

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

Section II Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NO.: RULE TITLE:
5C-13.004 Schedule of Fees

PURPOSE AND EFFECT: The purpose of this rule is to add new diagnostic tests that have been developed and are now the standard testing protocol for animal disease diagnostics, delete obsolete tests and update charges for existing tests.

SUMMARY: This rule proposed to delete obsolete tests, add new diagnostic tests and revise some current test charges.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have no impact on small business as no entity is required to utilize the state diagnostic laboratories. A SERC has not been prepared by the agency.

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

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

LAW IMPLEMENTED: 585.61(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Leigh A. Humphreys, Assistant Director, 407 S. Calhoun Street, Tallahassee, FL 32399-0800 (850)410-0900, Fax: 410-0957

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 5C-13.004 follows. See Florida Administrative Code for present text.)

5C-13.004 Schedule of Fees.

(1) Necropsy Fees. Necropsy fees include gross necropsy, histopathological, and basic parasitological examinations. Poultry necropsy also includes virology testing. Necropsy fee includes disposal. Food animals include cattle, swine, goats, sheep, poultry and non-ornamental fish.

(a) Mammals, fetus and placenta, ratites, companion birds, wild birds, and reptiles:

<u>Over 500 pounds – All Animals</u>	<u>\$ 300.00/animal</u>
<u>Over 250-500 pounds – Food Animal</u>	<u>\$ 250.00/animal</u>
<u>Over 250-500 pounds – Non-Food Animal</u>	<u>\$ 300.00/animal</u>

<u>Over 100-250 pounds – Food Animal</u>	<u>\$ 225.00/animal</u>
<u>Over 100-250 pounds – Non-Food Animal</u>	<u>\$300.00/animal</u>
<u>Over 50-100 pounds – Food Animal</u>	<u>\$ 200.00/animal</u>
<u>Over 50-100 pounds – Non-Food Animal</u>	<u>\$ 300.00/animal</u>
<u>Over 25-50 pounds – Food Animal</u>	<u>\$ 175.00/animal</u>
<u>Over 25-50 pounds – Non-Food Animal</u>	<u>\$ 300.00/animal</u>
<u>Over 10-25 pounds – Food Animal</u>	<u>\$ 150.00/animal</u>
<u>Over 10-25 pounds – Non-Food Animal</u>	<u>\$ 250.00/animal</u>
<u>Over 5-10 pounds – Food Animal</u>	<u>\$ 125.00/animal</u>
<u>Over 5-10 pounds – Non-Food Animal</u>	<u>\$ 200.00/animal</u>
<u>Over 1-5 pounds – Food Animal</u>	<u>\$ 100.00/animal</u>
<u>Over 1-5 pounds – Non-Food Animal</u>	<u>\$ 150.00/animal</u>
<u>Less than 1 pound – Food Animal</u>	<u>\$ 75.00/animal</u>
<u>Less than 1 pound – Non-Food Animal</u>	<u>\$ 100.00/animal</u>

(b) Poultry (chickens, turkeys, guineas, ducks, geese, quail, or other upland game birds):

Poultry may have up to 8 animals for each accession. \$40.00/1-8 birds

(c) Miscellaneous necropsy services:

<u>Head/Brain Removal (> 150 pounds)</u>	<u>\$ 40.00</u>
<u>Head/Brain Removal (150 pounds or less)</u>	<u>\$ 20.00</u>
<u>Cord Removal (> 150 pounds)</u>	<u>\$ 200.00</u>
<u>Cord Removal (150 pounds or less)</u>	<u>\$ 100.00</u>
<u>Tissue Collection in lieu of necropsy</u>	<u>\$ 30.00/up to 5 tissues</u>
<u>Euthanasia over 1000 lbs.</u>	<u>\$ 100.00</u>
<u>Euthanasia over 500-1000 lbs.</u>	<u>\$ 75.00</u>
<u>Euthanasia over 100-500 lbs.</u>	<u>\$ 50.00</u>
<u>Euthanasia over 25-100 lbs.</u>	<u>\$ 30.00</u>
<u>Euthanasia 25 lbs. or less</u>	<u>\$ 10.00</u>

(d) Incineration Only:

<u>Over 1000 lbs.</u>	<u>\$ 300.00/animal</u>
<u>Over 500-1000 lbs.</u>	<u>\$ 250.00/animal</u>
<u>Over 250-500 lbs.</u>	<u>\$ 200.00/animal</u>
<u>Over 100-250 lbs.</u>	<u>\$ 175.00/animal</u>
<u>Over 50-100 lbs.</u>	<u>\$ 150.00/animal</u>
<u>Over 25-50 lbs.</u>	<u>\$ 125.00/animal</u>
<u>Over 10-25 lbs.</u>	<u>\$ 100.00/animal</u>
<u>Over 5-10 lbs.</u>	<u>\$ 75.00/animal</u>
<u>Over 1-5 lbs.</u>	<u>\$ 50.00/animal</u>
<u>Less than 1 lb.</u>	<u>\$ 25.00/animal</u>

(2) Bacteriology/Mycology.

(a) Cultures – Food Animals:

<u>Aerobic culture</u>	<u>\$ 8.00</u>
<u>Anaerobic culture</u>	<u>\$ 10.00</u>
<u>Campylobacter jejuni culture</u>	<u>\$ 12.00</u>
<u>Campylobacter venerealis culture</u>	<u>\$ 12.00</u>
<u>Colony count</u>	<u>\$ 1.00/plate</u>
<u>Fungal culture</u>	<u>\$ 8.00</u>
<u>Microaerophilic culture</u>	<u>\$ 8.00</u>

<u>Mycobacterium culture</u>	\$ 8.00	<u>Albumin</u>	\$ 8.00
<u>Mycoplasma culture</u>	\$ 8.00	<u>Alanine aminotransferase (ALT)</u>	\$ 8.00
<u>(b) Cultures – Non-Food Animal:</u>		<u>Alkaline phosphatase (ALP)</u>	\$ 8.00
<u>Aerobic culture</u>	\$ 5.00/no growth	<u>Ammonia</u>	\$ 8.00
<u>Aerobic culture</u>	\$16.00/positive cultures except <u>Salmonella</u>	<u>Amylase</u>	\$ 8.00
<u>Aerobic culture – Salmonella only</u>	\$ 20.00	<u>Aspartate amino transferase (AST)</u>	\$ 8.00
<u>Anaerobic culture</u>	\$ 5.00/no growth	<u>Bile acids</u>	\$ 8.00
<u>Anaerobic culture</u>	\$16.00/positive cultures or growth	<u>Bilirubin total</u>	\$ 8.00
<u>Campylobacter jejuni culture</u>	\$ 24.00	<u>Bovine IgG</u>	\$ 12.00
<u>Campylobacter venerealis culture</u>	\$ 24.00	<u>Buffy coat exam</u>	\$ 15.00
<u>CEM culture</u>	\$ 15.00/swab	<u>Blood urea nitrogen</u>	\$ 8.00
<u>Colony count</u>	\$ 2.00/plate	<u>Calcium</u>	\$ 8.00
<u>Fungal culture</u>	\$ 5.00/no growth	<u>Calf IgG</u>	\$ 12.00
<u>Fungal culture</u>	\$ 16.00/positive culture or growth	<u>Chloride, eye</u>	\$ 8.00
<u>Microaerophilic culture</u>	\$ 5.00/no growth	<u>Chloride, serum</u>	\$ 8.00
<u>Microaerophilic culture</u>	\$ 16.00/positive culture or growth	<u>Cholesterol</u>	\$ 8.00
<u>Mycobacterium culture</u>	\$ 5.00/no growth	<u>Coombs-direct</u>	\$ 16.00
<u>Mycobacterium culture</u>	\$ 16.00/positive culture or growth	<u>Cortisol</u>	\$ 20.00
<u>Mycoplasma culture</u>	\$ 5.00/no growth	<u>Creatine kinase/creatinine</u>	\$ 8.00
<u>Mycoplasma culture</u>	\$ 16.00/positive culture or growth	<u>Electrolytes-serum</u>	\$ 12.00
<u>(c) Bacteriology – Other:</u>		<u>Electrolytes-element:</u>	
<u>Antimicrobial Panels</u>	\$ 20.00/isolate	<u>Chloride</u>	\$ 10.00
<u>Stains – Gram or Acid Fast</u>	\$ 8.00/tissue	<u>Potassium</u>	\$ 10.00
<u>Chlamydia Isolation</u>	\$ 35.00	<u>Sodium</u>	\$ 10.00
<u>Clostridium difficile Toxin A/B</u>	\$ 25.00	<u>Equine IgG</u>	\$ 12.00
<u>Clostridium FA</u>	\$ 20.00	<u>Estradiol (equine)</u>	\$ 12.00
<u>Leptospirosis FA</u>	\$ 20.00	<u>Fecal occult blood</u>	\$ 8.00
<u>(3) Clinical Pathology:</u>		<u>Fibrinogen</u>	\$ 8.00
<u>(a) Blood Chemistry Panels:</u>		<u>Fluid analysis</u>	\$ 10.00
<u>Ruminant</u>	\$ 20.00	<u>Free T4</u>	\$ 12.00
<u>Canine and Feline</u>	\$ 30.00	<u>Gamma-Glutamine Transpeptidase (GGT)</u>	\$ 8.00
<u>Equine</u>	\$ 30.00	<u>Glucose</u>	\$ 8.00
<u>Avian</u>	\$ 30.00	<u>Hemoparasite identification/blood film</u>	\$ 10.00
<u>Vitreous Fluid</u>	\$ 20.00	<u>Ketones urine</u>	\$ 5.00
<u>(b) Complete Blood Counts:</u>		<u>Lactate dehydrogenase</u>	\$ 8.00
<u>Food animal</u>	\$ 12.00	<u>Lipase</u>	\$ 8.00
<u>Avian</u>	\$ 20.00	<u>Magnesium</u>	\$ 7.00
<u>Companion animal including equines</u>	\$ 20.00	<u>Packed cell volume (PCV)</u>	\$ 5.00
<u>(c) Urinalysis:</u>		<u>Phenobarbitol</u>	\$ 10.00
<u>(d) White Blood Counts (WBC):</u>		<u>Phosphorus (phosphate inorganic)</u>	\$ 8.00
<u>Mammal</u>	\$ 10.00	<u>Platelet count</u>	\$ 8.00
<u>Avian</u>	\$ 10.00	<u>Progesterone</u>	\$ 10.00
<u>Avian with differential</u>	\$ 15.00	<u>Red blood cell count (avian)</u>	\$ 8.00
<u>(e) Individual Tests:</u>		<u>Red blood cell count (mammal)</u>	\$ 8.00
		<u>Reticulocyte count</u>	\$ 5.00
		<u>Total serum protein (TSP)</u>	\$ 8.00
		<u>Triglycerides</u>	\$ 10.00
		<u>Testosterone</u>	\$ 8.00
		<u>T3</u>	\$ 10.00
		<u>T4</u>	\$ 10.00

<u>(4) Histology.</u>		<u>Salmonella pullorum (typhoid)</u>	
<u>A tissue examined is considered one section of an organ or lesion; two sections of the same organ or lesion are considered two separate sections.</u>		<u>agglutination</u>	<u>\$ 5.00</u>
<u>(a) Cytology:</u>		<u>(b) Parasitic:</u>	
<u>Slide interpretation</u>	<u>\$ 30.00/sampled site from one animal</u>	<u>Anaplasmosis cELISA</u>	<u>\$ 15.00</u>
<u>Cytology special staining</u>	<u>\$ 10.00</u>	<u>Heartworm ELISA</u>	<u>\$ 10.00</u>
<u>(b) Histopathology.</u>		<u>Neosporum caninum cELISA</u>	<u>\$ 15.00</u>
<u>Food animals</u>	<u>\$30.00/any number of tissues</u>	<u>Equine Piroplasmosis cELISA</u>	<u>\$ 17.00</u>
<u>Special staining requested – Food animals</u>	<u>\$ 5.00/tissue</u>	<u>(c) Viral:</u>	
<u>Non-food animals</u>	<u>\$ 50.00/1-2 tissues</u>	<u>1. Agar Gel Immunodiffusion (AGID):</u>	
<u>Special staining requested –Non-food animals</u>	<u>\$ 10.00/tissue</u>	<u>Avian Influenza AGID</u>	<u>\$ 7.00</u>
<u>Additional tissues – Non-food animals</u>	<u>\$ 5.00/tissue</u>	<u>Bluetongue AGID</u>	<u>\$ 7.00</u>
<u>Necropsy submitted “in bottle”</u>	<u>\$ 75.00</u>	<u>Bovine Leukosis Virus AGID</u>	<u>\$ 7.00</u>
<u>Slide Preparation/duplicate slide requested for send-out</u>	<u>\$ 15.00/slide</u>	<u>Equine Infectious Anemia (Coggins) AGID</u>	<u>\$ 7.00</u>
<u>(5) Immunohistochemistry.</u>		<u>Ovine Progressive Pneumonia AGID</u>	<u>\$ 7.00</u>
<u>Bovine Viral Diarrhea</u>	<u>\$ 16.00</u>	<u>2. Enzyme-Linked Immunodiffusion Assay (ELISA):</u>	
<u>Chronic Wasting Disease</u>	<u>\$ 25.00</u>	<u>Bovine Viral Diarrhea ELISA</u>	<u>\$ 7.00</u>
<u>Scrapie</u>	<u>\$ 25.00</u>	<u>Equine Infectious Anemia (Coggins) ELISA</u>	<u>\$ 16.00</u>
<u>West Nile Virus (avian)</u>	<u>\$ 16.00</u>	<u>West Nile Virus (WNV) ELISA</u>	<u>\$ 7.00</u>
<u>Leptospirosis</u>	<u>\$ 16.00</u>	<u>3. Indirect Fluorescent Antibody (IFA)</u>	<u>\$ 20.00</u>
<u>Tumoral Markers</u>	<u>\$ 16.00/antibody</u>	<u>4. Serum Neutralization (SN)</u>	<u>\$ 10.00</u>
<u>(6) Molecular Biology.</u>		<u>(9) Toxicology.</u>	
<u>Conventional Polymerase Chain Reaction (PCR)</u>		<u>Aflatoxin</u>	<u>\$ 20.00</u>
<u>Reaction (PCR)</u>	<u>\$ 35.00</u>	<u>Anticoagulant Screen</u>	<u>\$ 60.00</u>
<u>Real-time Polymerase Chain Reaction (RT-PCR)</u>		<u>Arsenic (As)</u>	<u>\$ 40.00</u>
<u>RT-PCR</u>	<u>\$ 50.00</u>	<u>Cholinesterase</u>	<u>\$ 20.00</u>
<u>(7) Parasitology.</u>		<u>Copper – serum</u>	<u>\$ 15.00</u>
<u>Baermann test, lungworm</u>	<u>\$ 10.00</u>	<u>Copper – Tissue or feed</u>	<u>\$ 25.00</u>
<u>Cryptosporidia/Giardia FA</u>	<u>\$ 15.00</u>	<u>Cyanide (qual. (prussic acid))</u>	<u>\$ 20.00</u>
<u>Cryptosporidia/Giardia ELISA</u>	<u>\$ 15.00</u>	<u>Drug Screen</u>	<u>\$ 55.00</u>
<u>Fecal direct exam</u>	<u>\$ 10.00</u>	<u>Fumonisin</u>	<u>\$ 20.00</u>
<u>Fecal flotation</u>	<u>\$ 10.00</u>	<u>Gossypol – (Free Gossypol)</u>	<u>\$ 30.00</u>
<u>Fecal sedimentation</u>	<u>\$ 10.00</u>	<u>Lead – Blood</u>	<u>\$ 30.00</u>
<u>Gastrointestinal parasite scraping</u>	<u>\$ 10.00</u>	<u>Lead – Non Blood</u>	<u>\$ 35.00</u>
<u>Giardia snap test</u>	<u>\$ 15.00</u>	<u>Mercury</u>	<u>\$ 40.00</u>
<u>Heartworm, Knott’s</u>	<u>\$ 15.00</u>	<u>Monensin</u>	<u>\$ 40.00</u>
<u>McMaster’s egg count</u>	<u>\$ 15.00</u>	<u>Nitrates-QL (qualitative)</u>	<u>\$ 10.00</u>
<u>Parasite identification</u>	<u>\$ 20.00</u>	<u>Nitrates-QN (Quan)QN-quantitative</u>	<u>\$ 20.00</u>
<u>Tritrichomonas foetus culture</u>	<u>\$ 10.00</u>	<u>Ochratoxin</u>	<u>\$ 20.00</u>
<u>Tick Identification</u>	<u>\$ 20.00</u>	<u>pH</u>	<u>\$ 5.00</u>
<u>(8) Specific Serology.</u>		<u>Reserpine, qualqualitative</u>	<u>\$ 20.00</u>
<u>(a) Bacterial:</u>		<u>Selenium</u>	<u>\$ 30.00</u>
<u>Brucella canis card test</u>	<u>\$ 12.00</u>	<u>T-2</u>	<u>\$ 20.00</u>
		<u>Urea (quan.)ntitative</u>	<u>\$ 40.00</u>
		<u>Vomitoxin</u>	<u>\$ 20.00</u>
		<u>Zearalenone</u>	<u>\$ 20.00</u>
		<u>Zinc – Serum</u>	<u>\$ 15.00</u>
		<u>Zinc – Tissue or feed</u>	<u>\$ 15.00</u>

<u>(10) Virology.</u>	
<u>Electron Microscopy</u>	\$ 30.00
<u>Virus Isolation</u>	\$ 30.00
<u>Serum Neutralization (SN)</u>	\$ 10.00
<u>Indirect Fluorescent Antibody (IFA)</u>	\$ 15.00
<u>Direct Fluorescent Antibody (FA)</u>	\$ 15.00
<u>(11) Live Oak Laboratory Program Testing.</u>	
<u>Avian Influenza Agar Gel</u>	
<u>Immunodiffusion(AGID)</u>	\$ 7.00
<u>Brucellosis Card (Brucella abortus)</u>	\$ 3.00
<u>Brucellosis Complement Fixation (CF)</u>	\$ 25.00
<u>Brucellosis Fluorescence Polarization Assay (FPA)</u>	\$ 2.00
<u>Brucellosis Rapid Automated Presumptive (RAP)</u>	\$ 2.00
<u>Brucellosis Rivanol</u>	\$ 10.00
<u>Brucellosis Standard Plate</u>	\$ 10.00
<u>Brucellosis Standard Tube</u>	\$ 10.00
<u>Brucellosis Buffered Acidified Plate Antigen (BAPA)</u>	\$ 10.00
<u>Brucellosis Milk Ring Test (BRT)</u>	\$ 10.00
<u>Brucellosis Heat-Inactivated Ring Test</u>	\$ 10.00
<u>Equine Infectious Anemia Agar Gel</u>	
<u>Immunodiffusion (AGID)</u>	\$ 7.00
<u>Equine Infectious Anemia ELISA</u>	\$ 16.00
<u>Johne's ELISA</u>	\$ 6.00
<u>Johne's solid fecal culture</u>	\$ 15.00
<u>Johne's rapid (liquid) fecal culture</u>	\$ 20.00
<u>Johne's PCR confirmation for positive cultures</u>	\$ 20.00
<u>Mycoplasma gallisepticum Plate</u>	\$ 2.00
<u>Mycoplasma synoviae Plate</u>	\$ 2.00
<u>Pullorum Plate Agglutination</u>	\$ 5.00
<u>Poultry Chick Surveillance</u>	\$ 35.00/batch of 15
<u>Poultry Chick Surveillance</u>	\$ 20.00/batch of 5
<u>Pseudorabies Virus Autolex</u>	\$ 5.00
<u>Pseudorabies ELISA</u>	\$ 10.00
<u>(12) Administration.</u>	
<u>Fax Report</u>	\$ 1.00
<u>Printed/Mailed Report</u>	\$ 2.00
<u>Shipping Fee for forwarding samples to other labs</u>	\$ 20.00
<u>Shipping Fee for forwarding requested ashes after incineration</u>	\$ 30.00
<u>New client set-up</u>	\$ 5.00
<u>Global Vet Link (GVL) processing fee</u>	\$ 1.00/result

<u>Accession fee</u>	\$ 3.00/accession
<u>Accession fee, out-of-state non contract</u>	\$ 10.00/accession
<u>Additional report fee</u>	\$ 2.00
<u>Certified copy of EIA test record</u>	\$ 5.00

Fees for samples forwarded to other labs will be determined by combined cost to Animal Industry based on current quote obtained from referral lab, any out-of-state fee if charged by the referral lab, plus standard shipping fee for forwarding biological specimens.

Rulemaking Specific Authority 570.07(23), 585.002(4) FS. Law Implemented 585.61(3) FS. History—New 12-25-84, Formerly 5C-13.04, Amended 11-27-88, 5-6-93, 2-21-95, 7-21-99, 7-4-02,_____.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Standards

RULE NOS.:	RULE TITLES:
5F-5.001	Adoption of Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices
5F-5.002	Weighing or Measuring Device Permits; Requirements and Fees

PURPOSE AND EFFECT: Rule 5F-5.001, F.A.C. – To adopt the most current version (2010) of National Institute of Standards and Technology Handbook 44. Rule 5F-5.002, F.A.C. – To adjust the annual permit cost for a weighing device with a capacity of greater than 100 lb up to and including 250 lb from \$75 to \$40 each to more accurately reflect the cost of regulating those devices.

SUMMARY: Rule 5F-5.001, F.A.C. – Updates rule to adopt the most recent version (2010) of National Institute of Standards and Technology Handbook 44; Rule 5F-5.002, F.A.C. – Adjusts the annual permit cost for a weighing device with a capacity of greater than 100 lb up to and including 250 lb from \$75 to \$40 each to more accurately reflect the cost of regulating those devices.

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

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

RULEMAKING AUTHORITY: 570.07(23), 531.40, 531.41(3), 531.66 FS.

LAW IMPLEMENTED: 531.40, 531.42(1), (2), 531.50, 531.60-.66 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Max Gray, Chief, Bureau of Weights and Measures, (850)488-9140

THE FULL TEXT OF THE PROPOSED RULES IS:

5F-5.001 Adoption of Specifications, Tolerances, and Other Technical Requirements for Commercial Weighing and Measuring Devices.

(1) The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices adopted by the National Conference on Weights and Measures and contained in National Institute of Standards and Technology (NIST) Handbook 44, 2010 ~~2007~~ Edition, are hereby adopted as rules for the requirements for commercial weighing and measuring devices of the Department of Agriculture and Consumer Services. A copy of NIST Handbook 44, 2010 ~~2007~~ Edition, may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, Phone (202)512-1800 or <http://ts.nist.gov/WeightsAndMeasures/pubs.cfm> <http://ts.nist.gov/ts/htdocs/230/235/pubs.htm>.

(2) No change.

Rulemaking Specific Authority 531.40, 531.41(3) FS. Law Implemented 531.40 FS. History—New 1-1-73, Amended 7-1-74, 4-18-75, 1-25-76, 1-17-77, 3-29-78, 2-15-79, 6-4-80, 4-5-81, 5-2-82, 6-30-83, 7-15-84, 8-11-85, Formerly 5F-5.01, Amended 7-7-86, 4-5-87, 4-27-88, 5-31-89, 8-21-90, 8-5-91, 12-10-92, 6-21-94, 8-16-95, 10-8-96, 8-27-98, 8-19-99, 7-3-00, 9-3-01, 6-23-02, 6-29-03, 6-21-04, 6-2-05, 5-23-06, 9-2-07, _____.

5F-5.002 Weighing or Measuring Device Permits; Requirements and Fees.

(1) through (2) No change.

(3) Commercial Use Permits (Permits). Each permit shall be conspicuously displayed at the location for which it is issued. Permits shall be issued by the Department following receipt and approval of a completed Weighing and Measuring Device Permit Application, DACS-03560, (Rev. 8/10 ~~06/09~~),

herein adopted and incorporated by reference, identifying the specific type of weighing and measuring devices for which the permit is sought. A copy of the Weighing and Measuring Device Permit Application can be obtained from the Florida Department of Agriculture and Consumer Services, Bureau of Weights and Measures, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650 or from the Department's web site at <http://www.doacs.state.fl.us/onestop/index.html>. The applicant shall provide the requested business information, the name and signature of the applicant or applicant's agent, shall complete the Permit Fee Worksheet (page two of application) providing the total number of each specific device type at the permit location, and shall pay a total fee based on the amounts specified in paragraph 5F-5.002(6)(e) or (f), F.A.C.

(4) through (5) No change.

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

(e) The following commercial use permit fees for weighing and measuring devices are based on the manufacturers' rated capacity or the device's design and use:

1. For weighing devices used during any portion of the period covered by the commercial use permit with a manufacturer's rated capacity of up to and including 100 pounds or the metric equivalent, the fees in Table 1 will apply:

Number of Devices per Single Retail Establishment	Fee per Single Retail Establishment
1 to 5	\$40
6 to 10	\$125
11 to 30	\$175
31 and Over	\$225

2. For weighing devices with a manufacturer's rated capacity of greater than 100 pounds up to and including 250 ~~5,000~~ pounds or the metric equivalents, the annual permit fee shall be \$40 ~~75~~ per device.

3. For weighing devices with a manufacturer's rated capacity of greater than 250 pounds up to and including 5,000 pounds or the metric equivalents, the annual permit fee shall be \$75 per device.

~~4.3.~~ For weighing devices with a manufacturer's rated capacity of greater than 5,000 pounds up to and including 20,000 pounds or the metric equivalents, the annual permit fee shall be \$150 per device.

~~5.4.~~ For weighing devices with a manufacturer's rated capacity of greater than 20,000 pounds or the metric equivalent, the annual permit fee shall be \$200 per device.

~~6.5.~~ For wheel load weighing devices the annual permit fee shall be \$15 per device.

~~7.6.~~ For static and in-motion railroad track scales used to weigh railway cars that are not tested for accuracy and compliance with state standards by a private testing agency, the annual permit fee shall be \$200 per device.

8.7. For belt conveyor scales, the annual permit fee shall be \$400 per device.

9.8. For weighing devices used only for law enforcement purposes by a government agency, the annual permit fee shall be \$0.

(f) through (g) No change.

(7) through (11) No change.

Rulemaking Authority 570.07(23), 531.66 FS. Law Implemented 531.60-.66, 531.42(1), 531.42(2), 531.50 FS. History–New 10-14-09, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Isadore Rommes, Director, Division of Standards (850)488-0645

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Forestry

RULE NOS.:	RULE TITLES:
5I-5.001	Purpose
5I-5.002	Definitions
5I-5.003	Use of Plant A Tree Trust Fund Monies
5I-5.004	Grant Application Process
5I-5.005	Reviewing and Processing of Grants
5I-5.006	Maintenance of Grant Award Projects
5I-5.007	Prioritization of Grant Applications
5I-5.008	Award of Grants
5I-5.009	Execution of Agreements and Documents
5I-5.010	Review of Projects in Progress and Upon Completion

PURPOSE AND EFFECT: Repeal of rule for Division of Forestry program.

SUMMARY: The repeal of Chapter 5I-5, F.A.C. which no longer needed to operate Division tree planting programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 570.07(23), 589.277 FS.

LAW IMPLEMENTED: 589.277 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steve Bohl, 3125 Conner Blvd., Tallahassee, FL 32399-1650, (850)414-9914

THE FULL TEXT OF THE PROPOSED RULES IS:

5I-5.001 Purpose.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 589.277 FS. History–New 3-8-93, Repealed.

5I-5.002 Definitions.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 4-17-95, Repealed.

5I-5.003 Use of Plant A Tree Trust Fund Monies.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 4-3-94, Amended 4-17-95, Repealed.

5I-5.004 Grant Application Process.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 4-17-95, Repealed.

5I-5.005 Reviewing and Processing of Grants.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 4-17-95, Repealed.

5I-5.006 Maintenance of Grant Award Projects.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 4-17-95, Repealed.

5I-5.007 Prioritization of Grant Applications.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 4-17-95, Repealed.

5I-5.008 Award of Grants.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 8-19-93, Amended 4-17-95, Repealed.

5I-5.009 Execution of Agreements and Documents.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History–New 3-8-93, Amended 4-17-95, Repealed.

5I-5.010 Review of Projects in Progress and Upon Completion.

Rulemaking Specific Authority 570.07(23), 589.277(3) FS. Law Implemented 570.0705, 589.277 FS. History—New 3-8-93, Amended 4-17-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: James R. Karels, Director, Division of Forestry
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner of Agriculture
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-4.004	Registration
5J-4.005	Exemption
5J-4.014	Security Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed amendments to Rule 5J-4.004, F.A.C., are to implement Section 501.015, F.S., through the use of DACS Form-10300, Health Studio Registration Application, Rev. 8/10. The purpose and effect of the proposed amendments to Rule 5J-4.005, F.A.C., are to implement Section 501.013, F.S., through the use of DACS Form-10300, Affidavit of Exemption, included within the Health Studio Registration Application, Rev. 8/10. The purpose and effect of proposed new Rule 5J-4.014, F.A.C., is to implement Section 501.016, F.S., through the use of DACS Form-10300, Health Studio Surety Bond included within the Health Studio Registration Application, Rev. 8/10.

SUMMARY: The proposed rules incorporate by reference the Health Studio Registration Application and Affidavit of Exemption form, and use of correct bond form.

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

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

RULEMAKING AUTHORITY: 501.014(2) FS.

LAW IMPLEMENTED: 501.0125, 501.013, 501.015, 501.016 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-4.004 Registration.

Unless exempted pursuant to Section 501.013, F.S., aAny person who intends to open or operate as a health studio shall, prior to offering health studio services engaging in such activities, register with the Department using ~~form~~ DACS Form 10300, Health Studio Registration Application, Rev. 8/10 Revised 7-10-94 and 7-01-01, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Health Studios, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Tallahassee, Florida 32399-6500, or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10300.pdf>. At the time of registration, the registrant shall submit the applicable nonrefundable registration fee to the Department for each health studio location. The registrant shall submit with ~~form~~ DACS Form 10300, Health Studio Registration Application, Rev. 8/10, a copy of each contract offered to the public relating to the sale of health studio services, as well as original security documents.

Rulemaking Specific Authority 501.014(2) FS. Law Implemented 501.015(1), (2), (4), 501.017 FS. History—New 2-9-93, Amended 7-10-94, 5-24-95, 1-20-03,_____.

5J-4.005 Exemption.

(1) Any person claiming an exemption from the health studio laws pursuant to ~~the provisions of~~ Section 501.013, Florida Statutes, shall ~~from the health studio laws shall~~, prior to offering engaging in health studio services activities, file with the Department the executed Affidavit of Exemption, ~~which is~~ included in ~~form~~ DACS Form 10300, Rev. 8/10. Revised 7-10-94, and 7-01-01, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Health Studios, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.

(2) No change.

Rulemaking Specific Authority 501.014(2) FS. Law Implemented 501.013 FS. History--New 2-9-93, Amended 7-10-94, 5-24-95, 1-20-03,_____.

5J-4.014 Security Requirements.

If filing a bond, Letter of Credit, or Assignment of Certificate of Deposit pursuant to Section 501.016, F.S., the applicant shall use the applicable terms included in DACS Form 10300, Health Studio Registration Application, Rev. 8/10.

Rulemaking Authority 501.014(2) FS. Law Implemented 501.016(1) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-6.003	Definitions
5J-6.005	Licensing Requirement, Commercial Telephone Seller, Salesperson
5J-6.013	Exemption

PURPOSE AND EFFECT: The purpose and effect of the amendments to Rule 5J-6.003, F.A.C., is to clarify the term, "driver's license number", in order to effectively implement Sections 501.605 and 501.607, F.S. The purpose and effect of the amendments to Rule 5J-6.005, F.A.C., is to implement Sections 501.605 and 501.607, F.S., requiring registration through the use of DACS Form 10001, Commercial Telephone Seller Business License Application Packet, Rev. 8-1-10, or DACS Form 10005, Commercial Telephone Salesperson Individual License Application Packet, Rev. 8-1-10. Amendments to Rule 5J-6.005, F.A.C., will also implement Section 501.609, F.S., requiring written notice to the Department using DACS Form 10006, Florida Telemarketing Act Material Change Form, Rev. 8-1-10, of any material changes in information previously submitted for purposes of licensure. The purpose and effect of Rule 5J-6.013, F.A.C., is to implement Section 501.608(1)(b), F.S., through the use of the Commercial Telephone Seller Affidavit of Exemption included in DACS Form-10001, Commercial Telephone Seller Business License Application Packet, Rev. 8-1-10, for those businesses claiming an exemption from licensure with the Department.

SUMMARY: Update of the Commercial Telephone Seller Business License Application Packet, Commercial Telephone Salesperson Individual License Application Packet, Florida Telemarketing Act Material Change Form, Affidavit of Exemption, and clarification of the definition of "driver's license".

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

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

RULEMAKING AUTHORITY: 501.626 FS.

LAW IMPLEMENTED: 501.602, 501.603, 501.604, 501.605, 501.607, 501.608, 501.609 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-6.003 Definitions.

(1) For the purpose of this rule chapter, a "gift, award, or prize" does not include:

(a)(1) A de minimis offering of goods, such as a soft drink, a cup of coffee or tea, a snack, or a similar offering, or

(b)(2) Additional goods of like kind as the goods being offered for sale.

(2) As used in Sections 501.605(2)(a) and 501.607(1)(a), F.A.C., if an applicant does not have a driver's license number, applicant shall state that fact and provide a current Florida identification card number, lawfully issued by the Florida Department of Highway Safety and Motor Vehicles.

Rulemaking Specific Authority 501.626 FS. Law Implemented 501.602, 501.603, 501.605, 501.607 FS. History--New 4-12-92, Amended 5-15-95, 8-8-95,_____.

5J-6.005 Licensing Requirement, Commercial Telephone Seller, Salesperson.

(1) No person may act as a commercial telephone seller or salesperson unless licensed by the Department of Agriculture and Consumer Services without first obtaining a license to conduct such activity. All applicants applications for a license shall submit to the Department form DACS Form 10001, Commercial Telephone Seller Business License Application Package, Rev. 8/10, effective 5-3-02, hereby incorporated by reference, along with and provided by the Department, verified by the applicant, and accompanied by the required non-refundable fee. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Tallahassee, Florida 32399-6500, or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10001.pdf>.

(2)(a) In the event a licensed commercial telephone seller hires an employee to function as a salesperson, but the employee does not possess a current commercial telephone salesperson license, the licensed commercial telephone seller may obtain interim operating authority for the unlicensed salesperson from the Department by submitting DACS Form 10005, Commercial Telephone Salesperson Individual License the Application Packet, Rev. 8/10, including for license as a eommercial Telephone Salesperson and the Statement of Verification, which are included in form DACS 10001, effective 5-3-02, hereby incorporated by reference, along with and a written request that the applicant be granted interim operating authority. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Tallahassee, Florida 32399-6500, or online at the following links: <http://www.doacs.state.fl.us/onestop/forms/10005.pdf>.

(b) through (c) No change.

(3) The licensee shall notify the Department of all material changes in the information submitted in either the application for license, including the original application for licensure license, or any application for renewal of the license, occurring prior to renewal within 10 days of the material change. The licensee shall utilize form DACS Form 10006 10001, Florida Telemarketing Act Material Change Form, Rev. 8/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Tallahassee, Florida 32399-6500, or online at the following links: <http://www.doacs.state.fl.us/onestop/forms/10006.pdf>.

(4) In the event that a salesperson licensee changes his/her company affiliation, the salesperson shall utilize DACS Form 10006 10001, Florida Telemarketing Act Material Change Form, Rev. 8/10, incorporated in subsection (3), above, form

Statement of Verification, and pay the prescribed \$10 fee. Such change in status shall be submitted to the Department within 10 days of the change.

(5) In the event that a the salesperson intends to affiliate with more than one company, the salesperson shall execute a separate indicate such, as provided on form DACS 10001, by executing the Statement of Verification, as found in DACS Form 10005, Commercial Telephone Salesperson Individual License Application Packet, Rev. 8/10, incorporated in subsection (2), above, for each cCommercial tTelephone sSeller with which the salesperson intends to affiliate.

Rulemaking Specific Authority 501.626 FS. Law Implemented 501.605, 501.607, 501.608, 501.609 FS. History--New 4-12-92, Amended 2-15-93, 6-26-94, 5-15-95, 2-11-98, 1-20-03,_____.

5J-6.013 Exemption.

(1) Any business entity claiming an exemption from the commercial telephone seller laws pursuant to Section 501.608(1)(b), Florida Statutes, shall, prior to offering its services, file with the Department the executed Affidavit of Exemption included in form DACS Form 10001, Rev. 8/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Tallahassee, Florida 32399-6500, or online at <http://www.doacs.state.fl.us/onestop/forms/10001.pdf>.

(2) No change.

Rulemaking Specific Authority 501.626 FS. Law Implemented 501.604, 501.608 FS. History--New 6-26-94, Amended 2-11-98, 1-20-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-7.004	Solicitation of Contributions Registration
5J-7.005	Professional Fundraising Consultant Registration

5J-7.006 Professional Fundraising Solicitor Registration

5J-7.007 Notice of Commencement of Solicitations

5J-7.008 Financial Report of Campaign

PURPOSE AND EFFECT: The purpose and effect of the amendments to Rules 5J-7.004, 7.005, 7.006, 7.007, and 7.008, F.A.C., is to incorporate by reference updates to the official filing forms for solicitation of contributions, professional fundraising consultants, professional fundraising solicitors, notice of commencement of solicitations, and financial report of campaign.

SUMMARY: The proposed rules update statutorily mandated registration forms for organizations, professional fundraising solicitors, and professional fundraising consultants soliciting or providing services for the solicitation of contributions. The proposed rules also update the Notice of Commencement and Financial Report of Campaign forms.

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

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

RULEMAKING AUTHORITY: 496.424 FS.

LAW IMPLEMENTED: 496.405, 496.409, 496.10, 496.10(6), 496.10(8) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-7.004 Solicitation of Contributions Registration.

(1) No change.

(2) Unless exempted pursuant to Section 496.406, F.S., every charitable organization or sponsor in this state shall file with the Department DACS Form-10100, Solicitation of Contributions Registration Application, Rev. 7/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg, Tallahassee, Florida 32399-6500, or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10100.pdf>.

Rulemaking Authority 496.424 FS. Law Implemented 496.405, 496.406, 496.409, 496.410, 496.426 FS. History—New 7-7-92, Amended 6-28-94, 3-13-95, 6-4-95, 11-6-95.

5J-7.005 Professional Fundraising Consultant Registration.

Every professional fundraising consultant shall file with the Department DACS Form-10104, Professional Fundraising Consultants Registration Application, Rev. 7/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg, Tallahassee, Florida 32399-6500, or online at: <http://www.doacs.state.fl.us/onestop/forms/10104.pdf>.

Rulemaking Authority 496.424 FS. Law Implemented 496.409 FS. History—New.

5J-7.006 Professional Fundraising Solicitor Registration.

Every professional fundraising solicitor providing fundraising services for an organization who will solicit funds in this state shall file with the Department DACS Form-10101, Professional Solicitors Registration Application, Rev. 7/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg, Tallahassee, Florida 32399-6500, or online at: <http://www.doacs.state.fl.us/onestop/forms/10101.pdf>.

Rulemaking Authority 496.424 FS. Law Implemented 496.410 FS. History—New.

5J-7.007 Notice of Commencement of Solicitations.

No less than 15 days before commencing any solicitation campaign or event, the professional solicitor must file with the department DACS Form-10105, Notice of Commencement of Solicitations Rev. 8/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg, Tallahassee, Florida 32399-6500, or online at: <http://www.doacs.state.fl.us/onestop/forms/10105.pdf>.

Rulemaking Authority 496.424 FS. Law Implemented 496.410(6) FS. History—New.

5J-7.008 Financial Report of Campaign.

Within 90 days after a solicitation campaign has been completed and on the anniversary of the commencement of a solicitation campaign lasting more than 1 year, the professional solicitor must provide to the charitable organization or sponsor and file with the department DACS Form-10106, Professional Solicitors Financial Report of Campaign Rev. 8/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Solicitation of Contributions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Tallahassee, Florida 32399-6500, or may be accessed online at: <http://www.doacs.state.fl.us/onestop/forms/10106.pdf>.

Rulemaking Authority 496.424 FS. Law Implemented 496.410(8) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.: 5J-8.003 RULE TITLE: Registration

PURPOSE AND EFFECT: The purpose and effect of the proposed amendments to Rule 5J-8.003, F.A.C., are to adopt by reference changes to DACS Form-10700, Dance Studio Registration Package, Rev. 7/10.

SUMMARY: The proposed rules incorporate by reference the Dance Studio Registration Package.

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

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

RULEMAKING AUTHORITY: 501.143(12) FS.

LAW IMPLEMENTED: 501.143(3), (4), (5) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-8.003 Registration.

Any person who intends to open or operate as a dance studio shall, prior to offering dance studio services engaging in such activity, register with the Department using ~~form~~ DACS Form 10700, Dance Studio Registration Package, 7-1-10 effective March 22, 1993, revised June 23, 1994, and November 18, 2002, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Dance Studios ~~Registration~~, 2005 Apalachee Parkway, Terry L. Rhodes ~~Bldg., Building~~ Tallahassee, Florida 32399-6500; or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10700.pdf>. The registrant shall submit the registration fee to the Department at the time of registration for each ~~of the~~ dance studio's locations. The registration fee shall be non-refundable. The registrant shall submit with ~~form~~ DACS Form 10700, 7-1-10, a copy of each contract offered to the public relating to the sale of dance studio services.

