

Section I Notice of Development of Proposed Rules and Negotiated Rulemaking

NONE

Section II Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.099811 RULE TITLE: Differentiated Accountability State System of School Improvement

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to substantially re-write the existing rule on school improvement to incorporate legislative changes limiting schools that are in need of intervention and support to schools graded “D” and “F,” to revise incorporated forms, and to clarify the turnaround process for failing schools.

SUMMARY: The proposed rule identifies schools for improvement each school year based upon their most recently released school grade and categorizes schools as Focus schools (those graded “D”) and as Priority schools (those graded “F”). A subsection addressing Focus schools has been added and describes interventions or actions in year one, year two, and year three of receiving a grade of “D.” A subsection addressing Priority schools has been added to describe interventions and exit criteria. The turnaround options available to districts and process for planning for those options are also set out in the proposal. Lastly, the proposed rule incorporates forms used by school districts.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency.

As noted in the SERC, the turnaround options available to a district to address a failing school remain unchanged, except that a new hybrid option is available to districts to provide flexibility. Further, the strategies to address failing schools remain largely unchanged from prior rule, except that the proposal provides more flexibility to school districts, acting in concert with the department, to improve failing schools. As such, it is not anticipated that the proposal will increase regulatory costs. Moreover, to assist districts with costs

associated with the school improvement process outlined in this rule, districts have funds available from the Race to the Top and School Improvement Grants. The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs.

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

RULEMAKING AUTHORITY: 1001.02(1), 1008.33 FS.

LAW IMPLEMENTED: 1003.413, 1006.40(2), 1008.33, 1008.345, 1012.2315 FS.

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

DATE AND TIME: June 18, 2013, 9:00 a.m.

PLACE: Hillsborough County School Board Office, 901 East Kennedy Blvd., Tampa, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sam Foerster, Deputy Chancellor of Student Achievement and School Improvement, 325 West Gaines St., Suite 1502, Tallahassee, FL 32399, (850)245-0509, Sam.Foerster@fldoe.org

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6A-1.099811 follows. See Florida Administrative Code for present text)

6A-1.099811 Differentiated Accountability State System of School Improvement.

(1) Purpose. The purpose of this rule is to set forth the Differentiated Accountability (DA) State System of School Improvement pursuant to Section 1008.33, Florida Statutes, by establishing differentiated intervention and support strategies for traditional public schools, delineating the responsibilities of the school, district, and Department of Education (Department), setting timelines for intervention and support strategies, prescribing reporting requirements to review and monitor progress of schools, and setting forth submission and approval criteria for turnaround implementation plans.

(2) Definitions. The following definitions, listed alphabetically, shall be used in this rule and incorporated documents:

(a) “Annual Measurable Objectives” or “AMOs” mean the yearly targets established for each subgroup, to include American Indian, Asian, black, Hispanic, white, English language learners, students with disabilities, economically disadvantaged, and all students, calculated at the school, district, and state levels, to show whether the subgroup is

making enough progress in the current year to be on track to reduce its percentage of non-proficient students in reading and math by half by 2016-17 (using 2010-11 as the baseline year). For the purposes of this definition, non-proficient means scoring at level 1 or 2 on FCAT 2.0 and end-of-course (EOC) assessments, or scoring at level 3 or lower on the Florida Alternate Assessment (FAA), pursuant to Rule 6A-1.09981, F.A.C.

(b) "Coaching" means serving as an instructional resource in a school to generate improvement in student achievement by improving the quality of instruction through professional development support to teachers in their respective content areas, as needed, based on an analysis of student performance and observational data.

(c) "Classroom walkthrough" means, for the purposes of DA, a brief, informal observation of classroom activities by DA Regional Team members, district, and school staff to gather data and provide feedback to teachers and administrators to inform instructional practices for improved student achievement. These data shall not be tied to individual teachers or used in teacher evaluations.

(d) "Common planning time" means the time provided to grade-level teachers at the elementary level and subject-area teachers at the secondary level to meet within and across grades and subjects for data-based decision making, problem-solving, and professional development on Common Core State Standards (CCSS), Next Generation Sunshine State Standards (NGSSS), and lesson study.

(e) "Data chats" means the process of administrators and teachers meeting to discuss assessment results in order to establish student goals. Students may or may not be present in these discussions.

(f) "Differentiated Accountability Regional Team" means the staff assigned by the Department to provide assistance to schools and districts located in one (1) of five (5) geographic regions.

(g) "Differentiated Accountability State System of School Improvement," "Differentiated Accountability," and "DA" mean the system set forth by Section 1008.33, Florida Statutes, in which the state provides support and interventions of escalating intensity to low-performing schools in order to improve and sustain performance of all student subgroups, and holds districts accountable for improving the academic achievement of all students and turning around low-performing schools.

(h) "Direct instructional support" means support provided by a district curriculum or content area specialist who visits the school frequently to provide onsite, job-embedded professional development and support to classroom teachers.

(i) "District Improvement and Assistance Plan" or "DIAP" means a district-level plan, submitted to the

Department, which includes strategies for improving school performance and increasing student achievement and demonstrates how resources are aligned to ensure schools demonstrating the greatest need receive the highest percentage of resources (Form DIAP-1, District Improvement and Assistance Plan).

(j) "Florida's Continuous Improvement Model" or "FCIM" is a process by which quality is improved over time by examining results and the processes that generate those results and employing problem solving skill to generate and implement targeted improvements.

(k) "Focus school" means any school that receives a grade of "D."

(l) "Former F school" means any school that earned a grade of "F" within the past three (3) years but has since improved its grade.

(m) "Increased learning time" or "extended day" means lengthening the school day, week, or year; providing before school, after school, Saturday or summer school programs to allow additional time for instruction in core academic subjects; providing enrichment activities that contribute to a well-rounded education; and allowing time for teacher collaboration, planning, and professional development.

(n) "Instructional coach" means a staff member who serves in the expressed capacity of coaching instructional staff, as defined in paragraph (2)(b) of this rule.

(o) "Instructional monitoring" means a process for observing instructional programs and practices and ensuring that the appropriate research-based interventions or instructional strategies are implemented consistently with fidelity.

(p) "Instructional review" or "IR" means the process used by the DA Regional Team, in collaboration with school and district leadership teams, to review a school's historical performance data, conduct observations of instructional delivery, and develop a school improvement action plan to address instructional concerns.

(q) "Lesson study" is a form of long-term professional development in which teams of teachers systematically and collaboratively conduct research closely tied to lessons, and then use what they learn about student thinking to become more effective instructors.

(r) "Multi-Tiered System of Supports" or "MTSS" means the system utilizing the problem-solving process to identify and support student needs based upon the available data. The data used in the process may include, but is not limited to, attendance, behavior/discipline, statewide assessment, and progress monitoring assessment data.

(s) "Priority school" means any school that receives a grade of "F."

(t) “Professional Learning Community” or “PLC” is an extended learning opportunity to foster collaborative learning among colleagues within a particular work environment or field. It is often used in schools as a way to organize educators into working groups focused on a targeted improvement issue.

(u) “Progress monitoring” means the assessments that keep educators informed about students’ progress in grade-level skills during the school year.

(v) “Regional Executive Director” or “RED” means the person who leads the DA Regional Team to support school improvement efforts, builds district capacity, provides and brokers professional development, and coaches and mentors school principals and school and district leadership teams.

(w) “Response to Instruction/Intervention” or “RTI” means the multi-tiered practice of providing high quality instruction and intervention matched to student needs using learning rate over time and level of performance to make important instructional decisions.

(x) “Turnaround Option Plan” or “TOP” means a district-level plan to implement one (1) of five (5) turnaround options in a school, pursuant to subsection (6) of this rule.

(3) DA Categories and Responsibilities.

(a) The Department shall identify schools for DA each school year based upon their most recently released school grades, pursuant to Section 1008.34, Florida Statutes.

(b) Charter schools and ungraded schools are not assigned to DA categories.

