

65E-10.019 Cost Sharing.

Rulemaking Specific Authority 394.4781(3)(c) FS. Law Implemented 394.4781(3)(c), (4), 409.2561 FS. History—New 3-1-84, Formerly 10E-10.19, 10E-10.019, Repealed.

65E-10.021 Standards for Residential Treatment Programs Serving Emotionally Disturbed Children and Adolescents.

Rulemaking Specific Authority 394.4781(3), (4) FS. Law Implemented 394.4781(3) FS. History—New 3-1-84, Formerly 10E-10.21, Amended 4-8-96, Formerly 10E-10.021, Amended 9-14-98, Repealed.

## Section II Proposed Rules

### 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 Section 501.605, F.S. and Section 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. 8-01-10, or DACS Form 10005, Commercial Telephone Salesperson Individual License Application Packet, Rev. 8-01-10. 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. 8-01-10, 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. 8-01-10, 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.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Mazey Strauss, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, phone (850)410-3848

**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 Section 501.605(2)(a) and Section 501.607(1)(a), F.S., 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 commercial 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, Florida Telemarketing Act Material Change Form, Rev. 8/10, hereby incorporated by reference Statement of Verification 10001. 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: Mazey Strauss, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida, 32399-6500, phone (850)410-3848

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 10, 2010

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Florida Communities Trust**

RULE NOS.:	RULE TITLES:
9K-7.003	General Requirements and Eligibility Standards
9K-7.009	Project Approval

PURPOSE AND EFFECT: To include concise language in Chapter 9K-7, F.A.C., regarding when application cycles will be held and when funding can be applied to prior ranked and approved projects.

SUMMARY: Proposal to eliminate the requirement that FCT announce the amount of Florida Forever bond funds in the Notice of Application Period published in the Florida Administrative Weekly and to allow FCT to apply available funds to prior ranked and approved projects if funds become available prior to the next noticed Application cycle.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There are no regulatory costs nor will this rulemaking impact 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: 380.507(11) FS.

LAW IMPLEMENTED: 259.105, 380.505-.515 FS.

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

DATE AND TIME: January 20, 2011, 10:00 a.m.

PLACE: Randall Kelley Training Room, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Ken Reecy, FCT Administrator, 2555 Shumard Oak Blvd., Tallahassee, FL 32399, (850)922-1701. 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: Ken Reecy, FCT Administrator, 2555 Shumard Oak Blvd., Tallahassee, FL 32399, (850)922-1701

THE FULL TEXT OF THE PROPOSED RULES IS:

9K-7.003 General Requirements and Eligibility Standards.

The following constitutes the general procedures for the Florida Forever Program of the Florida Communities Trust (FCT).

(1) No change.

(2) Notice of Application Period. The Trust shall announce ~~the amount of Florida Forever bond funds available for Awards,~~ the limitation on Award amounts, and applicable deadlines in the Notice of Application Period published in the Florida Administrative Weekly.

(3) through (11) No change.

Rulemaking Authority 380.507(11) FS. Law Implemented 259.105, 380.505-.515 FS. History—New 5-27-01, Amended 5-20-02, 2-7-05, 2-19-07, 2-8-10,\_\_\_\_\_.

9K-7.009 Project Approval.

(1) through (2) No change.

(3) If for any reason funds awarded ~~to an approved project~~ become available prior to the ranking and selection meeting for the next noticed Application cycle, those funds may be committed to other ranked and approved project(s) ~~based upon available funds.~~

(4) through (6) No change.

Rulemaking Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.510 FS. History—New 6-25-01, Amended 5-20-02, 2-7-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ken Reecy, FCT Administrator, 2555 Shumard Oak Blvd., Tallahassee, FL 32399, (850)922-1701

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 1, 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."

**STATE BOARD OF ADMINISTRATION**

RULE NOS.:	RULE TITLES:
19-8.029	Insurer Reporting Requirements
19-8.030	Insurer Responsibilities

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

SUMMARY: The rules are being amended to adopt 2011/2012 Contract Year forms. Substantive changes are as follows: Rule 19-8.029, F.A.C., Insurer Reporting Requirements, is being amended to adopt the 2011/2012 Data Call and the 2011/2012 Interim and Proof of Loss forms. Rule 19-8.030, F.A.C., Insurer Responsibilities, is being amended to adopt the 2011/2012 Exposure and Loss Examination Advance Preparation Instructions and to adopt the 2011/2012 Interim and Proof of Loss forms.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A SERC has been prepared by the agency for Rule 19-8.029, F.A.C., and is available by contacting Tracy Allen at the address, telephone number or e-mail address listed below. A SERC has not been prepared for Rule 19-8.030, F.A.C. The following is a summary of the SERC: No adverse impact on economic growth, private-sector job creating or employment, or private sector investment. No adverse impact on business competitiveness or innovation. Minimal regulatory costs for the 172 participating insurers to make minor one-time programming changes. No increased spending for the Agency anticipated. No costs to other states, local governmental entities, small counties or small cities. No impact on state or local revenues.

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

RULEMAKING AUTHORITY: 215.555(3) FS.  
 LAW IMPLEMENTED: 215.555(2), (3), (4), (5), (6), (7), (10), (16), (17) FS.  
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tracy Allen, 1801 Hermitage Blvd., Tallahassee, FL 32308, (850)413-1341 or tracy.allen@sbafla.com

THE FULL TEXT OF THE PROPOSED RULES IS:

19-8.029 Insurer Reporting Requirements.

(1) through (2) No change.

(a) Citizens Property Insurance Corporation or “Citizens” means the entity formed under Section 627.351(6), F.S., and includes both the High Risk Account and the Personal Lines and Commercial Lines Accounts.

(b) through (d) No change.

(e) Data Call means the annual reporting of insured values forms. These forms are the FHCF-D1A for Contract Years after the 2002/2003 Contract Year year and the FHCF-D1A and FHCF-D1B for the Contract Year 2002/2003 and all prior Contract Years years.

(f) through (g) No change.

(h) Loss Reporting Forms mean the FHCF-L1A and FHCF-L1B for Contract Years after the 2002/2003 Contract Year and means the FHCF-L1A, FHCF-L1B and FHCF-L1C for the Contract Years 2002/2003 and all prior Contract Years years.

(i) through (3)(a) No change.

(b) Confidentiality of reports containing insured values under Covered Policies. Section 215.557, F.S., enacted for the express purpose of protecting trade secret and proprietary information submitted to the FHCF by participating insurers, protects the confidentiality of information of the type submitted in the Data Call (FHCF-D1A), examination workpapers, and examination reports, or loss reports (FHCF-L1A, FHCF-L1B and Ssuch information is not subject to the provisions of Section 119.07(1), F.S., or Section 24(a), Article I of the Florida State Constitution. Confidential data and trade secrets reported to the FHCF are protected to the extent allowed by law.

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

(m) For the 2011/2012 Contract Year, the reporting shall be in accordance with Form FHCF-D1A, “Florida Hurricane Catastrophe Fund 2011 Data Call,” rev. 01/11, hereby adopted and incorporated by reference into this rule. The form may be obtained from the Fund’s Administrator at the address stated in subsection (6) below. A new participant writing covered

policies on or after June 1 but prior to December 1, shall report its actual exposure as of December 31 of the Contract Year on or before March 1 of the Contract Year, to the Administrator.

(5) through (6) No change.

(7)(a) For the 2005/2006 and earlier Contract Years the applicable Interim Loss Report is that form that was in effect for the Contract Year as reflected by the revision date on the form. For example, the applicable Interim Loss Report for the Contract Year 2004-2005 is the FHCF-L1A, with the revision date of 05/04 05/05.

(b) through (f) No change.

(g) For the 2011/2012 Contract Year, the applicable Interim Loss Report is the “Contract Year 2011 Interim Loss Report, Florida Hurricane Catastrophe Fund (FHCF),” FHCF-L1A, rev. 01/11, which is hereby adopted and incorporated by reference into this rule. The applicable Proof of Loss Report is the “Contract Year 2011 Proof of Loss Report, Florida Hurricane Catastrophe Fund (FHCF),” FHCF-L1B, rev. 01/11, which is hereby adopted and incorporated by reference into this rule. The forms may be obtained from the Fund’s Administrator at the address stated in subsection (6) above.

(8) No change.

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

19-8.030 Insurer Responsibilities.

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

(i) Data Call means the annual reporting of insured values forms. These forms, as adopted and incorporated into Rule 19-8.029, F.A.C., are the FHCF-D1A for Contract Years after the 2002/2003 Contract Year year and the FHCF-D1A and FHCF-D1B for Contract Year 2002/2003 and all prior Contract Years years.

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

1. For the 2010/2011 and earlier Contract Years, eEach Insurer required to participate in the FHCF must designate a coverage level in the annual Reimbursement Contract, make any required selections therein and execute the Reimbursement Contract and applicable Addenda so that the Contract, including the schedules and applicable Addenda, have been received by June 1 of each Contract Year.

2. For the 2011/2012 and subsequent Contract Years, each Insurer required to participate in the FHCF must designate a coverage level in the annual Reimbursement Contract, make any required selections therein and execute the Reimbursement Contract and applicable Addenda so that the Contract, including the schedules and applicable Addenda, have been received by the March 1 prior to each Contract Year.

(b) through (c) No change.

(d) Optional coverages authorized by law must be chosen by current participants by executing and returning the applicable Addenda to the Reimbursement Contract ~~by June 1~~ of the relevant Contract Year by the date required. New Participants choosing optional coverage must execute and return the applicable Addenda to the Reimbursement Contract for the relevant Contract Year prior to the time in which a covered loss occurs and within 30 days of writing its first covered policy. Any current or New Participant failing to meet these deadlines shall not be eligible for such optional coverage.

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

(d) Resubmissions of Data: With one exception noted below, any Insurer which submits a Data Call, Form FHCF-D1A, with incorrect data, incomplete data, or data in the wrong format and is required to resubmit will be given 30 days from the date on the letter from the FHCF notifying the Insurer of the need to resubmit. An extension of 30 days will be granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the ~~Insurer participant~~. Exception: If the Insurer, at the time it receives notice of the need to resubmit, has already been issued a notice of examinations, the usual 30 day time limitation (measured from the date of the letter giving notice of the need to resubmit) does not apply. In this situation, the time period in which the Insurer must resubmit is measured by counting backwards 30 days from the date that the examinations are scheduled to begin as reflected on the notice of examinations letter. The FHCF needs the information prior to the examinations; thus, no extensions can be granted.

(6)(a) No change.

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

(c) through (d) No change.

(7) Examination Requirements. A Company is required to prepare and retain an examination file in accordance with the specifications outlined in the Data Call instructions and a detailed claims listing to support losses reported on the Proof of Loss Report. Such records must be retained until the FHCF has completed its examination of a Company's exposure submission and any loss reports applicable to the Data Call Contract Year and commutation for the Contract Year (if applicable) has been concluded. The records provided for

examination must be from the examination file as originally prepared unless a subsequent resubmission was sent to the FHCF. Note that both Citizens and Insurers participating in Quota Share Primary Insurance Arrangements must keep complete and accurate records, including copies of policy declaration pages and supporting claims documents, for the purpose of exposure and loss reimbursement examinations by the FHCF.

(a) Advance Examination Record Requirements: Within 30 days from the date on the letter from the FHCF, Companies are required to provide the FHCF with the records indicated in the applicable Contract Year's, "Exposure Examination Advance Preparation Instructions" or in the applicable Contract Year's "Loss Reimbursement Examination Advance Preparation Instructions". An extension of 30 days may be granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the ~~Insurer participant~~.

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

2. For the 2004/2005 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Audit – Contract Year 2004 Advance Preparation Instructions," FHCF-API, rev. 5/04. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2004 Advance Preparation Instructions," FHCF-LAP1, ~~rev.~~ 05/06.

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

4. For the 2006/2007 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2006 Advance Preparation Instructions," FHCF-EAP1, rev. 5/06. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year XXXX Advance Preparation Instructions," FHCF-LAP1, ~~rev.~~ 05/06.

5. through 8. No change.

9. For the 2011/2012 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination –

Contract Year 2011 Advance Preparation Instructions.” FHCf-EAP1, rev. 01/11. The applicable loss examination instructions form is the “Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2011 Advance Preparation Instructions,” FHCf-LAP1, rev. 01/11.

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

(b) On-site Examination Record Requirements: The FHCf-EAP1, “Exposure Examination Advance Preparation Instructions” form and the FHCf-LAP1, “Loss Reimbursement Examination Advance Preparation Instructions” form each contain a list of the information that the Companies must have available, on-site, on the date the exposure or loss examination is to begin. These records must be made available to the FHCf examiner upon request.

(c) through (8)(e) No change.

(f) For the Contract Year 2011-2012, the applicable “Florida Hurricane Catastrophe Fund Interim Loss Report,” is the FHCf-L1A rev. 01/11 and the applicable “Florida Hurricane Catastrophe Fund Proof of Loss Report,” is the FHCf-L1B rev. 01/11. These forms are hereby adopted and incorporated by reference into this rule.

(g) These forms are hereby adopted and incorporated by reference into this rule and may be obtained from the Fund’s Administrator, Paragon Strategic Solutions Inc., 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, Minnesota 55437. Companies must submit a detailed claims listing (in a delimited ASCII format) to support the losses reported in the FHCf-L1B, Proof of Loss Report, at the same time it submits its first Proof of Loss Report for a specific Covered Event that qualifies the Company for reimbursement under that Covered Event, and should be prepared to supply a detailed claims listing for any subsequent Proof of Loss Report upon request. Refer to Form FHCf-LAP1 for the required file layout. The Proof of Loss Report and the detailed claims listing are required to be sent to the FHCf Administrator, Paragon Strategic Solutions Inc., at the address listed above. If your Company submits its Proof of Loss Reports electronically through the FHCf’s Online Claims System at [www.sbafla.com/fhcf](http://www.sbafla.com/fhcf), the detailed claims listing may be attached to the Company’s submission.

(9) No change.

(a) Resubmissions of Data: A \$1,000 resubmission fee (for resubmissions that are not the result of an examination by the SBA) will be invoiced by the FHCf for each submission. If a resubmission is necessary as a result of an examination report issued by the SBA, the resubmission fee will be \$2,000. If a Company’s examination-required resubmission is inadequate

and the SBA requires an additional resubmission(s), the resubmission fee for each subsequent resubmission shall be \$2,000.

(b) No change.

(c) Consequences for Failure to meet the requirements contained in the FHCf-EAP1, “Exposure Examination Advance Preparation Instructions,” the FHCf-LAP1, “Loss Reimbursement Examination Advance Preparation Instructions,” or the on-site examination record requirements in a timely manner: In addition to other penalties or consequences, the FHCf has the authority, pursuant to Section 215.555(4)(f), F.S., to require that the Insurer pay for the following services under the circumstances outlined below:

1. If an examination is delayed, cannot be conducted as scheduled or cannot be completed and the Insurer is responsible for such, the Insurer shall be required to reimburse the FHCf for all the usual and customary expenses connected to such delay, cancellation or incompleteness.

2. If the FHCf finds any Insurer’s records or other necessary information to be inadequate or inadequately posted, recorded, or maintained, the FHCf may employ experts to reconstruct, rewrite, record, post, or maintain such records or information, at the expense of the Insurer being examined.

3. An Insurer required to reimburse the FHCf for costs as outlined in subparagraphs 1. and 2. immediately above, will owe interest on the amount owed to the FHCf from the date the FHCf pays such expenses until the date payment from the Insurer is received. The applicable interest rate will be the average rate earned by the SBA for the FHCf for the first four ~~five~~ months of the current Contract Year plus 5%. Also, the payment of reimbursements or refunds by the FHCf to any Insurer will be offset by any amounts owed by that Insurer to the FHCf.

(10) No change.