Rulemaking Specific Authority 501.143(12) FS. Law Implemented 501.143(3), (4), (5) FS. History--New 3-22-93, Amended 6-23-94, 5-24-95, 2-11-98, 9-14-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**Division of Consumer Services**

RULE NOS.: RULE TITLES:
 5J-9.002 Registration, Document Submission
 5J-9.006 Security Requirements

PURPOSE AND EFFECT: The purpose and effect of amendments to Rule 5J-9.002, F.A.C., are to adopt by reference changes to DACS Form 10200, Sellers of Travel Registration Package, Rev. 7/10, and DACS Form 10211, Sellers of Travel Independent Sales Agents Statement of Exemption, Rev. 7/10. The purpose and effect of amendments to Rule 5J-9.006, F.A.C., are to adopt by reference changes to DACS Form 10200, Rev. 7/10, related to security requirements.

SUMMARY: The purpose and effect of amendments to Rule 5J-9.002, F.A.C., is to incorporate by reference the official filing form for anyone who wants to operate as a seller of travel in Florida, or any seller of travel independent agent claiming an exemption from Florida's registration requirement. The purpose and effect of amendments to Rule 5J-9.006, F.A.C., is to incorporate by reference the official filing forms for seller of travel security requirements.

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

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

RULEMAKING AUTHORITY: 559.9355(3) FS.

LAW IMPLEMENTED: 559.928, 559.935(3) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-9.002 Registration, Document Submission.

The following statement in bold print:

(1) Any person who intends to operate as a seller of travel shall submit ~~form~~ **DACS Form** 10200, Sellers of Travel ~~Registration Package, effective 11/20/02, Rev. 7/10,~~ hereby incorporated by reference, along with the applicable non-refundable registration and fee specified by Section 559.928(2), F.S., to the Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel Section, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Tallahassee, Florida 32399-6500, or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10200.pdf>.

~~If the application is withdrawn or denied, the registration fee shall be retained by the Department to cover the administrative cost of implementing Sections 559.926-939, Florida Statutes.~~

(2) Any ~~independent agent person~~ claiming an exemption from ~~registration pursuant to the provisions of Section 559.928(3) 559.935(3), Florida Statutes,~~ shall file an affidavit of exemption with the Department using ~~form~~ **DACS Form 10211 10214**, Sellers of Travel Independent Sales Agents Statement of Exemption, ~~Rev. 7/10, effective 9/95, revised 3/03,~~ hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel ~~Section, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Tallahassee, Florida 32399-6500, or~~ online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10211.pdf>.

(3) No change.

Rulemaking Specific Authority 559.9355(3) FS. Law Implemented 559.928, 559.935(3) FS. History—New 10-6-93, Amended 1-3-95, 6-4-95, 12-27-95, 2-11-98, 10-21-03,_____.

5J-9.006 Security Requirements.

(1) **If filing a bond, Letter of Credit, or Assignment of Certificate of Deposit pursuant to Section 559.929, F.S., the applicant shall use the applicable form included in DACS Form 10200, Seller of Travel Registration Package, Rev. 7/10.** ~~Prior to engaging in any activities as a seller of travel, each seller of travel shall file with the Department an original performance bond in an amount determined by subsection (2) below. The applicant shall use utilize the Surety Bond form Form, an example of which is included in form DACS 10200 Registration packet, effective 11/20/02, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel Section, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.~~

(2) The amount of security for sellers of travel that do not offer vacation certificates shall be \$25,000; however, the seller of travel may apply for a reduction by completing the Security Reduction Application, which is included in ~~form DACS Form 10200 Sellers of Travel Registration Package packet, Rev. 7/10, effective 11/20/02 hereby incorporated by reference.~~ The ~~s~~ Seller of ~~t~~ ravel must also provide copies of its federal income tax return or an audited financial statement for the immediately preceding fiscal year. ~~Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel Section, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.~~

To apply for a reduction of the required security, the seller of travel must have a satisfactory consumer complaint history with the Department. The amount of the security reduction shall be determined by the ~~seller of travel's~~ dollar amount of gross annual sales, ~~as follows:~~ A business that has been in operation under the same ownership and control for at least one year with gross annual sales:

(a) ~~Under \$500,000, A business that has been in operation under the same ownership and control for at least one year with under \$500,000 in gross annual sales~~ may request to reduce its security to \$10,000.

(b) ~~A business that has been in operation under the same ownership and control for at least one year with gross annual sales B~~etween \$500,000 and \$1,000,000, may request to reduce its security to \$15,000.

(c) ~~A business that has been in operation under the same ownership and control for at least one year with gross annual sales B~~etween \$1,000,000 and \$2,000,000 may request to reduce its security to \$20,000.

(3) The amount of security for a newly established business or a business under new ownership shall be \$25,000; however, the seller of travel may apply to reduce its security to \$10,000 by executing the ~~Application for Reduction of Security Reduction Application~~ included in ~~form DACS Form 10200, Seller of Travel Registration Package, Rev. 7/10 packet.~~ To be eligible for a reduction in security, a newly established seller of travel must meet the following requirements:

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

Rulemaking Specific Authority 559.9355(3) FS. Law Implemented 559.929(1) FS. History—New 2-8-94, Amended 6-4-95, 11-6-95, 12-27-95, 2-11-98, 10-21-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.: RULE TITLES:
 5J-10.002 Franchises
 5J-10.006 Registration

PURPOSE AND EFFECT: The purpose and effect of the amendments to Rule 5J-10.002, F.A.C., are to adopt by reference updated changes to DACS Form-10500, Franchise Exemption Application Packet, Rev. 08/10. The purpose and effect of Rule 5J-10.006, F.A.C., is to implement Section 559.805, F.S., through the use of DACS Form-10501, Business Opportunity Disclosure Filing Packet Rev. 08/10.

SUMMARY: Rule 5J-10.002, F.A.C., establishes the official updated filing form for any franchisor claiming an exemption from the registration requirements governing the sale or lease of a business opportunity in Florida. Rule 5J-10.006, F.A.C., establishes the official filing form for any person who wants to sell or lease a business opportunity in Florida.

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

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

RULEMAKING AUTHORITY: 559.802(4), 559.813(8), 570.07(23) FS.

LAW IMPLEMENTED: 559.802, 559.805 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-10.002 Franchises.

Every franchisor claiming an exemption pursuant to Section 559.802, F.S., Florida Statutes, shall file ~~form~~ DACS Form-10500, Franchise Exemption Application, Rev. 8/10, effective 11-15-94, revised 7-20-01, 5-3-02, and 3-4-03, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Attention: Business Opportunities, Tallahassee, Florida 32399-6500, or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10500.pdf>. The franchisor shall submit a ~~nonrefundable~~ filing fee of \$100 with ~~form~~ DACS Form 10500. ~~The filing fee shall be non-refundable.~~ The exemption may be renewed each year by filing ~~form~~ DACS Form 10500 and paying a renewal fee of \$100.

Rulemaking Specific Authority 559.802(4), 559.813(8), 570.07(23) FS. Law Implemented 559.802 FS. History—New 11-15-94, Amended 6-4-95, 10-21-03, _____.

5J-10.006 Registration.

Every seller/lessor of a business opportunity shall file with the Department DACS Form-10501, Business Opportunity Disclosure Filing Packet Rev. 8/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Business Opportunities, 2005 Apalachee Parkway, Terry L. Rhodes Bldg, Tallahassee, Florida 32399-6500, or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10501.pdf>.

Rulemaking Authority 559.802(4), 559.813(8) FS. Law Implemented 559.805 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.: 5J-12.002 RULE TITLE: Registration

PURPOSE AND EFFECT: The purpose and effect of the amendments to Rule 5J-12.002, F.A.C., are to adopt by reference changes to DACS Form-10900, Motor Vehicle Repair Registration Package, Rev. 8/10.

SUMMARY: The proposed rule incorporates by reference updates to the Motor Vehicle Repair Registration Package.

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

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

RULEMAKING AUTHORITY: 559.92201 FS.

LAW IMPLEMENTED: 559.904(1) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-12.002 Registration.

(1) Any person who intends to operate a motor vehicle repair shop shall, prior to offering motor vehicle repair services, before engaging in such activities, apply for and obtain a registration certificate from the Department using ~~form~~ DACS Form 10900, Motor Vehicle Repair Registration Package, Rev. 8/10, Application, Motor Vehicle Repair Act, effective 1-18-95, revised 9-13-01, and 5-3-03, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Motor Vehicle Repair, 2005 Apalachee Parkway, Terry L. Rhodes Bldg. Building, Tallahassee, Florida 32399-6500, or accessed online at: <http://www.doacs.state.fl.us/onestop/forms/10900.pdf>.

(2) through (4) No change.

Rulemaking Specific Authority 559.92201, 570.07(23) FS. Law Implemented 559.904, 559.916 FS. History--New 1-18-95, Amended 5-24-95, 2-11-98, 1-20-03, 11-4-03, 6-27-05, 11-22-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.:	RULE TITLES:
5J-13.002	Licensing Requirements
5J-13.003	Security Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed amendments to Rule 5J-13.002, F.A.C., are to adopt by reference changes to DACS Form-10111, Pawnbroking Registration Application, Rev. 8/10. The purpose and effect of subsection 5J-13.003(3), F.A.C., is to implement Section 539.001(4)(a)2., F.S., through the use of the Irrevocable Letter of Credit form found on page 6 of DACS Form-10111, Pawnbroking Registration Application, Rev. 8/10.

SUMMARY: Rule 5J-13.002, F.A.C., establishes the official updated filing form for any person who intends to operate as a pawnbroker. Amendments to subsection 5J-13.003(2), F.A.C., update amendments to the surety bond form included in the Pawnbroking Registration Application. New subsection 5J-13.003(3), F.A.C., establishes the appropriate form to use when filing an Irrevocable Letter of Credit with the Pawnbroking Registration Application, in lieu of a bond.

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

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

RULEMAKING AUTHORITY: 539.001(21), 570.07(23) FS.

LAW IMPLEMENTED: 539.001(4)(a)2., 539.001(5)(a), (c), (d), (8)(a) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-13.002 Licensing Requirements.

(1) Any person who intends to operate as a pawnbroker shall, prior to offering pawnbroking services, annually submit a licensing fee of \$300 to the Department, for each pawnshop location, ~~at the time of applying for a license~~.

(2) A person applying for a license as a pawnbroker must submit with the license application a copy of the Pawnbroker Transaction Form. Applicants for licensuree shall use ~~Form DACS Form 10111 -10-111~~, Pawnbroking Registration Application Application Form, Rev. 8/10, effective 12-10-96, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, 2005 Apalachee Parkway, Terry L. Rhodes Bldg., Attention: Pawnshops, ~~Mayo Building, Tallahassee, Florida 32399-6500 0800~~, or online at the following link: <http://www.doacs.state.fl.us/onestop/forms/10111.pdf>.

Rulemaking Specific Authority 539.001(21), 570.07(23) FS. Law Implemented 539.001(5)(a), (c), (d), (8)(a) FS. History--New 12-10-96, Amended _____.

5J-13.003 Security Requirements.

(1) No change.

(2) If filing a surety bond pursuant to Section 539.001(4)(a)2., F.S., the applicant shall use the Pawnbroking Surety Bond form included in Form DACS Form 101113, Pawnbroking Registration Application, Rev. 8/10. ~~Surety Bond, effective 12-10-96, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Pawnshops, Mayo Building, Tallahassee, Florida 32399-0800.~~

(3) If filing an Irrevocable Letter of Credit pursuant to Section 539.001(4)(a)2., F.S., the applicant shall use the Pawnbroking Irrevocable Letter of Credit terms included in DACS Form-10111, Pawnbroking Registration Application, Rev. 8/10.

Rulemaking Specific Authority 539.001(21), 570.07(23) FS. Law Implemented 539.001(4)(a)2. FS. History--New 12-10-96, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.: 5J-14.003
RULE TITLE: Filing Requirements

PURPOSE AND EFFECT: The purpose and effect of proposed Rule 5J-14.003, F.A.C., is to implement Section 849.094(3), (4), F.S. through the use of DACS Form 10951, Game Promotions Filing Packet, Rev. 8/10.

SUMMARY: Proposed Rule 5J-14.003, F.A.C., establishes the official filing form for businesses who want to operate a game promotion in Florida, including the proper surety bond form, Game Promotion Statement of Trust Account language, and Affidavit of Request for Waiver of Trust Account or Surety Bond.

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

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

RULEMAKING AUTHORITY: 849.094(8)(a) FS.

LAW IMPLEMENTED: 849.094(3), (4) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division

of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-14.003 Filing Requirements.

(1) Any person who intends to conduct a game promotion in this state pursuant to Section 849.094, F.S., including electronic promotions, shall file with the Department DACS Form-10951, Game Promotions Filing Packet Rev. 8/10, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Game Promotions, 2005 Apalachee Parkway, Terry L. Rhodes Bldg, Tallahassee, Florida 32399-6500, or accessed online at: <http://www.doacs.state.fl.us/onestop/forms/10951.pdf>.

(2) If filing a surety bond pursuant to Section 849.094(4)(a), F.S., the applicant shall use the Game Promotion Surety Bond document included in DACS Form 10951, Game Promotion Filing Packet, Rev. 8/10.

(3) If filing a Statement of Trust Account pursuant to Section 849.094(4)(a), F.S., the applicant shall use the Statement of Trust Account terms included in DACS Form 10951, Game Promotion Filing Packet, Rev. 8/10.

(4) Any operator requesting a waiver of the security requirements under this section shall use the Affidavit of Request for Waiver of Trust Account or Surety Bond included in DACS Form 10951, Game Promotion Filing Packet, Rev. 8/10.

Rulemaking Authority 849.094(8)(a) FS. Law Implemented 849.094(3), 849.094(4)(a), (b) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.: RULE TITLES:
 5J-15.001 Registration
 5J-15.002 Security Requirements

PURPOSE AND EFFECT: The purpose and effect of Rule 5J-15.001, F.A.C., is to implement Section 507.03, F.S., through the use of DACS Form 10960, Household Moving Services Registration Application, Rev. 8/10. The purpose and effect of Rule 5J-15.002, F.A.C., is to implement Section 507.04(1)(b), F.S., through the use of the performance bond document and certificate of deposit language included in DACS Form 10960, Household Moving Services Registration Application, Rev. 8/10.

SUMMARY: Rule 5J-15.001, F.A.C., establishes the official registration form for businesses who want to operate as household movers in Florida. Rule 5J-15.002, F.A.C., establishes alternative security requirements for household movers.

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

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

RULEMAKING AUTHORITY: 507.09(3) FS.
 LAW IMPLEMENTED: 507.03, 507.04(1)(b)1., 2. FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Phone (850)410-3692

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-15.001 Registration.

Any person who intends to operate as a household mover in this state shall first file with the Department DACS Form-10960, Household Moving Services Registration Application, Rev. 8/10, hereby incorporated by reference, along with a registration fee pursuant to Section 507.03(3), F.S. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Household Movers, 2005 Apalachee Parkway, Terry L. Rhodes Bldg, Tallahassee, Florida 32399-6500, or accessed online at: <http://www.doacs.state.fl.us/onestop/forms/10960.pdf>.

Rulemaking Authority 507.09(3) FS. Law Implemented 507.03 FS. History--New _____.

5J-15.002 Security Requirements.

(1) If filing a performance bond pursuant to Section 507.04(1)(b)1., F.S., the applicant shall use the Performance Bond document included in DACS Form 10960, Household Moving Services Registration Application, Rev. 8/10.

(2) If filing a certificate of deposit pursuant to Section 507.04(1)(b)2., F.S., the applicant shall use the Certificate of Deposit language included in DACS Form 10960, Household Moving Services Registration Application, Rev. 8/10.

Rulemaking Authority 507.09(3) FS. Law Implemented 507.04(1)(b)1., 2. FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3692

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2010

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NOS.: RULE TITLES:
 5J-17.016 Time for Compliance With Final Order; Probation
 5J-17.029 Application Deadlines
 5J-17.030 Certification of Eligibility for Examination and Notification to Applicants
 5J-17.0321 Examination Administration
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- 5J-17.204 Graduation Documentation, Verification by Professional Association in Exile
- 5J-17.206 Three Years Lawful Practice for Foreign Trained Exiled Professionals
- 5J-17.208 Pre-examination Continuing Education Program for Foreign Trained Exiled Professionals
- 5J-17.210 Fees for Foreign Trained Exiled Professionals
- 5J-17.400 Special Assessment Fee

PURPOSE AND EFFECT: The proposed rules establish administrative rules for the Board of Professional Surveyors and Mappers relating to the regulation of licensed professionals. The purpose of the proposed rules includes, in part, new rules similar to the previous Departmental Rules covering the Board, when the Board was located within the Department of Business and Professional Regulation. Due to a Type Two transfer to the Department of Agriculture and Consumer Services, the Board must adopt certain rules to maintain continuity in Board operations. In addition, the Board has proposed a rule requiring a one-time payment by certain licensees of a special assessment fee to maintain the financial integrity of the Board. If adopted, licensees will be required to pay \$100.00 to offset budgetary deficits associated with the Type Two transfer.

SUMMARY: If adopted, the proposed language in Rule 5J-17.016, F.A.C., will clarify the language of the existing rule regarding disciplinary fines and probation. If adopted, the

proposed language in Rules 5J-17.029 and 5J-17.030, F.A.C., will set procedural rules and deadlines for the submission of applications. If adopted, the proposed rules in Rules 5J-17.0321 through 5J-17.0381, F.A.C., as referenced above, will address the administration of exams. If adopted, the proposed language in Rule 5J-17.039, F.A.C., will further define licensure status and the biennial renewal of a license. If adopted, the proposed language in Rules 5J-17.041 through 5J-17.047, F.A.C., as referenced above, will change existing rules regarding continuing education, including instructor credit, course length, course submission, and the requirement that instructors be approved by the Board. If adopted, the proposed language in Rules 5J-17.080 through 5J-17.085, F.A.C., as referenced above, would change existing rules regarding citations, mediation, and probation, establish procedures for the issuing of citations, establish citation fine amounts for unlicensed persons, establish procedures for the mediation of discipline cases, repeal certain offenses from eligibility for mediation, and clarify when probationers must submit surveys for review by the Board. If adopted, the proposed language in Rule 5J-17.102, F.A.C., will define certain terms regarding the financial integrity of the Board, creates procedures for the Department to follow when reporting to the Board that the Board no longer has a reasonable cash balance on hand, establishes procedures for the Board to follow if requesting a loan from the Department, and prohibiting loans that extend beyond two years by the Department to the Board. If adopted, the proposed language in Rules 5J-17.200 through 5J-17.210, F.A.C., as referenced above, will establish licensure and examination procedures for certain foreign exiled professionals. If adopted, the proposed language in Rule 5J-17.400, F.A.C., will require certain licensees to pay a one-time fee to contribute in part to the financial integrity of the Board.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that with the exception of one rule, these rules will have no impact on small business. Regarding Rule 5J-17.400, F.A.C., the agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency.

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

RULEMAKING AUTHORITY: 472.006, 472.006(5), 472.008, 472.0101, 472.011, 472.011(12), 472.013, 472.0131, 472.0131(3), 472.018, 472.034 FS.

LAW IMPLEMENTED: 120.60, 472.0101, 472.011, 472.011(12), 472.013, 472.0131, 472.0131(3), 472.015, 472.018, 472.0202, 472.033(2), 472.034, 472.0351, 472.0351(2), 472.036 FS.

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

DATE AND TIME: December 17, 2010, 2:00 p.m.

PLACE: 2005 Apalachee Parkway, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Bennett M. Miller at (850)410-3834. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bennett M. Miller, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-17.016 Time for Compliance With Final Order; Probation.

(1) In cases where the Board imposes an administrative fine ~~a civil penalty~~ for a violation of Chapter 472, F.S., or of the rules promulgated thereunder, the penalty shall be paid within ninety (90) 30 days of its imposition by order of the Board, unless a later time for payment is specified in the Board's Order.

(2) Failure to pay the an administrative fine ~~civil penalty~~ within the time specified in this rule or in the Board's Order shall constitute grounds for further disciplinary action against the licensee.

(3) For purposes of this rule, the term "administrative fine" shall include the assessment of any fines, costs associated with investigation and prosecution of the complaint, including attorney's fees, if applicable, and restitution.

(4) In cases where the Board imposes probation and/or suspension for violation of Chapter 472, F.S., or of the rules promulgated thereunder, the following conditions shall apply:

(a) The licensee shall be required to appear before the Probation Committee of the Board at such times as directed by the Executive Director, or as specified in the Final Order.

(b) If the conditions of probation include the submission of surveys, in ~~In~~ connection with each probation appearance, the licensee shall answer questions under oath and shall provide a list of all surveys performed including type of survey, since the entry of the Final Order if it is the first probation appearance or since the last probation appearance if it is other than the first probation appearance. In addition, the licensee shall provide such other information or documentation as is requested by either the Department, the Board or the Probation Committee. The licensee shall forward said documentation to the Board in advance of the probation appearance.

~~(c)(b)~~ The burden shall be solely upon the licensee to remember the requirement for said appearance, and to take the necessary steps in advance of said appearance to contact the Board office and ascertain the specific time, date, and place of said appearance. The licensee shall not rely on getting notice of said appearance from the Board or the Department.

~~(d)(e)~~ Should the licensee violate any condition of probation, it shall be considered a violation of Section 472.0351(1)(h), F.S., and shall result in further disciplinary action by the Board.

~~(e)(d)~~ Should the licensee's license to practice surveying and mapping be suspended or otherwise placed on inactive status, or if the licensee leaves the practice of surveying and mapping for thirty (30) days or more, the probation period shall be tolled and shall resume running at the time the licensee reactivates the license or returns to the active practice of surveying and mapping, and the licensee shall then serve the time remaining in the term of probation.

~~(f)(e)~~ If a licensee's license is suspended by the Board, and the suspension is stayed pending successful completion of the terms of the Final Order, then if the licensee successfully completes probation, then the suspension shall terminate. However, if the licensee fails to comply with the requirements set forth in this rule or in the Final Order, then the stay shall be lifted. Once the stay is lifted, the licensee's license shall remain in suspended status until the licensee appears before the Board to demonstrate compliance with the Final Order.

Rulemaking Specific Authority 472.008 FS. Law Implemented 472.0351(2) FS. History—New 2-23-05, Formerly 61G17-2.006, Amended _____.

5J-17.029 Application Deadlines.

(1)(a) Applicants applying for a professional surveyors and mappers examination shall submit their applications no less than 90 days prior to a scheduled examination or no less than 45 days prior to a scheduled meeting of the Board, which ever date occurs later. It is the affirmative obligation of the applicant to submit an application deemed complete by the Board prior to the aforementioned deadlines.

(b) Applications deemed complete by the Board will be reviewed by the board or its designee, to determine eligibility at a date and time scheduled by the Board.

(c) Applicants applying for the Surveyor-in-Training (SIT) examination shall submit their completed application no less than 90 days prior to scheduled examination or no less than 35 days prior to a scheduled meeting.

(d) Applicants for reexamination shall submit their completed applications no less than 21 days prior to the scheduled examination deadline set by the Department or its designee.

(2)(a) An applicant will be rescheduled by the Department or their designee for the next available examination if the applicant is unable to sit for the originally scheduled

examination by reason of military service and submits to the Board a copy of the applicant's military orders or a letter from the applicant's commanding officer.

(b) An applicant's examination will be rescheduled by the Department or their designee if the applicant demonstrates that there was a death in the immediate family, serious injury, illness, or other physical impairment prevented the candidate from taking the examination. Any such request to reschedule an examination shall include a copy of a death notice or death certificate or a statement from the applicant's treating physician which attests that such injury, illness or physical impairment prevented the applicant from taking the examination.

(c) Any requests for rescheduling of an examination shall be submitted to the Department, in writing no later than 21 days following the last day of the applicable examination.

Rulemaking Authority 472.008 FS. Law Implemented 472.0131 FS. History–New _____.

5J-17.030 Certification of Eligibility for Examination and Notification to Applicants.

(1) The Department, or its designee, will review all applications for licensure by examination to determine completeness of the application.

(2) The Department shall make a determination whether an application is complete within thirty (30) days after receipt. The Board shall determine whether the applicant is qualified to take the licensure examination at the next available meeting of the Board. Applicants may attend the Board meeting when their application is considered, briefly address the Board, and submit evidence on their behalf. This eligibility determination shall be made within the time requirements of Section 120.60(1), Florida Statutes.

(3) If the Department or board determines that the applicant is not qualified to take the examination the applicant may petition for a hearing before an administrative law judge under Sections 120.569 and 120.57, Florida Statutes.

(4) After a decision is made by the Board that an applicant meets the lawful requirements for the licensure examination, the Department will submit the name of the applicant to the testing vendor for the next examination for which space is available.

(5) If all certified candidates cannot be scheduled for the next examination due to space, time, or other limitations beyond the control of the Department, the candidates will be scheduled chronologically according to the date each applicant submitted their application.

(6) The Department or vendor, if applicable, will notify applicants of the time, place, and date of the examination and provide the applicant with an official admission card or confirmation number, which will be required for admission to the examination. The Department or vendor shall inform the

candidate of the length of the examination, subject content of the examination, and any special equipment or materials needed for the examination.

Rulemaking Authority 472.008 FS. Law Implemented 120.60, 472.015 FS. History–New _____.

5J-17.0321 Examination Administration.

(1) During the examination, the candidates will follow the instructions of the examination supervisor. The candidates will be permitted to ask reasonable questions of the Department's or testing vendor's examination supervisor and proctors relating to the instructions.

(2) The valid admission slip for the specified examination and a government-issued, signature bearing, photo I.D. such as driver's license, must be presented in order to gain admission to the examination. The first and last name on an examinee's I.D. and examination admission slip must match. Student I.D.s are not acceptable identification.

(3) If the candidate arrives at the designated testing location after the designated starting time for an examination administered by the Department, the candidate will be permitted to take the examination only after the candidate has signed a statement clearly indicating the candidate's late arrival time, and agreeing that the candidate will have only the remaining designated time in the examination to complete the examination. Any candidate who refuses to sign such a statement will be disqualified from the examination and may apply to the Department for scheduling for the next available examination. If, when the late candidate arrives, any other candidate has already finished the examination and left the examination room, the late candidate will not be permitted to sit for the examination and must apply to the Department for scheduling for the next available examination. For examinations administered by a vendor and national examinations, late candidates shall comply with the vendor's or the national examination organization's policies and procedures.

(4) All Department administered examinations will be administered in accordance with the applicable Department standard. Administration requirements set forth by any national board and council will be complied with in the administration of the specific examination.

(5) All examination items, answer sheets, other examination papers, computer files, and materials are the sole property of the Department of Agriculture and Consumer Services or the national provider. No candidate shall take any of the examination questions, answer sheets, other examination papers, computer files, and materials from the examination room or retain, reproduce, or compromise the materials in whole or in part by any means or method whatsoever.

(6) For vendor administered examinations, candidates are permitted to test out of state, subject to fees charged by the vendor to the candidates for this service.

(7) The examination supervisor, proctors, and testing vendor are the Department's designated agents in maintaining a secure and proper examination administration.

(8) The department and its designated agents may use any technology to protect the integrity and security of any license examination.

(9) Any individual found by the Department or the Board to have engaged in conduct which subverts or attempts to subvert the examination process shall have his or her scores on the examination withheld and/or declared invalid, be disqualified from the practice of the profession, and/or be subject to the imposition of other appropriate sanctions by the Board.

(10) Conduct which subverts or attempts to subvert the examination process includes, but is not limited to:

(a) Conduct which violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; selling, distributing, buying, receiving or having unauthorized possession of any portion of a future or current licensing examination.

(b) Conduct which violates the standard of test administration, such as communicating with any other examinee during the administration of the examination; copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination; having in one's possession during the administration of the licensing examination any book, notes, written or printed materials or data of any kind, other than the examination materials distributed or specifically listed as approved materials for the examination room in the information provided to the examinee in advance of the examination date by the Department and/or the national supplier of the examination.

(c) Conduct which violates the credentialing process, such as falsifying or misrepresenting educational credentials or other information required for admission to the examination; impersonating an examinee or having an impersonator take the licensing examination on one's own behalf.

(11) Any violation of the conduct rules or other irregularities will be documented in writing by the Department's agent(s) and the documentation of the violation or irregularity will be presented to the Board for consideration and action. The Department's agent(s) shall exercise extreme care in their documentation to ensure that the violation or irregularities are precisely recorded as they were witnessed.

(12) The department or its designated agents shall take steps reasonably necessary to prevent or investigate any conduct which subverts or attempts to subvert the examination process.

Rulemaking Authority 472.0131 FS. Law Implemented 472.0131 FS. History--New _____.

5J-17.0322 Licensure Examination Format and Procedures for Candidates with Disabilities.

(1) The Department of Agriculture and Consumer Services will provide reasonable and appropriate accommodations to candidates with physical, mental, or specific learning disabilities to the extent permitted by cost, administration restraints, security considerations, and availability of resources. Accommodations made will vary depending upon the nature and the severity of the impairment. Each case will be dealt with on an individual basis within the limits prescribed herein. In the instances where an exam is developed or administered by a vendor, approval must be obtained from the vendor.

(2) A candidate requesting special accommodation must file the request in addition to his or her completed application for licensure examination by the final application deadline of the assigned examination. The candidate must provide documentation of his or her disability completed by an appropriate professional. The candidate's documentation shall include:

(a) The diagnosis and length of time with the condition;

(b) The name and the results of the test(s) used for diagnosis; and

(c) Recommended accommodations and testing environment.

(3) Reasonable and appropriate accommodations will be made for qualifying candidates. All accommodations must be directly linked to the amelioration of the identified functional limitations caused by the asserted disability and must be reasonable and effective. Permissible accommodations include:

(a) Flexible Time. Candidates requiring extra time for the examination must submit a recommendation of such from an appropriate professional. The Department recognizes that reading Braille or using a live reader takes longer than reading regular print. Untimed examinations will not be provided.

(b) Flexible Setting. Individual and small group setting examination administrations shall be available to candidates when such a service is recommended by an appropriate professional.

(c) Flexible Recording of Responses. The candidate's responses can be recorded by a proctor, a tape recorder, a typewriter, a Braille writer, marked on the test booklet, or other method approved by the Department. The proctor may transcribe the candidate's responses onto a machine scannable answer sheet. In these instances, the candidate will verify that the answers he or she indicated were marked.

(d) Flexible Format. The test booklet may be produced in large print, high quality regular print, Braille, or the test may be tape recorded, read aloud, or signed by an interpreter.

(e) Assistive Devices. The candidate, upon approval of the department, will be allowed to use appropriate assistive devices, such as lights, magnifiers, or special computer screens.

(4) The Department shall request further evidence on the necessity of the accommodation when the evidence substantiating the need for the accommodation is not complete. The Department shall request that the applicant submit to another professional evaluation to verify the disability or to determine what accommodations are most appropriate and effective when the initial evaluation is inconclusive, unclear, or does not substantiate the need for the requested accommodation.

(5) In no case shall any modifications authorized herein be interpreted or construed as an authorization to provide a candidate with assistance in determining the answer to any test item. No accommodation or modification shall be made that adversely affects the integrity of the examination.

(6) Definition of Terms.

(a) A person with disabilities means any person who:

1. Has a physical, mental, or specific learning disability which presently substantially limits one or more major life activities;

2. Has a record of such a disability; or

3. Is regarded as having such a disability.

(b) Major life activities are activities that an average person can perform with little or no difficulty including walking, talking, hearing, breathing, learning, working, caring for one's self, and performing manual tasks.

(c) A person with a physical disability means any person who has a permanent or temporary physical or psychomotor disability. Examples of a disability under this section include those disabilities that require the use of a wheelchair, braces, or crutches. It also includes candidates with a hearing or sight disability, or those who may need special accommodation to move about.

(d) A person with a learning disability means any person who has a permanent or temporary mental disability such as brain damage, brain dysfunction, dyslexia, or a perceptual disorder.

(e) For purposes of this rule, "an appropriate professional" means a physician licensed pursuant to Chapters 458 (Medical Practice) or 459 (Osteopathic Medicine), Florida Statutes; a professional licensed pursuant to Chapters 460 (Chiropractic), 461 (Podiatric Medicine), 463 (Optometry), 468, Part I (Speech-Language Pathology and Audiology), or 490 (Psychological Services), Florida Statutes; or appropriately licensed in the state in which the certification of disability was performed. Any certification, documentation, or recommendation relating to a candidate's disability provided by an appropriate professional pursuant to the requirements of

this rule must not be beyond the scope permitted by law for that professional or that which the professional knows or has reason to know that he or she is not competent to perform.

Rulemaking Authority 472.008 FS. Law Implemented 472.0131 FS. History—New _____.

5J-17.034 Grading.

(1) ~~The Department shall use any national examination which is available and approved by the Board. The Principles and Practice Examination and the Fundamentals Examination contain machine graded, multiple choice questions developed by the NCEES. The minimum score necessary for passing the Principles and Practice Examination and the Fundamentals Examination shall be set by NCEES through the use of a Modified Angoff Method for determining the minimally acceptable raw score necessary to pass the examination. The passing score shall be established by NCEES.~~

(2) ~~A national examination is an examination developed by or for a national or multi-state professional association, board, council, or society (hereinafter referred to as organization) and administered for the purpose of assessing entry level skills necessary to protect the health, safety, and welfare of the public from the incompetent practice of surveying and mapping and meets the following standards: The Florida Jurisdictional Multiple Choice Examination consists of 100 multiple choice questions developed by the Department, or the Board's designee. The multiple choice questions will be weighted equally and machine graded. A passing grade on the Florida Jurisdictional Multiple Choice Examination is defined as 70% of the total possible points.~~

~~(a) The purpose of the examination shall be to establish entry level standards of practice that shall be common to all practitioners of surveying and mapping;~~

~~(b) The practice of the profession at the national level must be defined through an occupational survey with a representative sample of all practitioners and professional practices; and~~

~~(c) The examination for licensure must assess the scope of practice and the entry skills defined by the national survey.~~

~~(3) The organization must be generally recognized by practitioners across the nation in the form of representatives from the State Boards or shall have membership representing a substantial number of the nation's or states' practitioners who have been licensed through the national examination. Scores on the examination will be reported as follows: the Principles and Practice Examination, the Fundamentals Examination, the Florida Jurisdictional Multiple Choice Examination shall have separate scores. Three passing scores must be received in order to successfully pass the examination; however these three passing scores need not be obtained in one sitting.~~

~~(4) The organization shall be the responsible body for overseeing the development and scoring of the national examination.~~

(5) The organization shall provide security guidelines for the development and grading of the national examination and shall oversee the enforcement of these guidelines.

(6) Grading Criteria and Passing Scores:

(a) The Principles and Practice Examination and the Fundamentals Examination contain machine graded, multiple choice questions developed by the National Council of Examiners for Engineering and Surveying based upon the results of National Task Analysis Surveys performed periodically. Grades shall be determined by the applicant's ability to choose the correct answer from several given choices. The minimum score necessary for passing the Principles and Practice Examination and the Fundamentals Examination shall be set by NCEES through the use of a Modified Angoff Method for determining the minimally acceptable raw score necessary to pass the examination. The passing score shall be established by NCEES.

(b) The Florida Jurisdictional Multiple Choice Examination consists of 100 multiple choice questions developed by the Department, or the Department's designee. The multiple choice questions will be weighted equally and machine graded. Scores for the multiple choice portion shall be determined by the applicant's ability to choose the correct answer from several given choices. A passing grade on the Florida Jurisdictional Multiple Choice Examination is defined as 70% of the total possible points.

(c) Scores on each examination shall be reported in a pass/fail format as follows: the Principles and Practice Examination, the Fundamentals Examination, the Florida Jurisdictional Multiple Choice Examination shall have separate scores. A passing score must be achieved on each examination to successfully pass the entire examination, however the three passing scores need not be obtained in one sitting.

(7) Examinations shall be graded solely and exclusively by the Department or the Department's designee, national examination provider or its designee.

(8) Departmentally developed objective, multiple choice examinations shall be graded by the Department or its designee. The Department or the Department's designee shall review the item analysis and any statistically questionable items after the examination has been administered. Based upon this review, the Department or the Department's designee shall adjust the scoring key by totally disregarding the questionable items for grading purposes or by multi-keying, giving credit for more than one correct answer per item. All items which do not adequately and reliably measure the applicant's ability to practice the profession shall be rejected. The Department or its designee shall calculate each candidate's grade utilizing the scoring key or adjusted scoring key, if applicable, and shall provide each candidate with a grade report. The only paper that shall be graded is the official answer sheet. No credit shall be given for answers written in a candidate's examination booklet.

(9) If after the distribution of grades for a particular administration there are adjustments to the scoring, amended grade reports shall be mailed to all failing candidates whose scores are increased and to all candidates whose pass/fail status changes due to the adjustment unless the candidate has taken and passed a subsequent administration of the examination.

(10) The Department shall notify the candidate of the results of the candidate's examination no later than sixty (60) days after the examination date, except when the grades, or portions thereof, are computed by the national board, council, association, or society responsible for a national examination in Florida. The grades for an examination containing a national portion shall be sent to the candidate no later than thirty (30) days after the receipt of the grades by the Department from the national board, council, association, or society responsible for the national examination in Florida.

(12) The Department or its designee shall inform each passing candidate of the candidate's status and provide necessary instructions for obtaining a license.

(13) Any candidate who does not receive a passing score on a licensure or certification examination will be notified of the test(s) failed, the requirements for re-examination, and review and appeal rights and procedures.

Rulemaking Specific Authority 472.0131 FS. Law Implemented 472.0131 FS. History--New 1-3-80, Amended 10-29-80, 4-19-82, 1-25-84, Formerly 21HH-4.03, Amended 9-16-87, 8-30-92, Formerly 21HH-4.003, Amended 9-7-93, 4-6-94, 5-30-95, 11-10-08, Formerly 61G17-4.003, Amended _____.

5J-17.035 Use of Pilot Test Items in Examinations.

Written examinations developed by or for the Department may include pilot test or experimental questions for the purpose of evaluating the statistical and/or psychometric qualities of new or revised questions prior to their use in an examination. Pilot test or experimental questions will not be identified to the candidates as pilot test questions on the examination.

(1) The maximum number of pilot test questions included in a single examination shall not exceed 20 percent of the number of questions on the examination which are not pilot test questions, or ten (10) questions, whichever is greater.

(2) Pilot test questions shall not be counted toward the candidate's score on the examination. Answers to pilot test questions shall not be subject to review by the candidate during the review process.

Rulemaking Authority 472.008 FS. Law Implemented 472.0131 FS. History--New _____.

5J-17.036 Grades Review Procedure.

Any applicant who takes the Florida Jurisdictional Multiple Choice Examination may examine the applicant's own answers and questions, papers, grades and grading key, upon such terms and conditions as set forth by the Department. of Business and

~~Professional Regulation in Rule 61-11.017, F.A.C. The applicant shall bear the actual cost incurred by the Department in providing the examination review.~~

(1) A candidate who has taken and failed a Departmentally developed objective multiple choice examination or an examination developed for the Department by a professional testing company or other state agency shall have the right to review the examination items, answers, papers, grades, and grading keys for the parts of the examination failed or the questions the candidate answered incorrectly only. Review of examinations developed by or for a national council, association, or society (herein after referred to as national organization) shall be conducted in accordance with national examination security guidelines and timeframes.

(2) Those candidates who elect to exercise their right to review must submit a request in writing to the Department or the testing vendor.

(a) Unless otherwise provided in Board rule, written requests must be received no later than twenty-one (21) days after the release date of the original grade notification. The issuance of an amended grade notice, if applicable, will not extend the deadline for a candidate to request a post-examination review, unless the amended grade notice affects the pass/fail status of the candidate.

(b) No request received past the specified deadline in paragraph (2)(a) will be accepted.

(3) Examination reviews shall be conducted in the presence of a representative of the Department or vendor at a location designated by the Department in Leon County, Florida, in the same city or county where the candidate sat for the exam, or in any other location mutually acceptable to the candidate and the Department.

(a) All examination reviews shall be conducted in accordance with that examination's administration procedures to the extent possible and feasible.

(b) All security rules defined in this Chapter, shall apply to all review sessions. Any candidate violating any provision of said rules shall be dismissed from the review session and may be subject to other sanctions pursuant to applicable statutes or rules as determined by the Board.

(c) Unless specified otherwise in this Chapter, all examination reviews by candidates shall be scheduled and completed no later than ninety (90) days after the release date on the original grade notification. However, a candidate may not participate in a review during the twenty-one (21) day period immediately prior to his or her next examination attempt.

(d) A representative of the Department or the vendor shall remain with all candidates throughout all examination reviews. Candidates shall be informed that the representative cannot defend the examination or attempt to answer any examination questions during the review.

(e) Candidates will be given an examination review time of one-half the time provided for the examination administration of the part failed.

(f) Test booklets used by the candidate during the examination are not retained. Candidates reviewing the examination will be provided with a clean, exact copy of the original test questions. They will not be given the actual test booklets they used during the examination. Consequently, any marks or notes made by candidates during the examination will not be available during the review.

(g) Unless prohibited by board rule or national guidelines, candidates have the right to challenge any question which they believe may be ambiguous or any solution which they believe may be incorrect and to request a hearing if the challenge is found to be without merit. The challenges must be submitted in writing during the review. Any challenges or supporting documentation submitted after the candidate has left the review room shall not be accepted.

(h) Upon completion of reviews, candidates shall acknowledge in writing the review start time, the review end time, all materials reviewed, and other relevant review information.

(4) In addition to the provisions of subsection (3), examination candidates shall be prohibited from leaving the review with any written challenges, grade sheets, or any other examination materials.

(5) For a practical examination, unless examination security is involved, a candidate may obtain by mail a copy of his or her grade sheets resulting from a practical examination. The request must be made in writing to the Department, adhere to provisions set forth in subsection (2), be signed by the candidate, and state the address to which the grade sheets are to be mailed. This shall constitute a review of the practical examination.