(c) Prior to the start of the school year, the Department will notify each school district if any of its schools have been categorized for DA. Beginning with 2011-2012, a school shall be categorized as:

1. “Focus” when it receives a grade of “D.” For these schools,

a. The district shall direct the school interventions.

b. The school shall apply the interventions.

c. The district and Department shall monitor progress and support schools.

d. The district shall provide onsite support.

e. The Department shall monitor the district’s support to schools.

f. The Department shall review the school improvement plan (SIP) and conduct visits to monitor the fidelity of the plan’s implementation.

2. “Priority” when it receives a grade of “F.” For these schools,

a. The Department and district shall direct the school interventions.

b. The school shall apply the interventions.

c. The Department and district shall conduct onsite monitoring of intervention implementations.

d. The Department and district shall provide onsite support.

e. The Department shall monitor the district’s support to schools.

f. The Department shall review the SIP, pursuant to Section 1001.42(18)(a), Florida Statutes, and conduct visits to monitor the fidelity of the plan’s implementation.

(4) Focus schools.

(a) Year one Focus schools are those that declined to a grade of “D” in the most recent grades release. For these schools the district shall:

1. Collaborate with the school and DA Regional Team to develop a SIP to align the progress monitoring assessment data to new targets and strategies using Form SIP-1, which must be submitted at <http://www.flbsi.org/>.

2. Submit required district- and school-level deliverables as described in Forms DA-1 and DA-2, including the District Improvement and Assistance Plan (DIAP), using Form DIAP-1, which must be submitted at http://www.flbsi.org.

(b) Year-two Focus schools are those that previously earned a grade of “D” or “F” immediately followed by a grade of “D” in the most recent grades release. Year-two Focus is a turnaround planning school year. For these schools the district shall:

1. Fulfill requirements of subparagraphs (4)(a)1.-2. of this rule.

2. Select a turnaround option from those listed in subsection (6) of this rule. The selected option shall be submitted on Form TOP-1: Turnaround Option Selection (Phase 1), which must be submitted at http://www.flbsi.org.

3. Submit a Turnaround Option Plan (TOP) for State Board of Education approval.

a. The plan must be developed with Department input and submitted on Form TOP-2: Turnaround Option Plan- Phases 2 & 3, which must be submitted at http://www.flbsi.org.

b. The district will not be required to implement its TOP if the school grade improves in the planning year.

(c) Year-three Focus schools are those that earned a third consecutive grade of a “D” or an “F” immediately followed by two (2) consecutive grades of “D” in the most recent grades release. The year-three Focus school year begins the turnaround implementation period. For these schools the district must:

1. Fulfill requirements of subparagraphs (4)(a)1.-2. of this rule.

2. Fully implement the State Board of Education approved TOP. The district will not be required to continue implementation of its TOP if the school grade improves in the first implementation year.

(d) In order to exit the Focus category, a school must improve its letter grade.

(5) Priority schools.

(a) Priority schools are those that earned a grade of “F” in the most recent grades release. The Priority school year is a turnaround planning year, unless the school already received a planning year or implemented a turnaround option within the previous two (2) school years pursuant to paragraph (5)(c) of this rule, and except for schools required to implement a new turnaround option pursuant to paragraph (7)(d) of this rule. For schools entering a planning year, the district shall:

1. Fulfill requirements of subparagraphs (4)(a)1.-2. of this rule.

2. Select a turnaround option from those listed in subsection (6) of this rule. The selected option shall be submitted on Form TOP-1: Turnaround Option Selection (Phase 1), which must be submitted at <http://www.flbsi.org>.

3. Submit a TOP for State Board of Education approval.

a. The plan must be developed with Department input and submitted on Form TOP-2: Turnaround Option Plan- Phases 2 & 3, which must be submitted at <http://www.flbsi.org>.

b. The district will not be required to implement its TOP if the school grade improves in the planning year.

(b) The school year immediately following the planning year begins the turnaround implementation period for Priority schools that do not improve their grade in the planning year. For these schools, the district must fully implement the State Board of Education approved TOP. The district will not be required to continue implementation of its TOP if the school grade improves.

(c) A school that earns a grade of “F” within two (2) years of raising its grade from an “F” must implement one (1) of the turnaround options pursuant to Section 1008.33, Florida Statutes, at the start of the subsequent school year.

(d) In order to exit the Priority category, a school must improve its letter grade. A Former F school must continue to refine and submit its turnaround plan pursuant to subsection (7) of this rule, in the school year immediately following the improved grade, in preparation for the event that it returns to a grade of “F” and must implement a turnaround option, pursuant to paragraph (5)(c) of this rule. Additionally, a Former F school shall sustain for three (3) years the activities and strategies outlined in the SIP that contributed to its improvement, which shall be monitored by the Department.

(6) Turnaround options are as follows:

(a) District-managed Turnaround (DMT);

(b) Closure;

(c) Charter;

(d) External Operation;

(e) Hybrid.

(7) Turnaround Option Plans. Turnaround plans shall be developed by the district according to the Department’s prescribed deadlines in three (3) phases during the turnaround

planning year for each school required to plan for turnaround pursuant to paragraphs (4)(b), (5)(a), and (7)(d) of this rule. Each year, the Department shall publish notice of the deadlines for each phase of turnaround plan submission. The notice shall allow a minimum of ninety (90) days after the school grade is posted for submission of phase one, a minimum of sixty (60) days after the phase one deadline for submission of phase two, and require phase three upon the start of the school year in which turnaround implementation begins.

(a) Phase one – selection. Districts shall complete phase one by selecting a turnaround option and submitting Form TOP-1 through the Department’s web site at <http://www.flbsi.org>.

(b) Phase two – planning. Districts shall complete phase two by developing a draft for review and feedback of the RED and submitting a completed plan for implementing the selected option using Form TOP-2. Form TOP-2 shall be submitted at <http://www.flbsi.org> and shall be approved or denied by the State Board of Education.

(c) Phase three – implementation. Phase three is required only for schools that do not improve the school grade and must implement the turnaround plan. Districts shall complete phase three by incorporating any revisions into Form TOP-2, which shall become the official turnaround plan on record, and by implementing the plan.

(d) If a school does not improve its grade following the second year of implementing a turnaround option, the school district must implement a different turnaround option at the beginning of the subsequent school year. The district does not receive an additional planning year, but must follow the requirements of paragraphs (7)(a)-(c) of this rule to develop the new plan during the second year of its current turnaround implementation.

(e) In the schools described in paragraph (7)(d) of this rule, the State Board of Education may grant additional time for the district to implement its current TOP, if the district demonstrates the school grade is likely to increase given more time. Using the forms and process outlined in paragraphs (7)(a)-(c) of this rule, the district may request additional time, and shall provide evidence of improvement under its current TOP, outline any changes in activities and strategies that will occur in the following year should additional time be granted, and assure timely implementation of an alternate turnaround option should the request be denied.

(8) Forms. The following forms are hereby incorporated by reference: Form DA-1, Checklist for Districts with Focus or Priority Schools (July 2013) [insert link]; Form DA-2, Checklist for Focus and Priority Schools (July 2013) [insert link]; Form DIAP-1, District Improvement and Assistance Plan (July 2013) [insert link]; Form SIP-1, School

Improvement Plan (SIP) (July 2013) [insert link]; Form TOP-1: Turnaround Option Selection (Phase 1) (July 2013) [insert link]; Form TOP-2: Turnaround Option Plan – Phases 2 & 3 (July 2013) [insert link]. All forms may be obtained by contacting the Bureau of School Improvement, K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(9) Failure to comply with the requirements of this rule will subject a district to the remedies provided in Section 1008.32, Florida Statutes.

