an unrepresented party as a motion. All motions shall be in writing unless made on the record during a hearing and shall fully state the relief requested and the grounds relied upon. Any document referenced in any motion shall either have been filed prior to the motion or be attached to the motion.

(2) Except for motions to dismiss for lack of prosecution, prior to filing any motion, the movant shall personally confer with the opposing party or parties or, if represented, their attorneys of record to attempt to amicably resolve the subject matter of the motion. All motions shall include a statement that the movant has personally conferred or has used good-faith efforts to confer with all other parties or, if represented, their attorneys of record and shall state whether any party has an objection to the motion. Any motion filed without this certification shall be summarily denied.

(3) A motion which is unopposed shall state why an order is necessary to execute the parties' agreement and, ~~unless filed electronically,~~ shall be accompanied by a proposed order which

has a title describing the action to ~~be being~~ taken. The motion and proposed order shall specify the relief being requested or ordered in reasonable detail and not merely by reference to any other document.

(4) If the motion has not been amicably resolved, the movant shall file the motion, ~~which shall include a statement as to whether a hearing on the motion is necessary and, if so, the basis for requesting a hearing.~~ When time allows, [The other parties may, within fifteen ten days of service of the written motion, file a response in opposition, which shall include a statement as to whether a hearing on the motion is necessary and, if so, the basis for requesting a hearing. The judge may dispose of written motions without a hearing within ten days following the expiration of the time for service of a response by the other party or parties. If no order is entered within that ten day period, the movant shall schedule a hearing time with the opposing party or parties or, if represented, their attorneys of record. If no hearing is scheduled within fourteen days following that ten day period, the request for a hearing is deemed withdrawn. Motion hearings may be conducted either in person or telephonically as the judge deems necessary. Written motions will normally be disposed of after the response is filed or after the response period has expired, based on the motion, together with any supporting or opposing memoranda. The judge shall not hold hearings on motions except in exceptional circumstances and for good cause shown in the motion or response.

(5) Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall specifically describe the state good cause for the request.

(6) Motions to expedite discovery or the final hearing shall set forth good cause and shall be served by electronic or facsimile transmission, hand delivery, or overnight delivery. Any opposition to the motion must be filed within four days from the date ~~of~~ the motion is served.

Rulemaking Specific Authority 440.25(4)(h), 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(h), 440.45(1)(a), (4) FS. History—New 2-23-03, Amended 11-1-06,_____.

60Q-6.116 Prosecution of Claims and Petitions for Benefits.

(1) A request for a continuance shall be made by motion, ~~and~~ shall specify the reason that the continuance is necessary, and shall demonstrate due diligence by describing the specific actions the moving party has taken to correct the circumstances alleged to be beyond the party's control.

(2) No change.

(3) The judge may conduct any proceedings by telephone conference. Testimony may be taken by telephone with the written agreement of all parties or approval by the judge.

~~(4) In such the event that testimony is taken by telephone, the oath shall be administered in the physical presence of the witness by a notary public or officer authorized to administer oaths, unless the parties stipulate to administration of the oath telephonically by the judge.~~

~~(4) The judge may conduct any proceedings using video teleconference equipment approved by the OJCC. In the event that testimony is taken by video teleconference, administration of the oath by the judge is as binding as if the judge and witness were physically present in the same room.~~

(5) through (6) No change.

~~(7) No more than 10 days but aAt least two full business days prior to the final hearing, each party is required to file a brief memorandum consisting of a statement of relevant facts and written argument. All depositions and documentary evidence including known impeachment and rebuttal evidence a party intends to offer into evidence shall be filed with the memorandum. In the event of a re-scheduling or continuance, documents timely filed pursuant to this Rule need not be re-filed prior to the re-scheduled or continued hearing. Documentary evidence not timely filed may be excluded from evidence, absent a written stipulation of the parties or an order extending the deadline for filing for good cause shown.~~

~~(8) Any party calling a witness in need of translation services shall be responsible to provide therefor. The OJCC will not provide translation services except in exceptional circumstances and upon written request filed with the deputy chief judge at least ten days prior to the mediation or hearing for which such services are sought and for good cause shown.~~