(11) Optional Coverage Programs: Except as provided in this subsection, this rule applies to the Additional Coverage Option created in Section 215.555(4)(b)4., F.S., and the Temporary Emergency Additional Coverage Option (“TEACO”) created in Section 215.555(16), F.S., and the Temporary Increase in Coverage Limit Options option created in Section 215.555(17), F.S. (“TICL”). ~~The definition of Premium in paragraph (3)(m), above, does not apply to TEACO. With respect to this Option, the word “Premium” when used in this rule shall refer to the amount payable under Section 215.555(16)(f), F.S., for this optional coverage. The definition of Premium in paragraph (3)(m), above, does not apply to Section 215.555(4)(b)4., F.S., Additional Coverage Option. With respect to this Option, the word “Premium” when used in this rule shall refer to the amount payable under Section 215.555(4)(b)4., F.S., for this optional coverage.~~

(12) No change.

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 10, 2010

**EXECUTIVE OFFICE OF THE GOVERNOR**

**Florida Energy & Climate Commission**

RULE NO.: 27N-1.500  
RULE TITLE: Solar Energy Systems Incentives Program

PURPOSE AND EFFECT: This chapter implements the Florida Renewable Energy Technologies Act, providing for rebates for solar energy systems. The Solar Energy Systems Incentives Program sunset June 30, 2010.

SUMMARY: Rule 27N-1.500, F.A.C., Solar Energy Systems Incentives Program.

- a) Revised application submission guidelines.
- b) Created online application process.

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

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

RULEMAKING AUTHORITY: 377.6015, 377.804(3), 377.806(7), 220.192(3) FS.

LAW IMPLEMENTED: 377.6015, 377.803, 377.804, 377.806, 377.808, 220.192 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: Jacqueline Warr at (850)487-3800

THE FULL TEXT OF THE PROPOSED RULE IS:

27N-1.500 Solar Energy Systems Incentives Program.

Rulemaking ~~Specific~~ Authority 377.6015, 377.806(7) FS. Law Implemented 377.6015, 377.801, 377.802, 377.803, 377.806 FS. History--New 10-22-07, Formerly 62-16.500, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jeremy Susac

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alexander Mack

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

**ADMINISTRATION COMMISSION**

RULE NOS.:	RULE TITLES:
28-18.100	Purpose and Effect
28-18.300	Work Program Administration
28-18.400	Comprehensive Plan

PURPOSE AND EFFECT: Proposal to adopt new rules for the City of Marathon Purpose and Effect, Work Program Administration and Comprehensive Plan to implement the Section 380.0552(4), Florida Statutes, annual reporting requirement to the Administration Commission describing the progress of the City of Marathon in accomplishing the remaining tasks under the Work Program as set forth in Rule 28-20.110, F.A.C., that are necessary prior to the removal of the Florida Keys Area of Critical State Concern designation

SUMMARY: The proposed rules for the City of Marathon Comprehensive Plan identify the individual Work Program tasks set forth in Rule 28-20.110, F.A.C., and the completion dates of the Work Program tasks necessary for consideration by the Administration Commission prior to Removal of the Area of Critical State Concern Designation. As required by Section 380.0552(4), Florida Statutes, the Work Program tasks specified in Administration Commission rules must be reported annually. The protection of the natural environment of the Florida Keys, and the identification of and progress in accomplishing the tasks under Work Program (as set out in Rule 28-20.110, F.A.C.) is reported to the Department of Community Affairs for the preparation of a written annual report to the Administration Commission. The Work Program tasks include the continued implementation of the Wastewater Master Plan and the construction of wastewater treatment and collection facilities; the continued implementation of the Florida Keys Carrying Capacity Study; the identification and completion of stormwater projects; and the analysis of hurricane evacuation issues in the Florida Keys. As noted below, the rule numbers for Work Program Administration and Comprehensive Plan have been changed (28-18.200 changed to 28-18.300; 28-18.300 changed to 28-18.400).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been 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: 380.0552(9), 380.05(22) FS.

LAW IMPLEMENTED: 380.0552 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: January 10, 2011, 10:00 a.m.

PLACE: Department of Community Affairs, 2555 Shumard Oak Boulevard, Room 305, Tallahassee, Florida 32399-2100

A SECOND POST LEGISLATIVE RATIFICATION HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW.

DATE AND TIME: May 17, 2011, 9:00 a.m.

PLACE: Cabinet Meeting Room, Room LL03, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Barbara Powell, Planning Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone (850)922-1782. 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: Barbara Powell, Planning Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Telephone (850)922-1782

THE FULL TEXT OF THE PROPOSED RULES IS:

28-18.100 Purpose and Effect.

(1) The purpose of this Chapter is to amend the Comprehensive Plan of the City of Marathon, effective date of May 5, 2005, within the Florida Keys Area of Critical State Concern, pursuant to Section 380.0552(9), F.S. In order to provide an accurate record of the amendments approved by this chapter, each set of amendments is set forth in a separate rule section. If any provision of the comprehensive plan is amended by two rule sections, the latest amendment shall control.

(2) As provided in Sections 380.05(10) and 380.0552(7), F.S., the Comprehensive Plan of the City of Marathon adopted herein shall be superseded by amendments which are proposed by Marathon and approved by the Department of Community Affairs pursuant to Sections 380.05(6) and 380.0552(9), F.S.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History—New \_\_\_\_\_.

28-18.300 Work Program Administration.

[THIS WAS PREVIOUSLY ADVERTISED IN THE FAW (RULE DEVELOPMENT) AS 28-18.200.]

(1) Pursuant to Section 380.0552(4) paragraph (b), the Department of Community Affairs (Department) shall submit a written annual report to the Administration Commission on November 30, 2011 and each year thereafter, until such time as the designation is removed, describing the progress of the Florida Keys Area toward accomplishing remaining tasks under the work program (as set out in Rule 28-20.110, F.A.C. and Rule 28-18.400, F.A.C.), and providing a recommendation as to whether progress toward accomplishing the tasks of the work program has been achieved.

(2) The Department of Community Affairs shall recommend to the Administration Commission the removal of designation when the removal of designation criteria of Section 380.0552(4), F.S., is achieved.

(3) For tasks in the work program related to water quality, the Department of Community Affairs shall request assistance from appropriate federal, state, regional, and local agencies and request to contribute any relevant data, analysis and recommendations, and take an active role in assisting the City in completing the task. Each agency shall prepare a section to be included in the Department's reports which indicates the agency's actions relative to the work program. The Department of Community Affairs shall specifically request that the Florida Keys National Marine Sanctuary Water Quality Protection Program Steering Committee (Water Quality Steering Committee) take an active role to allocate funding or provide staff to monitor nearshore waters, as necessary, for nutrient reductions.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History—New \_\_\_\_\_.

28-18.400 Comprehensive Plan.

[THIS WAS PREVIOUSLY ADVERTISED IN THE FAW (RULE DEVELOPMENT) AS 28-18.300.]

(1) The Comprehensive Plan of the City of Marathon, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 1-3.5.18 Marathon Work Program Conditions and Objectives.

(a) The number of allocations issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 30, plus any available unused BPAS allocations from a previous year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13. Policy 1-3.5.18 supersedes Policy 1-3.5.2 of the City of Marathon Comprehensive Plan.



(b) No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27, 2005 for affordable housing between the Department and the local government in the critical areas.

(c) Allocations and permits to construct a new development or redevelopment that requires a modification or a repair to the onsite sewage treatment and disposal system, per Section 381.0065(4)(l) and Section 403.086(10), F.S., and subsection 64E-6.001(4), F.A.C., shall not be issued unless the unit is connected to or will be connected to a central sewer system that has committed funding, a construction permit from the Department of Environmental Protection and the collection system is physically under construction, or the unit has an onsite sewage treatment and disposal system that meets the treatment and disposal requirements of Section 381.0065(4)(l) and Section 403.086(10), F.S.

(d) Through the Permit Allocation Systems, Marathon shall direct new growth and redevelopment to areas served by a central sewer system that has committed funding, a construction permit from the Department of Environmental Protection and is physically under construction. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, Marathon shall coordinate with the central wastewater facility provider and shall increase an applicant's score by four points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Sections 381.0065(4)(l) and 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a design permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(e) Beginning November 30, 2011, Marathon and the Department of Community Affairs shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by at least 20 percent for the following year.

(f) If the Commission determines that progress has been made for the work program year, then the Commission shall restore the unit cap for residential development for the following year up to a maximum of 30 allocations per BPAS year.

(g) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(h) Wastewater treatment and disposal in Marathon is governed by the requirements of Sections 381.0065(4)(l) and 403.086(10), F.S., as amended. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or Department of Health to enforce Section 381.0065(4)(l) and 403.086(10), F.S., as amended.

(3) Policy 1-2.2.4 Hurricane Modeling.

For hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for the permanent population for a category C-E hurricane event. The termination point shall be the intersection of U.S. Highway One and the Florida turnpike in Homestead/Florida City.

(4) WORK PROGRAM. Local government annual tasks to achieve progress are the remaining tasks of the Work Program from Rule 28-20.110, F.A.C., and Rule 28-18.400, F.A.C. Hurricane Evacuation tasks from Year 8, Task Q of the Work Program in Rule 28-20.110, F.A.C. Carrying Capacity & Habitat Protection tasks from Year 6, Task C; and Year 8, Task F of the Work Program in Rule 28-20.110, F.A.C. Wastewater tasks from Year 4, Task A; Year 6, Task A; Year 7, Task A of the Work Program in Rule 28-20.110, F.A.C. Water Quality tasks from Year 8, Task M of the Work Program in Rule 28-20.110, F.A.C.

(a) Carrying Capacity Study Implementation.

1. By July 1, 2011, Marathon shall adopt a Comprehensive Plan Policy to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any city, county, state or federal agency. Marathon shall develop a mechanism to routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least 6 months prior to the deadline for administrative relief.

2. By July 1, 2011, Marathon shall adopt Land Development Regulations to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any city, county, state or federal agency.

3. By July 1, 2011, Marathon shall amend the Comprehensive Plan to limit allocations into high quality tropical hardwood hammock.

4. By July 1, 2011, Marathon shall amend the Land Development Regulations to limit allocations into high quality tropical hardwood hammock.

5. By July 1, 2011, Marathon shall adopt a Comprehensive Plan Policy discouraging private applications for future land use map amendments which increase allowable density/intensity on lands in the Florida Keys.

6. By July 1, 2011 and each July thereafter, Marathon shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition grant program.

7. By July 1, 2011, Marathon shall enter into a memorandum of understanding with the Department of Community Affairs, Division of Emergency Management, Monroe County, Islamorada, Key West, Key Colony Beach, and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department of Community Affairs to accurately depict evacuation clearance times for the population of the Florida Keys.

8. By July 1, 2011, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding. Marathon and the Department of Community Affairs shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Business and Economic Research, and other studies). The City shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

9. By December 1, 2011, Marathon shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Community Affairs, Monroe County and each municipality in the Keys.

10. By December 1, 2011, the Department of Community Affairs shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour hurricane evacuation clearance time. If necessary, the Department of Community Affairs shall work with each local government to amend the respective

Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.

11. By July 1, 2012, based on the Department of Community Affairs' recommendations, Marathon shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity, and hurricane evacuation clearance time.

(b) Wastewater Implementation.

1. By July 1, 2011 and each July 1 thereafter, Marathon shall annually evaluate and allocate funding for wastewater implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011, Marathon shall provide a final determination of service areas requiring upgrade to meet Section 381.0065(4)(1) and 403.086(10), F.S., wastewater treatment and disposal standards. This shall be in the form of a resolution, including a map of the non-service areas. The Department of Health, Marathon, and the City's wastewater provider shall explore possible mechanisms to provide upgrades and central management of onsite sewage treatment and disposal systems located in non-service areas of the City. By March 1, 2013, the Department of Health will provide an update to the Department of Community Affairs describing the mechanisms discussed by the parties and the results of those discussions.

3. By July 1, 2011, Marathon shall work with the owners of wastewater facilities throughout the City and the Department of Environmental Protection (DEP) and the Department of Health (DOH) to fulfill the requirements of Sections 381.0065(4)(1) and 403.086(10), F.S., regarding wastewater treatment and disposal. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet 2015 treatment and disposal requirements.

4. By July 1, 2011, Marathon shall adopt an ordinance establishing the upgrade program with implementation dates, time frames, and enforcement for upgrading on-site systems and package plants in non-service areas.

5. By July 1, 2011, Marathon shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.

6. By July 1, 2011, Marathon shall continue to develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities.

7. By July 1, 2011 and each year through 2013, Marathon shall annually draft a resolution requesting the issuance of a portion of the \$200 million of bonds authorized under Section

215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.

8. By July 1, 2011, Marathon shall develop a mechanism to provide accurate and timely information and establish annual funding allocations necessary to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.

9. Beginning July 1, 2013 and each July 1 thereafter, Marathon shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department and the Department of Community Affairs. This report shall describe the status of enforcement action and provide the circumstances of why enforcement may or may not have been initiated. The Monroe County Department of Health and Department of Community Affairs may proceed with enforcement as necessary and appropriate.

(c) Wastewater Project Implementation.

1. Sub area 1: Knight's Key.

a. By July 1, 2011, Marathon shall secure plant site; and

b. By December 1, 2011, Marathon shall construct Knight's Key Wastewater Plant; and

c. By May 1, 2012, Marathon shall initiate connections; and

d. By July 1, 2012, Marathon shall complete connections (100%).

2. Sub area 2: Boot Key (non-service area).

By July 1, 2011, Marathon shall ensure completion of upgrade.

3. Sub area 3: 11 Street – 39 Street (Vaca Key West).

a. By July 1, 2011, Marathon shall complete construction of plant; and

b. By July 1, 2011, Marathon shall complete construction of collection system; and

c. By July 1, 2011, Marathon shall initiate connections; and

d. By July 1, 2012, Marathon shall complete connections (100%).

4. Sub area 4: Gulfside 39 Street (Vaca Key Central).

By July 1, 2013, Marathon shall complete connections (100%).

5. Sub area 5: Little Venice (60 Street – Vaca Cut East).

a. By July 1, 2012, Marathon shall complete construction of collection system; and

b. By July 1, 2012, Marathon shall initiate connections for Phase II; and

c. By July 1, 2013, Marathon shall complete connections (100%) for Phase II.

6. Sub area 6-Vaca Cut-Coco Plum (Fat Key Deer West).

By July 1, 2011, Marathon shall complete connections (100%).

7. Sub area 7: Tom Harbor Bridge-Grassy Key.

a. By July 1, 2012, Marathon shall complete construction of plant; and

b. By July 1, 2012, Marathon shall bid and award design of collection system; and

c. By July 1, 2012, Marathon shall construction of collection system; and

d. By July 1, 2012, Marathon shall initiate connections; and

e. By July 1, 2013, Marathon shall complete connections (100%).

(d) Stormwater Treatment Facilities.

1. Beginning July 1, 2011 and each July 1 thereafter Marathon shall annually evaluate and allocate funding for stormwater implementation. Marathon shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. Beginning July 1, 2010 and each July 1 thereafter, Marathon shall annually apply for stormwater grants from the South Florida Water Management District.

3. Sub area 3: 11 Street – 37 Street (Vaca Key West): By July 1, 2011, complete Stormwater Treatment Facilities simultaneously with wastewater projects, including the direct outfall retrofits for 27th Street and 24th Street.

4. Sub area 5: Little Venice (60 Street – Vaca Cut East): By July 1, 2012, complete Stormwater Treatment Facilities simultaneously with wastewater projects.

5. Sub area 7: Tom Harbor Bridge-Grassy Key: By July 1, 2012, complete Stormwater Treatment Facilities simultaneously with wastewater projects.

6. By July 1, 2012, Marathon shall eliminate direct outfall retrofits for: 27th Street, Sombrero Islands, 24th Street, and 52nd Street.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jerry McDaniel, Secretary, Administration Commission  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Administration Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 2008 and February 6, 2009

**ADMINISTRATION COMMISSION**

RULE NOS.:	RULE TITLES:
28-19.300	Work Program Administration
28-19.310	Comprehensive Plan

PURPOSE AND EFFECT: Proposal to adopt new rules for the Village of Islamorada Work Program Administration and Comprehensive Plan to implement the Section 380.0552(4),

Florida Statutes, annual reporting requirement to the Administration Commission describing the progress of the Village of Islamorada in accomplishing the remaining tasks under the Work Program as set forth in Rule 28-20.110, F.A.C., that are necessary prior to the removal of the Florida Keys Area of Critical State Concern designation.

