

**Section I**  
**Notices of Development of Proposed Rules**  
**and Negotiated Rulemaking**

**NONE**

**Section II**  
**Proposed Rules**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE NOS.:	RULE TITLES:
5B-57.001	Definitions
5B-57.002	Purpose
5B-57.004	Introduction, Possession or Movement of Arthropods, Biological Control Agents, Plant Pests, Noxious Weeds, and Invasive Plants, Regulated by the Department
5B-57.006	Regulation and Control of Noxious Weeds and Invasive Plants in Florida
5B-57.007	Noxious Weed List
5B-57.010	Noxious Weed and Invasive Plant Classification Procedures
5B-57.011	Biomass Plantings
5B-57.012	Casuarina Cunninghamiana Windbreaks

**PURPOSE AND EFFECT:** The purpose of this amendment is to address the changes to Section 581.083, F.S., regarding the cultivation and transport of non-native plants, algae and blue-green algae in plantings greater than two acres and update forms and other minor editorial revisions within the rule chapter. The effect is to improve the permitting process associated with the introduction or release of plant pests, noxious weeds, arthropods and biological control agents. The reflected changes will reduce regulatory burden without compromising plant protection duties and responsibilities assigned by Florida Statutes.

**SUMMARY:** To evaluate and control the production of non-native plants, algae and blue-green algae in plantings of larger than two acres within the state and to establish procedures under which the field releases of such are permitted. Such procedures will assist in confirming that introductions and field releases are conducted in a manner which provides for public and environmental protection. In addition, the conditions for broad category and specific exemptions are addressed and several new exempted species listed.

**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 Department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes. As part of this analysis, the Department relied upon past experiences with non-invasive species activities and rules of this nature. Additionally, no interested party submitted additional information regarding the economic impact.

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

**RULEMAKING AUTHORITY:** 570.07 (23), 581.031(4), (5) FS.

**LAW IMPLEMENTED:** 570.07 (13), 581.031(4), (5), (6), (15) 581.083, 581.091 FS.

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

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: Mr. Richard Gaskalla, Director, Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100. 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:** Mr. Richard Gaskalla, Director, Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100

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

(Substantial rewording of Rule 5B-57.001 follows. See Florida Administrative Code for present text.)

5B-57.001 Definitions.

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

(a) Arthropod. Any segmented invertebrate animal having jointed appendages and an exoskeleton, including insects, spiders, ticks, mites, and scorpions, but excluding crustaceans for the purpose of this rule chapter.

(b) Beneficial Organisms. Any organism which benefits Florida's native or agricultural plants, or benefits one without adversely impacting the other, by improving plant health or growth, or which may adversely affect pest species such as arthropods, fungi, bacteria, viruses, and nematodes.

(c) Biological Control Agent. Any biological agent such as bacteria, fungi, viruses, arthropods, parasitoids, parasites, nematodes, and predators that adversely affects pest species.

(d) Compliance Agreement. A written agreement between the Department and any person engaged in growing, handling, or moving articles, plants, plant products, plant pests, noxious weeds, invasive plants, arthropods, or biological control agents regulated under this rule chapter, wherein the person agrees to comply with stipulated requirements.

(e) Contiguous. Two or more plantings of non-native plants with a common boundary or a parcel of land that has been separated or divided into more than one planting of non-native plants whether separated or divided by a roadway or any other area not under cultivation with non-native plants.

(f) Department. The Florida Department of Agriculture and Consumer Services.

(g) International Movement. Movement into Florida from any country or area outside the United States.

(h) Interstate Movement. Movement into Florida from another state or U.S. possession.

(i) Intrastate Movement. Movement within the state of Florida.

(j) Invasive Plant. A naturalized plant that disrupts naturally occurring native plant communities by altering structure, composition, natural processes or habitat quality. All plants listed in Section 369.251(1), F.S., shall be included in the Department's Noxious Weed and Invasive Plant List.

(k) Naturalized Plant. A plant that is reproducing spontaneously outside of cultivation and outside its native range.

(l) Nematode. A small unsegmented worm in all of its life stages in the Phylum Nematoda.

(m) Non-Native Species. Any non-native plants, algae, or blue-green algae, including genetically engineered plants, algae, or blue-green algae in plantings greater in size than two contiguous acres.

(n) Non-Native Species Permit. A permit issued by the Department authorizing a non native species planting.

(o) Non-Native Species Planting. The cultivation or production of a nonnative plants, algae, or blue-green algae, including a genetically engineered plants, algae, or blue-green algae in plantings greater in size than two contiguous acres.

(p) Noxious Weed. Any living stage, including, but not limited to, seeds and reproductive parts, of a parasitic or other plants of a kind, or subdivision of a kind, which may be a

serious agricultural threat in Florida, or have a negative impact on the plant species protected under Section 581.185, F.S., or if the plant is a naturalized plant that disrupts naturally occurring native plant communities. All plants listed in Section 369.251(1), F.S., shall be included in the Department's Noxious Weed and Invasive Plant List.

(q) Noxious Weed and Invasive Plant Review Committee. A committee appointed by the Department, in accordance with Section 570.0705, F.S., to review the Noxious Weed and Invasive Plant List in subsection 5B-57.010(2), F.A.C., as provided for in Section 581.091(4), F.S.

(r) Permit. An official document issued by the Department or the USDA allowing, under specific conditions, the entry or field release of plant pests, noxious weeds, invasive plants, arthropods, and biological control agents, defining the conditions under which such activities will be allowed, and containing specific instructions for inspection, movement, and containment.

(s) Plant Pest. Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, or viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants, plant parts, or any processed, manufactured, or other products of plants, other than permitted biological control agents.

(t) USDA. The United States Department of Agriculture.

(2) The purpose of this rule chapter is to control the introduction into, or movement or spread within this state of any plant pest, noxious weed, or arthropod, and to establish procedures under which the field release of plant pests, noxious weeds, arthropods, and biological control agents or non-native species plantings are permitted. Such procedures will assist in confirming that introductions and field releases are conducted in a manner which provides for public and environmental protection.

Rulemaking Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History--New 7-27-93, Amended 4-18-04, Amended 10-1-06, \_\_\_\_\_.

5B-57.002 Purpose.

Rulemaking Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History--New 7-27-93, Amended 10-1-06, Repealed \_\_\_\_\_.

5B-57.004 Introduction, Possession or Movement of Arthropods, Biological Control Agents, Plant Pests, Noxious Weeds, and Invasive Plants, Regulated by the Department.

(1) It is unlawful to introduce, multiply, possess, move, or release any arthropod, plant pest, biological control agent, noxious weed, or invasive plant regulated by the Department or the USDA except under permit issued by the Department unless a federal permit, PPQ 526, has been issued by the USDA with concurrence by the Department. No permit shall

be issued nor concurrence with a federal permit, PPQ 526 made unless the Department has determined that the arthropod, plant pest, biological control agent, noxious weed, or invasive plant can be contained to prevent escape into the environment or that it will not pose a threat to agriculture, beneficial organisms, or the environment or become a public nuisance. If the possession of a plant listed in Rule 5B-57.007, F.A.C., has resulted from natural dispersion and there is neither danger of nor intent to further disperse the plant, then no permit is required. In the case of biological control agents, they must be specialized to the target pest or pests. The Department's evaluation of permit applications may rely on findings of the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the USDA, the University of Florida, or any other State or Federal agency with expertise in these areas. In cases where there is inadequate information about the potential environmental impact of importing or releasing an organism, the Department will require the applicant to provide evidence that the accidental escape of organisms not intended for release would not be hazardous to Florida or U.S. agriculture, beneficial organisms, the public, or the environment and to provide contingency plans for containment should escape occur. The application procedures for permits are as follows:

(2) Unless a USDA permit 526 has been issued, anyone seeking a permit shall submit a completed Application and Permit to Move Organisms Regulated by the State of Florida, FDACS 08208 (Rev. 01/13), to the Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100. Application for permit shall be made on form DACS-08208 unless a USDA permit 526 has been issued. Application and Permit to Move Organisms Regulated by the State of Florida, DACS-08208, Revised 10/03, is incorporated into this rule chapter by reference. A department Pathogen Information Form is also required for plant pathogens. Pathogen Information Form DACS-08214, revised 12/03 is incorporated into this rule chapter by reference. Copies of all Division of Plant Industry forms may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100, or at the Division of Plant Industry website: <http://www.doacs.state.fl.us/onestop/>. The form Application and Permit to Move Organisms Regulated by the State of Florida, FDACS 08208 (Rev. 01/13), is hereby adopted and incorporated by reference and may be obtained by writing the Division of Plant Industry at P. O. Box 147100, Gainesville, FL 32614-7100 or online at <http://www.flrules.org/Gateway/reference>.

(3) The completed application for permit shall be submitted to the Department for evaluation and approval or disapproval. ~~The approval or disapproval of the application for permit shall be in accordance with the procedures outlined in Rule Chapter 28-107, F.A.C.~~

(4) Following approval by the Department, a permit (Application and Permit to Move Organisms Regulated by the State of Florida, FDACS 08208, Rev. 01/13) shall be issued.

The conditions under which movement, introduction, possession, or release is permitted, and the length of time for which the permit is valid, will be specified on the permit ~~or in a compliance agreement (DACS-08031). Compliance Agreement DACS-08031, revised 5/99 is incorporated into this rule chapter by reference. Copies of all Division of Plant Industry forms may be obtained from the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100, or at the Division of Plant Industry website: <http://www.doacs.state.fl.us/onestop/>.~~

(5) Failure to comply with permit requirements shall subject the permit to revocation ~~Any permit which has been issued shall be revoked by the Director of the Division of Plant Industry in accordance with the procedures outlined in Rule Chapter 28-106, F.A.C. Where the Director has revoked withdrawn a permit for non-compliance with permit requirements these specifications, the permitted organism involved shall be seized by the Department if it is determined to pose a threat to the agricultural, horticultural, environmental, or public interests of the state as provided for in Section 581.031(15)(a), F.S.~~

Rulemaking Authority 570.07(13), (23) FS. Law Implemented 581.031(6), (7), 581.083, 581.091, 581.101 FS. History—New 7-27-93, Amended 6-20-00, 4-18-04,\_\_\_\_\_.

5B-57.006 Regulation and Control of Noxious Weeds and Invasive Plants in Florida.

The Department, in addition to regulating the movement of the noxious weeds and invasive plants contained in Rule 5B-57.007, F.A.C., shall cooperate with the USDA, the Florida Department of Environmental Protection, and other appropriate parties to eradicate or control noxious weeds and invasive plants that are established in the State and are determined by the Department to be a nuisance or threat due to undesirable characteristics such as poisonous properties, or invasive or rapid reproductive tendencies. The eradication and control strategies developed shall be based on available science for each plant species considered for action. Eradication and control strategies include the use of biological control agents, integrated pest management, chemical control, and mechanical removal. The Department's involvement in eradication and control programs for noxious weeds and invasive plants will be carried out within the scope of statutory authority and available resources.

Rulemaking Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (6), (7), (16), (17), 581.083, 581.091, 581.101 FS. History—New 7-27-93, Amended 4-18-04,\_\_\_\_\_.

5B-57.007 Noxious Weed List.

(1) Parasitic Weeds.

(a) Aeginetia spp. = (Aeginetia)-

(b) Alectra spp. = (Alectra)-

(c) Cuscuta spp. Only the native Florida species are excluded from this list. These include:

1. C. americana-

- 2. *C. compacta*-
- 3. *C. exaltata*-
- 4. *C. gronovii*-
- 5. *C. indecora*-
- 6. *C. obtusiflora*-
- 7. *C. pentagona*-
- 8. *C. umbellata*-

(d)1. *Orobanch* spp. = (broomrapes), with the exception of:

- 2. *O. uniflora*- (oneflowered broomrape)
- (2) Terrestrial Weeds.
  - (a) *Ageratina adenophora* - (crofton weed)-
  - (b) *Alternanthera sessilis* - (sessile joyweed)-
  - (c) *Abrus precatorius* - (rosary pea)-
  - (d) *Ardisia elliptica* - (shoebutton ardisia)-
  - (e) *Asphodelus fistulosus* - (onionweed)-
  - (f) *Avena sterilis* (including *Avena budoviciana*) = (animated oat, wild oat)-
  - (g) *Borreria alata* - (broadleaf buttonweed)-
  - (h) *Carthamus oxyacantha* - (wild safflower)-
  - (i) *Casuarina equisetifolia* - (Australian pine)-
  - (j) *Casuarina glauca* - (suckering Australian pine)-
  - (k) *Chrysopogon aciculatus* - (pilipiliula)-
  - (l) *Colubrina asiatica* - (latherleaf)-
  - (m) *Commelina benghalensis* - (Benghal dayflower)-
  - (n) *Crupina vulgaris*- (common crupina)-
  - (o) *Cupaniopsis anacardioides* = (carrotwood)-

Propagation prohibited effective 7/1/99; sale or distribution prohibited 1/1/2001-

- (p) *Digitaria scalarum* = (African couchgrass, fingergrass)-
- (q) *Digitaria velutina* = (velvet fingergrass, annual couchgrass)-
- (r) *Dioscorea alata* = (white yam)-
- (s) *Dioscorea bulbifera* - (air potato)-
- (t) *Drymaria arenarioides* - (lightning weed)-
- (u) *Emex australis* - (three-corner jack)-
- (v) *Emex spinosa* - (devil's thorn)-
- (w) *Euphorbia prunifolia* - (painted euphorbia)-
- (x) *Galega officinalis* - (goat's rue)-
- (y) *Heracleum mantegazzianum* - (giant hogweed)-
- (z) *Imperata brasiliensis* - (Brazilian satintail)-
- (aa) *Imperata cylindrica* - (cogongrass)-
- (bb) *Ipomoea triloba* - (little bell, aiea morning glory)-
- (cc) *Ischaemum rugosum* - (muraingrass)-
- (dd) *Leptochloa chinensis* - (Asian sprangletop)-
- (ee) *Leucaena leucocephala* - (lead tree)-
- (ff) *Lycium ferocissimum* - (African boxthorn)-
- (gg) *Lygodium japonicum* - (Japanese climbing fern)-
- (hh) *Lygodium microphyllum* - (small-leaved climbing fern)-

- (ii) *Melaleuca quinquenervia* - (melaleuca)-<sup>†</sup>
- (jj) *Melastoma malabathricum* - (Indian rhododendron)-
- (kk) *Mikania cordata* - (mile-a-minute)-
- (ll) *Mikania micrantha* - (climbing hempweed)-
- (mm) *Mimosa invisa* - (giant sensitive plant)-
- (nn) *Mimosa pigra* - (catclaw mimosa)-<sup>†</sup>
- (oo) *Nassella trichotoma* - (serrated tussock)-
- (pp) *Neyraudia reynaudiana* - (Burma reed)-
- (qq) *Opuntia aurantiaca* - (jointed prickly pear)-
- (rr) *Oryza longistaminata* - (red rice)-
- (ss) *Oryza punctata* - (red rice)-
- (tt) *Oryza rufipogon* - (wild red rice)-
- (uu) *Paederia cruddasiana* - (sewer-vine)-
- (vv) *Paederia foetida* - (skunk-vine)-
- (ww) *Paspalum scrobiculatum* - (Kodomillet)-
- (xx) *Pennisetum clandestinum* - (Kikuyu grass)-
- (yy) *Pennisetum macrourum* - (African feathergrass)-
- (zz) *Pennisetum pedicellatum* - (Kyasuma grass)-
- (aaa) *Pennisetum polystachyon* - (missiongrass, thin napiergrass)-
- (ccc) *Pueraria montana* - (kudzu)-
- (bbb) *Prosopis* spp.
- (ddd) *Rhodomlyrtus tomentosa* - (downy myrtle)-
- (eee) *Rottboellia cochinchinensis* - (itchgrass)-
- (fff) *Rubus fruticosus* - (bramble blackberry)-
- (ggg) *Rubus molluccanus* - (wild raspberry)-
- (hhh) *Saccharum spontaneum* - (wild sugarcane)-
- (iii) *Salsola vermiculata* - (wormleaf salsola)-
- (jjj) *Sapium sebiferum* - (Chinese tallow tree)-
- (kkk) *Scaevola taccada* - (beach naupaka)-
- Propagation prohibited immediately and distribution prohibited by July 1, 2007.
- (III) *Schinus terebinthifolius* - (Brazilian pepper-tree)-<sup>†</sup>
- (mmm) *Setaria pallidifusca* - (cattail grass)-
- (nnn) *Solanum tampicense* - (wetland nightshade)-
- (ooo) *Solanum torvum* - (turkeyberry)-
- (ppp) *Solanum viarum* - (tropical soda apple)-
- (qqq) *Tridax procumbens* - (coat buttons)-
- (rrr) *Urochloa panicoides* - (liverseed grass)-

<sup>†</sup>Department of Environmental Protection permit required for these species.

