

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

(2) Comparison of charter school student assessment data.

~~(a) Department of Education duties. Annually, following the release of school grades, the Department of Education shall provide district level performance data for traditional public school students and state level performance data for charter school students. The Department shall also provide state level performance data for students in alternative public (non charter) schools in the state. This data shall be provided in the grade groupings 3-5, 6-8, and 9-11, and posted on the Department's school grades web site at <http://schoolgrades.fldoe.org>, in a downloadable, Excel file format. The data for any component where the number of students is less than ten (10) shall be suppressed. The Department shall notify applicable charter schools that the performance data is available within ten (10) days of its posting.~~

(b) Charter school duties.

~~1. A traditional charter school shall provide data comparing the charter school's performance to state level and district level performance. Such data shall be posted in a prominent place at the charter school's physical location, and shall include data from the charter school's School Accountability Report, compared to state level performance data for all charter school students and the district level student performance data for traditional public schools in the district where the charter school is located. If the charter school maintains a web site, the comparison data shall also be posted in a prominent place on the web site. The information must remain posted throughout the school year following the availability of the data.~~

~~2. An alternative charter school shall provide data comparing the charter school's performance to state level student performance. Such data shall be posted in a prominent place at the charter school's physical location, and shall include data from the charter school's School Accountability Report, compared to state level student performance data for all alternative charter schools in the state. If the alternative charter school maintains a web site, the comparison data shall also be posted in a prominent place on the web site. The information must remain posted throughout the school year following the availability of the data.~~

(5) Charter schools shall provide the data comparing their charter school student assessment data with the aggregated student assessment data of the traditional public schools within their district and the aggregated student assessment data of the charter schools statewide to the public at large by posting comparison data in a prominent place on its school site. Alternative charter schools shall provide the data comparing their charter school student assessment data with the aggregated student assessment data of all alternative schools in the state to the public at large by posting the comparison data in a prominent place on its school site. If the charter school maintains an Internet web site, the comparison data shall also

be posted in a prominent place on the web site. In accordance with Section 1002.33(21)(b)3., Florida Statutes, all comparison data posted in accordance with this rule shall be provided by the following grade groupings: 3 through 5, 6 through 8, and 9 through 11. The charter school shall post the comparison data no later than thirty (30) days after the receipt of the notification by the Department that the comparison data is available. The comparison data must remain posted throughout the school year following the availability of the data.

Rulemaking Authority 1002.33(21), (26) FS. Law Implemented 1002.33(21) 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."

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.:
59G-9.070

RULE TITLE:
Administrative Sanctions on
Providers, Entities, and 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. 36, No. 18, May 7, 2010 issue of the Florida Administrative Weekly.

59G-9.070 Administrative Sanctions on Providers, Entities, and Persons.

(1) No change.

(2) **APPLYING AND REPORTING SANCTIONS:** Notice of the application of sanctions will be by way of written correspondence and the final notice shall be the point of entry for administrative proceedings pursuant to Chapter 120, F.S. Satisfaction of an overpayment following a preliminary audit report will not avoid the application of sanctions at a final audit report unless the Agency offers amnesty pursuant to Section 409.9132(25)(e), F.S. The Agency shall report all sanctions imposed upon any provider, entity, or person, or any principal, officer, director, agent, managing employee, or affiliated person of a provider who is regulated by another state entity, regardless of whether enrolled in the Medicaid program, to that other state entity. Sanctions are imposed upon the Final Order being filed with the Agency Clerk.

(3) **DEFINITIONS:**

(a) through (g) No change.

(h) "Offense" means the occurrence of one or more violations as set forth in a final audit report. For purposes of the progressive nature of sanctions under this rule, offenses are

characterized as “first”, “second”, “third”, or “subsequent” offenses; subsequent offenses are any occurrences after a third offense.

(i) through (q)1. No change.

2. For purposes of determining ~~detering~~ first, second, third or subsequent offenses under this rule, prior Agency actions during the preceding five years will be counted where the provider, entity, or person was deemed to have committed the same violation.

3. No change.

4. For purposes of determining a violation regarding including an unallowed cost in a cost report (paragraph (7)(k) and Section 409.913(15)(k), F.S.), ~~a violation has not occurred~~ if the unallowed cost or costs are the subject of an administrative hearing pursuant to Chapter 120, F.S., inclusion of the unallowed cost or costs in a cost report is not a violation until the conclusion of the administrative proceedings.

5. through 6. No change.

(4) LIMITS ON SANCTIONS:

(a) through (c) No change.

(d) Where the audit report does not include an overpayment determination, it only applies a sanction, and where a fine is assessed for violations that are a “first offense” as set forth in this rule, the cumulative amount of the fine shall not exceed \$20,000; where the violations are a “second offense” as set forth in this rule, the cumulative amount of the fine shall not exceed \$50,000; where the violations are a “third or subsequent offense” as set forth in this rule, there are no limits on the cumulative amount of the fine to be applied.

(e) through (5) No change.

(6) ADDITIONAL REQUIREMENTS REGARDING SUSPENSION AND TERMINATION:

(a) For purposes of this rule a “suspension” precludes participation for one year, or such shorter period of time as is set forth in this rule. The suspension period begins from the date of the Final Order that imposes the Agency action ~~unless the suspension is an “immediate suspension”. An immediate suspension period begins from the date of notice of the suspension.~~

1. through (b)1. No change.

(7) SANCTIONS: In addition to the recoupment of the overpayment, if any, the Agency will impose sanctions as outlined in this subsection. Except when the Secretary of the Agency determines not to impose a sanction, pursuant to Section 409.913(16)(j), F.S., sanctions shall be imposed as follows:

(a) A required license is not renewed, or is revoked, suspended, or terminated: For a first offense of suspension, ~~an immediate~~ suspension for the duration of the licensure suspension; for all other violations, including suspension after a first offense, termination. [Section 409.913(15)(a), F.S.];

(b) through (j) No change.

(k) For, including costs in a cost report that are not authorized under the Medicaid state plan or that were disallowed during the audit process, after having been advised that the costs were not allowable: For a first offense, \$5,000 fine; however, if after 30 days the violation continues, suspension and \$1,000 fine per day that the violation continues. For a second offense \$5,000 fine; however, if after 30 days the violation continues, suspension and \$5,000 fine per day that the violation continues. For a third and subsequent offense, termination. [Section 409.913(15)(k), F.S.];

(l) For being charged by information or indictment with fraudulent billing practices ~~specified actions~~: Immediate suspension for the duration of the indictment and, if convicted, termination. [Section 409.913(15)(l), F.S.];

(m) through (8)(a) No change.

(9) Section and chart deleted.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: 61A-1.01028
 RULE TITLE: Recordkeeping

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. 14, April 9, 2010 issue of the Florida Administrative Weekly.

61A-1.01028 Recordkeeping.

(1) Industry members must keep of all product displays, equipment and supplies, participation in retailer association activities, the acquisition or production cost and selling cost of specialties or any items given, sold, or loaned to vendors, or any other form of assistance limited as to quantity, frequency, or value by Rules 61A-1.010 through 61A-1.0108, F.A.C., or Section 561.42, F.S. These records must be maintained for three years on the industry member’s licensed premises or other location so long as the division is notified in writing prior to the use of that location. The division must also be notified in writing of any change in location. The records may be in any format so long as they are available and legible to division personnel when the records are requested for review. A copy of any record produced in compliance with this rule shall be given to the vendor. The copy shall be in a format accessible and readable by the vendor, i.e. not provided in an electronic format that would require proprietary software unavailable to the vendor. These records must show:

- (a) The name and address of the vendor, vendor’s employee or agent receiving the assistance;
- (b) The vendor’s license number;
- (c) The date furnished, given, rented, loaned, or sold;
- (d) The description and quantity of assistance furnished, given, rented, loaned, or sold;

(e) The cost of the industry member’s assistance determined by the original purchaser’s invoice price. This information is not required if no value restrictions exist;

(f) The charges to the vendor for the assistance, if any; and

(g) The name, license number, and address of the industry member providing the credit, cash, or other form of assistance as described in subsection 61A-1.010(1), F.A.C.

(2) Pursuant to Section 561.42(8), F.S., vendors shall keep ~~and maintain~~ any record provided to the vendor under subsection (1) of this ~~rule for a three-year period~~ on their licensed premises, ~~or other division approved location~~, of any credits, or any other form of assistance, as described in Rule 61A-1.010(1), F.A.C, limited as to quantity, frequency, or value by Rules 61A-1.010 through 61A-1.0108, F.A.C., or Section 561.42, F.S. These records must be maintained for three years on the vendor’s licensed premises or other location so long as the division is notified in writing prior to the use of that location. The division must also be notified in writing of any change in location.

These records must show:

(a) The name and address of the industry member providing the credit, cash, or other form of assistance as described in subsection 61A-1.010(1), F.A.C.

(b) A description of the form of assistance received and quantity received, if applicable.