**SUMMARY:** The proposed rules for the Village of Islamorada Comprehensive Plan identify the individual Work Program tasks set forth in Rule 28-20.110, F.A.C., and the completion dates of the Work Program tasks necessary for consideration by the Administration Commission prior to Removal of the Area of Critical State Concern Designation. As required by Section 380.0552(4), Florida Statutes, the Work Program tasks specified in Administration Commission rules must be reported annually. The protection of the natural environment of the Florida Keys, and the identification of and progress in accomplishing the tasks under Work Program (as set out in Rule 28-20.110, F.A.C.) is reported to the Department of Community Affairs for the preparation of a written annual report to the Administration Commission. The Work Program tasks include the continued implementation of the Wastewater Master Plan and the construction of wastewater treatment and collection facilities; the continued implementation of the Florida Keys Carrying Capacity Study; the identification and completion of stormwater projects; and the analysis of hurricane evacuation issues in the Florida Keys.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** A Statement of Estimated Regulatory Costs has been 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:** 380.0552(9), 380.05(22) FS.

**LAW IMPLEMENTED:** 380.0552 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:** January 10, 2011, 10:00 a.m.

**PLACE:** Department of Community Affairs, 2555 Shumard Oak Boulevard, Room 305, Tallahassee, Florida 32399-2100

**A SECOND POST LEGISLATIVE RATIFICATION HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW.**

**DATE AND TIME:** May 17, 2011, 9:00 a.m.

**PLACE:** Cabinet Meeting Room, Room LL03, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Barbara Powell, Planning Analyst, Department of

Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone (850)922-1782. 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:** Barbara Powell, Planning Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone (850)922-1782

**THE FULL TEXT OF THE PROPOSED RULES IS:**

28-19.300 Work Program Administration.

(1) Pursuant to Section 380.0552(4)(b), F.S., the Department of Community Affairs shall submit a written annual report to the Administration Commission on November 30, 2011 and each year thereafter, until such time as the designation is removed, describing the progress of the Florida Keys Area toward accomplishing remaining tasks under the work program (as set out in Rules 28-20.110 and 28-19.310, F.A.C.), the fulfillment of the legislative intent and providing a recommendation as to whether progress toward accomplishing the tasks of the work program has been achieved.

(2) The Department of Community Affairs shall recommend to the Administration Commission the removal of designation when the removal of designation criteria of Section 380.0552(4), F.S., is achieved.

(3) For tasks related to water quality in the work program, the Department of Community Affairs shall request assistance from appropriate federal, state, regional, and local agencies to contribute any relevant data, analysis and recommendations, and that they take an active role in assisting the Village in completing the task. Each agency shall prepare a section to be included in the Department's reports which indicates the agency's actions relative to the work program. The Department of Community Affairs shall specifically request that the Florida Keys National Marine Sanctuary Water Quality Protection Program Steering Committee (Water Quality Steering Committee) take an active role to allocate funding or provide staff to monitor nearshore waters, as necessary, for nutrient reduction.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History-New \_\_\_\_\_.

28-19.310 Comprehensive Plan.

(1) The Comprehensive Plan of of Islamorada, Village of Islands, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 1-3.1.1 Islamorada Work Program Conditions and Objectives.

(a) The number of permits issued annually for residential development under the Residential Building Permit Allocation System (BPAS) shall not exceed a total annual unit cap of 22

market rate units and 6 affordable housing units, plus any available unused BPAS allocations from the previous BPAS year. Unused BPAS allocations may be retained and made available only for affordable housing and Administrative Relief from BPAS year to BPAS year. Unused market rate allocations shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. This BPAS allocation represents the total number of allocations for development that may be issued during a year. A BPAS year means the twelve-month period beginning on July 13.

(b) No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27, 2005, for affordable housing between the Department and the local government in the area of critical state concern.

(c) Beginning November 30, 2011, the Village and the Department of Community Affairs shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved toward accomplishing the tasks of the work program. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by at least 20 percent for the following year.

(d) Allocations and permits to construct a new development or redevelopment that requires a modification or a repair to the onsite sewage treatment and disposal system, per Sections 381.0065(4)(1) and 403.086(10), F.S., and subsection 64E-6.001(4), F.A.C., shall not be issued unless the unit is connected to or will be connected to a central sewer system that has committed funding, a construction permit from the Department of Environmental Protection and the collection system is physically under construction or the unit has an onsite sewage treatment and disposal system that meets the treatment and disposal requirements of Sections 381.0065(4)(1) and 403.086(10), F.S.

(e) Through the Permit Allocation Systems, Islamorada shall direct new growth and redevelopment to areas connected to or that will be connected to a central sewer system that has committed funding, a construction permit from the Department of Environmental Protection and is physically under construction. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, the Village of Islamorada, shall coordinate with the central wastewater facility provider and shall increase an applicant's score by two points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has been constructed that meets the treatment standards of Sections

381.0065(4)(1) and 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a design permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(f) If the Commission determines that progress has been made for the work program year, then the Commission shall restore the unit cap for residential development for the following year up to a maximum of 28 allocations per BPAS year.

(g) Wastewater treatment and disposal in Islamorada is governed by the requirements of Sections 381.0065(4)(1) and 403.086(10), F.S. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or Department of Health to enforce Sections 381.0065(4)(1) and 403.086(10), F.S.

(h) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

#### (3) Policy 2-1. 2.10 Hurricane Modeling.

For hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for the permanent population for a category C-E hurricane event. The termination point shall be the intersection of U.S. Highway One and the Florida turnpike in Homestead/Florida City.

(4) WORK PROGRAM. Local government annual tasks to achieve progress are the remaining tasks of the Work Program from Rules 28-20.110 and 28-19.310, F.A.C. Hurricane Evacuation tasks from Year 8, Task Q of the Work Program in Rule 28-20.110, F.A.C. Carrying Capacity & Habitat Protection tasks from Year 6, Task C; and Year 8, Task F of the Work Program in Rule 28-20.110, F.A.C. Wastewater tasks from Year 4, Task A; Year 6, Task A; Year 7, Task A of the Work Program in Rule 28-20.110, F.A.C.

#### (a) Carrying Capacity Implementation.

1. By July 1, 2011 and each July 1 thereafter, Islamorada shall evaluate its land acquisition needs and state and federal funding opportunities and apply to at least one state or federal land acquisition grant program.

2. By July 1, 2011, Islamorada shall enter into a memorandum of understanding with the Department of Community Affairs, Division of Emergency Management, Marathon, Islamorada, Key West, Key Colony Beach, and Layton after a notice, public workshop and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department to accurately depict evacuation clearance times for the population of the Florida Keys.

3. By July 1, 2011, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding. Islamorada and the Department of Community Affairs shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Business and Economic Research, and other studies). Islamorada shall also evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

4. By July 1, 2011, Islamorada shall complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Community Affairs, Monroe County and each municipality in the Keys.

5. By July 1, 2011, the Department of Community Affairs shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24-hour evacuation clearance time. If necessary, Department of Community Affairs shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.

6. By July 1, 2011, based on the Department of Community Affairs' recommendations, Islamorada shall amend the current building permit allocation system (BPAS in the Comprehensive Plan and Land Development Regulations) based on infrastructure availability, level of service standards, environmental carrying capacity constraints, and hurricane evacuation clearance time.

(b) Wastewater Implementation.

1. Beginning July 1, 2011 and each July 1 thereafter, Islamorada shall identify any funding for wastewater implementation. Islamorada shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011, Islamorada shall provide a final determination of cold spots requiring upgrade to meet Sections 381.0065(4)(l) and 403.086(10), F.S., wastewater treatment and disposal standards. This shall be in the form of a resolution including a map of the non-service areas.

3. By July 1, 2011, Islamorada shall work with the owners of wastewater facilities and on site systems throughout the Village and the Department of Environmental Protection

(DEP) and the Department of Health (DOH) to fulfill the requirements of Sections 381.0065(4)(l) and 403.086(10), F.S., regarding wastewater treatment and disposal. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet 2015 treatment standards.

4. By March 2013, the Department of Health, Islamorada, and the City's wastewater provider shall explore possible mechanisms to provide upgrades and central management of onsite sewage treatment and disposal systems located in non-service areas and unfunded service areas of the City. The Department of Health will provide an update to the Department of Community Affairs describing the mechanisms discussed by the parties and the results of those discussions.

5. By July 1, 2011, Islamorada shall adopt an ordinance establishing the upgrade program with implementation dates, time frames, and enforcement for upgrading onsite systems and package plants in non-service areas.

6. By July 1, 2011 and by July 1 of each year thereafter, Islamorada shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.

7. By July 1, 2011, Islamorada shall develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities.

8. By July 1, 2011 and each July 1 thereafter through 2013, Islamorada shall annually draft a resolution requesting the issuance of a portion of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.

9. By July 1, 2011 and each July 1 thereafter through 2013, Islamorada shall develop a mechanism to provide accurate and timely information and establish annual funding allocations necessary to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.

10. By July 1, 2013 and each July 1 thereafter, Islamorada shall provide a report of addresses and the property appraiser's parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department and the Department of Community Affairs. This report shall describe the status of enforcement action and provide the circumstances of why enforcement may or may not have been initiated. The Monroe County Department of Health and Department of Community Affairs may proceed with enforcement as necessary and appropriate.

(c) Wastewater Project Implementation.

1. By July 1, 2010, Islamorada shall finalize wastewater schedule and funding plan.

2. Environmental Protection Agency Decentralized Sewer Project.

a. By July 1, 2011, Islamorada shall award contract for design of system; and

b. By July 1, 2011, Islamorada shall advertise request for proposal to construct system; and

c. By July 1, 2011, Islamorada shall award contract for construction; and

d. By July 1, 2011, Islamorada shall initiate construction; and

e. By July 1, 2011, Islamorada shall complete construction; and

f. By July 1, 2011, Islamorada shall connect to decentralized system.

3. Plantation Key Wastewater Treatment Facility.

a. By July 1, 2011, Islamorada shall complete an additional 700 connections (Phase II) to the North Plantation Key Wastewater Treatment Plant (WWTP); and

b. By July 1, 2011, Islamorada shall advertise request for proposal to obtain engineering services for the design of the South Plantation Key Wastewater Treatment Plant; and

c. By July 1, 2011, Islamorada shall award the contract for the design of the South Plantation Key wastewater treatment plant; and

d. By July 1, 2012, Islamorada shall finalize design of wastewater treatment plant; and

e. By July 1, 2012, Islamorada shall secure site for the South Plantation wastewater treatment plant; and

f. By July 1, 2012, Islamorada shall advertise for proposals for construction of wastewater treatment plant; and

g. By July 1, 2012, Islamorada shall award construction contract for wastewater treatment plant; and

h. By July 1, 2012, Islamorada shall complete construction of wastewater treatment plant; and

i. By July 1, 2012, Islamorada shall design the collection system; and

j. By July 1, 2012, Islamorada shall advertise for proposals for the construction of the collection system; and

k. By July 1, 2012, Islamorada shall award collection system construction contract; and

l. By July 1, 2013, Islamorada shall construct collection system; and

m. By July 1, 2013, Islamorada shall initiate connections to the treatment facility; and

n. By July 1, 2014, Islamorada shall complete connections (100%) to the treatment facility.

4. Lower Matecumbe Wastewater Treatment Facility.

a. By July 1, 2011, Islamorada shall advertise request for proposal to obtain engineering services for design of the Lower Matecumbe wastewater treatment plant; and

b. By July 1, 2011, Islamorada shall award contract for design of Lower Matecumbe wastewater treatment plant; and

c. By July 1, 2011, Islamorada shall initiate Lower Matecumbe wastewater treatment plant design; and

d. By July 1, 2012, Islamorada shall finalize design of Lower Matecumbe wastewater treatment plant; and

e. By July 1, 2012, Islamorada shall secure site for Lower Matecumbe wastewater treatment plant; and

f. By July 1, 2012, Islamorada shall advertise for proposals for construction of Lower Matecumbe wastewater treatment plant; and

g. By July 1, 2012, Islamorada shall award construction contract for Lower Matecumbe wastewater treatment plant; and

h. By July 1, 2012, Islamorada shall design Lower Matecumbe collection system; and

i. By July 1, 2012, Islamorada shall advertise for proposals for construction of Lower Matecumbe wastewater treatment plant; and

j. By July 1, 2012, Islamorada shall award Lower Matecumbe collection system construction contract; and

k. By July 1, 2012, Islamorada shall complete construction of Lower Matecumbe wastewater treatment plant; and

l. By July 1, 2013, Islamorada shall construct Lower Matecumbe collection system; and

m. By July 1, 2013, Islamorada shall initiate connections to Lower Matecumbe treatment facility; and

n. By July 1, 2014, Islamorada shall complete connections (100%) to Lower Matecumbe treatment facility.

5. Upper Matecumbe Wastewater Treatment Facility.

a. By July 1, 2011, Islamorada shall advertise request for proposal to obtain engineering services for design of Upper Matecumbe wastewater treatment plant; and

b. By July 1, 2011, Islamorada shall award contract for design of Upper Matecumbe wastewater treatment plant; and

c. By July 1, 2011, Islamorada shall initiate Upper Matecumbe wastewater treatment plant design; and

d. By July 1, 2012, Islamorada shall finalize design of Upper Matecumbe wastewater treatment plant; and

e. By July 1, 2012, Islamorada shall secure site for Upper Matecumbe wastewater treatment plant; and

f. By July 1, 2012, Islamorada shall advertise for proposals for construction of Upper Matecumbe wastewater treatment plant; and

g. By July 1, 2012, Islamorada shall award construction contract for the Upper Matecumbe wastewater treatment plant; and

h. By July 1, 2013, Islamorada shall complete construction of the Upper Matecumbe wastewater treatment plant; and

i. By July 1, 2012, Islamorada shall design the Upper Matecumbe collection system; and

j. By July 1, 2012, Islamorada shall advertise for proposals for the construction of the Upper Matecumbe collection system; and

k. By July 1, 2012, Islamorada shall award the Upper Matecumbe collection system construction contract; and

l. By July 1, 2013, Islamorada shall initiate connections to the Upper Matecumbe treatment facility; and

m. By July 1, 2014, Islamorada shall complete connections (100%) to the Upper Matecumbe treatment facility.

6. Windley Wastewater Treatment Facility.

a. By July 1, 2011, Islamorada shall advertise request for proposal to obtain engineering services for design of the Windley wastewater treatment plant; and

b. By July 1, 2011, Islamorada shall award contract for design of the Windley wastewater treatment plant; and

c. By July 1, 2011, Islamorada shall initiate the Windley wastewater treatment plant design; and

d. By July 1, 2012, Islamorada shall complete design of the Windley wastewater treatment plant; and

e. By July 1, 2012, Islamorada shall advertise for proposals for construction of the Windley wastewater treatment plant; and

f. By July 1, 2012, Islamorada shall award construction contract for the Windley wastewater treatment plant; and

g. By July 1, 2013, Islamorada shall complete construction of the Windley wastewater treatment plant; and

h. By July 1, 2013, Islamorada shall design the Windley collection system; and

i. By July 1, 2013, Islamorada shall advertise request for proposals for the construction of the the Windley collection system; and

j. By July 1, 2013, Islamorada shall award the Windley collection system construction contract; and

k. By July 1, 2013, Islamorada shall construct the Windley collection system; and

l. By July 1, 2013, Islamorada shall initiate connections to the Windley treatment facility; and

m. By July 1, 2013, Islamorada shall complete 50% connections to the Windley treatment facility; and

n. By July 1, 2014, Islamorada shall Complete connections (100%) to the Windley treatment facility.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Jerry McDaniel, Secretary, Administration Commission  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Administration Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 2008 and February 6, 2009

**ADMINISTRATION COMMISSION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
28-20.130	Work Program Administration
28-20.140	Comprehensive Plan

**PURPOSE AND EFFECT:** Proposal to adopt revised rules for Monroe County Work Program Administration and Comprehensive Plan to implement the Section 380.0552(4), Florida Statutes, annual reporting requirement to the Administration Commission describing the progress of Monroe County in accomplishing the remaining tasks under the Work Program as set forth in Rule 28-20.110, F.A.C, that are necessary prior to the removal of the Florida Keys Area of Critical State Concern designation.

