

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: Tom Mayton, Sr. Assistant General Counsel, St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, Florida 32177, (386)329-4108 or tmayton@sjrwmd.com, or Kris Davis, Assistant General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177, (386)329-4390 or khdavis@sjrwmd.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-8.031 Minimum Surface Water Levels and Flows and Groundwater Levels.

(1) through (3) No change.

(4) The following minimum surface water levels are established:

System Name	County	Minimum Level	Level (ft NGVD)	Level (ft NAVD)	Hydroperiod Category	Duration (days)	Return Interval (years)	
Putnam	Cowpean	Infrequent High	92.0	90.8	Temporarily Flooded	30	25	
		Frequent High	89.1	88.1		180	1.7	
		Average	85.2	84.0		Typically Saturated	120	2.7
		Frequent Low	83.5	82.3		Semipermanently Flooded	120	2.7
			84.2	83.2				

(a) through (v) No change.

(x) through (cccc) No change.

(5) and (6) No change.

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.103, 373.415 FS. History—New 9-16-92, Amended 8-17-94, 6-8-95, 1-17-96, 8-20-96, 10-20-96, 11-4-98, 6-27-00, 2-13-01, 3-19-02, 5-12-03, 11-10-03, 1-12-04, 2-1-06, 12-3-06, 5-10-07, 5-24-07, 1-11-10, 8-22-13, 4-3-14, 11-25-14, 12-31-14, 1-31-16 (4)(aaa), 1-31-16 (4)(ssss),_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Mayton, Sr. Assistant General Counsel, St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, Florida 32177, (386)329-4108 or tmayton@sjrwmd.com, and Kris Davis, Assistant General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177, (386)329-4390 or khdavis@sjrwmd.com.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 12, 2016

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

RULE NO.: 40C-8.031
 RULE TITLE: Minimum Surface Water Levels and Flows and Groundwater Levels

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to: (1) adopt a minimum spring flow for De Leon Springs in Volusia County; and (2) establish factors for determining compliance with a minimum flow or level.

SUMMARY: The proposed rule would establish a minimum spring flow for De Leon Springs pursuant to the mandate of Section 373.042, Florida Statutes. The terms herein are already defined in Chapter 40C-8, F.A.C. As with all minimum spring flows established by the District, if adopted, the minimum spring flow in this rule amendment would be used as a basis for imposing limitations on withdrawals of groundwater and surface water in the consumptive use permit regulatory process and for reviewing proposed surface water management systems in the environmental resource permit regulatory process. The proposed rule would also establish factors for determining compliance with a minimum flow or level.

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 District has completed for the Governor’s Office of Fiscal Accountability and Regulatory Reform (OFARR) the “Is a SERC Required?” form and prepared a summary of the proposed rule amendments, which are both available upon request. Based on the completed “Is a SERC Required?” form and summary and the analysis performed by the District in preparing and completing those documents, the proposed rule

amendments are not expected to require legislative ratification pursuant to subsection 120.541(3), 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: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421 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 48 hours before the workshop/meeting by contacting: District Clerk, (386)329-4127. 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: Tom Mayton, Sr. Assistant General Counsel, St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, Florida 32177, (386)329-4108 or tmayton@sjrwm.com, or Karen Ferguson, Assistant General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177, (386)329-4288 or KFerguson@sjrwm.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

40C-8.031 Minimum Surface Water Levels and Flows and Groundwater Levels.

(1) through (5) No change.

(6)(a) The minimum spring flow for De Leon Springs in Volusia County is 25.6 Cubic feet per second (CFS).

(b) The minimum spring flow for De Leon Springs is a mean annual flow based on the baseline flow-time series data from 1965 to 2015 under the 2010-pumping condition (Baseline Flow), which data is incorporated by reference and available at {insert URL} and upon request from the St. Johns River Water Management District, 4049 Reid Street, Palatka, FL 32177-2529. The minimum spring flow for De Leon Springs is equal to the Baseline Flow as defined above.

~~(7)(6)~~ No change.

(8) Determining Ongoing Status – The purpose of this subsection is to provide the approach to determine whether the flow(s) and/or level(s) of a specific MFL water body is/are below or projected to fall below the rule-specified MFL criteria (along with the associated evaluations necessary to make such a determination). This status assessment is independent from and not a determination of consumptive use

permit compliance or environmental resource permit compliance. Permit compliance is a regulatory function that is not considered to be within the scope of this subsection.

(a) A screening level analysis, which incorporates change in rainfall trend and uncertainty in MFLs, will be performed approximately every five years to monitor the status of an adopted MFL, as well as when permit applications are considered that may impact an MFL. If the screening level analysis shows that the MFL is being met based on the rainfall-adjusted flows or levels, then no further actions are required beyond continued monitoring. If the analysis shows that the MFL is not being met, or is trending toward not being met based on the rainfall-adjusted flows and levels, the District will conduct a cause and effect analysis to independently evaluate the potential impacts of various stressors on the MFL water body being assessed. Factors other than consumptive uses of water (e.g., long-term drought) can cause the flow or level of a surface watercourse, aquifer, surface water, or spring to drop below an adopted minimum flow or level. Factors to be considered in the determination of causation include, but are not limited to:

1. Rainfall or other climatic variables;

2. Consumptive use;

3. Land use changes or development;

4. Surface water drainage;

5. Geology/hydromorphology (e.g., sinkhole formation);

6. Water levels/flows in other appropriate water resources (e.g., nearby wells, lakes, streams, wetlands); and

7. Ecological assessment information.

(b) The types of tools used in the causation analysis include, but are not limited to:

1. Double-mass analyses;

2. Rainfall/flow statistical analysis or flow regression;

3. Stage/duration/frequency analysis;

4. Modeling (regional, groundwater, ecological or water budget models); and

5. Ecological tools.

Based on the causation analysis, the District will assess existing MFL criteria and any associated recovery and prevention strategies to determine the effectiveness of the strategies in recovering from or preventing significant harm to the water body.

(c) This subsection shall not apply within the Central Florida Water Initiative Area, as defined in paragraph 373.0465(2)(a), F.S. (2016).

Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.042, 373.0421, 373.103, 373.415 FS. History—New 9-16-92, Amended 8-17-94, 6-8-95, 1-17-96, 8-20-96, 10-20-96, 11-4-98, 6-27-00, 2-13-01, 3-19-02, 5-12-03, 11-10-03, 1-12-04, 2-1-06, 12-3-06, 5-10-07, 5-24-07, 1-11-10, 8-22-13, 4-3-14, 11-25-14, 12-31-14, 1-31-16 (4)(aaa), 1-31-16 (4)(ssss), _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Mayton, Sr. Assistant General Counsel, St. Johns River Water Management District, Office of General Counsel, 4049 Reid Street, Palatka, Florida 32177, (386)329-4108 or tmayton@sjrwmd.com, and Karen Ferguson, Assistant General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177, (386)329-4288 or KFerguson@sjrwmd.com.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 13, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 12, 2016

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-8.624
 RULE TITLE: Guidance and Minimum Levels for Lakes
 PURPOSE AND EFFECT: The purpose of this rulemaking is to adopt revised minimum and guidance levels for Sunset Lake and Lake Dan located in Hillsborough County. The effect of the rule is to support the District’s water supply planning, water use permitting, and environmental resource permitting programs.