~~(9) Appointment of an expert medical advisor, except during the final hearing, shall be sought by written motion. The motion shall specifically state the conflict in medical opinions, identify the providers who rendered those opinions, and state the documentation that memorializes those opinions.~~

~~(10) The order appointing an expert medical advisor shall identify the appointed advisor and the conflict to be resolved.~~

~~(11) Within ten days of the order appointing an expert medical advisor, the parties shall jointly submit to the appointed advisor a composite of all documents and records which the parties agree the advisor will review. Any party may move for an order to permit submission of additional or non-stipulated records.~~

~~(12) The report of an expert medical advisor is admissible in evidence at the final hearing unless excluded by the judge for good cause shown.~~

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4), 440.29(2), 440.33(1), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.117 Emergency Conferences.

(1) A written request for an emergency conference shall be filed with the judge and served by electronic transmission or facsimile on all other parties or, if represented, their attorneys

of record. It shall set forth in detail the facts giving rise to the request, its legal basis, the factual or medical basis for the claim that there is a bona fide emergency involving the health, safety, or welfare of an employee, and the specific relief sought. Any documents relied upon should be specifically referenced or ~~and~~ attached.

(2) After reviewing the merits of the request, the judge may summarily enter an order denying the request for an emergency conference or, after proper notice, conduct an evidentiary hearing to consider the emergency request.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(g), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.118 Expedited Hearings.

(1) through (3) No change.

(4) Stipulated Pretrial Outline. At least 15 days before the final hearing, a joint stipulated pretrial outline shall be filed and shall include the following:

(a) through (b) No change.

(c) A list of all exhibits including ~~(except for~~ impeachment and rebuttal exhibits) to be offered at the hearing, noting any objections thereto, and the grounds for each objection. ~~(No~~ additional documentary evidence will be admitted at the hearing);

(d) A list of the names and addresses of all witnesses, including ~~(except for~~ impeachment and rebuttal witnesses), to be called at the hearing by each party, with expert witnesses being so designated, together with a summary of the expected testimony;

(e) through (f) No change.

(g) A composite of all documentary evidence relied upon.

Rulemaking Specific Authority 440.25(4)(i), 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(i), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.120 Summary Final Order.

(1) through (2) No change.

(3) The opposing party shall file a response to a motion for summary final order together with supporting depositions, affidavits, and/or other documents within 30 days after ~~of~~ service of the motion for summary final order. The judge shall grant an extension for good cause shown.

(4) through (5) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.25(4)(h), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.122 Motion for Re-hearing and Amending or Vacating Order.

(1) through (5) No change.

(6) Notwithstanding subsection 60Q-6.115(4), F.A.C., if the motion for re-hearing is directed to an appealable order, the moving party may schedule a hearing on the motion.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.123 Settlements Under Section 440.20(11), Florida Statutes.

(1) Settlements under Section 440.20(11)(a) or (b), Florida Statutes F.S., involving unrepresented claimants.

(a) When a joint petition signed by the parties is filed pursuant to Section 440.20(11)(a) or (b), Florida Statutes F.S., it shall be accompanied by:

1. The settlement stipulation executed by any ~~the~~ attorneys of record and the employee or claimant;

2. through 4. No change.

5. A status statement from the Department of Revenue and a status statement from the Clerk of the Circuit and County Courts, Central Depository, from the county in which the claimant resides at the time the settlement documents are filed and the county in which the claimant resided on the date of accident as to whether the claimant has or owes any child support arrearage and, if so, the amount thereof;

6. through 8. No change.

9. For settlements under Section 440.20(11)(a), Florida Statutes F.S., the notice(s) of denial; and

10. For settlements under Section 440.20(11)(b), Florida Statutes F.S., the required notice to the employer, a maximum medical improvement report establishing overall physical maximum medical improvement and psychiatric maximum medical improvement if the latter applies, available information concerning the need for future medical care or an explanation as to why the information cannot be reasonably obtained, and other essential medical information.

(b) through (c) No change.

(d) For settlements under Section 440.20(11)(a), Florida Statutes F.S., and when a hearing is deemed necessary by the judge for settlements under Section 440.20(11)(b), Florida Statutes F.S., the attorney for the employer/carrier shall contact the judge to schedule a hearing date and shall promptly notify the claimant of the hearing date, time, and location.

(2) Settlements under Section 440.20(11)(c), (d), and (e), Florida Statutes F.S.

