

No other changes were made to the rule amendments as proposed.

**DEPARTMENT OF ECONOMIC OPPORTUNITY**

**Division of Workforce Services**

RULE NO.:                   RULE TITLE:  
73B-20.006                   Computation of Time  
                                  NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 23, June 8, 2012 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF ECONOMIC OPPORTUNITY**

**Division of Workforce Services**

RULE NO.:                   RULE TITLE:  
73B-21.004                   Computation of Time  
                                  NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 23, June 8, 2012 issue of the Florida Administrative Weekly has been withdrawn.

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**Section IV  
Emergency Rules**

**DEPARTMENT OF THE LOTTERY**

RULE NO.:                   RULE TITLE:  
53ER12-59                   Replacement of Obsolete Emergency  
                                  Rule

SUMMARY: This emergency rule is replacing another emergency rule that has been determined to be obsolete or unnecessary by the Department of the Lottery.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER12-59 Replacement of Obsolete Emergency Rule.

The Department of the Lottery’s emergency rule relating to the Lottery’s Business Partner Program is being replaced because the program has been discontinued and the provisions of the rule are obsolete. This rule shall replace 53ER05-44, F.A.C.

Rulemaking Authority 24.109(1) FS. Law Implemented 24.109(1), 120.74(1)(c) FS. History—New 8-29-12, Replaces 53ER05-44, F.A.C.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: August 29, 2012

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**Section V**

**Petitions and Dispositions Regarding Rule  
Variance or Waiver**

**DEPARTMENT OF LAW ENFORCEMENT**

NOTICE IS HEREBY GIVEN that on August 17, 2012, the Criminal Justice Standards and Training Commission, received a petition for a permanent waiver of subsections 11B-35.002(2) and 11B-27.002(4), F.A.C., by Arcadia Police Department on behalf of Officer Robert McVey. Petitioner wishes to waive that portion of the rules which requires an officer to obtain employment within four years of beginning basic recruit training. The Petition states that Officer McVey was employed by Petitioner in May of 2012. Officer McVey had commenced cross-over basic recruit training on April 14, 2008. The Petitioner was able to register Officer McVey in the CJSTC’s officer database, but learned in July of 2012, that Officer McVey was ineligible for employment because of the rules cited above. The Petition states that the operation of the rule would violate the principles of fairness because Petitioner was able to register Officer McVey in ATMS in May of 2012, and put him to work in June of 2012, whereas other officers subject to the rule would have been blocked in ATMS and denied registration. The Petition states that the operation of the rule creates a substantial hardship for both Petitioner and Officer McVey in that arrests and citations issued by Officer McVey would be made a nullity should he lose his eligibility to remain certified. The Petitioner would have to fill the vacancy created by Officer McVey with other officers during severe budgeting times. The Petition further supports the requested waiver by stating that Officer McVey would have to return to training school to demonstrate proficiency in the high liability areas and pass the SOCE prior to becoming eligible for employment, which would be a considerable expense to him.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302 or by telephoning (850)410-7676.

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**STATE BOARD OF ADMINISTRATION**

The State Board of Administration hereby gives notice that on August 29, 2012, the State Board of Administration (SBA), Florida Hurricane Catastrophe Fund, received a request for withdrawal of a petition for Emergency Variance or Waiver from Rules 19-8.010 and 19-8.030, F.A.C. The SBA originally received the petition from Cypress Insurance Company on August 7, 2012, and Notice of receipt of the petition was published in the Florida Administrative Weekly, Vol. 38, No. 33, August 17, 2012. No public comment was received.

A copy of the Order or additional information may be obtained by contacting: Tina Joanos, Agency Clerk, SBA, P. O. Box 13300, Tallahassee, Florida 32317-3300 or email: Tina.Joanos@sbafla.com.

The State Board of Administration hereby gives notice that on August 23, 2012, the State Board of Administration of Florida (SBA), Florida Hurricane Catastrophe Fund, received a request for withdrawal of a petition for Emergency Variance or Waiver from Rules 19-8.010 and 19-8.028, F.A.C. The SBA originally received the petition from American Integrity Insurance Company, Inc., on July 25, 2012, and Notice of receipt of the petition was published in the Florida Administrative Weekly, Vol. 38, No. 32, August 10, 2012. No public comment was received.

A copy of the Order or additional information may be obtained by contacting: Tina Joanos, Agency Clerk, SBA, P. O. Box 13300, Tallahassee, FL 32317-3300 or e-mail: Tina.Joanos@sbafla.com.