Rulemaking Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History—New 7-27-93, Amended 2-28-94, 6-30-96, 7-7-99, 10-1-06,\_\_\_\_\_.

5B-57.010 Noxious Weed and Invasive Plant Classification Procedures.

(1) The Department will propose the classification of a plant as a noxious weed or invasive plant and its inclusion on the Noxious Weed and Invasive Plant List, Rule 5B-57.007, F.A.C., if the plant is determined to be a serious agricultural threat in Florida, or have a negative impact on the plant species

protected under Section 581.185 F.S., or if the plant is a naturalized plant that disrupts naturally occurring native communities. In making these determinations, the ~~D~~department will utilize information provided by the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida or other experts that biologically justifies the classification of a plant as a noxious weed or invasive plant based upon the best and currently available information. Anyone seeking to have plants added to the Rule 5B-57.007, F.A.C., Noxious Weed List shall submit a completed Application for Inclusion to the Noxious Weed List, FDACS 08215, Rev. 01/13, to the Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100. The form Application for Inclusion to the Noxious Weed List, FDACS 08215, Rev. 01/13, is hereby adopted and incorporated by reference and may be obtained by writing the Division of Plant Industry, Bureau of Plant and Apiary Inspection, at P. O. Box 147100, Gainesville, FL 32614-7100 or online at <http://www.flrules.org/Gateway/reference>. ~~Individuals or groups seeking to have plants included in Rule 5B-57.007, F.A.C., may make application to the Ddepartment on form DACS-08215. Application for Inclusion to the Noxious Weed List DACS-08215, Effective 12/03 is incorporated into this rule chapter by reference. Copies of all Division of Plant Industry forms may be obtained by writing the Division of Plant Industry, P. O. Box 147100, Gainesville, Florida 32614-7100, or at the Division of Plant Industry website: "http://www.doacs.state.fl.us/onestop/."~~ To add a noxious weed or invasive plant to the list of noxious weeds and invasive plants the following information is required to assist in the development of the risk assessment: identification including scientific name and author, common synonyms, botanical classification, common names; summary of life history; native and world distribution; distribution in Florida or the United States if any; description of control efforts, if established in Florida or the United States; identification of regulation at the state level; consequences of introduction/spread; habitat suitability in Florida (predicted ecological range); dispersal potential (biological characteristics associated with invasiveness); potential economic impacts; potential environmental impacts; likelihood of introduction/spread; potential pathways into and within Florida; likelihood of survival and spread within each pathway; and supporting documentation (list of references). To remove a plant from the list the following information is required: evidence that the species no longer meets the definition of a noxious weed or invasive plant. For cultivars of a listed plant to be exempted, the following information must be supplied by IFAS: evidence of sterility and inability to cross pollinate with wild types, or evidence that the cultivar has narrower habitat suitability, less dispersal potential, less potential for negative impact on the economy and/or environment of Florida and evidence that the plant is not spreading vegetatively. The ~~D~~department will review a submitted Application for Inclusion to the Noxious Weed List, FDACS 08215, Rev. 01/13, the

~~application (DACS-08215)~~ and forward it to the Noxious Weed and Invasive Plant Review Committee within 30 days provided all required information has been submitted. The Noxious Weed and Invasive Plant Review Committee will review the application and make a final recommendation to the ~~D~~department to add or remove plants from Rule 5B-57.007, F.A.C. Any exemptions for cultivars, production practices, areas of distribution, or any other reasons will be denoted following the plant name on the Noxious Weed and Invasive Plant List. The ~~D~~department ~~may~~ shall make a final determination regarding the disposition of the application within 30 days of receipt of the committee recommendation. Upon making a final determination, the rule amendment process will be initiated if necessary. By emergency rule, the ~~D~~department shall ~~may~~ add a plant to the list at any time if there is an immediate threat to the agricultural, horticultural, environmental, or public interest of the state.

(2) The Noxious Weed and Invasive Plant List contained in Rule 5B-57.007, F.A.C., shall be subject to review, at least biennially, by the ~~D~~department in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida. The Noxious Weed and Invasive Plant List Review Committee appointed by the ~~D~~department, in accordance with Sections 581.091(4) and 570.0705, F.S., will conduct the review. All reviews will be conducted in accordance with Section 120.525, F.S., which provides for public input. The Vice President for Agricultural and Natural Resources with the University of Florida will recommend two faculty members, one specializing in research on production agriculture and the other on natural resources, to the ~~D~~department to serve on the committee. A representative from the Director's Office, the Bureau of Plant and Apiary Inspection, and the Botany Section shall represent the ~~D~~department. The Noxious Weed and Invasive Plant List Review Committee will make recommendations to the ~~D~~department to add or remove plants from Rule 5B-57.007, F.A.C., based on the biological justification as described in subsection (1).

Rulemaking Authority 570.07(23) FS. Law Implemented 581.011(18), 581.031(6), 581.091(4) FS. History—New 4-18-04,\_\_\_\_\_.

(Substantial rewording of Rule 5B-57.011 follows. See Florida Administrative Code for present text.)

#### 5B-57.011 Non-Native Species Special Permits.

(1) In accordance with Section 581.083, Florida Statutes, a person may not cultivate nonnative plants, algae, or blue-green algae, including genetically engineered plants, algae, or blue-green algae in plantings greater in size than two contiguous acres, except under a Special Permit issued by the Department's Division of Plant Industry. Anyone seeking a Special Permit shall submit a completed Non-Native Species Planting Permit Application, FDACS 08381 (Rev. 01/13), to the Division of Plant Industry, P. O. Box 147100, Gainesville, FL 32614-7100.

(a) A separate application shall be required for each noncontiguous growing location and must include a complete description of the non-native species to be grown and an estimated cost of removing and destroying the non-native species planting including the basis for calculating or determining that estimate.

(b) Each application must be submitted with the \$50.00 permit fee and proof that a bond or certificate of deposit has been obtained in accordance with subsection (3).

(c) A new application will be required if a new or additional planting (contiguous or noncontiguous) exceeds five percent (5%) of the acreage covered by an previous permit.

(d) The Department will not issue a Special Permit for any planting that includes any species listed on the State Noxious Weed List (See Rule 5B-57.007) or the federal noxious weed list (See Designation of Noxious Weeds, 7 C.F.R. 360.200 (2010)).

(e) The Department will not issue a Special Permit unless the applicant is the owner of the property or has written permission from the property owner to utilize the land for non-native species plantings for the duration of the life of the permit.

(f) In evaluating the permit application, the Department will visit the proposed growing location and determine if feasible measures are available to prevent the spread of the plant into neighboring ecosystems. The permit will require the following minimum requirements:

1. A system of traps or filters, a fallow area consisting of bare earth greater than 25 feet, or ground cover (approved by Department staff as part of the application process) to prevent the non-native species from spreading through ditches, natural waterways, or other drainage.

2. If the non-native species is motile in water and presents a risk of invasiveness in an aquatic environment, the applicant will be required to use a berm.

3. Any equipment used on the site must be cleaned of all debris before being moved from the property.

4. Wildfire protection measures will be required to mitigate fire risk and damages to surrounding areas.

(g) If additional measures are necessary (including, but not limited to, transportation restrictions) to prevent the spread of the non-native species into neighboring ecosystems, the applicant will be required to execute a Non-Native Species Compliance Agreement, FDACS-08383, (Rev. 01/13), containing additional preventative requirements. The executed Compliance Agreement will become an addendum to the Special Permit. Failure of the applicant to abide by the stipulations of the Special Permit or Compliance Agreement will subject the Applicant to the procedures of Section 581.083(4)(b),(c),(d), Florida Statutes.

(2) If an applicant meets the application requirements of subsection 5B-57.011(1), F.A.C., the Department's Division of Plant Industry will issue a Non-Native Species Planting Permit, FDACS-08382, (Rev. 01/13), to the applicant for annual cultivation and maintenance of the non-native species.

(3) As required by Section 581.083(4)(e), Florida Statutes, each permit holder shall maintain, for each separate growing location, a bond or a certificate of deposit in an amount, determined by the Department, of not more than 150 percent of the estimated cost of removing and destroying the non-native species. The maximum bond or certificate of deposit required will not exceed \$5,000 per acre except as allowed by Section 581.083(4)(e), Florida Statutes. The amount of the bond or certificate of deposit shall be increased, upon order of the Department, at any time if the Department finds such increase to be warranted by the cultivating operations of the permit holder.

(a) Applicants shall provide proof of each bond or certificate of deposit by submitting with the Special Permit application either the form entitled Non-Native Species Plantings Bond, FDACS 08439 (Rev. 01/13), or Assignment of Certificate of Deposit For Non-Native Species Plantings, FDACS 08440 (Rev. 01/13), as appropriate.

(b) Permit holders desiring that the security requirement be decreased or removed must submit a written justification to the Division of Plant Industry. The permit holder must provide specific information that justifies the request by demonstrating that the permit holder has decreased its cultivation operations or that research or practical field knowledge and observations indicate a low risk of invasiveness by the non-native species. The factors that the Department will consider include, but are not limited to: multiple years or cycles of successful large-scale contained cultivation; no observation of plants, algae, or blue-green algae escape from managed areas; and science-based evidence that establishes or demonstrates adjusted cultivation practices provide a similar level of containment of the nonnative plants, algae, or blue-green algae. The Department will review the information presented and issue a written response to the request.

(4) It shall be unlawful for any person to abandon a non-native species planting. It is the responsibility of the property owner or permit holder to completely destroy the planting prior to vacating the property or stopping commercial production. If the Department determines any of the factors of Section 581.083(4)(c), Florida Statutes, to be true, the Department will issue an immediate final order requiring the immediate removal and destruction of the non-native species. Failure of the permit holder to remove and destroy the non-native species within 60 days of the order will result in action by the Department against the permit holders bond or certificate of deposit as described in Section 581.083(4)(d), Florida Statutes.

(5) A Non-Native Species Planting Permit, FDACS 08382 (Rev. 01/13), is not required if the Department, after consultation with the University of Florida, Institute of Food and Agricultural Sciences (IFAS), determines, based on experience or research data, that the non-native species does not pose a threat of becoming an invasive species or pest of plants or native fauna under Florida conditions. The following are specifically exempted from the requirements of this rule:

(a) Any plant that is produced in Florida for purposes of human food consumption,

(b) Any plant that is commonly grown in Florida for commercial feed, feedstuff, or forage for livestock, nursery stock, or silviculture,

(c) Aquatic plants, algae, or blue-green algae grown in compliance with Aquaculture Best Management Practices and certified by the Division of Aquaculture pursuant to Section 597.004, Florida Statutes,

(d) Energy cane (complex hybrid of *Saccharum officinarum*, *S. spontaneum*, *S. barberi* and *S. sinense*)

(e) *Eucalyptus amplifolia*

(f) *Eucalyptus benthamii*

(g) *Eucalyptus dorrigoensis*

(h) *Eucalyptus dunnii*

(i) *Eucalyptus grandis*

(j) *Eucalyptus gunni*

(k) *Eucalyptus nitens*

(l) *Eucalyptus smithii*

(m) *Eucalyptus urograndis* – *E. grandis* X *E. urophylla*

(n) *Hibiscus canabinus* L

(o) *Miscanthus giganteus* – *M. sacchariflorus* X *M. sinensis*

(p) *Pinus* spp.

Note: With the exception of *Miscanthus giganteus*, importation of *Saccharum* and *Miscanthus* species requires a Special Permit in accordance with Rule 5B-3.003, F.A.C.

(6) The following documents are hereby adopted and incorporated by reference. These documents may be obtained by writing to the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, at P. O. Box 147100, Gainesville, FL 32614-7100 or online as indicated,

(a) Non-Native Species Planting Permit Application, FDACS 08381 (Rev. 01/13), <http://www.flrules.org/Gateway/reference>.

(b) Non-Native Species Compliance Agreement, FDACS-08383, (Rev. 01/13), <http://www.flrules.org/Gateway/reference>.

(c) Non-Native Species Planting Permit, FDACS-08382, (Rev. 01/13), <http://www.flrules.org/Gateway/reference>

(d) Non-Native Species Plantings Bond, FDACS 08439 (Rev. 01/13), <http://www.flrules.org/Gateway/reference>.

(e) Assignment of Certificate of Deposit For Non-Native Species Plantings, FDACS 08440 (Rev. 01/13), <http://www.flrules.org/Gateway/reference>.

(f) Designation of Noxious Weeds, 7 C.F.R. 360.200 (2012), <http://www.flrules.org/Gateway/reference>.

Rulemaking Authority 570.07(13), (23) FS. Law Implemented 581.031(4), (5), (6), 581.083, 581.091 FS. History–New 10-1-06, Amended 9-24-08,\_\_\_\_\_.

5B-57.012 *Casuarina cunninghamiana* Windbreaks.

Purpose – The Department is authorized pursuant to Section 581.091, F.S., to develop and administer a pilot program to allow for, under special permits, the propagation of male *Casuarina cunninghamiana* trees, and the planting of those trees as windbreaks for commercial citrus groves in Indian River, Martin and St. Lucie Counties. The program is a five-year pilot that may be extended and expanded if so approved at the end of five years by the Noxious Weed and Invasive Plant Review Committee, the Department of Environmental Protection, the Department and a representative of the citrus industry, as provided in Section 581.091(5)(b), F.S.; or permanently suspended if hybrids are found that the Department determines, pursuant to Section 581.091(5)(k), F.S., have a high potential to be invasive.

(1) Definitions. For the purpose of this rule chapter, the definitions in Section 581.011, F.S., and the following shall apply:

(a) *Casuarina cunninghamiana* means a perennial tree in the family Casuarinaceae commonly called the “river she-oak.”

(b) Commercial citrus grove means a contiguous planting of 100 or more citrus trees where citrus fruit is produced for sale.

(c) Department means the Florida Department of Agriculture and Consumer Services.

(d) Registered source tree means a *Casuarina cunninghamiana* male tree of Florida origin that the Department has verified as sexually mature and horticulturally true to type and for which the Department has assigned a source tree registration number.

(2) Nursery Propagation Permit Application Requirements. The following requirements must be met in order obtain a permit to propagate *Casuarina cunninghamiana* for use as a windbreak around commercial citrus groves:

(a) *Casuarina cunninghamiana* may only be propagated by nurseries registered with the Department pursuant to Section 581.031(21), F.S.

(b) The nursery must submit an Application and Compliance Agreement to Propagate *Casuarina cunninghamiana*, FDACS 08446, Rev. 01/13, to obtain ~~application for~~ a special permit to propagate *Casuarina cunninghamiana* ~~from the Department~~. The form titled Application and Compliance Agreement to Propagate *Casuarina cunninghamiana*, FDACS-08446, Rev. ~~01/13~~ ~~02/09~~ is hereby adopted and incorporated herein by reference and ~~The form~~ may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Plant

Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100 or online at <http://www.flrules.org/Gateway/reference>.

(c) The application must be accompanied by a fee of \$200.

(d) The Compliance Agreement included in the application shall include a statement that the owner or operator acknowledges that this is a pilot program, and that the Department may order the destruction at owner's or operator's expense of all *Casuarina cunninghamiana* trees propagated pursuant to the permit.