(a) When a motion for approval of attorney's fees and child support allocation is filed pursuant to Section 440.20(11)(c), (d), or (e), Florida Statutes F.S., it shall be signed by the claimant and the claimant's attorney, furnished to all other parties, and contain:

1. through 5. No change.

6. A status statement from the Department of Revenue and a status statement from the Clerk of the Circuit and County Courts, Central Depository, from the county in which the

claimant resides at the time the settlement documents are filed and the county in which the claimant resided on the date of accident as to whether the claimant has an arrearage or owes past due child support and, if so, the amount thereof; a sworn statement by the employee that all existing child support obligations have been disclosed in the joint petition; and a letter from counsel stating that the carrier will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge or that claimant's counsel will deposit the settlement proceeds in a trust account and will issue a check in the amount of the arrearage and/or past due child support or such other amount to be approved by the judge and that the check will be sent to the Department of Revenue or the Clerk of the Circuit and County Courts, Central Depository.

(b) No change.

(3) No change.

(4) The judge shall consider the disclosed costs to the extent necessary to conclude that they do not include the attorney's overhead or other fees.

Rulemaking Specific Authority 61.14(8)(a), 440.45(1)(a), (4) FS. Law Implemented 61.14(8)(a), 440.105(3)(c), 440.20(11), 440.34, 440.345, 440.45(1)(a), (4), (5) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.124 Payment of Attorney's Fees and Costs Other Than Pursuant to Section 440.20(11), Florida Statutes.

(1) through (3) No change.

(a) No change.

(b) Within 30 days after the motion is served, the opposing party or parties shall file a response to the motion, which includes a detailed recitation of all matters which are disputed in the form outlined in subparagraphs (3)(a)1.-6. Failure to file a timely and specific response to a motion for attorney's fees and costs detailing matters that are disputed shall, absent good cause, result in acceptance of the allegations in the motion as true.

(c) No change.

(d) Unless the judge orders otherwise, the parties shall exchange exhibits and written witness lists no later than 10 days before the date of the attorney's fee hearing.

(e) No change.

(4) No later than September ~~October~~ 1 of each year, all self-insurers, third-party administrators, and carriers shall report by e-JCC electronic transmission to the OJCC the amount of all attorney's fees paid to their defense attorneys in connection with workers' compensation claims during the prior July 1 through June 30 fiscal year.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.32, 440.34, 440.345, 440.45(1)(a), (4), (5) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.125 Sanctions.

- (1) through (3) No change.
- (4) How Initiated.

(a) A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subsection (2). It shall be served but shall not be filed ~~with or presented to the judge~~ unless the challenged paper, claim, defense, allegation, or denial is not withdrawn or appropriately corrected within 21 days after service of the motion. If warranted, the judge may award to the party prevailing on the motion the cost of the proceeding and attorney’s fees incurred in presenting or opposing the motion.

- (b) No change.
- (5) No change.

(a) A sanction imposed for violation of ~~these~~ this rules shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated. Penalties, fees, and costs awarded under this provision may not be recouped from the party unless the party has committed the violation.

- (b) No change.
- (6) No change.

Rulemaking Specific Authority 440.45(1)(a), (4) FS. Law Implemented 440.32, 440.33(1), (2), 440.45(1)(a), (4) FS. History–New 2-23-03, Amended 11-1-06,_____.

60Q-6.128 Destruction of Obsolete Records.

- (1) No change.

(2) Recordings of hearings held before a judge shall be destroyed ~~become obsolete~~ two years subsequent to the date of the close of the hearing.

(3) Any forms, documents, reports, duplicate-filed pleadings, or other records filed where this rule chapter specifically provides that filing is not required or requested shall be destroyed ~~by the judge’s office~~ upon filing.

Rulemaking Specific Authority 440.44(7), 440.45(1)(a), (4) FS. Law Implemented 440.44(7) FS. History–New 11-1-06, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Judge Linda M. Rigot

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Director and Chief Judge Robert S. Cohen and Deputy Chief Judge of Compensation Claims David W. Langham

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE NO.:	RULE TITLE:
61G14-19.001	Percentage of Gross Pilotage Assessed

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the rate the Department assesses the gross amount of pilotage earned.