#### **WATER MANAGEMENT DISTRICTS**

NOTICE IS HEREBY GIVEN that on August 14, 2012, the South Florida Water Management District (District), received a petition for Variance (Application 120814-7) from Lost Tree Village Property Owner's Association, Inc. The property is located in Palm Beach County, Section 3, Township 42 South, Range 43 East, at 11237 Lost Tree Way, North Palm Beach, FL 33408. The petition seeks relief from provisions in subsection 40E-24.201(6), Florida Administrative Code, which states that irrigation of existing landscaping shall be conducted on specific days, pursuant to Section 120.542, Florida Statutes.

A copy of the Petition for Variance or Waiver may be obtained by contacting: the Regulation Division, during the normal business hours of 8:00 a.m. – 5:00 p.m., Monday through Friday, except legal holidays, at 3301 Gun Club Road, West Palm Beach, FL 33406, by telephone: (561)682-6911, by e-mail: permits@sfwmd.gov or by accessing the District's website ([www.sfwmd.gov/ePermitting](http://www.sfwmd.gov/ePermitting)) using the Application/Permit Search. To be considered, comments must be received by the close of business on September 28, 2012, at: South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33401, Attn: District Clerk.

For additional information, contact: Patrick Martin, (561)682-2176 or e-mail: [pmartin@sfwmd.gov](mailto:pmartin@sfwmd.gov).

#### **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Department issued a Final Order that was in response to a Petition for Variance from Anglers Cove Condominium, filed July 24,

2012, and advertised on August 10, 2012 in Vol. 38, No. 32, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance denies the Petitioner a variance from Rule 2.10.2.1, and 2.4.6.2(c) ASME A17.1, 2000 edition, as adopted by Chapter 30, Section 3001.2, Florida Building Code, adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the top car clearances, and top rail because the Petitioner has not demonstrated that the purpose of the statute underlying the rule will be met or that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-242).

A copy of the Order or additional information may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Surf Rider Condominium, filed August 13, 2012, and advertised on August 24, 2012 in Vol. 38, No. 34, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.11.3 ASME A17.3, 1996 edition, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators for firefighters' emergency operations because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-262).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Acapulco Inn, filed August 9, 2012, and advertised on August 24, 2012 in Vol. 38, No. 34, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.11.3 3.3.2, 2.7.4, 3.9.1, and 3.4.5 ASME A17.3, 1996 edition, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators for firefighters' emergency operations, platform guards (aprons), door restrictors, terminal stopping devices and car illumination until July 1, 2014, because the Petitioner has demonstrated that the

purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-260).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Regency West Apartments, A Condominium, filed August 9, 2012, and advertised on August 24, 2012 in Vol. 38, No. 34, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.11.3 ASME A17.3, 1996 edition, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators for firefighters' emergency operations until July 1, 2015, because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-261).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for a Variance from American Financial Realty, filed July 30, 2012, and advertised on August 10, 2012 in Vol. 38, No. 32, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.11.3 ASME A17.3, 1996 edition, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators for firefighters' emergency operations because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-247).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for a Variance from Anglers Cove Condominium, filed July 24,

2012, and advertised on August 10, 2012 in Vol. 38, No. 32, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.4.1.5, and 2.15.9.2 ASME A17.1, 2007 edition, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires the elevators pit be 5' deep and are seeking to use a retractable toe guard for the existing 4' pit because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-243).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Lee County Justice Center, filed August 6, 2012, and advertised on August 17, 2012 in Vol. 38, No. 33, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.11.3 ASME A17.3, 1996 edition, as adopted by Chapter 30, Section 3001.2, Florida Building Code, that requires upgrading the elevators floor over hoistways and location of machine rooms and control rooms because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-256).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Ft. Myers-Lee County Library, filed August 3, 2012, and advertised on August 17, 2012, in Vol. 38, No. 33, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 2.1.3.1, and 2.7.6 ASME A17.1, 2000 edition, Chapter 30, Section 3001.2, Florida Building Code, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators floor over hoistways and location of machine rooms and control rooms because the Petitioner has demonstrated that the purpose of the statute

underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-255).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice on September 4, 2012, the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from Clearwater Clinical, filed August 3, 2012, and advertised on August 17, 2012, in Vol. 38, No. 33, of the Florida Administrative Weekly. No comments were received in response to the petition. The Final Order on the Petition for Variance grants the Petitioner a variance from Rule 3.4.4 ASME A17.1b, 2009 edition, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators top car clearance because the Petitioner has demonstrated that the purpose of the statute underlying the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW 2012-254).