(e) Within 30 days of receipt of a complete permit application and signed compliance agreement that meet the requirements of this rule, the Department shall issue the applicant a Special Permit for Propagation of *Casuarina cunninghamiana* (FDACS 08455, Rev. ~~01/13 02/09~~). The form titled Special Permit For Propagation Of *Casuarina c*~~unninghamiana~~ (FDACS-08455, Rev. ~~01/13 02/09~~) is hereby adopted and incorporated herein by reference and a sample of the form. ~~The form~~ may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100 or online at <http://www.flrules.org/Gateway/reference>

(f) If the application is not complete, the Department shall notify the applicant in writing of the reasons that the permit will not be issued and any corrective measures that the applicant must take to obtain approval.

(g) The special permit expires twelve months after the date of issuance.

(h) Application for renewal of the special permit for propagation must be received by the Department at least 60 days prior to its expiration and be accompanied by the application fee of \$200.

(a) All *Casuarina cunninghamiana* plants must be vegetatively propagated from registered source trees.(3) Propagation Permit Requirements.

(b) An annual fee of \$50 must be paid for each registered source tree and each registered source tree must be labeled with a permanent tag that contains the source tree registration number assigned by the Department.

(c) Each plant propagated from the registered source tree must be labeled with a permanent tag that contains the source tree registration number.

(d) Propagations from each registered source tree shall be maintained in nursery rows or on greenhouse benches so that each group can be identified as originating from an individual registered source tree.

(e) Source tree registration numbers of the parent plants must be documented on each invoice provided to the buyer.

(f) Nurseries may only sell *Casuarina cunninghamiana* to a person with a Special Permit for *Casuarina cunninghamiana* Windbreaks. The nursery must include the buyers permit number on each invoice.

(g) Copies of *Casuarina cunninghamiana* invoices must be maintained for 5 years and be made available to the Department upon request.

(h) Upon expiration of the Special Permit to Propagate *Casuarina cunninghamiana* issued by the Department, all remaining propagations must be destroyed, or sold or transferred to a nursery that has a current Special Permit to Propagate *Casuarina cunninghamiana*.

(i) The destruction or movement of any *Casuarina cunninghamiana* plants must be done under the direct supervision of the Department.

(4) Citrus Grove Windbreak Permit Application Requirements. The following requirements must be met in order obtain a permit to plant a *Casuarina cunninghamiana* Windbreak around commercial citrus groves:

(a) *Casuarina cunninghamiana* windbreaks may only be planted around a commercial citrus grove as defined in paragraph 5B-57.012(1)(b), F.A.C., located in areas of Indian River, Martin, or St. Lucie Counties in which the Department has determined that citrus canker is widespread.

(b) The property owner or operator must submit an Application and Compliance Agreement for *Casuarina cunninghamiana* Windbreaks. The form titled Application and Compliance Agreement For *Casuarina c*~~unninghamiana~~ Windbreaks (FDACS-08445, Rev. ~~01/13 02/09~~) is hereby adopted and incorporated herein by reference and. ~~The form~~ may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100 or online at <http://www.flrules.org/Gateway/reference>.

(c) A separate permit must be obtained for each noncontiguous commercial citrus grove where the applicant intends to plant the windbreak.

(d) Each application must include the following:

1. The name of the applicant and the applicant's address or the address of the applicant's principal place of business and the location and multiblock numbers of each commercial citrus grove for which a permit is sought. If the applicant is a corporation, partnership, or other business entity, the applicant must also provide in the application the name and address of each officer, partner, or managing agent.

2. An application fee in the amount of \$200.

3. A baseline survey of all lands within 500 feet of the proposed windbreak to detect any *Casuarina* species. If any *Casuarina* species is detected, a map showing the location and identification of each *Casuarina* species must be provided. Identifications must be verified by the Department prior to issuance of a permit.

(e) An estimate of the cost of removing and destroying the proposed *Casuarina cunninghamiana* windbreak and the basis for calculating the estimate.



(f) A signed compliance agreement stating that the property owner or operator will abide by all permit conditions. The compliance agreement in the application shall include a statement that the owner or operator acknowledges that this is a pilot program, and that the Department may order the destruction at owner's or operator's expense of all *Casuarina cunninghamiana* trees planted pursuant to the permit.

(g) Within 30 days of receipt of a complete application and signed compliance agreement that meets the requirements of this rule, the Department shall issue the applicant a Special Permit For *Casuarina cunninghamiana* Windbreak (FDACS 08454, Rev. ~~01/13~~ ~~02/09~~) or notify the applicant in writing of the reasons that the permit will not be issued and any corrective measures that applicant must take to obtain approval of the permit. The form titled Special Permit For *Casuarina Cunninghamiana* Windbreaks (FDACS-08454, Rev. ~~01/13~~ ~~02/09~~) is hereby adopted and incorporated herein by reference and a sample of the form. ~~The form~~ may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, FL 32614-7100 or online at <http://www.flrules.org/Gateway/reference>.

(h) The Special Permit for *Casuarina cunninghamiana* Windbreaks shall be valid for 5 years from the date of issuance and is transferable to subsequent owners or operators upon approval by the Department.

(i) Application for renewal of the special permit for a *Casuarina cunninghamiana* windbreak must be received by the Department at least 60 days prior to its expiration and be accompanied by the application fee of \$200.

(5) Citrus Grove Windbreak Permit Conditions. The special permit shall require the property owner or operator to:

(a) Maintain the commercial citrus grove in such a manner to facilitate inspections and to provide unrestricted access to the site for purposes of inspecting the *Casuarina cunninghamiana* windbreaks;

(b) Notify the Department within 30 days following the initial planting and any subsequent planting of *Casuarina cunninghamiana*;

(c) Be responsible for the removal of *Casuarina cunninghamiana* if invasive populations or other adverse environmental factors are determined to be present by the Department as a result of the use of *Casuarina cunninghamiana* windbreaks;

(d) Maintain all records of the invoices documenting the purchase of the *Casuarina cunninghamiana*, including the source tree registration numbers as stated in paragraph 5B-57.012(1)(d), F.A.C., and make those records available to the Department during normal business hours for their review.

(e) Notify the Department within 30 business days of any change of address or change in the principal place of business.

(f) Notify the Department of the property owner's intent to sell or otherwise transfer the ownership of the property at least 30 days prior to the transfer of ownership. The permit holder shall provide the new owner with a copy of the Special Permit and of all invoices and certification documents prior to closing.

(g) The permit holder shall remain responsible for all aspects of the permit until the Department has issued a new permit to the new owner.

(h) The application must be accompanied by a fee of \$200 for each non-contiguous citrus grove.

(i) This special permit expires 5 years after issuance.

(6) Additional Permit Requirements For Maintenance and Mitigation.

(a) If the property owner or operator detects any *Casuarina* seedlings within 500 feet of the planted windbreak, the property owner or operator shall notify the Department immediately. Once notified, the Department shall follow the procedures in subsection 5B-57.012(7), F.A.C.

(b) The property owner or operator shall inspect the windbreak at least one time per month for any signs of female flowers or cones and shall notify the Department immediately if any are detected. Records of each inspection shall be maintained by the property owner or operator and be available for inspection by the Department.

(7) Destruction of *Casuarina cunninghamiana* Windbreaks. *Casuarina cunninghamiana* windbreaks shall be destroyed under any of the following circumstances and conditions:

(a) By the property owner within 6 months after:

1. The property owner takes permanent action to no longer use the site for commercial citrus production; or

2. The site has not been used for commercial citrus production for five years; or

3. The Department determines the *Casuarina cunninghamiana* on the site has become invasive based on its own determination or on the recommendation of the Noxious Weed and Invasive Plant Review Committee and the Department of Environmental Protection and in consultation with a representative of the citrus industry who has a *Casuarina cunninghamiana* windbreak.

4. If the owner or operator neglects or refuses to comply, the Department shall destroy the plants, assess the expense against the owner and if payment is not received, record a lien against the property.

(b) Within 60 days, if the Department determines that female flowers or cones have been produced on any *Casuarina cunninghamiana* plant within a windbreak.

(c) By immediate final order if the Department determines that:

1. The permit holder is no longer maintaining the *Casuarina cunninghamiana* subject to the provisions of the special permit and has not removed and destroyed the trees; or

2. The continued use of *Casuarina cunninghamiana* as windbreaks presents an imminent danger to public health, safety, or welfare; or

3. The permit holder has violated the conditions of the special permit;

(d) In cases governed by subparagraphs 5B-57.012(7)(c)1.-3., F.A.C., above, the Department shall issue an immediate final order, which shall be immediately appealable or enjoined as provided by Chapter 120, F.S., directing the permit holder to immediately remove and destroy the *Casuarina cunninghamiana* authorized to be planted under the special permit.

(e) The permit holder may make a written request to the Department for a 60 day extension of time to remove and destroy the *Casuarina cunninghamiana* as ordered in the immediate final order. The request must demonstrate specific facts showing why the *Casuarina cunninghamiana* could not reasonably be removed and destroyed in the applicable timeframe.

(f) Upon a showing that the permit holder has demonstrated the need for additional time to destroy the trees, the Department shall specify a later date by which the trees subject to the special permit must be destroyed.

(g) If upon issuance by the Department of an immediate final order to the permit holder, the permit holder fails to remove and destroy the *Casuarina cunninghamiana* subject to the special permit within 60 days after issuance of the order, such other extended time as granted by the Department, or such shorter period as is designated in the order as public health, safety, or welfare requires, the Department shall remove and destroy the *Casuarina cunninghamiana* that are the subject of the special permit.

(h) The reasonable costs and expenses incurred by the Department for removing and destroying the plants shall be paid out of the Citrus Inspection Trust Fund and shall be reimbursed by the party to which the immediate final order is issued.

(i) If the party to which the immediate final order has been issued fails to reimburse the state within 60 days, the Department shall record a lien on the property. The lien shall be enforced by the Department.

(8) Evaluation of Seedlings.

(a) *Casuarina* seedlings discovered within 500 feet of a *Casuarina cunninghamiana* windbreak shall be identified by the Department to species level, removed and evaluated by the Department to determine whether hybridization has occurred.

(b) If the Department determines that hybridization has occurred, the Department shall initiate action to determine the invasiveness of the hybrids.

(c) The Department shall report its findings to a reviewing group consisting of the Noxious Weed and Invasive Plant Review Committee, the Department of Environmental Protection and the citrus industry.

(d) If after consulting with the reviewing group the Department determines the hybrids have a high potential to become invasive, this program shall be permanently suspended, all propagation and windbreak special permits shall be rescinded, and *Casuarina cunninghamiana* planted pursuant to special permits shall be destroyed.

(9) Department Monitoring and Response. The Department shall:

(a) Conduct inspections of the windbreak within 30 days of the initial planting and any subsequent plantings, and

(b) Conduct inspections of the windbreak and all areas 500 feet from the windbreak at least annually thereafter.

(c) Conduct any other inspections needed to determine whether the *Casuarina cunninghamiana* has spread beyond the permitted location.

(10) Reevaluation, Extension and Expansion of Pilot Program.

(a) The program shall be evaluated annually by the Department to determine any adverse environmental impacts of the pilot program.

(b) In 2013, the Department shall conduct a comprehensive review and evaluation of the pilot program. The Department shall review and evaluate any adverse environmental impacts of the pilot program and determine the potential for future adverse environmental impacts from the use of *Casuarina cunninghamiana* as windbreaks around commercial citrus groves, and put its findings in a report.

(c) After the Department has completed its review, the pilot program and report shall be evaluated by a reviewing group consisting of the Noxious Weed and Invasive Plant Review Committee, the Department of Environmental Protection and a representative of the citrus industry who has a *Casuarina cunninghamiana* windbreak.

(d) If the reviewing group determines that there is a low potential for adverse environmental impacts from the program, the Department may extend and expand the use of the windbreaks to other areas of the state. Any such extension or expansion shall be by Department rule.

(e) If the reviewing group determines that additional time is needed to determine the impacts of *Casuarina cunninghamiana* windbreaks, the Department shall allow the program to remain in place but shall not expand the areas to be planted until such time as the evaluation is complete and the Department, in consultation with the reviewing group, determines that there is a low potential for adverse environmental impact.

Rulemaking Authority 570.07(23), 581.031(1), (3), (8), 581.091 FS. Law Implemented 570.07(2), (13), 570.32(5), (6), 581.031(1), (17), 581.091 FS. History—New 7-16-09, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mr. Richard Gaskalla, Director, Division of Plant Industry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Adam H. Putnam, Commissioner of Agriculture  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2013  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: February 18, 2013

**DEPARTMENT OF CORRECTIONS**

RULE NOS.:                   RULE TITLES:  
 33-601.226                   Youthful Offender Program Participation

33-601.236                   Basic Training Program – Operation  
**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule is to amend Forms DC6-118, Inmate Promotional Request; DC6-193, Order Modifying Sentence; and DC3-234, Order Modifying Sentence and Placing Defendant on Probation. Form DC6-118 is being amended to change some of the form’s formatting, to include a check box so the inmate can simply indicate whether they received a high school diploma or GED prior to their incarceration, to clarify that the Institutional Classification Team and Review Board of Extended Day Program will be reviewing information contained on the form, and to change the form to reflect that the inmate should send the form to the Extended Day Sergeant. Forms DC6-193 and DC3-234 are being amended to update language in order to be consistent with the current language used in the order of supervision conditions.

**SUMMARY:** Rulemaking was initiated to update three forms, DC6-118, Inmate Promotional Request; DC6-193, Order Modifying Sentence; and DC3-234, Order Modifying Sentence and Placing Defendant on Probation.

**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: upon review of the proposed changes to these rules and incorporated forms, the department has determined that the amendments will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S.

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:** 20.315, 944.09, 958.04, 958.045, 958.11 FS.

**LAW IMPLEMENTED:** 20.315, 944.09, 958.11, 958.12 , 958.045 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:** LaDawna Fleckenstein, 501 South Calhoun Street, Tallahassee, Florida 32399-2500

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

33-601.226 Youthful Offender Program Participation.

(1) through (4) No change.

(5) Advancement to Phase III.

(a) A Phase II inmate wishing to participate in Phase III must apply for advancement using Form DC6-188, Inmate Promotional Request, and an evaluation by the ICT will be conducted to determine whether the inmate is eligible for advancement to Phase III. Form DC6-188 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. <http://www.flrules.org/Gateway/reference.asp?No=Ref-01179>. The effective date of this form is           July 30, 2008.

(b) No change.

(6) through (10) No change.

Rulemaking Authority 944.09, 958.04, 958.11 FS. Law Implemented 944.09, 958.11, 958.12 FS. History–New 10-11-95, Amended 9-11-97, Formerly 33-33.013, Amended 3-13-01, Formerly 33-506.106, Amended 4-2-02, 2-19-03, 9-16-04, 5-28-12,\_\_\_\_\_.

33-601.236 Basic Training Program – Operation.

(1) through (4) No change.

(5) Request for Sentence Modification.

(a) through (e) No change.

(f) The sentence modification packet shall include the following:

1. No change.

2. A completed Order Modifying Sentence and Placing Defendant on Probation, Form DC3-234, hereby incorporated by reference. A copy of this form is available from the Forms Control Administrator, Office of Research, Planning and Support Services, 501 South Calhoun Street, Tallahassee, Florida 32399-2500. The effective date of this form is ~~10-10-04~~.

3. through 5. No change.

(g) through (l) No change.

(6) No change.

Rulemaking Authority 20.315, 944.09, 958.045 FS. Law Implemented 20.315, 944.09, 958.045 FS. History–New 2-26-89, Amended 1-25-96, Formerly 33-27.006, Amended 3-13-01, Formerly 33-506.206, Amended 1-17-02, 10-3-02, 10-10-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
James Upchurch, Deputy Assistant Secretary of Institutions  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Michael D. Crews, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: January 16, 2013  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAR: January 23, 2013

**DEPARTMENT OF ELDER AFFAIRS**

**Federal Aging Programs**

RULE NO.: 58A-1.010  
RULE TITLE: Program Forms

PURPOSE AND EFFECT: The proposed rule incorporates updated screening and assessment instruments utilized by the Department of Elder Affairs' Comprehensive Assessment and Review for Long Term Care Services (CARES) assessors, and makes necessary conforming changes in Rule 58A-1.010, Florida Administrative Code. The proposed effective date for the rule is July 1, 2013.