**SUMMARY:** The proposed rules for the Monroe County Comprehensive Plan identify the individual Work Program tasks set forth in Rule 28-20.110, F.A.C., and the completion dates of the Work Program tasks necessary for consideration by the Administration Commission prior to Removal of the Area of Critical State Concern Designation. As required by Section 380.0552(4), Florida Statutes, the Work Program tasks specified in Administration Commission rules must be reported annually. The protection of the natural environment of the Florida Keys, and the identification of and progress in accomplishing the tasks under Work Program (as set out in Rule 28-20.110, F.A.C.) is reported to the Department of Community Affairs for the preparation of a written annual report to the Administration Commission. The Work Program tasks include the continued implementation of the Wastewater Master Plan and the construction of wastewater treatment and collection facilities; the continued implementation of the Florida Keys Carrying Capacity Study; the identification and completion of stormwater projects; and the analysis of hurricane evacuation issues in the Florida Keys.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** A Statement of Estimated Regulatory Costs has been 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:** 380.0552(9), 380.05(22) FS.  
**LAW IMPLEMENTED:** 380.0552 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:** January 10, 2011, 10:00 a.m.  
**PLACE:** Department of Community Affairs, 2555 Shumard Oak Boulevard, Room 305, Tallahassee, Florida 32399-2100  
**A SECOND POST LEGISLATIVE RATIFICATION HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW.**

**DATE AND TIME:** May 17, 2011, 9:00 a.m.



PLACE: Cabinet Meeting Room, Room LL03, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Barbara Powell, Planning Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, telephone (850)922-1782. 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: Barbara Powell, Planning Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Telephone (850)922-1782

THE FULL TEXT OF THE PROPOSED RULES IS:

28-20.130 Work Program Administration.

(1) Pursuant to Section 380.0552(4)(b), the Department of Community Affairs shall submit a written annual report to the Administration Commission on, November 30, 2011 and each year thereafter, until such time as the designation is removed, describing the progress of the Florida Keys Area toward accomplishing remaining tasks under the work program (as set out in Rules 28-20.110 and 28-20.140, F.A.C.), the fulfillment of the legislative intent and providing a recommendation as to whether progress toward accomplishing the tasks of the work program has been achieved.

(2) The Department of Community Affairs shall recommend to the Administration Commission the removal of designation when the removal of designation criteria of Section 380.0552(4), F.S., is achieved.

(3) For each water quality task in the work program, the Department of Community Affairs shall request appropriate federal, state, regional, and local agencies to contribute any relevant data, analysis and recommendations, and to take an active role in assisting the County in completing the task. Each agency shall prepare a section to be included in the Department's report which indicates the agency's actions relative to the work program. The Department of Community Affairs shall specifically request that the Florida Keys National Marine Sanctuary Water Quality Protection Program Steering Committee (Water Quality Steering Committee) take an active role in coordinating relevant local, state and federal agencies to allocate funding or provide staff to monitor nearshore waters, as necessary, for nutrient reductions.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History—New \_\_\_\_\_.

28-20.140 Comprehensive Plan.

(1) The Monroe County Comprehensive Plan Policy Document, as the same exists on January 1, 2011, is hereby amended to read as follows:

(2) Policy 101.2.13 Monroe County Work Program Conditions and Objectives.

(a) Monroe County shall establish and maintain a Permit Allocation System for new residential development. The Permit Allocation System shall supersede Policy 101.2.1.

(b) The number of permits issued annually for residential development under the Rate of Growth Ordinance shall not exceed a total annual unit cap of 197, plus any available unused ROGO allocations from a previous ROGO year. Each year's ROGO allocation of 197 units shall be split with a minimum of 71 units allocated for affordable housing in perpetuity and market rate allocations not to exceed 126 residential units per year. Unused ROGO allocations may be retained and made available only for affordable housing and Administrative Relief from ROGO year to ROGO year. Unused allocations for market rate shall be available for Administrative Relief. Any unused affordable allocations will roll over to affordable housing. A ROGO year means the twelve-month period beginning on July 13.

(c) This allocation represents the total number of allocations for development that may be issued during a ROGO year. No exemptions or increases in the number of allocations may be allowed, other than that which may be expressly provided for in the comprehensive plan or for which there is an existing agreement as of September 27 2005, for affordable housing between the Department and the local government in the critical areas.

(d) Allocations and permits to construct a new development or redevelopment that requires a modification or a repair to the onsite sewage treatment and disposal system, per Section 381.0065(4), F.S. and subsection 64E-6.001(4), F.A.C., shall not be issued unless the unit is connected to or will be connected to a central sewer system that has committed funding, a construction permit from the Department of Environmental Protection and the collection system is physically under construction or the unit has an onsite sewage treatment and disposal system that meets the treatment and disposal requirements of Section 381.0065(4), F.S.

(e) Through the Permit Allocation Systems, Monroe County shall direct new growth and redevelopment to areas served by a central sewer system that has committed funding, a construction permit from the Department of Environmental Protection and is physically under construction. Prior to the ranking and approval of awards for an allocation authorizing development of new principal structures, Monroe County, shall coordinate with the central wastewater facility provider and shall increase an applicant's score by four points for parcels served by a collection line within a central wastewater facility service area where a central wastewater treatment facility has

been constructed that meets the treatment standards of Section 403.086(10), F.S., and where treatment capacity is available. The points shall only be awarded if a design permit has been issued for the collection system and the parcel lies within the service area of the wastewater treatment facility.

(f) Beginning November 30, 2011, Monroe County and the Department of Community Affairs shall annually report to the Administration Commission documenting the degree to which the work program objectives for the work program year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether progress has been achieved. If the Commission determines that progress has not been made, the unit cap for residential development shall be reduced by at least 20 percent for the following ROGO year.

(g) If the Commission determines that progress has been made for the work program year, then the Commission may restore the unit cap for residential development for the following year up to a maximum of 197 allocations per ROGO year.

(h) Notwithstanding any other date set forth in this plan, the dates set forth in the work program shall control where conflicts exist.

(i) Wastewater treatment and disposal in Monroe County is governed by the requirements of Section 381.0065(4) and 403.086(10), F.S. Nothing in this rule shall be construed to limit the authority of the Department of Environmental Protection or the Department of Health to enforce Sections 381.0065(4) and 403.086(10), F.S.

### (3) Policy 216.1.19. Hurricane Modeling

For the purposes of hurricane evacuation clearance time modeling purposes, clearance time shall begin when the Monroe County Emergency Management Coordinator issues the evacuation order for permanent residents to evacuate during a Category C-E event. The termination point shall be U.S. Highway One and the Florida Turnpike in Homestead/Florida City.

(4) WORK PROGRAM. Local government annual tasks to achieve progress are the remaining tasks of the Work Program that originate from Rule 28-20.110, F.A.C. Hurricane Evacuation tasks from Year 8, Task Q of the Work Program in Rules 28-20.110 and 28-20.140, F.A.C. Carrying Capacity & Habitat Protection tasks from Year 6, Task C; and Year 8, Task F of the Work Program in Rule 28-20.110, F.A.C. Wastewater tasks from Year 4, Task A; Year 6, Task A; Year 7, Task A; Year 9 Tasks A and B; and Year 10, Tasks A, B, C, D, and E of the Work Program in Rule 28-20.110, F.A.C. Water Quality tasks from Year 8, Task M of the Work Program in Rule 28-20.110, F.A.C.

### (a) Carrying Capacity Study Implementation.

1. By July 1, 2011, Monroe County shall adopt the conservation planning mapping (the Tier Zoning Overlay Maps and System) into the Comprehensive Plan based upon the

recommendations of the Tier Designation Review Committee with the adjusted Tier boundaries, into the Comprehensive Plan.

2. By July 1, 2011, Monroe County shall adjust the Tier I and Tier IIIA (SPA) boundaries to more accurately reflect the criteria for that Tier as amended by Final Order DCA07-GM166 and implement the Florida Keys Carrying Capacity Study, utilizing the updated habitat data, and based upon the recommendations of the Tier Designation Review Committee Work Group.

3. By July 1, 2011, Monroe County shall create Goal 106 to complete the 10 Year Work Program found in Rule 28-20.110, F.A.C., and to establish objectives to develop a build-out horizon in the Florida Keys and adopt conservation planning mapping into the Comprehensive Plan.

4. By July 1, 2011, Monroe County shall create Objective 106.2 to adopt conservation planning mapping (Tier Maps) into the Monroe Comprehensive Plan based upon the recommendations of the Tier Designation Review Committee Work Group.

5. By July 1, 2011, Monroe County shall adopt Policy 106.2.1 to require the preparation of updated habitat data and establish a regular schedule for continued update to coincide with evaluation and appraisal report timelines.

6. By July 1, 2011, Monroe County shall adopt Policy 106.2.2 to establish the Tier Designation Work Group Review Committee to consist of representatives selected by the Florida Department of Community Affairs from Monroe County, Florida Fish & Wildlife Conservation Commission, United States Fish & Wildlife Service, Department of Environmental Protection and environmental and other relevant interests. This Committee shall be tasked with the responsibility of Tier designation review utilizing the criteria for Tier placement and best available data to recommend amendments to ensure implementation of and adherence to the Florida Keys Carrying Capacity Study. These proposed amendments shall be recommended during 2009 and subsequently coincide with the Evaluation and Appraisal report timelines beginning with the second Evaluation and Appraisal review which follows the adoption of the revised Tier System and Maps as required above adopted in 2011. Each evaluation and appraisal report submitted following the 2011 evaluation and appraisal report shall also include an analysis and recommendations based upon the process described above.

7. By July 1, 2011 and each July thereafter, Monroe County and the Monroe County Land Authority shall submit a report annually to the Administration Commission on the land acquisition funding and efforts in the Florida Keys to purchase Tier I and Big Pine Key Tier II lands and the purchase of parcels where a Monroe County building permit allocation has been denied for four (4) years or more. The report shall include

an identification of all sources of funds and assessment of fund balances within those sources available to the County and the Monroe County Land Authority.

8. By July 1, 2011, Monroe County shall adopt Land Development Regulations to require that administrative relief in the form of the issuance of a building permit is not allowed for lands within the Florida Forever targeted acquisition areas or Tier I lands unless, after 60 days from the receipt of a complete application for administrative relief, it has been determined the parcel will not be purchased by any county, state or federal or any private entity. The County shall develop a mechanism to routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least 6 months prior to the deadline for administrative relief.

9. By July 1, 2011, in order to implement the Florida Keys Carrying Capacity Study, Monroe County shall adopt a Comprehensive Plan Policy to discourage private applications for future land use changes which increase allowable density/intensity.

10. By July 1, 2011, Monroe County shall evaluate its land acquisition needs and state and federal funding opportunities and apply annually to at least one state or federal land acquisition grant program.

11. By July 1, 2011, Monroe County shall enter into a memorandum of understanding with the Department of Community Affairs, Division of Emergency Management, Marathon, Islamorada, Key West, Key Colony Beach, and Layton after a notice and comment period of at least 30 days for interested parties. The memorandum of understanding shall stipulate, based on professionally acceptable data and analysis, the input variables and assumptions, including regional considerations, for utilizing the Florida Keys Hurricane Evacuation Model or other models acceptable to the Department to accurately depict evacuation clearance times for the population of the Florida Keys.

12. By July 1, 2011, the Florida Keys Hurricane Evacuation Model shall be run with the agreed upon variables from the memorandum of understanding to complete an analysis of maximum build-out capacity for the Florida Keys Area of Critical State Concern, consistent with the requirement to maintain a 24-hour evacuation clearance time and the Florida Keys Carrying Capacity Study constraints. This analysis shall be prepared in coordination with the Department of Community Affairs and each municipality in the Keys.

13. By July 1, 2011, the County and the Department of Community Affairs shall update the data for the Florida Keys Hurricane Evacuation Model as professionally acceptable sources of information are released (such as the Census, American Communities Survey, Bureau of Economic and Business Research, and other studies). The County shall also

evaluate and address appropriate adjustments to the hurricane evacuation model within each Evaluation and Appraisal Report.

14. By July 1, 2011, the Department of Community Affairs shall apply the derived clearance time to assess and determine the remaining allocations for the Florida Keys Areas of Critical State Concern. The Department will recommend appropriate revisions to the Administration Commission regarding the allocation rates and distribution of allocations to Monroe County, Marathon, Islamorada, Key West, Layton and Key Colony Beach or identify alternative evacuation strategies that support the 24 hour evacuation clearance time. If necessary, the Department of Community Affairs shall work with each local government to amend the Comprehensive Plans to reflect revised allocation rates and distributions or propose rule making to the Administration Commission.

(b) Wastewater Implementation.

1. By July 1, 2011, Monroe County shall annually evaluate and allocate funding for wastewater implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011, Monroe County shall provide a final determination of cold spots and unfunded service areas requiring upgrade to meet Section 403.086(10) and 381.0065(4)(l), F.S., wastewater treatment and disposal standards. The determination shall be adopted by resolution and shall include a map delineating the non-service areas.

3. By August 1, 2013, Monroe County shall work with the owners of wastewater facilities and throughout the County and the Department of Health (DOH) and the Department of Environmental Protection (DEP) to fulfill the requirements of Sections 403.086(10) and 381.0065(4)(l), F.S., regarding wastewater treatment and disposal. This will include coordination of actions with DOH and DEP to notify owners regarding systems that will not meet the advanced wastewater treatment standards.

4. By August 1, 2011, Monroe County shall adopt an ordinance establishing the upgrade program with implementation dates, time frames, and enforcement for upgrading on-site systems and package plants.

5. By July 1, 2011, Monroe County shall annually draft a resolution requesting the issuance of \$50 million of the \$200 million of bonds authorized under Section 215.619, F.S., and an appropriation of sufficient debt service for those bonds, for the construction of wastewater projects within the Florida Keys.

6. By July 1, 2011, Monroe County shall develop a mechanism to provide accurate and timely information and establish annual funding allocations necessary to support the issuance of bonds authorized under Section 215.619, F.S., and to assure the timely completion of work as necessary to fulfill any terms and conditions associated with bonds.

7. By July 1, 2011, Monroe County shall evaluate its wastewater needs and state and federal funding opportunities and apply annually to at least one state or federal grant program for wastewater projects and connections.

8. By July 1, 2011, Monroe County shall develop and implement local funding programs necessary to timely fund wastewater construction and future operation, maintenance and replacement of facilities.

9. By July 1, 2011, Monroe County shall, identify by County resolution the areas of the County that will be served by central sewage facilities (“service areas”) and the areas of the County that will not be served by central sewage facilities (“non-service areas”). The non service areas shall be delineated in the form of a map.

10. By July 1, 2013, the Department of Health, Monroe County, and the County’s wastewater provider shall develop and execute an interlocal agreement for non-service areas and unfunded service areas. The agreement shall address mechanisms for the FKAA or other appropriate entity to provide upgrades and central management of onsite sewage treatment and disposal systems located in non-service areas and unfunded service areas. The Department of Health and the Department of Environmental Protection will provide an report to the Department of Community Affairs no later than July 1, 2013, assessing the magnitude of non-compliance and enforcement mechanisms necessary to ensure upgrades of wastewater treatment facilities in accordance with Sections 403.086(10) and 381.0065(4), F.S.