SUMMARY: Section 373.042, F.S., requires the District to establish minimum flows and levels for lakes, wetlands, rivers and aquifers within the District’s boundaries. Section 373.0421(3), F.S., further requires the District to periodically reevaluate and revise adopted minimum flows and levels. This rulemaking is necessary to delete the previously adopted levels, and adopt new guidance and minimum levels for Sunset Lake and Lake Dan located in Hillsborough County. The establishment and periodic evaluation of minimum levels is required by statute to ensure that the minimum hydrologic requirements of the water resources and ecology of this lake are maintained. The revised minimum and guidance levels for Sunset Lake and Lake Dan are being developed using previously peer-reviewed, Governing Board adopted methods.

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 District conducted an economic review of the revisions to the rule and determined that the impact or regulatory cost, if any, of the revisions will not exceed any one of the economic analysis criteria in a SERC as set forth in Section 120.541(2)(a), F.S. The revised minimum levels for this lake is unlikely to constitute an additional significant regulatory constraint on groundwater or surface water withdrawals in the area due to existing resource conditions and regulatory constraints in the basin.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, FS.

LAW IMPLEMENTED: 373.036, 373.042, 373.0421, 373.086, 373.709, 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: Doug Leeper, MFL Program Lead, SWFWMD, 2379 Broad Street, Brooksville, FL 34604, (352)796-7211, ext. 4272. A2016016-8

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.624 Guidance and Minimum Levels for Lakes.

(1) through (11) No change.

(12) Levels for lakes established during or after August 7, 2000, are set forth in the following table. After the High Minimum Lake Level and Minimum Lake Level elevation for each lake is a designation indicating the Method used, as described in subsection 40D-8.624(8), F.A.C., to establish the level. Compliance with the High Minimum and Minimum Lake Levels is determined pursuant to paragraphs (6)(b) and (7)(b) above. Guidance Levels established prior to August 7, 2000, are set forth in Table 8-3 in subsection 40D-8.624(13), F.A.C., below.

<p>Table 8-2 Minimum and Guidance Levels Established During or After August 7, 2000. Levels are elevations, in feet above the National Geodetic Vertical Datum of 1929.</p>

Location by County and Basin	Name of Lake and Section, Township and Range Information	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
(a) through (k) No change.		-	-	-	-
(l) In Hillsborough County Within the Northwest Hillsborough Basin	-	-	-	-	-
	Alice, Lake S-16, T-27S, R-17E through Cypress, Lake S-24, T-27S, R-17E No change.	-	-	-	-
	Dan, Lake S-6, T-27S, R-17E	32.5'	31.9' <u>32.3'</u> (CA T3) <u>(CA T1)</u>	30.9' (CA T3) <u>(CA T1)</u>	30.4' <u>29.5'</u>

Table 8-2 Minimum and Guidance Levels Established During or After August 7, 2000. Levels are elevations, in feet above the National Geodetic Vertical Datum of 1929.

Location by County and Basin	Name of Lake and Section, Township and Range Information	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
	Deer, Lake S-1, T-27S, R-18E through Strawberry (North Crystal), Lake S-14, T-27S, R-18E No change.	-	-	-	-
	Sunset, Lake S-17, T-27S, R-17E	34.8' <u>33.6'</u>	34.4' <u>33.6'</u> (CA T4) <u>(CA T2)</u>	33.0' <u>32.3'</u> (CA T4) <u>(CA T2)</u>	32.7' <u>31.1'</u>
	Sunshine, Lake S-20, T-27S, R-18E through Virginia, Lake S-3, T-27S, R-18E No change.	-	-	-	-

Table 8-2 Minimum and Guidance Levels Established During or After August 7, 2000. Levels are elevations, in feet above the National Geodetic Vertical Datum of 1929.

Location by County and Basin	Name of Lake and Section, Township and Range Information	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
(m) through (cc) N o change.		-	-	-	-

(13) No change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.042, 373.0421, 373.086, 373.709 FS. History—New 6-7-78, Amended 1-22-79, 4-27-80, 10-21-80, 12-22-80, 3-23-81, 4-14-81, 6-4-81, 10-15-81, 11-23-81, 1-5-82, 3-11-82, 5-10-82, 7-4-82, 9-2-82, 11-8-82, 1-10-83, 4-3-83, 7-5-83, 9-5-83, 10-16-83, 12-12-83, 5-8-84, 7-8-84, 12-16-84, 2-7-85, 5-13-85, 6-26-85, 11-3-85, 3-5-86, 6-16-86, Formerly 16J-8.678, Amended 9-7-86, 2-12-87, 9-2-87, 2-18-88, 6-27-88, 2-22-89, 3-23-89, 9-26-89, 7-26-90, 10-30-90, 3-3-91, 9-30-91, 10-7-91, 7-26-92, 3-1-93, 5-11-94, 6-6-96, 2-23-97, 8-7-00, 1-8-04, 12-21-04 (13), 12-21-04 (13), 6-5-05, 5-2-06, 1-1-07, 2-12-07, 1-10-08, 2-18-08, 4-7-08, 5-20-08, 5-10-09, 4-13-11, 3-12-12, 11-25-12, 2-21-13 (12)(f), 2-21-13(12), (13), 9-3-13, 1-7-15, 7-1-15, 9-21-15,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Southwest Florida Water Management District
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 30, 2016
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 22, 2016

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE NO.: 59C-1.042
 RULE TITLE: Neonatal Intensive Care Services
 PURPOSE AND EFFECT: The Agency is proposing to amend 59C-1.042 to remove, update and condense language regarding neonatal intensive care services.
 SUMMARY: The proposed amendments to this rule include: updates to definitions, removal of references to Regional

Perinatal Intensive Care Center Program (RPICC), improving/condensing the language for the needs assessment methodology, removal of obsolete language and items from the utilization reporting requirement, and removal of outdated language regarding providers of this service prior to the CON requirement.

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.

For rules listed where no SERC was prepared, the Agency prepared a checklist for each rule to determine the necessity for a SERC

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based on this information at the time of the analysis and pursuant to section 120.541, Florida Statutes, the rule will not require legislative ratification.

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

RULEMAKING AUTHORITY: 408.034 (3), (8); and 408.15 (8), FS.

LAW IMPLEMENTED: 408.032 (17), 408.034 (3), 408.035, 408.036 (1)(f) and 408.039 (4) (a), FS.

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

DATE AND TIME: January 4, 2017, 8:30-10:00 a.m.

PLACE: Agency for Health Care Administration, Building Three, Conference Room B, 2727 Mahan Drive, Tallahassee, Florida 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Marisol Fitch, Certificate of Need and Commercial Managed Care Unit Supervisor, 2727 Mahan Drive, Tallahassee, Florida, (850)412-4346. 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: Marisol Fitch, Certificate of Need and Commercial Managed Care Unit Supervisor, 2727 Mahan Drive, Mail Stop 28, Building 1, Tallahassee, Florida or call (850)412-4346.