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NOS.:	RULE TITLES:
61G15-31.001	General Responsibility
61G15-31.003	Design of Structures Utilizing Pre-Engineered Wood Trusses
61G15-31.007	Design of Pre-Engineered Structures

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. 45, November 13, 2009 issue of the Florida Administrative Weekly.

The changes are in response to concerns by the Joint Administrative Procedures Committee in a letter dated December 16, 2009. The change is as follows:

Rule 61G15-31.001, line twelve, sixth sentence, shall read as: ...documents of the delegated engineer for conformance with his written instructions in accordance with Rule 61G15-30.005, F.A.C. When information collected by the engineer or the engineer’s authorized representative from a site visit is part of the engineer’s deliberative process, the engineer is responsible for the accuracy of such information.

Rule 61G15-31.003 shall read as:

61G15-31.003 Design of Structures Utilizing ~~Pre-Engineered Prefabricated~~ Wood Trusses.

61G15-31.003(2)(a) shall read as:

(2) The Engineer of Record and the Truss Design Engineer shall have additional responsibilities as follows:

(a) The Engineer of Record shall provide written design requirements to the Delegated Engineer and shall review the engineering documents of the Delegated Engineer for conformance with these design requirements in accordance with Rule 61G15-30.005, F.A.C.

Rule 61G15-31.003(3) shall read as:

(3) The Engineer of Record may delegate the truss system as authorized by Rules 61G15-30.005 and 61G15-30.006, F.A.C. In the absence of an applicable national consensus standard describing the division of responsibilities for truss system design this rule does not specify all the responsibilities that the design parties may have. The practice and engineering documents of the Engineer of Record and the delegated engineer shall conform to the requirements set forth above for truss design and shall adhere to sound engineering practice.

Rule 61G15-31.007(2) shall read as:

(2)(4) Structural engineering documents prepared by the engineer of record for pre-engineered structures shall reflect the design criteria for the metal building system as required in subsection 61G15-31.002(5), F.A.C. indicate the necessary measures for adapting the structures to the specific site. They shall indicate all openings, concentrated loads and other special requirements. Foundation conditions assumed in the design shall be indicated as well as the location and magnitude of building reactions on that foundation under all design conditions.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, P. O. Box 5377, Tallahassee, Florida 32399-5377

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.:	RULE TITLE:
61G15-31.011	Design of Aluminum Structures

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. 45, November 13, 2009 issue of the Florida Administrative Weekly.

The changes are in response to concerns by the Joint Administrative Procedures Committee in letters dated December 16, 2009 and May 21, 2010. The change is as follows:

Rule 61G15-31.011(1) shall read as:

(1) These rules apply when an engineer is required to prepare signed, sealed and dated engineering documents for the design of an aluminum structure, but shall not be construed to require that site-specific plans or specifications be prepared, signed or sealed by a professional engineer for structures described or designed in accordance with Section 489.113(9), Florida Statutes.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, P. O. Box 5377, Tallahassee, Florida 32399-5377

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-346.010	Policy and Purpose
62-346.030	Definitions
62-346.050	Permits Required
62-346.051	Exemptions from Permitting
62-346.070	Procedures to Prepare Applications and Notices for Permits and to Request Verification for an Exemption
62-346.071	Fees
62-346.080	Submittal of Applications and Notices for Permits and Petitions for Formal Determinations to Department and NFWMD Offices
62-346.090	Processing of Notices and Applications
62-346.091	Documents Incorporated by Reference
62-346.095	Operation, Maintenance, and Inspections
62-346.100	Modification of Permits
62-346.110	Duration of Permits
62-346.130	Transfer of Ownership
62-346.140	Suspension and Revocation
62-346.301	Conditions for Issuance of Individual Permits
62-346.302	Additional Conditions for Issuance of Individual and Conceptual Approval Permits
62-346.381	General and Special Limiting Conditions

62-346.451	Emergency Authorizations and Actions
62-346.900	Environmental Resource Permit 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. 35, No. 20, May 22, 2009 issue of the Florida Administrative Weekly.

The forms that are adopted and incorporated by reference for use in Chapter 62-346, F.A.C., have been amended to reflect the corresponding rule changes shown below. Appendix C of the Applicant's Handbook Volume I was amended to list and contain forms 62-346.900(12) through (17), which are incorporated by reference in paragraphs 62-346.900(4)(a) through (f), F.A.C., and which were previously contained in Appendix E of the Handbook; Appendix E and references to it have been stricken. The Joint Application has been revised to reflect the fee structure as it has been amended in Rule 62-346.071, F.A.C., as well as to correct other minor errors. Form 62-346.900(7) was significantly revised to reflect revisions to Rule 62-346.100, F.A.C., specifically reflecting that the form is applicable for permit transfers for activities that are in the construction phase, and adding information to reflect that the transferee recognizes that they will remain liable for compliance with the terms and conditions of the permit, and may be liable for any corrective actions required as a result of any violations of the permit prior to the approval of the modification by the Department. The form also has been amended to reflect that transferee must certify that they have sufficient real property interest or control in the land in accordance with subsection 62-346.070(3), F.A.C.; and agrees to: accept all rights and obligations as permittee, including agreeing to be liable for compliance with all of the permit terms and conditions; be liable for any corrective actions required as a result of any violations of the permit after approval of the transfer by the Department; and demonstrate that they have the ability to provide for the operation and maintenance of the system for its expected life in accordance with subsection 62-346.095(4), F.A.C.

In addition, the Department has responded to questions from the Joint Administrative Procedures Committee regarding the Statement of Estimated Costs for this rulemaking. The Department provided more specific estimates regarding each component required by Section 120.541, F.S., and updated its estimates to reflect the current economic conditions in Northwest Florida. A copy may be obtained by contacting Mary VanTassel, Office of Submerged Lands and Environmental Resources, 2600 Blair Stone Road – MS 2500, Tallahassee, FL 32399-2400; telephone (850)245-8486; facsimile (850)245-8499; or e-mail Mary.VanTassel@dep.state.fl.us.

62-346.010 Policy and Purpose.

This rule provides the requirements for processing environmental resource permits, under Section 373.4145, F.S., and for obtaining formal determinations of the landward extent of wetlands and surface waters under Chapter 62-340, F.A.C., within the geographical jurisdiction of the Northwest Florida Water Management District (NFWFMD or District). This rule does not preclude the application of any other permit requirements or procedures in other chapters of Title 62, F.A.C. The requirements of this chapter are in addition to and not in lieu of the requirements specified in the “Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant’s Handbook Volumes I and II (General and Environmental),” including Appendices A, C, and E through G, but excluding Appendices B and D, effective [Effective Date], which is hereby incorporated by reference, the “Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant’s Handbook – Volume II (Design Requirements for Stormwater Treatment and Management Systems – Water Quality and Water Quantity),” including Appendices A and B, effective [Effective Date], which is hereby incorporated by reference in ~~Rule 62-346.091~~, or Chapter 62-341, F.A.C. Unless otherwise specified in this Chapter, “Department” means the Department of Environmental Protection. However, when implemented by the NFWFMD, the term “Department” means “Northwest Florida Water Management District.”

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.418, 373.4145, 403.805(1) FS. Law Implemented 373.409, 373.413, 373.414(9), 373.4141, 373.4142, 373.4145, 373.416, 373.423, 373.426, 373.428, 373.429 FS. History–New 10-1-07, Amended.

62-346.030 Definitions.

Except as otherwise defined in this chapter or in the Applicant’s Handbook, the definitions in Rules 62-4.020, 62-340.200, and 62-341.021, F.A.C., and the following definitions apply to this chapter and to Applicant’s Handbook Volumes I and II.:

(1) through (15) No change.

(16) “Endangered species” means those animal species that are listed in Rule 68A-27.003 (as amended December 16, 2003), F.A.C., and those plant species that are listed as endangered in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water).

(17) through (23) No change.

(24) “Isolated wetland” means any area that is determined to be a wetland in accordance with Chapter 62-340, F.A.C., but that does not have any connection via wetlands or other surface waters, including excavated waterbodies or a series of excavated waterbodies, to the landward extent of any of the following waters:

(a) through (e) No change.

(f) The waters as defined in Sections 403.031(13), excluding paragraphs (a) and (b), F.S.;

(g) No change.

(25) through (32) No change.

(33) “Operating Agreement” refers to the “Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection,” which is hereby incorporated by reference in ~~Rule 62-346.091~~, F.A.C. A copy of the Operating Agreement is contained in Appendix A of Applicant’s Handbook Volume I <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>.

(34) through (61) No change.

62-346.050 Permits Required.

(1) An individual permit under this chapter must be obtained from the Department prior to the construction, alteration, operation, maintenance or repair (excluding routine custodial maintenance), abandonment, or removal of any surface water management system, unless the activity:

(a) Qualifies for an exemption under Section 373.406, 373.4145(3), or 403.813(1), F.S., or Rule 62-346.051, F.A.C., or a noticed general permit under Chapter 62-341, F.A.C. This includes all applications for conceptual approval permits. However, the establishment of a mitigation bank under Chapter 62-342, F.A.C., shall not require a permit under this chapter; ~~or~~

(b) Meets the following thresholds and criteria and is not part of a larger common plan of development or ownership:

1. through 5. No change.