A copy of the Order may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on August 30, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Monroe Park Tower. Petitioner seeks an emergency variance of the requirements of ASME A17.3, Section 3.11.3, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators with firefighters' emergency operations which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-283).

A copy of the Petition may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on August 29, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Tampa Greyhound Track. Petitioner seeks an emergency variance of the requirements of ASME A17.3, Section 3.11.3, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators with firefighters' emergency operations which poses a significant economic/financial hardship. Any interested person

may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-282).

A copy of the Petition may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on August 31, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Ironwood Fourteenth Condominium Association, Inc. Petitioner seeks a variance of the requirements of ASME A17.3, Section 3.11.3, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators with firefighters' emergency operations which poses a significant economic/financial hardship. Any interested person may file comments within 14 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-286).

A copy of the Petition may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on August 30, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Screen Process Printers, Inc. Petitioner seeks a variance of the requirements of ASME A17.3, Section 3.11.3, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators with firefighters' emergency operations, car illumination, car emergency signaling device, platform guards and top-of-car operating devices which poses a significant economic/financial hardship. Any interested person may file comments within 14 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-284).

A copy of the Petition may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on August 31, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Transportation and Parking Services. Petitioner seeks an emergency variance of the requirements of ASME A17.3, Section 3.11.3, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators with firefighters' emergency operations which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of

this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-287).

A copy of the Petition may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on August 31, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for The Winegard ES, Bldg. 3. Petitioner seeks an emergency variance of the requirements of ASME A17.1b, Section 2.20.4, 2.18.5.1 and 2.24.2.1 as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires steel ropes of a minimum diameter of 9.5 mm, which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-285).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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NOTICE IS HEREBY GIVEN that on August 27, 2012, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for Pointe Towers Condominium Association, Inc. Petitioner seeks an emergency variance of the requirements of ASME A17.3, Section 3.11.3, 3.10.4(t), 3.3.2, 2.7.4, 3.11.1, 2.2.3, 3.4.5, 3.9.1, 3.10.3, and 4.7.8, as adopted by subsection 61C-5.001(1), Florida Administrative Code, that requires upgrading the elevators with firefighters' emergency operations, in-car stop switch, platform guards, door restrictors, car emergency signaling devices, lighting, car illumination, normal terminal stopping devices, top-of-car operating devices, and emergency operation and signaling devices which poses a significant economic/financial hardship. Any interested person may file comments within 5 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2012-481).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

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The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice on August 8, 2012, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for Subparagraph 3-305.11(A)(2), 2001 FDA Food Code, Paragraph 3-305.14, 2001 FDA Food Code, Paragraph 6-202.15, 2001 FDA Food Code, Paragraph 6-202.16, 2001

FDA Food Code, subsections 61C-4.010(1), (6), Florida Administrative Code, from Big Daddy G Foods located in Orlando, FL. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk potentially hazardous foods other than frankfurters from an open air mobile food dispensing vehicle.

The Petition for this variance was published in Vol. 38/34 on August 24, 2012. The Order for this Petition was signed on August 30, 2012 and after a complete review of the variance request, the Division finds that the application of this rule will create a financial hardship to the food service establishment. Furthermore, the Division finds that the Petitioner meets the burden of demonstrating that the underlying statute has been achieved by the Petitioner ensuring that each pan within the steam table is properly covered with an individual lid; the steam table is enclosed within a cabinet with tight-fitting doors, and is protected by an air curtain installed and operated according to the manufacturer's specifications that protects against flying vermin or other environmental contaminants; all steam table foods must be properly reheated for hot holding at approved commissaries and held hot at the proper minimum temperature per the parameters of the currently adopted FDA Food Code; steam table food is to be dispensed by the operator with no customer self-service. The Petitioner shall also strictly adhere to the operating procedures and copies of the variance and operating procedures are to be present on the MFDV during all periods of operation.

A copy of the Order or additional information may be obtained by contacting: Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1011, Lydia.Gonzalez@dbpr.state.fl.us.

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The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice on August 10, 2012, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for Paragraph 4-301.11, 2001 FDA Food Code and subsection 61C-4.010(5), Florida Administrative Code, from Dunkin' Donuts located in Fort Myers, FL. The above referenced F.A.C. addresses the requirements that each establishment have facilities to maintain potentially hazardous food at proper temperature and that food must be properly stored in a licensed establishment. They are requesting to share cold holding facilities and food storage areas located within another permitted establishment.