THE FULL TEXT OF THE PROPOSED RULE IS:

59C-1.042 Neonatal Intensive Care Services.

(1) ~~Agency Intent. This rule implements the provisions of Sections 408.032(17) and 408.034(3), F.S. In addition, Section 408.036(1)(f), F.S., specifically requires the Agency to regulate the establishment of tertiary health services, which include Neonatal Intensive Care Services, under the Certificate of Need program.~~ It is the intent of the Agency to regulate the establishment of Level II and Level III Neonatal Intensive Care Services as defined in this rule. This rule defines the minimum requirements for personnel, equipment, and support services for the two levels of Neonatal Intensive Care Services as defined in this rule. In addition, this rule includes need methodologies for determining the need for additional neonatal intensive care unit beds for each level of care. A separate inventory for each level of neonatal intensive care unit beds shall be established by the Agency. It is the intent of the Agency to regulate the establishment of Neonatal Intensive Care Services which include ventilation to preterm and severely ill neonates.

(2) Definitions.

(a) “Agency.” ~~The Agency for Health Care Administration.~~

(b) ~~“Approved Neonatal Intensive Care Bed.”~~ A proposed Level II bed or Level III bed for which a Certificate of Need, a letter of intent to grant a Certificate of Need, a signed stipulated agreement, or a final order granting a Certificate of Need was issued, consistent with the provisions of paragraph 59C-1.008(2)(b), F.A.C., as of the most recent published deadline for Agency initial decisions prior to publication of the Fixed Need Pool, as specified in paragraph 59C-1.008(1)(g), F.A.C.

(c) “Charity Care.” ~~As defined in Section 409.911 (1), F.S.~~

(d) ~~“Complex Neonatal Surgery.”~~ Any surgical procedure performed upon a neonate by a surgically-credentialed practitioner licensed under the provisions of Chapters 458 or 459, F.S., which is associated with entry into or traversing a body cavity, such as the abdomen, thorax, or cranium, with a requirement for either general anesthesia or conscious sedation. Such procedures shall be performed only in hospitals licensed under the provisions of Chapter 395, F.S., which are also authorized to provide Level III Neonatal

Services, ~~under the provisions of Rules 59A 3.200 .231, F.A.C.~~

(e) ~~“Department.”~~ ~~The Agency for Health Care Administration.~~

(e) ~~“District.”~~ A district of the Agency as defined in Section 408.032(5), F.S.

(f) ~~“Fixed Bed Need Pool.”~~ The Fixed Bed Need Pool defined in subsection 59C-1.002(19), F.A.C.

(g) ~~“Local Health Councils.”~~ The councils referenced in Section 408.033, F.S.

(h) ~~“Neonatal Care Services.”~~ The aspect of perinatal medicine pertaining to the care of neonates. Hospital units providing neonatal care are classified according to the intensity and specialization of the care which can be provided. The Agency distinguishes three levels of neonatal care services:

1. “Level I Neonatal Services.” Well-baby care services which include sub-ventilation care, intravenous feedings, and gavage to neonates are defined as Level I Neonatal Services. Level I Neonatal Services do not include ventilator assistance except for resuscitation and stabilization. Upon beginning ventilation, the hospital shall implement a patient treatment plan which shall include the transfer of the neonate to a Level II or Level III Neonatal Intensive Care Service at such time that it becomes apparent that ventilation assistance will be required beyond the neonate’s resuscitation and stabilization. The hospital shall establish a triage procedure to assess the need for transfer of obstetrical patients to facilities with Level II or Level III Neonatal Intensive Care Services prior to their delivery where there is an obstetrical indication that resuscitation will be required for their neonates. Facilities with Level I neonatal services may only perform Level I neonatal services.

2. “Level II Neonatal Intensive Care Services.” Services which include the provision of ventilator services, and at least 6 hours of nursing care per day, shall be defined as Level II Neonatal Intensive Care Services. Level II services shall be restricted to neonates of 1000 grams birth weight and over with the following exception. Ventilation may be provided in a facility with Level II Neonatal Intensive Care Services for neonates of less than 1,000 grams birth weight only while waiting to transport the baby to a facility with Level III Neonatal Intensive Care Services. All neonates of 1,000 grams birth weight or less shall be transferred to a facility with Level III Neonatal Intensive Care Services. Neonates weighing more than 1,000 grams requiring one or more of the Level III services, as defined by this rule, shall also be transferred to a facility with Level III Neonatal Intensive Care Services. If a facility with a Level III Neonatal Intensive Care Service refuses to accept the transfer patient, the facility with the Level II Neonatal Intensive Care Service will be found in

compliance with this subparagraph upon a showing of continuous good faith effort to transfer the patient as documented in the patient's medical record. Facilities with Level II Neonatal Intensive Care Services may perform only Level I Neonatal Services and Level II Neonatal Intensive Care Services as defined by this rule.

3. "Level III Neonatal Intensive Care Services." Services which include the provision of continuous cardiopulmonary support services, 12 or more hours of nursing care per day, complex neonatal surgery, neonatal cardiovascular surgery, pediatric neurology and neurosurgery, and pediatric cardiac catheterization, shall be classified as Level III Neonatal Intensive Care Services. These services cannot be performed in a facility with Level II Neonatal Intensive Care Services only. Facilities with Level III Neonatal Intensive Care Services may perform all neonatal care services. A facility with a Level III Neonatal Intensive Care Service that does not provide treatment of complex major congenital anomalies that require the services of a pediatric surgeon, or pediatric cardiac catheterization and cardiovascular surgery shall enter into a written agreement with a facility providing Level III Neonatal Intensive Care Services in the same or nearest service area for the provision of these services. All other services shall be provided at each facility with Level III Neonatal Intensive Care Services. The provision of pediatric cardiac catheterization or pediatric open heart surgery each requires a separate Certificate of Need.

~~(i)(h)~~ "Neonatal Intensive Care Unit Bed." A patient care station within a Level II neonatal intensive care unit or Level III Neonatal Intensive Care Unit that includes, at a minimum, an incubator or other moveable or stationary devices which support the ill neonate. Beds in Level II or Level III Neonatal Intensive Care Units shall be separately listed in a hospital's licensed bed inventory.

1. "Level II Bed." A patient care station within a neonatal intensive care unit with the capability of providing Neonatal Intensive Care Services to ill neonates of 1,000 grams birth weight or over, and which is staffed to provide at least 6 hours of nursing care per neonate per day, and which has the capability of providing ventilator assistance, and the services as defined in subparagraph (2)(~~he~~)2. of this rule.

2. "Level III Bed." A patient care station within a neonatal intensive care unit with the capability of providing Neonatal Intensive Care Services to severely ill neonates regardless of birth weight, and which is staffed to provide 12 or more hours of nursing care per neonate per day, and the services as defined in subparagraph (2)(~~he~~)3. of this rule.

~~(j)(i)~~ "Neonatologist." A physician who is certified, or is eligible for certification, by an appropriate board in the area of neonatal-perinatal medicine.

~~(k)(j)~~ "Planning Horizon." The planning horizon for applications submitted between January 1 and June 30 of each year shall be July 2 years into the future subsequent to the application submission deadline; the planning horizon for applications submitted between July 1 and December 31 of each year shall be January 2 years into the future subsequent to the application deadline.