SUMMARY: The rule amendment will modify the rate the Department assesses the gross amount of pilotage earned.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting: Robyn Barineau, Executive Director, at the address listed below. The following is a summary of the SERC:

- There are currently 11 pilot associations in Florida. All pilot associations will be required to comply with this rule amendment.
- State Pilots, Deputy Pilots, and pilot associations will be affected by this rule amendment.
- The only costs to be incurred by the agency are rulemaking costs. No effect on state or local revenue is expected.
- Transactional costs are minimal. The state pilot associations will be required to change their current methodology for computing the gross pilot assessment.
- Pilot associations will be impacted because they will be required to increase their gross Pilotage assessments from 1/10 of one percent to 7/10 of one percent effective October 1, 2010. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 310.131, 310.185 FS.

LAW IMPLEMENTED: 310.131 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G14-19.001 Percentage of Gross Pilotage Assessed.

(1) The Department of Business and Professional Regulation shall assess the pilots in the respective ports of the state one seventh ~~one tenth~~ of one percent (.7% ~~(.1%)~~) of the gross amount of pilotage earned by said pilots during each year. For the purposes of said assessment, the gross amount of pilotage earned shall be the amount of money collected by each pilot or by each entity of which the pilot is a member for

piloting which shall include and not be limited to payment for piloting vessels to and from ports of this state, docking or undocking vessels, shifting vessels, running lines, delivering orders at sea, cancelled orders, boat service, detention, pilots being carried to sea, anchoring vessels, and any other related services rendered. Funds collected due under this are to be made payable to the Board and paid by the fifteenth of the following month. When received, the funds are paid into the Professional Regulation Trust Fund as created within the Department.

(2) No change.

THIS RULE SHALL TAKE EFFECT OCTOBER 1, 2010.

Rulemaking Authority 310.131, 310.185 FS. Law Implemented 310.131 FS. History--New 2-5-76, Amended 1-19-77, 1-1-78, 12-7-78, 11-1-81, 6-8-82, 8-9-82, 7-31-83, Formerly 21SS-3.01, Amended 5-30-89, 2-19-90, 12-30-91, 12-2-92, Formerly 21SS-3.001, 21SS-19.001, Amended 3-20-94, 1-5-95, 1-30-96, 3-17-96, 11-21-96, 8-25-97, 1-26-99, 1-31-01, 8-1-02, 7-8-03, 2-17-05, 10-2-05, 2-1-06, 5-1-06, 7-1-06, 1-1-07, 8-1-07, 12-16-07, 7-1-08, 7-30-09, 12-31-09, 10-1-10.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pilot Commissioners

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE NOS.:	RULE TITLES:
61J2-3.011	Continuing Education for School Instructors
61J2-3.015	Notices of Satisfactory Course Completion

PURPOSE AND EFFECT: Rules 61J2-3.011 and 61J2-3.015, F.A.C., the purpose for amending these rules are to delete redundant language and clarify existing language.

SUMMARY: Rule 61J2-3.011, F.A.C., the propose amendment is to clarify that an attorney qualified under Section 475.451, F.S., is exempt from continuing education requirements for school instructors. Rule 61J2-3.015, F.A.C., the proposed amendment to this rule will eliminate the requirement of submitting a complete Social Security number upon the completion of a pre-licensing course for Sales Associate or Broker.

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

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

RULEMAKING AUTHORITY: 455.2123, 475.05 FS.

LAW IMPLEMENTED: 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451, (2), (c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N802, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULES IS:

61J2-3.011 Continuing Education for School Instructors.

(1) ~~Any~~ ~~At~~ persons holding a "school instructor" permits shall recertify ~~their~~ competency during each permit period by satisfactorily completing 7 classroom hours of instruction and/or instructional techniques as prescribed and conducted by the Commission. A school instructor is not required to complete the 7 hours of recertification education as a condition for initial permit renewal if the time between the effective date on the initial permit as an instructor and the beginning of the initial renewal permit is less than 12 months. Of the required 7 classroom hours, up to 3 hours may be applied toward the continuing education core law requirement for licensure pursuant to Rule 61J2-3.009, F.A.C.