6. The system does not cause any of the following:

a. through d. No change.

e. Adverse secondary or cumulative impacts to the water resources.;

7. No change.

(c) Is an agricultural or forestry surface water management system regulated under Rules 40A-44.041, .051, or .052, F.A.C., which will continue to be regulated under Chapter 40A-44, F.A.C.; or

(d) Meets the provisions of Section 373.4145(6), F.S.

(2) through (4) No change.

62-346.051 Exemptions from Permitting.

(1) through (3) No change.

(4) Bridges, Driveways, and Roadways.

(a) No change.

(b) The construction or maintenance of culverted driveway or roadway crossings and bridges of wholly artificial, non-navigable drainage conveyances, provided that:

1. through 9. No change.

10. The person performing the exempt activity must implement measures for erosion and pollution control using best management practices, including turbidity curtains or

similar devices and other site specific practices, in strict adherence to “The Florida Stormwater, Erosion, and Sediment Control Inspector’s Manual” (Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, April 2006), which is hereby adopted and incorporated by reference, the “State of Florida Erosion and Sediment Control Designer and Reviewer Manual” (HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007), which is hereby adopted and incorporated by reference, and the Florida Department of Transportation’s “Standard Specifications for Road and Bridge Construction,(2007),” which is hereby adopted and incorporated by reference, to prevent violations of state water quality standards. Temporary erosion control measures must be implemented prior to and during construction, and permanent erosion control measures for all exposed soils must be completed within seven calendar days of the most recent construction activity. Information on how a copy of how these materials may be obtained is contained in subsection 62-346.091(2), F.A.C.;

11. through 14. No change.

(c) through (d) No change.

(5) through (13) No change.

(14) Seawall, and Riprap, and Other Shore Stabilization – Construction, Restoration, Enhancement, and Repair.

(a) through (d) No change.

(e) The restoration of an eroding shoreline of 150 feet or less by planting with native wetland vegetation no more than 10 feet waterward of the approximate mean high water line (MHWL), in accordance with the following:

1. Plantings shall consist of native vegetative species such as salt meadow hay (*Spartina patens*), black needle rush (*Juncus roemarianus*), and smooth cordgrass (*Spartina alterniflora*), obtained from commercially-grown stock that is endemic to the geographic area of the Northwest Florida Water Management District.

2. Any invasive/exotic vegetative species that may occur along the shoreline, such as common reed (*Phragmites australis*), shall be removed in conjunction with the planting.

3. If wave attenuation is needed to protect and ensure survivability of the plantings, turbidity curtains shall be installed immediately waterward of and parallel to the planting area, but must be removed within three months after completion of vegetation planting.

4. No filling by anything other than vegetative planting is authorized, except that if permanent wave attenuation is required to maintain shoreline vegetation, an oyster reef “breakwater” is authorized to be established concurrent with the planting, provided that:

a. The outer edge of the “breakwater” shall extend no more than 10 feet waterward of the approximate MHWL.

b. The “breakwater” shall be composed predominantly of natural oyster shell cultch such as clean oyster shell and fossilized oyster shell, although unconsolidated boulders, rocks, and clean concrete rubble can be associated with the oyster material. Oyster shell may be packaged in biodegradable bags (i.e. coir fiber) prior to placement in the water.

c. The “breakwater” shall not be placed over, or within 3 feet (in any direction) of any submerged grassbed or existing emergent marsh vegetation.

d. The “breakwater” shall be placed in units so that there is a minimum of three feet of tidal channel within every 20 feet of structure, so as to not substantially impede the flow of water, and shall not create a navigational hazard.

e. All equipment used during construction shall be operated from, and be stored in uplands.

(15) through (18) No change.

Rulemaking Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4145, 403.813(1)(2) FS. History–New 10-1-07, Amended.

62-346.070 Procedures to Prepare Applications and Notices for Permits, Water Quality Certification, Coastal Zone Consistency Concurrence, and to Request Verification of Qualification for an Exemption.

(1) No change.

(2) Applications and notices shall be prepared as follows:

(a) Applications for individual permits shall be made on Form 62-346.900(1), “Joint Application for Environmental Resource Permit/Authorization to Use State-Owned Submerged Lands/Federal Dredge and Fill in Northwest Florida,” [effective date] incorporated by reference herein. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C.

1. through 2. No change.

(b) No change.

(c) Requests for verification of an exemption under this chapter must be made either by submitting Form 62-346.900(11) – “Request for Verification of an Exemption,” [effective date], which is hereby adopted and incorporated by reference, or by submitting an alternative written request such as by letter or e-mail. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. Exemption verification requests to the NFWFMD can be submitted through their Internet site. All requests for verification of an exemption must contain location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; the fee required by Rule 62-346.071(1)(1), F.A.C., two sets of plans and drawings, calculations, environmental information, and other supporting documents that clearly and legibly depict and describe the proposed activities in detail sufficient to demonstrate compliance with the terms, conditions, and

limitations of the exemption; and identification (by number or description) to the rule or statutory exemption sought. If the request is by letter or e-mail, it must also include or be followed up within 10 days of submittal of the request with an original authorization signed by the property owner that authorizes Department staff to inspect the property for qualification for the exemption. In the case of e-mail requests, the fee required above must also be received by the Department within 10 days of submittal of the request. Self-certification of a private, single-family dock to the Department is available through the Department’s Internet site at: <http://portal.dep.state.fl.us> ~~http://appprod.dep.state.fl.us/crppa/~~.

(3)(a) No change.

(b) When the real property interest is a lease, applicants must provide reasonable assurance that the system ~~to will~~ be constructed or altered, ~~and~~ will be operated and maintained in accordance with the permit for the expected life of the system through such means as:

1. through 4. No change.

(c) through (d) No change.

(4) through (9) No change.

62-346.071 Fees.

(1) The fee required for the type of permit as provided in this chapter is as follows. The highest fee shall apply whenever an activity meets the criteria for more than one fee category. For purposes of determining the applicable fee, the size of the area of any proposed mitigation shall not be considered as part of the project area.

(a) Individual (including conceptual approval) permit, other than for a mitigation bank, that involves the following amount of dredging, filling, construction, or alteration in, on or over wetlands and other surface waters — the highest fee shall apply whenever an activity meets the criteria for more than one fee category in subparagraph (1)(a)1. through (1)(l), below:

- 1. Greater than or equal to ~~10~~ ~~400~~ acres ~~\$11,220~~ ~~\$14,020~~
- ~~2. Less than 100 acres and greater than or equal to 50 acres~~ ~~\$11,220~~
- ~~3. Less than 50 acres and greater than or equal to 10 acres~~ ~~\$9,120~~
- ~~2.4.~~ Less than 10 acres and greater than or equal to 5 acres ~~\$7,510~~ ~~\$7,710~~
- ~~3.5.~~ Less than 5 acres and greater than or equal to 2 acres ~~\$4,340~~ ~~\$5,610~~
- ~~4.6.~~ Less than 2 acres and greater than or equal to 1 acre ~~\$1,140~~ ~~\$4,210~~
- ~~5.7.~~ Less than 1 acre ~~\$710~~
- ~~6.8.~~ New boat slips:
 - a. through e. No change.
 - ~~7.9.~~ Deadhead logging ~~\$500~~
 - (b) through (g) No change.

(h) Minor modifications where the modification will not require substantial technical evaluation by the Department, will not lead to substantially different environmental impacts or will lessen the impacts of the original permit, and as further defined in Rule 62-346.100, F.A.C.:

1. To correct minor errors or typographical mistakes or to incorporate changes requested by the Department or required through permits issued by other regulatory agencies, and to change due dates for reporting or performance deadlines when such changes in the due date do not involve any new work, any new work locations, or any new activities, and will not alter, replace, or otherwise eliminate the requirements for otherwise performing the work required by the permit.	\$0
2. No change.	
3. That consist of a transfer of an individual permit <u>to a new permittee for a permit in the construction phase, in accordance with subsection 62-346.130(1), F.A.C., or a time extension to any permit</u>	\$80
4. That consist of a transfer of an individual permit in the operation and maintenance phase due to a change of ownership or control of the land subject to a permit, in accordance with subsection 62-346.130(2), F.A.C.	\$0
5.4. That consist of minor technical changes, minor adjustments to work locations, materials, dimensions or configurations, or elimination of work authorized by the permit when the original permit fee of the issued permit is less than <u>or equal to</u> \$310 \$300	\$250
6.5. That consist of minor technical changes, minor adjustments to work locations, materials, dimensions or configurations, or elimination of work authorized by the permit when the original permit fee of the issued permit is more than or equal to <u>\$310</u> \$300	\$420

6. renumbered 7. No change.

(i) through (l) No change.

(2) through (6) No change.

62-346.080 Submittal of Applications and Notices for Permits and Petitions for Formal Determinations to Department and NFWFMD Offices.

(1) No change.

(2) No change.

(a) Mines, which shall be submitted to the Bureau of Mining and Minerals Regulation at the address in section 1.3 of Applicant's Handbook Volume I;

(b) through (d) No change.