~~(k)~~ "Regional Perinatal Intensive Care Center Program (RPICC)." ~~The program authorized by Section 383.17, F.S.~~

(l) "Specialty Beds." Specialty beds include comprehensive medical rehabilitation beds, psychiatric beds, substance abuse beds, as specified in subsection 59C-1.002(1), F.A.C. and Neonatal Intensive Care Services beds as specified by this rule.

(m) "Specialty Children's Hospitals." The hospitals referenced in subparagraph 59A-3.252(1)(b)12., F.A.C., without maternity units in the same facility.

~~(n) "Step-Down Neonatal Special Care Unit." The step-down neonatal special care units affiliated with the Regional Perinatal Intensive Care Center Program.~~

(3) Need Determination.

(a)through (f) No change.

~~(g) Special Circumstances for the Approval of Additional Neonatal Intensive Care Unit Beds at Existing Providers. Need for additional Level II Neonatal Intensive Care Unit Beds at hospitals with Level II Neonatal Intensive Care Services seeking additional Level II beds is demonstrated in the absence of need shown under the formula specified in paragraph (3)(c) of this rule if the occupancy rate for their Level II beds exceeded an average of 90% percent as computed by the Agency for the same time period specified in subparagraph (3)(c)2. Need for additional Level III Neonatal Intensive Care Beds at hospitals with Level III Neonatal Intensive Care Services seeking additional Level III beds is demonstrated in the absence of need shown under the formula specified in paragraph (3)(c) of this rule if occupancy rate for their Level III beds exceeded an average of 90% percent as computed by the Agency for the same time period specified in subparagraph (3)(c)2.~~

~~(h) Consistency With Local Health Council and State Health Plans. Applicants shall provide evidence in their applications that the number of proposed Level II or Level III Neonatal Intensive Care Unit Beds is consistent with the needs of the community as stated in Local Health Council Plans and the State Health Plan.~~

~~(i) Regional Perinatal Intensive Care Centers and Step-Down Neonatal Special Care Units. Hospitals which are under contract with the Department of Health, Children's Medical Services Program for the provision of regional perinatal intensive care center or step down neonatal special care unit care will be given priority over other applicants to expand or~~

~~establish new Neonatal Intensive Care Services when a need is indicated for additional Level II or Level III Neonatal Intensive Care Unit Beds.~~

~~(j) Conversion of Under-utilized Acute Care Beds. New Level II or Level III Neonatal Intensive Care Unit Beds shall normally be approved only if the applicant converts a number of acute care beds as defined in Rule 59C 1.038, F.A.C., excluding specialty beds, which is equal to the number of Level II or Level III beds proposed, unless the applicant can reasonably project an occupancy rate of 75% percent for the applicable planning horizon, based on historical utilization patterns, for all acute care beds, excluding specialty beds. If the conversion of the number of acute care beds which equals the number of proposed Level II or Level III beds would result in an acute care occupancy exceeding 75% percent for the applicable planning horizon, the applicant shall only be required to convert the number of beds necessary to achieve a projected 75% percent acute care occupancy for the applicable planning horizon, excluding specialty beds.~~

~~(g)(k) Services to Medically Indigent and Medicaid Patients. In a comparative review, preference shall be given to hospitals which propose to provide Neonatal Intensive Care Services to Children's Medical Services patients, Medicaid patients, and non-children's medical services patients who are defined as charity care patients according to the Health Care Board, Florida Hospital Uniform Reporting System Manual, Chapter III, Section 3223. The applicant shall estimate, based on its historical patient data by type of payer, the percentage of Neonatal Intensive Care Services patient days that will be allocated to:~~

- ~~1. Charity Care Patients;~~
- ~~2. Medicaid patients; and~~
- ~~3. Private pay patients, including self pay,; and;~~
- ~~4. Regional Perinatal Intensive Care Center Program and Step Down Neonatal Special Care Unit patients.~~

~~(4) Level II and Level III Service Continuity. To help assure the continuity of services provided to Neonatal Intensive Care Services patients:~~

~~(a) The establishment of Level III Neonatal Intensive Care Services shall not normally be approved unless the hospital also provides Level II Neonatal Intensive Care Services. Hospitals may be approved for Level II Neonatal Intensive Care Services without providing Level III services. In a comparative review, preference for the approval of Level II beds shall be given to hospitals which have both Level II neonatal intensive care unit beds and Level III Neonatal Intensive Care Unit Beds.~~

~~(b) Applicants proposing to provide Level II or Level III Neonatal Intensive Care Services shall ensure developmental follow-up on patients after discharge to monitor the outcome of care and assure necessary referrals to community resources.~~

(5) Minimum Unit Size. Hospitals proposing the establishment of new Level III Neonatal Intensive Care Services shall propose a Level III Neonatal Intensive Care Unit of at least 15 beds, and should have 1015 or more Level II neonatal intensive care unit beds. A provider shall not normally be approved for Level III Neonatal Intensive Care Services only. Hospitals proposing the establishment of new Level II Neonatal Intensive Care Services only shall propose a Level II Neonatal Intensive Care Unit with a minimum of 10 beds. ~~Hospitals under contract with the Department of Health, Children's Medical Services Program for the provision of regional perinatal intensive care center or step down neonatal special care unit care are exempt from these requirements.~~

~~(6) through (12) No change.~~

(13) Data Reporting Requirements. All hospitals with Level II or Level III Neonatal Intensive Care Services shall provide the Agency or its designee with patient utilization and fiscal reports which contain data relating to patient utilization of Level II and Level III Neonatal Intensive Care Services. The following data shall be provided to the Agency or its designee.

~~(a) Utilization Data. Level II or Level III Neonatal Intensive Care Services providers shall report the number of admissions and patient days by type of payer for Level II and Level III Neonatal Intensive Care Services. Payer types shall include Medicaid, Regional Perinatal Intensive Care Center Program, Insurance, Self Pay, and Charity Care as defined by the Health Care Board, Florida Hospital Uniform Reporting Manual, Chapter III, Section 3223. These Ddata shall be reported to the Agency or its designee within 45 days after the end of each calendar quarter.~~

~~(b) Patient Origin Data. Level II or Level III Neonatal Intensive Care Services providers shall report patient origin data for Level II and Level III Neonatal Intensive Care Services patients. The mother's county of residence shall be reported for patients born in the hospital and also for patients who were transferred to the hospital from other hospitals. These data shall be reported to the Agency or its designee within 45 days after the end of each calendar quarter.~~

~~(14) Providers Authorized by the Agency to Operate Level II and Level III Neonatal Intensive Care Services. Providers shall be authorized by the Agency to implement, or to continue to operate Level II or Level III Neonatal Intensive Care Services if they are found to be in compliance with the conditions specified in paragraphs (14)(a), (14)(b) or (14)(f) below.~~

~~(a) Providers Holding a Valid Certificate of Need or Providers with Approved Construction Documents. Providers which have obtained a Certificate of Need for provision of services regulated under this rule or providers with construction documents approved by the Department of Health~~

and Rehabilitative Services prior to October 1, 1987, which show neonatal intensive care beds shall be restricted to the total number of Neonatal Intensive Care Unit Beds by level of care for which Certificate of Need or construction document approval was granted unless the provisions of paragraph (14)(d) authorize a greater number. The authorization in this paragraph based on construction document approval shall not apply to a provider who initiated and subsequently terminated Neonatal Intensive Care Services prior to October 1, 1987.