Rulemaking Authority 1001.02(1), 1008.33 FS. Law Implemented 1006.40(2), 1008.33, 1008.345, 1012.2315 FS. History—New 8-11-10, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pam Stewart, Chancellor, Division of Public Schools
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Tony Bennett, Commissioner, Department of Education
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 20, 2013
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 22, 2012

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-8.800
RULE TITLE: Financial Compliance Audits of Medicaid Prepaid Plans

PURPOSE AND EFFECT: The purpose of the rule is to implement the provisions found in Section 409.967(3)(c), F.S., regarding the achieved saving rebates. Statutory mandate requires any audit required under Section 409.967(3), F.S., to be conducted by an independent certified public accountant who meets criteria specified by rule.

SUMMARY: Rule 59G-8.800, F.A.C., implements the provisions found in Section 409.967(3)(c), F.S., regarding the achieved saving rebates. Statutory mandate requires any audit required under Section 409.967(3), F.S., to be conducted by an independent certified public accountant who meets criteria specified by this rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the

statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based on the requirements found in Section 120.541, F.S., the rule will not require legislative ratification.

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: 409.961 FS.

LAW IMPLEMENTED: 409.967 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: July 2, 2013, 10:00 a.m. – 11:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room A, Tallahassee, FL 32308

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: Karen Chang at (850)412-4075 or by e-mail at: Karen.Chang@ahca.myflorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Chang at (850)412-4075 or by e-mail at: Karen.Chang@ahca.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-8.800 Financial Compliance Audits of Medicaid Prepaid Plans.

(1) Pursuant to Fla. Stat. § 409.967, the Agency shall contract with independent certified public accountants to conduct compliance audits of Florida Medicaid Prepaid Health Plans.

(a) Any vendor selected by the agency to conduct an audit may not have a conflict of interest that might affect its ability to perform its responsibilities with respect to an audit.

(b) The Agency will exercise due diligence in ensuring the rates charged to the Florida Medicaid Prepaid Health Plan being audited are comparable with rates the Agency pays to other certified public accountants for comparable audits.

(c) Each Florida Medicaid Prepaid Health Plan audited shall pay to the Agency, for the expenses of the audit described in Fla. Stat § 409.967(3)(b), a rate established by the Agency through a competitive process used for selection of

the vendor. The rate shall account for costs directly related to the audit as listed in Fla. Stat. § 409.967(3)(c)3., and shall consist of three components:

(1) travel reimbursement, in accordance with Fla. Stat. § 112.061;

(2) the CPA’s professional compensation; and

(3) the Agency’s administrative costs directly related to the audit.

Payment is due to the Agency within 15 days from the date the Agency presents the detailed account described in Fla. Stat. § 409.967(3)(c)3.

(d) All moneys collected from Florida Medicaid Prepaid Health Plans for such audits shall be deposited into the Agency’s Grants and Donations Trust Fund, and the Agency may make deposits into such fund from moneys appropriated for the operation of the Agency.

(2) Audits conducted pursuant to Fla. Stat. § 409.967 must be conducted by an independent certified public accountant. The certified public accountant must meet the standards of independence contained within “Standards for Determining Independence in the Practice of Public Accountancy for CPAs Practicing Public Accountancy in the State of Florida,” (effective Dec. 31, 2004) (hereinafter the “Standards for Independence”), which is incorporated by reference into this rule. A copy of the “Standards for Independence” can be found at http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#SMMC Home. In order to be considered independent, a certified public accountant must comply with the requirements set out in the “Standards for Independence.” A certified public accountant who conducts the annual financial audit in Fla. Stat. § 409.967(3)(a)1. is deemed to have a conflict of interest with respect to the compliance audit in Fla. Stat. § 409.967(3)(b).

Rulemaking Authority 409.961 FS. Law Implemented 409.967 FS. History–New .

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen Chang

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Elizabeth Dudek

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 7, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 30, 2012

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

RULE NO.: RULE TITLE:

61B-20.006 Enforcement Resolution and Civil Penalties

PURPOSE AND EFFECT: This rule amendment is for the purpose of establishing the standards for reimbursement of the actual, verified expenses incurred in connection with the division’s onsite reviews or investigations of unit owner controlled condominium associations.

SUMMARY: The reimbursement of division costs related to onsite reviews and investigations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule.

A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the economic review conducted 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: 718.501(1)(d)4., (f), 718.50153 FS.

LAW IMPLEMENTED: 718.501(1)(d)4., 718.50153 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-20.006 Enforcement Resolution, Costs and Civil Penalties.

(1) through (5) No change.

(6) In addition to the penalties established in this rule section, the division reserves the right to seek to recover any other costs, penalties, attorney’s fees, court costs, service fees, collection costs, and damages allowed by law.

(a) Cost of Onsite Reviews and Investigations. Expenses charged pursuant to this subsection are computed in the manner prescribed by Section 112.061, Florida Statutes. When the amount paid by an applicant, registrant, or other person for an onsite review or investigation is in excess of the actual cost, the division shall refund the excess amount within 7 days of discovering the excess payment.

(b) Additionally, the division reserves the right to seek to recover any costs, penalties, attorney’s fees, court costs, service fees, collection costs, and damages imposed by law if a developer submits a bad check to the division.

(7) No change.

Rulemaking Specific 718.501(1)(d)4.,(f), 718.50153 FS. Law Implemented 718.501(1)(d)4., 718.50153 FS. History–New 6-4-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ken Lawson, Secretary, Department of Business and Professional Regulation
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2013
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: May 2, 2013

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

RULE NO.: 61B-21.003
 RULE TITLE: Enforcement Resolution and Civil Penalties
 PURPOSE AND EFFECT: This rule amendment is for the purpose of establishing the standards for reimbursement of the actual, verified expenses incurred in connection with the division’s onsite reviews or investigations of unit owner controlled condominium associations.
 SUMMARY: The reimbursement of division costs related to onsite reviews and investigations.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:
 The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.
 The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is

required, the information expressly relied upon and described herein: the economic review conducted 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: 718.501(1)(d)4., (f), 718.50153 FS.

LAW IMPLEMENTED: 718.501(1)(d), 718.50153 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-21.003 Enforcement Resolution, Costs and Civil Penalties.

(1) through (5) No change.

(6) In addition to the penalties established in this rule chapter, the division reserves the right to seek to recover any other costs, penalties, attorney’s fees, court costs, service fees, collection costs, and damages allowed by law.

(a) Cost of Onsite Reviews and Investigations. Expenses charged pursuant to this subsection are computed in the manner prescribed by Section 112.061, Florida Statutes. When the amount paid by an applicant, registrant, or other person for an onsite review or investigation is in excess of the actual cost, the division shall refund the excess amount within 7 days of discovering the excess payment.

(b) Additionally, the division reserves the right to seek to recover any costs, penalties, attorney’s fees, court costs, service fees, collection costs, and damages imposed by law if an association submits a bad check to the division.

(7) No change.

Rulemaking Specific Authority 718.501(1)(d)4., (f), 718.50153 FS. Law Implemented 718.501(1)(d), 718.50153 FS. History–New 6-4-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ken Lawson, Secretary, Department of Business and Professional Regulation
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAR: May 2, 2013

Section III
Notice of Changes, Corrections and
Withdrawals

WATER MANAGEMENT DISTRICTS

Northwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40A-1.004	Agreements
40A-1.0045	District Funds
40A-1.203	Permit Application Procedure
40A-1.205	Suspension, Revocation and Modification of District Permits
40A-1.209	Emergency Action

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 39, No. 91, May 9, 2013 issue of the Florida Administrative Register.

The following statement concerning legislative ratification was in advertently omitted from the notice of proposed rule:

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory cost or if a SERC is not required, the information expressedly relied upon and described herein: The Agency used a checklist to conduct an economic analysis and determine if there was an adverse impact or regulatory cost of the rule that exceeded the criteria in Section 120.541(2)(a), F.S. Based upon this analysis, the agency has determined that the proposed rule will not require Legislative ratification.

The name of the agency head who approved the rule was incorrectly identified. The agency head who approved the rule is the Governing Board of the Northwest Florida Water Management District.