SUMMARY: Such forms being incorporated include: Form 701A Condensed Assessment, Form 701B Comprehensive Assessment, Form 701C Congregate Meals Assessment, Form 701S Screening Form, and Form 701T CARES Mini Assessment.

**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:

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

RULEMAKING AUTHORITY: 430.08, 430.101 FS.

LAW IMPLEMENTED: 430.04, 430.101 FS.

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

DATE AND TIME: Tuesday, March 19 2013, 10:00 a.m. – 12:00 Noon

PLACE: The Department of Elder Affairs, Room 225F, 4040 Esplanade Way, Tallahassee, Florida 32399-7000

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 72 hours before the workshop/meeting by

contacting: Jessica Tice, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, Telephone: (850)414-2453, Email: ticej@elderaffairs.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jessica Tice, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, Telephone: (850)414-2453, Email: ticej@elderaffairs.org

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

58A-1.010 Program Forms.

The following forms shall be used for programs regulated by this chapter. These forms are hereby incorporated by reference, and are available from the Department of Elder Affairs, 4040 Esplanade Avenue, Tallahassee, Florida 32399-7000.

(1) For purposes of assessment:

(a) DOEA Form 701A, Department of Elder Affairs Condensed Assessment Prioritization Form, February 2013 September 2008.

(b) DOEA Form 701B, Department of Elder Affairs Comprehensive Assessment Assessment Instrument, February 2013 September 2008.

(c) DOEA Form 701C, Department of Elder Affairs Congregate Meals Assessment, February 2013 September 2008.

(d) DOEA Form 701S, Department of Elder Affairs Screening Form, February 2013.

(e) DOEA Form 701T, Department of Elder Affairs CARES Mini Assessment, February 2013.

~~(2) For purposes of completing forms listed in subsection (1): DOEA Form 701D, Department of Elder Affairs Assessment Instructions (701A, 701B, 701C), September 2008.~~

~~(2)(3)~~ For purposes of documenting planned services of care, a case management agency must develop a care plan format that includes at least the following information:

(a) Client name and identification number;

(b) Case management agency name and identification number;

(c) Client's assessed service needs;

(d) Types, units, frequency and duration of planned DOEA and non-DOEA services;

(e) The provider and associated costs of each planned service;

(f) Initiation, revision and termination dates of the care plan;

(g) An acknowledgement that the client or client's representative is involved in the development of the care plan; and

(h) Client or representative and case manager signatures and date of signatures.

Proposed Effective Date is July 1, 2013.

Rulemaking Authority 430.08, 430.101 FS. Law Implemented 20.41, 430.101, 430.04 FS. History–New 8-20-00, Amended 8-6-01, 9-24-08, 7-1-13.

**NAME OF PERSON ORIGINATING PROPOSED RULE:**  
Anthony J. DePalma, Assistant General Counsel, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, Telephone: (850)414-2352, Email: depalmaa@elderaffairs.org

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Richard Prudom, Deputy Secretary, Department of Elder Affairs

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** February 22, 2013

**DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR:** June 8, 2012 and December 18, 2012

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
64E-6.001	General
64E-6.002	Definitions
64E-6.003	Permits
64E-6.008	System Size Determinations
64E-6.010	Septage and Food Establishment Sludge
64E-6.011	Abandonment of Systems
64E-6.014	Construction Standards for Drainfield Systems
64E-6.0181	Cesspit and Undocumented System Replacement and Interim System Use
64E-6.028	Location and Installation

**PURPOSE AND EFFECT:** The proposed changes to Chapter 64E-6, Florida Administrative Code, incorporate changes in chapter 381.0065 from the 2010 and 2012 legislative session. The changes also incorporate recommendations from the septic tank industry. The proposed changes have been reviewed by the Technical Review and Advisory Panel.

**SUMMARY:** The proposed rules implement changes to chapter 381.0065, Florida Statutes, and incorporate other cost-saving measures recommended by the industry. The proposed changes have been reviewed and recommended by the Technical Review and Advisory Panel for onsite sewage treatment and disposal systems. The proposals address existing system reuse, definitions, system abandonment, permit expiration, performance-based treatment systems, estimated sewage flow, and septage storage facilities statewide. The proposed rules also address system repair in the Florida Keys.

**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: Discussions and recommendations by the Technical Review and Advisory Panel as well as industry representatives. The proposed changes result in a relaxation of previous standards or provide alternatives to the requirements in the previous standard.

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:** 381.011, 381.0065, 381.0066, 489.553, 489.557 FS.

**LAW IMPLEMENTED:** 381.0065, 381.00655, 381.066, 381.0067, 386.041, 489.553, 489.557 FS.

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

**DATE AND TIME:** March 7, 2013, 1:00 p.m.

**PLACE:** Bureau of Environmental Health, Conference Room 130L, Capital Circle Office Center, 4025 Esplanade Way, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Gerald Briggs, Environmental Administrator, Water and Onsite Sewage Programs, 4052 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1710. 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:** Gerald Briggs, Environmental Administrator, Water and Onsite Sewage Programs, 4052 Bald Cypress Way, Bin #A08, Tallahassee, Florida 32399-1710

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

64E-6.001 General.

(1) through (3) No change.

(4) Except as provided for in Section 381.00655, F.S., any existing and prior approved system which has been placed into use and which remains in satisfactory operating condition shall remain valid for use under the terms of the rule and permit

under which it was approved. Alterations that change the conditions under which the system was permitted and approved, sewage characteristics or increase sewage flow will require that the owner, or their authorized representative, apply for and receive reapproval of the system by the DOH county health department, prior to any alteration of the structure, or system. If an applicant requests that the department consider the previous structure's or establishment's most recent approved occupancy, the applicant must provide written documentation that the onsite sewage treatment and disposal system was approved by the department for that previous occupancy.

(a) An applicant will be required to complete Form DH 4015, 08/09, Application for Construction Permit, herein incorporated by reference, and provide a site plan in accordance with paragraph 64E-6.004(3)(a), F.A.C., to provide information of the site conditions under which the system is currently in use and conditions under which it will be used.

(b) The applicant shall have all system tanks pumped by a permitted septage disposal service. A registered septic tank contractor, state-licensed plumber, person certified under Section 381.0101, F.S., or master septic tank contractor shall determine the tank volume and shall perform a visual inspection of the tank when the tank is empty to detect any observable defects or leaks in the tank. The tank volume shall be obtained from the tank legend or shall be calculated from measured internal tank dimensions for length, width and depth to the liquid level line or from the measured outside dimensions for length and width minus the wall thickness and depth to the liquid level line. For odd shaped tanks and tanks without a legend, metered water flows from the refilling of the tank may be used in lieu of measured inside or outside tank dimensions. The person performing the inspection shall submit the results to the DOH county health department as part of the application using page 4 of Form DH 4015.

(c) If a prior approved existing system has been approved by the DOH county health department within the preceding ~~five~~ ~~three~~ years, and the system was determined to be in satisfactory operating condition at that time, a new inspection is not required unless there is a record of failure of the system. If it is determined that a new inspection is not required, only the application fee shall be charged for this application and approval. ~~A commercial system out of service for more than one year shall be brought into full compliance with current requirements of this chapter prior to the system being placed into service.~~

(d) If the use of a building is changed or if additions or alterations to a building are made which will increase domestic sewage flow, change sewage characteristics, or compromise the integrity or function of the system, the onsite sewage treatment and disposal system serving such building shall be brought into full compliance with the provisions and requirements of these rules.

1. Proper well setbacks shall be maintained.

2. Prior to any modification of the system, the owner shall apply for and obtain a permit for modification of the system from the county health department in accordance with Rule 64E-6.004, F.A.C. The permit shall be valid for 18 months from the date of issue. Where building construction has commenced, it shall be valid for an additional 90 days.

3. Necessary site investigations and tests shall be performed at the expense of the owner by either an engineer with soils training who is licensed in the state of Florida pursuant to Chapter 471, F.S., registered septic tank contractors, master septic tank contractors, or persons certified under Section 381.0101, F.S., or department personnel for the appropriate fee specified in Section 381.0066, F.S.

~~(e)(a)~~ For residences, flows shall be calculated using new system criteria for bedrooms and building area, including existing structures and any proposed additions. Table I and footnotes shall apply. ~~For example, a current three bedroom, 1300 square foot home would be able to add building area to have a total of 2250 square feet of building area with no change in their approved system, provided no additional bedrooms are added.~~ No part of the existing structure, or the addition to the structure shall be allowed to cover any part of the system. Non-load bearing structures, such as a concrete patio floor, are allowed to cover the septic tank, provided that access to the tank is provided for maintenance. The structure above the septic tank shall have a minimum opening of 225 square inches at each end of the septic tank for access into the tank. The structure shall not be in direct contact with the tank. A barrier of soil or plastic shall be used between the tank and non-load bearing structure. A modification, replacement, or upgrade of an onsite sewage treatment and disposal system is not required for a remodeling addition if a bedroom is not added. For those residences that add sewage flow, the system shall be required to be altered to meet the following criteria:

1. The septic tank need not be replaced if it is structurally sound and is within one tank size of the required specifications found in Table II, for the proposed structure. An approved outlet filter shall be installed if one is currently not in place. If existing tanks are not within one tank size of the required specifications found in Table II, for the proposed structure, they shall be replaced or supplemented to meet current sizing requirements. If a new tank is installed in series, the resulting configuration must meet the sizing requirements for tanks-in-series in Rule 64E-6.013, F.A.C.

2. through 3. No change.

~~4. Any system where the tank needs to be replaced or is replaced as part of a system upgrade shall be brought into full compliance with all new system specifications.~~

~~(f)(b)~~ For commercial establishments, the system shall not be required to be altered if domestic sewage flow is not expected to increase by more than 20% of original design flow or require more than one tank size adjustment. A department approved outlet filter device shall be installed. ~~Any commercial system where the tank needs to be replaced shall~~

~~be brought into full compliance with all new system specifications. Any system which is used to treat and dispose of commercial wastewater shall be brought into full compliance with the provisions and requirements of current rules when there is any increase in sewage flow or increase in waste strength.~~

(g)(e) These requirements do not authorize a residence or establishment to exceed the lot flow allowances authorized under paragraph 64E-6.005(7)(c), F.A.C. Establishments that currently exceed lot flow allowances shall not be allowed to increase sewage flow.

~~(d) Any system which is used to treat and dispose of commercial wastewater shall be brought into full compliance with the provisions and requirements of current rules when any change in sewage flow or characteristics is made.~~

~~(e) Repair of the system to repair system standards shall not alter the standards found in this subsection for existing system use or modification.~~

(h)(f) The installation of a laundry system, a gray water system, a grease interceptor, or additional drainfield as a precautionary measure to prolong system functioning of an existing system is considered a modification to the system. Such installation is not a modification if it is associated with an increase in estimated sewage flow or change in sewage characteristics, if the system is in failure or if the existing system is in non-compliance with the terms of the original permit, in which case it will be considered a new system.

~~(g) Where the current structure exceeds the design capacity of the existing system, the system shall not be allowed for use with any addition.~~

(i) If an existing system is disconnected from a structure that was made unusable or destroyed following a disaster, the system may be reconnected to a rebuilt structure per the provisions of Section 381.0065(4)(y), F.S.

(5) through (6) No change.

(7) All materials incorporated herein may be obtained from the Bureau of Environmental Health Onsite Sewage Programs at [www.MyFloridaEH.com](http://www.MyFloridaEH.com) or 4052 Bald Cypress Way, Bin A08, Tallahassee, Florida 32399-1710.

Rulemaking Authority 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 381.0065, 381.0067, 386.041, 489.553 FS. History--New 12-22-82, Amended 2-5-85, Formerly 10D-6.41, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.041, Amended 11-19-97, 2-3-98, 3-22-00, 9-5-00, 5-24-04, 11-26-06, 6-25-09, 4-28-10, \_\_\_\_\_.

64E-6.002 Definitions.

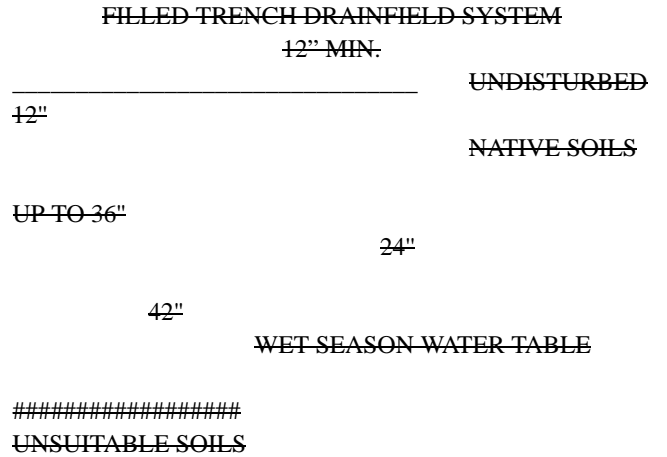
For the purposes of this chapter, the following words and phrases shall have the meanings indicated:

(1) through (10) No change.

~~(11) Bedroom – as defined by Section 381.0065(2), F.S. a room designed primarily for sleeping or a room which is expected to routinely provide sleeping accommodations for occupants.~~

(12) through (23) No change.

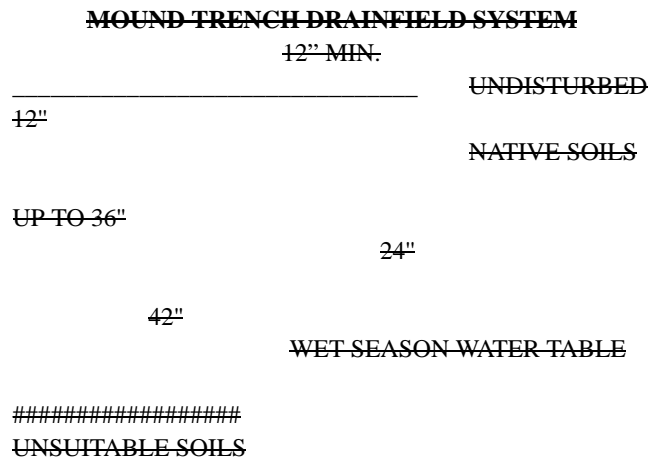
(24) Filled System – a drainfield system where a portion, but not all, of the drainfield sidewalls are located at an elevation above the elevations of undisturbed native soil on the site (see Figure 1).



**FIGURE 1**

(25) through (36) No change.

(37) Mound system – a drainfield constructed at a prescribed elevation in a prepared area of fill material. All drainfields where any part of the bottom surface of the drainfield is located at or above the elevation of undisturbed native soil in the drainfield area is a mound system (see Figure 2).

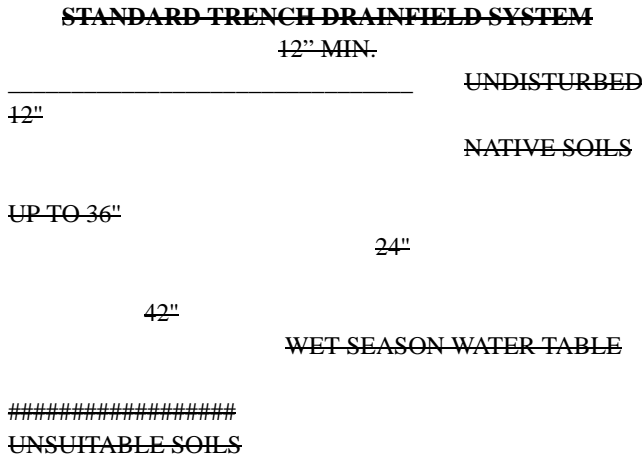


**FIGURE 2**

(38) through (50) No change.

(51) Standard subsurface drainfield system – an onsite sewage treatment and disposal system drainfield consisting of a distribution box or header pipe and a drain trench or

absorption bed with all portions of the drainfield sidewalls installed below the elevation of undisturbed native soil (see Figure 3).