(b) ~~Providers With Licensed Acute Care Beds Which Include Level II or Level III Neonatal Intensive Care Unit Beds. Facilities providing Level II or Level III Neonatal Intensive Care Services prior to October 1, 1987 and continuously since then under the direction of a neonatologist or a group of neonatologists, as described in subparagraphs (14)(f)1. and (14)(f)2. below, shall be limited to the total number of neonatal intensive care unit beds accepted by the Agency in its approval of the most recent application for a license, unless the provisions of paragraph (14)(d) authorize a greater number.~~

(c) ~~Number of Neonatal Intensive Care Unit Beds on October 1, 1988. In establishing the number of Level II or Level III Neonatal Intensive Care Unit Beds to be authorized for a facility, the Agency will determine the number of beds by level of care on October 1, 1988 based on the following calculation:~~

$$PD = \text{Number of Beds by Level of Care} \\ 365 \times .80$$

where:

1. PD equals the number of Level II or Level III Neonatal Intensive Care Services patient days at the facility for the period October 1, 1987 through September 30, 1988.

2. .80 equals the desired occupancy standard.

(d) ~~Authorized Number of Neonatal Intensive Care Unit Beds. The number of neonatal intensive care unit beds authorized by level of care for the facilities meeting the requirement of paragraphs (14)(a) or (14)(b) will be the largest of the three numbers identified in paragraphs (14)(a), (14)(b) or (14)(c), except that:~~

1. In all cases the number of beds authorized for Level II or Level III Neonatal Intensive Care Services will be at least five; and,

2. In no case will a facility's combined number of authorized Level II and Level III neonatal intensive care unit beds be greater than the largest of the combined totals of Level II and Level III Neonatal Intensive Care Unit Beds identified in paragraphs (14)(a), (14)(b) and (14)(c). The allocation of the combined total to the separate levels of Neonatal Intensive Care at a facility will be the same as the allocation in paragraphs (14)(a), (14)(b) or (14)(c), whichever is the basis for the total authorized. Provided, however, that an authorized

combined total based on an application for licensure which identified all Neonatal Intensive Care Unit Beds as one level of care will be allocated in the same proportions as the number of beds calculated by the formula in paragraph (14)(c).

(e) ~~Existing Providers Which were in Operation prior to October 1, 1987. Providers claiming to have operated Level II or Level III Neonatal Intensive Care Services, as defined under this rule, continuously since October 1, 1987, shall submit the following documentation to the Agency, which shall be subject to verification by the Agency:~~

1. ~~The number of Level II and Level III Neonatal Intensive Care Unit Beds as of September 30, 1987.~~

2. ~~The number of Level II and Level III Neonatal Intensive Care Services admissions and total patient days for the period October 1, 1986 through September 30, 1987.~~

3. ~~Staffing and equipment for each level of care for the period October 1, 1986 through September 30, 1987.~~

4. ~~Proof that the hospital prior to October 1, 1987 and continuously since October 1, 1987 has provided Level II or Level III Neonatal Intensive Care Services, as defined by this rule, and that the services have been directed by a board certified or board eligible neonatologist or group of neonatologists, consistent with the provisions of paragraph (8)(a).~~

5. ~~Medicaid and Charity Care Patient Days for the period October 1, 1986 through September 30, 1987.~~

6. ~~Number of Level II and Level III Neonatal Intensive Care Services admissions by DRG and ICD codes.~~

7. ~~Number of admissions to Level II and Level III Neonatal Intensive Care Services of less than 1,000 grams birth weight and equal to or greater than 1,000 grams birth weight for the period October 1, 1986 through September 30, 1987.~~

8. ~~Number of Level II and Level III Neonatal Intensive Care Services patients transferred to Level II or Level III beds at other facilities providing Neonatal Intensive Care Services, for the period October 1, 1986 through September 30, 1987.~~

9. ~~Number of Level II and Level III Neonatal Intensive Care Services patient days by level of care for the period October 1, 1987 through September 30, 1988.~~

(f) ~~Providers Not Authorized Under Certificate of Need, Construction Document Approval, or Licensure Provisions. Providers claiming to have provided Level II or Level III Neonatal Intensive Care Services prior to October 1, 1987, and continuously since then, but which were not authorized by Certificate of Need or construction document approval consistent with paragraph (14)(a) or by license consistent with paragraph (14)(b), will be authorized to provide Level II or Level III Neonatal Intensive Care Services provided the conditions of subparagraphs (14)(f)1. or (14)(f)2., below, are met.~~

~~1. A provider will be deemed to have had operational Level II Neonatal Intensive Care Services prior to October 1, 1987, if Level II Neonatal Intensive Care Services were being provided on or before September 30, 1987, under the direction of a neonatologist or a group of neonatologists who were on the active staff of the hospital with unlimited privileges and provided 24 hour coverage, and who were either board certified or board eligible in neonatal perinatal medicine.~~

~~2. A provider will be deemed to have had operational Level III Neonatal Intensive Care Services prior to October 1, 1987 if:~~

~~a. Level III Neonatal Intensive Care Services were being provided on or before September 30, 1987, under the direction of a neonatologist or a group of neonatologists who were on the active staff of the hospital with unlimited privileges and provided 24 hour coverage, and who were either board certified or board eligible in neonatal perinatal medicine; and,~~

~~b. The provider submits documentation that for the period October 1, 1986 through September 30, 1987, at least one of the following was true:~~

~~(I) The average length of stay for all Neonatal Intensive Care Services patients, regardless of reported Level II or III status, was at least 10 days; or~~

~~(II) At least 5 percent of all neonates admitted to Neonatal Intensive Care Services, regardless of reported Level II or Level III status, weighed less than 1000 grams at birth; or~~

~~(III) At least 50 percent of all neonates admitted to Neonatal Intensive Care Services, regardless of reported Level II or Level III status, were classified into Diagnosis Related Groups (DRGs) 385, 386, 387 or 388.~~

~~(g) Neonatal Intensive Care Unit Beds Authorized for Providers Not Having Previous Approval. For providers deemed to have been providing Level II or Level III Neonatal Intensive Care Services consistent with the provisions of paragraph (14)(f) above, the number of authorized Level II or Level III neonatal intensive care unit beds on October 1, 1988 will be determined consistent with the formula in paragraph (14)(c) above, except that in all cases the number of beds authorized for Level II Neonatal Intensive Care Services or Level III Neonatal Intensive Care Services will be at least five.~~

~~(h) Licensing of Authorized Neonatal Intensive Care Unit Beds. The number of neonatal intensive care unit beds authorized by this subsection shall be included in the facility's acute care bed complement and shall not increase the total number of licensed hospital beds.~~

~~(i) Time Limit for Compliance With the Provisions of this rule. Facilities authorized to provide Level II or Level III Neonatal Intensive Care Services under the provisions of this subsection shall have 1 year subsequent to the effective date of this rule to come in compliance with the provisions specified in subsections (8), (9), (10), (11) and (12).~~