(6) If a successful challenge results in a regrade of an examination, that regrade shall be limited to the candidate who filed the successful challenge.

Rulemaking Specific Authority 472.008, 472.013, 472.0131(3) FS. Law Implemented 472.013, 472.0131(3) FS. History--New 1-3-80, Formerly 21HH-4.06, 21HH-4.006, Amended 5-30-95, 5-17-00, 10-31-08, Formerly 61G17-4.006, Amended _____.

5J-17.038 Guidelines for Sharing Department-Developed Examinations With Other States' Licensing Authorities.

(1) The Department shall, under conditions listed below and for a fee which recovers costs associated with such an action, with the concurrence of the Board, share department-developed examinations with other state licensing authorities.

(2) Upon receipt of an expressed interest from another state's licensing authority that a department-developed examination be shared, the Department shall require completion of a questionnaire that will gather specific and

pertinent information concerning the other state's need for an examination and the resources available to the other state for sharing the department examination.

(3) An agreement shall be entered into that will require the state licensing authority to adhere to the requirements listed in this Chapter, and any other applicable laws and rules.

(4) Absent a Board and Department agreed-upon exception, the other state's licensing authority may not be permitted to use security procedure and operating procedures that are less stringent or specific than those required and utilized by the Department.

Rulemaking Authority 472.008 FS. Law Implemented 472.0131 FS. History-New _____.

5J-17.0381 Translations.

In authorizing the translation of licensure examinations to an applicant's native language, the Legislature has determined that translated licensure examinations pose no inherent threat to the public health, safety, and welfare.

(1) To allow the Department sufficient time to translate an examination, an applicant for licensure wishing to take the examination in a language other than English or Spanish shall:

(a) File a written request with the Department at least six months prior to the date of the scheduled examination.

(b) Submit, in addition to all other applicable fees, the required translation fee as defined in subsection (2) of this rule on or before the 60th day prior to the date of the scheduled examination.

(2) The Department shall notify the applicant of the amount of the translation fee on or before the 75th day prior to the scheduled examination. The amount of the fee for each applicant for the translated examination shall be a pro rata share for all applicants applying to take the scheduled translated examination to cover the Department's full direct and indirect costs of the development, preparation, administration, grading and evaluation of the translated examination.

(3) Unless otherwise specified in board rule or prohibited by national guidelines, in lieu of a translated examination, candidates may elect to use a translation dictionary. This dictionary must consist of only word or phrase translations and must remain as published. Dictionaries containing definitions of words, explanations of words or handwritten notes will not be permitted. Testing center staff will inspect and approve the dictionary before it can be used during the examination. Any dictionary that does not meet these criteria will be rejected.

Rulemaking Authority 472.008 FS. Law Implemented 472.0131 FS. History-New _____.

5J-17.039 Licensure, Inactive Status, Delinquent Status, Reactivation.

(1) Biennial Licensing: Licensees, except as may be provided in Chapter 472, F.S., must renew their license each biennial period. Biennial period shall mean a period of time consisting of two 12 month calendar years. The biennial period for the purposes of the Board shall commence and continue on March 1 of each odd numbered year. Each application for renewal shall be considered timely filed if the application has been postmarked by the United States Postal Service officer prior to midnight on the date of expiration of the license or has been delivered by the close of business on the date of expiration of the license or the licensee has submitted an electronic application for renewal through the Department's website, www.800helpfla.com. If that date falls on a Saturday, Sunday, or legal holiday, the day of expiration shall be the first working day after the expiration date on the license. In order to be complete, the application must have all appropriate spaces filled, be signed or otherwise authenticated by the licensee and include a money order, sufficiently funded check, or electronic draft in the correct amount. The licensee must meet all continuing education requirements as specified in this chapter.

(2) Inactive Status:

(a) A licensee may choose inactive licensure status at the time of renewal by filing a notice with the Department through the Department's website accompanied by the appropriate fee as set forth in Rule 5J-17.070, F.A.C. Such notice and fee must be received in accordance with this Chapter to be timely.

(b) An inactive status licensee may change to active status at any time, provided the licensee meets all the requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the Board, pays any outstanding fines or costs, and meets all continuing education requirements as specified in this chapter.

(c) Failure to renew an inactive license prior to the applicable renewal deadline shall cause the license to become delinquent.

(3) Delinquent Status:

(a) If a licensee fails to complete all license renewal requirements and submit a timely and complete application, the license shall revert to delinquent status.

(b) A delinquent status licensee may apply for active or inactive status any time during the biennial licensure cycle. A complete application, the renewal fee, and a delinquent fee shall be required. The license of a delinquent licensee that does not achieve active or inactive status before the end of the current biennial licensure period shall become null and void by operation of law and without further action by the Department or the Board. Subsequent licensure will require meeting all the requirements for initial licensure or complying with the procedure set forth in Rule 5J-17.047, F.A.C.

Rulemaking Authority 472.006 FS. Law Implemented 472.006
472.202 FS. History—New _____.

5J-17.041 Continuing Education Credit for Biennial Renewal.

Every person licensed pursuant to Chapter 472, F.S., must obtain at least twenty-four (24) continuing education credits per biennium. At least six (6) credits must be obtained by completing an approved provider's course or seminar on Florida's minimum technical standards, an approved provider's course or seminar on Florida's laws affecting the practice of surveying and mapping, or an approved provider's course combining the aforementioned subject matters. One continuing education credit hour shall be awarded for each classroom hour of instruction. For the purposes of this rule, a classroom hour shall be defined as no less than fifty (50) minutes of classroom instruction.

(1) Continuing education credits may be obtained for:

(a) The instruction or completion of courses in surveying and mapping subjects at universities and colleges which are regionally accredited by an accrediting agency that is recognized by the United States Department of Education. Six (6) continuing education credits may be obtained for each semester hour or quarter hour equivalent thereof. A "course in a surveying and mapping subject" is a course such as: civil engineering, forestry, mathematics, photogrammetry, land law, physical sciences, basic surveying and mapping, route surveying, mapping, control surveying, legal principles of boundaries, geodetic astronomy, subdivisions and cartography. An official transcript from the registrar of the academic institution or letter of acknowledgement from the academic department head shall be submitted to the Board office as documentation of course instruction or completion at least 45 days prior to the end of the biennium;

(b)1. The completion of courses or seminars offered by continuing education providers approved by the Board for the provision of continuing education credit hours. A list of such providers is available from the Board office upon request.

2. At the time of course approval, a A licensee may obtain continuing education credits in the amount of the credits allowed for that course or seminar for his/her preparation of the course materials. ~~first presentation of such course or seminar presentation of such course or seminar;~~

a. Between March 1st of each odd numbered year and the last day of February of each even numbered year, a licensee may obtain continuing education credits for up to three live presentations of an approved course during this time period. The amount of the credits awarded shall be equal to the amount of credit awarded for completion of that course.

b. In addition, between March 1st of each even numbered year and the last day of February of each odd number year, a licensee may obtain continuing education credits for up to

three live presentations of an approved course during this time period. The amount of the credits awarded shall be equal to the amount of credit awarded for completion of that course.

(c) A licensee's attendance at a regularly scheduled meeting of the Board of Professional Surveyors and Mappers. Only two (2) continuing education credits will be allowed for each day of such attendance during the biennium. Licensees shall sign in with a Board designee immediately prior to each day of the Board meeting. Upon adjournment of each meeting day, licensees shall sign out ~~and be provided with a certificate of completion from the Board.~~

(d)1. No more than six (6) continuing education credits shall be awarded to a licensee who has researched, written, and published a book, paper, article, or other scholarly work related to surveying and mapping. Continuing education credits shall be awarded only for the biennium in which the work is initially published and approved for credit.

2. The licensee shall submit the published work along with proof of publication to the Board's Continuing Education Committee, or its designee, for review and approval at least sixty (60) days prior to the expiration of the biennium for which the licensee seeks credits.

(e)1. A licensee's attendance at a local chapter, state or national professional association meeting whose primary purpose is to promote the profession of surveying and mapping. One-half (1/2) credit shall be awarded for attendance at a local chapter meeting and two (2) credits shall be awarded for attendance at a state or national professional association meeting during each biennium. No more than six (6) continuing education credits shall be awarded in one biennium for attendance at local chapter, state or national professional association meetings.

2. Licensees who attend national professional association meetings shall submit a dated letter on official stationery from the national association confirming the dates of the licensee's attendance to the Board's Continuing Education Committee, or its designee, for review and approval at least sixty (60) days prior to the expiration of the biennium for which the licensee seeks credits.

3. Licensees who attend local chapter and state professional association meetings shall submit a certificate of completion confirming the dates of the licensee's attendance to the Board's Continuing Education Committee, or its designee, for review and approval at least sixty (60) days prior to the expiration of the biennium for which the licensee seeks credits.

(2) No licensee may claim credit until after the credit has been earned by that licensee.

(3) Licensees need not comply with continuing education requirements prior to the licensee's first licensure renewal.

(4) Licensees shall retain, and make available to the Department, the Board or their designees, upon request, continuing education course certificates of completion that comply with subsection 5J-17.044(2), F.A.C., for four (4) years following course completion.

Rulemaking Specific Authority 472.008, 472.018 FS. Law Implemented 472.018 FS. History—New 3-28-94, Amended 5-30-95, 9-21-98, 7-27-00, 6-22-03, 6-23-05, 6-20-06, Formerly 61G17-5.0031, Amended.

5J-17.044 Obligations of Continuing Education Providers. To maintain status as a continuing education provider, the provider must:

(1) Require each licensee to complete the entire course or seminar in order to receive a certificate of completion for the course or seminar.

(2) Furnish each participant with an individual certificate of attendance that contains the licensee's name, the licensee's license number, the provider name, the provider number, the course name, the course number, date of course completion, and the continuing education category fulfilled by the course.

(3) Continuing education providers must provide their Department of Agriculture and Consumer Services continuing education provider number on all course advertisements.

(4) Continuing education providers must identify in advertisements and on certificates of completion whether the offered continuing education course has been approved for general continuing education credit, laws and rules continuing education credit, minimum technical standards (MTS) continuing education credit, or a combination of MTS and laws and rules continuing education credit.

(5) An attendance record shall be maintained by the provider for four (4) years and shall be available for inspection by the Board, its designee, the Department, or the Department's designee.

(6) Providers must electronically provide to the Department a list of attendees taking a course within thirty (30) business days of the completion of the course. The list shall include the provider's name, the name and license number of the attendee, the date the course was completed, the course number and the total number of hours successfully completed.

(7) If the instructor is receiving credit as set forth in subparagraph 5J-17.041(1)(b)2., F.A.C., the instructor shall be listed as an attendee with the same information required above.

(8) Providers shall maintain security of attendance records and certificates. For correspondence study courses, the provider must electronically supply the list of those individuals successfully completing the course by the 5th of the month following the calendar month in which the provider received documentation and was able to determine the successful completion of the course by the individual.

(9) Ensure that all promotional material for courses or seminars offered to professional surveyors and mappers for credit contain the course number and the provider number.

(10) Allow only one continuing education credit for no more or no less than fifty (50) minutes of each hour of classroom, audio or video instruction, an "hour of classroom, audio or video instruction" being no less or no more than sixty (60) minutes of instruction.

(11) Allow only one (1) continuing education credit for each "hour of correspondence study." The "hour of correspondence study" must be based on the average completion time of each course as established by the provider. For correspondence study, provide to each participating licensee a written exam. In order to complete the course, the licensee must receive a minimum grade of seventy percent (70%). If a licensee fails the exam, they will be permitted to take the exam again until a passing grade is achieved.

(12) Notify the Board within fourteen (14) days of any change in the address or telephone number of the provider.

(13) Allow the Department's and the Board's designee to have access to information concerning courses or seminars conducted by the provider for continuing education credit.

(14) Provide courses or seminars designed to enhance the education of surveyors and mappers in the practice of surveying and mapping.

(15) Discontinue any course or seminar objected to under subsection 5J-17.043(5), F.A.C.

(16) Discontinue allowing an instructor to conduct a course or seminar upon receipt of notice pursuant to subsection 5J-17.043(6), F.A.C., and provide timely confirmation of same as required by that rule.

(17) A course or seminar on minimum technical standards must focus on each minimum technical standard in Board rules and give examples of the practical application of each standard in the performance of a survey. A course or seminar on minimum technical standards does not focus on case law.

(18) All information or documentation, including electronic course rosters, submitted to the Department shall be submitted in a format acceptable to the Department. Failure to comply with time and form requirements will result in disciplinary action taken against the provider. After a licensee's completion of a course, the information must be submitted to the department electronically no later than thirty calendar days thereafter. However, the continuing education provider shall electronically report to the department completion of a licensee's course within ten days beginning on the 30th day before the renewal deadline or prior to the renewal date, whichever occurs first. No provider may reapply for continuing education provider status until at least two (2) years have elapsed since the entry of any final order against the provider.

(19) On-line/internet courses shall be treated as correspondence courses for continuing education purposes, as set forth in subsection (11) above.

Rulemaking Specific Authority 472.008, 472.011, 472.018 FS. Law Implemented 472.018 FS. History—New 3-28-94, Amended 5-30-95, 7-27-00, 8-18-03, 8-18-04, 12-28-05, 1-29-07, Formerly 61G17-5.0043, Amended _____.

5J-17.047 Approval of Continuing Education Courses Classes.

(1) Continuing education courses shall be valid for purposes of the continuing education requirement only if such courses have received prior approval from the Board. The Board shall approve a course as a continuing education course for the purpose of this rule when the following requirements are met:

(a) Written application for course approval shall be received by the Board prior to the date the course is offered, ~~on BPR form SM-4758, entitled "Course Approval Application Form" incorporated herein by reference and effective 8-18-03, which copies may be obtained from the Board.~~

(b) The course provider shall submit to the Board the following: an application, a course outline which describes the course's content and subject matter, and a written statement that explains in detail how the course relates to the practice of surveying and mapping. If a proposed laws and rules continuing education course does not specifically cover Chapters 177 and 472, F.S., or Chapter 5J-17, F.A.C., then the continuing education provider must provide the Board with a detailed written explanation as to how the proposed laws and rules continuing education course rationally relates to the practice of surveying and mapping.

(c) Continuing education courses must address surveying and mapping subjects. Such subjects shall include but are not limited to civil engineering, forestry mathematics, photogrammetry, land law, physical sciences, basic surveying and mapping, route surveying, mapping, control surveying, legal principles of boundaries, geodetic astronomy, subdivisions, cartography, managing surveying businesses and operations and any other subject matter that directly enhances the surveying and mapping profession.

(d) The course provider shall submit to the Board a sample continuing education course certificate of completion that complies with subsection 5J-17.044(2), F.A.C., that is given to each course participant if the participant completes the course.

~~(e) Instructor curriculum vitae demonstrating particular education, knowledge, experience or skill which sets the applicant apart from those he or she will instruct.~~

(2) Course approvals are valid for 24 months from the date of issuance. Providers must reapply for course approval within 90 days prior to the expiration of the 24 month period. Written application and course approval shall be in the same form as set forth in subsection (1) above.

(3) The Board shall be notified of any substantive changes made to approved courses during this period, ~~which shall include instructor changes.~~ Course approval shall be rescinded by the Board if such notification is not made or the changes fail to otherwise conform to this rule.

(4) Course approvals shall be automatically rescinded if the provider status expires or is rescinded by disciplinary action or otherwise.

Rulemaking Specific Authority 472.008, 472.018 FS. Law Implemented 472.018 FS. History—New 8-18-03, Amended 6-23-05, 12-28-05, 6-20-06, Formerly 61G17-5.51, Amended _____.

5J-17.080 Citations.

The offenses enumerated in this rule may be disciplined by the issuance of a citation by the Department of Agriculture and Consumer Services. The citation shall impose the prescribed fine, and the Department may impose the costs of the investigation. If the citation option is accepted by the licensee, the offense will not be brought to the attention of the probable cause panel of the Board.

(1) Citations shall be issued pursuant to Sections 472.0345 and 472.036, F.S.

(2) Citations shall be issued by the Department in accordance with the following procedures:

(a) In lieu of an administrative complaint, the Department may issue a citation based upon a violation of Chapter 472, F.S., which has been designated by rule or statute as an offense for which a citation may be issued.

(b) The citation shall be served on the subject by personal service or by U.S. Mail, certified with return receipt. If the investigation and issuance of a citation was initiated by a consumer complaint, the complainant shall be notified by letter that a complaint has been opened and the citation has been issued.

(c) Citations shall be issued to the subject and shall contain the subject's name and address, the subject's license number if licensed, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure set forth in Section 472.033, F.S.

(3) Once a citation has become a Final Order, it shall be filed in accordance with procedures established for the filing of final orders.

(4) All fines and costs assessed pursuant to a citation shall be due and payable in accordance with the procedures established for payment of fines and costs within thirty (30) days of the date the citation becomes a Final Order.

(5) Citations which have become final orders shall be admissible in any subsequent proceeding based on the violation of statute or rule referenced in the citation as evidence of prior knowledge, or intent, or scheme, or design.

(6) Citations imposing the following designated fines may be issued to licensed persons or entities for the violations listed below under the following conditions:

(a)(1) A licensee's first time violation of the prohibition against false, fraudulent, deceptive or misleading advertising may result in a citation. If a citation is issued, the licensee must pay a fine of \$500.00.

(b)(2) A licensee's first time violation of the prohibition against practicing on a delinquent or inactive license shall result in a citation. If a citation is issued, the licensee must pay a fine of \$1,000.00.

(c)(3) A business entity's first time failure to notify the Board within one (1) month of any changes in the business entity's location of offices, its licensed surveyor and mapper in residence, or the names of its principal, along with proof to demonstrate the change in principal, may result in a citation if the licensee fails to correct the violation in response to a notice of noncompliance. If a citation is issued, the business entity must pay a fine of \$500.00.

(7) Citations imposing a designated fine may be issued to persons or entities unlicensed by the Department for the violations listed below, under the following conditions:

(a) There has been no prior citation, final order, or Notice and Order to Cease and Desist issued to the subject;

(b) There is no evidence of consumer harm in the current case; and

(c) The subject has not previously held a license to practice the activity at issue.

(8) The Department may issue citations in lieu of administrative complaints for the following unlicensed activities and impose the following penalties:

(a) Advertising or otherwise holding ones self out as available to practice the profession of surveying and mapping, or otherwise provide a service, or engage in any activity that requires licensure. If a citation is issued, the subject must be assessed a fine of \$1,000, plus costs of investigation and attorney's fees, if any.

(b) Contracting to perform or performing a service, or offering a bid to engage or engaging in any act or practice, that requires licensure. If a citation is issued, the subject must be assessed a fine of \$2,500, plus costs of investigation and attorney's fees, if any.

(9) All citations issued to unlicensed persons under this part shall be accompanied by a Notice and Order to Cease and Desist, as provided by Section 472.036(1), F.S.

Rulemaking Specific Authority 472.008, 472.0345 FS. Law Implemented 472.0345, 472.0351, 472.036 FS. History--New 1-16-92, Formerly 21HH-9.004, Amended 2-20-96, 10-29-06, 6-11-07, Formerly 61G17-9.004, Amended _____.

5J-17.082 Mediation.

(1) For the purposes of this chapter, the following definitions shall apply:

(a) "Mediation" means a process whereby a third person acts to encourage and facilitate the resolution of a dispute between a complainant and licensee without prescribing what the resolution should be. The resolution is an informal and nonadversarial process with the objective of helping the disputants reach a mutually acceptable agreement.

(b) "Mediator" means the employee or agent of the department assigned to conduct the mediation (defined in subsection (a)) according to the procedures set forth in Section 472.034, F.S. and this rule. No person shall both conduct mediation and investigate the same complaint.

(c) "Disputant" means the complainant or the licensee.

(2) A department investigator shall determine the suitability of a complaint for mediation, employing the criteria set forth in Section 472.034, F.S., and the rules governing eligibility for mediation.

(3) Mediation will be conducted in person or via electronic media or telecommunications, or any combination of the two, as warranted by the circumstances of the mediation.

(4) The mediator shall meet with the complainant and licensee together or separately, as warranted by the circumstances of the mediation.

(5) The mediator shall provide a written report to the department of the mediation results within 14 days of the conclusion of the mediation. The report shall include a completed mediation agreement or a statement that the complaint was not resolved in mediation.

(6) If mediation is rejected by either the complainant or licensee, or should the disputants fail to reach agreement of the mediated solution within the 60-day period, the department shall proceed on the complaint in the manner required by Chapters 120 and 472, F.S.

(7) To determine whether the department will approve a licensee's participation in the mediation process more than three times, the department shall consider factors including the subject, date, disposition, and number of complaints against the licensee, and the licensee's history of compliance with board or department orders.

(8)(1) Violations of paragraph 5J-17.010(6)(f), 5J-17.082(6)(f) and Rule 5J-17.010(6)(g), 5J-17.082(6)(g), F.A.C., concerning conflicts of interest, can be mediated pursuant to Section 472.034, F.S.

(2) Violations of the minimum technical standards of Rules 5J-17.050 through 5J-17.052, Chapter 61G17-6, F.A.C., can be mediated if those violations result in economic harm either:

(a) To the person who paid for the survey or map, or

(b) To the person who is the owner of the property which was the subject matter of the survey or map.

Rulemaking Specific Authority 472.034 FS. Law Implemented 472.034 FS. History--New 5-30-95, Formerly 61G17-9.005, Amended _____.

5J-17.085 Survey Review.

(1) A probationer required to submit surveys for review shall:

(a) Provide the Board with a list of all signed and sealed surveys, which shall contain a minimum of six (6) surveys, that have been performed by the probationer, for or without compensation, within 120 days of the date of the completing any and all continuing education courses required by the Board in its final order. The survey list submitted by the probationer shall contain each survey's project name and/or number, the client name (if available), the date of the survey and the type of survey performed.

(b) The Board's Probation Chair will randomly select six (6) of the probationer's signed and sealed surveys for review from the survey list submitted by the probationer. Within five (5) calendar days of being notified by the Board of the surveys that have been selected for review, the probationer shall have post-marked and submitted to the Board office signed and sealed surveys for the surveyed properties selected for review, along with copies of the relevant field notes, the relevant full size record plats, all measurement and computational records, and all other documents necessary for a full and complete review of the surveys. If the probationer does not submit the surveys which have been post-marked within five (5) calendar days of being notified of what surveys have been selected for review, then the probationer will be referred to the Department for non-compliance with a final order of the Board and the Board may lift the stay of suspension.

(c) Attend the Probation Committee meeting at which the surveys are to be reviewed;

(d) Repeat paragraphs (a)-(c) once if required by the Probation Committee at the meeting where the surveys are reviewed and discussed.

(2) Upon receipt of the signed and sealed surveys and other documents by the Board, either a surveying and mapping consultant selected by the Board or a member of the Board shall conduct a review of the surveys supplied by the licensee and provide an evaluation report to the Board for review, with all costs associated with said review and report paid to the consultant or the Board by the licensee.

(3) After the first survey review, the Probation Committee will either:

(a) Release the probationer from the terms of the final order if the probationer has complied with all of its terms and if the reviewed surveys are found to meet or exceed minimum levels of competency; or

(b) Require a second set of surveys for review as contemplated by paragraph (1)(d); or

(c) If the Board's final order places a licensee on probation and suspends the licensee's license but stays the suspension pending the licensee's compliance with the terms of probation,

then the Probation Committee will lift the stay on the suspension of the license if the reviewed and discussed surveys do not meet or exceed minimum levels of competency.

(4) After any second survey review, the Probation Committee will either:

(a) Release the probationer from the terms of the final order if the probationer has complied with all of its terms and if the reviewed surveys are found to meet minimum levels of competency; or

(b) If the board's final order places a licensee on probation and suspends the licensee's license but stays the suspension pending the licensee's compliance with the terms of probation, then the Probation Committee will lift the stay on the suspension of the license if they do not meet minimum levels of competency and refer the reviewed and discussed surveys to the Department for possible further disciplinary action. If the stay is lifted, the licensee shall remain in suspended status until the probationer takes and passes the Florida jurisdictional examinations.

Rulemaking Specific Authority 472.008 FS. Law Implemented 472.0351 FS. History--New 12-25-95, Amended 10-1-97, 5-17-99, 2-23-05, 6-20-06, Formerly 61G17-9.007, Amended _____.

5J-17.102 Financial Integrity of the Board.

(1) For the purposes of this chapter, the following definitions shall apply:

(a) "Anticipated costs" means the projected direct and indirect costs and administrative overhead of the Board based upon the current fiscal year's legislative appropriation enactment and other anticipated initiatives.

(b) "Reasonable cash balance" means a positive cash balance which must exist at the end of each fiscal year, plus and minus the Department's projections of revenue and expenditures of the Board for the next 24-month period.

(c) "Projection" means the Department's projected cash balance for the Board based upon the Board's projected revenues including license fees, application fees, examination fees, and fines, and the Department's projected anticipated costs for the Board.

(2) The Department shall notify the Board when the Board's license fees are inadequate to maintain a reasonable cash balance based upon the Department's projection.

(3) When sufficient action is not taken by the Board within one calendar year of notification as required in subsection (1), the Department shall set license fees on behalf of the board to cover all anticipated costs and to maintain a reasonable cash balance.

(4) The Department is authorized to permit a temporary loan of funds to the Board, if the Board is operating at a deficit. Any request for a loan shall be made to the Director of the Division of Consumer Services and shall state:

(a) That the Board is currently operating at a deficit; and

(b) That the Board has already assessed a one-time fee to eliminate the cash deficit or to maintain the financial integrity of the Board within the last fiscal year.

(5) Upon verification of the information stated in the request, the Department shall loan funds sufficient to maintain a reasonable cash balance.

(6) No action taken under this section will extend beyond two years. All loans authorized under this section will be repaid by the Board within two years from the date of the loan. All loans authorized under this section will be repaid with interest calculated at the then prevailing rates paid for investments in the State Treasury to the credit of the General Inspection Trust Fund of the Department of Agriculture and Consumer Services.

Rulemaking Authority 472.008, 472.011 FS. Law Implemented 472.011 FS. History—New _____.

5J-17.200 Definitions.

When used in Rule Chapter 5J-17, F.A.C., the following terms shall have the meanings provided:

(1) “Country” shall mean any independent or dependent governmental unit with established boundaries within the Western Hemisphere.

(2) “A country in the Western Hemisphere which lacks diplomatic relations with the United States” shall mean the Republic of Cuba and any other country which the Secretary of State of the State of Florida confirms lacks diplomatic relations with the United States.

(3) “Western Hemisphere” shall mean the land masses known as North America, Central America and South America and the islands which are geographically related to such masses.

Rulemaking Authority 472.0101 FS. Law Implemented 472.0101 FS. History—New _____.

5J-17.203 Examinations for Licensure of Foreign-Trained Exiled Professionals.

(1) The examination for licensure of foreign-trained exiled professionals shall be a written practical examination which tests the current ability of the applicant to practice the profession of professional surveying and mapping. The examination shall not test the academic and preprofessional fundamental knowledge of the applicant.

(2) The examination for applicants to be licensed to practice professional surveying and mapping shall be the Practice and Principles examination as prepared by the Department, or an examination equivalent to it. The examination will test the applicant’s ability to apply acceptable practice of professional surveying and mapping to problems in the following areas:

- (a) Sectionalized Land
- (b) Metes and Bounds
- (c) Lot and Block

(d) Water Boundary

(e) Condominium

(f) Right-of-Way

(g) Topographic

(h) Construction Layout

(i) Legal Responsibilities and Records Research

(j) Legal Description and Report Preparation

(k) Record Plat Computations

(3) Translation of Examinations. Whether a translated examination will be provided will be determined by the Department by the availability of a translated examination and the applicant’s ability to bear the cost of translation before a translation is prepared.

(4) An applicant may sit for the examination the number of times and under such conditions as provided in Chapter 472, F.S.

(5) The passing score for the Professional Surveying and Mapping examination shall be 70% of the total possible points on the examination.

Rulemaking Authority 472.0101 FS. Law Implemented 472.0101 FS. History—New _____.

5J-17.204 Graduation Documentation: Verification by Professional Association in Exile.

(1) Documentation of graduation shall include copies of any document which properly identifies:

(a) The applicant by name;

(b) Completion of academic requirements;

(c) The name and location of the college, university or school from which the document was received;

(d) The signature(s) of person(s) responsible for awarding such document;

(e) The date on which the document was awarded;

(2) Verification by professional association in exile: signature of officer or executive officer.

(a) The professional association in exile shall verify the documentation of graduation presented in support of an application for licensure by attaching a statement to the documentation which statement includes the following text: The document attached hereto is, to the best knowledge of the (name of association in exile) and to the best knowledge of the undersigned officer(s) of said association, a true representation of the facts contained therein, and the person named on said document is known to be the same person seeking licensure for the practice of surveying and mapping by submission of the application for which said document is submitted as partial satisfaction of requirements for licensure.

(b) The signature affixed to the verification shall be that of one of the duly elected officers of the association, identified as such below the signature. However, an executive officer may sign the verification if meeting minutes are attached wherein

the association or its board of directors authorizes specifically such officer employed by the association to act in its behalf in this matter.

(3) Translation. When the documentation of graduation is in any language other than English, a translation shall be attached thereto, such translation prepared and signed by a college or university professor in foreign language or any other person who is a generally accepted authority in translation activity.

Rulemaking Authority 472.0101 FS. Law Implemented 472.0101 FS. History—New _____.

5J-17.206 Three Years Lawful Practice for Foreign Trained Exiled Professionals.

(1) Three years of lawful practice shall consist of experience by reason of practice in the practice of surveying and mapping. Such lawful practice shall include valid licensure in the jurisdiction wherein the practice occurred if such licensure was required. Three years practice shall include continuous and noncontinuous practice, provided the requirements described above were met during such practice.

(2) An applicant for licensure pursuant to Section 472.0101, F.S., shall submit proof of three years lawful practice in one of the following forms:

(a) Copies of licenses or renewals thereof for the years of practice when the applicant possesses such licenses or renewals or has reasonable access to same for submission.

(b) In lieu of copies of licenses, a letter of recommendation from three persons who are licensed Florida professional surveyors and mappers may be submitted. Such letters shall certify the dates the writer has known the applicant, the writer's association with the applicant, the writer's personal knowledge that the applicant has lawfully practiced, indicating the length of time and the place or places where he knows the applicant has practiced. The name, address and license number of the writer of such letters shall appear on the letters.

Rulemaking Authority 472.0101 FS. Law Implemented 472.0101 FS. History—New _____.

5J-17.208 Pre-examination Continuing Education Program for Foreign Trained Exiled Professionals.

The term "program" when used in this rule means the pre-examination continuing education course of study provided in Section 472.0101, F.S.

(1) The content of the program shall be designed to prepare the applicant for examination for licensure. The program is to prepare the applicant for passage of a written practical examination which tests his ability to practice professional surveying and mapping.

(2) Providers of the program may be businesses in the private sector or entities within private or public vocational schools, community colleges or private or public universities provided the program is approved pursuant to these rules.

(3) Before a program is offered to an applicant as satisfying the requirements of this rule, such program shall be approved by the Department.

(a) Approval by the Department shall be based upon a finding by the Department that the program satisfies the following requirements:

1. Documentation of program content to demonstrate adequate training and coursework to prepare applicants for examination to practice the profession as defined in Florida law and rules. Such training and coursework shall include a diagnostic evaluation of the applicant's completion of the program. Adequate training and coursework include attendance by applicant of no less than ninety (90) percent of the class sessions.

2. Description of the class hours, other time requirements and other requirements placed on applicants to satisfactorily complete the program.

3. Cost of program to applicants.

4. Dates program will be offered.

(b) The proposed program provider shall submit the request for program approval to the Department with the documentation required hereinabove.

(c) A program completed within 2 years prior to submission of an application shall be approved by the Department pursuant to receipt and approval of documentation which complies with the provisions of this rule.

(4) The following documents include, but are not limited to, the type of documentation which the Department will accept as demonstrating successful completion of a program:

(a) A copy of a certificate of completion, including the program title and date completed, signed by an officer of the approved provider company or institution.

(b) A letter or copy of a letter from an officer of the company or a letter or a copy of a letter from an officer of the institution. Said letters shall state that the named applicant successfully completed the named program and give the date of completion.

Rulemaking Authority 472.0101 FS. Law Implemented 472.0101 FS. History—New _____.

5J-17.210 Fees for Foreign Trained Exiled Professionals.

(1) Applicants for licensure as foreign-trained exiled professionals shall submit an application fee of \$100 with their application.

(2) The fees for examination of foreign-trained exiled professionals shall be determined by the cost to the Department for acquisition, preparation, administration, grading and the review of examinations. The examination fees shall be assessed to each applicant by the Department and such fees

shall be paid to the Department by the applicant when the Department requires. The examination fees shall be paid in two parts.

(a) The examination development fee shall be paid to the Department when the applicant is notified that his application is complete, that he is qualified for examination and that the examination development fee in the amount stated is due, including the date the fee is due.

(b) The examination administration fee shall be paid to the Department before the date due when the Department notifies the applicant that he is scheduled to sit for the examination and the time and place of the examination for which the applicant is scheduled.

(3) Upon notification of passage of the examination, the applicant shall pay to the Department a licensing fee of \$200 prior to receipt of the license to practice.

Rulemaking Authority 472.0101 FS. Law Implemented 472.0101 FS. History—New _____.

5J-17.400 Special Assessment Fee.

(1) All active and voluntary inactive licensees shall pay a one-time special assessment fee of \$100.00 in order to maintain financial integrity in the operation of the Board. Payment of this fee shall be due and payable on or before February 28, 2011.

(2) Failure to comply with this rule and pay the required fee shall constitute grounds for disciplinary action pursuant to Section 472.0351(1)(h), F.S.

Rulemaking Authority 472.006(5), 472.008, 472.011(12) FS. Law Implemented 472.011(12) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
LuAnn Stiles

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.0015 RULE TITLE: K-20 Data Warehouse

PURPOSE AND EFFECT: The purpose of the new rule is to formalize the Commissioner’s responsibilities regarding the data integrated into the K-20 data warehouse including the strategies to improve data quality and timeliness. The effect is a new rule to implement Section 1008.31, Florida Statutes.

SUMMARY: All education data collected by the Florida Department of Education and the Board of Governors will be evaluated for inclusion in the K-20 data warehouse. This

includes data collected by the Department relating to PK-12, technical centers, and Florida colleges as well as by the Board of Governors related to state universities.

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

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

RULEMAKING AUTHORITY: 1008.31(4) FS.

LAW IMPLEMENTED: 1008.31 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Nancy Copa, Executive Staff Director, Division of Accountability, Research and Measurement, 325 West Gaines Street, Suite 844, Tallahassee, Florida 32399-0400; (850)245-0457

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0015 K-20 Data Warehouse.

(1) All education data collected by the Florida Department of Education and the Board of Governors shall be evaluated for inclusion in the K-20 data warehouse. This includes data collected by the Department related to prekindergarten through grade 12 schools, technical centers, and Florida colleges, as well as data collected by the Board of Governors related to state universities.

(2) By July 30 of each year the Department shall review data elements collected from the public education institutions to determine inclusion in the K-20 data warehouse.

(3) K-12 data shall be provided in the same format and within the same timelines as prescribed in Rule 6A-1.0014, F.A.C. Data for the Florida College System shall be provided in the same format as prescribed in the 2010-11 Student Data Base, 2010-11 Personnel Data Base, and 2010-11 Facilities/Capital Outlay Data Base, which are hereby incorporated by reference. Data for Workforce Development shall be in the format prescribed in the 2010-11 District WDIS (Workforce Development Information System) Data Base Handbook, which is hereby incorporated by reference. Data for the Board of Governors shall be in the format prescribed in the SUDS Data Dictionary, which is hereby incorporated by reference.

(4) The standards for determining the required data for the K-20 data warehouse are prescribed in the publication entitled “PK-20 Education Data Warehouse, 7/26/10.” This publication is hereby incorporated by reference and made a part of this

rule. Copies of this publication may be obtained from PK-20 Education Data Warehouse, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Rulemaking Authority 1008.31(4) FS. Law Implemented 1008.31 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kris Ellington, Deputy Commissioner, Accountability, Research, and Measurement

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 1, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.039 RULE TITLE: Supplemental Educational Services in Title I Schools

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the updated application, Form SES 100, Supplemental Educational Services Provider Application, and to revise the provider approval processes. The effect is the adoption of the updated form for applicants seeking to provide Supplemental Educational Services during the 2011-2012 school year.

SUMMARY: The rule is amended to adopt the updated application form for applicants to apply as Supplemental Educational Services providers.

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

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

RULEMAKING AUTHORITY: 1008.331 FS.

LAW IMPLEMENTED: 1008.331 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: LaTrell Edwards, Bureau Chief, Bureau of Federal Educational Programs, 325 West Gaines Street, Room 348, Tallahassee, FL 32399; (850)245-0828

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.039 Supplemental Educational Services in Title I Schools.

(1) through (2) No change.

(3) Roles and Responsibilities.

(a) The Department shall:

1. Provide annual notice of the process for obtaining approval to provide supplemental educational services.

2. Approve supplemental educational services providers based upon the application requirements set forth in Form SES 100, Supplemental Educational Services Provider Application ~~2011~~ ~~2010~~, which is hereby incorporated by reference to become effective upon the effective date of this rule. Form SES 100 may be obtained from the Florida Department of Education, Bureau of Student Assistance, 325 West Gaines Street, Tallahassee, Florida 32399-0400 or on the Department’s website at www.fldoe.org/flbpo.

3. Maintain a list of state-approved providers.

(b) through (11) No change.

Rulemaking Authority 1008.331 FS. Law Implemented 1008.331 FS. History--New 4-14-08, Amended 5-24-09, 12-15-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.09401 RULE TITLE: Student Performance Standards

PURPOSE AND EFFECT: The purpose this rule amendment is to adopt the Next Generation Sunshine State Standards in the Arts, World Languages, and to update the Next Generation Sunshine State Standards in Social Studies. The amendment also clarifies that the Next Generation Sunshine State Standards – Reading and Language Arts, 2007, and Next General Sunshine State Standards – Mathematics, 2008, remain in effect until 2013-2014 school year. The effect of the amendment is to provide clarity for existing standards and to adopt standards for upcoming school years to allow for planning by the school districts.

SUMMARY: This rule is amended to adopt updated student performance standards and to provide clarity as to the existing standards.

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

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

RULEMAKING AUTHORITY: 1001.02 FS.

LAW IMPLEMENTED: 1001.03 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, 325 West Gaines Street, Room 1502, Tallahassee, FL 32399; (850)245-0509

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09401 Student Performance Standards.

(1) Standards to benchmark student achievement serve as guides to best practices for local curriculum designers to help schools implement school improvement strategies to raise student achievement. Currently, the Next Generation Sunshine State Standards Reading and Language Arts 2007, referenced below in paragraph (1)(a), describe what students should know and be able to do at grade level progression for kindergarten to grade 8 and in grade bands for grade levels 9-10 and 11-12. Beginning with the 2013-2014 school year, the English reading and Language Arts benchmarked standards for English reading and Language Arts referenced below in paragraph (1)(c)(a), describe what students should know and be able to do at grade level progression for kindergarten to grade 8 and in grade bands for grade levels 9-10 and 11-12 for each of the reading and language arts content areas of: Reading, Writing, Speaking and Listening, and Language. Currently, the Next Generation Sunshine State Standards Mathematics 2008, referenced below in paragraph (1)(b), describe what students should know and be able to do at grade level progression from kindergarten to grade 8 and in a grade band for grade levels 9-12. Beginning with the 2013-2014 school year, the mathematics benchmarked standards for Mathematics referenced below in paragraph (1)(d)(b), describe what students should know and be able to do at grade level progression from kindergarten to grade 8 and for each of the Mathematics content areas of: Number and Quantity, Algebra, Functions, Modeling, Statistics and Probability, and Geometry for grades 9-12. Beginning with the 2008-2009 school year, the science benchmarked standards for Science referenced below in paragraph (1)(e)(e), describe what students should know and be able to do at grade level progression from kindergarten to grade 8 and for each of the science content areas of: Earth and Space Science, Life Science, Physical Science, and Nature of Science for grades 9-12. Beginning

with 2009-2010, the Health, Physical Education, and Social Studies benchmarked standards, referenced below in paragraphs (1)(f), (i), and (j), including one additional grade 1 Social Studies standard added in 2010, describe what students should know and be able to do at ten progression levels (grades K, 1, 2, 3, 4, 5, 6, 7, 8, 9-12). Beginning with the 2011-2012 school year, the benchmarked standards for World Languages referenced below in paragraph (1)(g) describe what students should know and be able to do at eight levels of proficiency. Beginning with the 2011-2012 school year, the benchmarked standards for the Arts, specifically Dance, Music, Theatre, and Visual Art, referenced below in paragraph (1)(h), describe what students should know and be able to do at grade-level progression for kindergarten to grade 5 and in grade bands for grade levels 6-8 and 9-12. The benchmarked standards in paragraphs (1)(e)-(f) of this rule describe what students should know and be able to do at four progression levels (grades Pre-K-2, 3-5, 6-8, 9-12) in the subjects of the arts and foreign languages. The access points contained in either the Next Generation Sunshine State Standards or the Sunshine State Standards provide access to the general education curriculum for students with significant cognitive disabilities. Public schools shall provide appropriate instruction to assist students in the achievement of these standards or the Sunshine State Standards for Special Diploma as appropriate. These standards, benchmarks, and access points are contained in the following publications which are hereby incorporated by reference and made a part of this rule.

(a) Next Generation Sunshine State Standards – Reading and Language Arts, 2007.

(b) Next Generation Sunshine State Standards – Mathematics, 2008.