11. By July 1, 2013, and each July thereafter the County shall provide a report of addresses and the property appraiser’s parcel numbers of any property owner that fails or refuses to connect to the central sewer facility within the required timeframe to the Monroe County Health Department, Department of Environmental Protection, and the Department of Community Affairs. This report shall describe the status of enforcement action and provide the circumstances of why enforcement may or may not have been initiated. The Monroe County Department of Health and Department of Community Affairs may proceed with enforcement as necessary and appropriate.

(c) Wastewater Project Implementation.

1. Key Largo Wastewater Treatment Facility. Key Largo Wastewater Treatment District is responsible for wastewater treatment in its service area and the completion of the Key Largo Wastewater Treatment Facility.

a. By July 1, 2011, Monroe County shall complete construction of the South Transmission Line; and

b. By July 1, 2011, Monroe County shall complete design of Collection basin C, E, F, G, H, I, J, and K; and

c. By July 1, 2011, Monroe County shall complete construction of Collection basins E-H; and

d. By July 1, 2011, Monroe County shall schedule construction of Collection basins I-K; and

e. By July 1, 2011, Monroe County shall complete construction of Collection basins I-K; and

f. By July 1, 2011, Monroe County shall complete 50% of hook-ups to Key Largo Regional WWTP; and

g. By July 1, 2012, Monroe County shall complete 75% of hook-ups to Key Largo Regional WWTP; and

h. By July 1, 2013, Monroe County shall complete all remaining connections to Key Largo Regional WWTP.

2. Hawk’s Cay, Duck Key and Conch Key Wastewater Treatment Facility.

a. By July 1, 2011, Monroe County shall complete construction of Hawk’s Cay WWTP upgrade/expansion, transmission, and collection system; and

b. By July 1, 2011, Monroe County shall complete construction of Duck Key collection system; and

c. By July 1, 2011, Monroe County shall initiate property connections to Hawk’s Cay WWTP; and

d. By July 1, 2012, Monroe County shall complete 50% of hook-ups to Hawk’s Cay WWTP; and

e. By July 1, 2013, Monroe County shall complete 75% of hook-ups to Hawk’s Cay WWTP; and

f. By July 1, 2014, Monroe County shall complete all remaining connections to Hawk’s Cay WWTP.

3. South Lower Keys Wastewater Treatment Facility (Big Coppitt Regional System).

a. By July 1, 2012, Monroe County shall complete 75% hookups to South Lower Keys WWTP; and

b. By July 1, 2013, Monroe County shall complete all remaining connections to the South Lower Keys WWTP.

4. Cudjoe Regional Wastewater Treatment Facility.

a. By July 1, 2011, Monroe County shall complete planning and design documents for the Cudjoe Regional Wastewater Treatment Facility for Phases 1 and 2 (WWTP; transmission main and collection system); and

b. By July 1, 2012, Monroe County shall complete construction of Wastewater Treatment Plant Phase 1 and collection systems (Phase 1 is the initial WWTP construction to treat flows from a central collection area); and

c. By July 1, 2012 Monroe County shall initiate construction of Wastewater Treatment Plant Phase 2 (Phase 2 is the planned WWTP expansion to provide additional capacity to treat flows from the expanded collection area); and

d. By July 1, 2013 Monroe County shall complete construction of Wastewater Treatment Plant Phase 2 Expansion; and

e. By July 1, 2013, Monroe County shall complete construction of central collection lines and transmission main; and

f. By July 1, 2013, Monroe County shall initiate property connections – complete 25% of hook-ups to Cudjoe Regional WWTP; and

g. By July 1, 2012, Monroe County shall complete 50% of hook-ups to Cudjoe Regional WWTP; and

h. By July 1, 2014, Monroe County shall complete 75% of hook-ups to Cudjoe Regional WWTP; and

i. By January 1, 2015, Monroe County shall complete all remaining connections to Cudjoe Regional WWTP.

(d) Stormwater Treatment Facilities.

1. By July 1, 2011, Monroe County shall evaluate and allocate funding for stormwater implementation. Monroe County shall identify any funding in the annual update to the Capital Improvements Element of the Comprehensive Plan.

2. By July 1, 2011, Monroe County shall apply for stormwater grants from the South Florida Water Management District.

3. By July 1, 2011, Monroe County shall design and construct Mile Marker 17-19 stormwater runoff management improvements along U.S. Highway One through Joint Participation Agreement with FDOT.

4. By July 1, 2011, Monroe County shall complete Card Sound Road stormwater improvements.

Rulemaking Authority 380.0552(9), 380.05(22) FS. Law Implemented 380.0552 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Jerry McDaniel, Secretary, Administration Commission  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Administration Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 26, 2008 and February 6, 2009

**DEPARTMENT OF CORRECTIONS**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
33-601.713	Inmate Visiting – Definitions
33-601.714	Inmate Visiting – General
33-601.715	Visiting Application Initiation Process
33-601.716	Visiting Record Management
33-601.717	Visiting Denial
33-601.718	Review of Request for Visiting Privileges
33-601.725	Permissible Items for Visitors
33-601.731	Suspension of Visiting Privileges
33-601.732	Reinstatement of Revoked or Suspended Visiting Privileges
33-601.733	Visiting – Special Status Inmates
33-601.735	Non-Contact Visiting
33-601.737	Visiting – Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to amend Rule 33-601.713, F.A.C., to clarify language and add a definition of “major rule violation”

for the purpose of visiting privileges suspension; to amend Rule 33-601.714, F.A.C., to clarify the warden’s authority to deny or terminate a visit; to amend Rule 33-601.715, F.A.C., to correct language referring to the wrong form; to amend Rule 33-601.716, F.A.C., to clarify the circumstances under which an individual may be on the visiting list of more than one non-family inmate; to substantially reword Rule 33-601.717, F.A.C., to clarify the circumstances under which an individual may be denied visiting privileges; to repeal Rule 33-601.718, F.A.C., as the language is being moved to other rules within Chapter 33-601, F.A.C.; to amend Rule 33-601.725, F.A.C., to include a photo ID and a copy of a notarized authorization to supervise a minor as permissible items for visitors to possess; to amend Rule 33-601.731, F.A.C., to clarify the circumstances under which an individual’s visiting privileges may be suspended and to incorporate by reference the Visiting Privileges Suspension Matrix, which specifies the time period of suspensions in relation to their underlying infractions; to amend Rule 33-601.732, F.A.C., to clarify the procedure for reinstatement of suspended visiting privileges; to amend Rule 33-601.733, F.A.C., to include language being moved from Rule 33-601.734, F.A.C., concerning the visiting privileges of inmates in confinement and protective management statuses; to amend Rule 33-601.735, F.A.C., to clarify that noncontact visits for confinement and protective management status inmates must be pre-approved by the warden or designee; and to amend Rule 33-601.737, F.A.C., to clarify form language.

SUMMARY: The proposed rules are amended as follows: the language of Rule 33-601.713, F.A.C., is clarified and a definition of “major rule violation” for the purpose of visiting privileges suspension is added; Rule 33-601.714, F.A.C., clarifies the warden’s authority to deny or terminate a visit; Rule 33-601.715, F.A.C., corrects language referring to the wrong form; Rule 33-601.716, F.A.C., clarifies the circumstances under which an individual may be on the visiting list of more than one non-family inmate; Rule 33-601.717, F.A.C., is substantially reworded to clarify the circumstances under which an individual may be denied visiting privileges; Rule 33-601.718, F.A.C., is repealed as the language of the rule is being moved to other rules within Chapter 33-601, F.A.C.; Rule 33-601.725, F.A.C., adds a photo ID and a copy of a notarized authorization to supervise a minor to the list of permissible items for visitors to possess; Rule 33-601.731, F.A.C., clarifies the circumstances under which an individual’s visiting privileges may be suspended and incorporates by reference the Visiting Privileges Suspension Matrix, which specifies the time period of suspensions in relation to their underlying infractions; Rule 33-601.732, F.A.C., clarifies the procedure for reinstatement of suspended visiting privileges; Rule 33-601.733, F.A.C., adds language being moved from Rule 33-601.734, F.A.C., concerning the visiting privileges of inmates in confinement and protective management statuses; Rule 33-601.735, F.A.C., clarifies that noncontact visits for confinement and protective management

status inmates must be pre-approved by the warden or designee; and Rule 33-601.737, F.A.C., clarifies language on Forms DC6-111B and DC6-111D.

**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 within a year of taking effect. A SERC has not been prepared by the agency.

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

**RULEMAKING AUTHORITY:** 944.09, 944.23 FS.

**LAW IMPLEMENTED:** 20.315, 944.09, 944.23, 944.47, 944.8031 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:**

33-601.713 Inmate Visiting – Definitions.

(1) No change.

(2) “Automated Visiting Record (AVR)” refers to a computer subsystem of the Department’s electronic offender database ~~Offender Based Information System (OBIS)~~ that automates visitor facility entry and exit and records visiting information.

(3) “Emancipated Minor” refers to a visitor seventeen years of age or younger who furnishes written proof of emancipation and attaches a copy to ~~the Request for Visiting Privileges~~, Form DC6-111A, Request for Visiting Privileges. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(4) No change.

(5) “Immediate Family” for the purposes of Rules 33-601.713 through 33-601.737, F.A.C., refers to an inmate’s spouse, children, parents, brothers, sisters, grandparents, great-grandparents, grandchildren, step-brothers, step-sisters, step-parents, step-grandparents, aunts, uncles, nieces, nephews, foster parents, step-children, half brothers, half sisters, brothers-in-law, sisters-in-law, mothers-in-law, fathers-in-law, and sons and daughters-in-law.

(6) through (7) No change.

(8) “Suspension” refers to the withdrawal or voiding suspension of visiting privileges for a specified period of time for an inmate or visitor.

(9) through (12) No change.

(13) “Special Status Inmate” refers to an inmate who is not in the general population but is in a special classification status as outlined in Rule 33-601.733, F.A.C., who that shall be prohibited or restricted from prohibit or restrict visiting based upon the status.

(14) No change.

(15) “Indefinite Suspension” ~~“Revoked”~~ refers to the withdrawal withdrawing or voiding of visiting privileges of a visitor for an unspecified period of time.

(16) No change.

(17) “Major Rule Violation” for the purpose of Rules 33-601.713 through 33-601.737, F.A.C., refers to any assault, battery, or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting, attempting to incite, or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives, or escape paraphernalia; and any escape or escape attempt.

(18) Lewd or Lascivious Exhibition – An inmate commits a lewd or lascivious exhibition when the inmate:

(a) Intentionally masturbates;

(b) Intentionally exposes the genitals without authorization; or

(c) Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a staff member or volunteer.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History–New 11-18-01, Amended 5-27-02, 9-29-03, 3-7-04, 12-6-04,\_\_\_\_\_.

33-601.714 Inmate Visiting – General.

(1) through (2) No change.

(3) The warden, assistant warden, or duty warden is authorized to deny or terminate a visit pursuant to Rule 33-601.729, F.A.C. if any of its aspects are disruptive or violate rules, procedures, instructions, restrictions, orders, or directions. Any disruption or violation shall be entered on the AVR and may shall subject the visitor to revocation or suspension of visiting privileges by the warden or designee and the inmate to disciplinary action.

(4) Posting of Policies.

(a) No change.

(b) The warden or designee shall display the visiting rules, procedures, and any technical instructions that do not impede the maintenance of the security of the institution in a manner that allows visitors to read them before they begin the institutional visiting entry process.

(5) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03,\_\_\_\_\_.

### 33-601.715 Visiting Application Initiation Process.

(1) No change.

(2) The inmate shall be given up to fifteen copies of Form DC6-111A, the Request for Visiting Privileges, ~~Form DC6-111A~~, and Form DC6-111B, Visitor Information Summary, ~~Form DC6-111B~~, within 24 hours after arrival at his or her permanent facility. Forms DC6-111A and DC6-111B are incorporated by reference in Rule 33-601.737, F.A.C. The inmate shall be responsible for sending the forms to each family member or friend twelve years of age or older, whom the inmate wishes to be placed in his or her approved visiting record. Minors eleven years of age and younger are not required to submit Form DC6-111A, a Request for Visiting Privileges, ~~DC6-111B~~, until they reach 12 years of age.

(a) Only visitors who have not been denied ~~approved~~ pursuant to Rule 33-601.717 ~~33-601.718~~, F.A.C., shall be allowed to visit.

(b) The prospective visitor shall be required to complete a Form DC6-111A, Request for Visiting Privileges, by filling in each line or inserting “NA” (not applicable) where appropriate.

(3) through (4) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History—New 11-18-01, Amended 5-27-02, 9-29-03,\_\_\_\_\_.

### 33-601.716 Visiting Record Management.

(1) The Bureau of Classification and Central Records shall develop and maintain computerized inmate – visiting records.

(2) Department staff shall document all requests for visits, ~~and~~ decisions made with regard to visiting, and pertinent comments on the automated visiting record.

(3) No change.

(4) Inmates shall be permitted to remove or request to add visitors to their inmate visiting records by completing Form DC6-111C, a Remove/Add Visitor Request, ~~Form DC6-111C~~, provided by institutional classification staff. Form DC6-111C is incorporated by reference in Rule 33-601.737, F.A.C. Additions to the visiting record shall be allowed at any time, up to the limit of fifteen approved visitors. Removals shall only be permitted every six months. Visitors whose visiting privileges are suspended ~~or revoked~~ shall not be removed from an inmate’s approved visiting list, ~~while in the respective status~~ and the inmate shall not be allowed to replace the visitor with another approved visitor.

(5) No change.

(6) A visitor shall ~~not~~ be permitted to be on the more than one inmate’s approved visiting record of all inmates who are unless they are immediate family as well as one non-family inmate members except as provided in subsection (7) 33-601.716(7), F.A.C.

(7) A visitor who is approved as ~~immediate~~ family on an inmate’s visiting record shall not be considered for visitation with a non-~~immediate~~ family ~~member~~ inmate if both inmates are housed at the same institution unless:

(a) The ~~immediate~~ family member inmate is transferred to another institution or is released from incarceration.

(b) The visitor is already approved to visit a non-~~immediate~~ family inmate prior to the immediate family member inmate being received at the same institution. Visitation shall be allowed, but not on the same day.

(c) The visitor is already approved to visit a non-~~immediate~~ family ~~member~~ inmate prior to being transferred to the same institution housing a ~~an immediate~~ family member inmate. Visitation shall be allowed, but not on the same day.

(8) An approved visitor who is on the visiting list of two or more ~~immediate~~ family ~~member~~ inmates who are at the same institution may visit the inmates at the same time.

(9) A visitor approved to visit as a non-~~immediate~~ family ~~inmate member~~ shall not be removed from the visiting list of the inmate for purposes of visiting another non-~~immediate~~ family ~~member~~ inmate at the same institution.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History—New 11-18-01, Amended 9-29-03,\_\_\_\_\_.

(Substantial Rewording of Rule 33-601.717 follows. See Florida Administrative Code for present text.)

### 33-601.717 Visiting Denial.

(1) Visitors shall not be denied visiting because of disability, race, creed, color, or national origin of the inmate or visitor. Visits shall not be denied based on the ideas or opinions held or expressed by the inmate or visitor or for any reason unrelated to security, good order, or rehabilitative objectives of the institution.