(3) through (5) No change.

62-346.090 Processing of Notices and Applications.

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

(g) Within three business days of receipt of an application for a noticed general permit, the Department shall send a copy of Section A and the materials submitted from Section B of Form 62-346.900(1), ~~F.A.C.~~, to the appropriate office of the U.S. Army Corps of Engineers (unless specifically authorized by the Corps to do otherwise), and, for noticed general permits under Rule 62-341.475, F.A.C., to the Florida Fish and Wildlife Conservation Commission.

(2) through (5) No change.

62-346.091 Documents Incorporated by Reference.

(1) The following documents are hereby incorporated by reference for use in this Chapter:

(a) "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook – Volume I (General & Environmental)," including Appendices A, C, and E through G, but excluding Appendices B and D, effective [Effective Date], incorporated by reference in Rule 62-346.010, F.A.C.

(b) "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook – Volume II (Design Requirements for Stormwater Treatment and Management Systems – Water Quality and Water Quantity)," including Appendices A and B, effective [Effective Date], incorporated by reference in Rule 62-346.010, F.A.C.

(c) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection," executed on [Date] ~~August 2, 2007~~, and effective [Effective Date], incorporated by reference in subsection 62-346.030(33), F.A.C.

(d) Chapter 5, and section 3.10 of Chapter 6 ~~except Section 3.04 (swales), 3.05 (Parking lot storage), 3.08 (Rooftops), and 3.09 (Storage Tank Treatment)~~, of *The Florida Development Manual: A Guide to Sound Land and Water Management* (Florida Department of Environmental Regulation, June 1988), – referenced in section 4.5 and Appendix B-2 of "Department of Environmental Protection and Northwest Florida Water Management District

Environmental Resource Permit Applicant's Handbook – Volume II (Design Requirements for Stormwater Treatment and Management Systems – Water Quality and Water Quantity)."

(e) *The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual*, Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, April 2006, incorporated by reference in subparagraph 62-346.051(4)(b)10., F.A.C.

(f) *State of Florida Erosion and Sediment Control Designer and Reviewer Manual*, Prepared for Florida Department of Transportation & Florida Department of Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007, incorporated by reference in subparagraph 62-346.051(4)(b)10., F.A.C.

(g) Florida Department of Transportation's "*Standard Specifications for Road and Bridge Construction, 2007*," incorporated by reference in subparagraph 62-346.051(4)(b)10., F.A.C.

(2) The ~~above~~ documents ~~incorporated by reference in this section~~ may be obtained from or inspected at a district or branch office of the Department or NFWFMD, or the Internet site of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, or NFWFMD.

Rulemaking Specific Authority 373.026, 373.043, 373.044, 373.046, 373.113, 373.4145, 373.416, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.026, 373.042, 373.409, 373.0421, 373.043, 373.046, 373.413, 373.4132, 373.414(9), 373.4142, 373.4145, 373.416, 373.418, 373.423, 373.426, 373.428, 373.433, 373.436, 373.439, 380.06(9), 403.813(1)(~~2~~) FS. History–New 10-1-07, Amended.

62-346.095 Operation, Maintenance, and Inspections.

(1) Upon completion of a system constructed in conformance with an individual permit issued under this chapter, the permit must be converted from the construction phase to an operation and maintenance phase. The responsibility for operation and maintenance of systems permitted under this chapter or Chapter 62-341, F.A.C., shall be an obligation for the life of the system by a single entity that wholly owns or controls the lands on which any component of the permitted system is located, or in the case where a local government will operate a portion of a system, a maximum of two entities. Such entity or entities must have the fiscal, legal, and logistical capability to perform operation and maintenance in accordance with Department rules and permit conditions. The conversion shall follow the procedures specified below, except that:

(a) No change.

(b) The operation phase of mining activities subject to the land reclamation requirements of Chapter 378, F.S., shall be allowed to terminate, without the need to apply for abandonment of the permit, after the mine, or its subunits as applicable, if they:

1. through 3. No change.

In addition, if the mine already is operating under an operation and maintenance phase of an individual permit, such operation and maintenance phase shall be allowed to terminate upon successful completion of all phases of reclamation and receipt of final success determinations by the Department over lands reclaimed in accordance with the rules adopted pursuant to Chapter 378, F.S.

(2)(a) For systems that do not serve an individual, private single-family dwelling unit, duplex, triplex, or quadruplex, within 30 days after completion of construction of a whole system, or independent portion of a system, constructed in conformance with an individual permit issued under this chapter, the permittee shall submit Form 62-346.900(4), "As-Built Certification by a Registered Professional," effective date, incorporated by reference herein. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as "as-built" or "record" drawings. The submittal of the above forms does not require a processing fee, and their review shall not require processing as a permit modification under Rule 62-346.100, F.A.C. If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Environmental Resource Individual Permit Construction Phase to Operation and Maintenance Phase," effective date, incorporated by reference herein. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. Upon receipt and review of both forms, the Department will determine compliance with the terms and conditions of the permit and notify the permittee whether the conversion to the operation and maintenance phase will become effective. The operation and maintenance phase of an individual permit will not become effective if the Department determines that the activity subject to the permit is not in substantial compliance with all the plans, specifications, terms, and conditions of the permit. In such case, the permittee will be responsible for any necessary permit modifications, alterations, maintenance or repairs to bring the system into such compliance. Any required modification to the permit will be processed in accordance with Rule 62-346.100, F.A.C.

(b) For activities associated with an individual, private single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of development proposed by the

applicant, within 30 days after completion of construction of the system, the permittee shall submit a fully executed Form 62-346.900(5), "Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit," effective date, incorporated by reference herein, certifying that the system was constructed in conformance with all the terms, specifications, and conditions of the permit. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. Upon receipt of this form, the construction phase of this permit shall automatically convert to an operation and maintenance phase. However, if at any time the Department determines that such a system was not built in conformance with the terms and conditions of the permit, the permittee shall be subject to enforcement by the Department and for all measures required to bring the system into compliance with the permit. The permittee shall remain liable for compliance with the terms of the permit for the life of the system, unless such permit is transferred in accordance with Rule 62-346.130, F.A.C.

(3) Each phase or independent portion of the permitted system must be approved by the Department for conversion to the operation phase prior to the initiation of the permitted use of: that phase or independent portion of the system; or the site infrastructure located within the area served by that portion or phase of the system. The request for conversion to the operating phase for any phase or independent portion of the permitted system shall occur after construction of the roads, stormwater conveyance systems, treatment and attenuation systems, and for that particular phase or independent portion of the system that has have been completed.

(4) through (8) No change.

62-346.100 Modification of Permits.

(1) Modifications to an existing, currently valid individual permit under this Chapter may be requested by the permittee as follows:

(a) Applications for major modifications shall be made in accordance with the procedures for applying for a new permit applicable to the type of permit originally obtained. Applications for minor modifications, other than to modify the permit to reflect a change in ownership or control of the land subject to the permit, shall be made in accordance with the same provisions, or by letter that describes the proposed modification, along with drawings reflecting changes in the design of the system. The modification request shall include payment of the fee required by Rule 62-346.071, F.A.C. A request to modify the construction phase of a permit to reflect a change in ownership or control of the land subject to the permit shall be made in accordance with subsection 62-346.100(3), F.A.C. A change in ownership or control of the land subject to the operation and maintenance phase of a permit shall be made in accordance with subsection 62-346.130(2), F.A.C.

(b) No change.

(c) All modification requests shall be reviewed, and will be issued or denied in accordance with the procedures in subsection Rule 62-346.090(2), F.A.C., applicable to the type of permit being modified.

(d) Minor modifications include requests for a time extension pursuant to Rule 62-346.120, F.A.C., to correct errors or typographical mistakes, to incorporate changes requested by the Department or required through permits issued by other regulatory agencies, to change due dates for reporting or performance deadlines, to transfer a permit, or to make minor technical changes. For the purpose of this chapter, minor modifications do not:

1. No change.

2. Lead to substantially different environmental impacts, unless they or will lessen the impacts of the original permit; or

3. No change.

(e) No change.

(2) No change.

(3) Where a modification during the construction phase of a permit is requested to reflect a new permittee due to a change in ownership or control of the lands subject to a permit, or due to the transfer of ownership or control of the surface water management system, or the addition of a co-permittee, the permittee and the new entity(ies) shall submit an executed Form 62-346.900(7), "Request to Modify Permit Due to Transfer of Ownership or Control of the Land For a Permit in the Construction Phase," incorporated herein by reference, to the Department, with the permit modification fee required in Rule 62-346.071, F.A.C. This form must contain original signatures of both the permittee and the proposed new permittee(s). Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C. Any such new proposed A person or entity other than a permittee or the Department may request a modification of a currently valid individual permit only when the person or entity has must demonstrate that they have sufficient real property interest in or control over the land upon which the activities subject to the permit will be conducted, in accordance with subsection 62-346.070(3), F.A.C., and will be subject to demonstrating that they can operate and maintain the system for its expected life in accordance with subsection 62-346.095(4), F.A.C. The transferee also must agree, upon transfer of the permit, to be bound to comply with all the terms and conditions of the permit, purchased, or is authorized to and intends to take ownership through condemnation or a contract to purchase, the part of a permitted system subject to the requested modification. In such case, the entity requesting the modification must submit either a formal application or letter modification in accordance with subsection (1) above, and must demonstrate that both the modified portions of the system and the unmodified portions of the system, including portions of the system remaining in the ownership of the existing permittee, will continue to comply with the criteria in Rule

62-346.301, F.A.C., the criteria in Rule 62-346.302, F.A.C., as applicable, Applicant's Handbook Volumes I and II, and all permit conditions.