(c)(a) Next Generation Sunshine State Standards (Common Core) – English Reading and Language Arts, 2010,

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

(e)(e) Sunshine State Standards – Science, 2008,

(f)(d) Next Generation Sunshine State Standards – Social Studies, 2009, revised 2010,

(g)(e) Next Generation Sunshine State Standards – World Foreign Languages, 2011 1996,

(h)(f) Next Generation Sunshine State Standards – The Arts, 2011 1996,

(i)(g) Next Generation Sunshine State Standards – Health, 2009,

(j)(h) Next Generation Sunshine State Standards – Physical Education, 2009, and

(k)(i) Sunshine State Standards for Special Diploma, 1999.

Copies of these publications may be obtained from the Division of Public Schools, Department of Education, 325 West Gaines St., Tallahassee, Florida 32399-0400.

(2) Every twelve (12) years from the effective date of the last amendment of the standards for a subject area, the Commissioner shall convene an expert group to review the standards and make recommendations to the Commissioner for their review and revision. The Commissioner shall determine whether revisions are necessary based on the recommendations of the expert group, and shall propose such revisions to the State Board for adoption. The Commissioner may initiate expert review of a set of standards after a period of less than twelve (12) years, if the Commissioner determines that developments have occurred in that subject area such as to make existing standards inadequate.

(3) Each district school board shall incorporate the Sunshine State Standards, Sunshine State Standards for Special Diploma, or Next Generation Sunshine State Standards as appropriate for subject areas contained herein into the district Student Progression Plan.

(4) The Sunshine State Standards and Next Generation Sunshine State Standards shall serve as the basis for statewide assessments.

Rulemaking Authority 1001.02 FS. Law Implemented 1001.03, 1003.41 FS. History—New 6-18-96, Amended 9-28-99, 3-1-07, 7-25-07, 11-25-07, 4-14-08, 9-22-08, 2-1-09, 1-6-10, 9-5-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.:	RULE TITLES:
6A-23.001	Purpose and Scope
6A-23.002	Definitions
6A-23.003	Eligibility and Procedure for Apprenticeship Program Registration
6A-23.004	Standards of Apprenticeship
6A-23.005	Apprenticeship Agreement
6A-23.006	Deregistration of Department Registered Program
6A-23.007	Hearings
6A-23.008	Complaints
6A-23.009	Reinstatement of Program Registration

6A-23.010 Preapprenticeship Programs
 6A-23.011 Program Performance Standards
PURPOSE AND EFFECT: The purpose and effect of this series of rule revisions will be to update and repeal unnecessary rules relating to the registered apprenticeship and preapprenticeship programs to align with statutory changes, federal regulatory changes, and needs of the apprenticeship community and labor market.

SUMMARY: This series of rules is being revised to accommodate the transfer of registered apprenticeship to the Department of Education from the Department of Labor and Employment Security. Further, these revisions will reflect the revised federal rules in Title 29 Code of federal regulations, Part 29, aligning state rules with federal rules.

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

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

RULEMAKING AUTHORITY: 446.011, 446.032, 446.041 FS.

LAW IMPLEMENTED: 446.021, 446.032, 446.041, 446.052, 446.071, 446.075, 446.081(3), 446.092 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Loretta Costin, Chancellor, Career and Adult Education, 325 West Gaines Street, Room 734, Tallahassee, FL 32399, (850)245-9463

THE FULL TEXT OF THE PROPOSED RULES IS:

6A-23.001 Purpose and Scope.

Rulemaking Specific Authority 446.032 FS. Law Implemented 446.032 FS. History—New 6-9-81, Formerly 38C-16.01, Amended 5-29-90, Formerly 38C-16.001, 38H-16.00, Repealed_____.

(Substantial rewording of Rule 6A-23.002 follows. See Florida Administrative Code for present text.)

6A-23.002 Definitions.

As used in this rule:

(1) “Apprentice” means a person at least sixteen (16) years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyworkers, which training should be combined with properly-coordinated studies of related technical and

supplementary subjects, and who has entered into a written agreement, hereafter called an apprentice agreement, with a registered apprenticeship sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.

(2) “Apprenticeship Agreement” means a written agreement between an apprentice and either his participating employer or an apprenticeship committee acting as agent for participating employer(s), which contains the terms and conditions of the employment and training of the apprentice.

(3) “Department” means the Florida Department of Education, which is the Registration Agency for federal apprenticeship purposes.

(4) “Apprenticeship Representative” is an individual representative of the Florida Department of Education, properly authorized to act on behalf of the Department in matters concerning apprenticeship, preapprenticeship, and on-the-job training.

(5) “Apprenticeship Standards” means the minimum requirements established uniformly for each craft under which an apprenticeship program is administered and includes standards of admission, training goals, training objectives, curriculum outlines, and objective standards to measure successful completion of the apprenticeship program.

(6) “Completion Certificate” means the official document issued by the Department to an individual completing training as verified by the program sponsor.

(7) “Completion Rate” means the percentage of an apprenticeship cohort who receives a certificate of apprenticeship completion within one (1) year of the projected completion date. An apprenticeship cohort is the group of the individual apprentices registered to a specific program during a one (1) year time frame, except that a cohort does not include apprentices whose apprenticeship agreements have been canceled during the probationary period.

(8) “Electronic Media” means media that utilizes electronics or electromechanical energy for the end user (audience) to access the content; and includes, but is not limited to electronic storage media, transmission media, the Internet, extranet, lease lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic media and/or interactive distance learning.

(9) “Established Industry Practices” means the number of years of training required by the majority of registered program standards for the particular trade or occupation.

(10) “Established Journeyworker Hourly Rate” means the average of the hourly rates paid to all journeyworkers, as defined by Section 446.021(4), Florida Statutes, by all participating employers in an apprenticeship program.

(11) “Joint-Apprenticeship Committee” means a committee composed of an equal number of representatives of employers and employees, which has been established by an employer or group of employers and a bona fide collective

bargaining agent or agents to conduct, operate, or administer an apprenticeship program and enter into apprenticeship agreements with apprentices selected for employment under the particular program.

(12) “Journeyworker” means a person working in an apprenticeable occupation who has successfully completed a registered apprenticeship program or who has worked the number of years required by established industry practices for the particular trade or occupation. Use of the term may also refer to a mentor, technician, specialist or other skilled worker who has documented sufficient skills and knowledge of an occupation, either through formal apprenticeship or through practical on-the-job experience and formal training. As defined in Chapter 6A-23, F.A.C., journeyworker applies to ratios, wage surveys and qualified apprenticeship trainers. The term “journeyworker” is synonymous with “journeyman” as defined in Section 446.021(4), Florida Statutes.

(13) “Nonjoint Apprenticeship Sponsor” means an apprenticeship sponsor who does not participate in a bona fide collective bargaining agreement; it includes an individual nonjoint sponsor (apprenticeship program sponsored by one employer without the participation of a union) and a group nonjoint sponsor (apprenticeship program sponsored by two (2) or more employers without the participation of a union).

(14) “Apprenticeship Committee” means those persons designated by the sponsor to administer the program.

(15) “On-the-Job Training” (OJT) means supervised trade-specific employment. OJT becomes a monitoring responsibility of the sponsor. OJT training providers must be participating employers.

(16) “Participating Employer” means a business entity which:

(a) Is actively engaged by and through its own employees in the actual work of the occupation being apprenticed,

(b) Employs, hires and pays the wages of the apprentice and the journeyworker serving as qualified training personnel training the apprentice,

(c) Evaluates the apprentice, and

(d) Is signatory party to a collective bargaining agreement or signatory to a participating employer agreement with the program sponsor which will be registered with the registration agency in the Department.

(17) “Registration of an Apprenticeship Agreement” means the acceptance and recording thereof by the Department as evidence of the participation of the apprentice in a particular registered apprenticeship program.

(18) “Registration of an Apprenticeship Program” means the acceptance and recording of such program by the Department as meeting the basic standards and requirements of the Department for approval of such program. Approval is evidenced by a certificate or other written indicia.

(19) “Registration Officer” means the designee, properly authorized to act on behalf of the Department in matters of registering program standards, apprenticeship agreements, and the general supervision of apprenticeship programs which are registered with the Department.

(20) “Related Instruction” means an organized and systematic form of instruction designed to provide the apprentice with knowledge of the theoretical subjects related to a specific trade or occupation.

(21) “Sponsor” means any person, association, committee, or organization operating an apprenticeship program and in whose name or title the program is or is to be registered, irrespective of whether such entity is an employer.

(22) “Work Processes” means an outline of supervised work experience and OJT with the allocation of approximate hours to be spent in each activity.

Rulemaking Specific Authority 446.041(12) 446.032 FS. Law Implemented 446.021 FS. History—New 6-9-81, Formerly 38C-16.02, Amended 5-29-90, Formerly 38C-16.002, Amended 9-4-97, Formerly 38H-16.002, Amended _____.

6A-23.003 Eligibility and Procedure for Apprenticeship Program Bureau Registration.

(1) No apprenticeship program or agreement shall be eligible for Department of Education Bureau registration unless it is in conformity with the applicable provisions of Chapter 446, F.S., and the training is in an apprenticeable occupation under Section 446.092, Florida Statutes, and included on the U.S. Department of Labor’s apprenticeable occupation list which is accessed at: [http://www.doleta.gov/oa/bul10/Bulletin 2010 30 List Apprenticeable Occupations.pdf](http://www.doleta.gov/oa/bul10/Bulletin%202010%2030%20List%20Apprenticeable%20Occupations.pdf).

(a) Prior to the registration of any apprenticeship program sponsor, all of the standards established by the Department Division of Labor, Employment and Training shall be met.

(b) The Department Bureau shall cooperate with and give all possible assistance to employers, associations, committees and other organizations that request registration of an apprenticeship program.

(c) There shall be a presumption that there is a need for apprenticeship training in each county in Florida unless proven to the contrary.

(2) Reasonable assurance of employment opportunities for training purposes necessary for completion of the contemplated program by individual apprentices shall be demonstrated prior to registration of a program by the Department Bureau. The number and size (number of employees) of employers committed to support the program will be considered in making this determination.

(3) Apprentices must be individually registered under a registered program. Such registration shall be made by filing originals copies of each apprenticeship agreement with the Department’s appointed apprenticeship representative within

forty-five (45) calendar days of the date of selection Bureau, and shall become effective upon signature by the Apprenticeship Representative Registration Officer.

(4) The Department Bureau must be promptly notified within forty-five (45) calendar days of the event through the appropriate field office of the cancellation, suspension, or termination of any apprenticeship agreements, with cause for same, and of apprenticeship completions.

(5) Upon approval by the Registration Officer, apprenticeship programs shall be accorded registration, evidenced by a certificate of registration.

(6) Applications for new programs that the Department determines meet the required standards for program registration must be given provisional approval for a period of one (1) year. The Department must review all programs for conformity with the performance standards outlined in Rule 6A-23.011, F.A.C., at the end of the first year after provisional approval. A satisfactory review of a provisionally approved program will result in conversion of provisional approval to permanent registration.

(7)(6) Any recommended modification(s) or change(s) to registered standards shall be promptly submitted to the Department Bureau through the appropriate apprenticeship representative field office, and if approved, shall be recorded and acknowledged as an amendment to such standards.

(a) The Department must make a determination as to whether to approve such submissions within ninety (90) calendar days from date of receipt.

(b) If approved, the modification(s) or change(s) will be recorded and acknowledged within ninety (90) calendar days of approval as an amendment to such program.

(c) If not approved, the sponsor must be notified of the disapproval and the reasons therefore and provided appropriate assistance.

(8)(7) The certificate of registration for an approved program will be made in the name of the program sponsor and will remain in effect subject to the rules as stated herein.

(9)(8) The request for registration, together with all documents and data required by this Chapter 6A-23, F.A.C., shall be submitted in four (4) five copies.

(10)(9) Under a program proposed for registration by an employer or employers’ association, where the standards, collective bargaining agreement, or other instrument, provides for participation by a union in any manner in the operation of the substantive matters of the apprenticeship program, and such participation is exercised, written acknowledgment of union agreement or “no objection” to the registration is required. Where no such participation is evidenced and practiced, the employer or employers’ association shall simultaneously furnish to the union local, if any, which is the recognized or certified collective bargaining agent of the employees to be trained, a copy of its application for registration and of the apprenticeship program. In addition,

upon receipt of the application and apprenticeship program, the ~~Department Bureau~~ shall promptly send by certified mail to such union local another copy of the application and of the apprenticeship program together with a notice that union comments will be accepted for forty-five (45) calendar ~~thirty (30)~~ days after the date of the agency transmittal.

~~(11)(10)~~ Where the employees to be trained have no collective bargaining agent, an apprenticeship program may be proposed for registration by an employer, or group of employers, or an employer association.

~~(12)(11)~~ An apprenticeship program may be registered in one or more occupations simultaneously or individually with the provision that the program sponsor shall, within one (1) year ~~sixty (60) days~~ of registration, be actively training apprentices on the job in each occupation for which registration is granted.

~~(13)(12)~~ Each occupation for which a program sponsor holds registration shall be subject to cancellation if no active training of apprentices ~~on the job~~ has occurred within one (1) year consecutive ninety (90) day period.

~~(14)(13)~~ Notwithstanding the foregoing requirements and procedures, apprenticeship programs and standards of sponsoring entities in other than the building and construction industry formed on a multi-state basis and Standards registered pursuant to all requirements of Title 29 C.F.R., ~~Part section 29,~~ by any federally recognized state apprenticeship agency/council or by the Office of Apprenticeship Bureau of Apprenticeship and Training of the U.S. Department of Labor shall be afforded approval reciprocity by the Florida Department of Education Bureau of Apprenticeship if such reciprocity is requested by the sponsoring entity ~~and if a determination of need has been made as provided by Section 446.071, F.S., as amended. Program sponsors seeking reciprocal approval must meet the wage and hour provisions and apprentice ratio standards of the Department.~~

Rulemaking Specific Authority 446.032, 446.041 FS. Law Implemented 446.032, 446.041, 446.051, 446.052, 446.071, 446.075, 446.092 FS. History—New 6-9-81, Formerly 38C-16.03, Amended 5-29-90, Formerly 38C-16.003, 38H-16.003, Amended _____.

6A-23.004 Standards of Apprenticeship.

The following standards are prescribed for an apprenticeship program:

(1) The program must be an organized, written plan embodying the terms and conditions of employment, training, and supervision of one or more apprentices in an apprenticeable occupation, as defined in ~~this~~ Chapter 6A-23, F.A.C., and subscribed to by a sponsor who has agreed undertaken to carry out the apprentice training program.

(2) The standards must contain provisions concerning the following:

(a) The employment and training of the apprentice in a skilled occupation trade;

(b) A term of apprenticeship; for an individual apprentice may be measured either through the completion of the industry standard for on-the-job training (at least 2,000 hours exclusive of time spent at related instruction) (time-based approach), the attainment of competency (competency-based approach), or a blend of the time-based and competency-based approaches (hybrid approach), not less than 2,000 hours of work and training, which hours are excluded from the time spent at related instruction, and which shall be consistent with training requirements as established by industry practice;

1. The time-based approach measures skill acquisition through the individual apprentice's completion of at least 2,000 hours of on-the-job training as described in a work process schedule.

2. The competency-based approach measures skill acquisition through the individual apprentice's successful demonstration of acquired skills and knowledge, as verified by the program sponsor. Programs utilizing this approach must still require apprentices to complete an on-the-job training component of registered apprenticeship. The program standards must address how on-the-job training will be integrated into the program, describe competencies, and identify an appropriate means of testing and evaluation for such competencies.

3. The hybrid approach measures the individual apprentice's skill acquisition through a combination of specified minimum number of hours of on-the-job training and the successful demonstration of competency as described in a work process schedule.

4. The determination of the appropriate approach for the program standards is made by the program sponsor, subject to approval by the Department of the determination as appropriate to the apprenticeable occupation for which the program standards are registered.

(c) An outline of the work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;

(d) Provision for organized related and supplemental instruction in technical subjects related to the occupation trade. A minimum of 144 hours for each year of apprenticeship is required. Such instruction may be given in a classroom, via electronic media, through occupational trade, industrial, or approved correspondence courses of equivalent value or other forms of self-study approved by the Department, Bureau;

(e) Wage Provisions –

1. A progressively increasing schedule of wage rates to be paid the apprentice, consistent with the skill acquired, which shall be expressed in percentages of the established journeyworker journeyman hourly rate. The rates represent the minimum for each incremental period of apprenticeship. The

established ~~journeyworker journeyman~~ hourly rate applicable among all participating employers shall be stated in dollars and cents.

2. The entry apprentice wage rate shall be no less than thirty-five (35) percent of the established ~~journeyworker journeyman~~ hourly rate paid by all participating employers in the program. Provided, however, that in no event shall the apprentice wage rate be less than the minimum wage prescribed ~~by for~~ the Fair Labor Standards Act, collective bargaining agreements or by Florida Statutes, whichever is higher.

3. No apprentice shall receive an hourly wage less than the percentage for the incremental period in which he is serving applied to the established ~~journeyworker journeyman~~ rate.

4. The established ~~journeyworker journeyman~~ hourly rate provided for by the standards shall be reviewed and adjusted annually or as per the collective bargaining agreement.

5. The minimum hourly apprentice wage rate paid during the last incremental period of apprenticeship shall be not less than 75 percent of the established ~~journeyworker journeyman~~ wage rate.

6. This subsection governing apprentice wages shall not be interpreted or construed in a manner that would cause a conflict with applicable federal law or regulations. The minimum entry apprentice wage rate and the minimum apprentice wage rate during the last incremental period of apprenticeship shall be reviewed periodically by the ~~Department Division of Labor~~ and amended when determined necessary.

(f) Periodic review and evaluation of the apprentice's progress in job performance and related instruction, and the maintenance of appropriate progress records;

(g) The ratio of apprentices to ~~journeyworkers journeymen~~ consistent with proper supervision, training, safety, and continuity of employment or applicable provisions in collective bargaining agreements, but in a ratio of not more than one (1) apprentice to the participating employer in each apprenticeable occupation, and two (2) apprentices for every three (3) journeyworkers ~~one apprentice for each three journeymen~~ thereafter. It shall be the responsibility of the apprenticeship committee/sponsor to ensure that the allowable ratio of apprentices to ~~journeyworkers journeymen~~ is consistently maintained in the program as a whole, by each participating employer, and on the job site;

(h) A probationary period reasonable in relation to the full apprenticeship term, with full credit for such period toward completion of apprenticeship, which cannot exceed twenty-five (25) percent of the length of the program, or one (1) year, whichever is shorter;

(i) Adequate and safe equipment and facilities for training and supervision, and safety training for apprentices on the job and in related instruction;

(j) The required minimum qualifications for persons entering an apprenticeship program, with an eligible starting age of not less than sixteen (16) years;

(k) The placement of an apprentice under an apprenticeship agreement. The agreement shall directly, or by reference, incorporate the standards of the program as part of the agreement;

(l) Granting advanced ~~Grant of advance~~ standing or credit for previously acquired experience, training, skills, or aptitude for all applicants equally, with commensurate wages for any accorded progression step;

(m) The transfer of an apprentice between apprenticeship programs and within an apprenticeship program must be based on agreement between the apprentice and the affected apprenticeship committees or program sponsors and must comply with the following requirements: ~~Transfer of employer's training obligation through the committee, if one exists and as warranted, to another employer, with full credit to the apprentice for satisfactory time and training earned;~~

1. The transferring apprentice must be provided a transcript of related instruction and on-the-job training by the committee or program sponsor;

2. Transfer must be to the same occupation;

3. A new apprenticeship agreement must be executed when the transfer occurs between program sponsors; and

4. The transfer of participating employer's training obligation through the committee, if one exists and as warranted, to another participating employer, must provide for full credit to the apprentice for satisfactory time and training earned.

(n) Assurance of qualified training personnel; Every apprenticeship instructor must:

1. Meet the Florida Department of Education's requirements for a career-technical instructor per Section 1012.55, Florida Statutes, or be a subject matter expert, which is an individual such as a journeyworker, who is recognized within an industry as having expertise in a specific occupation; and

2. Have training in teaching techniques and adult learning styles, which may occur before or after the apprenticeship instructor has started to provide the related technical instruction.

(o) Recognition for successful completion of apprenticeship evidenced by an appropriate certificate;

(p) Identification of the Department as registration agency;

(q) Provision for the registration, cancellation and deregistration of the program; and requirement for the prompt submission of any modification or amendment thereto;

(r) Provision for registration of apprenticeship agreements, modifications, and amendments; notice to the Department Bureau of persons who have successfully completed apprenticeship programs; and notice of cancellations, suspensions and terminations of apprenticeship agreements and causes therefor;

(s) Authority for the termination of an apprenticeship agreement during the probationary period by either party without stated cause;

(t) Provision for not less than five (5) business days' notice to an apprentice and his/her participating employer of any proposed adverse action and cause therefore ~~therefor~~ with stated opportunity to apprentice during such period for corrective action, unless other acceptable procedures are provided for in the collective bargaining agreement;

(u) Provision for a grievance procedure, and the name and address of the appropriate authority under the program to receive, process and make disposition of; complaints;

(v) Recording and maintenance of all records concerning apprenticeship as may be required by state or federal law; Records must be maintained for not less than five (5) years from the date of departure from or completion of the program;

(w) Provision for a participating employer's agreement –

1. Each participating employer shall sign a participating employer's agreement with the program sponsor accepting the funding formula and all other requirements of the program standards, unless otherwise provided for in a collective bargaining agreement;

2. The program sponsor shall notify the Department Bureau, on a current basis, who its participating employers are and shall notify the Department Bureau of any change in the status of each participating employer. Where the program sponsor uses a participating employers' agreement, a copy of same and the cancellation thereof, being furnished to the Department Bureau will satisfy the requirements of this subsection;

(x) A funding formula providing for the equitable participation of each participating employer in funding of the program;

(y) The inclusion of an Equal Employment Opportunity Pledge and Affirmative Action Plan, including:

1. Procedure for dissemination of program openings and opportunities; and

2. An approved selection procedure that does not discriminate against any individual on the grounds of race, color, religion, national origin, sex, or age.

~~(z)(y)~~ All apprenticeship standards must contain articles necessary to comply with Federal laws, regulations, and rules pertaining to apprenticeship;

~~(z) Provision that a contractor shall not work an apprentice in the jurisdiction of another committee until he so notifies the Bureau and all local joint apprenticeship committees if covered by a collective bargaining agreement or the Bureau and all~~

~~local nonjoint committees if not covered by a collective bargaining agreement. The purpose of this notice is to provide the opportunity for a mutually agreeable, voluntary assignment of apprentices from a local committee if apprentices are available.~~

Rulemaking Specific Authority 446.032, 446.041(12) FS. Law Implemented 446.031, 446.041, 446.075 FS. History–New 6-9-81, Amended 7-10-83, Formerly 38C-16.04, Amended 5-29-90, Formerly 38C-16.004, 38H-16.004, Amended _____.

6A-23.005 Apprenticeship Agreement.

The apprenticeship agreement shall contain explicitly or by reference:

(1) Names and signatures of the contracting parties (apprentice, and the program sponsor registrant or participating employer), and the signature of a parent or guardian if the apprentice is a minor;

(2) The date of birth and, on a voluntary basis, Social Security number of the apprentice. ~~of apprentice;~~

(3) Name and address of the program sponsor registrant and Department registration agency;

(4) A statement of the occupation trade or craft which the apprentice is to be taught, and the beginning date and term (duration) of apprenticeship;

(5) A statement setting forth a schedule of the work processes in the occupation or industry divisions in which the apprentice is to be trained and the approximate time to be spent at each process and a statement showing:

(a) The number of hours to be spent by the apprentice in work on the job in a time-based program; or a description of the skill sets to be attained by completion of a competency-based program, including the on-the-job training component; or the minimum number of hours to be spent by the apprentice and a description of the skill sets to be attained by completion of a hybrid program;

(b) The number of hours to be spent in related and supplemental instruction which is required to be not less than 144 hours per year;

(6) Statements providing:

(a) For a specific period of probation during which the apprenticeship agreement may be terminated by either party to the agreement upon written notice to the Department, without adverse impact on the sponsor registration agency;

(b) That, after the probationary period, the agreement may be suspended, canceled, or terminated for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and said agency of the final action taken;

(c) That, after the probationary period, the agreement may be canceled at the request of the apprentice;

(7) A reference incorporating, as part of the agreement, the standards of the apprenticeship program as it exists on the date of the agreement and as it may be amended during the period of the agreement;

(8) A statement of the graduated scale of wages to be paid to the apprentice and whether or not the required related instruction is compensated;

~~(9)(8)~~ A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training without discrimination because of race, color, religion, national origin, ~~or sex, or age;~~

~~(10)(9)~~ A statement that if an employer is unable to fulfill his obligation under his apprenticeship agreement, the agreement may, with consent of the apprentice and sponsor committee if one exists, be transferred to another participating employer under a registered program with written notice of the transfer to the Department registration agency and with full credit to the apprentice for satisfactory time and training earned;

~~(11)(10)~~ Name and address of the appropriate authority, if any, designated under the program to receive, process and make disposition of controversies or differences arising out of the apprenticeship agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established occupation trade procedure or applicable collective bargaining provisions;

~~(12)(11)~~ A statement that in the event the registration of the program has been canceled or revoked, the apprentice will be notified by the sponsor within fifteen (15) business days of the event.

Rulemaking Specific Authority 446.032, 446.041(12) FS. Law Implemented 446.032, 446.041, 446.071, 446.092 FS. History—New 6-9-81, Formerly 38C-16.05, 38C-16.005, 38H-16.005, Amended _____.

6A-23.006 Deregistration of Department Bureau Registered Program.

Deregistration of a program may be effected either upon the voluntary action of the sponsor registrant by a request for cancellation of the registration or upon notice by the Department Bureau to the sponsor registrant stating cause, and instituting formal deregistration proceedings in accordance with the provisions of this Chapter 6A-23, F.A.C.

(1) Cancellation by request of the sponsor ~~Request by registrant~~. The Department Chief may cancel the registration of an apprenticeship program by a written acknowledgment of such request stating, but not limited to, the following:

(a) The registration is canceled at sponsor's registrant's request, and giving the effective date of such cancellation; and

~~(b) That, W~~within fifteen (15) business days ~~workdays~~ of the date of the acknowledgment, the sponsor registrant must notify all apprentices of such cancellation and the effective date that such cancellation automatically deprives the apprentice of his individual registration.

(2) Deregistration by the Department Bureau. Deregistration proceedings shall be conducted in conformity with Title 29 C.F.R., §§ 29.8 and 29.10, as follows:

(a) Deregistration proceedings may be undertaken when the apprenticeship program is not conducted, operated, or administered in accordance with the registered standards or the requirements of this Chapter 6A-23, F.A.C., including, but not limited to: failure to provide on-the-job training; failure to provide related instruction; failure to pay the apprentice a progressively increasing schedule of wages consistent with the skills acquired; or a persistent and significant failure to perform successfully. Deregistration proceedings for violation of equal opportunity requirements must be processed in accordance with the provisions under Title 29 C.F.R., Part 30.

(b) Where it appears the program is not being operated in accordance with the registered standards or with the requirements of this Chapter 6A-23, F.A.C., the apprenticeship representative shall notify the Department Chief, and the Registration Officer Chief shall so notify the program sponsor registrant in writing.

(c) The notice shall be sent by registered or certified mail, return receipt requested, shall state the deficiency(ies) ~~deficiency(s)~~ and remedy(ies) ~~remedy(s)~~ required and shall state that the program will be deregistered for cause unless corrective action is taken within thirty (30) calendar days. Upon request by the sponsor and for good cause, the Department may grant an extension for another thirty (30) calendar days.

(d) During the period for correction, the sponsor registrant shall be assisted in every reasonable way by the Department Bureau.

(e) If the required action is not taken within the allotted time, the Department Chief shall send a notice to the sponsor registrant by registered or certified mail, return receipt requested, stating the following:

1. This notice is sent pursuant to this subsection;
2. That certain deficiencies were called to sponsor's registrant's attention and remedial actions requested;
3. Based upon the stated deficiencies and failure to remedy them, ~~cause, the program will be deregistered, unless within 15 workdays of receipt of this notice, a determination has been made that there is reasonable cause to deregister the program, and the program may be deregistered unless within fifteen (15) days of the receipt of this notice, the Department receives a request for hearing from the sponsor; the registrant requests a hearing;~~

4. If a hearing is not requested by the sponsor registrant, the entire matter will be submitted to the Administrator of the U.S. Office of Apprenticeship, for a decision on the record with respect to deregistration program will be automatically deregistered.

(f) The Department shall transmit to the Administrator of the U.S. Office of Apprenticeship all documents and information relating to the deregistration proceeding that is required under Title 29 C.F.R., § 29.8. Thereafter, the deregistration proceeding shall be governed in accordance with the provisions of Title 29 C.F.R., §§ 29.8 and 29.10. If the registrant requests a hearing, the Bureau shall notify the Division. The Division Director shall conduct the hearing or request that the Division of Administrative Hearings conduct the hearing as provided in Chapter 120, F.S. In either case, the Administration Commission model rules of procedure shall be used

(g) Based upon the evidence presented at the hearing, the hearing officer may recommend and the Division Director, within his discretion may allow the registrant a reasonable time to achieve voluntary corrective action.

(h) Every order of deregistration shall contain a provision that the registrant shall, within 15 workdays of the effective date of the order, notify all registered apprentices of the deregistration of the program, the effective date, and that such action automatically deprives the apprentice of his individual registration.

Rulemaking Specific Authority 446.032, 446.041(12), 446.075 FS. Law Implemented 446.032, 446.041, 446.051, 446.052, 446.071, 446.075, 443.041(2) FS. History-New 6-9-81, Formerly 38C-16.06, 38C-16.006, 38H-16.006, Amended _____.

6A-23.007 Hearings.

Rulemaking Specific Authority 446.032 FS. Law Implemented 446.041(2), 446.071, 446.081(3) FS. History-New 6-9-81, Formerly 38C-16.07, 38C-16.007, 38H-16.007, Repealed _____.

6A-23.008 Complaints.

(1) Any apprentice, preapprentice, or other affected person aggrieved by the alleged failure of any registered program to meet the standards established by the Department shall notify the program sponsor of the alleged failure. The notification shall be in writing and signed by the complainant, controversy or difference arising under an apprenticeship agreement or under the registered apprenticeship or preapprenticeship standards, which cannot be resolved locally, or which is not covered by a collective bargaining agreement, may be submitted by an apprentice or other affected person, or by the authorized representative of either, to the Bureau for review. Matters covered by a collective bargaining agreement, however, shall be submitted and processed in accordance with the procedures therein provided.

(2) Within sixty (60) days of the local decision, or if the dispute is not resolved within thirty (30) calendar days of the sponsor's receipt of the notification, the apprentice, preapprentice, or other affected person may file with the Department a complaint concerning the alleged failure of any registered program to meet the standards established by the Department.

(3)(2) The complaint shall be in writing, and signed by the complainant and be submitted within 60 days of receipt of the local decision or within 60 days of the date it becomes apparent that a decision at the local level cannot be reached. The complaint shall set forth the specific standards alleged to have been violated, and the problem including a statement of all relevant facts and circumstances substantiating the complaint. Copies of all pertinent documents and correspondence shall accompany the complaint.

(4)(3) The Department Chief or his designee shall review the complaint and all available pertinent information and shall conduct such investigation as may be necessary to make a determination regarding decision on the complaint. The Department will render an opinion within ninety (90) days after receipt of the complaint, based upon such investigation of the matters submitted as may be necessary, and the records before it. During the ninety (90-day period, the Department will make reasonable efforts to effect a satisfactory resolution between the parties involved. If so resolved, the parties will be notified that the case is closed. Where an opinion is rendered, copies will be sent to all interested parties. Parties substantially affected by the Department's determination may seek an administrative hearing in accordance with the provisions of Chapter 120, F.S. A request by an affected party for a hearing on the complaint shall be granted or denied within 15 days of receipt by the Bureau in Tallahassee. Hearings shall be conducted in accordance with the Administration Commission model rules of procedure.

(5) Nothing herein shall operate to invalidate any provision in a collective bargaining agreement between employers and employees setting higher apprenticeship standards. Any dispute covered by a collective bargaining agreement shall be resolved in accordance with the procedures and terms provided therein.

(6) This section is not applicable to any complaint concerning discrimination or other equal opportunity matters; all such complaints must be submitted, processed and resolved in accordance with applicable provisions of Title 29 C.F.R., Part 30.

Rulemaking Specific Authority 446.032, 446.041 FS. Law Implemented 446.041(2) FS. History-New 6-9-81, Formerly 38C-16.08, 38C-16.008, 38H-16.008, Amended _____.

6A-23.009 Reinstatement of Program Registration.

Any apprenticeship program deregistered pursuant to ~~this Chapter 6A-23, F.A.C.~~, may be reinstated upon presentation of adequate evidence that the apprenticeship program is operating in accordance with ~~this Chapter 6A-23, F.A.C.~~ Such evidence shall be presented to the ~~Department Chief~~ if the ~~sponsor registrant~~ had not requested a hearing or to the ~~Department Director~~ if an order of deregistration was entered pursuant to a hearing.

Rulemaking Specific Authority 446.032, 446.041(12) FS. Law Implemented 446.041(2) FS. History—New 6-9-81, Formerly 38C-16.09, 38C-16.009, 38H-16.009, Amended.

6A-23.010 Preapprenticeship Programs.

(1) Purpose and Scope.

~~Sections Section~~ 446.011 and 446.052, F.S., authorize and direct ~~directs~~ the ~~Department Division of Labor, Employment and Training of the Department of Labor and Employment Security~~ to develop uniform minimum standards for preapprenticeship programs in apprenticeable ~~apprenticeable~~ occupations, and to assist district school boards, college district boards of trustees and registered apprenticeship program sponsors ~~cooperate with and assist the Division of Vocational, Adult and Community Education of the Department of Education and appropriate vocational education institutions in the development of viable preapprenticeship programs of apprenticeship and preapprenticeship.~~ The primary objective of the preapprenticeship program is to provide Florida residents with educational and training opportunities to enable them, upon completion of preapprenticeship training, to obtain entrance into a registered apprenticeship program, based upon the selection criteria established by a registered apprenticeship program sponsor.

(2) Definitions.

In addition to the definitions provided in Rule 6A-23.002, F.A.C., the following definitions are specific to preapprenticeship:

(a) ~~“Completion Certificate” means the official document issued by the registration agency to an individual completing preapprenticeship training as verified by the program sponsor.~~

(b) ~~“On the Job Training” means supervised trade specific employment, but is not a primary training objective. However, when OJT is incorporated into program standards by the committee, OJT becomes a monitoring responsibility of the committee. On the job training providers must be participating employers.~~

(c) ~~“Participating Employers” means those employers eligible to provide supervised OJT experience to preapprentices by virtue of their “participating employer” agreement.~~

(a)(d) ~~“Preapprentice” means any person sixteen (16) years of age or over engaged in any course of instruction in the public school system or elsewhere, which course is registered~~

as a preapprenticeship program with the ~~Department Division of Labor, Employment and Training of the Department of Labor and Employment Security.~~

(b)(e) ~~“Preapprenticeship Agreement” means a written agreement between the preapprentice and the preapprenticeship program sponsor, containing the terms and conditions of training and incorporating the registered program standards as part of the agreement.~~

(c)(f) ~~“Preapprenticeship Committee” or committee~~ means the same as the registered apprenticeship program sponsor’s committee, or a group appointed by registered apprenticeship program sponsor committees, or their designees.

(d)(g) ~~“Preapprenticeship Program” means an organized course of instruction, in the public school system or elsewhere, which course is designed to prepare a person sixteen (16) years of age or older to become an apprentice, and which course is approved and registered with the Department Division of Labor, Employment and Training and sponsored by a registered apprenticeship program. Registered preapprenticeship programs shall be part of regular or adult high school programs when occurring in a public school system.~~

(h) ~~“Ratio” means the number of preapprentices allowed per journey person in programs incorporating OJT.~~

(i) ~~“Registration Agency” means the Division of Labor, Employment and Training of the Department of Labor and Employment Security, properly established and constituted under applicable state and federal law as the designated body for approval and registration of preapprenticeship programs and individual preapprenticeship agreements for state purposes.~~

(j) ~~“Registration Officer” means the Director of the Division of Labor, Employment and Training or designee authorized to act on behalf of the Division of Labor, Employment and Training (the “division”) in matters related to approving and registering program standards, and agreements, and providing oversight supervision for all registered preapprenticeship programs.~~

(k) ~~“Related Instructions” means an organized and systematic form of instructions designed to prepare and provide the preapprentice with appropriate training to qualify for entry into the sponsor’s registered apprenticeship program.~~

(e)(t) ~~“Preapprenticeship Sponsor” means any entity that has an active certification of a registered apprenticeship program(s) authorized to offer preapprenticeship training program and has also received certification from the registration agency for a preapprenticeship program.~~

(m) ~~“Term of Preapprenticeship” means the course period determined by the committee and shall be realistic in terms of attainment relative to national standards; not to exceed two consecutive years.~~

~~(f)(n)~~ “Uniform Minimum Preapprenticeship Standards” means the minimum requirements established uniformly for each craft under which a preapprenticeship program is administered and includes standards of admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the preapprenticeship program, and the percentage of credit that may be given to preapprenticeship ~~completers~~ completers upon acceptance into the apprenticeship program.

~~(e)~~ “Work Processes” means an outline of supervised work experience and on the job training with the allocation of maximum hours to be spent in each activity.

(3) Eligibility and Procedure for Program Registration. All preapprenticeship programs ~~and subsequent preapprenticeship actions~~ must meet the following provisions to be eligible for registration ~~with the division~~.

(a) The preapprenticeship program must be approved by the Department registration agency and registered in accordance with Chapter 446, F.S., and the standards of preapprenticeship contained in subsection 6A-23.010(4), F.A.C.

(b) The preapprenticeship program must be established in an apprenticeable occupation, and be designed to prepare individuals for entry into registered apprenticeship training programs and provide training in an apprenticeable occupation.

(c) There must exist reasonable assurance of employment demand in the occupational area being preapprenticed so as to allow preapprentices to transition into registered programs of apprenticeship. Demand occupational areas are those occupations listed in the apprenticeable occupation list which is accessed at: [http://www.doleta.gov/oa/bul10/Bulletin 2010 30 List Apprenticeable Occupations.pdf](http://www.doleta.gov/oa/bul10/Bulletin%202010%2030%20List%20Apprenticeable%20Occupations.pdf), “Apprenticeable Occupation List” published by the United States Department of Labor Division of Jobs and Benefits. The list may be obtained from the Department of Labor and Employment Security, Office of Apprenticeship, 1320 Executive Center Drive, Suite 201, Atkins Building, Tallahassee, Florida 32399-0667.

(d) The preapprenticeship program must include one or more related apprenticeable occupation ~~apprenticeable trade~~ categories that can provide for apprenticeships.

(e) Each individual preapprenticeship program must be directly sponsored by one (1) or more registered apprenticeship programs in the same occupation ~~trade~~, or in the case of a multiple occupations ~~trade~~ sponsor, the same occupations ~~trades~~.

~~(f)~~ Preapprentices will be individually registered in one trade, with an agreement which shall be registered with the Division of Labor, Employment and Training.

~~(f)(g)~~ Preapprenticeship programs must be actively training preapprentices within one (1) year ~~90 days~~ of registration. Programs which go inactive and remain the same (no participants training occurring) for more than one (1) year shall be canceled.

~~(h)~~ Modifications or amendments to registered program standards shall be promptly submitted to the registration agency for review and approval.

(g) Any modification(s) or change(s) to registered standards shall be submitted to the Department through the appropriate apprenticeship representative.

1. The Department must make a determination on whether to approve such submissions within ninety (90) calendar days from the date of receipt.

2. If approved, the modification(s) or change(s) will be recorded and acknowledged within ninety (90) calendar days of approval as an amendment to such program.

3. If not approved, the sponsor must be notified of the disapproval and the reasons therefor and provided the appropriate technical assistance.

~~(h)(i)~~ Approved preapprenticeship programs shall be evidenced by a certificate of registration issued in the name of the affiliated apprenticeship program sponsor which has administrative responsibility. Program registrations shall be renewed as needed every five years.

~~(j)~~ Registered program standards shall become part of each ~~and every registered preapprenticeship agreement, and each and every registered preapprentice shall have the right to obtain and review a copy of the registered program standards, upon request.~~

~~(k)~~ Program registration shall be canceled for just cause or by mutual consent of the sponsor, participants, and the registration agency. The sponsor shall give adequate notice to all program participants of any adverse action that may occur.

(4) Standards of Preapprenticeship. The following standards are prescribed for a preapprenticeship program:

(a) The program must be an organized, written plan embodying the terms and conditions of training, including employment and supervision when on-the-job training is incorporated, ~~in a program of preapprenticeship for one or more preapprentices in an apprenticeable occupation, as defined in this chapter and subscribed to by a registered apprenticeship program sponsor who has agreed to sponsor the preapprenticeship program.~~

(b) Registered program standards shall become part of each registered preapprenticeship agreement, and each registered preapprentice shall have the right to obtain and review a copy of the registered program standards, upon request.

~~(c)(b)~~ Required Safety Practices.

1. All preapprenticeship preapprentice programs must comply with the following federal and state laws and regulations:

a. Subpart C of Part 570 of Title 29 of the Code of Federal Regulations (C.F.R.), 7493 edition.

b. Florida Statutes, Section 450.061.

c. Rule 61L-2.003, F.A.C.

d. Rule 61L-2.004, F.A.C.

e. Rule 61L-2.005, F.A.C.