(2) ~~Satisfactory completion of the 7-classroom-hour seminar is demonstrated by attending all 7-classroom hours of instruction.~~ Satisfactory completion of these courses will not entitle any person to renew a permit as a school instructor until such person has met all other requirements of law.

(3) The continuing education requirements for school instructors do not apply with respect to any attorney who is otherwise qualified under the provisions of Section 475.451, F.S.

Rulemaking Specific Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.451, (2), (c) FS. History--New 7-28-80, Amended 8-24-80, 1-3-84, Formerly 21V-3.11, Amended 7-25-90, 7-20-93, Formerly 21V-3.011, Amended 12-30-97, 1-18-00, 9-17-00, 2-4-04, _____.

61J2-3.015 Notices of Satisfactory Course Completion

(1) through (5) No change.

(6) The course completion reports shall contain the following information for the type of course being completed.

(a) Pre-licensing Course for Sales Associate.

Name of School

Address of School

Course Title: Course I

Start Date

Finish Date
 Exam Date
Last 5 digits of Social Security Number
 Student Name
 Student Address
 Authorized Signature for the School
 (b) Pre-licensing Course for Broker.
 Name of School
 Address of School
 Course Title: Course II
 Start Date
 Finish Date
 Exam Date
 Sales Associate License Number
Last 5 digits of Social Security Number
 Student Name
 Student Address
 Authorized Signature for the School
 (c) through (f) No change.

Rulemaking Specific Authority 455.2123, 475.05 FS. Law Implemented 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS. History–New 1-1-80, Amended 8-24-80, 9-16-84, Formerly 21V-3.15, Amended 10-13-88, 12-29-91, 6-7-92, 6-28-93, Formerly 21V-3.015, Amended 9-11-94, 12-30-97, 1-18-00, 10-15-00, 11-16-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Real Estate Commission
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Real Estate Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 20, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Rule 61J2-3.011 – July 9, 2009 and Rule 61J2-3.015 – April 9, 2010

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
Division of Medical Quality Assurance
 RULE NO.: RULE TITLE:
 64B-3.001 Definitions
 PURPOSE AND EFFECT: The Department determined that it is important to define the terms “current mailing address” and “place of practice” for its applicants and licensees.

SUMMARY: Current mailing address means an address acceptable to the postal service where notices may be served and place of practice means the primary place of practice for those licensees who are practicing.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
 Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
 RULEMAKING AUTHORITY: 456.035, 458.331(1)(m), 459.015 FS.
 LAW IMPLEMENTED: 456.035, 458.331(1)(m), 459.015 FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lola Pouncey, Bureau Chief, Bureau of Operations, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3260

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B-3.001 Definitions.
- (1) No change.
- (2) “Current Mailing Address” means an address acceptable to the United States postal service where the licensee shall be served with notices pertaining to licensure.
- (3) “Place of Practice” means the street address of the primary place of practice for those licensees who are practicing.

Rulemaking Specific Authority 456.035, 458.331(1)(m), 459.015 FS. Law Implemented 456.035, 458.331(1)(m), 459.015 FS. History–New 9-29-98, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Lola Pouncey
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 9, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2010

DEPARTMENT OF HEALTH
Board of Dentistry
 RULE NO.: RULE TITLE:
 64B5-2.0142 Application for Health Access Dental License

PURPOSE AND EFFECT: The Board proposes to promulgate and adopt the new rule to clarify procedures for applying for a Health Access Dental License and to provide the web address where the form can be located.

SUMMARY: The new rule will clarify procedures for applying for a Health Access Dental License and to provide the web address where the form can be located.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 466.004 FS.

LAW IMPLEMENTED: 466.0067 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.0142 Application for Health Access Dental License.

Any person wishing to be issued a Health Access Dental License shall apply to the Board of Dentistry. The application shall be made on the Application for Health Access Dental License form #DH-MQA 1154 (Rev. 10/09) hereby adopted and incorporated by reference, and can be obtained from the Board of Dentistry's website at <http://www.doh.state.fl.us/mqa/dentistry/>.

Rulemaking Authority 466.004 FS. Law Implemented 466.0067 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 25, 2010

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE NO.: 64B15-12.009 **RULE TITLE:** Osteopathic Faculty Certificate

PURPOSE AND EFFECT: The proposed rule amendment is intended to incorporate the revised application for an Osteopathic Medical Faculty Certificate in the Board's rule.