**FIGURE 3**

(52) through (59) No change.

Rulemaking Authority 381.0011(4), (13), 381.0065(3)(a) FS. Law Implemented 381.0065, 381.00655 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.42, Amended 3-17-92, 1-3-95, Formerly 10D-6.042, Amended 11-19-97, 3-22-00, 11-26-06,\_\_\_\_\_.

64E-6.003 Permits.

(1) through (5) No change.

(6) Expired Permits – Any new construction, repair, or modification permit issued by the department ~~with an expiration date of September 1, 2008, through December 31, 2009,~~ that has received construction approval within the previous five years but has not received final approval may be approved provided all of the following conditions are met:

TABLE I  
For System Design  
ESTIMATED SEWAGE FLOWS

TYPE OF ESTABLISHMENT	GALLONS PER DAY
<b>RESIDENTIAL:</b>	
Residences	
(a) Single or multiple family per dwelling Unit	
1 Bedroom with 750 sq. ft. or less of building area.....	100
2 Bedrooms with 751-1200 sq. ft. of building area.....	200
3 Bedrooms with 1201-2250 sq. ft. of building area.....	300
4 Bedrooms with 2251-3300 sq. ft. of building area.....	400
For each additional bedroom or each additional 750 square feet of building area or fraction thereof in a dwelling unit, system sizing shall be increased by <u>60</u> <del>100</del> gallons per dwelling unit.	
(b) Other per occupant.....	50

Footnotes to Table I:

- 1. through 6. No change.
- (2) through (6) No change.

(a) The applicant or agent provides a written statement that there have been no changes in application or site conditions from the original permit. The statement must specifically address any changes on adjacent lots. ~~If there are any changes a site re-evaluation is required.~~

(b) A site re-evaluation confirms that site conditions have not changed sufficiently to place the system in violation of the rules under which it was permitted and received construction approval.

~~(c)(b)~~ Fees for a new construction permit and the research/training surcharge are paid. A site re-evaluation fee is paid, if applicable. A new permit shall be issued under the rules under which the original permit was issued.

~~(d)(e)~~ A final system inspection is performed showing compliance with all rules under which the construction approval was granted. If applicable, a system re-inspection fee is paid.

(7) No change.

Rulemaking Authority 381.0065(3)(a), 489.553(3), 489.557(1) FS. Law Implemented 381.0065, 381.0067, 386.041 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.43, Amended 3-17-92, 1-3-95, 5-14-96, 2-13-97, Formerly 10D-6.043, Amended 3-22-00, 4-21-02, 5-24-04, 11-26-06, 6-25-09, 4-1-10, 4-28-10,\_\_\_\_\_.

64E-6.008 System Size Determinations.

(1) Minimum design flows for systems serving any structure, building or group of buildings shall be based on the estimated daily sewage flow as determined from Table I or the following:

(a) through (b) No change.

Rulemaking Authority 381.0065(3)(a) FS. Law Implemented 381.0065 FS. History–New 12-22-82, Amended 2-5-85, Formerly 10D-6.48, Amended 3-17-92, 1-3-95, Formerly 10D-6.048, Amended 11-19-97, 3-22-00, 9-5-00, 11-26-06, 6-25-09,\_\_\_\_\_.



## 64E-6.010 Septage and Food Establishment Sludge.

(1) No change.

(2) Application for a service permit shall be made to the DOH county health department on Form DH 4012, 01/92, "Application for Septage Disposal Service Permit, Temporary System Service Permit, Septage Treatment and Disposal Facility, Septic Tank Manufacturing Approval" herein incorporated by reference. The following must be provided for the evaluation prior to issuance of a service permit:

(a) Evidence that the applicant possesses adequate equipment such as a tank truck with a liquid capacity of at least 1500 gallons, pumps, off truck stabilization tanks and pH testing equipment where lime stabilization and land application are proposed, as well as other appurtenances and tools necessary to perform the work intended. Equipment may be placed into service only after it has been inspected and approved by the DOH county health department. Tanks used for the stabilization and storage of septage and food service sludges shall be constructed, sized, and operated in accordance with the following provisions:

1. Stabilization tanks and septage storage tanks shall be constructed of concrete, fiberglass, corrosion-resistant steel, or other equally durable material. Tanks shall be watertight and shall be water tested for leaks prior to placing into service. The stabilization tank shall have a liquid capacity of at least 3000 gallons.

2. Construction of concrete tanks shall be at a minimum equal to that required of concrete septic tanks in Rule 64E-6.013. Fiberglass tanks and tanks of similar materials shall be constructed in accordance with standards found in Rule 64E-6.013.

3. Stabilization tanks shall contain aeration or mixing devices which will ensure thorough agitation or mixing of lime with the waste as specified in Chapter 6, EPA 625/1-79-011, Process Design Manual for Septage Treatment and Disposal, herein incorporated by reference.

(b) through (c) No change.

(3) through (9) No change.

(10) All materials incorporated herein may be obtained from the Bureau of Environmental Health Onsite Sewage Programs at [www.MyFloridaEH.com](http://www.MyFloridaEH.com) or 4052 Bald Cypress Way, Bin A08, Tallahassee, Florida 32399-1710.

Rulemaking Authority 381.0065(3)(a), 489.553(3) FS. Law Implemented 381.0065, 386.041, 373.4595 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.52, Amended 3-17-92, 1-3-95, 5-14-96, Formerly 10D-6.052, Amended 3-22-00, 5-24-04, 11-26-06, 6-25-09, 4-28-10,\_\_\_\_\_.

## 64E-6.011 Abandonment of Systems.

(1) Whenever the use of an onsite sewage treatment and disposal system is discontinued following connection to a sanitary sewer, ~~following condemnation or demolition or removal or destruction, of a building or property,~~ or discontinuing the use of a septic tank and replacement with

another septic tank, the system shall be abandoned within 90 days and any further use of the system for any purpose shall be prohibited. However, if the Department of Environmental Protection or its designee approves the use of the retention tank where the tank is to become an integral part of a sanitary sewer system or stormwater management system, the septic tank need not be abandoned.

(2) The following actions shall be taken, in the order listed, to abandon an onsite sewage treatment and disposal system:

(a) Property owner or agent shall apply for a permit from the department to abandon the existing onsite sewage system and submit the required fee. Upon receiving a permit:

(b) The tank shall be pumped out by a permitted septage disposal company who shall provide a receipt or a written certification to the department. Alternatively, if the tank is empty and dry at the commencement of the abandonment, a written statement to that effect by the septage disposal company or the contractor performing the abandonment shall be provided to the department.

(c) The bottom of the tank shall be opened or ruptured, or the entire tank collapsed so as to prevent the tank from retaining water, and

(d) The tank shall be filled with clean sand or other suitable material, and completely covered with soil.

(e) An inspection of the system abandonment shall be conducted by the department or by the local utility or plumbing authority performing the system abandonment.

(3) through (4) No change.

Rulemaking Authority 381.0065, 489.553, 489.557 FS. Law Implemented 381.0065, 381.00655, 381.0066, Part I 386 FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.53, Amended 3-17-92, 1-3-95, Formerly 10D-6.053, Amended 6-18-03, 6-25-09,\_\_\_\_\_.

## 64E-6.014 Construction Standards for Drainfield Systems.

(1) through (2) No change.

(3) Low-Pressure dosing – where the total required area of drainfield is greater than 1000 square feet or where the applicant proposes to use low-pressure dosing, an automatic dosing device discharging into a low pressure distribution network consisting of 2 inch or smaller diameter schedule 40 PVC or equal pipe with ½ inch or smaller diameter drilled holes shall be used All piping shall use solvent welded connections or equal throughout to prevent dislocation of connections under pressure. The network shall be designed for equal distribution of effluent. For the purposes of this section, equal distribution shall mean that the flow from the least effective hole in the network shall deliver no less than 75% of the flow from the most effective hole. The selected pump capacity (as measured in Gallons Per Minute) versus total dynamic head shall be indicated on a pump curve and shall be shown by calculation to achieve an effluent velocity through the network of at least 2 ft per second to the first exit hole on

each lateral. Each line of the pressure network shall individually connect to a pressure manifold and be sealed on their distal ends and shall not be looped with other lines regardless of whether the drainfield is a bed or a trench or whether it is in a mound, filled subsurface installation. Plans and equipment specifications for low-pressure dosing systems shall be approved by the department prior to construction or installation.

(a) Where the total drainfield area is greater than 1000 square feet but not more than 2000 square feet, the applicant may, in lieu of low-pressure dosing, choose to split the drainfield into two drainfields, equal in size, each having no more than 1000 square feet, with each drainfield being lift-dosed.

- (a) through (f) renumbered (b) through (g) No change.
- (4) through (6) No change.

Rulemaking Authority 381.0065(3)(a), FS. Law Implemented 381.0065, FS. History—New 12-22-82, Amended 2-5-85, Formerly 10D-6.56, Amended 3-17-92, 1-3-95, Formerly 10D-6.056, Amended 2-3-98, 3-22-00, 05-24-04, 11-26-06, 06-25-09, \_\_\_\_\_.

64E-6.0181 System Repair and Cesspit and Undocumented System Replacement and Interim System Use

(1) Where a property is determined to have a cesspit or an undocumented system, the cesspit or undocumented system shall be required to be replaced with an onsite sewage treatment and disposal system complying with Rule 64E-6.018, F.A.C., ~~except as provided for in subsection (2).~~

(2) In areas that are scheduled to be served by a central sewer by December 31, 2015, where there is documentation from the sewer utility that the property is scheduled to be served by December 31, 2015 and there is documentation from the sewer utility or from the county tax collector's office that the property owner has paid or has signed an agreement to pay for connection to the central sewer system, an onsite sewage treatment and disposal system requiring repair shall be repaired to the standards in subsection 64E-6.0181(3), F.A.C. sewage facility before July 1, 2010, interim construction standards specified in subsection 64E-6.0181(3), F.A.C., for new, modified, expanded or existing onsite sewage treatment and disposal systems or to replace cesspits or undocumented systems shall be allowed:

~~(a) Interim system requirements shall be allowed through July 1, 2004, for onsite sewage treatment and disposal systems in areas that are scheduled to be served, according to an adopted local comprehensive plan determined to be in compliance by the Department of Community Affairs, by a central sewage facility before July 1, 2010.~~

~~(b) After July 1, 2004, interim system requirements shall be allowed in an area scheduled to be served by a central sewage facility only when all of the following conditions are met:~~

- ~~1. An enforceable contract to provide the central sewage and collection system has been signed;~~

~~2. The contract contains a binding schedule for connection of the onsite sewage treatment and disposal systems to the central sewage facility; and~~

~~3. There is an enforceable requirement for abandonment of the onsite sewage treatment and disposal systems:~~

~~(e) Onsite sewage treatment and disposal systems that are not scheduled to be served in accordance with this section shall provide the level of treatment required in Rule 64E-6.018, F.A.C.~~

~~(d) All onsite sewage treatment and disposal systems in operation on July 1, 2010, shall provide the level of treatment required in Rule 64E-6.018, F.A.C.~~

~~(3) Interim systems standards shall be:~~

~~(3) Systems shall be repaired to the following standards provided no system shall be repaired to meet a lower standard of treatment than the treatment standard permitted or required to be met prior to the repair.~~

~~(a) No change.~~

~~(b) The following general requirements apply for the repair of a septic tank system:~~

~~1. The existing tanks shall meet the requirements of paragraph 64E-6.015(6)(f), F.A.C., or, if the tanks need to be replaced as part of the repair, they shall be replaced with tanks meeting the requirements of Table II and Rule 64E-6.013, F.A.C.~~

~~2. Effluent from the septic tank shall discharge to a drainfield over a sand liner meeting the standards in sub-subparagraph 64E-6.0181(3)(a)1.a., F.A.C.~~

~~3. No part of a septic tank and sand-lined drainfield system shall be located within 50 feet of the mean high water line of tidally influenced surface water bodies or within 50 feet of the mean annual flood line of permanent non-tidal surface water bodies.~~

~~4. The drainfield component of the system must be located a minimum distance of 50 feet from salt marsh and Buttonwood Association habitat areas where the dominant vegetation species are those typical of salt marsh communities.~~

~~5. The bottom of the drainfield shall be at least 24 inches above the wet season water table.~~

~~6. The maximum sewage loading rate to the drainfield shall be 0.9 gallons per square foot per day.~~

~~(c)(b) A performance-based treatment system designed and certified by a professional engineer, licensed in the state, as producing an effluent meeting at a minimum the treatment standards for a system designed in accordance with subsection 64E-6.017(4) paragraph 64E-6.0181(3)(a), F.A.C., and permitted, constructed and monitored in accordance with Part IV.~~

Rulemaking Authority 381.0011(4), (13), 381.0065(3)(a), (4)(l) FS.; Ch. 99-395, L.O.F. Law Implemented 381.0065, 381.00655 FS., Chs. 99-395, 2001-337, L.O.F. History—New 3-3-98, Amended 3-22-00, 4-21-02, 5-24-04, 11-26-06, \_\_\_\_\_.

64E-6.028 Location and Installation.

Performance-based treatment systems shall be installed in compliance with the following.

(1) through (2) No change.

~~(3) Drainfield designs: The following alterations to drainfield requirements shall be allowed for pressure dosed systems only:~~

~~(a) Long Term Acceptance Rate, also known as LTAR—LTAR's for sidewall infiltrative surfaces shall not exceed 1.25 times the bottom infiltrative surface LTAR for the same soil classification. Where the soil classification varies within the drainfield soil profile, the sidewall LTAR shall be adjusted accordingly. Sidewall infiltrative surfaces may be utilized only when a system is dosed a maximum of two times per day and the trench width is no greater than 18 inches.~~

~~(b) For septic tank effluent, maximum LTAR values shall not exceed the equivalent to the baseline standard for the soil classification in question. (see Table IX)~~

TABLE IX

Bottom/Sidewall Infiltrative Surface Maximum Equivalent LTAR's

Side LTAR: Bottom LTAR ratio =	1.25	1.25	1.25	1.25
Current trench bottom LTAR (gal/sq. ft/day)=	1.20	0.90	0.65	0.35
Trench width (inches)=	36.00	36.00	36.00	36.00
Effective sidewall height (inches)=	8.00	8.00	8.00	8.00
Total sidewall height (inches)=	12.00	12.00	12.00	12.00
Revised bottom LTAR (gal/sq. ft/day)=	0.77	0.58	0.42	0.23
New sidewall LTAR (gal/sq. ft/day)=	0.96	0.72	0.52	0.28

Footnotes to Table IX:

Footnote 1. Designs that utilize onsite open trench horizontal and vertical hydraulic conductivity testing to adjust the bottom and sidewall LTAR's shall be acceptable. The LTAR can be modified; however, the side LTAR: bottom LTAR ratio cannot exceed 1.25 for like soils.

Footnote 2. Designs that utilize established modeling techniques to determine the maximum effective capacity (design daily flow) of a designed drainfield system shall be acceptable.

Footnote 3. The horizontal and vertical projections of inclined surfaces cannot be considered for both sidewall and bottom credit in the same cross section. The designer must select one or the other.

Footnote 4. The current trench bottom LTAR's are from Part I, Table III, and are referred to as maximum sewage loading rates in Table III.

Footnote 5. Absorption beds shall be allowed providing the LTAR's are adjusted accordingly.

(c) through (e) No change.

(4) through (5) numbered (3) through (4) No change.

Rulemaking Authority 381.0065(3)(a) FS. Law Implemented 381.0065, 386.041 FS. History—New 2-3-98, Amended 3-22-00, 6-25-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gerald Briggs, Environmental Administrator, Water and Onsite Sewage Programs

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John H. Armstrong, MD, FACS, Surgeon General and Secretary of Health

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 22, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 1, 2012

### Section III Notices of Changes, Corrections and Withdrawals

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid

RULE NO.:

59G-5.020

RULE TITLE:

Provider Requirements

##### 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. 38, No. 33, August 17, 2012 issue of the Florida Administrative Register.

The following changes have been made to the proposed rule.