#### (2) Initial Denial of Visiting Privileges.

(a) In approving or disapproving visiting privileges, the assigned institutional classification officer shall review Form DC6-111A, Request for Visiting Privileges, and shall consider all factors related to the security, order, and effective management of the institution. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(b) Prior criminal records shall not automatically result in disapproval of visiting; the nature, extent, and recentness of criminal convictions and adjudications withheld as well as the applicant’s relationship to the inmate shall be considered when approving or disapproving an application for visiting privileges. The assigned institutional classification officer shall evaluate an applicant’s criminal history and visiting background using Form DC6-111D, Visitor Screening Matrix. Form DC6-111D is incorporated by reference in Rule 33-601.737, F.A.C. An application shall be denied if applicant’s criminal history includes:

1. Release from incarceration in any jurisdiction for a felony conviction within the last two years unless the applicant was incarcerated at any time in the facility in which visitation is requested;

2. Release from incarceration for a felony conviction within the last five years if the applicant was incarcerated at any time in the facility in which visitation is requested. If an inmate transfer results in visitation in a facility in which an approved visitor was previously incarcerated and released within the last five years, the warden shall, on a case by case basis, determine if the approved visitor shall be allowed to visit. Factors to be considered shall include, but are not limited to, the visitor's adjustment during incarceration, the relationship of the inmate to the visitor, institutional security, and public safety;

3. Release from incarceration in any jurisdiction for a misdemeanor conviction within the last year;

4. Current community supervision status or termination from community supervision in any jurisdiction within the past year; and

5. The disposition of arrests. If the disposition of an arrest is not reflected, the disposition shall be ascertained prior to approval of the application. If additional documentation of the charge is necessary, the prospective visitor shall be responsible for providing official documentation of the disposition or circumstances of the offense in question.

(c) An application for visiting privileges shall be denied if the applicant:

1. Has possessed, introduced, or attempted to introduce contraband as defined in Section 944.47, F.S., into any facility;

2. Has committed serious or repeated violations of departmental rules or procedures during a previous visit within the past five years;

3. Is a former department employee, contract employee, or volunteer with a documented work history that raises security concerns;

4. Is a victim of an inmate's current or prior offense with consideration of the nature of the inmate's offense, the extent of the victimization, and the relationship of the victim to the inmate;

5. Is a co-defendant of the inmate in a current or prior offense;

6. Provided testimony, documentation, or physical evidence that assisted the prosecution in the inmate's conviction or incarceration;

7. Has an active protection order or injunction against the inmate to be visited or the inmate has an active protection order or injunction against the prospective visitor;

8. Is an illegal alien;

9. Is a department volunteer or intern at the institution in which visitation is requested or was a volunteer or intern at the institution at any time in the previous five years; or

10. Escaped, attempted to escape, or assisted or attempted to assist an escape or escape attempt from any facility. If visitation is denied based on this paragraph, the denial shall be permanent.

(d) Visiting privileges shall be denied if the inmate or the prospective visitor gave false or misleading information to obtain visiting privileges within the past six months, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertent or good faith mistake, omission, or clerical error. Discovery of intentional falsification of visitor information after the visitor has been approved for visitation shall result in the visitor being considered for suspension of visiting privileges pursuant to Rule 33-601.731, F.A.C.

(e) In approving or denying an application for visiting privileges, the institutional classification officer shall consider all other factors related to the security, order, or effective management of the institution.

(f) The Secretary or designee, who for the purpose of this rule shall be the Assistant Secretary of Institutions, has the authority to review and modify the classification officer's approval or denial of visiting privileges.

(3) Denial of Visitation after Initial Approval of Visiting Privileges.

(a) Visiting shall be denied during a declared emergency.

(b) Upon review of Form DC6-111A, the institutional classification officer may deny visiting for individuals approved to visit who subsequently become subject to denial pursuant to any of the criteria set forth in subsection (2) of this rule prior to any official suspension pursuant to Rule 33-601.731, F.A.C.

Rulemaking Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.23 FS. History--New 11-18-01, Amended 5-27-02, 9-29-03, 6-15-06, 1-7-07, \_\_\_\_\_.

Editorial Note: Formerly 33-601.706 and 33-601.707, F.A.C.

33-601.718 Review of Request for Visiting Privileges.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23 FS. History--New 11-18-01, Amended 9-29-03, Repealed \_\_\_\_\_.

33-601.725 Permissible Items for Visitors.

(1) Visitors shall be allowed to bring only authorized items listed into any department facility. Entry shall be denied if the visitor attempts to enter the institution or facility while possessing any unauthorized item or any authorized item in more than the approved amounts. Authorized items shall be removed by the visitor at the end of the visit. Authorized items include:

(a) through (d) No change.

(e) One (1) photographic identification card.



~~(f)~~(e) Prescription medications. The department reserves the right to prohibit individuals from bringing any medication into the facility that may pose a threat to the inmate population or institutional security. Visitor requiring medical injections must leave such items secured in their vehicles and will be allowed to depart the visiting area if an injection is required. Reentry into the visiting area shall be allowed in accordance with Rule 33-601.723 subsection 33-601.723(6), F.A.C. The visitor shall not be allowed to bring needles or syringes into any department facility or dispose of them on the grounds of any department institution or facility under any circumstances.

1. through 3. No change.

~~(g)~~(f) Feminine hygiene items enclosed in the original individual wrapping may be carried into the visiting park in a small pouch or bag.

~~(h)~~(g) Hairbrush and comb.

(i) If the visitor is an authorized adult as defined in Rule 33-601.713, F.A.C., one (1) copy of a notarized authorization to supervise a minor.

~~(j)~~(h) Visitors with authorized infants and small children shall be allowed to bring in:

1. through 4. No change.

~~(k)~~(i) Sunglasses.

~~(l)~~(j) Small unopened package of facial tissues in clear plastic.

(2) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS. History—New 11-18-01, Amended 5-27-02, 7-1-03, 12-30-03, 11-25-04, 3-29-07, 10-8-07,\_\_\_\_\_.

~~33-601.731 Revocation or~~ Suspension of Visiting Privileges.

(1) Suspension of Inmate Visiting Privileges.

~~(a)~~(1) Suspension, including indefinite suspension, of an inmate’s visiting privileges shall be considered by the Institutional Classification Team (ICT) ~~ICT~~ as a management tool independent of any disciplinary action taken pursuant to Rules 33-601.301 through 33-601.314, F.A.C.

~~(b)~~(2) Indefinite suspension of an inmate’s visiting privileges shall be considered by the ICT Institutional Classification Team (ICT) as a management tool only when an inmate is found guilty of the following offenses:

1. Any major rule violation as defined in Rule 33-601.713, F.A.C.

~~(a) Possessing any firearms, dangerous weapons, explosives or explosive devices;~~

~~(b) Criminal activity, serious rule violations, repeated visiting rule or procedure infractions or security breach. A serious rule violation is a violation that subjects the violator to suspension of privileges for a minimum of two years or to revocation of visiting privileges;~~

~~2.~~(e) Possessing or using: a cellular telephone or other portable communication device as defined in Section 944.47(1)(a)6., F.S.; any components or peripherals to such devices, including but not limited to SIM cards, Bluetooth items, batteries, and charging devices; any other technology that is found to be in furtherance of possessing or using a communication device prohibited under the statute.

~~(c)~~(3) An inmate shall be subject to suspension of visiting privileges ~~for up to two years~~ by the ICT as a management tool when the inmate is found guilty of the following disciplinary offenses: ~~in paragraphs (a) through (d) below. In determining the length of suspension, the ICT shall consider the extent of the sexual misconduct, the amount and type of drugs, the amount of money, the type of article or instrument, the inmate’s prior disciplinary history, and the inmate’s prior visiting record.~~

~~1.~~(a) Committing or engaging in sexual misconduct (i.e., nudity, sexual acts with or without others, willful exposure of private body parts, or soliciting sexual acts from others).

~~2.~~(b) Possessing or passing money.

~~3.~~(c) Possessing or using drugs.

4. Possessing or using intoxicating beverages.

5. Refusing to participate in a mandatory program or being removed from a mandatory program due to negative behavior.

6. Possessing a recording device.

7. Violation of visiting rules.

~~(d) Possessing any article or instrument that aids in escape or attempted escape.~~

~~(4) An inmate shall be subject to suspension of visiting privileges for three months for a first offense, six months for a second offense and two years for a third or subsequent offense, by the ICT as a management tool when an inmate is found guilty of possessing any of the following contraband or illegal items:~~

~~(a) Intoxicating beverages;~~

~~(b) Recording devices.~~

~~(5) An inmate shall be subject to suspension of visiting privileges for three months by the ICT as a management tool when an inmate is rated “unsatisfactory” for the work or program performance rating, including part time assignment or security assessment. Such three month suspension shall begin with the month the rating was entered and run consecutively for each unsatisfactory rating.~~

~~(6) Inmates shall be suspended from receiving visits for three months beginning with the next visiting period for refusing to participate or being removed from a mandatory program due to negative behavior.~~

~~(7) The ICT shall consider suspending the inmate’s visiting privileges for each subsequent offense described in subsections 33-601.731(1) through (5), F.A.C.~~

(d) The ICT shall suspend the visiting privileges of any inmate subject to a pending investigation for escape, attempted escape, or possession of escape paraphernalia until the investigation is complete. If the inmate is found guilty, the ICT shall consider indefinite suspension of the inmate's visiting privileges pursuant to paragraph (1)(b) of this Rule. If the inmate is not found guilty, the ICT shall immediately reinstate the inmate's visiting privileges.

(e) If an inmate is found guilty of an offense listed in paragraph (1)(c), the ICT shall suspend the inmate's visiting privileges for the length of time specified on Form NII-102, Visiting Privileges Suspension Matrix. Form NII-102 is hereby incorporated by reference. A copy is available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is . If an inmate's visiting privileges are suspended pursuant to this Rule and the inmate receives a subsequent guilty finding for one of the offenses listed in paragraph (1)(c), the inmate is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of a guilty finding for the same offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NII-102 for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

2. If the subsequent offense is different from the previous offense, the inmate's visiting privileges shall be suspended for the length of time specified on Form NII-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

~~(e)(8)~~ In lieu of suspending an inmate's visiting privileges, the ICT is authorized to consider placement of an inmate in non-contact visitation status as provided in Rule 33-601.735 paragraph 33-601.735(2)(e), F.A.C., for offenses listed in paragraph (1)(c) subsections 33-601.731(1) through (6), F.A.C.

~~(2)(9)~~ Suspension of Visitor's Visiting Privileges.

(a) A visitor's visiting privileges shall be indefinitely suspended ~~revoked~~ by the warden or designee when the visitor:

1. through 2. No change.
3. Assists, facilitates, aids or abets an inmate to escape or attempt to escape or is found in possession of or passing or attempting to pass to an inmate any item or instrument that is capable of being used to aid in effecting or attempting an escape. Local law enforcement shall be called in this instance.

~~a. All visiting privileges of the escapee shall be suspended upon his or her return to department's custody.~~

~~b. Visiting privileges shall be suspended pending completion of the Inspector General's investigation if an attempted escape is alleged.~~

4. through 7. No change.

(b) A visitor's visiting ~~Visiting~~ privileges shall be suspended by the warden or designee for up to two years when the visitor:

1. Attempts to pass or passes money to an inmate.;
2. Is intoxicated or has consumed intoxicating beverages or is found in possession of intoxicating beverages on the grounds of any department facility, or is found passing or attempting to pass such items to an inmate.;
3. Violates visitor conduct standards in Rule subsection 33-601.727(1)(i) through (k), F.A.C.
4. Commits criminal activity, ~~serious rule violations or infractions or any security breach.~~
5. ~~Falsifies~~ As a former employee, contract employee, or vendor falsifies information to obtain visiting privileges, including falsification of guardianship documents, unless it is reasonably determinable that the incorrect information was provided as a result of an inadvertent or good faith mistake, omission, or clerical error.

(c) If a visitor is found guilty of an offense listed in paragraph (2)(b), the warden or designee shall suspend the visitor's visiting privileges for the period of time specified on Form NII-102, Visiting Privileges Suspension Matrix. If a visitor's visiting privileges are suspended pursuant to this Rule and the visitor subsequently commits one of the offenses listed in paragraph (2)(b), the visitor is subject to an increased period of suspension as follows:

1. If the subsequent offense occurs within two years of the commission of the same offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NII-102 for subsequent offenses. This period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense.

2. If the subsequent offense is different from the previous offense, the visitor's visiting privileges shall be suspended for the length of time specified on Form NII-102 for an initial violation. However, this period of suspension shall be concurrent with any period of suspension remaining as a result of the previous offense, not to exceed a total of two years from the time of the subsequent offense. ~~Visitors found in violation of paragraph 33-601.717(5)(f), F.A.C. — falsifying information to obtain visiting privileges, subsections 33-601.723(3) and (5), F.A.C., falsifying information at visitor registration and falsifying documents of guardianship, subsection 33-601.724(2), F.A.C. — visitor attire, Rule 33-601.726, F.A.C. — visitor searches, or visitor conduct standards as outlined in paragraphs 33-601.727(1)(a) through (h), F.A.C., shall have visiting privileges suspended by the warden or designee supervisor for up to one year.~~

~~(3)(10)~~ The warden or designee shall have the discretion to impose a length of suspension less than the maximum allowed by rule by considering the type of violation, the impact of the violation on the overall security or safety of the institution, and prior visits without incident.

(4) Temporary suspensions. The Inspector General's Office is authorized to temporarily suspend the visiting privileges of an approved visitor who is involved in or is the subject of an ongoing investigation pending the outcome of the investigation.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.47, 944.8031 FS. History--New 11-18-01, Amended 5-27-02, 9-29-03, 10-4-07, 1-8-09,\_\_\_\_\_.

Editorial Note: Formerly 33-601.707 and 33-601.708, F.A.C.

33-601.732 Reinstatement of ~~Revoked or~~ Suspended Visiting Privileges.

(1) Reinstatement of Inmate Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of an inmate's suspended visiting privileges. The inmate shall submit a written request for reinstatement to the warden on Form DC6-236, Inmate Request. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(a) Reinstatement of indefinitely suspended privileges ~~suspended for more than two years~~ shall only be considered after two years from imposition of the indefinite suspension.

1. The warden or designee shall review the request, render a final decision and notify the inmate concerned.

2. Should the inmate be denied reinstatement, the inmate may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended privileges ~~suspended for two years or less~~ shall not be considered ~~for reinstatement~~ for a period of one year from the imposition of the most recent suspension. Should the inmate be denied, the inmate may not make another request for six months ~~from the last decision requesting reinstatement~~.

~~(c) Early reinstatement of suspensions of one year or less shall not be considered for reinstatement until at least six months from the date of suspension. Should the inmate be denied reinstatement, the inmate may not make another request.~~

(2) Reinstatement of Visitor Visiting Privileges. The warden or designee shall approve or deny requests for reinstatement of a visitor's ~~revoked or~~ suspended visiting privileges ~~privilege~~. The visitor, or inmate on behalf of the affected visitor, shall submit a written request for reinstatement of privileges to the assigned institutional classification officer. The visitor for whom the reinstatement is being considered shall submit Form DC6-111A, a Request for Visiting

Privileges, ~~Form DC6-111A~~, if the suspension has been for longer than six months. Form DC6-111A is incorporated by reference in Rule 33-601.737, F.A.C.

(a) Reinstatement of indefinitely suspended ~~revoked~~ privileges shall only be considered after two years from imposition of the indefinite suspension.

1. No change.

2. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months ~~one year~~ from the last decision requesting reinstatement.

(b) Reinstatement of suspended privileges ~~suspended for two years or less~~ shall not be considered for reinstatement for a period of one year from the imposition of the most recent suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request for six months ~~from the last decision requesting reinstatement~~.

~~(c) Early reinstatement of suspensions of one year and under shall not be considered for reinstatement until at least six months from the date of suspension. Should the visitor be denied reinstatement, the inmate or suspended visitor may not make another request.~~

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History--New 11-18-01, Amended 5-27-02, 9-29-03,\_\_\_\_\_.

33-601.733 Visiting – Special Status Inmates.

(1) Inmates in special statuses, except for medical reasons, are not considered inmates with regular visiting privileges and must have special approval to visit. Inmates in special statuses shall be prohibited or restricted from regular visiting due to adverse impacts on security and orderly institutional operation.

(a) No change.

(b) Inmates in administrative confinement, protective management, or disciplinary confinement status shall have visiting privileges as outlined in Rules 33-602.220, 33-602.221, and 33-602.222, F.A.C., respectively. The warden or designee shall determine whether an approved visit for inmates in one of the above statuses will be non-contact pursuant to Rule 33-601.735, F.A.C. ~~In disciplinary confinement, administrative confinement, or protective management status, inmates shall have visiting privileges as outlined in Rules 33-602.222, 33-602.220, and 33-602.221~~ Rule 33-601.734, F.A.C.