The Petition for this variance was published in Vol. 38, No. 34 on August 24, 2012. The Order for this Petition was signed on August 30, 2012, and after a complete review of the variance request, the Division finds that the application of this rule will create a financial hardship to the food service establishment. Furthermore, the Division finds that the Petitioner meets the burden of demonstrating that the underlying statute has been

achieved by the Petitioner ensuring that the cold holding units within Hess are maintaining potentially hazardous foods at the proper temperature. Also the Petitioner shall ensure that the cold holding units and food storage areas are kept clean and in good repair. If the ownership of Hess changes, an updated written agreement must be provided to the Division immediately.

A copy of the Order or additional information may be obtained by contacting: Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1011, Lydia.Gonzalez@dbpr.state.fl.us.

The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice on August 8, 2012, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsections 61C-4.010(7), (6), Florida Administrative Code, from Sebago Catering located in Key West, FL. The above referenced F.A.C. addresses the requirement that at least one accessible bathroom be provided for use by customers. They are requesting to share the bathrooms located within an adjacent establishment for use by customers only.

The Petition for this variance was published in Vol. 38, No. 34 on August 24, 2012. The Order for this Petition was signed on August 30, 2012, and after a complete review of the variance request, the Division finds that the application of this rule will create a financial hardship to the food service establishment. Furthermore, the Division finds that the Petitioner meets the burden of demonstrating that the underlying statute has been achieved by the Petitioner ensuring the bathrooms located within Christy Transier Photography (Unit B) are maintained in a clean and sanitary manner and are provided with cold running water under pressure, soap, approved hand drying devices, and are available during all hours of operation. The Petitioner shall also ensure directional signage is installed within or outside the establishment clearly stating the location of the bathrooms. If the ownership of Christy Transier Photography changes, an updated signed agreement for use of the bathroom facilities is required immediately.

A copy of the Order or additional information may be obtained by contacting: Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, FL 32399-1011, Lydia.Gonzalez@dbpr.state.fl.us

#### **DEPARTMENT OF ENVIRONMENTAL PROTECTION**

NOTICE IS HEREBY GIVEN that on August 27, 2012, the Department of Environmental Protection, received a petition for the City of Tallahassee (COT) seeking the reissuance of a variance from paragraph 62-699.310(2)(e), subsections 62-699.311(4), (10), F.A.C., to allow for a reduction in staffing requirements at the COT's Class B and C water treatment plants and to allow for a chief/lead operator to supervise multiple Class B water treatment plants connected to a single

water distribution system. A previous variance was granted in August 2009 with an expiration date of December 31, 2012. The petition has been assigned OGC File No.: 12-1461.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Virginia Harmon, Department of Environmental Protection, 2600 Blair Stone Road, MS #3520, Tallahassee, Florida 32399-2400, (850)245-8630, email: virginia.harmon@dep.state.fl.us. Written comments must be received by Virginia Harmon at the above address or email no later than 14 days from the date of publication of this notice.

#### **DEPARTMENT OF HEALTH**

NOTICE IS HEREBY GIVEN that on August 29, 2012, the Board of Medicine, received a petition for waiver or variance filed by Richard Alexis, M.D., from Rule 64B8-4.009, F.A.C., with regard to the requirement for submission of documentation of medical education directly from Petitioner's medical school. Comments on this petition should be filed with the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Joy A. Tootle, Executive Director, Board of Medicine, at the above address or telephone: (850)245-4131.

NOTICE IS HEREBY GIVEN that on September 4, 2012, the Board of Medicine, received a petition for waiver or variance filed by Edward Kelmenson, M.D., from Rule 64B8-4.009, F.A.C., with regard to the requirement for the submission of transcripts and documentation of medical education directly from Petitioner's medical school. Comments on this petition should be filed with the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Joy A. Tootle, Executive Director, Board of Medicine, at the above address or telephone (850)245-4131.

NOTICE IS HEREBY GIVEN that on August 31, 2012, the Board of Medicine, received a petition for waiver or variance filed by Mariya Miteva, M.D., from Rule 64B8-4.009, F.A.C., with regard to the requirement for submission of the AMA Physician Profile Sheet for the licensure application. Comments on this petition should be filed with the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Joy A. Tootle, Executive Director, Board of Medicine, at the above address or telephone: (850)245-4131.