~~(2) The following forms are incorporated by reference: Medicare Part C Medicaid CMS 1500 Crossover Invoice AHCA Form 5000-3527, June 2012; Medicare Part C Medicaid UB-04 Crossover Invoice AHCA Form 5000-3528, June 2012; and Medicaid Out of State Prior Authorization Request Form AHCA Med Serv Form 2000-0016. The forms are available from the fiscal agent's Web site at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Provider Support, and then Forms. Paper copies of the forms may be obtained by calling the Provider Services Contact Center at 1(800)289-7799 and selecting Option 7.~~

(2) The following forms that are included in the Florida Medicaid Provider General Handbook are incorporated by reference. In Chapter 3, Temporary Emergency Medicaid Identification Card, July 2008; CF-ES 2681, Notice and Proof of Presumptive Eligibility for Medicaid for Pregnant Women, Feb 2003; CF-ES Form 2014, Authorization for Medicaid/Medikids Eligibility, Feb 2003; AHCA Form 5240-006, Unborn Activation Form, January 2007; CF-ES 2039, Medical Assistance Referral, Sep 2002. In Chapter 4, AHCA-Med Serv 038, Crossover with TPL Claim and/or Adjustment Form, July 2008; AHCA Form 5000-3527, Medicare Part C-Medicaid CMS-1500 Crossover Invoice, June

2012; AHCA Form 5000-3528, Medicare Part C-Medicaid UB-04 Crossover Invoice, June 2012. Appendix D, AHCA Med Serv Form 2000-0016, Medicaid Out-of-State Prior-Authorization Request Form, January 2012. The CF-ES forms are available from the Department of Children and Family Services. The other forms are available from the Medicaid fiscal agent's Web site at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Provider Support, and then Forms. Paper copies of the forms may be obtained by calling the Provider Services Contact Center at 1(800)289-7799 and selecting Option 7.

The following changes have been made to the Florida Medicaid Provider General Handbook, July 2012.

Page 2-21 Crossover-Only Provider Enrollment Requirements

The section now reads:

Entities may enroll as a Medicare Crossover-Only provider for payment and claim processing purposes only. See 409.907(5)(d), F.S.

The following documentation must be submitted with the Medicaid provider enrollment application:

1. Medicare Approval Letter;
2. An Explanation of Medicare Benefits (EOMB) showing a paid claim with a date of service within 30 days prior to the application submission;
3. A letter on company letterhead, signed by an officer authorized to bind the company, attesting that the provider meets all Florida Medicaid provider enrollment criteria including requirements specific to its provider type, if Florida Medicaid enrolls such providers. The provider must also acknowledge that Florida Medicaid may conduct on-site reviews prior to approving the crossover provider identification number; and
4. Completed fingerprint cards.

Providers will be required to reenroll every three years.

Note: See How to Obtain Enrollment Forms in Chapter 2 of this handbook for information on how to obtain fingerprint cards and the Criminal History Check section of this handbook.

Page 2-21 Crossover-Only Durable Medical Equipment Provider

The section now reads:

Durable medical equipment (DME) entities, including medical supply providers, may enroll as a Medicare Crossover-Only provider for payment and claim processing purposes only. These entities are subject to all the Crossover-Only Provider Enrollment Requirements above.

In addition, DME entities must submit proof of current accreditation from a Florida Medicaid approved accrediting organization.

Medicare Crossover-Only DME providers are exempt from the requirement to maintain an in-state business location.

Note: See the Florida Medicaid Durable Medical Equipment and Medical Supply Services Coverage and Limitations Handbook to review approved accrediting organizations.

Page 2-22 Crossover-Only Provider Enrollment Exclusions

The section now reads:

The following entities are excluded from enrollment as a Medicare Crossover-Only provider:

- Entities that (1) are currently sanctioned by Florida Medicaid, (2) have been involuntarily terminated by Florida Medicaid within the last three years, except for reason of inactivity, or (3) have voluntarily terminated from Florida Medicaid without a repayment agreement, where applicable; and
- Entities that (1) are currently sanctioned by Medicare, (2) have been involuntarily terminated by Medicare within the last three years, or (3) have voluntarily terminated from Medicare without a repayment agreement, where applicable.

Page 2-24 Exemption for Board Members

The section now reads:

Per section 409.907(8)(a), board members of a not-for-profit corporation or organization are exempt from the criminal history check if they meet all of the following criteria:

- Serve solely in a voluntary capacity;
- Do not regularly take part in the day-to-day operational decisions of the corporation or organization;
- Receive no remuneration from the corporation or organization for their service on the board of directors;
- Have no financial interest in the corporation or organization; and
- Have no family members with financial interest in the corporation or organization

Page 2-25 Exemption Forms for Boards

The section now reads:

To obtain the exemption, the corporation or organization must submit a Non-Profit Organization Volunteer Board Member Exemption from Medicaid Criminal History Checks along with a list of the board members' names and social security numbers. The Non-Profit Organization Volunteer Board Member Exemption from Medicaid Criminal History Checks is an attachment to the Florida Medicaid Provider Enrollment Application, AHCA Form 2200-0003, F.A.C.

Note: A Non-Profit Organization Volunteer Board Member Exemption from Medicaid Criminal History Checks may be obtained from the Medicaid fiscal agent by calling Provider Enrollment at (800)289-7799 and selecting Option 4 or by downloading the form from the Medicaid fiscal agent's Web site at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Provider Support, and then Enrollment.

Page 2-25 Exemption for Providers

The section now reads:

The following providers are exempt from the criminal history check:

- Hospitals licensed under Chapter 395, Florida Statutes. (This exemption does not apply to the physicians' groups, laboratories, pharmacies, or other non-institutional providers that are not licensed under Chapter 395, but are owned by or affiliated with the hospital);
- Nursing facilities, hospices, assisted living facilities, and adult family care homes licensed under Chapter 400, Florida Statutes. (This exemption does not apply to the physicians' groups, laboratories, pharmacies, durable medical equipment companies or other non-institutional providers not licensed under Chapter 400, but are owned by or affiliated with the nursing facilities, hospices and assisted living facilities);
- School districts as an entity. (This exemption does not apply to instructional and non-instructional personnel who are hired or contracted to fill positions that require direct contact with students in any district school system or university lab school. Upon employment or engagement to provide services, schools must undergo background screening as required under Section 1012.465, F.S., or Section 1012.56, F.S., whichever is applicable.);
- Units of local government. (This exemption does not apply to non-governmental providers and entities that contract with the local government to provide Medicaid services. The contracted entities are responsible for the cost of the criminal history checks for all applicable staff and management); and
- Any business that derives more than 50 percent of its revenue from the sale of goods to the final consumer AND either the business or its controlling parent is required to file a form 10-K or similar statement with the Securities and Exchange Commission OR the business has a net worth of \$50 million or more. (This exception is designed primarily to exclude large pharmaceutical companies. The business must submit its annual report including audited financial statements or 10-K Form with the exemption request.)

Page 2-26 Exemption for DCF License

The section is deleted.

Page 2-26 Exemption for Physicians, RNs, and ARNPs

The section is deleted.

Page 2-27 Criminal History Check by Other Agencies

The section now reads:

Medicaid accepts proof of level 2 criminal history checks conducted by other Florida agencies or departments that have been completed in compliance with Chapter 435, F.S., and Section 408.809, F.S., within 12 months of receipt of the application.

The provider must submit a letter or official form from the agency that conducted the criminal history check with the Enrollment Application. The letter or form must specify the

applicant's name, Social Security Number, date the criminal history check was completed, the level of the screening and the results.

Medicaid Provider Enrollment will review the information and approve or deny the application.

Page 2-30 Durable Medical Equipment Providers

The section now reads:

In accordance with Section 409.912(45)(b), F.S., effective January 1, 2009, one \$50,000 bond is required for each durable medical equipment (DME) and medical supply provider location, up to a maximum of five (5) bonds statewide or an aggregate bond of \$250,000 statewide as identified per Federal Employer Identification Number (F.E.I.N.). Providers who qualify for a statewide or an aggregate bond must identify all their locations in any Medicaid DME and medical supply provider enrollment application or bond renewal.

A surety bond must be submitted as part of the Medicaid DME and medical supply provider enrollment application. Each provider location's surety bond must be renewed annually and the provider must submit proof of renewal, even if the original bond is a continuous bond.

Page 2-30 Durable Medical Equipment Provider Surety Bond Exemptions

The section now reads:

In accordance with s. 409.912(45)(b), F.S., effective January 1, 2009, a DME and medical supply business is exempt from surety bond requirements if the DME and medical supply business' physical location is:

- Owned and operated by a government entity; or
- Operated by and within a pharmacy that is currently enrolled as a Medicaid pharmacy provider; or
- Medicaid-enrolled orthopedic physician's groups that are more than 50 percent owned by physicians, providing only orthotic and prosthetic devices, and has been an active Medicaid provider in good standing; or
- A licensed orthotist or prosthetist that provides only orthotic or prosthetic devices as a Medicaid durable medical equipment provider.

Page 2-34 Who Must Have a Site Visit

The section now reads:

Per 42 CFR 455.432, the state Medicaid agency must conduct pre-enrollment and post-enrollment site visits of providers who are designated as "moderate" or "high" categorical risks to the Medicaid program. The purpose of the site visit will be to verify that the information submitted to the state Medicaid agency is accurate and to determine compliance with federal and state enrollment requirements.

In accordance with this regulation, on-site reviews are required for enrollment of the following provider types:

- Community Mental Health;
- Durable Medical Equipment (DME);
- Physician groups if more than 50 percent of the practice is owned by non-physicians;

- Non-emergency transport;
- Taxicab companies; and
- Multi-load private transport.

At AHCA's discretion, site visits may be required for other provider types.

#### Page 2-44 Out-of-State Enrollment Procedures

The section now reads:

To enroll, the out-of-state provider must submit the following documents to the fiscal agent:

- Florida Medicaid Out-of-State Provider Enrollment Application, Form PE-OOSPEA-March 1, 2008;
- The appropriate Florida Medicaid Provider Agreement, either Institutional or Non-Institutional;
- Copy of professional license;
- Completed claim form; and
- Documentation that the claim meets one of the criteria listed above.

An out-of-state provider is enrolled retroactively for the dates on which it provided eligible services for Medicaid payment.

Note: The Florida Medicaid Out-of-State Provider Enrollment Application, Form PE-OOSPEA, may be obtained from the Medicaid fiscal agent by calling the Provider Contact Center at 800-289-7799 and selecting Option 4. The form is also available on the Medicaid fiscal agent's Web site at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Provider Support, then Enrollment, and then Out-of-State Enrollment.

Note: See Non-Institutional Provider Enrollment and Institutional Provider Enrollment in this chapter to determine which Florida Medicaid Provider Agreement is appropriate for the out-of-state provider's type.

#### Page 2-53 Procedures for Reporting a Change of Address, continued

The section now reads:

If the provider is changing the financial institution where electronic funds transfers are received, the provider must also complete and submit a new Electronic Funds Transfer Authorization. The Electronic Funds Transfer Authorization form is an attachment to the Florida Medicaid Provider Enrollment Application, AHCA Form 2200-0003.

Note: Electronic Funds Transfer Authorization may be obtained from the Medicaid fiscal agent by calling Provider Enrollment at 800-289-7799 and selecting Option 4 or by downloading the form from the Medicaid fiscal agent's Web site at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Provider Support, and then Enrollment.

#### Page 2-54 Definition of Change of Ownership

The section now reads:

Section 409.901(5), F.S., defines a change of ownership as follows:

“(a) An event in which the provider ownership changes to a different individual entity as evidenced by a change in federal employer identification number or taxpayer identification number;

(b) An event in which 51 percent or more of the ownership, shares, membership, or controlling interest of a provider is in any manner transferred or otherwise assigned. This paragraph does not apply to a licensee that is publicly traded on a recognized stock exchange; or

(c) When the provider is licensed or registered by the agency, an event considered a change of ownership for licensure as defined in section 408.803.”

A change solely in the management company or board of directors is not a change of ownership.

#### Page 2-67 Requirements

The section now reads:

Chapter 409.912(37)(a)5., Florida Statutes, requires Medicaid-participating prescribers or prescribers who write prescriptions for Medicaid recipients to use a standardized counterfeit-proof prescription blank when writing prescriptions for Medicaid recipients.

Medical practitioners (prescribers) must obtain and use a counterfeit-proof prescription blank or prescription order form produced by a vendor approved by AHCA when writing hard copy prescription(s) for Medicaid recipients for any covered service under the Florida Medicaid Prescribed Drug Services Program. Prescriptions presented via other modes of transmission, e.g., facsimile, electronic-prescribing, telephone, are exempt from this requirement.

A uniform layout, format, or style is not required when a vendor or vendor's software produces the blank or printed prescription. Prescribers may customize the layout in accordance with applicable federal and state laws and regulations. AHCA requires that all vendors ensure the blanks or printed prescriptions produced meet the minimum security feature specifications required and include a tracking identifier printed on the front of the blank or printed prescription. The minimum security features include the following: the background color of the blank or printed prescription must be blue or green and resist reproduction, the blank or printed prescription must resist erasures and alterations, and the word “void” or “illegal” must appear on a photocopy of the blank or printed prescription. The security features must be listed on the blank or printed prescription.

#### Page 2-68 Approved Vendors

The section now reads:

AHCA approves the vendors that may manufacture and distribute the counterfeit-proof prescription blanks. AHCA also approves vendors that market a software program that produces in conjunction with a production system, a hard copy printed prescription. The prescription blanks or printed

prescription documents must meet AHCA counterfeit-proof specifications as detailed above in the Requirements information block.

The vendors must comply with vendor requirements established by AHCA as follows:

- They are accountable for the prescription blanks or documents produced, stored, and the prescription blanks' or documents' delivery.
- They are responsible for appropriate safeguards to protect against unauthorized access to the blanks or software program and production systems used for prescribing.
- They must maintain secure storage locations and deliver blanks or software programs only to authorized licensed medical practitioners.
- The software program and production system must have appropriate safeguards to allow access and use only by authorized licensed medical practitioners.
- Upon request, the vendors must provide AHCA with any records relevant to the production, security, and delivery of the prescription blanks or software program and production system outputs.

Approved vendors are assigned a unique alpha prefix identifier that is the first part of a tracking identifier that is required to be printed on the front of the blank or printed prescription.

A list of approved vendors can be found on the fiscal agent's Web site at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Pharmacy, and then Counterfeit-proof Prescriptions. Complaints about a vendor's products may be filed with Medicaid Program Integrity.

Page 3-29 Institutional Care Program

The section titled "Description" now reads as follows:

Medicaid reimburses institutional care services for Medicaid-eligible residents who meet Medicaid Institutional Care Program (ICP) eligibility requirements described in the Eligibility Requirements section below.

Medicaid covers the services listed in the Nursing Facility, Intermediate Care Facility for the Developmentally Disabled (ICF/DD), and State Mental Hospital Coverage and Limitations Handbooks for recipients who meet the eligibility requirements defined below.

Note: The Coverage and Limitations Handbooks are incorporated by reference in the Medicaid Services' Rule Division 59G, F.A.C. They are available on the Medicaid fiscal agent's Web site at [www.mymedicaid-florida.com](http://www.mymedicaid-florida.com). Select Public Information for Providers, then Provider Support, and then Provider Handbooks.

Page 4-38 Medicaid Part C Crossover Claim Form for CMS 1500 Billers

The following has been added to the form:

Incorporated by reference in Rule 59G-5.020, F.A.C.

Page 4-39 Medicaid Part C Crossover claim Form for UB-04 Billers

The following has been added to the form:

Incorporated by reference in 59G-5.020, F.A.C.

The section now reads:Page 5-10 Self Audits

A provider has an obligation to ensure that claims or encounter claims submitted to the Medicaid program are true and accurate. Section 409.913, F.S., obligates AHCA to impose a sanction on providers when AHCA has discovered certain specified violations of Medicaid laws, including the laws governing the provider's profession. However, it also authorizes AHCA to institute amnesty programs wherein Medicaid providers may repay an overpayment without the imposition of sanctions.