62-346.110 Duration of Permits.

Unless revoked, extended or otherwise modified, the duration of a permit under this chapter and Chapter 62-341, F.A.C., is:

(1) through (2) No change.

(3) Life of the system for the operation and maintenance phase of a noticed general or individual permit, ~~and for systems constructed in accordance with the terms and conditions of an exemption under Rule 62-346.051, F.A.C.~~

(4) No change.

62-346.130 Transfer of Ownership ~~or Permit.~~

(1) Construction Phase – Transfers of land during the construction phase of the permit shall require a modification of the permit in accordance with Rule 62-346.100, F.A.C., to reflect the new permittee.

(2) Operation and Maintenance Phase – Within At least 30 days of ~~prior to~~ any transfer of ownership or control of a permitted surface water management system or of the real property where any permitted activity is located, if the permittee wishes the permit to automatically transfer to the new owner, the permittee shall provide notice to the Department of the transfer, including the name and contact information of the new owner. This notification shall not require a fee. Upon transfer of the real property or permitted surface water management system and submittal of the notice, the permit shall automatically transfer to the new entity who owns or controls the real property or permitted system. In the event the permittee fails to provide notice of the transfer to the Department within 30 days of the transfer of ownership or control as provided above, the permit shall not automatically transfer, and such transfer must be requested as a modification of the permit in accordance with Rule 62-346.100, F.A.C. submit an executed Form 62-346.900(7), "Notification of Transfer of Permit," incorporated herein by reference, to the agency that issued the permit. This form must contain original signatures of both the permittee and the proposed transferee. The submittal must include the processing fee specified in Rule 62-346.071, F.A.C., except that the initial conversion of the permit from the construction phase entity to the operation phase entity approved when the permit was issued shall not require a processing fee, and will not require processing as a permit modification under Rule 62-346.100, F.A.C.

(2) ~~Except as provided in subsection (1), request for transfer will be processed as a modification of the permit in accordance with Rule 62-346.100, F.A.C. The Department shall approve a request for transfer of a permit if the proposed transferee provides reasonable assurance that it can construct, operate and maintain the permitted system in conformance with the terms and conditions of the permit. Such provisions of reasonable assurance shall be limited to the ability of the~~

transferee to comply with the conditions of the existing permit, including the ability to operate and conduct routine custodial maintenance on the system in accordance with the terms and conditions of the permit, and demonstration of ownership or control of the lands subject to the modification. Nothing herein shall limit the ability of the Department to modify the permit after transfer, as provided in Rule 62-346.100, F.A.C. If the Department proposes to deny the transfer, it shall, within 30 days of receipt of the application for transfer, provide both the existing permittee and the proposed new permittee a written notice of denial of such transfer, which will include the reasons for the denial.

(3) Until a transfer is approved by the Department, the permittee shall be liable for compliance with the terms and conditions of the permit, and may be liable for any corrective actions required as a result of any violations of the permit prior to the approval of the transfer by the Department.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1), FS. Law Implemented 373.118, 373.109, 373.409, 373.413, 373.4142, 373.4145, 373.416(2), 373.426 FS. History—New 10-1-07, Amended _____.

62-346.140 Suspension and Revocation.

(1) ~~The Department shall revoke or suspend a permit:~~

(a) ~~When necessary to protect the public health, safety or welfare;~~

(b) ~~For material failure to comply with the provisions of the permit or of Part IV of Chapter 373, F.S., or rules adopted thereunder applicable to the permitted activity;~~

(c) ~~If the permit holder or their agent:~~

1. ~~Submitted false or materially inaccurate information in the application or in any reports submitted in support of the application or as required in the permit;~~

2. ~~Has materially failed to submit operational reports or other information required by the permit or Department rules;~~
or

3. ~~Has refused lawful inspection under Section 373.423, F.S.~~

(2) ~~Nothing in this section shall preclude the Department from exercising other enforcement remedies under Sections 120.569(2)(n), 120.60(5), 120.60(6), 120.69, 120.73, 373.119, 373.129(7), 373.136, and 373.430, F.S., either in addition to or instead of suspension or revocation described above.~~

Rulemaking Specific Authority 373.026, 373.043, 373.044, 373.118, 373.4145, 373.418, 373.439, 403.805(1) FS. Law Implemented 373.026, 373.118, 373.413, 373.414, 373.4145, 373.416, 373.426, 373.429, 373.439 FS. History—New 10-1-07, Repealed _____.

62-346.301 Conditions for Issuance of Individual Permits.

(1) through (3) No change.

(4) The standards and criteria, including the provisions for elimination or reduction of impacts, and the mitigation provisions contained in sections 10.2.1 through 10.2.1.3 and

sections 10.3 through 10.3.8, respectively, of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C., shall determine whether the reasonable assurances required by subsection 62-346.301(1) and Rule 62-346.302, F.A.C., have been provided, as applicable. Forms for demonstrating that an applicant has met the financial responsibility requirements of sections 10.3.7 through 10.3.7.9 of Applicant's Handbook Volume I are hereby adopted and incorporated by reference as:

(a) Form 62-346.900(12), "State of Florida Performance Bond To Demonstrate Financial Assurance for Mitigation" [Effective Date]

(b) Form 62-346.900(13), "State of Florida Irrevocable Letter of Credit To Demonstrate Financial Assurance for Mitigation" [Effective Date]

(c) Form 62-346.900(14), "Certificate I To (Name of Issuing Bank) Irrevocable Letter of Credit No. _____" [Effective Date]

(d) Form 62-346.900(15), "Certificate II To (Name of Issuing Bank) Irrevocable Nontransferable Standby Letter of Credit No. _____" [Effective Date]

(e) Form 62-346.900(16), "State of Florida Standby Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" [Effective Date]

(f) Form 62-346.900(17), "State of Florida Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" [Effective Date]

These forms are contained in Appendix C of the "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook—Volume I (General & Environmental)," and may be obtained from the locations provided in Rule 62-346.900, F.A.C.

62-346.302 Additional Conditions for Issuance of Individual and Conceptual Approval Permits.

(1) No change.

(2) When determining whether a permit applicant has provided reasonable assurances that the Department's permitting standards will be met, the Department shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91 through 403.929, F.S., (1984 Supp.), as amended, or any Department rules adopted pursuant to Part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations.

62-346.381 General and Special Limiting Conditions.

(1) The following general conditions shall be applicable to and binding on all individual permits issued pursuant to this chapter, unless the conditions are not applicable to the activity authorized by the permit, or where the conditions must be modified to accommodate unique, project-specific conditions.

(a) through (e) No change.

(f) At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department a fully executed Form 62-346.900(3), "Construction Commencement Notice," incorporated by reference herein, indicating the expected start and completion dates. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C.

(g) through (s) No change

(2) No change.

62-346.900 Environmental Resource Permit Forms.

The forms and instructions used in the Environmental Resource Permit program under this chapter are incorporated by reference below. The forms are listed by rule number, which is also the form number, and with the subject title and effective date. Copies of forms may be obtained from the Internet sites of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>, or NFWFMD at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>, or from any local district or branch office of the Department (see <http://www.dep.state.fl.us/secretary/dist/>) or NFWFMD, or by writing to the Florida Department of Environmental Protection, Submerged Lands and Environmental Resources Office, M.S. 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or to Northwest Florida Water Management District, District Headquarters Office, 75 Water Management Drive, Havana, Florida 32333.

(1) through (6) No change.

(7) "Request to Modify Permit Due to Transfer of Ownership or Control of the Land For a Permit in the Construction Phase Notification of Transfer of Permit," incorporated by reference in subsection 62-346.100(3)(a)-130(4), F.A.C., [Effective Date].

(8) through (11) No change.