(c) through (2) No change.

(3) Visitation for inmates in prolonged hospitalization ~~or~~ with serious medical conditions or terminal illnesses shall be allowed visits unless security or medical issues as determined by the warden and chief health officer preclude visitation. A decision shall be made on a case-by-case basis. If visitation is authorized, the warden, in consultation with the chief health officer, shall determine the visitation schedule and shall inform

at least three members of the inmate’s immediate family. The regional director shall be informed in high notoriety cases before allowing visiting.

(4) through (6) No change.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 5-27-02, 12-25-08,\_\_\_\_\_.

Editorial Note: Formerly 33-601.704, F.A.C.

33-601.735 Non-Contact Visiting.

(1) through (4) No change.

(5) For inmates in Administrative Confinement pursuant to Rule 33-602.220, F.A.C., Protective Management pursuant to Rule 33-602.221, F.A.C., or Disciplinary Confinement pursuant to Rule 33-602.222, F.A.C., the warden or designee shall determine whether a pre-approved visit will be contact or non-contact based on one or all of the criteria set forth in subsection (2).

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 20.315, 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended\_\_\_\_\_.

33-601.737 Visiting – Forms.

The following forms are hereby incorporated by reference. A copy of any of these forms is available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(1) through (3) No change.

(4) DC6-111B, Visitor Information Summary, effective \_\_\_\_\_ 8-23-07.

(5) No change.

(6) DC6-111D, Visitor Screening Matrix, effective \_\_\_\_\_ 8-23-07.

Rulemaking Specific Authority 944.09, 944.23 FS. Law Implemented 944.09, 944.23, 944.8031 FS. History–New 11-18-01, Amended 4-29-02, 9-29-03, 3-31-05, 7-17-05, 3-21-06, 3-29-07, 8-23-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wendell Whitehurst, Deputy Assistant Secretary for Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Richard Davison, Deputy Secretary

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.800 RULE TITLE: Close Management

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to change form DC6-229, which improperly states in its instructions section that the form should be kept for a week (rather than 30 days) prior to being sent to classification for review.

SUMMARY: For consistency with other Department rules, the proposed rule amends form DC6-229, Daily Record of Special Housing, to state in the instructions section that the form should be kept for 30 days prior to being sent to classification for review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an adverse impact on small business and is not likely to directly or indirectly increase regulatory costs by more than \$200,000 within one year of taking effect. 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 FS.

LAW IMPLEMENTED: 944.09 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:

33-601.800 Close Management.

(1) through (18) No change.

(19) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, ~~Office of Research, Planning and Support Services, Department of Corrections~~, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (d) No change.

(e) Form DC6-229, Daily Record of Special Housing, effective date \_\_\_\_\_ 4-27-08.

(f) through (k) No change.

Rulemaking Authority 944.09 FS. Law Implemented 944.09 FS. History–New 2-1-01, Amended 12-16-01, 4-8-04, 3-10-05, 4-9-06, 8-23-07, 4-27-08, 6-28-10,\_\_\_\_\_.

Editorial Note: Formerly 33-601.801-.813, substantially amended February 1, 2001.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
John Hancock, Assistant Secretary of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Walter McNeil, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 28, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: November 12, 2010

### DEPARTMENT OF ELDER AFFAIRS

RULE NOS.:	RULE TITLES:
58-2.001	Definitions
58-2.003	Background Screening Requirements
58-2.005	Implementation and Retention
58-2.007	Exceptions
58-2.009	Electronic Submission of Fingerprints
58-2.011	Background Screeners
58-2.013	Sharing of Screening Results

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule chapter are to establish criteria and procedures in order to comply with the requirements of Section 430.0402, F.S., which mandates a Level 2 background screening for direct service providers.

**SUMMARY:** This rule chapter establishes criteria and procedures for complying with the new requirement of a Level 2 background screening for all employees or volunteers, who have direct contact with recipients receiving services under jurisdiction of the Department.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The proposed rules will have an impact on small business as defined in Section 288.703, F.S. Pursuant to Sections 120.54(3)(b)1.b. and 120.541(2)(a), F.S., the department's statement of estimated regulatory costs is provided. The regulatory cost is determined to be in excess of \$200,000 in the aggregate within one year after implementation of this rule chapter (Section 120.54(3)(b)1.b., F.S.), and is determined to be approximately \$3,106,620 in aggregate within five years after the implementation of this rule chapter (Section 120.541(2)(a)), F.S.

The proposed rules will not have an impact on small cities or counties as defined in Section 120.52, F.S. Therefore, a statement of estimated regulatory costs has not been prepared in regards to small cities or counties.

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:** 430.08, 435.01(2) FS.

**LAW IMPLEMENTED:** 430.0402, 435.01, 435.02, 435.03, 435.04, 435.06, 435.07 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: Tuesday, January 11, 2011, 9:30 a.m. – 11:30 a.m., EST

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conference Room 225F, Tallahassee, FL 32317

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 72 hours before the workshop/meeting by contacting: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; Telephone number: (850)414-2113; Email address: crochethj@elderaffairs.org. 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: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; Telephone number: (850)414-2113; Email address: crochethj@elderaffairs.org

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 58-2.001 Definitions.

In addition to the term “direct service provider,” as defined in Section 430.0402(1)(b), F.S., the following definitions are included in this rule:

(1) “Disqualifying Offense” means any criminal offense prohibited in Section 430.0402 or 435.04, F.S.

(2) “DOEA” or “Department” means the Florida Department of Elder Affairs.

(3) “DOH” means the Florida Department of Health.

(4) “FBI” means the Federal Bureau of Investigation.

(5) “FDLE” means the Florida Department of Law Enforcement.

(6) “Level 1 Screening” means an assessment of employment history checks, statewide criminal correspondence checks, local criminal history checks and a check of the Dru Sjodin National Sex Offender Public Website coordinated through FDLE to determine whether screened individuals have any disqualifying offenses pursuant to Section 430.0402 or 435.04, F.S.

(7) “Level 2 Screening” means an assessment of the criminal history record obtained through a fingerprint search coordinated through FDLE and the FBI to determine whether screened individuals have any disqualifying offenses pursuant to Section 430.0402 or 435.04, F.S.

(8) “Livescan” means both the technique and the technology used by law enforcement agencies and private facilities to capture fingerprints and palm prints electronically, without the need for the more traditional method of ink and paper.

Rulemaking Authority 430.08, 435.01(2) FS. Law Implemented 430.0402, 435.01, 435.02, 435.03, 435.04, 435.06, 435.07 FS. History–New \_\_\_\_\_.

58-2.003 Background Screening Requirements.

Pursuant to Section 430.0402(1)(a), F.S., Level 2 background screening consistent with the requirements of Chapter 435, F.S., is required for all direct service providers as defined in Section 430.0402(1)(b), F.S.

Rulemaking Authority 430.08, 435.01(2) FS. Law Implemented 430.0402, 435.01, 435.02, 435.03, 435.04, 435.06, 435.07 FS. History–New \_\_\_\_\_.

58-2.005 Implementation and Retention.

Pursuant to Section 430.0402, F.S., beginning August 1, 2010, the following is required:

(1) NEW DIRECT SERVICE PROVIDERS: All newly-hired direct service providers shall be required to undergo a Level 2 background screening pursuant to Chapter 435 prior to employment or volunteerism and continued employment or volunteerism. Such screening shall ensure that a direct service provider has not been arrested awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under Section 430.0402, 435.03 or 435.04, F.S., or a similar law of another jurisdiction.

(2) CURRENTLY EMPLOYED DIRECT SERVICE PROVIDERS: Employers of direct service providers, who have not been previously screened according to the screening standards of Chapter 435, F.S., must be screened pursuant to the Level 2 screening standards of Chapter 435, F.S., and successfully satisfy the screening standards of Section 430.0402, F.S. and Chapter 435, F.S., or have applied for and received an exemption pursuant to Section 435.07, F.S.

(3) EMPLOYER COORDINATION WITH FDLE: Employers of direct service providers are responsible for ensuring applicant fingerprints are retained by FDLE in the Applicant Fingerprint Retention and Notification Program, whereby notification is automatically sent to the Department’s Background Screening Coordinator, according to the procedures specified in Section 943.05, F.S., in the event of a direct service provider’s subsequent arrest.

Rulemaking Authority 430.08, 435.01(2) FS. Law Implemented 430.0402, 435.01, 435.02, 435.03, 435.04, 435.06, 435.07 FS. History–New \_\_\_\_\_.

58-2.007 Exceptions.

Pursuant to Section 430.0402, F.S., physicians, nurses, or other professionals licensed by DOH are not subject to the background screening requirements of Chapter 435, F.S., if they are providing a service that is within the scope of their licensed practice.

Rulemaking Authority 430.08, 435.01(2) FS. Law Implemented 430.0402 FS. History–New \_\_\_\_\_.

58-2.009 Electronic Submission of Fingerprints.

Pursuant to Chapter 435, F.S., effective August 1, 2010, fingerprints must be submitted electronically to FDLE and retained by that entity pursuant to subsection (3) of Rule 58-2.005, F.A.C.

Rulemaking Authority 430.08, 435.01(2) FS. Law Implemented 430.0402, 435.01, 435.02, 435.03, 435.04, 435.06, 435.07 FS. History–New \_\_\_\_\_.

58-2.111 Background Screeners.

The following entities may be utilized to conduct a Level 2 background screening:

(1) Any screening company listed on the FDLE website as authorized to perform Level 2 LiveScan background screenings. The website address is: [http://www.fdle.state.fl.us/Content/getdoc/04833e12-3fc6-4c03-9993-379244e0da50/live\\_scan.aspx](http://www.fdle.state.fl.us/Content/getdoc/04833e12-3fc6-4c03-9993-379244e0da50/live_scan.aspx).

(2) Any local law enforcement capable of performing Level 2 Livescan background screenings, provided the equipment and electronic fingerprint data submission have been evaluated by FDLE to verify compliance with both FDLE and FBI regulations and standards.

Rulemaking Authority 430.08, 435.01(2) FS. Law Implemented 430.0402, 435.01, 435.02, 435.03, 435.04, 435.06, 435.07 FS. History–New \_\_\_\_\_.

58-2.113 Sharing of Screening Results.

The information that a direct service provider has successfully passed a Level 2 background screening may be shared among DOEA programs and providers. In addition, passage of a Level 2 background screening for one program or provider shall constitute passage for all programs and providers. However, no information other than the fact that the applicant passed Level 2 screening may be shared.

Rulemaking Authority 430.08, 435.01(2) FS. Law Implemented 430.0402, 435.01, 435.02, 435.03, 435.04, 435.06, 435.07 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jim Crochet

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles T. Corley, Interim Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2010  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

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

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-8.001  
 RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth additional violations and the disciplinary guidelines for those violations.

SUMMARY: The proposed rule amendments set forth various violations and the range of disciplinary guidelines for the violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an adverse impact on small business, nor will the proposed rule amendments be likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after the implementation of the rule.

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

RULEMAKING AUTHORITY: 456.0375(4)(c), 456.50(2), 456.0575, 456.079, 458.309, 458.331(5) FS.

LAW IMPLEMENTED: 456.0375(4)(c), 456.50(2), 456.0575, 456.072, 456.079, 458.331(5) 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: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-8.001 Disciplinary Guidelines.

(1) No change.

(2) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

RECOMMENDED RANGE OF PENALTY

VIOLATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
(a) through (yy) No change. (zz) Being terminated from the state Medicaid program <u>for cause</u> , or any other state Medicaid program, or the federal Medicare program. (456.072(1)(kk), F.S.) (aaa) through (ccc) No change. (ddd) <u>Registration of pain clinic by a designated physician through misrepresentation or fraud.</u> (458.331(1)(oo), F.S.)	(zz) From a letter of concern to suspension, and a fine of \$1,000 to \$5,000.	(zz) From a reprimand to revocation, and a fine of \$5,000 to \$10,000.	
1. For registering a pain clinic <u>through misrepresentation.</u> (458.331(1)(oo)1., F.S.) 2. For registering a pain clinic <u>through fraud.</u> (458.331(1)(oo)1., F.S.)	1. <u>From a letter of concern to probation, and a fine of \$1,000.00 to \$5,000.00.</u> 2. <u>Revocation and a \$5,000.00 fine to revocation and a \$10,000.00 fine.</u>	1. <u>From a period of probation, to revocation, and a fine of \$5,000.00 to \$10,000.00.</u>	

(eee) Procuring or attempting to procure, the registration of a pain management clinic for any other person by making or causing to be made, any false representation.

(458.331(1)(oo)2., F.S.

(fff) Failing to comply with any requirement of Chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C., ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention Control Act; or Chapter 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act.

(458.331(1)(oo)3., F.S.

(ggg) Being convicted of or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, or anyother state, or of the United States.

(458.331(1)(oo)4., F.S.

(hhh) Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for any offense that would constitute a violation of Chapter 458, F.S.

(458.331(1)(oo)5., F.S.

(iii) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime which relates to the practice of, or the ability to practice, a licensed health care profession.

(458.331(1)(oo)6., F.S.

(jjj) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime which relates to health care fraud.

(458.331(1)(oo)7., F.S.

1. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime relating to healthcare fraud in dollar amounts in excess of \$5,000.00.

(eee) Revocation, and a \$5,000.00 fine to revocation and a \$10,000.00 fine.

(fff) From a letterof concern to probation, and a fine of \$1,000 .00 to \$5,000.00.

(ggg) From probation to revocation, an administrative fine ranging from \$1,000.00 to \$10,000.00, and 50 to 100 hours of community service.

(hhh) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to suspension until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$1,000.00 to \$5,000.00.

(iii) From probation to revocation, an administrative fine ranging from \$1,000.00 to \$10,000.00, and 50 to 100 hours of community service.

1. Revocation and a fine of \$10,000.00

(fff) From a reprimand to suspension, followed by a period of probation, and a fine of \$5,000.00 to \$10,000.00.

(ggg) From suspension to revocation, an administrative fine ranging from \$5,000.00 to \$10,000.00, and from 100 to 200 hours of community service.

(hhh) From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation had occurred in Florida to revocation, and an administrative fine ranging from \$5,000.00 to \$10,000.00.

(iii) From suspension to revocation, an administrative fine ranging from \$5,000.00 to \$10,000.00, and from 100 to 200 hours of community service.

(fff) From a reprimand to revocation, and a fine of \$7,500.00 to \$10,000.00 fine.



2. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime relating to healthcare fraud in dollar amounts of \$5,000.00 or less.

(kkk) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in Section 465.003(14) or 893.02, F.S., if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.

(458.331(1)(oo)8., F.S.

(lll) Failing to timely notify the Board of the date of his or her termination from a pain management clinic as required by Section 458.3265(2), F.S.

(458.331(1)(oo)9., F.S.

(mmm) Failing to timely notify the Department of the theft of prescription blanks from a pain management clinic or a breach of other methods for for prescribing within 24 hours as required by Section 458.3265(2), F.S.

(458.331(1)(pp), F.S.

(nnn) Promoting or advertising through any communication media the use, sale, or dispensing of any controlled substance appearing on any schedule in Chapter 893, F.S.

(458.331(1)(qq), F.S.

(3) through (7) No change.

Rulemaking Authority 456.0375(4)(c), 456.50(2), 456.0575, 456.079, 458.309, 458.331(5) FS. Law Implemented 456.0375(4)(c), 456.50(2), 456.0575, 456.072, 456.079, 458.331(5) FS. History—New 12-5-79, Formerly 21M-20.01, Amended 1-11-87, 6-20-90, Formerly 21M-20.001, Amended 11-4-93, Formerly 61F6-20.001, Amended 6-24-96, 12-22-96, Formerly 59R-8.001, Amended 5-14-98, 12-28-99, 1-31-01, 7-10-01, 6-4-02, 9-10-02, 12-11-02, 8-20-03, 6-7-04, 8-17-04, 1-4-06, 8-13-06, 8-29-06, 11-22-06, 1-30-07, 2-18-09, 12-22-09, 7-27-10,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Rules Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 2010

2. A \$10,000.00 administrative fine, 100 hours of community service, and suspension of the license followed by a period of probation.