WATER MANAGEMENT DISTRICTS

Northwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40A-6.011	Policy and Purpose
40A-6.101	Content of Application
40A-6.321	Duration of Permits
40A-6.331	Revocation and Modification of Permits
40A-6.351	Transfer of Permits
40A-6.481	Remedial and Emergency Measures

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 39, No. 99, May 21, 2013 issue of the Florida Administrative Register.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The agency used a checklist to conduct an economic analysis and determine if there was an adverse impact or regulatory costs of the rule that exceeded the criteria in Section 120.541(2)(a), F.S. Based upon this analysis, the agency has determined that the proposed rule is not expected to require legislative ratification.

The name of the agency head who approved the proposed rule was incorrectly identified. The agency head who approved the proposed rule was the Northwest Florida Water Management District governing board.

The date of the proposed rule development was identified incorrectly. The proposed rule was published in the FAR on March 23, 2012.

WATER MANAGEMENT DISTRICTS

Northwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40A-44.021	Definitions
40A-44.041	Permits Required
40A-44.052	Authorization for Certain Forestry Projects
40A-44.091	Processing of Permits
40A-44.101	Content of Application
40A-44.142	Headgates, Valves, and Measuring Devices
40A-44.321	Duration of Permit
40A-44.351	Transfer of Permits
40A-44.411	Completion Report
40A-44.451	Emergency Authorization
40A-44.901	Forms

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 39, No. 99, May 21, 2013 issue of the Florida Administrative Register.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The agency used a checklist to conduct an economic analysis and determine if there was an adverse impact or regulatory costs of the rule that exceeded the criteria in Section 120.541(2)(a), F.S. Based upon this analysis, the agency has determined that the proposed rule is not expected to require legislative ratification.

The name of the agency head who approved the proposed rule was incorrectly identified. The agency head who approved the proposed rule was the Northwest Florida Water Management District governing board.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NOS.:	RULE TITLES:
40E-7.669	Definitions
40E-7.670	Competitive Solicitation Preferences
40E-7.671	District Implementation
40E-7.672	Compliance
40E-7.674	Certification Review Procedures
40E-7.675	Recertification Review Procedures
40E-7.677	Reciprocity

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 39, No. 61, March 28, 2013 issue of the Florida Administrative Register.

Chapter 40E-7, F.A.C., Small Business Enterprise Contracting Program

40E-7.669 Definitions.

(1) through (3) No change.

(4) “Commodity Code” A numeric system designed to list commodities or services by classes and sub-classes. A numeric identifier of supplies, materials, goods, merchandise, equipment or other tangible personal property (purchase or lease), including the contractual services.

(5) “Government Agency” means any state, county, regional or local government in Florida.

(6)(4) "Gross Receipts" means the total sales for the Applicant as specified in its Federal tax return or if a new company which has not filed a Federal tax returns, in its audited financial statement before deductions for returned items, allowances, and discounts.

(7)(5) "Industry Categories" means construction, commodities and services.

(8)(6) "Non SBE Prime" means a business not currently certified by the District as a small business enterprise which submits a bid or proposal for the purpose of being awarded a legally binding agreement as a Prime Contractor for the performance of work at a mutually agreed upon price in accordance with agreed upon terms and conditions with the District.

(9)(7) "Prime Contractor" means any individual or contracting entity with whom the District has entered into a legally binding agreement for performance of work at a mutually agreed upon price in accordance with agreed upon terms and conditions.

(10)(8) "Responsible" means a business that is capable in all respects of fully performing the contract requirements and which has the integrity and reliability that will assure good faith performance.

(11)(9) "Responsive" means a business's bid or proposal conforms in all material respects to the invitation to bid or request for proposal.

(12)(10) "District Small Business Enterprise (SBE)" means a business certified by the District, whose three (3) year average gross receipts, including affiliates, shall not exceed \$13 million if the business provides construction, \$5 million if the business provides commodities, and \$6 million if the business provides services. Additionally, a District Small Business Enterprise is licensed to do business in the State of Florida if the business requires a license.

(13)(11) "SBE Prime" means a business certified by the District as a small business that submits a bid or proposal for the purpose of being awarded a legally binding agreement as a SBE Prime Contractor for the performance of work at a mutually agreed upon price in accordance with agreed upon terms and conditions with the District.

Rulemaking Specific Authority 373.044. 373.113 FS. Law Implemented 373.1135 FS. History—New 8-3-06. Amended 8-29-07,

40E-7.670 Competitive Solicitation Preferences.

The Small Business Enterprise Contracting Rule in this part provides for three types of Competitive Solicitation Preferences designed to assist small businesses. The Bid Equalization, Sheltered Market and Subcontracting Requirements are outlined below.

(1) No change.

(2) Sheltered Market Program. The District may shall provide for sheltered markets to allow for only SBE's to bid on designated solicitations. ~~The District shall be guided in designating a sheltered market by selecting industries in which small businesses have usually not had an opportunity to compete for awards against larger businesses.~~ In order to designate a sheltered market the District must identify at least 3 SBEs available to perform work within the industry identified in the solicitation.

(3) Subcontracting Requirements.

(a) Bids – The District shall set subcontracting goals for all bids based on availability of vendors registered with the District, including SBE firms able to perform work within specific commodity codes. The goals shall be applied as a percentage of the total contract value to be assigned to SBE firms. ~~Availability refers to vendors registered with the District, including SBE firms able to perform work within specific commodity codes. The formula for setting a goal is expressed as the total number of SBE firms within specific commodity codes in a scope of work divided by the total number of vendors registered with the District's Procurement Department within the same commodity codes at the time of the preparation of the solicitation. Numerically, this is~~

~~expressed as: Total Number of SBE's/Total Number of District Registered Vendors = Subcontracting Goal Percentage~~

The maximum goal that will be applied to any solicitation will be 25%. When an SBE goal is set bidders shall provide work to one or more SBEs in order to meet the goal. At the time of submittal of its bid, the bidder shall identify all SBE firms which will be utilized as subcontractors, by using Form No. 0956, "Small Business Enterprise SBE Subcontractor Participation Schedule" effective (~~_____ August 3, 2006~~) (add hyperlink), ~~which can be obtained from the District upon request.~~ All bids submitted where SBE participation is required, shall include Form No. 0957, "Statement of Intent to Perform as a Small Business Enterprise SBE Subcontractor" effective (~~_____ August 3, 2006~~) (add hyperlink). This form shall be signed by ~~both~~ the SBE subcontractor, ~~and the bidder and the form~~ Form Nos. 0956 and 0957, together called the SBE Subcontractor Utilization Plan, ~~must shall~~ reflect the parties' intent to establish a business relationship as well as the type of work and percentage of work that the SBE subcontractor will perform. Failure to submit any of the information as required herein shall lead to the bid being deemed non-responsive. Form Nos. 0956 and 0957 are incorporated by reference herein and are available at no cost by contacting the South Florida Water Management District Clerk's Office, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, (800)432-2045, ext. 6436, or (561)682-6436.

Any bidder failing to meet the established goal shall be deemed non-responsive. If an SBE Prime intends to subcontract work to an SBE subcontractor, the SBE Prime must submit the aforementioned forms at the time of submitting its bid or be deemed non-responsive. If the SBE Prime intends to perform 100% of the work, the SBE Prime does not have to submit the aforementioned forms.