~~(15) Inventorying Process of Level II and Level III Neonatal Intensive Care Services. The Agency shall notify all hospitals providing obstetrical services and specialty children's hospitals by mail and through publication in the Florida Administrative Register of its intent to file this rule. Providers claiming to operate Neonatal Intensive Care Services as defined by this rule shall provide the Agency with documentation as specified in paragraph (14)(e), within 45 days of the publication of this rule in the Florida Administrative Register. The Agency shall publish a preliminary inventory in the Florida Administrative Register of all facilities with authorized Neonatal Intensive Care Services based on the provisions of paragraphs (14)(a) through (14)(g). Providers shall have 21 days after the initial publication of the inventory to contest the inventory. Subsequent to the resolution of any issues pertaining to the authorization to provide Neonatal Intensive Care Services the Agency shall publish a final inventory. Hospitals without authorization shall not provide Level II or Level III Neonatal Intensive Care Services.~~

~~(16) Providers Required to Apply for a Certificate of Need. Providers who did not have authorized Level II or Level III Neonatal Intensive Care Services as of September 30, 1987, and continuously operated Level II or Level III Neonatal Intensive Care Services since October 1, 1987, as determined by the Agency under this rule shall be subject to Certificate of Need review.~~

Rulemaking Authority 408.034(3), (8), 408.15(8) FS. Law Implemented 408.032(17), 408.034(3), 408.035, 408.036(1)(f), 408.039(4)(a) FS. History—New 1-1-77, Amended 11-1-77, 6-5-79, 4-24-80, 2-1-81, 4-1-82, 11-9-82, 2-14-83, 4-7-83, 6-9-83, 6-10-83, 12-12-83, 3-5-84, 5-14-84, 7-16-84, 8-30-84, 10-15-84, 12-25-84, 4-9-85, Formerly 10-5.11, Amended 6-19-86, 11-24-86, 1-25-87, 3-2-87, 3-12-87, 8-11-87, 8-7-88, 8-28-88, 9-12-88, 4-19-89, 10-19-89, 5-30-90, 7-11-90, 8-6-90, 10-10-90, 12-23-90, Formerly 10-5.011(1)(v), 10-5.042, Amended 1-4-93, 8-24-93, 2-22-95, 4-10-96, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Marisol Fitch

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Justin M. Senior

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 11/22/2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: 6/14/2016

DEPARTMENT OF HEALTH

Council of Licensed Midwifery

RULE NO.: RULE TITLE:

64B24-2.001 Licensure to Practice Midwifery

PURPOSE AND EFFECT: To provide for elimination of the medical errors training requirement and to allow a 6 month delay for good cause to complete the HIV/AIDS training

course and to amend the application forms accordingly, as required by recently enacted legislation.

SUMMARY: The rule is being amended to amend the license application forms to reflect recently enacted legislation which removes the medical errors training requirement and allows an applicant 6 months to complete the HIV/AIDS training course for good cause shown as required by recently enacted legislation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based on the SERC checklist, this rulemaking will not have an adverse impact or regulatory costs in excess of \$1 million within five years as established in s. 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: 409.908(12)(c), 456.004(5), 456.013, 467.005, 467.0135, FS.

LAW IMPLEMENTED: 381.0034, 409.908(12)(c), 456.013, 456.048, 456.0635, 456.065, 467.011, 467.0125, 467.017, 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: Kama Monroe, Executive Director, 4052 Bald Cypress way, Bin #C-06, Tallahassee, FL 32399, (850)245-4162 or Kama.Monroe@FlHealth.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-2.001 Licensure to Practice Midwifery.

(1) Applications for a midwife license by examination or endorsement shall be submitted to the department on incorporated by reference Form DH-MQA 1051 (07/2016); (08/2015), Application for Midwifery Licensure, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-06540>.

- (2) Applicants must demonstrate that they:
 - (a) through (b) No change.

(c) Have completed a one-hour educational course on HIV/AIDS that meets the substantive specifications set forth in Section 381.0034, F.S., as it pertains to the practice of midwifery, unless an affidavit showing good cause has been submitted allowing the applicant 6 months to complete the course;

(d) through (e) No change.

Rulemaking Authority 409.908(12)(c), 456.004(5), 456.013, 467.005, 467.0135 FS. Law Implemented 381.0034, 409.908(12)(c), 456.013, 456.048, 456.0635, 456.065, 467.011, 467.0125, 467.017 FS. History—New 1-26-94, Formerly 61E8-2.001, 59DD-2.001, Amended 10-29-02, 12-26-06, 2-7-08, 5-17-09, 8-10-10, 4-26-16, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kama Monroe

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Celeste Philip. MD, MPH, Surgeon General and Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 23, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 18, 2016

Section III
Notice of Changes, Corrections and
Withdrawals

NONE

Section IV
Emergency Rules

NONE

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

NOTICE IS HEREBY GIVEN that on December 12, 2016, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an Emergency Variance for subsection 61C-4.010(7) Florida Administrative Code and subsection 61C-4.010(6), Florida Administrative Code, from Montoya

Holdings Inc. located in Hialeah. The above referenced F.A.C. addresses the requirement that at least one accessible bathroom be provided for use by customers. They are requesting to share the bathrooms located within a nearby establishment under a different ownership for use by customers only.

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

A copy of the Petition for Variance or Waiver may be obtained by contacting: Daisy.Aleman@myfloridalicense.com, Division of Hotels and Restaurants, 2601 Blair Stone Road, Tallahassee, Florida 32399-1011.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-711.500 Waste Tire Site Notification and Requirements

The Department of Environmental Protection hereby gives notice:

That it has issued an order on December 13, 2016, granting E.A. Tires International Corp's Petition for a Waiver. The Petition was received on September 14, 2016. Notice of receipt of this Petition was published in the Florida Administrative Register on September 19, 2016. The petition requested a waiver from paragraph 62-711.500(3)(a), F.A.C., which requires that owners and operators of waste tire sites provide financial assurance in the amount of the closing cost estimate for the facility. No public comment was received. The Order, file number SWVA 16-4 and OGC 16-1282, granted the Petition to paragraph 62-711.500(3)(a), F.A.C., based on a showing that Petitioner demonstrated that a strict application of the rule would result in substantial hardship to Petitioner or would affect Petitioner differently than other similarly situated applicants and because Petitioner demonstrated that the purpose of the underlying statute will be or has been achieved by other means.

A copy of the Order or additional information may be obtained by contacting: Department of Environmental Protection, Solid Waste Section, Mail Station 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, Attn: Cory Dilmore, (850)245-8735, email: cory.dilmore@dep.state.fl.us during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays.

Section VI

Notice of Meetings, Workshops and Public Hearings

REGIONAL PLANNING COUNCILS

Northeast Florida Regional Planning Council

The Northeast Florida Regional Council announces a public meeting to which all persons are invited.

DATE AND TIME: January 5, 2017, 8:30 a.m. Affordable Housing Ad-Hoc Committee; 10:00 a.m., Executive Committee.