2. The foregoing laws and regulations are hereby incorporated into this rule by reference. ~~Copies of the foregoing may be obtained from the Department of Labor and Employment Security, Bureau of Job Training, 1320 Executive Center Drive, Suite 201, Atkins Building, Tallahassee, Florida 32399-0667.~~

~~(d)(e)~~ The standards must contain the following provisions:

1. The composition and duties of the preapprenticeship program committee.

2. OJT is not a requirement of preapprenticeship. When OJT is incorporated into a program, the training of the preapprentice must be in the occupation trade specifically registered for the sponsor by the Department registration agency.

3. A term of preapprenticeship established by the committee and designed to prepare the preapprentice for entry or transition into a the sponsor's registered apprenticeship training program.

4. Organized related technical instruction in technical subjects related to the occupation. Provide the name and address of school, if participant is enrolled in secondary education. ~~Provision for organized related technical instructions in technical subjects related to the trade or occupation, with additional provision for the preapprentice to earn a high school diploma or equivalency diploma, if the apprenticeship committee for the sponsoring entity includes the earnings of a high school diploma as a registered requirement.~~

5. If the apprenticeship sponsor includes earning a high school diploma or equivalent as an entrance requirement, provision shall be included for this accomplishment.

6. When OJT is incorporated into a program, the following applies:

~~a.5.~~ An outline of work processes in which the preapprentice will receive supervised work experience and on-the-job training and allocation of the approximate time to be spent in each process.

~~6. Wage Provisions:~~

~~b.a.~~ In no event shall the preapprentice wage rate ~~for program incorporated on the job training~~ be less than the minimum wage prescribed for in the Fair Labor Standards Act or by Florida Statutes ~~This subsection governing preapprentice wages shall not be construed or interpreted in a manner that would cause a conflict with applicable federal law or regulations.~~

~~(e)7-~~ The ratio of preapprentices to journeyworkers consistent with proper supervision, training, safety, and continuity of employment or applicable provisions in collective bargaining agreements, but in ratio of not more than one (1) preapprentice to the participating employer in each

apprenticeable occupation and journeypersons in programs incorporating on the job training shall not exceed two (2) one preapprentices, apprentices, or any combination thereof preapprentice to every three (3) journeyworkers thereafter journeypersons in construction related programs.

~~(f)8-~~ The ratio of preapprentices/apprentices preapprentices to journeyworkers journeypersons in non-construction programs shall be as established by the sponsor's committee ~~and approved in the registered standards.~~

~~(g)~~ It shall be the responsibility of the committee to ensure that the allowable ratio of apprentices/preapprentices to journeyworkers is consistently maintained in the program as a whole, by each participating employer, and on-the-job site.

~~(h)~~ Assurance of qualified journeyworkers.

~~(i)~~ A participating employer's agreement includes:

1. Acceptance of the program standard;

2. Agreement to provide immediate notification to the committee of each preapprentice worksite;

3. Agreement to provide the committee with the participating employer's current contact information.

~~(j)9-~~ Provision for the M~~m~~aintenance of preapprenticeship records for at least two (2) years following the individual's date of departure from or completion of the program. In addition, the Department registration agency shall be provided:

~~1.a.~~ The location of program records if records are not maintained on the respective school campus; and

~~2.b.~~ The availability of records of the preapprentices on-the-job ~~work experience~~ and related instruction progress for review by the Department registration agency or its apprenticeship representative authorized representative upon request.

~~(k)10-~~ Provisions for I~~n~~structing the preapprentice in safety and health related work practices, including: a. assurance Assurance that the preapprentice will be trained in facilities and other environments that are in compliance with the Occupational Safety and Health Act as described in occupational safety and health standards under Public Law 91-596, dated December 29, 1970,; and

~~b.~~ Instruction to make preapprentices aware of their rights under the Right to Know Law, as set forth in Chapter 442, F.S.

~~(l)11-~~ The required minimum qualifications for students or other individuals entering into the preapprenticeship program.

~~(m)12-~~ The placement of a preapprentice under a preapprenticeship agreement; ~~evidenced by the signing of same by the preapprentice and the sponsor and subsequently registered with the Department registration agency.~~

~~13-~~ Assurance of qualified instructors and training personnel, when on the job training is to occur.

~~(q)14-~~ Termination Provision for termination of the preapprenticeship agreement for good cause.

~~(r)15-~~ A plan for resolving differences.

~~(s)16. Not Provision for not less than five (5) business days notice to the preapprentice of any adverse action and cause therefore, with stated opportunity to the preapprentice for corrective action during such period.~~

~~17. Provision for a participating employer's agreement, including:~~

~~a. Acceptance of the program training standards requirements;~~

~~b. Agreement to provide immediate notification to the committee of each and every worksite when the preapprentice is provided on-the-job training; and~~

~~e. Agreement to provide the committee with the participating employer's current address, phone number and that of the official employer representative.~~

~~(t)18. The inclusion of an Equal Employment Opportunity Pledge and Affirmative Action Plan, including:~~

~~1.a. Procedure for dissemination of program openings and opportunities; and~~

~~2.b. An approved selection procedure that does not discriminate against any individual on the grounds of race, color, religion, sex, national origin, and citizenship, age, disability, or political participation.~~

~~(u)19. Provision for registration, cancellation and deregistration of the program; and the requirement of quick submission of any amendment or modification of program standards to the Department through the appropriate apprenticeship representative registration agency.~~

~~(v)20. Provision for notifying the Department registration agency of all actions regarding registered preapprentices.~~

~~(w)21. Provision for requesting issuance of a preapprenticeship completion certificate from the Department registration agency.~~

~~(x) Term of preapprenticeship is determined by the committee and shall be realistic in terms of attainment. It shall not be less than six (6) months and not exceed two (2) consecutive years.~~

~~(5) Preapprenticeship Agreement. Preapprentices will be individually registered in one (1) occupation with an agreement which shall be registered with the Department.~~

~~The preapprenticeship agreement shall contain:~~

~~(a) Names and signatures of contracting parties (preapprentice and sponsor) and the signature of parent or guardian if the individual is a minor or otherwise ineligible to enter into a contractual agreement.~~

~~(b) The preapprentice's date of birth and, on a voluntary basis, Social Security number.~~

~~(c) Name and address for the program sponsor and Department registration agency.~~

~~(d) A statement of the occupation or craft which the preapprentice is to be taught, and the beginning date and term (duration) of preapprenticeship. Name and address of school, if participant is enrolled in secondary education.~~

~~(e) A statement showing:~~

~~1. The number of hours to be spent in related classroom type instruction; and location of instructional facility.~~

~~2. The number of hours to be spent in on-the-job training, if any.~~

~~(f) A statement that the agreement can be canceled for due cause or by mutual consent; and in the case of due cause, a reasonable opportunity for corrective action may occur upon mutual agreement.~~

~~(g) A reference incorporating the standards as part of the preapprenticeship agreement as they exist on the date of agreement.~~

~~(h) A statement that the preapprentice will be afforded Equal Employment Opportunity in all phases of on-the-job training without discrimination because of race, color, religion, national origin, or sex or age.~~

~~(i) The expected completion date.~~

~~(6) Deregistration of Registered Preapprenticeship Programs.~~

~~Deregistration of a program may be effected either upon the voluntary action of the sponsor by a request for cancellation of the registration or upon notice by the Department to the sponsor stating cause, and instituting formal deregistration proceedings in accordance with the provisions of Sections 446.011 and 446.052, Florida Statutes.~~

~~(a) Cancellation by request of the sponsor. The Department may cancel the registration of a preapprenticeship program by a written acknowledgement of such request stating, but not limited to, the following:~~

~~1. The registration is cancelled at sponsor's request and giving the effective date of such cancellation; and~~

~~2. That, within fifteen (15) business days of the date of the acknowledgment, the sponsor must notify all preapprentices of such cancellation and the effective date; that such cancellation automatically deprives the preapprentice of his or her individual registration.~~

~~Deregistration of an approved program shall be effected by the voluntary action of the registrant by request to the registration agency, stating cause and requesting formal deregistration. Deregistration shall be initiated when the registration agency has reason to believe or learns that the program sponsor is operating the preapprenticeship program sponsoring apprenticeship program out of compliance with the registered program standards or established uniform minimum standards of the Division of Labor, Employment and Training, or is otherwise not in compliance with the provisions of this rule.~~

~~(b) Deregistration by the Department. When requested by the sponsor, the Division or its designee will:~~

~~1. Deregistration proceedings may be undertaken when the preapprenticeship program is not conducted, operated, or administered in accordance with the registered standards or the~~

requirements of Sections 446.011 and 446.052, Florida Statutes. Send notice to the sponsor that the program is canceled, at the sponsor's request, giving effective date; and

2. Where it appears the program is not being operated in accordance with the registered standards or with the requirements of Sections 446.011 and 446.052, Florida Statutes, the Apprenticeship Representative shall notify the Department, and the Registration Officer shall so notify the program sponsor in writing. Advise the sponsor of responsibility to notify all participants within fifteen days prior to the effective date that the program is being canceled and that cancellation automatically terminates and deprives the individuals preapprenticeship registration.

3. The notice shall be sent by registered or certified mail, return receipt requested, shall state the deficiency(ies) and remedy(ies) required and shall state that the program will be deregistered for cause unless corrective action is taken within thirty (30) calendar days. Upon request by the sponsor for good cause, the Department may grant an extension for another thirty (30) calendar days.

4. During the period for correction, the sponsor shall be assisted in every reasonable way by the Department.

5. If the required action is not taken within the allotted time, the Department shall send a notice to the sponsor by registered or certified mail, return receipt requested, stating the following:

a. This notice is sent pursuant to this subsection;

b. That certain deficiencies were called to sponsor's attention and remedial actions requested;

c. Based upon the stated cause, the program will be deregistered, unless within twenty-one (21) days of receipt of this notice, the sponsor requests a hearing in accordance with Chapter 120, Florida Statutes;

d. If a hearing is not requested by the sponsor, the program will be automatically deregistered.

6. If the sponsor requests a hearing, the request shall be handled in conformity with Chapter 120, Florida Statutes.

7. Every order of deregistration shall contain a provision that the sponsor shall, within fifteen (15) business days of the effective day of the order, notify all registered preapprentices and participating employers of the deregistration of the program, the effective date, and that such action automatically deprives the preapprentice of his/her individual registration.

8. Every order of deregistration shall contain a provision that the Sponsor shall, within fifteen (15) business days of the effective day of the order, notify all registered preapprentices and participating employers of the deregistration of the program, the effective date, and that such action automatically deprives the preapprentice of his/her individual registration.

(e) When it appears the program is not operating in compliance, the division or its designee will:

1. Notify the sponsor, by registered mail, stating program deficiency and advising of required remedies and shall state the program will be deregistered for cause unless corrective action is taken within 30 days;

2. During the period for correction, assist in formulation corrective action plan; and

3. If required action is not taken within the allocated time, the division or its designee shall provide notice to the sponsor, including:

a. Identification of this subsection as authority for notice;

b. Identification of certain deficiencies which were called to the sponsor's attention and remedial action requested;

c. Notification that based upon stated cause, the program will be deregistered within 15 calendar days of receipt of the notice, unless the sponsor requests a hearing; and

d. Notification that if a hearing is not requested by the sponsor, the program will be automatically deregistered.

e. Sponsors shall be notified of automatic deregistration by final agency action.

(d) If the sponsor requests a hearing, the Director of the Division of Labor, Employment and Training shall be notified. The Secretary of the Department of Labor and Employment Security, or designee, will conduct the hearing or request that the Division of Administrative Hearings conduct the hearing as provided in Chapter 120, F.S. Chapter 38-5, F.A.C., shall apply to hearings conducted by the Secretary or designee.

(e) Based upon evidence presented at the hearing, the hearing officer may recommend and the Division Director, shall allow the sponsor 15 days to achieve voluntary corrective action.

(f) Every order of deregistration shall contain a provision that the sponsor shall, within 15 workdays of the effective date of order, notify all registered preapprentices of the deregistration of the program, the effective date, and that such action automatically deprives the preapprentice of individual registration.

(7) Reinstatement of Program Registration. Any preapprenticeship program deregistered pursuant to Sections 446.011 and 446.052, Florida Statutes, may be reinstated upon presentation of adequate evidence that the preapprenticeship program is operating in accordance with Sections 446.011 and 446.052, Florida Statutes. Such evidence shall be presented to the Registration Officer if the sponsor has not requested a hearing or to the Department if an order of deregistration was entered pursuant to a hearing.

(8)(7) Program Completers Completers.

(a) The sponsor of an apprenticeship program shall give primary consideration for admission to persons who complete the sponsor's preapprenticeship program.

(b) The preapprenticeship completers completers who enter an apprenticeship program shall be exempted from repeating any related course of instruction equal to the time period of their preapprenticeship, if the completer graduate

passes a competency examination. Exemptions shall be determined based upon the standards established by the registered apprenticeship program sponsor ~~and registered as part of the preapprenticeship program.~~

~~Rulemaking Specific Authority 446.011, 446.032, 446.041(12) FS. Law Implemented 446.052 FS. History–New 6-9-81, Formerly 38C-16.10, Amended 8-18-94, 4-8-96, Formerly 38C-16.010, Amended 1-25-98, 3-15-98, 4-27-98, Formerly 38H-16.010, Amended _____.~~

6A-23.011 Program Performance Standards.

(1) Every registered apprenticeship program must have at least one (1) registered apprentice, except for the following specified periods of time, which may not exceed one (1) year:

(a) Between the date when a program is registered and the date of registration for its first apprentice(s); or

(b) Between the date that a program graduates an apprentice and the date of registration for the next apprentice(s) in the program.

(2) The Department must evaluate performance of registered apprenticeship programs. The tools and factors to be used must include, but are not limited to the following:

(a) Quality assurance assessments;

(b) Equal Employment Opportunity (EEO) Compliance Reviews; and

(c) Completion rates.

(d) Adherence to the approved program standards.

(e) Compliance with applicable rules of the Department, state statutes and federal regulations.

(3) In order to evaluate completion rates, the Department must review a program’s completion rates in comparison to the national average for completion rates. Based on the review, the Department must provide technical assistance to programs with completion rates lower than the national average.

(4) Cancellation of apprenticeship agreements during the probationary period will not have an adverse impact on a sponsor’s completion rate.

~~Rulemaking Authority 446.032, 446.041(12) FS. Law Implemented 446.052 FS. History–New _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:
Loretta Costin, Chancellor, Career and Adult Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

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

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

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.: 6E-1.0032
RULE TITLE: Fair Consumer Practices

PURPOSE AND EFFECT: The purpose and effect of the proposed amendment is to require a licensed institution to submit its training program, which provides training of enrollment and admission personnel pursuant to the existing fair consumer requirements, for approval by the Commission for Independent Education and to clarify certain fair consumer requirements in the areas of discounts and transferability of credits.

SUMMARY: The proposed rule provides that discounts in tuition or fees are not permissible based upon the method or timing of payment and deletes a reference to a disclosure about the transferability of credits to clarify that the required disclosures are addressed under paragraph (5)(f) of the rule. The proposed rule adds a new subsection that requires an institution to submit its fair consumer training program for approval and to ensure that all personnel who recruit and participate in the admission of prospective students receive the training.

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

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

RULEMAKING AUTHORITY: 1005.22(1)(e)1., 1005.34 FS.
LAW IMPLEMENTED: 1005.04, 1005.22(1)(k), 1005.32(5), 1005.34 FS.

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

DATE AND TIME: December 17, 2010, 11:00 a.m.

PLACE: Miami Dade College – Wolfson Campus, 300 N.E. 2nd Avenue, Building 2000, Room 2106, Miami, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6E-1.0032 Fair Consumer Practices.

(1) through (4) No change.

(5) Any licensed institution offering a program which does not make qualify the graduate eligible to take required professional examinations in that field or to practice regulated professions in that field in Florida must publish a disclosure statement to inform prospective students clearly and unambiguously of this fact.

(6) Each prospective student shall be provided a written copy, or shall have access to an electronic copy, of the institution's catalog prior to enrollment or the collection of any tuition, fees or other charges. The catalog shall contain the following required disclosures, and catalogs of licensed institutions must also contain the information required in subsections 6E-2.004(11) and (12), F.A.C.:

(a) through (c) No change.

(d) Licensure and accreditation status: The institution shall disclose its status regarding licensure by the Commission and its status as an accredited institution or program, as applicable. The level and scope of licensure or accreditation shall be disclosed, and any ramifications of accreditation or lack of accreditation on the (such as ability to sit for professional examinations, and eligibility for financial aid, or transferability of credits) shall be disclosed. If the institution makes claims that it is accredited by an accrediting agency that is not recognized by the United States U.S. Department of Education, the following disclosure statement must be made in large bold type, all capital letters, and is to be inserted in the publications or advertising, as defined in subsection 6E-1.003(5), F.A.C., prior to identification of or mention of any accrediting association or agency. The required statement is:

THE ACCREDITING AGENCY(S) OR ASSOCIATION(S) LISTED BELOW IS/ARE NOT RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION AS AN APPROVED ACCREDITING AGENCY. THEREFORE, IF YOU ENROLL IN THIS INSTITUTION, YOU MAY NOT BE ELIGIBLE FOR TITLE IV FEDERAL FINANCIAL ASSISTANCE, STATE STUDENT FINANCIAL ASSISTANCE, OR PROFESSIONAL CERTIFICATION. IN ADDITION, CREDITS EARNED AT THIS INSTITUTION MAY NOT BE ACCEPTED FOR TRANSFER TO ANOTHER INSTITUTION, AND MAY NOT BE RECOGNIZED BY EMPLOYERS.

This disclosure statement shall be inserted in all advertisements or publications wherever accreditation by an unrecognized accrediting agency is mentioned.

(e) through (k) No change.

(7) Reduction of tuition or fees: A reduction in tuition, fees, or other charges may be implemented when there are specific criteria for student eligibility and selection procedures precisely disclosed within a policy at the institution. All students within the enrollment period that the reduction is offered must be eligible to apply for this reduction under the same circumstance; however there shall be no reduction based upon the timing or method of payment. The institution must maintain verifiable records including detailed and complete data when students are granted a bona fide reduction in tuition or fees. This must include copies of all application records, notes of selection committee meetings, and copies of notices to the student who received the reduction. This information shall be kept on file at the institution for on site review by CIE.

(8) A licensed institution which is not accredited by a United States Department of Education USDOE recognized institutional accrediting agency shall use an enrollment agreement or application for admission which, in addition to the catalog, shall be the binding contract between the institution and the student. The binding document shall include, but not be limited to, the following:

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

(12) It shall be the responsibility of an institution to require a training program for all staff who recruit prospective students or who participate in the admission of prospective students, at the institution. The training program shall be submitted to the Commission for approval with each application for a provisional license, an annual license or a license by means of accreditation, and with each annual review of a license by means of accreditation. Institutions that choose to employ a training provider for its training program may, if the program provided by the contractor has been approved by the Commission, provide the program without additional approval. Training shall include information to familiarize staff who recruit prospective students, or who participate in the admission of prospective students, with Chapter 1005, Florida Statutes, and with the institution's programs, services, costs, terms of payment, financial aid available for qualified students, refund policy, transferability of credits to other institutions, reasonable employment projections and accurate placement data, status of the institution regarding licensure and accreditation, facts regarding the eligibility of graduates to sit for licensure examinations or fulfill other requirements to practice in Florida the career or profession for which the prospective student wishes to be trained, and other relevant facts. The training program shall reflect the fair consumer practices outlined in Sections 1005.04 and 1005.34, Florida Statutes, and this rule.

~~(13)~~(12) Institutions shall maintain a file or keep a record for each student at each location, translated into English and conforming to the requirements of Rule 6E-2.004, F.A.C., and containing the following at a minimum:

- (a) Academic transcript;
- (b) All documents evidencing a student's eligibility for enrolled programs;
- (c) Any certificates or diplomas earned;
- (d) Copies of applications or contractual agreements;
- (e) Financial records;
- (f) Student counseling or advising records; and
- (g) Records of progress.

Rulemaking Specific Authority 1005.22(1)(e)1., 1005.34 FS. Law Implemented 1005.04, 1005.22(1)(k), 1005.31(13), 1005.32(5), 1005.34 FS. History--New 10-19-93, Amended 4-2-96, 11-5-00, 1-7-03, 1-20-04, 3-29-04, 3-28-05, 5-18-05, 6-13-05, 7-23-07,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Samuel L. Ferguson, Executive Director, Commission for Independent Education

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2010

DEPARTMENT OF TRANSPORTATION

RULE NO.: 14-15.010
RULE TITLE: Manual on Uniform Traffic Control Devices

PURPOSE, EFFECT AND SUMMARY: The revised Manual on Uniform Traffic Control Devices is being adopted.

RULEMAKING AUTHORITY: 316.0745(1), 334.044(2) FS.
LAW IMPLEMENTED: 316.0745(2), (3), (7), 335.09, 335.14, 339.05 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458.

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

THE FULL TEXT OF THE PROPOSED RULE IS:

14-15.010 Manual on Uniform Traffic Control Devices.

The Federal Highway Administration Manual on Uniform Traffic Control Devices, 2009 2003 Edition, is hereby incorporated by this rule and made a part of the rules of the Department of Transportation. This federal document is available for downloading from the internet at the Federal Highway Administration's website at as listed as follows: <http://mutcd.fhwa.dot.gov/>. ~~A certified copy has been filed with the Department of State.~~

Rulemaking Specific Authority 316.0745(1), 334.044(2) FS. Law Implemented 316.0745(2), (3), (7), 335.09, 335.14, 339.05 FS. History--New 7-15-79, Amended 1-8-81, 8-15-85, Formerly 14-15.10, Amended 11-29-89, 4-25-95, 1-15-99, 4-5-00, 3-7-01, 8-15-01, 2-13-02, 1-2-04,_____.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Driver Licenses

RULE NO.: 15A-10.009
RULE TITLE: Program Jurisdiction

PURPOSE AND EFFECT: The purpose of the proposed rule action is to add a paragraph to the current rule to prohibit DUI programs which are also authorized as private probation services providers from distributing a list of DUI programs in their service area or to self-refer persons who are probationers to a DUI program owned in whole or in part by that private probation services provider or its affiliates; also requires DUI programs to document that the probationer was advised of their right to choose a licensed DUI program.

SUMMARY: Compliance with these rules is required to obtain and to maintain licensure and certification by the Department.

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

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

RULEMAKING AUTHORITY: 322.02, 322.292 FS.

LAW IMPLEMENTED: 322.292(5) FS.

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

DATE AND TIME: December 21, 2010, 10:00 a.m.

PLACE: Florida Highway Patrol Station – Davie, Training Room, 14190 West State Road 84, Davie, Florida 33325

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Barbara Lauer, Bureau of Driver Education and DUI Programs, 2900 Apalachee Parkway, Room B214, Tallahassee, FL 32399-0500, (850)617-2505. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Lauer, Bureau of Driver Education and DUI Programs, 2900 Apalachee Parkway, Room B214, Tallahassee, FL 32399-0500, (850)617-2505

THE FULL TEXT OF THE PROPOSED RULE IS:

15A-10.009 Program Jurisdiction.
(1) through (3) No change.

(4) DUI programs that are also authorized as private probation services providers under Section 948.15, F.S., shall not distribute a list of DUI programs in their service area or self-refer persons who are probationers to any DUI program owned in whole or in part by that private probation services provider or its affiliates. The DUI program shall document in writing, signed by the probationer, prior to the commencement of any services, that the probationer was advised of their right to choose any licensed DUI program that serves the county of their residence, employment or school attendance and that the probationer has not been referred by the private probation services provider to their DUI program. No DUI program information will be visible in any common areas of a private probation services facility, including the probation offices, hallways and any other area open to clients. This includes all forms of media including but not limited to: posters, brochures, pamphlets and signage.

Rulemaking Specific Authority 322.02, 322.292 FS. Law Implemented 316.192, 316.193, 322.2615, 322.292 FS. History--New 1-4-95, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Barbara Lauer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie Jones

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 13, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

BOARD OF TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

RULE NOS.:	RULE TITLES:
18-14.001	Definitions
18-14.002	Determination of Fines
18-14.003	Violations
18-14.004	Applicability
18-14.005	Imposition and Collection of Fines

PURPOSE AND EFFECT: To revise and clarify the process for assessing administrative fines for violations on state-owned land. The proposed amendments allow The Department of Environmental Protection ("DEP") to first issue a warning letter to a suspected responsible party instead of a Notice of Violation if it is deemed more appropriate to begin with an informal action. Currently, Chapter 18-14, F.A.C., requires staff to issue a Notice of Violation, a formal administrative

action, to provide an initial notice of suspected violations and begin the assessment of potential fines. The proposed amendments remove this requirement and allow DEP to reduce the initial notice from a formal administrative process to an informal warning letter to suspected responsible parties providing a period of time to correct potential violations. If the suspected responsible party fails to comply with the requirements of the warning letter, DEP may assess and collect fines through a formal administrative proceeding. Additionally, proposed amendments will also allow DEP to settle matters in accordance with Section 120.57(4), F.S., without first issuing a Notice of Violation. This change will allow for a process that is more efficient for staff and more transparent and accessible for the public. Further, the amendments make it a violation of the rule to fail to comply with an order of the Board of Trustees of the Internal Improvement Trust Fund or to fail to comply with a condition of authorization to locate a structure or vessel on state land. Lastly, the amendments allow DEP to not impose fines on a responsible party that has no history of prior violations, ceases the violations immediately, and completes corrective measures within 20 days of receipt of a warning from DEP of potential violations.

SUMMARY: Method for notifying suspected responsible parties of potential violations, required corrective actions, and assessment and collection of administrative fines for violations on state-owned lands.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule is not likely to alter the number or composition of violators. The agency expects the rule to lower implementation and enforcement costs to DEP from approximately \$500 – \$1,000 per case to approximately \$100-\$500 per case. The agency does not expect the rule to have any effect on such costs to any other state or local government entities. The agency expects a possible increase in revenues from increased penalties, the magnitude of which remains uncertain. Likewise, due to a lack of available data, the agency cannot estimate the particular effect of this rule on small businesses.

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

RULEMAKING AUTHORITY: 253.04(2) FS.

LAW IMPLEMENTED: 253.04 FS.

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

DATE AND TIME: December 17, 2010, 9:30 a.m. EDT

PLACE: Department of Environmental Protection, Bob Martinez Bldg, Room 611, 2600 Blair Stone Road, Tallahassee, FL. Toll Free Teleconference Number (888)808-6959, conference code 2458486

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary VanTassel at (850)245-8486. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Donna Kendall, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources – MS 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8488, or e-mail: Donna.Kendall@dep.state.fl.us. Further information and updates on this proposed rule also may be obtained from the Department’s Web Site at: http://www.dep.state.fl.us/water/rules_dr.htm#erp. (OGC No. 08-0631)

THE FULL TEXT OF THE PROPOSED RULES IS:

18-14.001 Definitions.

As used in this rule chapter:

(1) No change.

(2) “Department” means the State of Florida Department of Environmental Protection as staff for the Board.

~~(3) “Fine” means a monetary assessment imposed on a person or the agent of a person who willfully damages state lands, willfully damages or removes products of state lands in violation of state or federal law, or knowingly refuses to comply with or willfully violates Chapter 253, F.S.~~

~~(3)(4) “Offense” means each day during any portion of which a violation of Chapter 253, F.S., or the rules promulgated thereunder and this rule occurs. Each day during any portion of which a violation occurs constitutes a separate offense.~~

~~(4)(5) “Person” means individuals, partnerships, corporations, limited liability companies, joint ventures, estates, trusts, syndicates, fiduciaries, firms and all other associations and combinations, whether public or private, including the United States of America and other governmental entities, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations; and a political subdivision of the state.~~

~~(5)(6) “Products” means, without limitation, indigenous, planted or exotic trees and other vegetation, or portions thereof; coral; pre-cut submerged timber; peat; solid minerals, phosphate, or limestone; oil or gas; metals; or other inorganic material, such as sand or gravel. For purposes of this rule, animal wildlife within the jurisdiction of the Florida Fish and Wildlife Conservation Commission and seashells shall not be considered products of state lands.~~

~~(6)(7) “State land” means that land, title to which is vested in the Board pursuant to Section 253.03, F.S.~~

~~Rulemaking Specific Authority 253.04(2) FS. Law Implemented 253.04 FS. History–New 7-7-85, Formerly 16Q-14.01, Transferred from 16Q-14.001, Amended _____.~~

18-14.002 Determination of Fines.

~~(1) A person or agent of a person who willfully damages state land, willfully damages or removes products from state land in violation of state or federal law, or knowingly refuses to comply with or willfully violates the provisions of Chapter 253, F.S., shall also be in violation of this chapter rule and shall incur a fine up to \$10,000 per offense.~~

~~(2) When determining the amount of a fine to be imposed, the Board shall consider:~~

~~(a) through (d) No change.~~

~~(e) Aggravating or mitigating circumstances specific to the violation, including the nature and extent of the violation, a violator’s history of non-compliance, a violator’s degree of cooperation in correcting the violation and a violator’s good faith efforts to negotiate a settlement before formal legal proceedings begin; and~~

~~(f) No change.~~

~~(3) Payment of all or part of a fine may be waived when purposes of Chapter 253, F.S., the law and the rules promulgated thereunder this rule are not frustrated, and when fairness would result.~~

~~(4) Fines will accrue from the first day the violation began. Fines imposed pursuant to this rule shall be:~~

~~(a) \$500 – \$5,000 \$1 – \$2,500 for the first offense; and~~

~~(b) \$2,500 – \$10,000 per day \$1,000 – \$10,000 for the second or subsequent offenses.~~

~~(c) Fines for first offenses may exceed \$5,000 per day \$2,500 upon approval by the Board.~~

~~(5) Fines shall not be imposed for the first offense if, after being warned by the Department in writing that a violation may exist, the suspected violator ceases the potential violation immediately, has no history of prior violations of this chapter, and completes corrective measures within 20 days of receiving the warning.~~

~~Rulemaking Specific Authority 253.04(2) FS. Law Implemented 253.04 FS. History–New 7-7-85, Formerly 16Q-14.02, Transferred from 16Q-14.002, Amended _____.~~

18-14.003 Violations.

~~(1) It shall be a violation of this chapter rule for any person or the agent of any person to knowingly refuse to comply with any provision of Chapter 253, F.S., or rules promulgated thereunder, willfully violate any provision of Chapter 253, F.S., or rules promulgated thereunder, or to willfully damage state land (the ownership or boundaries of which have been established by the state) or products thereof, by doing any of the following:~~

(a)(1) Fill, excavate, or dredge, including prop dredging in a manner ~~that which~~ produces a defined channel or damage to resources, on state land without a ~~the~~ lease, license, easement, or other form of authorization ~~consent~~ required by the Board.

(b)(2) Remove, in violation of state or federal law, any product from state land without written approval or specific exemption from the Board ~~or Department~~.

(c)(3) Discharge or release contaminants, wastes, effluents, sewage or any other pollutant as defined in Chapter 376 or ~~Chapter~~ 403, F.S., on, under or over state land; when such discharge is in violation of Chapter 376 or 403, F.S., or conditions of a permit issued pursuant to those chapters ~~that chapter~~, or conditions of a lease, ~~or easement, or other form of authorization~~ issued pursuant to Chapter 253, F.S.

(d)(4) Maintain, place or build permanent or temporary structures, such as including, but not limited to, additions to existing structures; all structures and activities whose use is not water-dependent; sanitary septic systems; fences, docks, ~~and~~ pilings, platforms, piers and decks; houses; oil rigs; and public or private utility installations on or over state land without authorization ~~consent or authority~~ from the Board ~~or Department~~.

(e)(5) Place garbage, refuse, or debris on or over state land without authorization from approval ~~by the Board or Department~~.

(f)(6) Any other willful act that causes damage to state land, or products thereof, when such activity occurs without the required authorization from approval ~~by the Board or Department~~.

(2) It shall also be a violation of this chapter for any person or the agent of any person to fail to comply with an order of the Board, or fail to comply with any condition of a lease, easement, or other form of authorization.

Rulemaking Specific Authority 253.04(2) FS. Law Implemented 253.04 FS. History--New 7-7-85, Formerly 16Q-14.03, Transferred from 16Q-14.003, Amended _____.

18-14.004 Applicability.

For purposes of imposing a fine pursuant to this rule chapter, an activity conducted on state lands shall not be considered a violation of Chapter 253, F.S., or this rule chapter, when the activity is authorized by and conducted according to a management plan, easement, letter of consent, license, or lease approved by the Board or by an authorized agent of the Board who has been expressly delegated the authority to approve such management plan, easement, letter of consent ~~of use~~, license or lease.

Rulemaking Specific Authority 253.04(2) FS. Law Implemented 253.04 FS. History--New 7-7-85, Formerly 16Q-14.04, Transferred from 16Q-14.004, Amended _____.

18-14.005 Imposition and Collection of Fines.

Fines shall be imposed and collected by the Board pursuant to Section 253.04(2) and Chapter 120, F.S. Nothing in this ~~rule~~ chapter shall be construed to preclude the Board from bringing suits or taking action as is otherwise lawfully authorized against any person or the agent of any person ~~who has been found to have damaged state land or products thereof~~; provided, however, that any administrative fines imposed pursuant to this ~~rule~~ chapter shall be in lieu of monetary damages authorized pursuant to Section 253.04, F.S., for the same offense.

(1) When the Department determines that imposition of a fine is appropriate. Before any fine can be imposed, the Secretary of the Department or the appropriate Director of District Management shall issue a notice of violation to suspected and known violators giving notice of the violation and specifying the violator's rights under Chapter 120, F.S., or shall resolve the matter in accordance with Section 120.57(4), F.S. Such notice of violation shall be served on the violator by actual delivery; by service of process in accordance with Florida Rules of Civil Procedure; or by certified mail, return receipt requested.; The notice ~~and~~ shall identify the provision of law or rule alleged to have been violated. The notice ~~of violation~~ shall include a brief statement of the facts constituting the alleged violation and the basis for the claim that the land affected by the alleged violation is owned by the state.

(2) The notice shall demand that the violation cease immediately, and that the violator take reasonable corrective measures within 20 days. The notice shall state that if a violation is not stopped immediately and corrected within 20 days or at a later time agreed to by the Department and the violator, a fine shall be considered imposed. The notice shall state the amount of fine imposed as of the date of issuance of the notice. The notice shall state that the fine shall continue to accrue each day the violation remains uncorrected after the date of issuance of the notice.

(3) All fines imposed pursuant to this chapter are Upon imposition of a fine, the Secretary of the Department shall issue a certified letter to the violator demanding payment to the Internal Improvement Trust Fund within 15 days of receipt. If payment is not received by the Department within such 15 day period or at a later time agreed to by the Department and the violator, the fine shall become a lien upon the real and personal property of the violator, enforceable by the Department as a statutory lien pursuant to Chapter 85, F.S.

(4) No change.

(5) Upon notice of the violation, if any person or agent of any person ceases the activity alleged to be in violation of this rule and Chapter 253, F.S.; makes application to the Department for the required form of consent to use the state land at issue; and agrees to remove any structure or fill in

violation, or to restore any excavation or dredging in violation; then the Secretary of the Department shall have the authority to fix, impose and collect a fine not to exceed \$2,500 per offense.

Rulemaking Specific Authority 253.04(2) FS. Law Implemented 253.04 FS. History—New 7-7-85, Formerly 16Q-14.05, Transferred from 16Q-14.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Janet G. Llewellyn, Director, Division of Water Resource Management

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 11, 2010

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

DEPARTMENT OF CITRUS

RULE NO.: 20-39.003
RULE TITLE: Approved Boxes

PURPOSE AND EFFECT: Adding an experimental container to the list of approved containers in Rule 20-39.003, F.A.C.

SUMMARY: Adding an experimental container to the list of approved containers.

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

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

RULEMAKING AUTHORITY: 601.11 FS.

LAW IMPLEMENTED: 601.11 FS.

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

DATE AND TIME: January 19, 2011, 9:00 a.m.

PLACE: Florida Department of Citrus, 605 E Main Street, Bartow, FL 33830

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice P. Wiggins, License and Regulation Specialist, Legal Department, Florida Department of Citrus, P. O. Box 9010, Bartow, Florida 33831-9010 or awiggins@citrus.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

20-39.003 Approved Boxes.

(1) Unless otherwise noted, all approved boxes are 4/5 bushel capacity.

(2) The name of the manufacturer and the official container number as designated in subsection (3) below shall be printed on the bottom outside flap of each approved box body in plainly legible characters.