(b) Standard Proposals – For solicitations where a contract is awarded based on an evaluation criteria, and where the scope of work is clearly defined the District shall determine subcontracting goals for each solicitation based on availability of SBE firms as stated above in paragraph (3)(a) ~~award points as reflected in Table 7.6 2. The maximum points will be awarded to the proposer if 25% or more of the total project work is performed by SBE firms.~~ The maximum goal that will be applied to any solicitation will be 25%. The goals shall be applied as a percentage of the total contract value to be assigned to SBE firms. ~~Percentages reflect the amount of the total contract value proposed to be assigned to SBE firms.~~

**TABLE 7.6-2
EVALUATION POINT TABLE**

10 POINTS FOR SBE PARTICIPATION	
= 25% =	10 Points
= 23% =	9 Points
= 21% =	8 Points
= 19% =	7 Points
= 17% =	6 Points
= 15% =	5 Points
= 13% =	4 Points
= 11% =	3 Points
= 9% =	2 Points
= 7% =	1 Point

(e) At the time the proposal is submitted the proposer shall identify all SBE firms (if any) which will be utilized as subcontractors, by using Form No. 0956, "Small Business Enterprise SBE Subcontractor Participation Schedule," incorporated by reference in paragraph (3)(a) herein ~~from the District upon request.~~ All proposals with SBE subcontractor participation shall include Form No. 0957, "Statement of Intent to Perform as a Small Business Enterprise SBE Subcontractor," also incorporated by reference in paragraph (3)(a) herein. ~~from the District upon request.~~ This form shall be signed by the SBE subcontractor ~~and the proposer and the form shall reflect the parties' intent to establish a business relationship as well as the type of work and percentage of work that the SBE subcontractor will perform.~~ Form Nos. 0956 and 0957 together called the SBE Subcontractor Utilization Plan must reflect the parties' intent to establish a business relationship as well as the type of work and percentage of work that the SBE subcontractor will perform. If an SBE Prime intends to subcontract work to an SBE subcontractor, the SBE Prime must submit the aforementioned forms at the time of submitting its proposal. ~~Non-SBE Primes will not receive points if they choose not to use SBE subcontractors. The District will not provide SBE points to a proposer if the District cannot establish the proposer's intent.~~ Any non SBE Prime contractor who fails to meet the established goal shall be deemed non-responsive.

(c) Work Order Proposals – For solicitations where a contract is awarded based on evaluation criteria and where the scope of work is not clearly defined resulting in work order contracts, will not contain a goal, but shall require proposers to commit to goals assigned to individual work orders issued throughout the term of the contract. The goal for individual work orders will be based on availability of SBE firms as stated above in paragraph 3(a). The maximum goal that will be applied to any work order will be 25%. At the time the proposal is submitted, the proposer shall identify all proposed SBE firms that will be utilized as subcontractors.

At the time a work order with an SBE goal is assigned, the Prime Contractor shall submit a cost proposal, and identify all SBE subcontractors and the percentage of work that the SBE subcontractor(s) will perform by using Form No. 0956, “Small Business Enterprise Subcontractor Participation Schedule,” incorporated by reference in paragraph (3)(a) herein. All cost proposals shall also include Form No. 0957, “Statement of Intent to Perform as a Small Business Enterprise Subcontractor,” also incorporated by reference in paragraph (3)(a) herein. This form shall be signed by the SBE subcontractor. A work order will not be executed with a Prime Contractor whose cost proposal does not meet the established goal for that work order. In addition, failure to meet the goal set by the District for an executed work order will result in a breach of contract by the Prime Contractor.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History–New 8-3-06, Amended 8-29-07, Amended _____.

40E-7.671 District Implementation.

The District shall ensure all small businesses have the maximum opportunity to participate in the District’s contracting and procurement processes. The following are examples of efforts to be taken by the District:

(1) Establish a Small Business Enterprise ~~office~~ program to implement the rules established under this Part.

(2) through (5) No change.

(6) Monitor ~~Evaluate~~ the District’s efforts to achieve SBE objectives.

(7) No change.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History–New 8-3-06, Amended _____.

40E-7.672 Compliance.

The District shall monitor and evaluate Program performance and compliance as follows:

(1) through (3) No change.

~~(4) The Prime Contractor shall advise the District of any situation in which regularly scheduled progress payments are not made to SBE subcontractors.~~

(4)(5) Prime Contractors must notify the District when the need to add or replace an SBE subcontractor arises. When a SBE substitution is requested, the Contract Specialist will request a letter from the contractor explaining why substitution is needed. The prime contractor and shall provide attach a completed Form No. 1373, “Small Business Enterprise Subcontractor Revised Participation Schedule” effective (_____)(add hyperlink), which contains an explanation of the addition or replacement of the SBE subcontractor. Form 1373 is incorporated by reference herein. In addition, a completed Form No. 0957, “Statement of Intent to Perform as a Small Business Enterprise Subcontractor”, incorporated by reference in paragraph 40E-7.670(3)(a), F.A.C., must be submitted if applicable ~~plan to the letter.~~

~~(5)(a) Failure of a Prime Contractor to meet honor its the SBE requirements in a District of an awarded contract will shall be a factor considered by the District when the District makes its responsibility determinations for future District contract awards and when the District considers whether to place a contractor on the Temporary or Permanent Suspension List under Rule 40E-7.218, F.A.C. material breach of the contract which may result in suspension or debarment of the firms pursuant to Chapter 40E-7, Part II F.A.C.~~

(6) Each District contract awarded with SBE participation shall contain a provision incorporating the rules under this Part by reference and a statement that failure to comply with the requirements of the bid or proposal submitted to the District by a contractor shall be considered a material breach of contract which may result in suspension or debarment of the firms or individuals involved pursuant to Chapter 40E-7, Part II F.A.C.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History–New 8-3-06, Amended _____.

40E-7.674 Certification Review Procedures.

(1) No change.

(2) Within sixty (60) thirty (30) days following receipt of the application, the District will request that the applicant business to furnish omitted items or additional information, if any. All requested information must be received by the District within sixty (60) thirty (30) days from the date of the request, or the applicant District will be deemed ineligible for certification. Applicants may re-apply. return the unprocessed application to the applicant business.

(3) through (4) No change.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History—New 8-3-06, Amended 8-29-07,

40E-7.675 Recertification Review Procedures.

(1) through (2) No change.

(3) Upon receipt, all recertification requests shall be given an initial screening to ensure appropriate signature and completeness. Within sixty (60) ~~thirty (30)~~ days following initial receipt of the applicant's recertification request, the District will request the applicant to furnish omitted or additional information. If the requested information or items are not received by the District within sixty (60) ~~thirty (30)~~ days from the date of the request, the District will deny the application for recertification.

(4) through (7) No change.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History—New 8-3-06, Amended

40E-7.677 Reciprocity.

Reciprocal ~~application~~ certification shall be granted to applicant businesses which are have been certified by other ~~jurisdictions that meet the District certification standards as outlined in this rule.~~ Florida Government Agencies provided that the agency has a small business program and that the applicant business is certified as a small business by that agency. Applicant shall provide the District with documentation that provides the certification and expiration dates. The District reserves the right to request any additional documentation to verify or clarify the authentication of the information provided.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.1135 FS. History—New 8-3-06, Amended

**Section IV
Emergency Rules**

NONE

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:

40D-22.201: Year-Round Water Conservation Measures

NOTICE IS HEREBY GIVEN that on May 21, 2013, the Southwest Florida Water Management District received a petition for a variance or waiver.

Petitioner's Name: Bible Fellowship Church

Rule No.: 40D-22.201

Nature of the rule for which variance or waiver is sought: lawn and landscape irrigation.

The Petition has been assigned tracking No. 13-4163.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lois Sorensen, 7601 US Highway 301, Tampa, Florida 33637, (813)985-7481, ext. 2298, water.variances@watermatters.org.

Any interested person or other agency may submit written comments within 14 days after the publication of this notice.

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

RULE NO.: RULE TITLE:

40E-6.221: Conditions for Issuance of Standard Permits

NOTICE IS HEREBY GIVEN that on May 21, 2013, the South Florida Water Management District ("District"), received a petition for waiver from Collier County Board of County Commissioners, Application No. 13-0426-1, for utilization of Works or Lands of the District known as the Miller Canal, for the proposed construction of a pile-supported bridge; Section 30, Township 49 South, Range 28 East, Collier County. This petition seek relief from paragraph 40E-6.221(2)(j), Fla Admin. Code, which governs low member elevation of pile-supported crossings within Works or Lands of the District.