PLACE: 100 Festival Park Avenue, Jacksonville, FL 32202

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Committee Meeting.

A copy of the agenda may be obtained by contacting: (904)279-0880.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: (904)279-0880. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF HEALTH

Board of Dentistry

The Department of Health, Board of Dentistry, will hold a general business meeting to which all persons are invited.

DATE AND TIME: February 17, 2017, 7:30 a.m. ET

PLACE: Rosen Plaza Hotel, 9700 International Drive, Orlando, Florida 32819, (407)996-9700

PURPOSE: To conduct general board business.

A copy of the agenda may be obtained by visiting www.floridasdentistry.gov. If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be made. Those who are hearing impaired, using TDD equipment can call the Florida Telephone Relay System at 1(800) 955-8771. Persons requiring special accommodations due to disability or physical impairment should contact the Board Office at (850)245-4474.

DEPARTMENT OF HEALTH

Board of Nursing

The Board of Nursing announces a telephone conference call to which all persons are invited.

DATE AND TIME: December 27, 2016, 10:00 a.m.

PLACE: **Toll Free Number: 1(888)670-3525, 2681213003 (Public)

GENERAL SUBJECT MATTER TO BE CONSIDERED: To consider cases where Probable Cause has previously been found.

A copy of the agenda may be obtained by contacting: <http://floridasnursing.gov/meeting-information/>

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: <http://floridasnursing.gov/meeting-information/>. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

Section VII Notice of Petitions and Dispositions Regarding Declaratory Statements

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

NOTICE IS HEREBY GIVEN that the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Donald H. Johnson, In Re: Wells Landing Homeowners Association, Docket No. 2016055382, filed on November 23, 2016. The petition seeks the agency’s opinion as to the applicability of Section 718.112(2)(a)1. and Section 720.306(9)(a), Florida Statutes, as it applies to the petitioner.

Whether the Association is required to elect five board members pursuant to Section 718.112(2)(a)1., Florida Statutes, or elect the number of board members provided for in the Association’s governing documents pursuant to Section 720.306(9)(a), Florida Statutes?

A copy of the Petition for Declaratory Statement may be obtained by contacting: Danielle Walker, Administrative Assistant II, at Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030, (850)717-1539, Danielle.Walker@myfloridalicense.com.

Please refer all comments to: Robin E. Smith, Chief Attorney, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202. Responses, motions to intervene, or requests for an agency hearing, §120.57(2), Fla. Stat., must be filed within 21 days of this notice.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

NOTICE IS HEREBY GIVEN that The Florida Real Estate Commission has issued an order disposing of the petition for declaratory statement filed by RedWeek Real Estate LLC on September 01, 2016. The following is a summary of the agency’s disposition of the petition:

The Notice of Petition for Declaratory Statement was published in Vol. 42, No. 180, of the September 15, 2016 Florida Administrative Register. The Commission considered the Petition at a duly-noticed public meeting on October 18, 2016. The Petition sought the Commission’s interpretation of Sections 475.25(1)(h), F.S., and further sought an opinion on whether Petitioner may share a real estate brokerage commission resulting from the sale of a timeshare with a company located and properly licensed to do business in Thailand. The Commission grants the petition because: the Commission finds that the Petitioner may legally share a commission with the Thai broker.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Lori Crawford, Executive Director, Division of Real Estate, 400 West Robinson Street, Suite N801, Orlando, Florida 32801.

Section VIII Notice 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 has been filed with the Division of Administrative Hearings on the following rules:

NONE

Section IX Notice of Petitions and Dispositions Regarding Non-rule Policy Challenges

NONE

Section X Announcements and Objection Reports of

the Joint Administrative Procedures Committee

NONE

Section XI Notices Regarding Bids, Proposals and Purchasing

NONE

Section XII Miscellaneous

DEPARTMENT OF HEALTH Board of Massage Therapy

Emergency Action

On December 12, 2016, the State Surgeon General issued an Order of Emergency Restriction Order with regard to the license of Robert L. Lindelof, L.M.T., License # MA 70155. This Emergency Restriction Order was predicated upon the State Surgeon General’s findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6) Florida Statutes (2016). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF ECONOMIC OPPORTUNITY Division of Community Development Final Order No. DEO-16-232

In re: A LAND DEVELOPMENT REGULATION ADOPTED BY CITY OF APALACHICOLA, ORDINANCE NO. 2016-01

FINAL ORDER APPROVING APALACHICOLA ORDINANCE NO. 2016-01

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to sections 380.05(6) and 380.0555(9), Florida Statutes, approving land development regulations adopted by the City of Apalachicola, Ordinance No. 2016-01 (the “Ordinance”).

FINDINGS OF FACT

1. The Apalachicola Bay Area is designated by section 380.0555, Florida Statutes, as an area of critical state concern. The City is within the Apalachicola Bay Area.

- 2. The Ordinance was adopted by the City on April 5, 2016, and rendered to the Department on November 9, 2016.
3. The Ordinance amends the City’s Land Development Regulations to establish minimum architectural, aesthetic, and safety standards for single-family dwelling units, except those located in the R-3 zoning district.

CONCLUSIONS OF LAW

- 4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. See sections 380.05(6) and 380.0555(9), Florida Statutes.
5. The City, is a local government within the Apalachicola Bay Area of Critical State Concern. See section 380.0555, Florida Statutes.
6. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.
7. The Ordinance is consistent with the City of Apalachicola’s Comprehensive Plan generally, and specifically Future Land Use Element Policy 2.1; Housing Element Objectives 1B and 7; and Historic Preservation Element Objective 1 as required by section 163.3177(1), Florida Statutes.
8. All land development regulations enacted, amended, or rescinded within an area of critical state concern must also be consistent with the principles for guiding development for that area. See sections 380.05(6) and 380.0555(9), Florida Statutes. The Principles for Guiding Development (Principles) for the Apalachicola Bay Area of Critical State Concern are set forth in section 380.0555(7), Florida Statutes.
9. The Ordinance is consistent with the Principles, as a whole, and is specifically consistent with the following Principle: (b) Land development shall be consistent with a safe environment, adequate community facilities, a superior quality of life, and a desire to minimize environmental hazards.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Apalachicola Ordinance No. 2016-01 is consistent with the City of Apalachicola’s Comprehensive Plan and the Principles for Guiding Development for the Apalachicola Bay Area of Critical State Concern and is hereby APPROVED.

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

DONE AND ORDERED in Tallahassee, Florida.

/s/

Taylor Teepell, Director
Division of Community Development
Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES.

FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO RULES 28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.

DEPENDING ON WHETHER OR NOT MATERIAL FACTS ARE DISPUTED IN THE PETITION, A HEARING WILL BE CONDUCTED PURSUANT TO EITHER SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, OR SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES.

ANY PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK

DEPARTMENT OF ECONOMIC OPPORTUNITY
OFFICE OF THE GENERAL COUNSEL
107 EAST MADISON ST., MSC 110
TALLAHASSEE, FLORIDA 32399-4128
FAX: (850)921-3230

YOU WAIVE THE RIGHT TO ANY ADMINISTRATIVE PROCEEDING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 CALENDAR DAYS OF THE FINAL ORDER BEING PUBLISHED IN THE FLORIDA ADMINISTRATIVE REGISTER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 13th day of December, 2016.