(3) The following containers are hereby designated as approved boxes and, unless otherwise noted, may be used for shipment of all varieties of citrus fruit:

Approved Container Number	Construction Styles	Inside Body Dimension in inches (LxWxD)	Minimum Board Weights (actual weight may be heavier)***	Minimum Board Weights (actual weight may be heavier)***
DOC-01-P	Singlewall	17 x 10 5/8 x 9 5/8**	Body 42-33-69	Cover 42-33-42
DOC-02-V	Singlewall	17 x 11 1/2 x 9 3/4	42-33-69	42-33-42
DOC-03-V	Singlewall	Oversized 17 x 12 x 9 3/4	42-33-69	42-33-42
DOC-04-PT	Tray style	Oversized 17 x 10 5/8 x 9 5/8**	42-33-42	42-33-42
DOC-05-PB	Bliss style	17 x 10 5/8 x 9 5/8**	42-33-42	33-33-33
DOC-06-VT	Tray style	17 x 11 1/2 x 9 3/4	42-33-42	42-33-42
DOC-07-VT	Tray style	Oversized 17 x 12 x 9 3/4	42-33-42	42-33-42
DOC-08-VB	Bliss style	Oversized 17 x 11 1/2 x 9 3/4	42-33-42	33-33-33
DOC-09-VB	Bliss style	Oversized 17 x 12 x 9 3/4	42-33-42	33-33-33
DOC-10-P	Doublewall	Oversized 17 x 10 5/8 x 9 5/8	42-33-42-33-42	42-26-42

Partial telescope self-locking lid.
Tangerines and citrus hybrids only. **

Approved Container Number	Construction Styles	Inside Body Dimension in inches (LxWxD)	Minimum Board Weights (actual weight may be heavier)***	Minimum Board Weights (actual weight may be heavier)***
			Body	Cover
DOC-11-XP	Singlewall	17 x 10 5/8 x 10 1/8**	90-33-90	42-33-42
DOC-12-XPT	Tray style	17 x 10 5/8 x 10 1/8**	69-33-69	42-33-42
DOC-13-XPS	Super X style	17 x 10 5/8 x 10 1/8**	42-40-69	42-33-42
DOC-14-P ††	Singlewall	15 7/8 x 10 5/8 x 6	42-33-42	42-33-42
DOC-15-PT ††	Tray style	17 5/8 x 10 5/8 x 6 Full Telescope **	42-33-42	42-33-42
DOC-16-WP	Wood slat	16 1/8 x 10 5/8 x 10 5/8 End panels may be of material other than wood.**	Wood slat	Wirebound
DOC-17-WP	Wood slat	19 7/8 x 7 1/2 x 11 1/2 End panels may be of material other than wood. Tangerines and citrus hybrids only.**	Wood slat	Wirebound
DOC-18-P	Singlewall	17 x 10 5/8 x 9 5/8**	42-40-42	42-33-42
DOC-19-P	Singlewall	17 x 10 5/8 x 9 5/8**	45-33-45	42-33-42
DOC-20-XP	Singlewall	17 x 10 5/8 x 10 1/8**	69-40-69	42-33-42
DOC-21-PT	Tray style	17 x 10 9/16 x 9 5/8 4" partial telescope tray cover. Tangerines and citrus hybrids only.**	42-40-69	42-33-42
DOC-22-P ††	Singlewall	13 1/4 x 10 5/8 x 7 Full telescope**	42-33-42	42-33-42
DOC-23-VT	Tray Style	17 x 12 x 9 5/8 End slotted with short end flaps.	69-33-42	42-33-42
DOC-24-P	Singlewall	Oversized 17 x 10 5/8 x 9 5/8 4" partial telescoping tray cover. Tangerines and citrus hybrids only.**	69-40-90	42-33-42
DOC-25-PT ††	Tray Style	16 1/8 x 10 5/8 x 6 Full Telescope**	42-33-42	42-33-42
DOC-26-P	Singlewall	18 1/4 x 12 1/2 x 11 3/4 Having three plastic trays per carton*	90-40-90	42-33-42
DOC-27-WV ††	Collapsible wooden bin	46 x 38 x 21 Holds appx 20 4/5 bu. equiv. units	Wooden bin	None
DOC-28-P ††	Singlewall	17 x 10 5/8 x 6** Full Telescope	42-33-42	42-33-42
DOC-29-P	Singlewall	16 3/4 x 11 1/2 x 11 3/8 Used with or without fiberboard honeycomb cells**	42-40-69	42-33-42
DOC-30-P ††	Singlewall	17 x 10 x 6 15/16 Corrugated, full telescope**	90-40-90	42-33-42
DOC-31-P	Singlewall	16 11/16 x 11 8/16 x 11 14/16 Corrugated with or without honeycomb dividers**	69-40-42	42-33-42
DOC-32-OV ††	Triplewall-Bulk bin	46 1/2 x 38 x 36 Octagonal watermelon bin with self-locking lid. Holds appx. 28 4/5 bu. equiv.	69-33-69-33-69-33-90	69-26-69

DOC-33-P	Singlewall	20 15/16 x 11 13/16 x 7 Telescoping with two trays per carton **	42-33-69	42-33-42
DOC-34-OV ‡‡	Triplewall-Bulk bin	46 x 37 1/2 x 36 Octagonal with interlocking flaps.	42-40-90-42-40-90-40-90	42-26-69
DOC-35-OV ‡‡	Triplewall-Bulk bin	Holds appx. 28 4/5 bu. equiv. 46 x 38 x 26 1/2 Tuff octagonal tube, holding appx. 24 4/5 bu. equiv.	90-33-42-33-42-33-90	69-26-69
DOC-36-P	Doublewall	23 5/8 x 15 5/8 x 7 Die cut platform tray, open top	42-36-33-26-42	
DOC-37-RV ‡‡	Triplewall-Bulk bin	46 1/2 x 38 1/2 x 26 1/2 Corrugated rectagon with diagonal corners and interlocking bottom (holds appx. 20 to 24 4/5 bu. equiv.)	64-33-35-64-33-96	35-26-35
DOC-38-P	Singlewall	16 3/4 x 11 1/2 x 10 3/8 Telescoping, half-slotted, optional molded fiber spring cushion trays**	99-33-90	42-33-69
DOC-39-P	Doublewall	17 x 10 5/8 x 9 5/8 Corrugated, half-slotted	42-33-33-33-42	42-33-42
DOC-40-P	Doublewall	18 15/16 x 14 3/16 x 11 13/16 One-piece, die cut	42-33-42-33-42	n/a
DOC-41-P	Plastic	22 1/2 x 14 9/16 x 7 1/8 One-piece, reusable/recyclable high-density polyethylene	n/a	n/a
DOC-42-P‡‡	Singlewall	17 1/2 x 11 1/8 x 8 3/4 Holding 2/3 of a standard 4/5 bu. container, two-layer, full telescoping	90-40-90	42-33-42
DOC-43-OV‡‡	Triplewall 1/2 bulk bin	38 3/4 x 23 3/4 x 25 1/4 Space-saver, octagon 1/2 bin holding appx. 10 1/2 4/5 bu. equiv. loose or 7-8 4/5 bu. equiv. Bagged	69-26-38-26-38-26-65	38-26-38
DOC-44-PT	Doublewall	22 1/8 x 14 11/16 x 6 3/8 B/c flute tray body, C flute cover	42-40-41-40-56	42-33-42
DOC-45-P	Singlewall	17 1/8 x 10 5/8 x 10 3/8 4/5 c-flute, two piece, partial telescoping cover	42-33-57	42-26-35
DOC-46-PT	Doublewall	23 5/8 x 15 5/8 x 7 4/5 40 x 60 Euro Wave Tray	42-40-42-40-42	n/a
DOC-47-PT	Doublewall	14 1/2 x 11 3/8 x 6 5/16 2/5 bu, die-cut, open top, platform tray	33-69-33-69	n/a
DOC-48-PT	Doublewall	22 1/4 x 14 11/2 x 6 3/4 40 x 60 Euro Tray	42-33-42-34-42	n/a
DOC-49-RP	Plastic	22 1/4 x 14 1/2 x 10 3/4 Recyclable plastic container model RPC3	n/a	n/a
DOC-50-RP	Plastic	22 1/4 x 14 1/2 x 8 Recyclable plastic container model RPC2	n/a	n/a
DOC-51-P	Doublewall	22 1/8 x 14 11/16 x 3 13/16 2/5 bu, fully telescoping, singlewall lid and doublewall body, 200# b flute corrugated divider	42-40-42-40-42	42-33-56
DOC-52-PB	Doublewall	22 11/16 x 15 1/4 x 9 1/2 bagmaster Defor XD + vertical tray	42-33-57-33-69	n/a

DOC-53-RP	Plastic	22 7/16 x 14 1/2 x 11 1/16 reusable standard footprint container IFCO model 628	n/a	n/a
DOC-54-P	Doublewall	22 1/8 x 14 11/16 x 6 7/8 40 x 60 body, fully telescoping cover, c-flute	42-40-42-40-56	42-33-69
DOC-55-RP	Plastic	22 3/8 x 14 5/8 x 7 1/4 Recyclable crate model GP6419	n/a	n/a
DOC-56-RP	Plastic	22 3/8 x 14 5/8 x 9 7/8 Recyclable bagmaster crate model GP6425	n/a	n/a
<u>DOC-57-P</u>	<u>Singlewall</u>	<u>17 x 10 5/8 x 9 5/8</u> <u>#41 Powerflute, #52,</u> <u>Yellow Body with cover</u>	<u>52-42-52</u>	<u>32+ ECT</u>
**	Container may be volume filled provided the sizes designated for each variety of fruit meet the requirements of subsections 20-39.007(1), 20-39.008(1) and 20-39.009(1), F.A.C.	33-404.102 33-404.103 33-404.104		Provision of Mental Health Services Mental Health Services – Definitions Mental Health Services – Classification System
‡‡	Container does not conform to 4/5 bushel requirement of subsection 20-39.003(1), F.A.C.	33-404.105		Consent to Mental Health Evaluation and Treatment
***	Minimum board weight requirements shall be waived when a compression strength test by an independent testing laboratory or manufacturer’s test report shows that the container made with a new material is equal to, or better than, compression strength of the container with minimum approved board weight. It shall be the responsibility of the first packinghouse using such container to acquire and provide records of compression strength testing to the Department of Citrus prior to first use of the container. Each such container shall be identified by the placement of three asterisks (***) printed after the official container number on the bottom outside flap of the box body. (4) Each container must be ventilated.	33-404.106 33-404.201 33-404.202 33-404.203 33-404.204 33-404.205 33-404.206		Admission to Infirmity Mental Health Care, Transitional Care, or Crisis Stabilization
	Rulemaking Authority 601.11 FS. Law Implemented 601.11 FS. History—Formerly 105-1.03(1)(a), Revised 1-1-75, Amended 8-16-75, 8-11-77, 8-1-78, 8-21-79, 1-15-80, 10-20-80, 5-1-81, 9-1-82, 11-6-83, 10-21-84, 1-1-85, Formerly 20-39.03, Amended 9-11-86, 12-20-87, 10-14-90, 8-23-92, 10-18-92,1-19-93, 5-23-93, 10-10-93, 1-9-94, 10-16-94, 8-29-95, 10-13-96, 10-26-97, 12-6-98, 2-20-01, 12-26-01, 4-27-03, 10-21-03, 3-22-05, 1-20-09,_____.	33-404.207 33-404.208 33-404.209		Operation, Administration, and Designation of Corrections Mental Health Treatment Facilities
	NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth O. Keck, Executive Director	33-404.2095		Mental Health Treatment Facilities – Definitions
	NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kenneth O. Keck, Executive Director	33-404.2096		Mental Health Treatment Facilities – Care of Inmates
	DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2010	33-404.2097		Mental Health Treatment Facilities – Use of Force
	DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 19, 2010	33-404.2098		Mental Health Treatment Facilities – Inmate Discipline
	DEPARTMENT OF CORRECTIONS	33-404.210		Mental Health Treatment Facilities – Administrative Confinement
	RULE NOS.: 33-404.101	RULE TITLES: Mental Health Services Program – Purpose and Scope		Mental Health Treatment Facilities – Restrictions of Inmate Privileges
				Mental Health Treatment Facilities – Admissible Reading Material
				Mental Health Treatment Facilities – Forms
				Placement in Mental Health Treatment Facilities
				Emergency Placement in Mental Health Treatment Facilities
				Discharge From Mental Health Treatment Facilities
				Continued Placement in Mental Health Treatment Facilities
				Corrections Mental Health Treatment Facilities – Consent to Treatment

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to revise the Department's policies governing provision of mental health services to inmates in accordance with statutory changes outlined in Chapter 2008-250, Laws of Florida.

SUMMARY: The proposed rulemaking: clarifies the purpose and scope of the department's mental health services program; clarifies the provision of mental health services; updates definitions to reflect changes outlined in Chapter 2008-250, F.S.; clarifies the care and privileges of inmates in a mental health care setting; clarifies the criteria for admission to and release from mental health care settings; and repeals Rules 33-404.104, .105, .202, .203, .204, .205, .206, .207, .208, and .209 as the language of these rules is either duplicative or being moved to other rules within Chapter 33-404, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will not have an adverse impact on small business and are not likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within one year after implementation. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09, 945.48, 945.49 FS.

LAW IMPLEMENTED: 20.315, 120.55, 944.09, 944.11, 944.35, 945.21, 945.41-.49 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-404.101 Mental Health Services Program – Purpose and Scope.

(1) Mental health services are those services and activities that are provided primarily by mental health staff and secondarily by other health care staff; for the purposes of:

(a) Identifying inmates who are experiencing disabling symptoms of a mental disorder; that is, symptoms which impair the ability to function adequately within the incarceration environment; ~~general inmate population.~~

(b) Providing appropriate timely intervention to alleviate for the purpose of alleviating disabling symptoms of a mental disorder;

(c) Assisting inmates ~~the inmate~~ with a mental disorder with adjusting ~~to adjust~~ to the demands of prison life;

(d) Assisting inmates ~~the inmate~~ with a mental disorder to maintain a level of adaptive personal and social functioning; and that will enable the inmate to remain in or be returned to the general inmate population.

~~(e) Providing mental health services to mentally retarded inmates who, though not mentally ill by definition, have problems related to their disabilities which impair their ability to function within the prison environment.~~

~~(e)(f) Providing re-entry mental health aftercare planning, and mental health education to facilitate the inmate's continuity of follow-up care in the community and promote better mental health and overall adjustment after release to the community.~~

(2) Access to necessary mental ~~Mental~~ health services shall be available to all inmates within the department, shall be provided in a non-discriminatory fashion, and shall be provided in accordance with prevailing community and correctional standards of care.

~~(a) All inmates are eligible to receive mental health screening and/or evaluation as necessary, precipitated by self or staff referral. Only the following persons are authorized to determine whether there is a need for mental health care: psychological specialist, registered nurse specialist, psychologist, senior psychologist, psychiatrist, or in their absence, by a nonpsychiatric physician.~~

~~(b) Priority for mental health treatment services shall be given to inmates who are experiencing or who are at risk for developing symptoms of mental disorder, which symptoms significantly impair ability to function adequately within the general inmate population.~~

~~(c) Inmates having or suspected of having a history of alcohol or drug abuse shall be referred to the department's substance abuse treatment program. Inmates receiving substance abuse treatment are also eligible to receive mental health services.~~

(3) The department shall provide the following levels of mental health care:

(a) Outpatient; ~~—which includes a broad range of evaluation and treatment services that are provided to inmates who reside within the general inmate population.~~

(b) Infirmiry; ~~Isolation Management — involves placement in an infirmiry isolation management room, which has been designed to reduce the risk of self-harm or destruction of property.~~

(c) Transitional; ~~— which is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatments in a structured residential setting.~~

(d) Crisis Stabilization; and ~~— which includes a broad range of evaluation and treatment services that are provided within a highly structured, locked residential setting, intended~~

for inmates who are experiencing acute emotional distress, and who cannot be adequately evaluated and treated in a transitional care unit or infirmary isolation management room.

(e) Corrections Mental Health Treatment Facility Care, Acute Psychiatric Care (at the hospital level) which includes a broad range of evaluation and treatment services that are provided within a highly structured, secure, and locked hospital setting within a mental health treatment facility. Acute psychiatric care within a mental health facility requires prior judicial commitment to the facility, except for emergency admissions, which shall receive judicial review and commitment (if indicated) following admission.

(4) The rules of the Department of Corrections that are in effect shall be applicable to all departmental facilities that provide mental health services, except as modified by this Chapter, Rules 33-404.101-.108, and 33-404.201-.210, F.A.C., which are applicable to mental health treatment facilities.

(5) The Assistant Secretary for Health Services shall be the final authority for professional mental health care matters related to the care of inmates, including distribution of mental health resources, hiring and dismissal of mental health staff, and establishing relevant standards of care, policies, and procedures for all institutions.

(4)(6) Final medical responsibility and authority for mental health matters at the institutional level rest with the chief health officer Chief Health Officer or medical executive director Medical Executive Director, with support and oversight provided by the regional mental health consultant Regional Mental Health Consultant, Regional Health Services Director, director Director of mental health services Mental Health Services, and assistant secretary for health services the Chief of Health Services.

Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 945.40-944.09, 945.49 FS. History—New 5-27-97, Formerly 33-40.001, _____.

33-404.102 Provision of Mental Health Services.

All inmates entering the department shall have access to necessary be entitled to receive mental health services as established by this chapter and as specified in the policies and procedures developed and implemented under the authority of the assistant secretary for health services Assistant Secretary for Health Services. The Assistant Secretary for Health Services is the final authority for all health care related programs, policies, and procedures. The Assistant Secretary shall authorize policies, procedures, and service protocols deemed necessary and sufficient to establish guidelines for the delivery of mental health services. These service guidelines shall be disseminated to staff through health service bulletins, which shall be reviewed at least yearly, and revised as needed under the authority of the Assistant Secretary for Health Services. Health services bulletins shall be reviewed and

revised periodically to ensure that constitutionally adequate mental health services are provided in accordance with applicable community and correctional standards.

(1) Inmates shall have access to mental health services commensurate with their needs as determined by health care staff.

(2) Inmates shall move ~~within and~~ between levels of care according to their level of adaptive functioning and treatment needs.

(3) All inmates who are receiving mental health services shall have an individualized services plan developed by mental health service providers.

(4) ~~Inmates with diagnosed mental disorders shall have access to work, recreation, education, and other activities or opportunities which are commensurate with their ability that are available to those inmates not diagnosed with a mental disorder.~~

(5) ~~Inmates who are assigned to administrative confinement, disciplinary confinement, protective management, or close management shall have access to necessary mental health care, interviews conducted by a mental health professional, initiated by self or staff, brief visits at cell front weekly to inquire as to whether the inmate has mental health problems; mental health evaluation and treatment as deemed necessary by health care staff; and scheduled individual and group appointments as indicated in an individualized services plan developed by mental health service providers.~~

(4)(6) Inmates who are assigned to administrative confinement under Rule 33-602.220, F.A.C, disciplinary confinement under Rule 33-602.222, F.A.C., protective management under Rule 33-602.221, ~~or~~ close management under Rule 33-601.800, F.A.C., or maximum management under Rule 33-601.820, F.A.C., and require necessary mental health services who report or display signs of rapid change in their mental or behavioral functioning, who exhibit bizarre behavior, or who exhibit or report thoughts or threats to harm themselves, shall be referred to mental health staff immediately; or to medical staff in the absence of mental health staff.

(5) The department shall establish a mental health classification system with which to identify inmates with a mental disorder that, in the clinical judgment of mental health staff, will adversely impact on the inmate's ability to adapt to the incarceration environment. The classification system shall identify inmates according to their level of mental and adaptive functioning and treatment needs.

(6) Before mental health evaluation and treatment are rendered to an inmate, the provider of such services shall ask the inmate to give express and informed written consent, after the limits on confidentiality are explained, unless such consent

is already documented. The explanation shall enable the inmate to make a voluntary decision without any element of fraud, deceit, duress, or any other form of constraint or coercion.

(7) If an inmate requires long-term involuntary treatment, the inmate shall be referred to a corrections mental health treatment facility in accordance with Rule 33-404.2095, F.A.C. All inmates serving a sentence for a sex offense shall be screened to identify those having a sexual disorder.

(8) Care of Inmates Receiving Mental Health Services. Rule 33-602.101, F.A.C., shall apply, and inmates receiving mental health services shall have the same privileges as other inmates unless mental health staff, in coordination with security staff, has determined that it is necessary to restrict an inmate's privileges to prevent injury to the inmate or others. Mental health services shall be delivered using the least restrictive and intrusive methods possible to accomplish the desired objectives.

(a) Clothing, health or comfort items, personal property, books, periodicals, and documents other than legal documents and legal mail may be removed if mental health staff determine that the inmate may cause harm to himself or others by the use thereof. Such property restrictions and the justifications therefor shall be documented in the inmate's health record and reviewed at least every 72 hours to determine whether continuation of the restriction is necessary to prevent injury or harm to the inmate or others.

(b) An inmate's telephone access, canteen privileges, outdoor exercise, and other movement may be restricted to prevent the inmate from harming himself or others. These restrictions and the reasons therefor shall be documented on the inmate's health record and reviewed by mental health and security staff during the periodic review of the inmate's risk assessment or more often as necessary due to changes in the inmate's clinical, disciplinary, or management status.

(c) If it is determined that an inmate's access to the law library must be restricted in order to prevent injury or harm to the inmate or others, security and mental health staff shall immediately notify the law librarian. The law librarian will coordinate with mental health and security staff to ensure that the inmate has access to necessary law library services, such as inmate law clerk visits, to ensure that the inmate meets any pending legal deadlines during the restriction.

Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 944.09, 945.48, 945.49 FS. History—New 5-27-97, Formerly 33-40.002, _____.

33-404.103 Mental Health Services – Definitions.

(1) For the purpose of this chapter, the position titles referenced in these rules are defined by class specifications of the Department of Management Services, pursuant to Chapter 110, F.S.

(2) “Medical Judgment” means opinions or determinations of a health care professional that directly affect or bear upon the health care status of inmates, and include diagnosis, treatment, allocation of mental health care resources and staff, quality and appropriateness monitoring, health education for staff and inmates, health care record-keeping, promulgation of health care policy and procedure, and hiring of professional health care staff.

(3)(3) “Mental Disorder” – means an impairment of the emotional processes, of the ability to exercise conscious control of one's actions, or of the ability to perceive or understand reality that or to understand, which impairment substantially interferes with a person's ability to meet the ordinary demands of the incarceration environment living, regardless of etiology, except that for the purposes of transfer of an inmate to a corrections mental health treatment facility, the term does not include retardation or developmental disability as those terms are defined in Chapter 393, F.S., simple intoxication, or conditions manifested only by antisocial behavior or drug addiction. An individual who is mentally retarded or developmentally disabled, however, may also have a mental disorder. A mental disorder, however, can exist in an individual who is retarded or developmentally disabled.

(3)(4) “Individualized Services Plan” – a written description of an inmate's current problems, goals, and treatments “Mental Retardation” means significantly sub-average (IQ of 70 or below) general intellectual functioning as determined by assessment with one or more of the individually administered general intelligence tests, resulting in or associated with deficits or impairments in adaptive behavior, with onset before the age of 18.

(4)(5) “Mental Health Care (or Services)” – means observation, mental health assessment, psychological evaluation, or mental health treatment services that are delivered in in-patient or out-patient settings by a credentialed mental health staff professional, or other qualified physician. The in-patient settings include infirmary mental health services isolation rooms, transitional care units, crisis stabilization units, and or a corrections mental health treatment facilities facility. In patient mental health care is indicated when necessary assessment or treatment services cannot be provided adequately or safely while the inmate resides in the general inmate population. Out patient care is provided while the inmate resides in the general population.

(6) “Health Care Professional” means a member of the health care staff whose official duties include the provision of health care services to inmates.

(7) “Mental Health Staff” means a health care professional whose primary responsibility is the provision of mental health care to inmates.

~~(5)(8)~~ “Corrections Mental Health Treatment Facility” = any extended treatment or hospitalization-level unit means the ~~Corrections Mental Health Institution and any other institution~~ that the assistant secretary ~~Assistant Secretary for health services~~ Health Services of the department specifically designates by Rule 33-404.201, F.A.C., to provide acute mental health psychiatric care and that may include involuntary treatment and therapeutic intervention ~~hospital level~~, in contrast to less intensive levels of care such as out-patient mental health care, infirmatory mental health care, transitional mental health care, or crisis stabilization care.

~~(6)(9)~~ “Crisis Stabilization Care” = ~~means~~ a level of care that is less restrictive and intensive ~~intense~~ than care provided in a corrections mental health treatment facility ~~that~~, and includes a broad range of evaluation and treatment services that are provided within a highly structured, ~~locked~~ residential setting. It is, intended for inmates who are experiencing debilitating symptoms of acute mental impairment ~~emotional distress~~, and who cannot be adequately evaluated and treated in a transitional care unit or in infirmatory mental health care isolation management room. Such treatment ~~Treatment~~ is also more intensive ~~intense~~ than in transitional care units as it is, ~~being~~ devoted principally toward rapid stabilization of acute symptoms and conditions.

~~(7)(10)~~ “Infirmatory Mental Health Care” – a level of care more intensive than outpatient care involving the observation and housing of inmates with identified risk of self-harm or acute deterioration in mental health functioning. “Personal Restraint” means the application of physical body pressure by another person, with or without a protective shield, to the body of an inmate in such a way as to limit or control his or her physical activity.

~~(8)(11)~~ “Transitional Mental Health Care” – a level of care that is more intensive than outpatient and infirmatory care but less intensive than crisis stabilization care, characterized by the provision of mental health treatment in the context of a structured residential setting. Transitional mental health care is indicated for a person with chronic or residual symptomology who does not require crisis stabilization care or placement in a corrections mental health treatment facility but whose impairment in functioning nevertheless renders him or her incapable of adaptive functioning within the incarceration environment. “Therapeutic Restraint” means a physical restraint technique to minimize movement in order to prevent self-harm or harm to others; in which an inmate’s limbs are secured by use of leather or vinyl cuffs, or straps. Therapeutic restraints may only be ordered by a health care staff member.

~~(9)(12)~~ “Isolation Management Room” – ~~means~~ a cell room in an infirmatory mental health care unit, transitional care unit, crisis stabilization unit, or a corrections mental health treatment facility ~~that~~, which has been physically inspected and certified by a regional or central health care professional as

being suitable for housing those with acute mental impairment ~~acutely psychotic inmates~~ or those who are at risk for self-injury.

~~(13)~~ “Seclusion” means the supervised isolation of an inmate in a safe, empty (toilet or bed may or may not be included), locked room at a transitional care unit, or crisis stabilization unit, in order to reduce stimulation. The only purpose of seclusion is to enable an agitated inmate to regain control of his or her behavior, thereby protecting the inmate’s well-being as well as that of others. Seclusion may be continued only so long as its use is justified by the inmate’s clinical and behavioral status.

~~(14)~~ “Time-out” means voluntary (whether or not requested by staff) withdrawal from a potentially stimulating situation by reporting to an unlocked room designated for that purpose at a transitional care unit, or crisis stabilization unit.

Rulemaking Specific Authority 944.09, 945.42, 945.49 FS. Law Implemented 944.09, 945.42, 945.49 FS. History–New 5-27-97, Formerly 33-40.003, Amended 10-19-03, _____.

33-404.104 Mental Health Services – Classification System.

The department shall establish a mental health classification system with which to identify inmates with a diagnosed mental disorder, or who appear to be at risk to develop a mental disorder that, in the clinical judgment of mental health staff will negatively impact on the inmate’s ability to adjust to the a general prison population. The classification system shall identify inmates according to their level of mental and adaptive functioning and treatment needs.

Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 944.09, 945.49 FS. History–New 5-27-97, Formerly 33-40.004, Repealed _____. (See 33-404.102)

33-404.105 Consent to Mental Health Evaluation and Treatment.

(1) Before mental health evaluation, counseling, or psychotherapy is rendered to an inmate, the provider of such service shall ask the inmate to give written consent, after the limits on confidentiality are explained, unless such consent was given previously within 12 months. The explanation shall enable the inmate to make a knowing and willful decision without any element of fraud, deceit, or duress, or any other form of constraint or coercion.

(2) If an inmate refuses treatment that is deemed to be necessary for the inmate’s appropriate care and safety, such treatment may be provided under the following circumstances:

(a) In an emergency situation in which there is immediate danger to the health and safety of the inmate or others, such treatment shall be provided at any major institution, upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays, if no available lesser restrictive or intrusive intervention would be effective.

(b) If an inmate is unable to give express consent to mental health treatment and, in the professional judgment of the mental health care provider, such treatment is immediately necessary to preserve the inmate's welfare, emergency mental health treatment shall be rendered.

(c) If an inmate requires long term involuntary treatment, the inmate shall be referred to the Corrections Mental Health Institution in accordance with Section 945.48, F.S.

Rulemaking Specific Authority 944.09, 945.48, 945.49 FS. Law Implemented 944.09, 945.48, 945.49 FS. History—New 5-27-97, Formerly 33-40.005, Repealed _____. (See Rule 33-404.102)

33-404.106 Admission to Infirmary Mental Health Care Isolation Management, Transitional Care, or Crisis Stabilization.

(1) The right to refuse health care is inherent for all inmates committed to the custody of the department, except in cases in which refusal of care poses a serious threat to the inmate's health or safety; or the health or safety of other inmates or staff.

(2) Admission to infirmary mental health care Placement in isolation management, crisis stabilization, or transitional care, when ordered by a qualified health care practitioner who is authorized to order such an admission by Health Services Bulletins may not be refused.

(3) An All required assessments or interventions shall be provided to the degree afforded by the inmate's level of cooperation.

(4) The inmate's refusal of evaluation or treatment; and all observations and assessments regarding the refusal shall be properly documented in the inmate's health record.

Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 944.09, 945.48, 945.49 FS. History—New 5-27-97, Formerly 33-40.006, _____.

33-404.201 Operation, Administration, and Designation of Corrections Mental Health Treatment Facilities.

(1) The department is responsible for the operation and administration of corrections mental health treatment facilities, the Corrections Mental Health Institution which are was established to provide for the treatment of inmates who have a mental disorder illness requiring intensive mental health psychiatric inpatient treatment at the hospital level. Since the Corrections Mental Health Institution may house both male and female inmates, security procedures shall be implemented governing inmate movement and control to prevent the co-mingling of male and female inmates.

(2) The assistant secretary Assistant Secretary for health services designates Health Services has also designated mental health treatment facilities at the following institutions:

- (a) Union Correctional Institution;
- (a)(b) Lake Correctional Institution (males);
- (b)(c) Zephyrhills Correctional Institution (males); and

- (d) South Florida Reception Center;
- (e) Dade Correctional Institution;
- (c)(f) Broward Correctional Institution (females); and
- (g) Lowell Correctional Institution.

(3) The rules of the Department of Corrections shall be applicable to all Corrections Mental Health Treatment Facilities established by the department, except as modified by this chapter.

Rulemaking Specific Authority 944.09, ~~945.42~~, 945.49 FS. Law Implemented 944.09, 945.41, 945.42, 945.49 FS. History—New 11-3-85, Formerly 33-23.01, Amended 10-9-96, Formerly 33-23.001, Amended 10-19-03, _____.

33-404.202 Mental Health Treatment Facilities – Definitions.

For purposes of this rule, the following additional definitions shall apply:

(1) “Mental Health Treatment Facility,” pursuant to Section 945.42(7), F.S., means the Corrections Mental Health Institution and any other institution that the Assistant Secretary for Health Services of the department specifically designates by Rule 33-404.201, F.A.C., to provide acute psychiatric care at the hospital level for inmates requiring intensive psychiatric inpatient care and treatment, in contrast to less intensive levels of care such as outpatient mental health care, transitional mental health care, or crisis stabilization care.

(2) “Director for Mental Health Services” means a physician licensed pursuant to Chapter 458 or 459, F.S., or a psychologist licensed pursuant to Chapter 490, F.S., and employed by the department. “Director” as used herein means the Director for Mental Health Services.

(3) “Staff” means all personnel employed at a Corrections mental health facility, including contractual personnel and non-employed volunteers.

(4) “Mental Health Treatment Team” or “Treatment Team” means personnel who ensure that the inmates overall health care needs are met at Corrections mental health facilities.

(5) “Institutional Special Review Team” means the Assistant warden and Correctional Officer Chief of a Corrections mental health facility and a mental health professional or alternate staff members as appointed by the warden.

(6) “Mental Health Staff” means all persons employed at a Corrections mental health facility whose duties include the providing of mental health care and treatment for inmates.

(7) “Medical Executive Director” means the senior Corrections Mental Health Institution physician licensed pursuant to Chapter 458 or 459, F.S.

(8) “Physician” shall mean a physician or psychiatrist licensed pursuant to Chapter 458 or 459, F.S.

~~Rulemaking Specific Authority 944.09, 945.42, 945.49 FS. Law Implemented 20.315, 944.09, 945.42, 945.49 FS. History–New 11-3-85, Formerly 33-23.03, Amended 10-9-96, 3-24-97, 8-17-97, Formerly 33-23.003, Amended 10-19-03, Repealed _____.~~ (See 33-404.103)

33-404.203 Mental Health Treatment Facilities – Care of Inmates.

~~The provisions of Rule 33-602.101, F.A.C., shall apply unless otherwise stated herein. The issue of clothing, health or comfort items may be restricted should clinical staff determine that the inmate may cause harm to himself or others by the use thereof.~~

~~Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 944.09, 945.49 FS. History–New 11-3-85, Formerly 33-23.08, Amended 10-9-96, Formerly 33-23.008, Repealed _____.~~ (See 33-404.102)

33-404.204 Mental Health Treatment Facilities – Use of Force.

~~The provisions of Rule 33-602.210, F.A.C., shall apply unless otherwise stated herein.~~

~~(1) Restraints shall not be used unless ordered by a physician, licensed psychologist, or registered nurse specialist with a counter-signature by a physician for orders issued by nonphysicians. Restraints shall not be used as a method of controlling inmates whose actions do not pose a threat of physical harm to themselves, others or property. The attending physician shall prepare a report documenting the factual basis upon which his decision to use restraints was made. Any force used to apply the restraints shall be documented in the physician's report. The provisions of subsection 33-602.210(7), F.A.C., shall not be applicable whenever a physician or his designee orders the use of force or restraints for the purpose of administering medical, mental or dental health care to an inmate and said force is documented by the authorizing physician; therefore, it shall not be necessary for the physician to prepare a Report of Force Used.~~

~~(2) A physician or his designee shall examine and treat any injuries resulting from use of force or restraints in accordance with the provisions of subsection 33-602.210(7), F.A.C. It shall not be necessary for the physician to submit his report to the warden for investigation as required in subsection 33-602.210(7), F.A.C., if the use of force or restraints which resulted in the injury was pursuant to the orders of a physician or his designee. If a Report of Force Used is not required by the rules of the department, Forms DC4 701C and DC4 708 shall be filed in the medical record. Forms DC4 701C and DC4 708 have been incorporated by reference into subsection 33-602.210(8), F.A.C.~~

~~Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 20.315, 944.09, 945.48, 945.49 FS. History–New 11-3-85, Formerly 33-23.10, Amended 10-9-96, Formerly 33-23.010, Repealed _____.~~ (See 33-602.210)

33-404.205 Mental Health Treatment Facilities – Inmate Discipline.

~~The provisions of Rules 33-601.301-314, F.A.C., shall apply unless otherwise stated herein. Disciplinary violations by an inmate shall be reviewed with treatment staff to determine if the inmate is responsible for his behavior prior to taking disciplinary action. The warden of a mental health treatment facility shall ensure that an institutional operating procedure is created governing the review for responsibility and treatment alternatives for those deemed not responsible. If it is determined that the inmate is not responsible for his behavior, disciplinary action shall not be taken. The single rooms which are available for medically ordered isolation shall be used also for inmates requiring disciplinary or administrative confinement. When an inmate is in administrative or disciplinary status, mental health treatment shall continue.~~

~~Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 20.315, 944.09, 944.35, 945.48, 945.49 FS. History–New 11-3-85, Formerly 33-23.12, Amended 10-9-96, Formerly 33-23.012, Repealed _____.~~ (See 33-404.108)

33-404.206 Mental Health Treatment Facilities – Administrative Confinement.

~~(1) The provisions of Rule 33-602.220, F.A.C., shall apply unless otherwise stated herein.~~

~~(2) When an inmate is placed in administrative confinement status for reasons outlined in Rule 33-602.220, F.A.C., the Senior Correctional Officer shall communicate the reasons for such placement to the senior mental health professional on duty who may recommend any additional supervision, observation or other treatment requirements for the inmate. The Senior Correctional Officer shall record any additional requirements in the Offender Based Information System (OBIS) electronic classification log. Staff shall be advised of any additional supervision or observation requirements and record this information in the inmate's treatment chart and the Daily Record of Segregation Form DC6-229. Form DC6-229 has been incorporated by reference into subsection 33-602.220(10), F.A.C.~~

~~(3) When an inmate is placed in a single room for reasons of a medical or psychiatric nature, it will not be considered administrative confinement and attendant documentation is not required.~~

~~(4) Personal visits to inmates in administrative confinement will be made at least once a week by the Classification Team to determine whether a status change should be recommended.~~

~~Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 20.315, 944.09, 944.35, 945.48, 945.49 FS. History–New 11-3-85, Formerly 33-23.13, 33-23.013, Amended 11-17-03, 11-17-03, Repealed _____.~~ (See 33-404.108)

33-404.207 Mental Health Treatment Facilities – Restrictions of Inmate Privileges.

(1) In addition to allowable restrictions as specified in Rule 33-602.221, F.A.C., the Treatment Team may, upon notification to the Senior Correctional Officer, cause restrictions to be effected when such would prevent an inmate from harming himself or others, or when it is determined to be therapeutic and consistent with the inmate's treatment plan, including but not limited to telephone access, outdoor exercise, and canteen purchases. The Senior Correctional Officer shall ensure proper documentation of such restrictions as required by Rule 33-602.221, F.A.C. The Treatment Team initiating such action shall immediately notify the inmate of the reasons for restrictions and record such information in the inmate's treatment chart.

(2) Those inmates whose behavior is characterized by recent violence, a continuing pattern of serious disciplinary behavior, behavior that seriously impacts negatively on the maintenance and control of the institution's therapeutic environment, behavior interfering with staff efforts with the inmate and others which is not primarily due to a mental disorder, or involvement in acts which caused death or injury to others may be considered at any time for transfer to another institution. An individualized written treatment plan shall be developed so that the receiving institution may provide for continued mental health treatment.

Rulemaking Specific Authority 944.09, 945.49 FS. Law Implemented 944.09, 945.49 FS. History–New 11-3-85, Formerly 33-23.17, Amended 10-9-96, Formerly 33-23.017, Repealed _____. (See Rule 33-404.102)

33-404.208 Mental Health Treatment Facilities – Admissible Reading Material.

The provisions of Rule 33-501.401, F.A.C., shall apply herein unless otherwise stated. The inmate's Treatment Team may restrict access to the library, books, newspapers or periodicals, with the exception of access to legal materials. Any restriction shall be consistent with the inmate's Individualized Written Treatment Plan and justification for such restriction shall be documented in the inmate's treatment record.

Rulemaking Specific Authority 944.11, 945.21, 945.49 FS. Law Implemented 944.11, 945.49 FS. History–New 11-3-85, Formerly 33-23.18, Formerly 33-23.018, Repealed _____. (See Rule 33-404.102)

33-404.209 Mental Health Treatment Facilities – Forms.

The following forms which are used in implementing the provisions of this chapter are hereby incorporated by reference:

(1) Form DC4-626, Petition and Certificate for Admission to the Corrections Mental Health Institution;

(2) Form DC4-627, Notice of Petition and Certificate for Admission to the Department of Corrections Mental Health Institution;

(3) Form DC4-628, Waiver of Hearing for Admission to the Department of Corrections Mental Health Institution;

(4) Form DC4-629, Request for Hearing After Initially Waiving This Right;

(5) Form DC4-630, Notification to Court of Inmate's Action Regarding Hearing or Admission to the Department of Corrections Mental Health Institution;

(6) Form DC4-631, Notice of Hearing on Petition and Certificate for Admission to the Department of Corrections Mental Health Institution;

(7) Form DC4-632, Application for Attorney;

(8) Form DC4-633, Order for Admission to the Department of Corrections Mental Health Institution;

(9) Form DC4-634, Request for Order Authorizing Continued Admission to the Department of Corrections Mental Health Treatment Institution;

(10) Form DC4-635, Notice to Inmate of Request for Continued Admission to the Department of Corrections Mental Health Institution;

(11) Form DC4-636, Waiver of Hearing for Continued Admission to the Department of Corrections Mental Health Institution;

(12) Form DC4-637, Notice to Representative of Request for Continued Admission to the Department of Corrections Mental Health Institution;

(13) Form DC4-638, Notice of Hearing for Continued Admission to the Department of Corrections Mental Health Treatment Institution;

(14) Form DC4-639, Application for Attorney – Continued Admission;

(15) Form DC4-640, Order for Continued Admission to the Department of Corrections Mental Health Institution.

Copies of these forms may be obtained from the Corrections Mental Health Institution or from the Bureau of Health Services, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32301. If forms are to be mailed, the request must be accompanied by a self addressed stamped envelope. The effective date of these forms is November 3, 1985.

Rulemaking Specific Authority 945.21, 945.49 FS. Law Implemented 120.55, 945.21, 945.49 FS. History–New 11-3-85, Formerly 33-23.25, Formerly 33-23.025, Repealed _____. (See Rules 33-404.2095 and .2098)

33-404.2095 Placement in Mental Health Treatment Facilities.

(1) An inmate shall be considered for placement in a corrections mental health treatment facility when he or she is in need of care and treatment as defined in Section 945.42, F.S.

(2) Placement in a corrections mental health treatment facility can only be made from a crisis stabilization unit and, except for emergencies as described in Rule 33-404.2096, F.A.C., all placements must be accompanied by a court order obtained in accordance with Section 945.43, F.S.

(3) The warden of the institution in which the crisis stabilization unit is housed shall recommend placement of an inmate in a corrections mental health treatment facility in accordance with Section 945.43, F.S.

Rulemaking Authority 944.09, 945.49 FS. Law Implemented 945.42, 945.43 FS. History–New _____.

33-404.2096 Emergency Placement in Mental Health Treatment Facilities.

An inmate who has a mental disorder and is in immediate need of care and treatment as defined in Section 945.42(5), F.S., that cannot be provided at the institution where the inmate is currently housed may be placed in a corrections mental health treatment facility in accordance with Section 945.44, F.S.

Rulemaking Authority 944.09, 945.49 FS. Law Implemented 945.42, 945.44 FS. History–New _____.

33-404.2097 Discharge from Mental Health Treatment Facilities

When an inmate is no longer in need of care and treatment as defined in Section 945.42(6), F.S., he or she shall be discharged from a corrections mental health treatment facility to a transitional care unit for at least thirty days prior to being transferred to a less restrictive setting.

Rulemaking Authority 944.09, 945.49 FS. Law Implemented 945.42, 945.47 FS. History–New _____.

33-404.2098 Continued Placement in Mental Health Treatment Facilities.

(1) An inmate may be retained in a corrections mental health treatment facility if he or she has a mental disorder and continues to be in need of care and treatment as defined in Section 945.42(6), F.S.

(2) In accordance with Section 945.45, F.S., the warden of the institution where the corrections mental health treatment facility is located shall file a petition with the Division of Administrative Hearings for an order authorizing continued placement of an inmate in the facility prior to the expiration of the period during which the facility is authorized to retain the inmate.

Rulemaking Authority 944.09, 945.49 FS. Law Implemented 945.42, 945.45 FS. History–New _____.

33-404.210 Corrections Mental Health Treatment Facilities – Consent to Psychiatric Treatment.

(1) Before psychiatric treatment is initiated within a corrections mental health treatment facility as defined in Rule 33-404.103 subsection 33-404.202(2), F.A.C., the inmate shall

be asked to give his express and informed written consent for such treatment in accordance with Section 945.48, F.S. “Express and informed written consent” means consent voluntarily given in writing after a conscientious and sufficient explanation and disclosure of:

- (a) The purpose of the proposed treatment;
- (b) The common side effects of the treatment, if any;
- (c) The expected duration of the treatment; and
- (d) The alternative treatment available.

The explanation shall enable the inmate to make a knowing and willful decision without any element of fraud, deceit, or duress, or any other form of constraint or coercion.

(2) If the inmate is placed a patient in a corrections mental health treatment facility by order of a court and refuses such treatment as is deemed to be necessary for the appropriate care and safety of the inmate or others, such treatment may be provided under the following circumstances:

(a) In an emergency situation in which there is immediate danger to the health and safety of the inmate or other inmates, such treatment may be provided upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays. If, after the 48 hour period, the inmate has not given express and informed consent to the treatment initially refused, the warden shall, within 48 hours, excluding weekends and legal holidays, petition the circuit court serving the county in which the facility is located for an order authorizing the continued treatment of the inmate. In the interim, treatment may be continued upon the written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the inmate or others.

(b) In a situation other than an emergency situation, the warden shall petition the circuit court serving the county in which the corrections mental health treatment facility is located for an order authorizing the treatment of the inmate in accordance with Section 945.48, F.S. for a 90-day period. The court shall be notified in writing if the inmate has provided express and informed consent in writing; has been transferred to another institution of the department is no longer in need of treatment the warden shall, prior to the expiration of the initial 90-day order, petition the court for an order authorizing the continuation of treatment for another 90-day period. This procedure shall be repeated until the inmate provides consent, is no longer at the mental health treatment facility, or is no longer in need of treatment. Treatment may be continued pending a hearing after the filing of any petition. The inmate and his representative shall be provided with a copy of the petition and the date, time, and location of the hearing.

(3) When In addition to the above provisions, when the consent permission of the inmate cannot be obtained, the warden of a mental health treatment facility or his designee, with the concurrence of the inmate’s attending physician, may

authorize emergency surgical or non-psychiatric medical treatment if such treatment is deemed lifesaving or if there is a situation threatening serious bodily harm to the inmate.

Rulemaking Specific Authority 944.09, 945.49 ~~945.48~~ FS. Law Implemented 945.48 FS. History—New 4-30-91, Formerly 33-23.026, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dean Aufderheide, Director of Mental Health Services
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.606
RULE TITLE: Placement of Inmates into Community Release Programs

PURPOSE AND EFFECT: The purpose and effect is to repeal the rule.

SUMMARY: Rule 33-601.606, F.A.C., will be repealed, as the subject matter in the rule is being moved to Rule 33-601.602, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 945.091 FS.

LAW IMPLEMENTED: 945.091 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.606 Placement of Inmates into Community Release Programs.

Rulemaking Specific Authority 945.091 FS. Law Implemented 945.091 FS. History—New 3-14-01, Amended 9-2-01, 3-19-02, 11-18-02, 5-31-04, 11-25-04, 4-13-06, 10-8-07, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mark Redd, Assistant Secretary of Institutions
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2010

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: 40B-4.1090
RULE TITLE: Publications and Agreements Incorporated by Reference

PURPOSE AND EFFECT: The purpose of the proposed rule is to adopt the most current version of the items incorporated by reference. The effect of the proposed rule amendments will incorporate the new flood insurance studies for the Alapaha, Suwannee and Withlacoochee rivers within Hamilton County and the Aucilla, Suwannee and Withlacoochee rivers within Madison County.