A copy of the Petition for Variance or Waiver may be obtained by contacting Juli Russell at (561)682-6268 or email at jurussel@sfwmd.gov. The District will accept comments concerning the petition received by end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Juli Russell, Office of Counsel.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice: on May 21, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency Variance from 612 Beach Road Condos (3), filed April 29, 2013, and advertised on May 2, 2013 in Vol. 39, No. 86, of the Florida Administrative Register. No comments were received in response to the petition. The Final Order on the

Petition for Variance grants the Petitioner a variance from Rule 2.10.2.1 and 2.4.7.1 ASME A17.1b, 2009 edition, as adopted by paragraph 61C-5.001(1)(a) Florida Administrative Code that requires top rail and top of car clearances because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-127).

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.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-5.001: Safety Standards

The Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety hereby gives notice: on May 21, 2013 the Division issued an order. The Final Order was in response to a Petition for an emergency temporary Variance from Alachua County State Attorney Building, filed March 7, 2013, and advertised on March 14, 2013 in Vol. 39, No. 51, of the Florida Administrative Register. 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 paragraph 61C-5.001(1)(a) Florida Administrative Code that requires upgrading the elevators with firefighters' emergency operations because the Petitioner has demonstrated that the intent of the rule will be met and that Petitioner would suffer a substantial hardship if required to comply with this rule (VW2013-074).

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.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-1.004: General Sanitation and Safety Requirements

The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice: on May 1, 2013 the Division of Hotels and Restaurants received a Petition for an Emergency Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code, Paragraph 5-202.11(A), 2009 FDA Food Code, Paragraph 4-301.12(A), 2009 FDA Food Code and subsection 61C-4.010(5), Florida Administrative Code from One Potato Two located in

Orlando. The above referenced F.A.C. addresses the requirement that each establishment have an approved plumbing system installed to transport potable water and wastewater, facilities for manually washing, rinsing and sanitizing equipment and utensils, and areas for food preparation and storage. They are requesting to install holding tanks at a portable handwash sink, and share warewashing, food preparation and food storage areas within another licensed food service establishment under different ownership on the same premises.

The Petition for this variance was published in Vol. 39/87 on May 3, 2013. The Order for this Petition was signed and approved on May 9, 2013. 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 wastewater holding tank for the handwash sink is emptied at a frequency as to not create a sanitary nuisance; potable water provided must come from an approved source and be protected from contamination during handling. The Petitioner shall also ensure the handwash sink is provided with hot and cold running water under pressure, soap, an approved hand drying device and a handwashing sign. The Petitioner shall also ensure the three-compartment sink, food preparation and storage areas within Centerplate @ Phase III Kitchen (SEA5807961) and Centerplate @ PHSDR V Kitchen (SEA5811092) are maintained in a clean and sanitary manner and all sinks are provided with hot and cold running water under pressure and available during all hours of operation. If the ownership of Centerplate @ Phase III Kitchen (SEA5807961) and Centerplate @ PHSDR V Kitchen (SEA5811092) changes (Centerplate Hospitality Venture), an updated signed agreement for use of the shared facilities is required immediately.

A copy of the Order or additional information may be obtained by contacting Lydia.Gonzalez@myfloridalicense.com, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-1.004: General Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on May 15, 2013, The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for a Routine Variance for paragraph 61C-1.004(1)(a), Florida

Administrative Code, Section 5-203.13, 2009 FDA Food Code, paragraph 61C-1.004(2)(a), Florida Administrative Code, subsection 61C-4.010(7), Florida Administrative Code, subsection 61C-4.010(6), Florida Administrative Code, and Section 6-402.11, 2009 FDA Food Code from Fruity Waffle located in Orlando. The above referenced F.A.C. addresses the requirement that at least one service sink is provided for the cleaning of mops or similar cleaning tools and the disposal of mop water and at least one accessible bathroom be provided for use by customers and employees. They are requesting to utilize a mopsink and bathrooms located within other establishments.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lydia.Gonzalez@myfloridalicense.com, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-1.004: General Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on May 21, 2013, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an Emergency Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code, Section 5-203.13, 2001 FDA Food Code, paragraph 4-301.12(A), 2001 FDA Food Code, paragraph 61C-4.010(5), Florida Administrative Code, and paragraph 4-301.11, 2009 FDA Food Code from Best Western Naples Inn & Suites located in Naples. The above referenced F.A.C. addresses the requirement that at least one service sink is provided for the cleaning of mops or similar cleaning tools and the disposal of mop water; that dishwashing facilities for manually washing, rinsing and sanitizing equipment and utensils are provided and that each establishment have an adequate number of facilities to maintain all time/temperature control for safety foods at proper temperatures. They are requesting to utilize the mopsink, dishwashing and food storage and prep facilities located within another licensed establishment on the same premises and under the same ownership.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 5 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lydia.Gonzalez@myfloridalicense.com, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-1.004: General Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on May 15, 2013, The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an Emergency Variance for paragraph 61C-1.004(1)(a), Florida Administrative Code, Section 5-203.13, 2001 FDA Food Code, paragraph 61C-1.004(2)(a), Florida Administrative Code, subsection 61C-4.010(7), Florida Administrative Code, subsection 61C-4.010(6), Florida Administrative Code, and Section 6-402.11, 2001 FDA Food Code from Greenhouse Restaurant located in Pensacola. The above referenced F.A.C. addresses the requirement that at least one service sink is provided for the cleaning of mops or similar cleaning tools and the disposal of mop water and at least one accessible bathroom be provided for use by customers and employees. They are requesting to share the mop sink and bathrooms located within Jerry's Cajun Cafe.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 5 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting Lydia.Gonzalez@myfloridalicense.com, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: RULE TITLE:

61H1-28.0052: Number of Sitzings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules

NOTICE IS HEREBY GIVEN that on May 14, 2013, the Board of Accountancy, received a petition for Zofia Sas, seeking a variance or waiver of paragraph 61H1-28.0052(1)(b), Florida Administrative Code, that requires candidates to pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 NW 76th Dr., Suite A, Gainesville, Florida 32607. Comments on this petition should be filed with the Board of Accountancy within 14 days of publication of this notice.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE NO.: RULE TITLE:

61H1-28.0052: Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules

The Board of Accountancy hereby gives notice: of the issuance of an Order regarding the Petition for Waiver or Variance, filed on March 22, 2013, by Justin Jessup. The Notice of Petition for Waiver or Variance was published in Vol. 39, No. 66, of the April 4, 2013, Florida Administrative Register. Petitioner sought a waiver or variance of paragraph 61H1-28.0052(1)(b), F.A.C., entitled “Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules,” that requires candidates to pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed. The Board considered the instant Petition at a duly-noticed public meeting, held April 26, 2013, in Tampa, Florida.

The Board’s Order, filed on May 14, 2013, granted the petition finding that Petitioner had established that the purpose of the underlying statute, Section 473.306, Florida Statutes, would be met by granting a variance from paragraph 61H1-28.0052(1)(b), F.A.C. The Board further found 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: Veloria Kelly, Division Director, Board of Accountancy, 240 NW 76th Dr., Suite A, Gainesville, Florida 32607.

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:

67-48.010: Terms and Conditions of SAIL Loans
 NOTICE IS HEREBY GIVEN that on May 21, 2013, the Florida Housing Finance Corporation received a petition for waiver of Villa Aurora, LLLP of paragraph 67-48.010(3)(b) and subsection 67-48.010(5), Florida Administrative Code (2006), which will allow the interest rate on the SAIL loan to be reduced from three (3%) percent to a blended rate between 0% and 1%, based upon the pro rata share of units set aside for homeless, as per the current SAIL rule (paragraph 67-

48.010(3)(b) (2011)) and from subsection 67-48.010(5) to allow interest on the SAIL loan to be paid after payment of operating expenses of the Development.

A copy of the Petition for Variance or Waiver may be obtained by contacting Della Harrell, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329. The Petition has also been posted on Florida Housing’s website at floridahousing.org. Florida Housing will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m., Eastern Standard Time, on the 14th day after publication of this notice at Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329.

Section VI

Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF STATE

Division of Cultural Affairs

The Friends of the Museums of Florida History announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, June 5, 2013, 9:00 a.m. to conclusion.