(kkk) From a reprimand to revocation, an administrative fine ranging from \$1,000.00 to \$10,000.00, and 50 to 100 hours of community service.

(lll) From a letter of concern to probation, an administrative fine ranging from \$1,000.00 to \$5,000.00, and 25 to 50 hours of community service.

(mmm) From a letter of concern to probation, an administrative fine ranging from \$1,000.00 to \$5,000.00, and 25 to 50 hours of community service.

(nnn) From a letter of concern to one (1) year suspension, to be followed by a period of probation, 50 to 100 hours of community service and an administrative fine from \$1,000.00 to \$5,000.00.

2. Revocation and a fine of \$10,000.00.

(kkk) From probation to revocation, an administrative fine ranging from \$5,000.00 to \$10,000.00, and 100 to 200 hours of community service.

(lll) From a reprimand to suspension, followed by a period of probation, an administrative fine ranging from \$5,000.00 to \$10,000.00, and 50 to 100 hours of community service.

(mmm) From probation to suspension, followed by a period of probation, an administrative fine ranging from \$5,000.00 to \$10,000.00, and 50 to 100 hours of community service.

(nnn) From reprimand to up to one (1) year suspension, to be followed by a period of probation, from 100 to 200 hours of community service and an administrative fine from \$5,000.00 to \$10,000.00.

(lll) From suspension, followed by a period of probation to revocation, an administrative fine of \$10,000.00.

(mmm) From suspension, followed by a period of probation to revocation, an administrative fine of \$10,000.00.

**DEPARTMENT OF HEALTH**

**School Psychology**

RULE NOS.:

- 64B21-501.003
- 64B21-501.005
- 64B21-501.0065
- 64B21-501.009

RULE TITLES:

- Biennial Renewal Fee
- Application Fees
- Change of Status Fee
- Initial Licensure Fee

PURPOSE AND EFFECT: The Department determined that it needs to reduce fees and to update the rules.

SUMMARY: These rules reduce the school psychology fees to \$190 for biennial renewal, to \$175 for the application, and to \$175 for initial licensure. They also clarify that the change of status fee is not imposed if the status is changed at the beginning of the licensure cycle.

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

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

RULEMAKING AUTHORITY: 456.013, 490.007(1), 490.015, 490.015(2) FS.

LAW IMPLEMENTED: 456.013, 456.036, 456.036(4), 490.005, 490.006, 490.007(1) 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: Allen Hall, Executive Director, Office of School Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

64B21-501.003 Biennial Renewal Fee.

The fee for biennial ~~license~~ renewal of an active status license is \$190.00 ~~\$250.00~~ for school psychologists.

Rulemaking Specific Authority 490.015(2), 490.007(1) FS. Law Implemented 490.007(1) FS. History--New 4-13-82, Amended 4-20-83, 3-19-85, Formerly 21U-501.03, Amended 7-10-89, 1-10-91, Formerly 21U-501.003, 61E9-501.003, Amended 9-9-01, \_\_\_\_\_.

64B21-501.005 Application Fees.

(1) The non-refundable application fee for licensure by examination is \$175.00 ~~\$250.00~~.

(2) The non-refundable application fee for licensure by endorsement is \$175.00 ~~\$250.00~~.

(3) No change.

Rulemaking Specific Authority 456.013, 490.015 FS. Law Implemented 456.036(4), 490.005, 490.006 FS. History--New 8-27-84, Amended 12-16-84, 2-21-85, Formerly 21U-501.05, Amended 1-28-92, 6-21-92, Formerly 21U-501.005, 61E9-501.005, Amended 9-9-01, 9-27-05, \_\_\_\_\_.

64B21-501.0065 Change of Status Fee.

If a licensee seeks to change the status of his or her license at any time other than at the beginning of a licensure cycle, a change of status fee of \$50.00 shall be applied.

Rulemaking Specific Authority 490.015(2) FS. Law Implemented 456.036 FS. History--New 9-9-01, Amended \_\_\_\_\_.

64B21-501.009 Initial Licensure Fee.

The fee for initial licensure shall be \$175.00 ~~\$250.00~~. This fee is refundable if the applicant is not eligible for licensure.

Rulemaking Specific Authority 490.015, 456.013 FS. Law Implemented 456.013 FS. History--New 7-10-89, Amended 1-10-91, 6-21-92, Formerly 21U-501.009, 61E9-501.009, Amended 9-9-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Allen Hall

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D., M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 15, 2010

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Mental Health Program**

RULE NOS.:	RULE TITLES:
65E-26.001	Applicability
65E-26.002	Enrollment and Eligibility Requirements

PURPOSE AND EFFECT: The purpose of the rule development is to create a new rule to incorporate statutory changes in priority populations and services as they relate to enrollment and eligibility requirements. This rule shall apply to all community mental health providers and licensed mental health residential treatment facilities under contract with the department or the agency to provide treatment services to the Substance Abuse and Mental Health Program Offices.

SUMMARY: This chapter establishes standards for identifying individuals who are eligible for publicly funded substance abuse and mental health services and for enrolling these individuals into the department's priority populations as referenced in Section 394.674, Florida Statutes.

RULEMAKING AUTHORITY: 394.674(4) FS.

LAW IMPLEMENTED: 394.674 FS.

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: 394.674(4) FS.

LAW IMPLEMENTED: 394.674 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: Friday, January 14, 2011, 10:00 a.m.

PLACE: Department of Children and Families, Mental Health Program Office, 1317 Winewood Blvd., Building 6, Conference Room A, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Denise L. Barber, Department of Children and Families, Mental Health Program Office, 1317 Winewood Blvd., Building 6, Room 207, Tallahassee, FL 32399-0700

THE FULL TEXT OF THE PROPOSED RULES IS:

65E-26.001 Applicability.

This chapter establishes standards for identifying individuals who are eligible for publicly funded substance abuse and mental health services and for enrolling these individuals into the department’s priority populations as referenced in Section 394.674, Florida Statutes.

Rulemaking Authority 394.674(4) FS. Law Implemented 394.674 FS. History--New \_\_\_\_\_.

65E-26.002 Enrollment and Eligibility Requirements.

(1) To be eligible for substance abuse and mental health services funded by the Department of Children and Family Services (DCF), an individual must be enrolled in one of the department’s priority populations as referenced in Section 394.674, Florida Statutes.

(2) To meet this enrollment requirement, the provider must submit enrollment data and service event data in the department’s database system as follows:

(a) Every service event funded by the department must have a corresponding enrollment record showing the priority population of the person served.

(b) Service event records funded by the department that do not have corresponding enrollment records will not be accepted in the department’s database system.

(3) Each service provider under contract with the Department of Children and Family Services (DCF) to provide substance abuse and/or mental health services must establish written policies and procedures describing the process for enrolling eligible persons into the department’s priority populations, and for reporting enrollment data elements into the department’s database system.

(4) For eligible persons who meet the department’s priority population criteria and who are admitted into the service provider agency to receive these services, the provider must do the following:

(a) Enroll the person into the most appropriate priority population at the time of admission:

(b) Collect and submit the enrollment data element(s) as part of the initial admission record reported in the department’s database system; and

(c) Review the enrollment record of each active client as part of the ongoing case review process to determine if the person’s priority population criteria have changed and, if necessary, re-enroll the person as follows:

1. Re-enroll the person in the most appropriate priority population to reflect the change.

2. Collect and submit the enrollment data element(s) as part of the priority population update record reported in the department’s database system. This record shall include only the key fields and the required enrollment data elements.

(5) For eligible persons who meet the department’s priority population criteria but are not admitted into the provider agency because these persons are seen on a brief emergency basis and are immediately discharged or because needed services are unavailable within the provider agency, the provider must also:

(a) Enroll the person into the most appropriate priority population at the time of immediate discharge and

(b) Collect and submit the enrollment data element(s) as part of the immediate discharge record reported in the department’s database system.

(6) For persons who do not meet the above conditions in subsections 65E-26.002(4) and (5), F.A.C., the providers may, but are not required to, collect and submit the admission records or immediate discharge records in the department’s database system.

Rulemaking Authority 394.674(4) FS. Law Implemented 394.674 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Denise L. Barber

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George Sheldon

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 36, No. 16, April 23, 2010

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE NO.: 68A-20.005  
RULE TITLE: Specific Fish Management Area Regulations

PURPOSE AND EFFECT: The purpose of the proposed rule changes is to alter the bag limit for black bass in Orange and Lochloosa Lakes Fish Management Areas (Alachua County) from three fish per day outside of the protective slot limit of 15 to 24 inches in total length (all fish between 15 and 24 inches must be released) to three fish per day, only one of which may be over 24 inches in total length and the protective slot limit would remain unchanged. The effect would be to enable the agency to better manage fisheries resources.

SUMMARY: The proposed rule would change the present black bass daily bag limit of three fish outside of the protective slot limit (bass between 15 and 24 inches in total length must

be immediately released unharmed) to three bass outside the slot with only one fish exceeding 24 inches in total length. The slot would remain unaltered.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has determined that this rule will \_\_\_ or will not x have an impact on small business. A SERC has \_\_\_ or has not x 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:** Article IV, Section 9, Florida Constitution.

**LAW IMPLEMENTED:** Article IV, Section 9, Florida Constitution.

**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:** Tom Champeau, Director, Division of Freshwater Fisheries Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

**THE FULL TEXT OF THE PROPOSED RULE IS:**

68A-20.005 Specific Fish Management Area Regulations.

- (1) No change.
- (2) North Central Region:
  - (a) No change.
  - (b) Lakes Lochloosa, Orange and Newnans, Alachua County:

- 1. through 2. No change.
- 3. Orange Lake, including waters lakeward (south and east) of County Road 346 and in waters west of U.S. Highway 301:

No person shall kill or possess any black bass that is 15 inches or more in total length and less than 24 inches in total length and no person shall take in any one day more than three (3) black bass of which only one (1) may be 24 inches in total length or larger.

4. Lochloosa Lake, including Tadpole Creek, Lochloosa Creek, and Cross Creek:

No person shall kill or possess any black bass that is 15 inches or more in total length and less than 24 inches in total length and no person shall take in any one day more than three (3) black bass of which only one (1) may be 24 inches in total length or larger.

- (c) through (s) No change.
- (3) through (5) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 2-19-80, 5-19-80, 6-4-81, 9-28-81, 6-21-82, 7-1-83, 11-17-83, 7-1-84, 7-1-85, Formerly 39-20.05, Amended 2-27-86, 6-1-86, 5-10-87, 4-13-88, 7-1-89, 7-1-90, 4-11-91, 7-1-91, 7-2-92, 8-23-92, 4-20-93, 7-1-94, 8-15-95, 10-23-95, 4-1-96, 2-16-97, 6-1-97, 6-29-97, 1-1-98, 7-1-98, 11-2-98, Formerly 39-20.005, Amended 4-30-00, 7-1-00, 10-10-00, 4-1-01, 7-1-01, 10-9-01, 7-1-02, 1-1-03, 7-1-03, 1-1-04, 7-1-04, 7-17-05, 7-1-06, 4-1-07, 7-1-08, 7-1-10,\_\_\_\_\_.

**BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.**

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Tom Champeau, Director, Division of Freshwater Fisheries Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

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

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 1, 2010

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** December 10, 2010

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
68B-14.0045	Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits

**PURPOSE, EFFECT AND SUMMARY:** The purpose of this draft rule amendment is to achieve consistency between the Commission’s Reef Fish Rule on the licensing requirements for the commercial harvest and sale of groupers and tilefish in the Gulf of Mexico and rules that were implemented by NOAA Fisheries Service in January 2010 as part of the individual fishing quota (IFQ) program. Originally, red snapper was the only species in the Gulf of Mexico that was included in the IFQ program. In January of 2010 sixteen species of grouper and tilefish were added to the IFQ program. The additional species are: red grouper, gag grouper, black grouper, scamp, yellowfin grouper, red hind, rock hind, yellowmouth grouper, yellowedge grouper, snowy grouper, misty grouper, goldface tilefish, blackline tilefish, anchor tilefish, blueline tilefish, and golden tilefish. Since January of 2010, harvesters have been required to possess a federal Gulf of Mexico IFQ vessel account to harvest these species in federal waters of the Gulf of Mexico. Reef fish are managed in Gulf federal waters adjacent to Florida by the Gulf of Mexico Fisheries Management Council,

of which Florida is a voting member. The effect of this rule amendment is to specify which permits are needed in order to commercially harvest the above species and prevent people without IFQ shares from harvesting them off Florida. With this rule amendment, federal and state regulations will be consistently applied. Where practicable, this minimizes public confusion, aids enforceability, and contributes to the overall health and status of grouper and tilefish in the Gulf of Mexico. SUMMARY: Rule 68B-14.0045, F.A.C., (Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits) would be amended to add 16 additional grouper and tilefish species to the requirement for commercial harvesters fishing in state waters of the Gulf of Mexico to hold a federal Gulf IFQ vessel account when fishing for reef fish species included in the federal Gulf of Mexico IFQ program. It would also remove the grouper vessel limit in Gulf waters, clarify which federal permits and licenses the State of Florida requires by adding the specific citation to the Federal Code, and clarify that the licenses and permits must be issued to and possessed aboard the vessel while harvesting reef fish for commercial purposes in state waters.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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: Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764.

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:

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits.

(1) Licenses.

(a) Each person harvesting any of the species listed in subsection 68B-14.001(2), F.A.C., for commercial purposes in state waters shall possess a valid saltwater products license with a restricted species endorsement and:

1. If fishing in state waters of the Atlantic Ocean, either a valid transferable commercial permit or a trip-limited commercial permit for South Atlantic snapper-grouper pursuant to 50 C.F.R. § 622.18 issued to and possessed aboard the vessel.

2. If fishing in state waters of the Gulf of Mexico, a valid commercial reef fish permit pursuant to 50 C.F.R. § 622.4(a)(2)(v) issued to and possessed aboard the vessel, except as provided in subparagraph 3.

3. For a person aboard a vessel, for which a commercial vessel permit for Gulf reef fish has been issued, to fish for, possess, or land red snapper, red grouper, gag grouper, black grouper, scamp, yellowfin grouper, red hind, rock hind, yellowmouth grouper, yellowedge grouper, snowy grouper, misty grouper, goldface tilefish, blackline tilefish, anchor tilefish, blueline tilefish, and golden tilefish regardless where harvested or possessed, a Gulf red snapper IFQ vessel account, as defined in 50 C.F.R. § 622.4(a)(2)(ix), for the applicable species must be established as defined in 50 C.F.R. § 622.16(c)(1)(i) or 622.20(c)(1)(i) endorsement issued to and possessed aboard the vessel.

(b) through (d) No change.

(2) No change.

(3) Bag and Trip Limits.

(a) No change.

(b) Grouper.

1. through 2. No change.

~~3. Vessels harvesting commercially in the state waters of the Gulf of Mexico as specified in subparagraph 68B-14.0045(1)(a)2., F.A.C., are subject to a grouper vessel trip limit. Groupers are all species listed in paragraph 68B-14.001(2)(b), F.A.C., except bank sea bass and black sea bass. The grouper vessel trip limit shall be 6,000 pounds from January 1 until such time as the state waters are closed to harvest of any species pursuant to paragraph 68B-14.0045(2)(b), F.A.C., at which time the grouper vessel trip limit for that species is reduced to zero. The grouper vessel limit shall be restored to 6,000 pounds on January 1 of the following year.~~

(c) through (e) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, Formerly 46-14.0045, Amended 1-1-00, 3-6-00, 1-1-01, 3-1-01, 6-1-01, 1-1-03, 7-15-04, 5-20-05, 9-16-05, 3-10-06, 7-1-07, 4-1-08, 8-27-09, 1-19-10, \_\_\_\_\_.