SUMMARY: This proposed rule will address items incorporated by reference.

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

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

RULEMAKING AUTHORITY: 373.044 FS.

LAW IMPLEMENTED: 373.083, 373.084, 373.085, 373.086, 373.413, 373.416 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-4.1090 Publications and Agreements Incorporated by Reference.

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

(e) Hamilton County, Florida and Incorporated Areas, Effective June 4, 2010;

(f)(e) Lafayette County, Florida and Incorporated Areas, Effective September 29, 2006;

(g) Madison County, Florida and Incorporated Areas, Effective May 3, 2010;

~~(h)(f)~~ Suwannee County, Florida and Incorporated Areas, Effective September 28, 2007;

~~(i)(g)~~ Taylor County, Florida and Incorporated Areas, Effective May 4, 2009;

~~(j)(h)~~ Union County, Florida and Incorporated Areas, Effective February 4, 2009.

Rulemaking Authority 373.044 FS. Law Implemented 373.083, 373.084, 373.085, 373.086, 373.413, 373.416 FS. History—New 11-21-02, Amended 5-13-07, 4-21-08, 4-30-09, 8-31-09,_____.

Copies of the items incorporated by reference may be obtained by contacting Linda Welch, SRWMD, 9225 CR 49, Live Oak, FL 32060, (386)362-1001

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: 61H1-23.001
 RULE TITLE: Confidential Client Information

PURPOSE AND EFFECT: The Board proposes the rule amendment to correct rule citations.

SUMMARY: The referenced rule citations will be corrected.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rules will not have an impact on small business.

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

RULEMAKING AUTHORITY: 473.304, 473.315, 473.316 FS.

LAW IMPLEMENTED: 473.315, 473.316 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Veloria A. Kelly, Division Director, Board of Accountancy, 240 N.W. 76th Drive, Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULE IS:

61H1-23.001 Confidential Client Information.

A certified public accountant shall not disclose any confidential information obtained in the course of a professional engagement except with the consent of the client. This rule shall not be construed to relieve a certified public accountant of his or her obligation under Rules 61H1-20.008 ~~61H1-22.002~~ and 61H1-20.007 ~~61H1-22.003~~, F.A.C. or to contravene or contradict any of the provisions of Chapter 473, F.S. Furthermore, this rule shall not prohibit a confidential review of a certified public accountant's professional practice as a part of a quality review program.

Rulemaking Specific Authority 473.304, 473.315, 473.316 FS. Law Implemented 473.315, 473.316 FS. History—New 12-4-79, Formerly 21A-23.01, 21A-23.001, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Accountancy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 21, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 2010

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-788.100	Applicability and Limitations
62-788.150	Referenced Guidelines
62-788.200	Definitions
62-788.300	Site Rehabilitation Voluntary Cleanup Tax Credit Application Process
62-788.310	Affordable Housing Bonus Voluntary Cleanup Tax Credit Application Process
62-788.320	Health Care Bonus Voluntary Cleanup Tax Credit Application Process
62-788.330	Solid Waste Removal Voluntary Cleanup Tax Credit Application Process
62-788.400	Eligibility Determination
62-788.900	Forms

PURPOSE AND EFFECT: The Department proposes to amend Chapter 62-788, F.A.C., to incorporate statutory changes to Sections 199.1055, 220.1845, and 376.30781, F.S. The statutory provisions clarified the Voluntary Cleanup Tax

Credit (VCTC) application process and allowed an increase in the available tax credit types, percentages and amounts. The statutes also clarified provisions governing VCTC certificates and repealed the use of VCTC credits towards Intangible Personal Property Tax.

SUMMARY: The Voluntary Cleanup Tax Credit Program has been expanded and clarified by statute, and the department proposes to clarify some existing requirements based on experience in implementing the program since the rule was initially adopted. The changes to Chapter 62-788, F.A.C., will incorporate or introduce the following at eligible sites: an increase in the per-site tax credit award amount and percentage for site rehabilitation; the requirements for issuance of a one-time tax credit award for affordable housing, for a health care facility or health care provider, and for solid waste removal; the tax credit application submittal and review requirements, and the corresponding deadlines; the tax credit application supporting documentation and payment requirements and the process for correcting a completeness deficiency; new definitions; updates to terminology and to existing definitions; and clarification about the useful life of issued tax credit certificates.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A SERC has been prepared. Most of the amendments are clarifications or updates to the existing rule. The changes to the rule are not expected to cause any impact on small businesses. The Voluntary Cleanup Tax Credit Program is voluntary and no one is required to participate. Those who do participate could include brownfield and drycleaning sites, developers, real estate or property management companies, and municipalities. A reasonable estimate of the number of individuals and entities that are likely to participate annually in the VCTC program is about 20-30 applicants. The revisions to the rule do not create any significant additional costs for DEP or other state or local government entities implementing the rule. There may be an increase in local revenues. State revenues are not expected to be impacted because there is no increase to the \$2 million annual authorization. There are no new or increased costs or fees, equipment, operating costs, procedures, or monitoring and reporting associated with the proposed revisions. The Department has insufficient data to know with certainty what the impact on small business would be, but applicants should benefit from a reduced tax payment by use of the credit.

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

RULEMAKING AUTHORITY: 376.30781, 403.707 FS.

LAW IMPLEMENTED: 376.30781, 403.707, 403.703 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Teresa Boeshaghi at (850)245-8933 or teresa.boeshaghi@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-788.100 Applicability and Limitations.

(1) This chapter applies to any tax credit applicant, as defined in Rule 62-788.200, F.A.C. taxpayer seeking a tax credit toward either corporate income tax or intangible personal property tax pursuant to Sections 199.1055 or 220.1845, F.S., and Section 376.30781, F.S. A tax credit applicant shall claim tax credits for the costs of voluntary cleanup activity using the percentages and the amounts in Table 1 by completing Florida Department of Environmental Protection (Department) Form 62-788.900(1), Voluntary Cleanup Tax Credit Application, effective date _____, hereby adopted and incorporated by reference. Copies of this form are available from the Department's Voluntary Cleanup Tax Credit Program, Mail Station 4505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Voluntary cleanup tax credit applications may be submitted for one or both of the following:— in the amount of 35 percent of the costs of voluntary

(a) Voluntary cleanup activity that is integral to site rehabilitation at the following sites:

1.(a) A drycleaning-solvent-contaminated site eligible for state-funded site rehabilitation pursuant to under Section 376.3078(3), F.S.;

2.(b) A drycleaning-solvent-contaminated site at which site rehabilitation cleanup is undertaken by the real property owner pursuant to Section 376.3078(11)(10), F.S., if the real property owner is not also, and has never been, the owner or operator of the drycleaning facility where the contamination exists; or

3.(c) A brownfield site in a designated brownfield area pursuant to under Section 376.80, F.S.;

(b) Solid waste removal from within the property boundary of a brownfield site, as identified and described in the Brownfield Site Rehabilitation Agreement (BSRA), provided that the brownfield site was never operated as a permitted solid waste disposal area or was never operated for monetary compensation.

(2) Pursuant to Section 376.30781, F.S., tax credits for voluntary cleanup that is integral to site rehabilitation are limited to the percentage and the amount for the "Site Rehabilitation" Tax Credit Type in Table 1, per contaminated site per year. These tax credits are available only for site rehabilitation conducted during the calendar year for which the tax credit application is submitted. Costs from a previous calendar year shall not be included in a subsequent calendar year's annual site rehabilitation application. However, tax credit applicants that complete site rehabilitation at a contaminated site and receive a "No Further Action" order [i.e.

Site Rehabilitation Completion Order (SRCO)]; or that limit the use of the property to housing that meets the definition of affordable provided in Section 420.0004, F.S.; or that construct or operate a new health care facility as defined in Section 408.032 or 408.07, F.S., or a health care provider as defined in Sections 408.07 or 408.7056, F.S., are eligible to receive an additional tax credit. Tax credit applicants may receive one or more of these bonus credits, as applicable, but at no time shall the total tax credit award for site rehabilitation exceed 100 percent of the site rehabilitation costs incurred and paid by the applicant. The SRCO, affordable housing, and health care bonus tax credits shall be claimed after all the applicable criteria are met for the type of tax credit claimed. The calculation for the SRCO, affordable housing, and health care bonus tax credits shall be based upon the total site rehabilitation costs that were determined eligible by the Department, in accordance with the following, as applicable:

(a) In the year an applicant completes cleanup of a contaminated site and receives an SRCO at an eligible site pursuant to paragraph 62-788.100(1)(a), F.A.C., the tax credit applicant may additionally claim the percentage and the amount for the “SRCO Bonus” Tax Credit Type in Table 1.

(b) In the year a brownfield site as identified in a BSRA, eligible pursuant to subparagraph 62-788.100(1)(a)3., F.A.C., meets all the affordable housing criteria pursuant to Rule 62-788.310, F.A.C., the tax credit applicant may additionally claim the percentage and the amount for the “Affordable Housing Bonus” Tax Credit Type in Table 1. Affordable

housing bonus tax credits may be claimed only once per brownfield site and may not be claimed for site rehabilitation activities that occurred prior to July 1, 2006.

(c) In the year a brownfield site as identified in a BSRA, eligible pursuant to subparagraph 62-788.100(1)(a)3., F.A.C., meets all the health care facility or health care provider criteria pursuant to Rule 62-788.320, F.A.C., the tax credit applicant may additionally claim the percentage and the amount for the “Health Care Bonus” Tax Credit Type in Table 1. Health care bonus tax credits may only be claimed once per brownfield site and may not be claimed for site rehabilitation activities that occurred prior to January 1, 2008.

(3) Pursuant to Section 376.30781, F.S., tax credits for solid waste removal are limited to the percentage and the amount for the “Solid Waste Removal” Tax Credit Type in Table 1, per brownfield site as identified and described in the BSRA. Applications for solid waste removal are not subject to the annual calendar-year limitation and shall instead be submitted in a one-time application. The calculation for the solid waste removal tax credit shall be based upon the costs determined eligible by the Department in the one-time application. Only costs incurred and paid during the calendar year(s) the executed BSRA is in place will be considered, per the requirements of Rule 62-788.330, F.A.C. Solid waste removal tax credits may only be claimed once per brownfield site and may not be claimed for solid waste removal that occurred prior to July 1, 2006.

Table 1: Tax Credit Percentages and Amounts for Eligible Sites Pursuant to Subsection 62-788.100(1), F.A.C.

	Tax Credit Type ¹				
	Site Rehabilitation ²	Site Rehabilitation Completion Order (SRCO) Bonus ³	Affordable Housing Bonus ⁴	Health Care Bonus ⁵	Solid Waste Removal ⁶
Application Frequency	Annually	Once	Once	Once	Once
Percentage and Maximum Credit for Costs Incurred and Paid from 07/01/1998 to 06/30/2006	35% \$250,000	10%; \$50,000	N/A	N/A	N/A
Percentage and Maximum Credit for Costs Incurred and Paid after 06/30/2006	50%; \$500,000	25%; \$500,000	25%; \$500,000	N/A	50%; \$500,000
Percentage and Maximum Credit for Costs Incurred and Paid after 12/31/2007	50%; \$500,000	25%; \$500,000	25%; \$500,000	25%; \$500,000	50%; \$500,000

¹More than one Tax Credit Type listed in Table 1 may be claimed in a single VCTC application, if applicable. The \$250 application review fee required by Rules 62-788.300, .310, .320, and .330, F.A.C., is per VCTC application, even if the application includes multiple applicants or claims multiple types of tax credits.

²The maximum site rehabilitation tax credit issued per contaminated site shall not exceed \$500,000 annually.

³The maximum SRCO bonus tax credit issued per contaminated site shall not exceed \$500,000.

⁴The maximum Affordable Housing bonus tax credit issued per brownfield site, as identified and described in the BSRA, shall not exceed \$500,000.

⁵~~The maximum Health Care bonus tax credit issued per brownfield site, as identified and described in the BSRA, shall not exceed \$500,000.~~

⁶~~The maximum Solid Waste Removal tax credit issued per brownfield site, as identified and described in the BSRA, shall not exceed \$500,000.~~

~~(4) Subject to the limitations in Table 1, tax credits allowed pursuant to Sections 220.1845 and 376.30781, F.S., are available for eligible costs for site rehabilitation or solid waste removal conducted during the calendar year in which the Voluntary Cleanup Agreement (VCA) or BSRA, as applicable, is executed, even if the site rehabilitation or solid waste removal is conducted prior to the execution of that agreement or to the designation of the brownfield area. A single brownfield site may receive both site rehabilitation and solid waste removal tax credits in accordance with the limitations and requirements of this chapter, provided the costs for any given activity are not claimed for both site rehabilitation and solid waste removal such that the same costs are claimed twice.~~

~~(5)(2) This chapter does not apply to the tax return filing process regulated by the Florida Department of Revenue (DOR). A tax credit An applicant seeking a tax credit pursuant to Section 376.30781, F.S., shall apply to the Department of Environmental Protection (DEP) using the application process and form adopted pursuant to this chapter. If deemed eligible for a tax credit, the Department DEP will issue a tax credit certificate to the tax credit applicant.~~

~~(6)(3) The tax credit applicant may use these tax credits by attaching the original certificate to its annual tax return filed with the Department of Revenue DOR pursuant to rules promulgated by that department, or the tax credit applicant may transfer the credits pursuant to Sections 199.1055(1)(g) or Section 220.1845(2)(g)(h), F.S., and subsection Rule 62-788.400(9)(6), F.A.C.~~

~~(7)(4) The Department DEP will not disburse any funds in connection with this voluntary cleanup tax credit program. Credits will not result in the payment of refunds by the Department of Revenue DOR if total credits exceed the amount of tax owed owned. If the credit is not fully used in any one year because of insufficient tax liability on the part of the tax credit applicant, the unused amount may be carried forward for up to five years. Five years after the date a credit is issued by the Department, that credit expires and may not be used. However, if during the five-year period, the tax credit applicant has used none of the credit and transfers it pursuant to subsection 62-788.400(9), F.A.C., then each transferee has five years after the date of transfer to use its credit.~~

~~(5) Pursuant to Section 376.30781, F.S., tax credits are limited to \$250,000 per site per year; however, a tax credit applicant may claim an additional 10 percent of the total cleanup costs, not to exceed \$50,000, in the final year of~~

~~cleanup as evidenced by the DEP issuing a "No Further Action" order or a Site Rehabilitation Completion Order for that site.~~

~~(8)(6) The Department DEP shall be responsible for allocating the tax credits not to exceed the amount authorized a total of \$2 million annually pursuant to Section 376.30781, F.S. If an eligible tax credit applicant does not receive a tax credit allocation due to an exhaustion of the \$2 million annual tax credit authorization for that year, its application will remain in the first-come, first-served order in the next year's annual tax credit allocation, if any, based on the date and time of filing the complete original application.~~

~~(7) Tax credits pursuant to Section 376.30781, F.S., are available only for site rehabilitation conducted during the tax year in which the tax credit application is submitted.~~

~~(9)(8) An owner, operator, or real property owner that receives state-funded site rehabilitation pursuant to under Section 376.3078(3), F.S., for rehabilitation of a drycleaning-solvent-contaminated site is ineligible to receive a tax credit pursuant to Section 376.30781, F.S., for costs incurred and paid by the owner, operator, or real property owner taxpayer in conjunction with the rehabilitation of that site during the same time period that state-administered site rehabilitation was tasked and implemented.~~

~~(9) An applicant may only claim a tax credit for site rehabilitation costs incurred and paid on or after July 1, 1998, the effective date of Chapter 98-189, Laws of Florida. The provisions of said law cannot be applied retroactively to site rehabilitation conducted prior to July 1, 1998.~~

~~Rulemaking Specific Authority 376.30781 FS. Law Implemented 376.30781 FS. History--New 3-31-99, Amended _____.~~

62-788.150 Referenced Guidelines.

~~Specific references to the guidelines listed below are made within this chapter. The guidelines are not standards as defined in Section 403.803, F.S. Use of these guidelines is not mandatory; the guidelines are included for informational purposes only.~~

~~(1) A Guideline for Agreed-Upon Procedures for Attestation Service for the Voluntary Cleanup Tax Credit (VCTC) Program, dated October 2010.~~

~~(2) Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida, dated May 3, 2001.~~

~~Rulemaking Authority 376.30781, 403.707 FS. Law Implemented 376.30781, 403.707 FS. History--New _____.~~

62-788.200 Definitions.

~~All words and phrases defined in Sections 376.301 and 376.79, F.S., shall have the same meaning when used in this chapter unless otherwise set forth in this section or unless the context~~

clearly indicates otherwise. The following words and phrases, when used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(1) “Brownfield area” means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and United States Environmental Protection Agency-designated brownfield pilot projects. ~~“Applicant” means any person or entity that has incurred and paid costs for voluntary cleanup activity that is integral to site rehabilitation at a site that is eligible for a tax credit and that submits a Voluntary Cleanup Tax Credit Application, DEP Form 62-788.900(1). The term “applicant” is used interchangeably with “taxpayer” except when the applicant is a municipal or county government.~~

(2) ~~“Brownfield sites” means real property, the a site that is generally abandoned, idled, or under-used industrial and commercial property where expansion or redevelopment, or reuse of which may be is complicated by actual or perceived environmental contamination.~~

~~(3) “Brownfield area” means a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and United States Environmental Protection Agency-designated brownfield pilot projects.~~

(3)(4) “Brownfield Site Rehabilitation Agreement” (BSRA) means an agreement entered into between the person responsible for brownfield site rehabilitation and the Department DEP or a delegated local program. The BSRA shall at a minimum establish the timeframes, schedules, and milestones for completion of site rehabilitation tasks and submission of technical reports, and other commitments or provisions pursuant to Section 376.80(5), F.S., and Chapter 62-785, F.A.C., the Brownfields Cleanup Criteria Rule.

(4) “Complete” means Form 62-788.900(1), contains all required information and appropriate signatures and the application package includes documentation addressing each of the categories of submittals listed in subsections 62-788.300(3), 62-788.310(3), 62-788.320(3), and 62-788.330(3), F.A.C., as applicable.

(5) through (6) No change.

(7) ~~“Department DEP” means the Florida Department of Environmental Protection.~~

(8) through (9) No change.

(10) “Integral to site rehabilitation” means work that is necessary to implement the requirements of Chapter 62-782 or 62-785, F.A.C.

(11) “Monetary compensation” means the fees that were charged or the assessments that were levied for the disposal of solid waste at a solid waste disposal area.

(12)(10) “Real Property Owner” means the individual or entity that is vested with ownership, dominion, or legal or rightful title to the real property, or which has a ground lease interest in the real property, or which has a ground lease interest in the real property, on which the contaminated site exists.

(13) “Recovered materials” means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but the term does not include materials destined for any use that constitutes disposal. Recovered materials as described in this subsection are not solid waste.

(14)(11) No change.

(15)(12) “Site rehabilitation” means the assessment of site contamination and the remediation activities that reduce the levels of contaminants at a site through accepted treatment methods to meet the cleanup target levels established for that site. For purposes of sites subject to the Resource Conservation and Recovery Act, as amended, the term includes removal, decontamination, and corrective action of releases of hazardous substances.

(13) ~~“Taxpayer” means the person or entity that has tax liability for corporate income tax or intangible personal property tax and seeks to obtain a voluntary cleanup tax credit pursuant to this chapter as an “applicant” after incurring costs for voluntary cleanup activity that is integral to site rehabilitation at a site that is eligible for a tax credit.~~

(16) “Solid waste” means sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. Recovered materials as defined in Rule 62-788.200, F.A.C., are not solid waste.

(17) “Solid waste disposal area” means a landfill, dump, or other area where solid waste has been disposed.

(18) “Solid waste removal” means removal of solid waste from the land surface or excavation of solid waste from below the land surface and removal of the solid waste from the brownfield site. The term also includes:

(a) Transportation of solid waste to a licensed or exempt solid waste management facility or to a temporary storage area.

(b) Sorting or screening of solid waste prior to removal from the site.

(c) Deposition of solid waste at a permitted or exempt solid waste management facility, whether the solid waste removed is disposed of or recycled.

(19) “SRCO” means a Site Rehabilitation Completion Order that approves a No Further Action Proposal pursuant to Chapter 62-782 or 62-785, F.A.C. For purposes of this Chapter, the terms “SRCO” and “No Further Action” order have the same meaning.

(20) “Tax Credit Applicant” means any person or entity that submits a Voluntary Cleanup Tax Credit Application, Department Form 62-788.900(1); has entered into a VCA or a BSRA, as applicable; and has incurred and paid costs for:

(a) Voluntary cleanup activity that is integral to site rehabilitation at a site that is eligible for a tax credit pursuant to paragraph 62-788.100(1)(a), or subsection 62-788.100(2), F.A.C.; or

(b) Solid waste removal from the brownfield site that is identified in the BSRA, that is eligible for a tax credit pursuant to paragraph 62-788.100(1)(b), F.A.C.

(21) “VCTC” means Voluntary Cleanup Tax Credit.

(22)(44) “Voluntary Cleanup Agreement” (VCA) means an agreement entered into between the person responsible for drycleaning solvent site rehabilitation and the Department DEP. The VCA shall at a minimum establish the timeframes, schedules, and milestones for completion of site rehabilitation tasks and submission of technical reports, and other commitments or provisions pursuant to Chapter 62-782, F.A.C., the Drycleaning Solvent Cleanup Criteria Rule.

(23)(45) No change.

Rulemaking Specific Authority 376.30781 FS. Law Implemented 376.30781, 403.703 FS. History—New 3-31-99, Amended _____.

62-788.300 Site Rehabilitation Voluntary Cleanup Tax Credit Application Process.

(1) A tax credit applicant taxpayer, or multiple tax credit applicants taxpayers working jointly to conduct site rehabilitation at clean up a single contaminated site, may file one tax credit application per contaminated site per year, claiming the percentage and the amount for the “Site Rehabilitation” Tax Credit Type in Table 1, for up to 35 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation, not to exceed \$250,000. If multiple tax credit applicants taxpayers are submitting an application, then they must indicate on the application form each tax credit applicant’s taxpayer’s percentage contribution toward to payment of site rehabilitation cleanup costs.

(2) Tax credit applicants that complete site rehabilitation at a contaminated site and receive an SRCO are eligible to receive an additional tax credit, which shall be calculated using the percentage and the amount for the “SRCO Bonus” Tax

Credit Type in Table 1, based upon the total site rehabilitation costs that the Department has determined eligible for the VCTC. To receive the SRCO bonus tax credit, the tax credit applicant shall submit a copy of the SRCO with its application form, but should not include previously submitted annual site rehabilitation cost documentation. The tax credit applicant shall claim the SRCO bonus tax credit only after the SRCO is issued. However, in accordance with Section 376.30781, F.S., site rehabilitation tax credit applications shall only be submitted once per site per year. Therefore, in order for the tax credit applicant to claim the SRCO bonus tax credit in the same year as the final year’s annual site rehabilitation costs, the tax credit applicant must submit its claim for both the final year’s site rehabilitation costs and the SRCO bonus tax credit in the same application. If multiple tax credit applicants are submitting an application, then they must indicate on the application form each tax credit applicant’s percentage contribution toward payment of total site rehabilitation costs. The complete application must be received by the Department of Environmental Protection’s Division of Waste Management in Tallahassee by 5:00 p.m. (Eastern Standard Time) on December 31. If December 31 falls on a weekend or federal holiday (i.e., no mail service), then the deadline moves forward to the next business day.

(3) Complete applications for the annual site rehabilitation tax credit must be received by the Department’s Division of Waste Management in Tallahassee by 5:00 p.m. (Eastern Standard Time) on January 31 of the year following the calendar year for which a tax credit applicant is claiming site rehabilitation costs. If January 31 falls on a weekend (i.e., no mail service), then the deadline moves forward to the next business day. All site rehabilitation costs claimed must have been for work conducted between January 1 and December 31 of the year for which the application is being submitted. All payment requests must have been received and all costs must have been paid prior to submittal of the tax credit application, but no later than January 31 of the year after the calendar year for which site rehabilitation costs are being claimed. A tax credit An applicant shall submit an application using Form 62-788.900(1), and must include the following:

(a) A completed and signed affidavit [Section VII. of Department Form 62-788.900(1)] (included as part of the application form) from each tax credit applicant (multiple tax credit applicants submitting a joint application taxpayers must each sign a separate affidavit) certifying that all information contained in the application, including all records of costs incurred and paid and claimed in the tax credit application, are true and correct;

(b) If the application is submitted by the real property owner pursuant to subparagraph Rule 62-788.100(1)(a)2.(b), F.A.C., then the Real Property Owner Affidavit section of the application form [Section II.D. of Department Form 62-788.900(1)] must also be completed and signed by the real

property owner stating that it is not, and has never been, the owner or operator of the drycleaning facility where the contamination exists;

(c) Proof that the tax credit applicant has entered into a Voluntary Cleanup Agreement (VCA) with the DEP for a drycleaning solvent contaminated site or a Brownfield Site Rehabilitation Agreement (BSRA), as applicable. A copy of the cover page and the signature page of the VCA or BSRA, as applicable, will suffice as proof;

(d) Proof of payment of all applicable deductibles pursuant to Section 376.3078(3)(e)(~~d~~), F.S., for eligible drycleaning solvent cleanup program sites. If deductibles were paid prior to submitting a tax credit application, then the tax credit applicant shall include a copy of the canceled check or a receipt for a cashier's check or money order as proof of payment. If deductibles have not been paid, the tax credit applicant shall fill out the deductible information in Section II.C, Section I of the application form and enclose a cashier's check or money order for the appropriate amount;

(e) A nonrefundable review fee of \$250 per VCTC application, even if the application includes multiple applicants or claims multiple tax credit types. The nonrefundable review fee must be in the form of a cashier's check or money order made payable to the Water Quality Assurance Trust Fund;

(f) Copies of documents that clearly describe the goods or services and associated costs that are being claimed in the application. Documents that include costs for goods or services that are not being claimed in the application shall be clearly annotated or shall otherwise clearly identify such goods or services and unclaimed costs. Copies of documents for goods or services that are being claimed shall be sufficient to demonstrate a link between the contractual records, the payment requests associated with the contractual records, and the payment records for the claimed portions of the payment requests, as required by each of the following three subparagraphs:

1. Contractual records that are sufficient to describe the scope of work performed that was integral to site rehabilitation during the time period covered by the application. These contractual records shall correlate the costs claimed with both the payment requests and the payment records provided in accordance with subparagraphs 62-788.300(3)(f)2. and 3., F.A.C. If the applicant did not procure the services listed on the contractual records included in the application, then the applicant must explain its relationship to the entity that procured those services. Examples of such contractual records include contracts, documentation of contract negotiations, proposals, work orders, task orders, and change orders; and

2. Payment requests that describe the goods or services provided that were integral to site rehabilitation during the time period covered by the application. These payment requests shall correlate the costs claimed with both the contractual records and payment records provided in accordance with

subparagraphs 62-788.300(3)(f)1. and 3., F.A.C. The payment requests should include the name of the payee, a description of the goods or services provided, the period of service during which the goods or services were provided, the date upon which the payment request was issued, and the total amount being requested. Examples of such payment requests are invoices, sales tickets and account statements. Payment requests that include costs for goods or services that are not being claimed in the VCTC application must clearly identify which costs are being claimed; and

3. Payment records involving actual costs incurred that were integral to site rehabilitation during the time period covered by the application, and paid prior to submittal of the tax credit application. These payment records shall correlate the costs claimed with both the contractual records and the payment requests provided in accordance with subparagraphs 62-788.300(3)(f)1. and 2., F.A.C. The payment records shall also demonstrate that the tax credit applicant, which must be the signatory to the VCA or BSRA, paid the costs of site rehabilitation. Examples of such payment records are cancelled checks, bank statements, or affidavits from the payee attesting to the payment received from the applicant. Copies of contracts and documentation of contract negotiations, accounts, invoices, sales tickets, or other payment records from purchases, sales, leases, or other transactions involving actual costs incurred and paid for that tax year that were integral to site rehabilitation;

(g) No change.

(h) Proof that the documentation submitted pursuant to paragraph (f) has been reviewed and verified by an independent Certified Public Accountant (CPA) in accordance with standards established by the American Institute of Certified Public Accountants. Specifically, the CPA must attest to the accuracy and validity of the costs incurred and paid by conducting an independent review of the cost information presented by the tax credit applicant. Accuracy and validity of costs incurred and paid shall be determined once the level of effort expended for site rehabilitation activities is certified by an appropriate registered technical professional in each contributing technical discipline pursuant to paragraph (g). The CPA's report shall also clearly state the total amount claimed in the application and the total amount approved by the CPA. The CPA report shall attest that the costs included in the application form are not duplicated within the application, that all payment requests were received and all costs were paid prior to submittal of the tax credit application, and, for site rehabilitation tax credits, that all costs claimed are for work conducted between January 1 and December 31 of the year for which the application is being submitted. A copy of the CPA's report shall be submitted with the tax credit application [refer to A Guideline for Agreed-Upon Procedures for Attestation

Service for the Voluntary Cleanup Tax Credit (VCTC) Program, dated October 2010, referenced in subsection 62-788.150(1), F.A.C.I.

(4) No change.

(5) For purposes of Rule 62-788.300, F.A.C., eligible costs are those the applicant(s) incurred and paid in the applicable timeframe that were “integral to site rehabilitation,” as defined in Rule 62-788.200, F.A.C. Examples of costs that are not considered integral to site rehabilitation include brownfield area designation costs and tax credit application preparation and submittal costs.

Rulemaking Specific Authority 376.30781 FS. Law Implemented 376.30781 FS. History–New 3-31-99, Amended _____.

62-788.310 Affordable Housing Bonus Voluntary Cleanup Tax Credit Application Process.

(1) A tax credit applicant, or multiple tax credit applicants, claiming the affordable housing bonus tax credit pursuant to paragraph 62-788.100(2)(b), F.A.C., may file a one-time application for this additional credit using Form 62-788.900(1). The affordable housing bonus tax credit amount per brownfield site, as identified and described in the BSRA, shall be calculated using the percentage and the amount for the “Affordable Housing Bonus” Tax Credit Type in Table 1, based upon the total site rehabilitation costs that the Department has determined eligible for the VCTC since July 1, 2006. If multiple tax credit applicants are submitting an application, then they must indicate on the application form each tax credit applicant’s percentage contribution toward payment of total site rehabilitation costs since July 1, 2006.

(2) To receive the affordable housing bonus tax credit, the tax credit applicant must submit with its application form a certification letter from the Florida Housing Finance Corporation, the local housing authority, or other governmental agency that is a party to the use agreement, indicating that the construction of the affordable housing project on the brownfield site has received a certificate of occupancy and that the brownfield site has a properly recorded instrument that limits the use of the property to housing that meets the definition of affordable provided in Section 420.0004, F.S. Applicants shall claim the affordable housing bonus tax credit only after the requirements listed in this subsection are met, and are not required to include site rehabilitation documentation previously submitted.

(3) Complete applications for the affordable housing bonus tax credit must be submitted to the Department’s Division of Waste Management in Tallahassee. A tax credit applicant shall submit an application using Form 62-788.900(1), and must include the following:

(a) A completed and signed affidavit [Section VII. of Department Form 62-788.900(1)] from each tax credit applicant (multiple tax credit applicants submitting a joint

application must each sign a separate affidavit) certifying that all information contained in the application is true and correct; and

(b) A certification letter pursuant to subsection 62-788.310(2), F.A.C.; and

(c) A nonrefundable review fee of \$250 per VCTC application, even if the application includes multiple applicants or claims multiple tax credit types. The nonrefundable review fee must be in the form of a cashier’s check or money order made payable to the Water Quality Assurance Trust Fund.

Rulemaking Authority 376.30781 FS. Law Implemented 376.30781 FS. History–New _____.

62-788.320 Health Care Bonus Voluntary Cleanup Tax Credit Application Process.

(1) A tax credit applicant, or multiple tax credit applicants, claiming the health care bonus tax credit pursuant to paragraph 62-788.100(2)(c), F.A.C., may file a one-time application for this additional credit using Form 62-788.900(1). The health care bonus tax credit amount per brownfield site, as identified and described in the BSRA, shall be calculated using the percentage and the amount for the “Health Care Bonus” Tax Credit Type in Table 1, based upon the total site rehabilitation costs that the Department has determined eligible for the VCTC since January 1, 2008. If multiple tax credit applicants are submitting an application, then they must indicate on the application form each tax credit applicant’s percentage contribution toward payment of total site rehabilitation costs since January 1, 2008.

(2) To receive the health care bonus tax credit, the tax credit applicant must complete the applicable portions of the VCTC application form and must provide backup documentation that includes, at a minimum, a legible copy of the license or certificate issued pursuant to Section 408.032, 408.07 or 408.7056, F.S., as applicable, or a certificate of occupancy for the operation of the health care facility or health care provider on the brownfield site. If the minimum backup documentation does not clearly demonstrate how the health care facility or health care provider qualifies for this tax credit, the tax credit applicant should also provide a letter of explanation. Applicants shall claim the health care tax credit only after the requirements listed in this subsection are met, and are not required to include site rehabilitation documentation previously submitted.

(3) Complete applications for the health care bonus tax credit must be submitted to the Department’s Division of Waste Management in Tallahassee. A tax credit applicant shall submit an application using Form 62-788.900(1), and must include the following:

(a) A completed and signed affidavit [Section VII. of Department Form 62-788.900(1)] from each tax credit applicant (multiple tax credit applicants submitting a joint

application must each sign a separate affidavit) certifying that all information contained in the application is true and correct; and

(b) The documentation required by subsection 62-788.320(2), F.A.C.; and

(c) A nonrefundable review fee of \$250 per VCTC application, even if the application includes multiple applicants or claims multiple tax credit types. The nonrefundable review fee must be in the form of a cashier's check or money order made payable to the Water Quality Assurance Trust Fund.

Rulemaking Authority 376.30781 FS. Law Implemented 376.30781 FS. History--New _____.

62-788.330 Solid Waste Removal Voluntary Cleanup Tax Credit Application Process.

(1) A tax credit applicant, or multiple tax credit applicants jointly conducting solid waste removal from a brownfield site, as identified and described in the BSRA, and claiming the solid waste removal tax credit pursuant to paragraph 62-788.100(1)(b), F.A.C., may file a one-time application for this tax credit using Form 62-788.900(1). The solid waste removal tax credit shall be calculated using the percentage and the amount for the "Solid Waste Removal" Tax Credit Type in Table 1, based upon the costs for solid waste removal from the brownfield site, as identified and described in the BSRA, that have been incurred and paid since July 1, 2006. If multiple tax credit applicants are submitting an application, then they must indicate on the application form each tax credit applicant's percentage contribution toward payment of solid waste removal costs since July 1, 2006. Claims for the solid waste removal tax credit are not subject to a calendar-year limitation or annual filing deadline. Instead, the applicant shall submit the one-time solid waste removal VCTC claim after the applicant determines that the solid waste removal is complete.

(2) To receive the solid waste removal tax credit, the tax credit applicant must submit an affidavit with its application form that states that the applicant has consulted with the appropriate local government official and the appropriate Department District Solid Waste Supervisor and reviewed the available historical records, and to the best of the tax credit applicant's knowledge, the brownfield site identified and described in the BSRA was never operated as a permitted solid waste disposal area, as defined in Rule 62-788.200, F.A.C., or was never operated for monetary compensation, as defined in Rule 62-788.200, F.A.C. When consulting with the local government official and the Department District Solid Waste Supervisor, the applicant shall inquire whether the landfill or dump site operations involved any type of monetary compensation including private or government fees or assessments.

(3) Complete applications for the solid waste removal tax credit must be submitted to the Department's Division of Waste Management in Tallahassee. A tax credit applicant shall submit an application using Form 62-788.900(1), and must include the following:

(a) A completed and signed affidavit [Section VII. of Department Form 62-788.900(1).] from each tax credit applicant (multiple tax credit applicants submitting a joint application must each sign a separate affidavit) certifying that all information contained in the application, including all records of costs incurred and paid and claimed in the tax credit application, are true and correct;

(b) Proof that the tax credit applicant has entered into a BSRA. A copy of the cover page and the signature page of the BSRA will suffice as proof;

(c) A nonrefundable review fee of \$250 per VCTC application, even if the application includes multiple applicants or claims multiple tax credit types. The nonrefundable review fee must be in the form of a cashier's check or money order made payable to the Water Quality Assurance Trust Fund;

(d) Copies of documents that clearly describe the goods or services and associated costs that are being claimed in the application. Documents that include costs for goods or services that are not being claimed in the application shall be clearly annotated or shall otherwise clearly identify such goods or services and unclaimed costs. Copies of documents for goods or services that are being claimed shall be sufficient to demonstrate a link between the contractual records, the payment requests associated with the contractual records, and the payment records for the claimed portions of the payment requests, as required by each of the following three subparagraphs:

1. Contractual records that are sufficient to describe the scope of work performed that was related to solid waste removal during the time period covered by the application. These contractual records shall correlate the costs claimed with both the payment requests and the payment records provided in accordance with subparagraphs 62-788.330(3)(d)2. and 3., F.A.C. If the applicant did not procure the services listed on the contractual records included in the application, then the applicant must explain its relationship to the entity that procured those services. Examples of such contractual records include contracts, documentation of contract negotiations, proposals, work orders, task orders, and change orders; and

2. Payment requests that describe the goods or services provided for solid waste removal during the time period covered by the application. These payment requests shall correlate the costs claimed with both the contractual records and payment records provided in accordance with subparagraphs 62-788.330(3)(d)1. and 3., F.A.C. The payment requests should include the name of the payee, a description of the goods or services provided, the period of service during which the goods or services were provided, the date upon

which the payment request was issued, and the total amount being requested. Examples of such payment requests are invoices, sales tickets and account statements. Payment requests that include costs for goods or services that are not being claimed in the VCTC application must clearly identify which costs are being claimed; and

3. Payment records involving actual costs incurred and paid for solid waste removal during the time period covered by the application. These payment records shall correlate the costs claimed with both the contractual records and the payment requests provided in accordance with subparagraphs 62-788.330(3)(d)1. and 2., F.A.C. The payment records shall also demonstrate that the tax credit applicant, which must be the signatory to the BSRA, paid the costs for solid waste removal. Examples of such payment records are cancelled checks, bank statements, or affidavits from the payee attesting to the payment received from the applicant;

(e) A certification form stating that the solid waste removal associated with the documentation submitted pursuant to paragraph (d) has been conducted under the observation of, and related technical documents have been signed and sealed by, an appropriate registered technical professional in each contributing technical discipline. The certification form shall be signed and sealed by the appropriate registered technical professional(s) stating that the costs incurred and paid were only for eligible solid waste removal pursuant to subsection 62-788.330(5), F.A.C. However, if the scope of the solid waste removal does not require oversight by a registered technical professional in this state, the registered technical professional certification form is not required as part of the solid waste removal tax credit application; and

(f) Proof that the documentation submitted pursuant to paragraph (d) has been reviewed and verified by an independent Certified Public Accountant (CPA) in accordance with standards established by the American Institute of Certified Public Accountants. Specifically, the CPA must attest to the accuracy and validity of the costs incurred and paid by conducting an independent review of the cost information presented by the tax credit applicant. Accuracy and validity of costs incurred and paid shall be determined once the level of effort expended for solid waste removal, as defined in Rule 62-788.200, F.A.C., and described in subsection 62-788.330(5), F.A.C., is certified by an appropriate registered technical professional in each contributing technical discipline pursuant to paragraph (e), as applicable. The CPA's report shall also clearly state the total amount claimed in the application and the total amount approved by the CPA, and shall attest that the costs included in the application form are not duplicated within the application. A copy of the CPA's report shall be submitted with the tax credit application [refer to A Guideline for Agreed-Upon Procedures for Attestation Service for the

Voluntary Cleanup Tax Credit (VCTC) Program, dated October 2010, referenced in subsection 62-788.150(1), F.A.C.].

(4) The Certified Public Accountant and appropriate registered technical professional(s) submitting forms as part of a tax credit application shall verify such forms. Verification shall be accomplished as provided in Section 92.525(1)(b), F.S., and subject to the provisions of Section 92.525(3), F.S. This verification requirement is accomplished by completing and signing the appropriate certifications included as part of the application form, Form 62-788.900(1).

(5) For purposes of Rule 62-788.330, F.A.C., eligible costs are those the applicant(s) incurred and paid to perform solid waste removal as defined in Rule 62-788.200, F.A.C. Eligible solid waste removal costs are further described as follows:

(a) Costs for transporting solid waste, even if the solid waste contains recoverable material that could have been, but was not, separated from the solid waste:

1. Off the brownfield site to a licensed or exempt solid waste management facility, or

2. To a temporary storage area meeting the requirements of this subparagraph. The temporary storage area must be approved or exempt as follows:

a. If the temporary storage area is located off the brownfield site, it must operate only in accordance with a permit issued pursuant to Chapter 62-701, F.A.C.;

b. If the temporary storage area is located on the brownfield site, it must operate only in accordance with either a permit issued pursuant to Chapter 62-701, F.A.C., or only in accordance with specific written authorization in the BSRA; or

c. If the temporary storage area is located on the brownfield site and is within the footprint of the solid waste disposal area being removed, it is exempt from the requirement for a solid waste permit in accordance with Section 403.707(1), F.S., provided the Department is notified at least seven days before temporary storage begins and that the temporary storage area meets the following requirements:

(I) The storage area must be operated so that the activity will not cause or contribute to any uncontrolled discharge to the environment of leachate, storm water, or gas;

(II) Any hazardous waste that is generated by this activity must be managed in accordance with Chapter 62-730, F.A.C.; and

(III) If the solid waste being stored includes Class I solid waste as defined in Rule 62-701.200, F.A.C., the storage area must be evaluated as soon as the temporary storage activities cease to ensure that no soil or ground water contamination in excess of applicable standards or criteria remains;

(b) Costs for sorting and screening, provided that such processing occurs on the brownfield site; and

(c) Costs for deposition of the solid waste at a permitted or exempt solid waste management facility, whether the solid waste is disposed of or recycled. However, costs associated with the deposition of recovered materials that were separated from the solid waste stream are not eligible.