PLACE: R.A. Gray Building, 1st Floor, 500 S. Bronough St., Tallahassee, Florida.

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business.

A copy of the agenda may be obtained by contacting: Elyse Cornelison, Museum of Florida History, (850)245-6413.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Elyse Cornelison, Museum of Florida History (850)245-6413. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Elyse Cornelison, Museum of Florida History, (850)245-6413.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The Florida State Fair Authority, Finance Committee announces a public meeting to which all persons are invited.

DATE AND TIME: June 14, 2013, 9:00 a.m.

PLACE: Florida State Fairgrounds

GENERAL SUBJECT MATTER TO BE CONSIDERED: Old and New Business.

A copy of the agenda may be obtained by contacting: Sonia Velez at (813)627-4221.

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 2 days before the workshop/meeting by contacting: Sonia Velez at (813)627-4221. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: Sonia Velez at (813)627-4221.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The Florida State Fair Authority Board announces a public meeting to which all persons are invited.

DATE AND TIME: June 14, 2013, 10:00 a.m.

PLACE: Florida State Fairground, Tampa, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Old and New Business.

A copy of the agenda may be obtained by contacting: Sonia Velez at (813)627-4221.

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 2 days before the workshop/meeting by contacting: Sonia Velez at (813)627-4221. 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).

For more information, you may contact: Sonia Velez at (813)627-4221.

REGIONAL PLANNING COUNCILS

East Central Florida Regional Planning Council

The Wekiva River Basin Commission announces a public meeting to which all persons are invited.

DATE AND TIME: June 10, 2013, 1:30 p.m. – previously noticed meeting with time change.

PLACE: East Central Florida Regional Planning Council, 309 Cranes Roost Blvd. Suite 2000, Altamonte Springs, FL 32701

GENERAL SUBJECT MATTER TO BE CONSIDERED: The quarterly meeting of the Wekiva River Basin Commission. This meeting was previously noticed, please note the time change.

A copy of the agenda may be obtained by contacting: Tara McCue by email at tara@ecfrpc.org or (407)262-7772, ext. 327

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Tara McCue by email at tara@ecfrpc.org or (407)262-7772, ext. 327.

DEPARTMENT OF MANAGEMENT SERVICES

Personnel Management System

The Statewide Steering Committee of the Florida State Employees' Charitable Campaign (FSECC) announces a telephone conference call to which all persons are invited.

DATE AND TIME: Thursday, May 30, 2013, 9:00 a.m. – 9:30 a.m.

PLACE: Conference phone number: (888)670-3525, passcode 1560701838#

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Steering Committee will vote on applications for participation in the 2013 campaign.

A copy of the agenda may be obtained by contacting: Mr. Matthew Gregory at (850)921-4618 or by email at Matthew.Gregory@dms.MyFlorida.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Mr. Matthew Gregory at (850)921-4618 or by email at Matthew.Gregory@dms.MyFlorida.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Mr. Matthew Gregory at (850)921-4618 or by email at Matthew.Gregory@dms.MyFlorida.com.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Florida Department of Environmental Protection, Office of Coastal and Aquatic Managed Areas announces public meetings to which all persons are invited.

DATE AND TIMES: Thursday, June 6, 2013, 2:00 p.m. – 4:00 p.m. and 6:00 p.m. – 8:00 p.m.

PLACE: Indian River State College, Wolf High-Technology Center, Susan H. Johnson Auditorium, 2400 SE Salerno Road, Stuart, FL 34997

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Southeast Florida Coral Reef Initiative (SEFCRI) is holding a series of community meetings to launch “Our Florida Reefs: Your Voice, Our Future.” This is a transparent, inclusive, stakeholder-driven process to achieve SEFCRI’s mission: to develop and support the implementation of an effective strategy to preserve and protect southeast Florida’s coral reefs and associated reef resources, emphasizing balance between resource use and protection, in cooperation with all interested parties. The meetings are opportunities to discuss the status and future of southeast Florida’s coral reefs, and gain knowledge of SEFCRI and the “Our Florida Reefs” community planning process.

A copy of the agenda may be obtained by contacting Julio Jimenez by e-mail: Julio.Jimenez@dep.state.fl.us, phone, (305)795-1221 or mail Florida Department of Environmental Protection Coral Reef Conservation Program, Attention: Julio Jimenez, 1277 N. E. 79th St/JFK Causeway Miami, FL 33138-4206.

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

DEPARTMENT OF HEALTH

The Department of Health announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, June 5, 2013, 1:00 p.m.
 PLACE: 4052 Bald Cypress Way, Room 301, Tallahassee, FL 32311; dial-in number: (888)670-3525, participant code: 4988869308

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Statewide Drug Policy Advisory Council Meeting.

A copy of the agenda may be obtained by contacting Rhonda Brown, Bureau of Family Health Services, (850)245-4444, ext. 2966 or email: Rhonda_Brown@doh.state.fl.us.

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 3 days before the workshop/meeting by contacting Rhonda Brown, Bureau of Family Health Services, (850)245-4444, ext. 2966 or email: Rhonda_Brown@doh.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

NAVIGATION DISTRICTS

West Coast Inland Navigation District

RULE NO.: RULE TITLE:

66A-2.003: Policy

The West Coast Inland Navigation District announces a public meeting to which all persons are invited.

DATE AND TIME: June 7, 2013, 10:30 a.m.

PLACE: Venice City Hall, 401 W. Venice Avenue, Venice, FL 34285

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Navigation District.

A copy of the agenda may be obtained by contacting: WCIND, 200 E. Miami Avenue, Venice, FL 34285.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

Section VI

**Notice of Petitions and Dispositions
 Regarding Declaratory Statements**

NONE

Section VIII

**Notice of Petitions and Dispositions
 Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

NONE

Section IX

Notice of Petitions and Dispositions Regarding Non-rule Policy Challenges

NONE

Section X

Announcements and Objection Reports of the Joint Administrative Procedures Committee

NONE

Section XI

Notices Regarding Bids, Proposals and Purchasing

PASCO-PINELLAS AREA AGENCY ON AGING

Contingent on the availability of funds, the Area Agency on Aging of Pasco-Pinellas, Inc/Aging and Disability Resource Center (AAAPP/ADRC) for Planning and Service Area 5 will be contracting and is soliciting sealed proposals for a data management and standardization project of the statewide Aging and Disability Resource Center community resource database for the ReferNet system. RFP's may be obtained from Beverly Burton at the AAAPP/ADRC office (9549 Koger Blvd., Suite 100, St Petersburg, FL) beginning May 23, 2013. Proposals can also be obtained electronically at

<http://www.agingcarefl.org/notices/ADRC-bid>. Sealed proposals are due to the AAAPP/ADRC office at 9549 Koger Blvd, Suite 100, St Petersburg, FL by 3:00 p.m. on Friday, June 7, 2013, with opening immediately following. The AAAPP/ADRC reserves the right to reject any and all proposals not complying with specifications and requested information. If you have any questions, please call Beverly Burton at (727)570-9696, ext.253.

Section XII
Miscellaneous

DEPARTMENT OF HEALTH

Emergency Action

On May 22, 2013, the State Surgeon General issued an Order of Emergency Suspension Order with regard to the certificate of Justin M. Tverberg, EMT, Certificate # EMT 518857. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH

Board of Massage Therapy

Emergency Action

On May 21, 2013, the State Surgeon General issued an Order of Emergency Restriction Order with regard to the license of Song Ying Piao, LMT, License # MA 70301. This Emergency Restriction Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH

Board of Massage Therapy

Emergency Action

On May 21, 2013, the State Surgeon General issued an Order of Emergency Restriction Order with regard to the license of Jinghua Sun, LMT, License # MA 69154. This Emergency Restriction Order was predicated upon the State Surgeon General’s findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH

Board of Nursing

Emergency Action

On May 22, 2013, the State Surgeon General issued an Order of Emergency Suspension Order with regard to the license of Michelle Elizabeth Humphrey, LPN, License # PN 5194848. This Emergency Suspension Order was predicated upon the State Surgeon General’s findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

Emergency Action

On May 22, 2013, the State Surgeon General issued an Order of Emergency Suspension Order with regard to the license of E Dale Brandt, DO, License # OS 4123. This Emergency Suspension Order was predicated upon the State Surgeon General’s findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2011). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

FINAL ORDER NO. DEO-13-051

STATE OF FLORIDA

DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY MONROE COUNTY, FLORIDA
ORDINANCE NO. 019-2013

FINAL ORDER

APPROVING MONROE COUNTY ORDINANCE

NO. 019-2013

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and 380.0552(9), Fla. Stat. (2012), approving land development regulations adopted by Monroe County, Florida, Ordinance No. 019-2013 (the “Ordinance”).