NOTICE IS HEREBY GIVEN that on August 27, 2012, the Board of Medicine, received a petition for waiver or variance filed on behalf of Panhandle Orthopaedics, LLC, from Rule 64B8-9.009, F.A.C., with regard to the requirement for a transfer agreement for level II office surgery. Comments on this petition should be filed with the Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Joy A. Tootle, Executive Director, Board of Medicine, at the above address or telephone (850)245-4131.

The Board of Physical Therapy Practice hereby gives notice of the issuance of an Order regarding the Petition for Waiver or Variance, which was filed on May 16, 2012, by Ricardo de Miranda Tubino. The Notice of Petition for Waiver or Variance was published in Vol. 38, No. 21, of the May 25, 2012, Florida Administrative Weekly. The Petitioner was seeking a waiver or variance of subsection 64B17-3.001(3), F.A.C., entitled "Licensure as a Physical Therapist by Examination," which requires for foreign graduates to have received a determination that the credentials are equivalent to education required for licensure as a physical therapist in the United States as determined by the Foreign Credentialing Commission on Physical Therapy. The Board considered the instant Petition at a duly-noticed public telephonic meeting, held on June 15, 2012.

The Board's Order, filed on July 6, 2012, granted the petition finding that Petitioner established that the purpose of the underlying statute, Section 486.051, F.S., would be met by granting a variance or waiver from subsection 64B17-3.001(3), F.A.C. The Board further finds that Petitioner established that applying the requirements of the aforementioned rule to his circumstances would violate principles of fairness and impose substantial hardship.

A copy of the Order or additional information may be obtained by contacting: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3755.

#### **DEPARTMENT OF ECONOMIC OPPORTUNITY**

The Department of Economic Opportunity hereby gives notice:

NAME OF PETITIONER: City of Fort Meade

DATE PETITION WAS FILED: July 13, 2012. It was assigned the number DEO-12-103.

RULE NUMBER AND NATURE OF RULE FROM WHICH VARIANCE OR WAIVER IS SOUGHT: Paragraph 73C-23.0041(1)(c), F.A.C. Requesting a waiver of the \$750,000 cap on CDBG grants which has been removed by statutory amendment. The rule has not been amended to reflect the change.

A REFERENCE TO THE PLACE AND DATE OF PUBLICATION OF THE NOTICE OF THE PETITION: Vol. 38, No. 32, August 10, 2012, issue of the Florida Administrative Weekly.

THE DATE OF THE ORDER DENYING OR APPROVING THE VARIANCE OR WAIVER: August 29, 2012.

THE GENERAL BASIS FOR THE AGENCY DECISION: Because the statutory basis for the cap was repealed, there was no authority to enforce the rule. Waiving the limit to allow greater grant amounts encourages economic development and the underlying purpose of the statute.

A copy of the Order or additional information may be obtained by contacting: Miriam Snipes, Agency Clerk, Department of Economic Opportunity, 107 East Madison Street, Tallahassee, FL 32399-4128, e-mail: miriam.snipes@deo.myflorida.com.

The Department of Economic Opportunity hereby gives notice:

NAME OF PETITIONER: City of LaBelle

DATE PETITION WAS FILED: June 11, 2012. It was assigned the number DEO-12-102.

RULE NUMBER AND NATURE OF RULE FROM WHICH VARIANCE OR WAIVER IS SOUGHT: Subsection 73C-23.031(29) and paragraph 73C-23.041(2)(d), F.A.C. The City of LaBelle is requesting a waiver of the requirement that an Economic Development subgrant project be "on time" in order to be eligible to apply for a subsequent subgrant. Paragraph 73C-23.041(2)(d), F.A.C. The City is also requesting a waiver of the requirement that an Economic Development subgrant not be extended for more than twelve months in order to be eligible to apply for a subsequent subgrant. Subsection 73C-23.031(29), F.A.C.

A REFERENCE TO THE PLACE AND DATE OF PUBLICATION OF THE NOTICE OF THE PETITION: Vol. 38, No. 32 August 10, 2012 issue of the Florida Administrative Weekly.

THE DATE OF THE ORDER DENYING OR APPROVING THE VARIANCE OR WAIVER: August 29, 2012.

THE GENERAL BASIS FOR THE AGENCY DECISION: Waiving the requirements makes the City eligible to apply for upcoming grants and encourages economic development while the underlying purpose of the statute is accomplished.

A copy of the Order or additional information may be obtained by contacting: Miriam Snipes, Agency Clerk, Department of Economic Opportunity, 107 East Madison Street, Tallahassee, FL 32399-4128, e-mail: miriam.snipes@deo.myflorida.com.