(6) The tax credits claimed pursuant to Rule 62-788.330, F.A.C., shall not include costs associated with solid waste that is created at the brownfield site as part of the site's redevelopment activities, such as land clearing debris or construction and demolition debris, or costs that are not considered necessary to perform solid waste removal, such as brownfield area designation and tax credit application preparation and submittal costs.

(7) Review of the Department's May 3, 2001 guidance document entitled "Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida", that is referenced in subsection 62-788.150(2), F.A.C., should occur prior to the disturbance of a solid waste disposal area.

(8) If any solid waste that is removed, transported or disposed of pursuant to this section is determined to be a regulated hazardous waste, the waste must be managed in accordance with Chapter 62-730, F.A.C.

Rulemaking Authority 376.30781, 403.707 FS. Law Implemented 376.30781, 403.707 FS. History—New _____.

62-788.400 Eligibility Determination.

(1) Complete applications, as defined in subsection 62-788.200(4), F.A.C., will secure a position in the first-come, first-served application line for allocation of tax credits and will be reviewed for eligibility, in conjunction with the applicable CPA and technical professional documents, to verify that the work was either integral to site rehabilitation or was for solid waste removal; that the work claimed was performed in the applicable timeframe; and that the costs claimed were properly documented. An application package will be deemed "complete" if Form 62-788.900(1), F.A.C., contains all required information and appropriate signatures and the package includes the list of items in subsections Rule 62-788.300(3), F.A.C. Incomplete applications will not secure a position in the first-come, first-served order for allocation of tax credits, and shall instead be addressed pursuant to subsections (4)-(6) below, as applicable.

(2) Tax credit allocation will be conducted on a first-come, first-served basis based upon the date and time complete applications are received by the Department's DEP's Division of Waste Management.

(3) The DEP will review the tax credit application package submitted by each applicant to verify that the applicant has met the qualifying statutory and rule criteria and has submitted all required documentation. Upon verification that the tax credit applicant has met all completeness requirements, the Department DEP shall have 90 days to issue a written decision granting eligibility for tax credits and a tax credit certificate for

the eligible costs, in accordance with the percentages and the amounts specified in Table 1 in the amount of 35% of the total costs claimed, subject to the \$250,000 limitation, for the tax year in which the tax credit application is submitted based on the report of the Certified Public Accountant and the certifications from the appropriate registered technical professionals. If multiple tax credit applicants are submitting a joint application, each tax credit applicant shall receive a separate tax credit certificate awarding tax credits in the same proportion as their contribution toward payment of site rehabilitation costs or solid waste removal costs, as applicable.

(4) If, after initial submittal of an annual site rehabilitation application, but prior to the January 31 annual application deadline, pursuant to subsection 62-788.300(3), F.A.C., either the Department or the tax credit applicant DEP determines that the application package is incomplete, then the DEP will return it with deficiencies indicated to the applicant by Certified Mail, unless the applicant requests, and is willing to pay for, alternative express mailing. If time permits, the tax credit applicant may correct the deficiencies and re-submit the application by 5:00 p.m. (Eastern Standard Time) on or before the January ~~December~~ 31 annual application deadline. If, after the January 31 annual application deadline, the Department determines that the annual tax credit application is incomplete, the Department shall notify the tax credit applicant in writing via certified mail or by e-mail if an e-mail address is provided and the applicant indicates its preference for e-mail correspondence on the application form. The tax credit applicant shall have 30 days after receiving such notification to correct any deficiencies. Upon timely correction of any deficiencies, as evidenced by the date and time that the now complete tax credit application is received by the Department, the application shall secure a place in the first-come, first-served application line and shall be processed pursuant to subsection (3) above. However, tax credit applicants correcting completeness deficiencies identified by the Department may not otherwise change or supplement their application.

(5) On or before May 1, the Department shall inform each tax credit applicant, subject to the January 31 annual application deadline, of the tax credit applicant's eligibility status and the amount of any tax credit due. The May 1 deadline for annual site rehabilitation tax credit certificate awards shall not apply to any tax credit application for which the Department has issued a notice of deficiency pursuant to subsection 62-788.400(4), F.A.C. For those eligible, the DEP will issue a tax credit certificate on or before the following March 1. If multiple taxpayers are submitting a joint application, each taxpayer shall receive a separate tax credit certificate awarding tax credits in the same proportion as their contribution to payment of cleanup costs.

(6) Tax credit applicants not subject to the January 31 annual application deadline shall have one opportunity to correct completeness deficiencies identified by the Department

in the original submittal. The Department shall notify such tax credit applicants in writing via certified mail or by e-mail if an e-mail address is provided and the applicant indicates its preference for e-mail correspondence on the application form. The tax credit applicant shall have 30 days after receiving such notification to correct any deficiencies. Upon timely correction of any deficiencies, as evidenced by the date and time that the now complete tax credit application is received by the Department, the application shall secure a place in the first-come, first-served application line and shall be processed pursuant to subsection (3) above. However, tax credit applicants correcting completeness deficiencies identified by the Department may not otherwise change or supplement their application.

(7) If the Department notifies a tax credit applicant that any claimed costs are ineligible, those costs shall not be allocated against the annual tax credit authorization, and any disputed costs will not delay the application processing or award for subsequent eligible tax credit applicants in the first-come, first-served application line. However, if the Department subsequently agrees to award tax credits on any amount that was disputed, the Department shall do so based upon the first-come, first-served tax application line determined by the tax credit applicant's original completeness date and time, provided there is any tax credit authorization available. If a tax credit applicant does not receive an award for the disputed costs due to an exhaustion of the annual tax credit authorization, such subsequent tax credit award shall be included in the same first-come, first-served order in the next year's annual tax credit allocation, if any, based upon the tax credit applicant's original completeness date and time.

(8) Original tax credit certificates must either be submitted to the Department of Revenue with the applicant's tax return to claim the tax credit, or be returned to the Department of Environmental Protection to be transferred pursuant to Section 220.1845(2)(g), F.S., and subsection 62-788.400(9), F.A.C.

(9)(6) Tax credit certificates are transferable pursuant to Section Sections ~~199.1055(1)(g)~~ or 220.1845(2)(g)(h), F.S. A tax credit certificate holder seeking to transfer the certificate to one or more individuals or entities shall ~~return~~ submit the original certificate to the ~~Department's~~ DEP's Division of Waste Management in Tallahassee along with a signed and notarized letter authorizing the transfer. The letter shall state the name, address, telephone number, and FEID or Social Security number, as applicable, of each transferee, and it shall indicate the portion (in whole or in units of no less than 25%) to be transferred. Such transferred credits may not be transferred again although they may succeed to a surviving or acquiring entity after merger or acquisition. ~~A tax credit applicant cannot transfer its right to apply for a tax credit, i.e., the application must be filed by the tax credit applicant(s) taxpayer(s) that incurred and paid the site rehabilitation or solid waste removal cleanup~~ costs. Any application filed by a

tax credit applicant taxpayer that has not incurred and paid the claimed any cleanup costs, but claims to be a tax credit transferee, will be deemed ineligible rejected.

Rulemaking Specific Authority 376.30781 FS. Law Implemented 376.30781 FS. History--New 3-31-99, Amended _____.

62-788.900 Forms.

The following form is adopted and incorporated by reference in this chapter Rule. The form is listed by rule number, which is also the form number, and by the subject title and effective date. Copies of the form may be obtained by writing to the Department of Environmental Protection, Bureau of Waste Cleanup, Mail Station 4505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Voluntary Cleanup Tax Credit Application, Department DEP Form 62-788.900(1), (effective _____ 3-31-99).

Rulemaking Specific Authority 376.30781 FS. Law Implemented 376.30781 FS. History--New 3-31-99, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jean Yon, Director, Division of Waste Management
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mimi A. Drew, FDEP Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 10, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 25, 2006

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Division of Law Enforcement**

RULE NOS.:	RULE TITLES:
62N-16.012	Discharge Cleanup Organization; Approval
62N-16.027	Form: Request for Reimbursement for Damage
62N-16.033	Terminal Facility Discharge Contingency Plan

PURPOSE AND EFFECT: The purpose of this amendment is to make the appropriate changes to the Chapter 62N-16, F.A.C. Pursuant to Section 120.55(1)(a)4., F.S., the Form: Application for Approval as a Discharge Cleanup Organization will be incorporated into subsection 62N-16.012(1), F.A.C., and the reference to Rule 62N-16.026, F.A.C., will be removed since this rule has been repealed. Also the reference to Section 376.06, F.S., in Rule 62N-16.012, F.A.C., will be removed since this section no longer exists. Furthermore, Rule 62N-16.027, F.A.C., which is labeled the Form: Request for Reimbursement for Damage, will be repealed, since Rule 62N-16.020, F.A.C., the rule to which the form is applicable, has been repealed. Finally, subsection 62N-16.033(4), F.A.C., will be removed. This is due to the fact that Rule 62N-16.036,

F.A.C., Vessel Spill Contingency Plan, which is the contingency plan referenced in subsection 62N-16.033(4), F.A.C., has been repealed.

SUMMARY: The rule amendments will do the following: incorporate the appropriate form into a subsection, remove references from a rule that no longer exist, remove a subsection that is no longer valid, and repeal a rule that is no longer valid.

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

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

RULEMAKING AUTHORITY: 376.07 FS.

LAW IMPLEMENTED: 376.065, 376.07, 376.09 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Phil Wieczynski, Division of Law Enforcement, Bureau of Emergency Response, 3900 Commonwealth Blvd., MS 600, Tallahassee, FL 32399-3000, (850)245-2010, e-mail: phil.wieczynski@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Phil Wieczynski, Division of Law Enforcement, Bureau of Emergency Response, 3900 Commonwealth Blvd., MS 600, Tallahassee, FL 32399-3000, (850)245-2010, e-mail: phil.wieczynski@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62N-16.012 Discharge Cleanup Organization; Approval.

(1) For approval as a discharge cleanup organization, an applicant shall apply to the department using the ~~on a form~~: Application for Approval as a Discharge Cleanup Organization, dated [effective date], hereby adopted by reference, available on the internet at: <http://www.dep.state.fl.us/law/ber/default.htm> or by sending a request to: Department of Environmental Protection, Bureau of Emergency Response, 3900 Commonwealth Boulevard, M.S. 600, Tallahassee, Florida 32399-3000 or by phone at (850)245-2010 or by fax at (850)245-2882, supplied by the department, as provided for in 62N-16.026.

(2) through (5) No change.

~~Rulemaking Specific Authority 376.07 FS. Law Implemented 376.06, 376.065, 376.09 FS. History–New 8-23-74, Formerly 16B-16.12, Amended 11-5-80, Formerly 16N-16.12, Amended 6-17-92, Formerly 16N-16.012, Amended _____.~~

62N-16.027 Form: Request for Reimbursement for Damage.

~~Rulemaking Specific Authority 376.07 FS. Law Implemented 376.12 FS. History–New 11-5-80, Formerly 16N-16.27, Amended 6-17-92, Formerly 16N-16.027, Repealed _____.~~

62N-16.033 Terminal Facility Discharge Contingency Plan.

(1) through (3) No change.

~~(4) Vessels that are also terminal facilities need a contingency plan that meets the requirements of rule number 62N-16.036, F.A.C., and are exempted from having a plan in accordance with this rule.~~

~~Rulemaking Specific Authority 376.07 FS. Law Implemented 376.07 FS. History–New 8-27-92, Formerly 16N-16.033, Amended 4-12-95, _____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Phil Wieczynski, listed above

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Mimi Drew

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19, 2010

DEPARTMENT OF JUVENILE JUSTICE

County and Municipal Juvenile Programs

RULE NOS.:	RULE TITLES:
63K-1.001	Purpose and Scope
63K-1.0015	Certification of a County or Municipal Juvenile Detention Centers
63K-1.002	Operation of County or Municipal Juvenile Detention Centers
63K-1.003	Operation of County or Municipal Juvenile Delinquency Programs
63K-1.004	Transfers
63K-1.005	Monitoring Fees

PURPOSE AND EFFECT: Amendments and additional rule sections are necessary to update the chapter, and to provide for the necessary certification of locally operated juvenile detention centers.

SUMMARY: The rule chapter establishes certification requirements, and provision is made for the collection of monitoring fees. Related provisions are updated to accommodate local operation of juvenile detention centers.

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

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

RULEMAKING AUTHORITY: 986.688 FS.

LAW IMPLEMENTED: 985.688 FS.

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

DATE AND TIME: Thursday, December 16, 2010, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Dr., General Counsel's Conference Room 3223, Tallahassee, Florida. For information about participation by telephone, contact John Milla at (850)921-4129

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63K-1.001 Purpose and Scope.

The rule establishes basic operational and monitoring requirements for county or municipal juvenile detention centers and programs. Only detention centers and programs that are planned, developed, coordinated or contracted for by local government are within the scope of this rule; centers and programs operated by local government under contract with the department are not within the scope of this rule.

Rulemaking Specific Authority 20.316, 985.64, 985.688 FS. Law Implemented 985.688 FS. History—New 5-17-07, Repromulgated _____.

63K-1.0015 Certification of a County or Municipal Juvenile Detention Center.

(1) The department is responsible for determining if a county or municipality may be deemed certified.

(2) A county or municipality may be deemed certified by complying with the following:

(a) The county or municipal-operated facility designated to be the juvenile detention center shall comply with the federal mandates as set forth in 28 C.F.R. 31.303 (2010).

(b) All county and municipal-operated detention employees shall comply with all certification and training requirements for contract residential staff as outlined in Direct Care Staff Training Rule 63H-2.003, F.A.C. and the Protective Action Response (PAR) Rule 63H-1.016, F.A.C.

(c) All county and municipal-operated detention centers shall have an operational system to track staff training. The county and municipal-operated detention center may choose to use the department's Learning Management System for the

delivery of the PAR certification examination as well as the tracking of all employees' training. Use of the department's LMS requires an annual fee for each user.

(d) All staff assigned to work in the county or municipal-operated juvenile detention center must work only in the designated detention center and must not supervise adult inmates and juvenile detainees at the same time or within the same scheduled shift as mandated by 28 C.F.R. 31.303(e)(3)(C)(3) (2010).

(e) The county or municipality will agree to operate the county or municipal juvenile detention center in compliance with the rules of operation of a state-operated detention center.

(f) The county or municipality will submit Facility Operating Procedures (FOPs) that outline their ability to comply with the rules of operation of a state-operated juvenile detention center.

(g) The county or municipality will enter into an interagency agreement with the department to specify timelines, inspection procedures, transportation arrangements, and other non-rule procedures unique to the county or municipality's operating setup.

(3) Requests to operate a county or municipal juvenile detention center must be received by the department no less than 90 days prior to the intended operating begin date. Every effort will be taken to begin operation of a county or municipal juvenile detention center on the first day of any state fiscal year quarter.

(4) Once the county or municipality has complied with the requirement of certification, the department will send written notice of such compliance to the county or municipality. The department shall notify the county or municipality on the status of their request within 60 days of receipt of the request.

Rulemaking Authority 985.688 FS. Law Implemented 985.688 FS. History—New _____.

63K-1.002 Operation of County or Municipal Juvenile Detention Centers.

(1) A county or municipal-operated juvenile detention center shall comply with all rules of operation of a state-operated detention center pertinent quality assurance standards.

(2) The department, through its assigned regional contract manager, shall inspect and evaluate the county or municipal-operated juvenile detention center on a quarterly basis to determine its compliance with pertinent rules of operation for a detention center quality assurance standards. Every effort will be made to schedule quarterly inspections and evaluations 90 days apart. The department will notify the county or municipality 7 calendar days in advance of the inspection and evaluation. Quarterly inspections and evaluations for county or municipal-operated centers are established as follows:

(a) First Quarter – Detention operations evaluation based on Quality Assurance standards as outlined in the interagency agreement referred to in paragraph 63K-1.0015(2)(g), F.A.C.

(b) Second Quarter – Detention operations evaluation based on Quality Assurance standards as outlined in the interagency agreement referred to in paragraph 63K-1.0015(2)(g), F.A.C.; an annual safety inspection conducted by the department’s Safety Coordinator; semi-annual inspection of food services.

(c) Third Quarter – Detention operations evaluation based on Quality Assurance standards as outlined in the interagency agreement referred to in paragraph 63K-1.0015(2)(g), F.A.C.

(d) Fourth Quarter – Quality Assurance performance evaluation; semi-annual inspection of food services.

(3)(a) A center that materially fails to comply with rules of operation ~~quality assurance standards~~ shall be subject to the enforcement mechanisms set out in Section 985.688(10), F.S.

(a)1- Material failure is defined as achieving an evaluation a ~~quality assurance~~ rating of less than 60 percent on a Quality Assurance performance evaluation or a detention operations evaluation.

(b) Facilities that fail a quarterly inspection will be re-inspected for those failed areas of operation at the next scheduled quarterly inspection and evaluation.

(c)2- When a material failure is not corrected by ~~in~~ the subsequent ~~inspection quarterly monitoring~~, the center must cease operating.

(b) ~~The department shall charge, and the county or municipality shall pay, an inspection fee equal to .5 of one percent of the annual direct operating cost of the detention center.~~

Rulemaking Specific Authority 20.316, 985.64, 985.688 FS. Law Implemented 985.688 FS. History–New 5-17-07, Amended _____.

63K-1.003 Operation of County or Municipal Juvenile Delinquency Programs.

(1) A county or municipal juvenile delinquency program shall comply with all rules of operation of a state-run delinquency program ~~pertinent quality assurance standards~~.

(2) The department, ~~through assigned regional staff~~, shall inspect the county or municipal juvenile delinquency program on a quarterly basis to determine its compliance with pertinent rules of operation for a delinquency program ~~quality assurance standards~~. Every effort will be made to schedule quarterly inspections and evaluation 90 days apart. The department will notify the county or municipality 7 calendar days in advance of the inspection and evaluation. Quarterly inspections and evaluation for county or municipal-operated centers are established as follows:

(a) First Quarter – Delinquency operations evaluation based on Quality Assurance standards as outlined in the interagency agreement referred to in paragraph 63K-1.0015(2)(g), F.A.C.

(b) Second Quarter – Delinquency operations evaluation based on Quality Assurance standards as outlined in the interagency agreement referred to in paragraph 63K-1.0015(2)(g), F.A.C.; an annual safety inspection conducted by the department’s Safety Coordinator.

(c) Third Quarter – Delinquency operations evaluation based on Quality Assurance standards as outlined in the interagency agreement referred to in paragraph 63K-1.0015(2)(g), F.A.C.

(d) Fourth Quarter – Quality Assurance annual performance evaluation.

(3)(a) A program that materially fails to comply with rules of operation ~~quality assurance standards~~ shall be subject to the enforcement mechanisms set out in Section 985.688(10), F.S.

(a)1- Material failure is defined as achieving a quality assurance rating of less than 60 percent for quality assurance reviews, or non compliance with delinquency rule requirements that threaten the safety and security of youth in custody.

(b)2- When a material failure is not corrected by ~~in~~ the subsequent quarterly ~~inspection monitoring~~, the program must cease operating.

(b) ~~The department shall charge, and the county or municipality shall pay, an inspection fee equal to .5 or one percent of the annual direct operating cost of the program.~~

Rulemaking Specific Authority 20.316, 985.64, 985.688 FS. Law Implemented 985.688 FS. History–New 5-17-07, Amended _____.

63K-1.004 Transfers.

(1) Between Delinquency Programs:

(a)1- A county or municipal juvenile delinquency program may transfer a juvenile from one county or municipal program to another or to a state-operated facility for the following reasons:

1.(a) It is necessary to appropriately administer the juvenile’s commitment;

2.(b) The juvenile needs different treatment or services; or

3.(c) Placement at the receiving county or municipal juvenile program is immediately available.

(b)2- The county or municipal juvenile program shall notify the department, in writing, of its desire to transfer the juvenile.

(c)3- The department shall schedule a transfer staffing within 48 hours of receipt of the request for transfer. The staffing shall be conducted within 5 working days of the scheduling decision.

1.(a) If the transfer is denied, the child shall remain in the program that requested the transfer.

2.(b) If the transfer is approved, and the new placement is at the same restrictiveness level, the department shall notify the program that the transfer may take place.

3.(e) If the transfer is approved, and the new placement is at a higher or lower restrictiveness level, then the department shall notify the committing court in writing of the intent to transfer the child. If, after 10 calendar days, the county or municipal juvenile program's request to transfer has not been denied, it shall be deemed granted.

(2) Between Detention Centers: A county or municipal juvenile detention center program may transfer a juvenile to a state-operated facility when the youth has been committed to the department by the court, or when the county or municipal juvenile detention facility is overcrowded as defined by department rule.

Rulemaking Specific Authority ~~20.316, 985.64~~, 985.688, FS. Law Implemented 985.688 FS. History--New 5-17-07, Amended _____.

63K-1.005 Monitoring Fees.

(1) The department shall charge, and the county or municipality shall pay, a monitoring fee equal to .5 of one percent of the annual direct operating cost of the program.

(2) The county or municipality will provide to the department at the beginning of each county or municipality fiscal year, a copy of the annual operating budget for the program to be used to determine the monitoring fee.

(3) The department will bill, and the county or municipality shall pay to the department, one fourth of the monitoring fee within 30 days of the beginning of each county or municipality fiscal year quarter.

Rulemaking Authority 985.688 FS. Law Implemented 985.688 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Beth Davis, Director of Program Accountability
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 2010

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-16.001 RULE TITLE: General Information

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify procedures for training and monitoring of an Administrator-in Training.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify procedures for training and monitoring of an Administrator-in Training.

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

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

RULEMAKING AUTHORITY: 468.1685(1), 468.1695(2) FS. LAW IMPLEMENTED: 468.1695(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-16.001 General Information.

(1) through (4) No change.

(5) The AIT shall serve his/her training in a normal work-week, containing a minimum of 30 hours and a maximum of 50 hours, with not less than six hours to be served daily between the hours of 7:00 a.m. and 10:00 p.m., except that during the year a minimum of 40 hours and a maximum of 160 hours are to be served between 10:00 p.m. and 7:00 a.m.

(6) through (10) No change.

(11) Both the AIT and the Preceptor must report any discontinuance of training to the Board within 10 days. Failure to do so may subject the AIT and/or the Preceptor to disciplinary action.

(12) No change.

(13) One member of the Board shall function as a Monitor of each AIT program. More than one Board member may function as a Monitor, but only one Monitor shall be assigned to each AIT program. The Monitor shall evaluate the progress of the AIT in the AIT program in the following manner: One member of the Board shall function as a Monitor of each AIT program. The Monitor shall review the quarterly reports, and information required by Rule 64B10-16.005, F.A.C., maintain communication with the AIT and Preceptor, and report to the Board on the progress of the AIT. The Board shall not certify an AIT for examination unless the Monitor notifies the Board that the AIT has satisfactorily completed the AIT program. The Board shall require the AIT to do further work toward meeting objectives or attaining the core of knowledge, or to work with a different Preceptor, if reports and progress in the program are inadequate.

(a) The Monitor shall review the quarterly reports, and information required by Rule 64B10-16.005, F.A.C.;

(b) The Monitor shall determine whether the report and information submitted meets the requirements of Rule 64B10-16.005, F.A.C. for each quarter:

(c) Should the Monitor determine the requirements of Rule 64B10-16.005, F.A.C., have not been met, the Monitor may do the following, including but not limited to:

1. Refuse to accept the report;
2. Refuse to award the AIT credit toward the AIT program for hours completed within the quarter;
3. Require the AIT and preceptor to revise and resubmit the report;
4. Require the AIT and/or preceptor to submit additional documentation demonstrating hours completed in each domain area for that quarter;
5. Require the AIT to complete additional hours in specified domain areas.

(d) The Monitor shall maintain communication with the AIT and Preceptor, and report to the Board on the progress of the AIT.

(e) The Monitor shall notify the Board whether the AIT has satisfactorily completed the AIT program.

1. The Board shall not certify an AIT for examination unless the Monitor notifies the board that the AIT has satisfactorily completed the AIT program.
2. The Board shall require the AIT to do further work toward meeting objectives or attaining the core of knowledge, or to work with a different Preceptor, if reports and progress in the program are inadequate.

Rulemaking Authority 468.1685(1), 468.1695(2) FS. Law Implemented 468.1695(2) FS. History—New 9-24-81, Formerly 21Z-16.01, Amended 12-18-88, 1-22-90, 11-11-92, 12-18-88, 1-22-90, 11-11-92, Formerly 21Z-16.001, Amended 8-29-93, Formerly 61G12-16.001, Amended 6-2-96, Formerly 59T-16.001, Amended 10-12-97, 6-5-07, 11-9-08, 1-7-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 29, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 26, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:	RULE TITLES:
69A-37.082	Purpose
69A-37.083	Scope
69A-37.084	Definitions
69A-37.085	Eligibility Requirements for Supplemental Compensation
69A-37.086	Request for Eligibility Determination

69A-37.087	Cessation of Supplemental Compensation
69A-37.088	Eligibility Requirements for Re-Entry
69A-37.089	Employing Agency Request for Reimbursement

PURPOSE AND EFFECT: The purpose of these rule amendments is to clarify the definition of “accredited” and to set forth the circumstances under which a bachelor’s degree that is not awarded from an accredited school will be accepted for the purpose of eligibility for supplemental compensation. The rule also streamlines the certification process, and clarifies that the forms must be submitted by and certified by an authorized agent of the employing agency.

SUMMARY: The definition of “accredited” is changed to mean approved by a regional accrediting organization recognized by the United States Department of Education. Documentation that a regional accredited Florida public or private university or college will accept a degree for transfer purposes will also be accepted for accreditation purposes. The definitions of “Bureau” and “Post Secondary Institution” are repealed because they are no longer used in the rule or the implementing legislation. The definition of “Applicable to fire department duties” is simplified to mean degreed courses that add value to the firefighter’s fire department employment; the definition of “employing agency’s certification” is amended to be consistent. The entity requesting reimbursement for payment of supplemental compensation to firefighters must meet the definition of “employing agency” set for in statute. Rules 69A-37.087 and 69A-37.088, F.A.C. are repealed and some of their parts are consolidated into other rules within the rule chapter. Forms incorporated within the various rules in the chapter are updated.

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

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

RULEMAKING AUTHORITY: 633.45(2)(a) FS.

LAW IMPLEMENTED: 633.382(2), (3), (5) FS.

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

DATE AND TIME: Thursday, December 16, 2010, 1:00 p.m.

PLACE: Auditorium, State Fire College, 11655 N.W. Gainesville Road, Ocala, Florida 34482

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by

contacting: Karl Thompson, Standards Section Supervisor, Bureau of Fire Standards and Training, Division of State Fire Marshal, 11655 N.W. Gainesville Rd., Ocala, FL 34482; Phone (352)369-2800, Ext. 3; Karl.thompson@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Karl Thompson, Standards Section Supervisor, Bureau of Fire Standards and Training, Division of State Fire Marshal, 11655 N.W. Gainesville Rd., Ocala, FL 34482; Phone (352)369-2800, Ext. 3; Karl.thompson@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 69A-37.082 follows. See Florida Administrative Code for present text.)

69A-37.082 Purpose.

The purpose of this part is to implement Section 633.382, F.S.

Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(1), (2) FS. History–New 1-3-90, Formerly 4A-37.082, Amended _____.

(Substantial rewording of Rule 69A-37.083 follows. See Florida Administrative Code for present text.)

69A-37.083 Scope.

This part establishes procedures for requesting a determination of supplemental compensation and reimbursement eligibility.

Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(2) FS. History–New 1-3-90, Formerly 4A-37.083, Amended _____.

(Substantial rewording of Rule 69A-37.084 follows. See Florida Administrative Code for present text.)

69A-37.084 Definitions.

In addition to the terms defined in Section 633.382(1), F.S., the following terms will have the following meanings for purposes of Rules 69A-37.082 through 69A-37.089, F.A.C.:

(1) “Accredited” means recognized as having sufficient academic standards to qualify graduates by having been awarded accreditation from a regional accrediting agency that is recognized by the U.S. Department of Education. Documentation that a regional accredited Florida public or private university or college will accept a degree for transfer purposes will also be accepted for accreditation purposes.

(2) “Eligible Associate Degree” means an Associate of Arts or Associate of Science degree conferred by a public or private university or college in which the firefighter successfully completed courses that are applicable to fire department duties, as defined in subsection (4).

(3) “Eligible Bachelor’s Degree” means a bachelor’s degree conferred by a regional accredited public or private university or college applicable to fire department duties, as defined in subsection (4).

(4) “Applicable to fire department duties” means degreed courses that add value to fire department employment.

(5) “Supplemental Compensation” means funds that may be paid to eligible firefighters by employing agencies pursuant to Section 633.382, F.S., and this rule chapter, in addition to any regular compensation paid by the employing agencies.

Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(2) FS. History–New 1-3-90, Amended 3-20-95, 7-17-00, Formerly 4A-37.084, Amended _____.

(Substantial rewording of Rule 69A-37.085 follows. See Florida Administrative Code for present text.)

69A-37.085 Eligibility Requirements for Supplemental Compensation.

To be eligible to receive Supplemental Compensation the employing agency must meet the definition in Section 633.382, F.S., and the firefighter must meet all of the following requirements:

(1) Be certified as a firefighter pursuant to section 633.35, F.S.:

(2) Possess an eligible Associate or Bachelor’s Degree, and

(3) Be employed full time as a firefighter by an employing agency.

(4) No firefighter shall be eligible to receive supplemental compensation for more than one degree. If the firefighter holds more than one eligible degree, compensation will be paid for the bachelors degree.

(5) An employing agency is not eligible to be reimbursed for a firefighter’s supplemental pay when:

(a) The firefighter is no longer employed by the employing agency;

(b) The firefighter is transferred to a position for which the firefighter’s degree no longer qualifies him or her;

(c) The firefighter is no longer employed in a full time capacity;

(d) The firefighter takes a leave of absence without pay;

(e) The firefighter is suspended without pay;

(f) The firefighter is no longer certified pursuant to Section 633.351, F.S.

(6) The effective date of ineligibility shall be that date on which the firefighter ceases to receive compensation from the employing agency for performing the duties of a full-time firefighter.

Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(2) FS. History–New 1-3-90, Amended 3-20-95, Formerly 4A-37.085, Amended _____.

(Substantial rewording of Rule 69A-37.086 follows. See Florida Administrative Code for present text.)

69A-37.086 Request for Eligibility Determination Enrollment Procedures for Supplemental Compensation.

(1) Whenever a question arises as to the eligibility of an employing agency to be reimbursed for supplemental compensation paid to a firefighter as provided in section 633.382, F.S., the question shall be submitted on Form DFS-K4-1057, amended _____, adopted and incorporated herein by reference, to the division for determination. The form can be obtained as indicated in subsection 69A-37.089(3), F.A.C. The form shall be completed in full, signed by an authorized representative of the employing agency, and accompanied by the attachments set forth in the form.

(2) The employing agency's certification shall be based upon the completed coursework identified in the transcript and not solely upon the title of the degree conferred. The standard shall be whether the courses within the major field of study relate in a meaningful way to the firefighter's job description.

(3) The division will advise the employing agency of its determination in writing.

Rulemaking Specific Authority 633.45(2) FS. Law Implemented 633.382(2) FS. History--New 1-3-90, Amended 3-20-95, Formerly 4A-37.086, Amended _____.

69A-37.087 Cessation of Supplemental Compensation.

Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(2) FS. History--New 1-3-90, Amended 3-20-95, Formerly 4A-37.087, Repealed _____.

69A-37.088 Eligibility Requirements for Re-Entry.

Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(2) FS. History--New 1-3-90, Amended 3-20-95, Formerly 4A-37.088, Repealed _____.

69A-37.089 Employing Agency Request for Reimbursement Prescribed Forms.

(1) Each employing agency seeking reimbursement for supplemental compensation paid to firefighters pursuant to section 633.082, F.S. and this rule shall submit quarterly reports to the division on March 31, June 30, September 30, and December 31 of each year on Form DFS-K4-1065, amended _____, adopted and incorporated herein by reference.

(2) Every employing agency must maintain written records relating to the eligibility of every firefighter whose name is submitted to the division pursuant to subsection (1) above in separate files for a period of five years for audit purposes.

(3) Copies of all forms listed in this Rule chapter can be obtained through the Florida State Fire College, 11655 Northwest Gainesville Road, Ocala, Florida 34482-1486; website: www.floridastatefirecollege.org.

Rulemaking Specific Authority 633.45(2)(a) FS. Law Implemented 633.382(2), (3), (5) FS. History--New 1-3-90, Formerly 4A-37.089, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karl Thompson

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

RULE NOS.:	RULE TITLES:
69A-62.002	Uniform Minimum Firefighter Employment Standards; Adoption of National Fire Protection Association Standards
69A-62.021	Minimum Requirements for a Firefighter Employer Comprehensive Safety and Health Program
69A-62.022	Firefighter Employer Safety and Health Compliance Plan

PURPOSE AND EFFECT: The purpose of the rule is to update firefighter health and safety standards and clarify requirements.

SUMMARY: The rule amendments clarify that a firefighter employer's safety and health training program must be documented in writing, and must include supervisor training that includes NIMS training as outlined in Homeland Security Presidential Directive 5 (HSPD 5), adopted by reference, and training commensurate to their duties of management, command, and control. Firefighter employees and supervisors who provide response, rescue and or mitigation to non-traditional fire suppression activities, must receive specialized training in these areas. Firefighter employers must document that emergency vehicle operators are familiar with all vehicles prior to operating them. Firefighter employers subject to inspection will be notified and provided an inspection report electronically. If corrective action is required, the amendments provide the mechanism for plan submission and approval. Reinspection will occur within one year of plan approval. Other changes do not affect the substance of the rules.

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

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

RULEMAKING AUTHORITY: 633.01(1), 633.45(1)(a), 633.803, 633.805, 633.808, 633.821 FS.

LAW IMPLEMENTED: 633.45(1)(a), 633.805, 633.807, 633.808, 633.809, 633.817, 633.821 FS.

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

DATE AND TIME: Thursday, December 16, 2010, 10:30 a.m.

PLACE: Auditorium, State Fire College, 11655 NW Gainesville Road, Ocala, Florida 34482

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Charlie Brush, Health and Safety Program Manager, (352)369-2836; Charlie.Brush@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Charlie Brush, Health and Safety Program Manager, (352)369-2836; Charlie.Brush@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69A-62.002 Uniform Minimum Firefighter Employment Standards; Adoption of National Fire Protection Association Standards.

(1) No change.

(2) The ~~codes and~~ standards published by the National Fire Protection Association adopted and incorporated in this Rule chapter by reference may be purchased from ~~obtained by writing to~~ the NFPA at: 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, or viewed on-line at www.NFPA.org. ~~All standards adopted and incorporated by reference in this rule are also available for public inspection during regular business hours at the Bureau of Fire Prevention, Division of State Fire Marshal, Department of Financial Services, 325 John Knox Road, The Atrium, Third Floor, Tallahassee, Florida 32303~~

Rulemaking Specific Authority 633.01(1), 633.45(1)(a), 633.808, 633.821 FS. Law Implemented 633.45(1)(a), ~~633.802~~, 633.821 FS. History—New 11-21-01, Formerly 4A-62.002, Amended 1-1-09, _____.

69A-62.021 Minimum Requirements for a General Guidelines Firefighter Employer Comprehensive Safety and Health Programs.

The following are the guidelines for a Firefighter Employer Comprehensive Safety and Health Program. These guidelines shall be used by all firefighter employers:

(1) No change.

(2) Safety Policies and Procedures ~~Rules~~. Each firefighter employer shall develop and implement a set of safety policies and procedures that rules which shall be at least equivalent to ~~or exceed applicable standards found in the Act or in Rules 69A-62.001 through 69A-62.045 F.A.C. adopted pursuant to the Act.~~

(3) Safety and Health Training Program. Each firefighter employer shall implement a written safety and health training program, which shall address or include:

(a) No change.

(b) Instructional training for supervisors to include National Incident Management System (NIMS) training as outlined in Homeland Security Presidential Directive 5 (HSPD 5), adopted herein by reference. A copy of the document can be obtained at <http://www.fas.org/irp/offdocs/nspd/hspd-5.html>. Supervisors shall receive additional training commensurate to their duties of management, command, and control.

(c) Specialized training as required by the rules of the division for those firefighter employees and supervisors who provide response, rescue and or mitigation to non-traditional fire suppression activities and any OSHA Standards and other applicable laws, rules or regulations.

(d) The firefighter employer shall ensure and document that each ~~Each~~ authorized emergency vehicle operator ~~shall possess documentation that he or she has completed at least a 16-hour course of instruction, approved by the division, on driving an authorized emergency vehicle, as defined by Section 316.003(1), F.S., which includes, at a minimum, classroom and behind-the-wheel training in a vehicle of the largest same size, type and class as the emergency vehicle operator may will be assigned to operate. Additionally, emergency vehicle operators shall be familiarized with all vehicles prior to operating the vehicle. The training shall consist of the following as outlined below:~~

1. No change.

2. Practical.

a. through c. No change.

~~d. Steering technique during a skid; a skid pad is optional.~~
~~d.e. Turn-around-steering technique; fender judgment, road position, controlled braking, controlled acceleration, understeer, oversteer and chassis set.~~

(e) through (g) No change.

(h) A procedure for and the An analysis of accidents, illnesses and injuries experienced by the firefighter employer to determine both the cause of the incident and methods for future prevention ~~specific additional training that may be needed.~~

(i) A training program outline of classes to be delivered including topics and objectives.

~~(j) A comprehensive training program content.~~

~~(j)(k) A hazard identification system.~~

~~(l) A new firefighter employee indoctrination program.~~

(k)(m) No change.

(4) Each firefighter employer shall assure that training and education are conducted frequently enough to assure that each firefighter is able to perform the firefighter's assigned duties and functions satisfactorily and safely, in a safe manner so as not to endanger such firefighter or any other firefighter. Training shall be provided on as needed basis and must be provided at least annually. In addition, firefighters who are expected to perform interior structural firefighting shall be provided with an education session or training at least quarterly. All such training shall be documented and a permanent record of attendance shall be kept.

(5) through (7) No change.

Rulemaking Specific Authority 633.803, 633.804, 633.805, 633.808, 633.821 FS. Law Implemented 633.804, 633.805, 633.807, 633.808, 633.809, 633.821 FS. History-New 9-6-04, Amended 6-6-07, 1-1-09, _____.

69A-62.022 Firefighter Employer ~~Comprehensive~~ Safety and Health ~~Remediation~~ Compliance Plan.

(1) Firefighter All firefighter employers identified through Rule 69A-62.023, F.A.C., by an investigative recommendation or by a substantiated complaint, shall be inspected for compliance with the requirements of Rule Chapter 69A-62, F.A.C. Deficiencies and recommendations, if any, will be noted in an inspection report delivered to the firefighter employer electronically. No later than and notified by the division as having a high frequency or severity of work related injuries and illnesses shall submit their Firefighter Employer Comprehensive Safety and Health Remediation Program to the division for approval within one hundred twenty (120) days after receipt of the inspection report the firefighter employer shall submit a Firefighter Employer Safety and Health Compliance Plan (Plan) to the Division notice.

(2) The Firefighter Employer Comprehensive Safety and Health Remediation Compliance Plan shall specify the action to be taken and the time needed for the firefighter employer to correct each deficiency identified and address each recommendation made in the inspection report. Any individual deficiency specifying a completion time greater than one year from the date of submission is not acceptable unless necessary to achieve the correction and justified in the Plan contain or address the specific components listed under the "General Guidelines for Firefighter Employer Comprehensive Safety and Health Programs" set forth in Rule 69A-62.021, F.A.C. The Plan shall be:

(a) Approved if it includes the correction of all deficiencies and addresses all recommendations noted with a completion date that is either less than one year from the date of submission, or a later date which is justified in the Plan;

(b) Deemed approved if not disapproved electronically within 60 days of receipt, and

(c) Disapproved if all deficiencies and recommendations are not addressed or a completion date greater than one year from the date of Plan submission is not justified.

(3) If a firefighter employer fails to submit a timely Firefighter Employer Comprehensive Safety and Health Remediation Plan to the Division, if the Plan is not approved after one re-submission, or if deficiencies are not timely corrected in accordance with the approved Plan, division the firefighter employer shall be subject to a penalty as prescribed in Section 633.811, F.S. (2003), or as otherwise provided by law.

(4) The Division shall conduct a re-inspection at a mutually agreeable time but in no case longer than 1 year from the date of Plan approval. continuous evaluation of each approved plan to determine its overall effectiveness.

Rulemaking Specific Authority 633.803, 633.809, 633.813 FS. Law Implemented 633.809, 633.817 FS. History-New 9-6-04, Amended 6-6-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Charlie Brush
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 10, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF COMMUNITY AFFAIRS Division of Community Planning

RULE NOS.:	RULE TITLES:
9J-5.003	Definitions
9J-5.006	Future Land Use Element
9J-5.013	Conservation Element
9J-5.019	Transportation Element

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 39, October 1, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF REVENUE Sales and Use Tax

RULE NO.:	RULE TITLE:
12A-1.094	Public Works Contracts