SUMMARY: The proposed rule amendment incorporates the revised form for an Osteopathic Medical Faculty Certificate in the Board's rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on small business.

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

RULEMAKING AUTHORITY: 459.005, 459.0077 FS.

LAW IMPLEMENTED: 459.0077 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Jusevitch, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-12.009 Osteopathic Faculty Certificate.

(1) An Osteopathic Faculty Certificate may be issued by the Department to a faculty member of a school accredited by the American Osteopathic Association upon the request of the dean of the school if the faculty member has demonstrated to the Board that:

(a) through (b) No change.

(c) Files an application on board approved application form, DH-MQA 1193 (Revised ~~5/10~~ ~~4/09~~), Application for Osteopathic Medical Faculty Certificate, which is hereby incorporated by reference, and may be obtained from the Board of Osteopathic Medicine, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256 or by web at: www.doh.state.fl.us/mqa/osteopath/index.html, and otherwise meets the requirements contained in Section 459.0055, F.S.; and

(d) No change.

(2) through (3) No change.

Rulemaking Authority 459.005, 459.0077 FS. Law Implemented 459.0077 FS. History--New 2-26-02, Amended 6-28-09, 3-11-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: May 14, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: June 25, 2010

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.

6A-6.0788 Notice Requirements for Charter School Performance Data.

(1) The following provisions have been established to administer the notice requirements of Section 1002.33(21)(b), Florida Statutes, and apply only to charter schools that serve at least ten (10) students who are tested on the statewide assessment test pursuant to Section 1008.22, Florida Statutes, and do not receive a school grade pursuant to Section 1008.34(3)(c), Florida Statutes, or a school improvement rating pursuant to Section 1008.341(3), Florida Statutes.

~~(1) Distribution of student assessment data.~~

~~(a) Department of Education duties. The Department of Education shall annually report student assessment data pursuant to Section 1002.34(3)(c), Florida Statutes, for charter schools that do not receive a school grade or school improvement rating and serve at least ten (10) students who are tested on the statewide assessment test through the individual School Accountability Reports accessible on the Department's web site at <http://schoolgrades.fldoe.org>. The data for a school grading component shall be suppressed in cases where the number of students tested is less than ten (10). The Department shall notify applicable charter schools that the student assessment data is available within ten (10) days of its posting.~~

(2) The Department shall notify charter schools when student assessment data pursuant to Sections 1008.34(3)(c) and 1008.341(3), Florida Statutes, is made available.

(3) The Department shall notify charter schools when comparison data pursuant to Section 1002.33(21)(b)3.a., Florida Statutes, is available.

~~(4)(b) Charter schools duties. The charter school shall report the student assessment data referenced in subsection (2) of this rule to the required recipients no later than thirty (30) days after receipt of notification that the data is available in the charter school's School Accountability Report. The data shall be provided in writing on school letterhead to each parent of a student at the charter school, the parent of a child on a waiting list for the charter school, the district in which the charter school is located, and the charter school's governing board, and shall include, as applicable: the percentage of students meeting high standards in reading, math, writing, and science; the percentage of students making learning gains in reading and math; the percentage of the lowest performing twenty-five (25) percent of students making learning gains in reading and math; and the percentage of students tested. The charter school is required to report the student assessment data to the required recipients no later than thirty (30) days after receipt of notification by the Department that the student assessment data is available.~~

Section III

Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-1.09401 Student Performance Standards
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. 26, July 2, 2010 issue of the Florida Administrative Weekly.

Paragraphs (1)(a) and (b) are amended to change the title of the standards as incorporated by reference.

(1)(a) Next Generation ~~Common Core~~ Sunshine State Standards (Common Core) – Reading and Language Arts, 2010 July 2007,

(b) Next Generation ~~Common Core~~ Sunshine State Standards (Common Core) – Mathematics, 2010 2008,

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-6.0212 Performance-Based Exit Option
Model and State of Florida High
School Performance-Based
Diploma
NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 20, May 21, 2010 issue of the Florida Administrative Weekly. As originally advertised the rule was noticed with the number 6A-6.0211. The rule has been renumbered as Rule 6A-6.0212, F.A.C., as shown above.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-6.0788 Notice Requirements for Charter
School Performance Data