(12) "State of Florida Performance Bond To Demonstrate Financial Assurance for Mitigation," incorporated by reference in paragraph 62-346.301(4)(a), F.A.C. [Effective Date]

(13) "State of Florida Irrevocable Letter of Credit To Demonstrate Financial Assurance for Mitigation," incorporated by reference in paragraph 62-346.301(4)(b), F.A.C. [Effective Date]

(14) "Certificate I To _____ (Name of Issuing Bank) Irrevocable Letter of Credit No. _____," incorporated by reference in paragraph 62-346.301(4)(c), F.A.C. [Effective Date]

(15) "Certificate II To _____ (Name of Issuing Bank) Irrevocable Nontransferable Standby Letter of Credit No. _____," incorporated by reference in paragraph 62-346.301(4)(d), F.A.C. [Effective Date]

(16) "State of Florida Standby Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities," incorporated by reference in paragraph 62-346.301(4)(e), F.A.C. [Effective Date]

(17) "State of Florida Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities," incorporated by reference in paragraph 62-346.301(4)(f), F.A.C. [Effective Date]

APPLICANT'S HANDBOOK VOLUME I (GENERAL AND ENVIRONMENTAL):

1.3.4 Linkage with State-owned Submerged Lands Authorizations

First unnumbered paragraph – No change

The joint application form adopted as Form 62-346.900(1), includes an application for a permit under Part IV of Chapter 373, F.S., as well as a request for authorization to use state-owned submerged lands, when such lands are involved; applicants are not required to submit a separate application for such authorization. Upon receipt of the joint application, staff will initially examine the application to determine the potential that such state-owned submerged lands are involved. Where necessary, staff will request a title determination from the Department's Division of State Lands. If it is determined that the activity will involve state-owned submerged lands, authorization from the Board of Trustees will be required prior to any use or construction on such lands. The Department serves as staff to the Board of Trustees, and will be the agency who will review and process the application to use state-owned submerged lands on behalf of the Board of Trustees. The Department has delegated authority from the Board to approve or deny most projects, but for some types of projects, the final decision to approve or deny the state-owned submerged lands authorization rests with the Governor and Cabinet, who serve as the Board of Trustees (see Rule 18-21.0051, F.A.C., ~~September 1, 2009~~ ~~October 27, 2005~~).

In accordance with Section 373.427, F.S., the approval or denial of an individually processed ERP application is linked with the approval or denial of any required state-owned submerged lands application. This process is described in detail in Rules 62-346.075 and 18-21.00401, F.A.C. (~~October 12, 1995~~ ~~February 25, 1985~~). Under this process, activities that require an individually-processed ERP cannot become complete until all related, required state-owned submerged lands information has been submitted as part of the permit application. In addition, the ERP permit cannot be issued unless a determination has been made that the related state-owned submerged lands application also can be issued. In other words, in cases where an activity meets all the requirements for issuance of an ERP, but does not meet all the requirements for issuance of the state-owned submerged lands authorization, the ERP must be denied. Conversely, if the activity meets all the state-owned submerged lands

requirements, but does not meet the conditions for issuance of the ERP, the state-owned submerged lands application will be denied.

Fourth unnumbered paragraph – No change.

3.2 Permits Required

Subsection 62-346.050(1), F.A.C., provides that a noticed general permit under Chapter 62-341, F.A.C., or an individual permit under Chapter 62-346, F.A.C., is required prior to the commencement of construction, alteration, operation, maintenance, removal, or abandonment of any surface water management system, including any dam, impoundment, reservoir, appurtenant work or works that is part of the surface water management system, except when such systems ~~do not~~:

~~1. Meets~~ the grandfathering provisions of Section 373.4145(6), F.S.; ~~or~~

2. Does not exceed the permitting thresholds and criteria in Rule 62-346.050, F.A.C.;

~~3. Is are not~~ exempt under Sections 373.406, 373.4145(3), or 403.813(1), F.S., or Rule 62-346.051, F.A.C.; ~~or~~

4. Is an agricultural or forestry surface water management system regulated under Rules 40A-44.041, .051, or .052, F.A.C., in which case the system will be regulated under Chapter 40A-44, F.A.C.

The types of permits are described in sections 3.2.1 through 3.3.6, below. Activities that are grandfathered or exempt from permit requirements are discussed in sections 3.4 through 3.4.3.7, below.

Second unnumbered paragraph – No change.

3.4 Activities that Do Not Require Permits under Chapter 62-346, F.A.C.

A permit under Chapters 62-341 or 62-346, F.A.C., is not required for: “grandfathered” activities under Section 373.4145(6), F.S.; activities that fall below the permitting thresholds in Rule 62-346.050, F.A.C.; agricultural or forestry surface water management system regulated under Rules 40A-44.041, .051, and .052, F.A.C.; or activities that are exempt under Sections 373.406, 373.4145(3), or 403.813, F.S., or Rule 62-346.051, F.A.C., as discussed below.

Except where required by the terms of the exemption, no application or notice to the Department or the NFWFMD is needed for activities that meet all the terms and conditions of an exemption under Chapter 373 or 403, F.S. However, such exemptions do not provide the authorization that may be required from other local, state, regional, or federal agencies. For example, exempt activities that occur on state-owned submerged land may require a separate letter of consent, easement, or lease under Chapters 253 and 258, F.S., and Chapters 18-20 (May 27, 1999) and 18-21 (April 14, 2008), F.A.C. If an applicant desires verification that an activity qualifies for an exemption, and information on potential ~~of~~ state-owned submerged lands authorizations, such request

should be submitted as discussed in section 4.4.2.1.3, below. Verification of exempt status may be done electronically in some cases — see the discussion in section 4.2.3.2, below.

3.4.4 Agriculture and Forestry Surface Water Management Systems

Agriculture and forestry surface water management systems, other than aquaculture, as those systems are regulated under Rules 40A-44.041, .051, and .052, F.A.C., will continue to be regulated under Chapter 40A-44, F.A.C., and are not regulated by Chapter 62-346, F.A.C. Regulation of these systems continues to be the responsibility of the Northwest Florida Water Management District. However, the Department will continue to be responsible for the regulation of activities on agricultural or forestry lands that are non-agricultural in nature and otherwise the responsibility of the Department in accordance with the Operating Agreement between DEP and the NFWFMD, such as an individual single-family residence, duplex, triplex, or quadruplex that is incidental to the agriculture or forestry activity. Construction or alteration of systems such as roads for future development will not be considered agriculture or silviculture activities, and will be regulated under Chapter 62-346, F.A.C., and not under Chapter 40A-44, F.A.C.

~~3.6 Relinquishment and Abandonment~~

~~Permits issued by the Department for a surface water management system that no longer requires a permit or that are no longer going to be constructed and operated pursuant to section 3.2, above, may be abandoned, or the permit relinquished by the permittee, subject to the following:~~

~~(a) Local government may have concurrent jurisdiction with the Department over a surface water management system. The permittee of the system is not relieved of the responsibility to comply with all applicable rules or ordinances which may govern such system.~~

~~(b) The permittee must apply to, and receive written authorization from, the Department prior to abandoning the system or relinquishing the permit for the system. The Department will authorize abandonment or relinquishment upon determination that the permittee has provided:~~

~~1. Reasonable assurance that there will not be a violation of state water quality standards as set forth in Chapters 62-302 and 62-550, F.A.C., as a result of abandonment or relinquishment of the permit;~~

~~2. Reasonable assurance that adjacent or nearby properties not owned or controlled by the applicant will not be adversely affected by drainage or flooding; and~~

~~3. Reasonable assurance that there will be no harm to the water resources as a result of abandonment or relinquishment of the permit.~~

4.2.3 Verification of an Exemption

With some exceptions, notice is not required to conduct an activity that qualifies for an exemption from permitting under Sections 373.406, 373.4145, or 403.813, F.S., or Rule

62-346.051, F.A.C. However, many local governments request verification of compliance with the rules and statutes of the state prior to issuing a building permit. Further, other entities, such as the USACE, other state agencies, regional authorities, and local agencies may require a separate permit or other authorization even if the activity does not require an ERP permit. Exceptions where prior notice to and approval from the Department is required prior to conducting an exempt activity are:

Remaining text – No change.

4.6.5 First unnumbered paragraph – No change.

If the application is on state-owned submerged lands, the application also will be reviewed to determine the form of authorization required to conduct activities on state-owned submerged lands, and whether such authorization can be approved, in accordance with the requirements of Chapter 253, F.S., and 258, F.S. (if the activity is or may be located within an aquatic preserve), and Chapters 18-21, and 18-20, F.A.C., as applicable ~~applicant may be requested to submit additional information that is not covered in the joint application.~~ In accordance with Section 373.427, F.S., processing of an environmental resource permit application for an activity located on state-owned submerged lands is linked to processing of the state-owned submerged lands authorization, as described in section 1.5 of Applicant's Handbook Volume I.

6.3.1 Applications for modifications are processed as either minor or major as follows:

(a) through (b) No change.

(c) All modification requests must include payment of the fee required by Rule 62-346.071, F.A.C., except an additional fee shall not be required for ~~that~~ minor modifications to noticed general permits or for modifications that consist of a transfer of an individual permit due to a change of ownership or control of the land or activity subject to the permit when the permit is in the operation and maintenance phase ~~shall not require an additional fee.~~

(d) through (e) No change.

6.4 Transfers

A request to modify the construction phase of a permit solely to reflect a change in ownership or control of the land subject to the permit shall be made in accordance with subsection 62-346.100(3), F.A.C. A change in ownership or control of the land subject to the operation and maintenance phase of a permit shall be made in accordance with subsection 62-346.130(2), F.A.C. All transfers of ownership and transfers of a permit are governed by the requirements of Rule 62-346.130, F.A.C.