If, as a result of a self-audit, a provider determines that a claim or encounter claim was paid by the Medicaid program in error, the provider has the opportunity to report the violation and repay the overpayment to AHCA without resulting in the imposition of sanctions.

Note: For information on sanctions, see 59G-9.070, F.A.C.

Appendix B, Page B-6

A new section titled "Encounter Claim" is added to the Appendix B Glossary and is defined as follows:

Encounter Claim: An individual transaction that contains a record of diagnostic or treatment procedures or other medical or allied care provided to a health plan's enrollees, excluding services paid by Medicaid on a fee-for-service basis. An "encounter" is an interaction between a patient and provider (health plan, rendering physician, pharmacy, lab, etc.) who delivers services or is professionally responsible for services delivered to a patient.

A new section titled "Encounter Data" is added to the Appendix B Glossary and is defined as follows:

Encounter Data: A record of diagnostic or treatment procedures or other medical or allied care provided to a health plan's enrollees, excluding services paid by Medicaid on a fee-for-service basis.

Page D-2 Medicaid Out-of-State Prior-Authorization Form

The following has been added to the form:

Incorporated by reference in Rule 59G-5.020, F.A.C., January 2012

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.:	RULE TITLE:
61G19-9.004	Approval of Courses
	NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 38, No. 63, November 1, 2012 issue of the Florida Administrative Register has been withdrawn.

## Section IV Emergency Rules

### DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER13-13  
 RULE TITLE: FANTASY 5® Football Draft Day Experience Promotion

SUMMARY: This rule describes the FANTASY 5® Football Draft Day Experience Promotion.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32301

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER13-13 FANTASY 5® Football Draft Day Experience Promotion.

(1) Beginning Monday, February 25, 2013, through Wednesday, April 3, 2013, the Florida Lottery will conduct the FANTASY 5® Football Draft Day Experience Promotion (or “Promotion”). Players who purchase a single \$5.00 or more FANTASY 5 ticket at a Florida Lottery (or “Lottery”) retailer location will receive an entry voucher with a unique number that can be entered into a drawing in one of three participating professional football team experiences for a chance to win professional football team prizes. The team experiences are: the Jaguars FANTASY 5 Football Draft Day Experience, the Buccaneers FANTASY 5 Football Draft Day Experience, and the Dolphins FANTASY 5 Football Draft Day Experience. The purchase price of an EZmatch™ play will not count towards the \$5.00 Fantasy 5 purchase requirement.

(2) To enter a voucher number into a team experience drawing, players must enter on the Lottery’s website at www.flalottery.com. On the home page of the Lottery’s website, players can click on the FANTASY 5® Football Draft Day Experience Promotion banner and follow the directions. Players can also access the Lottery’s website to enter a voucher number via a link located on each of the following three professional football teams’ websites:

Professional Football Team	Website	Draft Day Experience
Jacksonville Jaguars	<a href="http://www.jaguars.com">www.jaguars.com</a>	Jaguars FANTASY 5 Football Draft Day Experience
Tampa Bay Buccaneers	<a href="http://www.buccaneers.com">www.buccaneers.com</a>	Buccaneers FANTASY 5 Football Draft Day Experience
Miami Dolphins	<a href="http://www.miamidolphins.com">www.miamidolphins.com</a>	Dolphins FANTASY 5 Football Draft Day Experience

(3) The entry voucher will be attached to the bottom of the FANTASY 5 ticket. The voucher entry number is located at the bottom on the front of the voucher. Players are to enter the first 13-digits of the 19-digit voucher entry number. Qualifying FANTASY 5 ticket purchases will produce entry vouchers from the beginning of the promotion period until close of game for FANTASY 5 at 10:40 p.m. on April 3, 2013. A player will be able to enter his or her voucher entry numbers beginning at the top of the hour after the FANTASY 5 ticket is purchased. A player entering a voucher entry number prior to the top of the hour after purchase will be directed to return at a later time to enter his or her voucher entry number into the drawing. FANTASY 5 tickets cannot be used for entry into the drawings. The odds of winning are dependent upon the number of entries received. Entry vouchers should not be mailed to the Lottery unless players are contacted by the Florida Lottery and requested to do so. Entry vouchers or tickets received in the mail by the Florida Lottery will not be entered into the drawing and will not be returned. Cancellation of a qualifying FANTASY 5 ticket will also cancel the associated entry voucher and the voucher entry number will be ineligible for entry into a drawing. Voucher entry numbers associated with a cancelled FANTASY 5 ticket that are entered into a drawing will be disqualified.

(4) In each of the three team experiences, one computerized drawing will be held on two separate drawing dates and will include entries submitted during the corresponding entry period, for a grand total of six drawings. The drawing dates and entry periods are as follows:

Jaguars FANTASY 5 Football Draft Day Experience Drawing	Drawing Date	Entry Period (The entry submission deadline is midnight ET on the last day of the entry period)
1	Friday, March 15, 2013	February 25, 2013 – March 13, 2013
2	Friday, April 5, 2013	March 14, 2013 – April 3, 2013
Buccaneers FANTASY 5 Football Draft Day Experience Drawing	Drawing Date	Entry Period
1	Friday, March 15, 2013	February 25, 2013 – March 13, 2013
2	Friday, April 5, 2013	March 14, 2013 – April 3, 2013



<u>Dolphins FANTASY 5 Football Draft Day Experience Drawing</u>	<u>Drawing Date</u>	<u>Entry Period</u>
<u>1</u>	<u>Friday, March 15, 2013</u>	<u>February 25, 2013 – March 13, 2013</u>
<u>2</u>	<u>Friday, April 5, 2013</u>	<u>March 14, 2013 – April 3, 2013</u>

Players may enter as many times as they wish during the promotion. However, each valid voucher entry number may only be used one time, for one entry into one team experience drawing.

(5) FANTASY 5 Football Draft Day Experience Drawings.

In each drawing, the Lottery will draw a total of forty-six entries and award forty-six prizes. The first entry selected will win the grand prize of a Draft Day Experience. The second through sixth entries selected will each win a second prize of team Season Tickets and will be used in the order in which they are claimed to select an alternate grand prize winner in the event the grand prize cannot be awarded. The seventh through sixteenth entries selected will each win a third prize of credentials to a team Draft Day Watch Party and will be used in the order in which they are claimed to select an alternate second prize winner in the event a second prize cannot be awarded. The seventeenth through twenty-sixth entries selected will each win a fourth prize of team Single Game Tickets and will be used in the order in which they are claimed to select an alternate third prize winner in the event a third prize cannot be awarded. The twenty-seventh through the forty-sixth numbers selected will each win a fifth prize of Team Merchandise. Alternate winners will not be selected to fulfill a fourth or fifth prize that cannot be awarded.

(6) Notification.

(a) The prize winners in each drawing will be posted on www.flalottery.com on the day of the drawing. The Florida Lottery will attempt to notify each grand, second, third, and fourth prize winner by telephone, U.S. mail or e-mail using the contact information provided in the winner’s registration data no later than twenty-four hours after the winners are posted on the Florida Lottery’s website.

1. If the Florida Lottery is unable to have telephone contact with the grand prize winner within three business days of the date of the drawing, the winner will forfeit his or her right to claim the prize, and the Florida Lottery will award the prize to an alternate winner as described in subsection (5) above.

a. If the Florida Lottery is unable to contact the first alternate grand prize winner in the March 15, 2013, drawing within three business days, the alternate winner will forfeit his or her right to claim the prize, and the Florida Lottery will award the prize to the second alternate winner. This notification process will continue until an alternate is contacted or the Florida Lottery has exhausted the list of available alternates, except that notification attempts will not be made after April 17, 2013, for alternate winners of the grand prize.

b. If the Florida Lottery is unable to contact the first alternate grand prize winner in the April 5, 2013, drawing within two business days, the alternate winner will forfeit his or her right to claim the prize and no further alternate notification attempts will be made.

If the Florida Lottery is unable to contact a grand prize alternate, the prize will not be awarded.

2. If the Florida Lottery is unable to have telephone contact with a second prize winner within three business days of the date of the drawing, the winner will forfeit his or her right to claim the prize, and the Florida Lottery will award the prize to an alternate winner as described in subsection (5) above. This notification process will continue until an alternate is contacted or the Florida Lottery has exhausted the list of available alternates. If the Lottery is unable to contact a second prize alternate, the prize will not be awarded.

3. If the Florida Lottery is unable to have telephone contact with a third prize winner within three business days of the date of the drawing, the winner will forfeit his or her right to claim the prize, and the Florida Lottery will award the prize to an alternate winner as described in subsection (5) above. This notification process will continue until an alternate is contacted or the Florida Lottery has exhausted the list of available alternates except that notification attempts will not be made after April 18, 2013, for alternate winners of a third prize. If the Florida Lottery is unable to contact a third prize alternate, the prize will not be awarded.

4. An alternate winner of a grand, second, or third prize may elect to decline the greater prize and keep the lesser prize; however, an alternate winner who accepts the greater prize will be awarded only the greater prize and must return any certificate received in connection with the lesser prize.

5. If the Florida Lottery is unable to have telephone contact with a fourth prize winner within three business days of the date of the drawing, the winner will forfeit his or her right to claim the prize.

(b) The Florida Lottery will attempt to notify each fifth prize winner by telephone, U. S. mail or email using the contact information provided in the winner’s registration data no later than seven business days after the winner is drawn in order to confirm the winner’s mailing address. If the Florida Lottery is unable to contact the fifth prize winner within sixty days of the date of the drawing, the winner will forfeit his or her right to claim the prize.

(c) All entries are subject to validation by the Florida Lottery and may be disqualified if eligibility requirements are not met.

(7) How to claim a prize.

(a) To claim a grand, second, third or fourth prize in a drawing, a winner must submit to the Florida Lottery the original valid voucher bearing the unique number selected in the drawing, a completed Winner Claim Form DOL-173-2, revised 02/11, or DOL-173-2S, revised 02/11, a copy of acceptable identification as listed on [www.flalottery.com](http://www.flalottery.com), and a completed Release and Authorization form DOL-474, effective 10/08, or Spanish Release and Authorization form DOL-474S, effective 9/11. Forms DOL-173-2, DOL-173-2S, DOL-474, and DOL-474S are hereby incorporated by reference and can be obtained from any Lottery office, from the Lottery's website, [www.flalottery.com](http://www.flalottery.com), or by writing to: Florida Lottery, Customer Service Division, 250 Marriott Drive, Tallahassee, Florida 32399-4016. The required forms must be received by the Florida Lottery no later than three business days after the winner is notified by the Lottery that he or she is a winner. If the Florida Lottery has not received the required forms by the third day after notification, the winner will forfeit his or her right to claim the prize. If the forfeited prize is a grand, second or third prize, the Florida Lottery will award the prize to an alternate winner in accordance with subsections (5) and (6) above. An alternate will not be required to submit additional claim documentation.

(b) Fifth prize winners are not required to submit the original valid voucher bearing the entry number selected in the drawing or the documentation listed in paragraph (7)(a) in order to claim the team merchandise prize.

(8) Award of Prizes.

(a) Grand Prize. (Draft Day Experience).

1. Upon the Florida Lottery's receipt of a grand prize winner's required documentation, the Lottery will award a prize of a Draft Day Experience. The winner will be provided a certificate describing the Draft Day Experience trip package along with the necessary information to make reservations to fulfill the prize. The Draft Day Experience includes the following: round-trip airfare for two persons from any U.S. regional or international airport with regularly scheduled commercial service to an airport servicing New York City; two tickets to the first day of the 2013 professional football draft at Radio City Music Hall scheduled to take place on April 25, 2013; two nights' hotel stay (room and room tax only); two team hats and jerseys and \$1,000 in cash. The estimated retail value of the prize, including the cash portion, is \$4,500. The actual retail value of the prize is dependent upon the cost of airfare from the airport used by the winner. The Florida Lottery will pay applicable Federal income tax withholding on the actual retail value of the grand prize. The reportable taxable value of the grand prize is the actual retail value of the prize plus the value of the federal income tax withholding paid by the Lottery. The reportable taxable value of the grand prize is estimated at \$6,000. The \$1,000 cash portion of the prize will be mailed to the winner on or about April 15, 2013, or, if applicable, as soon thereafter as a winner is identified.

2. A grand prize does not include travel (except as specified above), gratuities, parking fees, baggage fees, any items not expressly specified, meals or per diem for meals, incidentals, tips, and personal expenses such as telephone calls, valet service or laundry, etc., or revision, rebooking, transfer or cancellation fees that may be charged by the airline, hotel or other suppliers.

3. A grand prize is not transferable or assignable without the express written consent of the Lottery. If the prizewinner advises the Lottery at the time the grand prize is claimed that he or she is unable to attend the Draft Day Experience, the grand prize winner may designate a proxy to use the airline ticket/hotel/event ticket portions of the grand prize in his or her stead; however, the cash portion of the prize will be paid to the grand prize winner and the entire value of the grand prize shall remain taxable to the grand prize winner. An alternate winner of a grand prize may designate a proxy to use the airline ticket/hotel/event ticket portions of the grand prize in his or her stead provided he or she advises the Lottery of such designation at the time of notification of his or her selection as an alternate.

(b) Second Prize. (Season Tickets) Upon the Florida Lottery's receipt of a second prize winner's required documentation, the Lottery will award a prize of two team 2013 season football tickets (lower 100 level ).\* The winner will be provided a certificate with the necessary information to obtain the football tickets from the fulfillment entity. (Total retail value \$1,500).

(c) Third Prize. (Draft Day Watch Party) Upon the Florida Lottery's receipt of a third prize winner's required documentation, the Lottery will award a prize of two VIP credentials to a Draft Day Watch Party scheduled to take place on April 25, 2013, at a location in the team's city.\* The winner will be provided a certificate describing the Draft Day Watch Party along with the necessary information to obtain the VIP credentials. (Total retail value \$200).

(d) Fourth Prize. (Single Game Tickets) Upon the Florida Lottery's receipt of a fourth prize winner's required documentation, the Lottery will award a prize of two team single game tickets to a 2013 home football game (lower 100 level).\* The winner will be provided a certificate with the necessary information to obtain the football tickets from the fulfillment entity. (Total retail value \$170).

(e) Fifth Prize. (Team Merchandise) Upon confirmation of a fifth prize winner's mailing address, the Florida Lottery will mail two team hats and two t-shirts.\* (Total retail value \$80).

\*The team prizes awarded will correspond to the professional football team experience drawing in which the winner's entry was selected. For example, Jacksonville Jaguars team hats and t-shirts will be awarded to a fifth prize winner in a Jaguars FANTASY 5 Football Draft Day Experience Drawing.

(9) Except as specifically mentioned herein, all federal, state and/or local taxes or other fees on the prizes will be the responsibility of the winner. Federal income taxes are required

to be withheld from a prize awarded to a nonresident alien claimant at the rate of thirty percent (30%) pursuant to applicable provisions of the Internal Revenue Code. A nonresident alien claimant who is selected as a winner of a prize for which tax withholding is not paid by the Florida Lottery will be required to pay the withholding tax or forfeit the prize. The reporting and subsequent payment of any additional federal, state and/or local taxes shall be the responsibility of the nonresident alien winner.

(10) If the winner of the grand prize in a drawing is identified as owing an outstanding debt to a state agency or child support collected through a court, the debt will be collected in accordance with section 24.115, Florida Statutes. If the debt is an amount less than the cash portion of the prize, the non-cash portion of the prize and the cash portion of the prize less the amount owed shall be awarded. If the winner is identified as owing such a debt in an amount greater than the cash portion of the prize, the winner's entire cash portion of the prize will be applied toward the outstanding debt as provided in section 24.115, Florida Statutes, and the winner will receive the remaining non-cash portion of the prize, if any.

(11) No cash option is available in lieu of the non-cash prizes.

(12) The right to claim a prize cannot be assigned to another person or entity.