/s/

Agency Clerk
Department of Economic Opportunity
107 East Madison Street, MSC 110
Tallahassee, FL 32399-4128

By Certified U.S. Mail:
The Honorable Van W. Johnson, Sr., Mayor
Recreation & Community Service Complex
192 Coach Wagoner Boulevard, Suite 1

Apalachicola, Florida 32320

Deborah Guillotte, City Clerk
Apalachicola City Hall
1 Avenue E.
Apalachicola, Florida 32320

Cindy Clark, City Planner
Apalachicola City Hall
1 Avenue E.
Apalachicola, Florida 32320

Lee Mathes, City Administrator
Apalachicola City Hall
1 Avenue E.
Apalachicola, Florida 32320

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development
Final Order No. DEO-16-241

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY ISLAMORADA, VILLAGE OF
ISLANDS, FLORIDA, ORDINANCE NO. 16-17

FINAL ORDER

APPROVING ISLAMORADA ORDINANCE NO. 16-17

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to sections 380.05(6) and 380.0552(9), Florida Statutes, approving land development regulations adopted by the Islamorada, Village of Islands, Florida, Ordinance No. 16-17 (the “Ordinance”).

FINDINGS OF FACT

1. The Florida Keys Area is designated by section 380.0552, Florida Statutes, as an area of critical state concern. Islamorada, Village of Islands, is a local government within the Florida Keys Area.
2. The Ordinance was adopted by Islamorada, Village of Islands, on October 13, 2016, and rendered to the Department on November 14, 2016.
3. The Ordinance amends the Islamorada, Village of Islands, Code of Ordinances to create a General Government Impact Fee category.

CONCLUSIONS OF LAW

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

5. Islamorada, Village of Islands, is a local government within the Florida Keys Area of Critical State Concern. *See* section 380.0552, Fla. Stat.
6. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.
7. The Ordinance is consistent with the Islamorada, Village of Islands, Comprehensive Plan generally, and specifically Goal 9-1, Objective 9-1.1, Policy 9-1.1.1, as required by section 163.3177(1), Florida Statutes.
8. All land development regulations enacted, amended, or rescinded within an area of critical state concern must also be consistent with the principles for guiding development for that area. *See* sections 380.05(6) and 380.0552(9), Florida Statutes. The Principles for Guiding Development for the Florida Keys Area of Critical State Concern are set forth in section 380.0552(7), Florida Statutes.
9. The Ordinance is consistent with the Principles for Guiding Development, as a whole, and is specifically consistent with section 380.0552(7)(a), Florida Statutes, "strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation."

WHEREFORE, IT IS ORDERED that the Department finds that the Islamorada, Village of Islands, Ordinance No. 16-17 is consistent with the Islamorada, Village of Islands, Comprehensive Plan and the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

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

DONE AND ORDERED in Tallahassee, Florida.

 /s/
 Taylor Teepell, Director
 Division of Community Development
 Department of Economic Opportunity

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES.

FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO RULES

28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.

DEPENDING ON WHETHER OR NOT MATERIAL FACTS ARE DISPUTED IN THE PETITION, A HEARING WILL BE CONDUCTED PURSUANT TO EITHER SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, OR SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES.

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AGENCY CLERK
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 OFFICE OF THE GENERAL COUNSEL
 107 EAST MADISON ST., MSC 110
 TALLAHASSEE, FLORIDA 32399-4128
 FAX: (850)921-3230

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CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 13th day of December, 2016.

 /s/
 Agency Clerk
 Department of Economic Opportunity
 107 East Madison Street, MSC 110
 Tallahassee, FL 32399-4128

By Certified U.S. Mail:
 The Honorable Deb Gillis, Mayor
 Islamorada, Village of Islands Council
 86800 Overseas Highway
 Islamorada, FL 33036

Kelly Toth, Clerk
 Islamorada, Village of Islands
 86800 Overseas Highway
 Islamorada, FL 33036

Cheryl Cioffari
 Director of Planning

86800 Overseas Highway
Islamorada, FL 33036

DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Community Development

Final Order No. DEO-16-233

In re: A LAND DEVELOPMENT REGULATION
ADOPTED BY ISLAMORADA, VILLAGE OF
ISLANDS, FLORIDA, ORDINANCE NO. 16-19

FINAL ORDER

APPROVING ISLAMORADA ORDINANCE NO. 16-19

The Department of Economic Opportunity (“Department”) hereby issues its Final Order, pursuant to sections 380.05(6) and 380.0552(9), Florida Statutes, approving land development regulations adopted by the Islamorada, Village of Islands, Florida, Ordinance No. 16-19 (the “Ordinance”).

FINDINGS OF FACT

1. The Florida Keys Area is designated by section 380.0552, Florida Statutes, as an area of critical state concern. Islamorada, Village of Islands, is a local government within the Florida Keys Area.
2. The Ordinance was adopted by Islamorada, Village of Islands, on October 13, 2016, and rendered to the Department on November 14, 2016.
3. The Ordinance amends the Islamorada, Village of Islands, Code of Ordinances to reduce the annual allocation of nonresidential floor area in the Village.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. *See* sections 380.05(6) and 380.0552(9), Florida Statutes.
5. Islamorada, Village of Islands, is a local government within the Florida Keys Area of Critical State Concern. *See* section 380.0552, Fla. Stat.
6. “Land development regulations” include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.
7. The Ordinance is consistent with the Islamorada, Village of Islands, Comprehensive Plan generally, and specifically Goal 1-3, Objective 1-3.1, Policy 1-3.1.1, as required by section 163.3177(1), Florida Statutes.
8. All land development regulations enacted, amended, or rescinded within an area of critical state concern must also be consistent with the principles for guiding development for that area. *See* sections 380.05(6) and 380.0552(9), Florida Statutes. The Principles for Guiding Development for the

Florida Keys Area of Critical State Concern are set forth in section 380.0552(7), Florida Statutes.

9. The Ordinance is consistent with the Principles for Guiding Development, as a whole, and is specifically consistent with section 380.0552(7)(a), Florida Statutes, “strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.”

WHEREFORE, IT IS ORDERED that the Department finds that the Islamorada, Village of Islands Ordinance No. 16-19 is consistent with the Islamorada, Village of Islands, Comprehensive Plan and the Principles for Guiding Development for the Florida Keys Area of Critical State Concern and is hereby APPROVED.

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

DONE AND ORDERED in Tallahassee, Florida.

/s/ _____

Taylor Teepell, Director
Division of Community Development
Department of Economic Opportunity

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TALLAHASSEE, FLORIDA 32399-4128

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/s/ _____

Agency Clerk

Department of Economic Opportunity

107 East Madison Street, MSC 110

Tallahassee, FL 32399-4128

By Certified U.S. Mail:

The Honorable Deb Gillis, Mayor
Islamorada, Village of Islands Council
86800 Overseas Highway
Islamorada, FL 33036

Kelly Toth, Clerk
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, FL 33036

Cheryl Cioffari
Director of Planning
86800 Overseas Highway
Islamorada, FL 33036

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.