Second unnumbered paragraph – No change.

6.4.1 Transfers of Permits and Ownership During the Construction Phase

A permit modification during the construction phase to reflect a new permittee due to a change in ownership or control of the lands or due to the transfer of ownership or control of the

surface water management system, or the addition of a co-permittee, shall be requested in accordance subsection 62-346.100(3), F.A.C. The permittee and the new entity(ies) must submit an executed Form 62-346.900(7), "Request to Modify Permit Due to Transfer of Ownership or Control of the Land For a Permit in the Construction Phase," with original signatures and the permit modification fee required in Rule 62-346.071, F.A.C. The permittee must also provide a written statement from the proposed transferee that it has reviewed the permit and project design, and will be bound by all terms and conditions of the permit for the duration of the permit or until the permit is modified.

Second and third unnumbered paragraph – No change.

6.4.2 Transfers of Ownership or Control During the Operation and Maintenance Phase

In accordance with Section 373.416, F.S., and Rule 62-346.130, F.A.C., within 30 days of any transfer of ownership or control of a permitted surface water management system or of the real property where any permitted activity is located, if the permittee wishes the permit to transfer to the new owner, the permittee shall provide notice to the Department of the transfer, including the name and contact information for the new owner. This notification shall not require a fee. Upon transfer of the real property or the permitted surface water management system and submittal of the notice, the permit shall automatically transfer to the new entity who owns or controls the real property or the permitted activity.

10.3.7.4 General Terms for Financial Responsibility Mechanisms.

In addition to the specific provisions regarding financial responsibility mechanisms set forth in section 10.3.7.6, below, the following, as they relate to the specific mechanism proposed, shall be complied with:

(a) The form and content of all financial responsibility mechanisms shall be approved by the Department. Forms that have been developed for this purpose are ~~attached in Appendix E of this Handbook.~~ incorporated by reference in subsection 62-346.301(4), F.A.C. as Forms 62-346.900(12) through (17).

(b) through (e) No change.

10.3.7.8 Financial Responsibility Conditions.

For applicants subject to the financial responsibility of sections 10.3.7 through 10.3.7.9, the Department will include the following conditions ~~in~~ ~~on~~ the permit:

(a) through (b) No change.

(c) When transferring a permit during the construction phase in accordance with Rule 62-346.100 and subsection 62-346.130(1), F.A.C., the new owner or person with legal control shall submit documentation to satisfy the financial responsibility requirements of sections 10.3.7 through 10.3.7.9. The prior owner or person with legal control of the project shall continue the financial responsibility mechanism until the Department has approved the permit transfer and substitute

financial responsibility mechanism. In accordance with subsection 62-346.130(2), F.A.C., Department approval of the permit transfer is not required for permit transfers during the operation and maintenance phase.

12.2 Procedures for Requesting Conversion from the Construction Phase to the Operation and Maintenance Phase

(a) through (d) No change.

(e) When a permit has been issued by the Department, the above forms shall be submitted to the Department office that issued the permit. When a permit has been issued by the NFWFMD, the above forms can be submitted electronically to the NFWFMD Internet site (<http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>). If the permittee does not ~~utilize~~ electronically submit these forms, paper copies of the forms shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD.

The submittal of the above referenced forms does not require a processing fee, and their review shall not require processing as a permit modification under Rule 62-346.100, F.A.C. The forms, including information on how to obtain them electronically, are contained in Appendix C of this Volume.

The Department will review both forms, schedule an inspection as needed, determine compliance with the provisions in sections 12.3 through 12.4, below, and respond to the applicant as to acceptance or rejection of the request to convert the permit from the construction to the operation and maintenance phase.

(f) through (g) No change.

12.7 Subsequent Transfers

Transfers of the permitted activity or the real property on which the permitted activity is located once a permit is in the operation and maintenance phase are governed by the procedures described in Rule 62-346.130, F.A.C., and section 6.4.2 of this Volume. In accordance with subsection 62-346.130, F.A.C., subsequent to the initial transfer of the permit to the operation and maintenance entity approved when the permit was issued, if the permittee wishes to request transfer of the operation and maintenance phase of the permit to another entity, the permittee must submit Form 62-346.900(7), "Notification of Transfer of Permit" to the Department as a modification to the permit, using the procedures in Rules 62-346.100 and 62-346.130, F.A.C., and section 6.4 of this Volume. Until the permit is so transferred, the permittee shall be liable for compliance with all of the terms of the permit for the life of the system. Failure to follow these procedures may result in applicable enforcement action.

APPENDIX C – FORMS (AS ADOPTED IN RULE 62-346.900, F.A.C.)

Changes have been made to forms 62-346.900(1) through (17), as summarized above.

APPENDIX E — FINANCIAL RESPONSIBILITY DOCUMENTS

Strike entire Appendix

APPENDIX F renumbered APPENDIX G, "Guidance for Evaluating Borrow Pit Activities"

Background – No change.

General

First unnumbered paragraph – No change.

Prior to the start of mining, a "Notice of Intent to Mine or Mining Other Resources" must be provided to the BMMR if the mining will exceed 20 acres. Upon completion of the mining, there is a BMMR requirement that lands disturbed by mining operations be reclaimed. The reclamation requirement applies to mines of any size. This is in addition to, and separate from any ERP permitting requirements. The finished project is typically a borrow "lake" that may be planted with littoral zone vegetation. Some pits may be excavated in-the-dry, and may ultimately be stabilized with upland vegetation per BMMR rules. Additional information about the mine reclamation program is available at: Bureau of Mining and Minerals Regulation, Department of Environmental Protection, 2051 East Paul Dirac Drive, Tallahassee, Florida 32310-3760, (850)488-8217, Fax: (850)488-1254.

Third unnumbered paragraph – No change.

Remainder of text – No change.

APPENDIX G renumbered APPENDIX F, "Procedures for Evaluating Proposed Activities for Sites Previously Permitted under Chapter 62-25, F.A.C."

APPLICANT'S HANDBOOK VOLUME II (DESIGN REQUIREMENTS FOR STORMWATER MANAGEMENT SYSTEMS – WATER QUALITY AND WATER QUANTITY)

3.3 Stormwater Quantity: Rate and Volume Controls

Criterion: Except as provided in section 3.3(c), below, the post-development stormwater discharge rate and volume must be controlled as follows.

(a) No change.

(b) Volume Control

A closed basin or closed-lake watershed is defined as that which does not have a surface outfall for conditions up to and including the 100-year, 24-hour flood stage. Rainfall volumes associated with this event are provided as Figure 3.3-2. Flood elevation shall be determined using the most accurate information available, such as:

1. Actual data, including water level, stream flow and rainfall records;

2. Hydrologic/hydraulic modeling;

3. Federal Flood Insurance Rate Maps and supporting flood study data; or

4. Floodplain analysis studies approved by the Department.

Flood elevations shall be evaluated for accuracy considering the extent to which flood elevations are validated by site-specific data.

Remainder of text, including Figures 3.3-1, 3.3-2, and 3.3-3 – No change.

(c) No change.

4.5.2 Modified Rational Hydrograph Method for Streambank Protection Calculations

The rational method is a popular method for estimating peak runoff rates for small urban areas. Specifically, the rational method generates peak discharge rates rather than a runoff hydrograph. However, the rational method can be modified to generate a runoff hydrograph by utilizing the rainfall intensity for various increments of a design storm.

The rate of discharge at any point in time during a storm can be calculated by combining the rainfall intensity for that time increment with the traditional rational formula. The modified rational hydrograph equation is as follows:

$$Q = C (I/P_{Total}) (P_{Total}) A \quad (4-1)$$

where: Q = Discharge for a given time increment (cfs)

C = Runoff coefficient

I/P_{Total} = Intensity for a given time increment (in/hr-in)

P_{Total} = Total rainfall depth (in)

A = Drainage area (acres)

Calculating the peak discharge in 15 minute increments over a 24 hour period generates a synthetic hydrograph. Intensities are typically derived from intensity-duration-frequency (IDF) curves such as those published by the FDOT.

Similar to the rational method for peak discharge, the modified rational method must be limited to small drainage basins with short times of concentration. The use of the modified rational method for generating a runoff hydrograph is limited to systems meeting the following conditions:

- (a) The drainage area is less than 40 acres,
- (b) The pre-development time of concentration for the system is less than 60 minutes, and
- (c) The post-development time of concentration for the system is less than 30 minutes.

The Department does not accept the modified rational hydrograph method for use in generating hydrographs for the 25-year, 24-hour storm event for use in complying with peak discharge requirements in section 3.3 of this Volume. If a project requires a peak discharge evaluation in accordance with section 3.3 of this Volume, in addition to evaluation of the 25-year, 24-hour storm, the applicant may utilize the modified rational hydrograph method only for 2-year, 24-hour storm evaluation.

Guidance on the use of the Modified Rational Hydrograph Method is contained in Chapter 5 of the Florida Land Development Manual, which is incorporated by reference in paragraph 62-346.091(1)(d), F.A.C.

6.1 Description

First unnumbered paragraph – No change.