(13) All prizes are subject to the provisions of Chapter 24, Florida Statutes, and rules promulgated thereunder. Prizes will be paid in accordance with the rule of the Florida Lottery governing payment of prizes. Copies of the current prize payment rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

(14) Players must be at least 18 years of age. Persons prohibited by Section 24.116, Florida Statutes, from purchasing a Florida Lottery ticket are not eligible to play.

(15) By entering the FANTASY 5® Football Draft Day Experience Promotion, a player gives his or her permission for the Florida Lottery to provide the player's address and telephone number to the fulfillment entity for prize fulfillment purposes.

(16) A player entering the FANTASY 5® Football Draft Day Experience Promotion is deemed to have granted permission for the Florida Lottery to photograph and/or videotape and record the prizewinner with or without prior notification and to use the name, photograph, videotape, and/or recording of the prizewinner for advertising or publicity purposes without additional compensation.

(17) The FANTASY 5® Football Draft Day Experience Promotion drawings shall be public, held in Tallahassee, Florida, and witnessed by an accountant employed by an independent certified public accounting firm.

Rulemaking Authority 24.105(9), 24.109(1) FS. Law Implemented 24.105(9), 24.115(1) FS. History--New 2-22-13.

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

EFFECTIVE DATE: February 22, 2013

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-4.010: Sanitation and Safety Requirements

The Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants hereby gives notice:

On February 8, 2013 the Division of Hotels and Restaurants received a Petition for an Emergency Variance for 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 Hola Cuban Cafe located in Fernandina Beach. The above referenced F.A.C. addresses the requirement that at least one accessible bathroom be provided for use by customers and employees. They are requesting to share the bathrooms located within an adjacent establishment under a different ownership for use by both customers and employees.

The Petition for this variance was published in Vol. 39/31 on February 14, 2013. The Order for this Petition was signed and approved on February 20, 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 bathrooms located within The Palace Saloon (Big Shef Inc., BEV5500058) are maintained in a clean and sanitary manner and are provided with cold running water under pressure, soap, approved hand drying devices, and are available during all hours of operation. The Petitioner shall also ensure directional signage is installed within or outside the establishment clearly stating the location of the bathrooms. If the ownership of The Palace Saloon (Big Shef Inc.) changes, an updated, signed agreement for use of the bathroom facilities is required immediately.

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

## Section VI Notices of Meetings, Workshops and Public Hearings

### DEPARTMENT OF LEGAL AFFAIRS

The Florida Commission on the Status of Women announces telephone conference calls to which all persons are invited.

DATE AND TIME: March 13, 2013, 10:00 a.m.

PLACE: Please call (850)414-3300 for instructions on participation.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Annual Report Committee.

DATE AND TIME: March 13, 2013, 11:00 a.m.

PLACE: Please call (850)414-3300 for instructions on participation.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Public Policy Committee.

DATE AND TIME: March 14, 2013, 11:00 a.m.

PLACE: Please call (850)414-3300 for instructions on participation.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Executive Committee.

DATE AND TIME: March 21, 2013, 9:00 a.m.

PLACE: Please call (850)414-3300 for instructions on participation.

GENERAL SUBJECT MATTER TO BE CONSIDERED: The 1st Quarterly Meeting of 2013 of the Florida Commission on the Status of Women.

NOTE: In the absence of a quorum, items on this agenda will be discussed as workshop, and notes will be recorded although no formal action will be taken. If you have any questions, please call (850)414-3300.

A copy of the agenda may be obtained by contacting: Florida Commission on the Status of Women at the Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050. Phone: (850)414-3300, fax (850)921-4131.

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: Florida Commission on the Status of Women at the Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050. Phone: (850)414-3300, fax (850)921-4131. 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).

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: Florida Commission on the Status of Women at the Office of the Attorney General, The Capitol, Tallahassee, FL 32399-1050. Phone: (850)414-3300, fax (850)921-4131.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Administration

The Florida Agriculture Center and Horse Park Authority announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, March 14, 2013, 5:00 p.m.

PLACE: Holiday Inn & Suites Ocala Conference Center, 3600 SW 38th Avenue, Ocala, Florida 34474

GENERAL SUBJECT MATTER TO BE CONSIDERED: This will be a meeting of the Board of Directors to discuss general board business.

A copy of the agenda may be obtained by contacting: Shawn Doherty or Ellen Ettenger at (352)307-6699.

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: Shawn Doherty or Ellen Ettenger at (352)307-6699. 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).

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Aquaculture

The Aquaculture Review Council announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, March 19, 2013, 9:00 a.m. – 3:00 p.m.

PLACE: Division of Aquaculture, 1203 Governor's Square Blvd, Suite 501, Tallahassee, FL 32301

GENERAL SUBJECT MATTER TO BE CONSIDERED: To discuss issues affecting the growth of aquaculture in Florida.

A copy of the agenda may be obtained by contacting: Paul Zajicek at 1203 Governor's Square Blvd., Suite 501, Tallahassee, FL 32301; (850)488-5471.

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: Paul Zajicek (850)488-5471. 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).

### COMMISSION ON ETHICS

The Commission on Ethics announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, March 8, 2013, 8:30 a.m.  
 PLACE: Department of Transportation, Burns Building Auditorium, 605 Suwannee Street, Tallahassee, FL  
 GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Commission Meeting.

A copy of the agenda may be obtained by contacting: [www.ethics.state.fl.us](http://www.ethics.state.fl.us) or (850)488-7864.

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: (850)488-7864. 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).

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.

#### WATER MANAGEMENT DISTRICTS

##### St. Johns River Water Management District

The North Florida – Southeast Georgia (NFSEG) regional groundwater flow model Steering and Technical Teams are made up of area stakeholders, the St. Johns River Water Management District staff and the Suwannee River Water Management District staff, to work collectively on the development of the next generation regional-scale groundwater flow model for North Florida. The Technical Team announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, March 7, 2013, 9:00 a.m. – 12:00 noon.

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177, Resource Management Building, Room 136a

GENERAL SUBJECT MATTER TO BE CONSIDERED: This is a meeting of the Technical Team described above. The purpose of the meeting is to continue the discussion of the conceptual model to be used in the development of the NFSEG regional groundwater flow model. An opportunity for public comment will be provided near the end of the meeting.

NOTE: One or more members of the Governing Board from each of the water management districts named above may attend the meeting.

A copy of the agenda may be obtained by contacting: St. Johns River Water Management District, Attention: Kristi Cushman, 4049 Reid Street, Palatka, FL 32177, (386)329-4308, email: [kcushman@sjrwmd.com](mailto:kcushman@sjrwmd.com) or by visiting the North Florida Regional Water Supply Partnership website at [www.northfloridawater.com](http://www.northfloridawater.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: District Clerk at (386)329-4500. 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).

#### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

##### State Boxing Commission

##### RULE NO.: RULE TITLE:

- 61K1-3.001: Licenses, Permits; Requirement, Procedure and Period, Fee, Bout Card Approval
- 61K1-3.002: Promoter and Matchmaker; Licensing and Bond; Duties and Conduct.
- 61K1-3.003: Concessionaire; License; Bond.
- 61K1-3.004: Physician; License and Duties; Authority
- 61K1-3.005: Manager; License
- 61K1-3.006: Contracts Between Manager and Participant
- 61K1-3.007: Participant; License; Conduct and Other Requirements
- 61K1-3.008: Judge; License and Duties
- 61K1-3.009: Announcer; License and Duties
- 61K1-3.010: Timekeeper or Knockdown Timekeeper; License and Duties
- 61K1-3.011: Second; License and Duties
- 61K1-3.012: Referee; License and Duties
- 61K1-3.013: Trainer; License and Conduct
- 61K1-3.014: Booking Agent, Representative of Booking Agent; License
- 61K1-3.015: Insurance Requirements
- 61K1-3.016: Pre-Match Physical of Participant and Referee
- 61K1-3.0165: Weigh-In
- 61K1-3.017: Drugs and Foreign Substances; Penalties
- 61K1-3.018: Emergency Equipment; Other Equipment and Services
- 61K1-3.019: Arena Equipment; Ring Requirements; Floor Plan and Apron Seating
- 61K1-3.020: Post-Match Physical Requirements; Suspensions
- 61K1-3.021: Post-Match Reports Required to be Filed; Penalty for Late Filing
- 61K1-3.022: Unprofessional or Unethical Conduct
- 61K1-3.023: Citations
- 61K1-3.024: Notices of Non-Compliance
- 61K1-3.025: Records
- 61K1-3.026: Disciplinary Guidelines
- 61K1-3.027: Boxing Weight Classes
- 61K1-3.028: Boxing Participants' Apparel
- 61K1-3.029: Boxing Bandages and Handwraps; Gloves
- 61K1-3.030: Boxing Conduct of Bout; Rounds
- 61K1-3.031: Boxing Scoring
- 61K1-3.032: Kickboxing Weight Classes

- 61K1-3.033: Kickboxing Participants' Apparel
- 61K1-3.034: Kickboxing Bandages and Handwraps; Gloves
- 61K1-3.035: Kickboxing Conduct of Bout; Rounds
- 61K1-3.036: Kickboxing Scoring
- 61K1-3.037: Mixed Martial Arts Weight Classes
- 61K1-3.038: Mixed Martial Arts Participants' Apparel
- 61K1-3.039: Mixed Martial Arts Bandages and Handwraps; Gloves
- 61K1-3.040: Mixed Martial Arts Conduct of Bout; Rounds
- 61K1-3.041: Mixed Martial Arts Scoring

The Florida State Boxing Commission announces a telephone conference call to which all persons are invited.

DATE AND TIME: March 15, 2013, 10:00 a.m.

PLACE: Conference call number is (888)670-3525; passcode is 6744892830, then #.

GENERAL SUBJECT MATTER TO BE CONSIDERED: To review and consider applications for licensure, Chapter 61K1-3, F.A.C. and related forms, and general business meeting agenda items.

A copy of the agenda may be obtained by contacting: Lina Hurtado at (850)488-8500.

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 24 hours before the workshop/meeting by contacting: Lina Hurtado at (850)488-8500. 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).

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: Lina Hurtado at (850)488-8500.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

The Fire & Emergency Incident Information System Technical Advisory Panel announces a public meeting to which all persons are invited.

DATE AND TIME: March 18, 2013, 2:00 p.m.

PLACE: Conference call/Tallahassee, (850)413-1558, call ID 593016; Atrium Building 3rd Floor Conference Room.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting.

A copy of the agenda may be obtained by contacting: MaryAnn.Benson@myfloridacfo.com.

DEPARTMENT OF FINANCIAL SERVICES

Division of State Fire Marshal

The Firefighters Employment, Standards & Training Council announces a public meeting to which all persons are invited.

DATE AND TIME: March 18, 2013 at 10 minutes after the adjournment of the Fire & Emergency Incident Information Systems Technical Advisory Panel meeting which begins at 2:00 p.m.

PLACE: Conference call/Tallahassee, (850)413-1558, call ID 593016; Atrium Building 3rd Floor Conference Room.

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular meeting.

A copy of the agenda may be obtained by contacting: MaryAnn.Benson@myfloridacfo.com.

Section VII

Notices of Petitions and Dispositions  
Regarding Declaratory Statements

NONE

Section VIII

Notices of Petitions and Dispositions  
Regarding the Validity of Rules

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

NONE

**Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:**

NONE

Section IX

Notices 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

#### DEPARTMENT OF EDUCATION

Florida International University

RULE NO.: RULE TITLE:

6C8-5.009: Use of University Facilities (Repealed)

#### NOTICE TO PROFESSIONAL CONSULTANTS

The Florida International University Board of Trustees announces that Professional Services in the discipline of Architecture will be required for Continuing Services projects at FIU.

**Project Location:** Projects may be located at Modesto A. Maidique Campus (MMC), Biscayne Bay Campus (BBC), Engineering Center (EC), Wolfsonian Museum & Annex or other property managed by FIU.

**Project Description:** The selected firm will provide full architectural and consulting engineering services inclusive of design, construction documents, and administration for specific projects for renovations, alterations, and additions that have a basic construction budget estimated to be \$2,000,000 or less, or studies for which the fee for professional services is \$200,000 or less.

**Term of Contract:** Any contract resulting from the selection of a professional consultant (or consultants) to provide these services shall require the consultant to be available on an as-needed basis for the Fiscal Year, July 1 – June 30. Four (4) contracts will be awarded to four (4) different firms. This contract will be awarded for an initial period of one-year with Owner's option to renew the contract, at its sole discretion, for additional one-year periods, however, in no event to exceed a total of five successive years.

**Instructions:** Firms desiring to apply for consideration shall submit a letter of application. The letter of application should have attached:

1. A completed "Florida International University Professional Qualifications Supplement (FIUPQS)." The official FIUPQS forms must be downloaded from the project website at <http://facilities.fiu.edu/projects/AEConsultant2013.htm>.

Applications on any other form will not be considered.

2. A copy of the applicant's current Professional Registration Certificate from the appropriate Governing board. An applicant must be properly registered at the time of application to practice its profession in the State of Florida. If the applicant is a corporation, it must be properly chartered by the Florida Department of State to operate in Florida.

Submit eleven (11) bound copies of the required proposal data and one CD copy in Adobe Acrobat PDF format of the requested qualifications to: Selection Committee, Florida International University, Facilities Planning, Campus Support complex, 11555 S.W. 17th St., Room CSC142, Modesto A. Maidique Campus, Miami, Florida 33199.

Applications that do not comply with the above instructions will not be considered. Application material will not be returned. The University reserves the right to suspend or discontinue the selection process at any time and to return or reject any or all submissions of qualifications without obligation to the respondent.

**GENERAL REQUIREMENTS:** The plans and specifications prepared by the consultant are subject to reuse in accordance with the provisions of Section 287.055, Florida Statutes. As required by Section 287.133, Florida Statutes, a consultant may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected consultant must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

FIU HAS CREATED STANDARD CONTRACT FORMS AND STANDARD INSURANCE REQUIREMENTS APPLICABLE TO A/E'S FOR A/E SERVICES TO PROVIDE FOR AN EFFICIENT AND EFFECTIVE PROCESS. THESE FORMS ARE AVAILABLE FOR REVIEW AND CAN BE FOUND AT <http://facilities.fiu.edu/formsandstandards.htm>.

ALL APPLICANTS SHOULD REVIEW THE APPLICABLE FIU CONTRACT FORM AND STANDARD INSURANCE REQUIREMENTS CAREFULLY PRIOR TO MAKING A DECISION AS TO WHETHER OR NOT TO RESPOND TO THIS ADVERTISEMENT.

A Project Fact Sheet, describing the selection process schedule for this Project and additional information regarding the Project scope, may be obtained from the project website <http://facilities.fiu.edu/projects/AEConsultant2013.htm>.

In order to minimize the possibility of unethical pressures or influences on the recommendations of the Selection Committee, direct contact with the committee members is not permitted. Requests for meetings by individual firms will not be granted. Committee members and selection schedule milestone dates can be found in the Project Fact Sheet.

Any question or explanation desired by an applicant regarding the project or any part of the process must be requested in writing to [griffith@fiu.edu](mailto:griffith@fiu.edu) (cc: [mazorras@fiu.edu](mailto:mazorras@fiu.edu)). Responses to questions and requests for information will be posted on the project website. An effort will be made to respond to all applicant questions; however, the University is not obligated to and may choose not to answer every question. The last day questions or inquiries will be considered prior to final interviews for this project is Friday, May 3rd, 12:00 p.m.

Should a change in schedule become necessary, updated information will be posted on the project website <http://facilities.fiu.edu/projects/AEConsultant2013.htm>. All future notices will be posted on the website. Applicants should check the website daily.

Submittals must be received between 8:30 a.m. and 12:30 p.m. or 1:30 p.m. and 4:00 p.m. local time, Monday, March 25th, 2013. Submittals will not be accepted before or after the times and date stated above. Facsimile (FAX) submittals are not acceptable and will not be considered.

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## Section XII Miscellaneous

DEPARTMENT OF HEALTH

### Board of Medicine

#### Emergency Action

On February 21, 2013, State Surgeon General issued an Order of Emergency Suspension Order with regard to the license of James Alexander Coccores, M.D. License # ME 76635. 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.

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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.**

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