FINDINGS OF FACT

1. The Florida Keys Area is designated by § 380.0552, Fla. Stat., as an area of critical state concern. Monroe County is a local government within the Florida Keys Area.
2. The Ordinance was adopted by Monroe County on April 17, 2013, and rendered to the Department on April 24, 2013.
3. The Ordinance amends the following Monroe County Code: Section 138-47, Nonresidential Rate of Growth Ordinance; Section 138-48, General Provisions; Section 138-49, Type of Development Affected; Special Requirements; and Section 138.50, Type of Development Not Affected. The Ordinance increases the number of NROGO allocation periods in an NROGO year from two to four; increases the maximum square footage for an NROGO allocation per site per allocation quarter from 2,500 square feet to 10,000 square feet; excludes certain structures in an Urban Commercial land use district and an overlay district established in a Community Master Plan; allows a specific exemption from the NROGO program for the Rockland Key Commercial Retail Center Overlay District; provides that Ocean Reef and mainland Monroe County are not subject to NROGO; deletes the prohibition on outdoor storage and outdoor retail sales as principal uses on Big Pine Key; deletes the requirement that enclosing of canopies or drive throughs in existence on or before September 19, 2001, obtain an NROGO allocation; adds and deletes definitions; and provides conditions for off-site transfers of NROGO square footage.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. §§ 380.05(6) and (11) and § 380.0552(9), Fla. Stat.

5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

6. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. §§ 380.05(6) and 380.0552(9), Fla. Stat. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in § 380.0552(7), Fla. Stat.

7. The Ordinance is consistent with the Principles for Guiding Development as a whole, and specifically furthers the following Principle in § 380.0552(7), Fla. Stat.:

(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.

(d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.

(f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.

8. The Ordinance is consistent with the Monroe County Comprehensive Plan and furthers Future Land Use Element Policies 101.4.5 and 108.1.2, Objective 108.1.7, and Policy 108.2.1.

WHEREFORE, IT IS ORDERED that Monroe County Ordinance No. 019-2013 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Leon County, Florida.

/s/ _____
William B. Killingsworth, Director
Division of Community Development
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK

DEPARTMENT OF ECONOMIC OPPORTUNITY
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON STREET, MSC 110
TALLAHASSEE, FLORIDA 32399-4128
Telephone: (850)245-7150
Fax Number (850)921-3230
Email: Miriam.Snipes@deo.myflorida.com

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the methods indicated this 21st day of May, 2013.

_____/s/_____
Miriam Snipes, Agency Clerk
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128
Telephone: 850-717-8531

By U.S. Mail:
The Honorable George Neugent
Mayor, Monroe County
500 Whitehead Street
Key West, FL 33040

Amy Heavilin
Clerk to the Board of County Commissioners
500 Whitehead Street
Key West, FL 33040

Christine Hurley, Director
Monroe County Growth Management Division
2798 Overseas Highway, Suite 400
Marathon, FL 33050

By Hand Delivery or Interagency Mail:
Rebecca Jetton, ACSC Administrator, DEO Tallahassee

DEPARTMENT OF ECONOMIC OPPORTUNITY
Division of Community Development

FINAL ORDER NO. DEO-13-050

STATE OF FLORIDA

DEPARTMENT OF ECONOMIC OPPORTUNITY

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY MONROE COUNTY, FLORIDA,
ORDINANCE NO. 020-2013

FINAL ORDER

APPROVING MONROE COUNTY ORDINANCE

NO. 020-2013

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to §§ 380.05(6) and 380.0552(9), Fla. Stat. (2012), approving land development regulations adopted by Monroe County, Florida, Ordinance No. 020-2013 (the “Ordinance”).

FINDINGS OF FACT

1. The Florida Keys Area is designated by § 380.0552, Fla. Stat., as an area of critical state concern. Monroe County is a local government within the Florida Keys Area.

2. The Ordinance was adopted by Monroe County on April 17, 2013, and rendered to the Department on April 24, 2013.

3. The Ordinance amends the following Monroe County Code: Section 138-47, Nonresidential Rate of Growth Ordinance; Section 138-52, Application Procedures for NROGO; and Section 138-53, Evaluation Procedures for Nonresidential Floor Area Allocations. The Ordinance adds definitions of “nonresidential ROGO bank” and “nonresidential ROGO account”; establishes an application process for reallocating NROGO floor area that went unallocated in previous years by way of the NROGO bank; creates NROGO accounts for the Upper Keys, Lower Keys, and Big Pine/No Name Keys; creates a fourth general NROGO account for the Upper and Lower Keys ROGO subareas; identifies the square footage available in the NROGO bank in each ROGO subarea; provides that only development within Tier III designated areas are eligible for an NROGO allocation by way of the NROGO bank; and establishes procedures for applying for allocations from the NROGO bank and for the planning commission or board of county commissioners to issue NROGO allocations or reservations by way of the NROGO bank.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. §§ 380.05(6) and (11) and § 380.0552(9), Fla. Stat.

5. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. The regulations adopted by the Ordinance are land development regulations.

6. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. §§ 380.05(6) and 380.0552(9), Fla. Stat. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in § 380.0552(7), Fla. Stat.

7. The Ordinance is consistent with the Principles for Guiding Development as a whole, and specifically furthers the following Principle in § 380.0552(7), Fla. Stat.:

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without the continuation of the area of critical state concern designation.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.

8. The Ordinance is consistent with the Monroe County Comprehensive Plan and furthers Future Land Use Element Objective 101.3 and Policies 101.3.1 and 101.3.3.

WHEREFORE, IT IS ORDERED that Monroe County Ordinance No. 020-2013 is found to be consistent with the Principles for Guiding Development of the Florida Keys Area of Critical State Concern and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Leon County, Florida.

_____/s/_____
 William B. Killingsworth, Director
 Division of Community Development
 Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY’S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT’S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT’S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, SUBMIT PROPOSED FINDINGS OF FACT AND ORDERS, AND FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK
 DEPARTMENT OF ECONOMIC OPPORTUNITY
 OFFICE OF THE GENERAL COUNSEL
 107 EAST MADISON STREET, MSC 110
 TALLAHASSEE, FLORIDA 32399-4128
 Telephone: (850)245-7150
 Fax Number (850)921-3230
 Email: Miriam.Snipes@deo.myflorida.com

THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated

Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the methods indicated this 21st day of May, 2013.

_____/s/_____
 Miriam Snipes, Agency Clerk
 Department of Economic Opportunity
 107 East Madison Street, MSC 110
 Tallahassee, FL 32399-4128
 Telephone: 850-717-8531

By U.S. Mail:
 The Honorable George Neugent
 Mayor, Monroe County
 500 Whitehead Street
 Key West, FL 33040

Amy Heavilin
 Clerk to the Board of County Commissioners
 500 Whitehead Street
 Key West, FL 33040

Christine Hurley, Director
 Monroe County Growth Management Division
 2798 Overseas Highway, Suite 400
 Marathon, FL 33050

By Hand Delivery or Interagency Mail:
 Rebecca Jetton, ACSC Administrator, DEO Tallahassee
 Sherry A. Spiers, Assistant General Counsel, DEO Tallahassee

Section XIII
Index to Rules Filed During Preceding
Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.