Underdrain systems are intended to both control the water table elevation over the entire area of the treatment basin, and provide for the drawdown of the treatment volume. Underdrains are utilized where the soil permeability is adequate to recover the treatment volume since the on-site soils overlay the perforated drainage pipes. The design criteria for underdrain systems excludes “filter” systems as described in Structural Stormwater Controls SW BMP 3.10 of Chapter 6 of defined in the Florida Land Development Manual (June 1988), which is hereby adopted and incorporated by reference. A copy of this material may be obtained as described in subsection 62-346.091(2), F.A.C.

Third unnumbered paragraph No change.

There are several design and performance criteria which must be met in order for an underdrain system to meet the rule requirements. The underdrain rule criteria are described below.

14.1 Calculating Permanent Pool Volumes

The residence time of a pond is defined as the average time required to renew the water volume (permanent pool volume) in the pond and can be expressed as:

$$RT = \frac{PPV}{FR} \quad (14-1)$$

where: RT = Residence time (days)

PPV = Permanent Pool Volume (ac-ft)

FR = Average Flow Rate (ac-ft/day)

Solving Equation 14-1 for the permanent pool volume (PPV) gives:

$$PPV = (RT) (FR) \quad (14-2)$$

The average flow rate (FR) during the wet season (June – ~~September~~ ~~October~~) can be expressed by:

$$FR = \frac{DA C R}{WS} \quad (14-3)$$

where: DA = Drainage area to pond (ac)

C = Runoff coefficient (see Table 14-1 for a list of recommended values for C)

R = Wet season rainfall depth (in)

WS = Length of wet season (days) (June – September = 122 days)

The depth of the wet season rainfall (R) for areas of the NFWFMD is shown in Figure 14-1. The rainfall depth at a particular location may be established by interpolating between the nearest isopluvial lines.

Substituting Equation 14-3 into Equation 14-2 gives:

$$PPV = \frac{DA C R RT}{WS CF} \quad (14-4)$$

where: CF = Conversion factor = 12 in/ft

17.4 Considerations for Mining and Certain Other Excavation Activities

Reasonable assurance must be provided demonstrating that groundwater quality standards will not be violated by excavation activities, including mining, that have the potential to penetrate confining layers or, that by their nature, must be in direct communication with limestone. Applicants for such activities must demonstrate that runoff entering the excavated area is sufficiently treated prior to discharge to any surface or ground waters. For example, site grading or other water management practices must direct runoff from areas that are potential sources of pollutants into stormwater treatment areas that are designed, constructed, operated and maintained in compliance with Part IV of this Handbook prior to discharge to the excavated area or off-site. Entrance roads, parking areas, vehicle maintenance and wash areas, and storage areas for petroleum and hazardous substances are examples of areas that have the potential for generating and discharging such pollutants and, as such, require such treatment. However, areas associated with material processing, such as washing associated with grading and sorting of sand or limestone extracted from the site, are not considered potential sources of pollutants, provided that no chemicals, except water conditioners or pH adjusters which ~~have been approved by the Department as not adversely affecting the quality of the water contained in the mine,~~ are ~~shall~~ be added to the process water used for transporting, washing, or processing of the sand or limestone.

Second and third unnumbered paragraphs – No change.

APPENDIX B-2 DETENTION WITH FILTRATION
CRITERIA CHECK-LIST

Source: Section 3.10 of Chapter 6 of the Florida Land Development Manual, FDEP, incorporated by reference in Chapter 5 of the Florida Land Development Manual, which is incorporated by reference in paragraph 62-346.091(1)(d), F.A.C.

Remainder of Appendix – No change.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
62-346.055 No-notice General Permits.

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 20, May 22, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
62-346.150 Relinquishment and Abandonment.

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 35, No. 20, May 22, 2009 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of the Secretary

RULE NOS.: RULE TITLES:
62S-4.001 Definitions
62S-4.008 Funding Coastal Partnership
 Initiative Grants

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. 23, June 11, 2010 issue of the Florida Administrative Weekly.

Rule 62S-4.001, F.A.C., has been changed to add the following definition and to renumber subsections:

(4) through (6) No change.

(7) “Invasive Exotic Plants” for the purpose of this rule, means non-native plants that adversely affect the habitats and bioregions they invade.

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

Proposed amendment to subsection 62S-4.008(2) has been changed to delete part of subsection (2):

(2) Funding of any application submitted in response to the FCMP’s notice of availability of funds and in accordance with this rule chapter is subject to the amount of federal coastal zone management funds awarded to the FCMP and the amount allocated to the CPI by the FCMP. ~~The FCMP may reduce awards based upon feasibility of project components.~~

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: RULE TITLE:
64B5-13.005 Disciplinary Guidelines

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. 19, May 14, 2010 issue of the Florida Administrative Weekly.

The change is in response to concerns stated by the Board of Dentistry at its meeting on June 18, 2010. The change is as follows:

64B5-13.005(ddd) shall read as:

<p>(ddd) Being convicted of, or entering a plea of nolo contendere to, any misdemeanor or felony, regardless of adjudication, under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program. (Section 456.072(1)(ii), F.S.)</p>			

FIRST OFFENSE	Misdemeanor	Misdemeanor
	Reprimand	\$10,000 fine.
	Felony – Revocation	suspension Felony – revocation

64B5-13.005(ggg) shall read as:

<u>(ggg) Being convicted of, or entering a plea of guilty or nolo contendere, to any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud. (Section 456.072(1)(II) F.S.)</u>		
FIRST OFFENSE	Misdemeanor – Reprimand Felony – Revocation	Misdemeanor – \$10,000 fine. suspension Felony – revocation
SECOND OFFENSE	\$10,000 fine. revocation	\$10,000 fine. revocation

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

Section IV Emergency Rules

DEPARTMENT OF REVENUE

RULE NO.: 12ER10-03
 RULE TITLE: Florida’s 2010 Tax Amnesty Program
 SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 1, Chapter 2010-166, L.O.F., authorizes the Department of Revenue to promulgate an emergency rule to implement the provisions of the law, establish forms, procedures, terms, conditions, and methods of payment appropriate for fair and effective administration of Florida’s 2010 Tax Amnesty Program, and to ensure taxpayers’ ongoing compliance with Florida’s revenue laws. This emergency rule establishes the administration of Florida’s 2010 Tax Amnesty Program during the period July 1, 2010, through September 30, 2010. To comply with the effective dates of this Program, the Department must adopt an emergency rule as provided by the law so that eligible taxpayers can apply under the Program to report and pay outstanding state and/or local tax liabilities during the tax amnesty period.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of an emergency rule to administer the provisions of Section 1, Chapter 2010-166, L.O.F., which establishes Florida’s 2010 Tax Amnesty

Program beginning July 1, 2010, through September 30, 2010. This emergency rule establishes the terms and conditions of eligibility to participate in the program, the procedures to obtain amnesty under the program for any outstanding state and/or local tax liability incurred prior to July 1, 2010, and the forms necessary to apply for tax amnesty and to report and pay outstanding liabilities during the tax amnesty period.

SUMMARY: Emergency Rule 12ER10-03, (Florida’s 2010 Tax Amnesty Program), establishes the procedures the Department of Revenue will use to administer the tax amnesty program authorized under Section 1, Chapter 2010-166, L.O.F. This emergency rule: (1) provides when a taxpayer is eligible to participate in Florida’s 2010 Tax Amnesty Program during the period from 12:01 a.m., July 1, 2010, through midnight, September 30, 2010; (2) requires eligible taxpayers to file a 2010 Tax Amnesty Agreement (Form DR-100000) with the Department, declaring eligibility to participate in the program; (3) provides when the Department will rescind a taxpayer’s eligibility to participate in the program; (4) establishes when a reduction of 50 percent interest or when a reduction of 25 percent interest will be authorized under the program; (5) establishes procedures for eligible taxpayers who have submitted a 2010 Tax Amnesty Agreement to report and pay outstanding state and/or local tax liabilities; (6) establishes procedures to convert a sales and use tax audit to the certified audit program; (7) establishes procedures for entering into a 2010 Amnesty Stipulation Agreement (Form DR-682010) to pay outstanding liabilities under the tax amnesty program; and (8) provides the effective period of this emergency rule authorized by Section 1, Chapter 2010-166, L.O.F.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE EMERGENCY RULE IS:

12ER10-03 Florida’s 2010 Tax Amnesty Program.

(1) Scope. This rule establishes the procedures the Department of Revenue will use to administer the tax amnesty program authorized by Section 1, Chapter 2010-166, L.O.F.

(a) The Department is authorized to offer to any eligible taxpayer the opportunity to pay their state and/or local tax liability due prior to July 1, 2010, and to avoid criminal prosecution and the imposition of penalties and a portion of the interest due.

(b) Taxpayers are encouraged to participate in this tax amnesty program as a means of resolving any unpaid liabilities for state and/or local tax, penalty, and interest. Participation in this program does not increase the possibility that a taxpayer will be subject to an audit.

(2) Definitions. For the purposes of this rule, the following terms and phrases mean: