

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Becky Lyons, 1317 Winewood, Bldg. 1, Suite 303D, Tallahassee, FL 32399-0700, phone: (850)488-4110; email: becky_lyons@dcf.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Section II Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

STATE BOARD OF ADMINISTRATION

RULE NO.: 19-7.002
RULE TITLE: Investment Policy Guidelines

PURPOSE AND EFFECT: To adopt the revised Investment Policy Guidelines approved by the Trustees on July 28, 2009 and made effective July 1, 2009, reflecting the addition of information as to investment strategies, risks and other changes.

SUMMARY: Investment Policy Guidelines.

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

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

RULEMAKING AUTHORITY: 218.412 FS.

LAW IMPLEMENTED: 218.405(1), (2), (3), (4), 218.409(2), (9), 218.415(17) 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: Monday, October 19, 2009, 9:00 a.m. – 11:00 a.m.

PLACE: Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tina Joanos, Agency Clerk, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, FL 32308; (850)413-1197; tina.joanos@sbafl.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ruth A. Smith, Assistant General Counsel, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, FL 32308; (850)413-1182; ruth.smith@sbafla.com

THE FULL TEXT OF THE PROPOSED RULE IS:

19-7.002 Investment Policy Guidelines.

The Local Government Investment Pool (Non-Qualified) Investment Policy Guidelines, as approved by the Trustees of the State Board of Administration on July 28, 2009, and made effective July 1, 2009, are hereby adopted and incorporated by reference. The Investment Policy Guidelines may be obtained by contacting: State Board of Administration, 1801 Hermitage Blvd., Suite 100, Tallahassee, Florida 32308; Attn.: Local Government Investment Pool Program, or by accessing the sbafla.com website, and clicking on the Florida PRIME heading under the Related Websites section.

Rulemaking Authority 218.412 FS. Law Implemented 218.405(1), (2), (3), (4), 218.409(2), 218.409(9), 218.415(17) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: James Francis

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Trustees of the SBA

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 24, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-103.005
RULE TITLE: Informal Grievance

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide consistency with changes to Form DC6-236, Inmate Request. Form DC6-236, incorporated by reference in Rule 33-103.019, F.A.C., is being amended to include a box that can be checked to indicate its use as an Informal Grievance; as a result, the proposed rule is amended to remove language specifically requiring an inmate to write this information on the form.

SUMMARY: The proposed rule provides consistency with changes to Form DC6-236, incorporated by reference in Rule 33-103.019, F.A.C., which is being amended to include a box that can be checked to indicate its use as an Informal Grievance. Consequently, language specifically requiring that an inmate write this information on the form is eliminated. The proposed rule also adds language regarding the time limit for filing a formal grievance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-103.005 Informal Grievance.

(1) No change.

(2) When submitting an informal grievance, the inmate shall use Form DC6-236, Inmate Request, and shall:

(a) No change.

(b) ~~On top of the page, or on the same line reading as the word "Request", or on the first line of the request section~~ the inmate shall check the box to indicate that Form DC6-236 is being used as an ~~print the words "Informal Grievance"~~. Failure to do this will cause the request to be handled routinely and it will not be considered an informal grievance. This will also cause the form to be unacceptable as documentation of having met the informal step if it is attached to a formal grievance submitted at the next step.

1. No change.

2. When completing the inmate request form for submission as an informal grievance, the inmate shall ensure that the form is legible, that included facts are accurately stated, and that only one issue or complaint is addressed. If additional space is needed, the inmate shall use attachments and not multiple copies of Form DC6-236. The inmate shall sign and date the form and write in his Department of Corrections number and forward the informal grievance to the designated staff person. If an inmate fails to sign his grievance,

it shall result in a delay in addressing the grievance until it can be verified that it is that inmate's grievance. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(3) No change.

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

(d) The response to the informal grievance shall include the following statement, or one similar in content and intent if the grievance is denied: You may obtain further administrative review of your complaint by obtaining form DC1-303, Request for Administrative Remedy or Appeal, completing the form as required by Rule 33-103.006, F.A.C., attaching a copy of your informal grievance and response, and forwarding your complaint to the warden or assistant warden no later than 15 days after receipt of this response. If the 15th day falls on a weekend or holiday, the due date shall be the next regular work day.

(5) No change.

~~Rulemaking Specific~~ Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, Amended 1-15-92, 12-22-92, 3-30-94, 4-17-94, 4-10-95, 8-10-97, 12-7-97, 2-17-99, Formerly 33-29.005, Amended 8-1-00, 2-9-05, 3-25-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Celeste Kemp, Chief of Inmate Grievance Appeals

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-208.003
 RULE TITLE: Range of Disciplinary Actions

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to explicitly include unauthorized use of Department weapons as a ground for disciplinary action.

SUMMARY: The proposed rule will explicitly include unauthorized use of Department weapons as a basis for disciplinary action.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 110.227, 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-208.003 Range of Disciplinary Actions.

Violations of the foregoing Rules of Conduct as well as other departmental and institutional policies will result in disciplinary actions, which may be by oral reprimand, written reprimand, suspension, reduction in pay, demotion or dismissal.

Any employee who feels that unjust disciplinary action such as an oral or written reprimand has been given has the right to submit a grievance as established by the grievance procedures of the Department of Corrections. For disciplinary actions involving, suspension, reduction in pay, demotion, or dismissal, permanent Career Service employees have the right to appeal to the Public Employees Relations Commission.

Violation of more than one rule shall be considered in the application of discipline and may result in greater discipline than specified for one offense alone.

Any questions regarding these rules and personnel procedures should be referred to the employee's circuit administrator, warden or Personnel

The preceding section titled Rules of Conduct and the following list of offenses and work deficiencies with their ranges of disciplinary actions will be used by this Department in administering an effective disciplinary program.

THE SEVERITY OF PENALTIES MAY VARY DEPENDING UPON THE FREQUENCY AND NATURE OF A PARTICULAR OFFENSE AND THE CIRCUMSTANCES SURROUNDING EACH CASE. WHILE THE FOLLOWING GUIDELINES ARE NOT A SUBSTITUTE FOR IMPARTIAL SUPERVISION AND EFFECTIVE MANAGEMENT, AND DO NOT SET ABSOLUTE MINIMUM AND MAXIMUM PENALTIES, IT IS EXPECTED THAT ALL SUPERVISORS WILL CONSIDER THEM IN REACHING DISCIPLINARY DECISIONS.

Offense or Deficiency	First Occurrence	Second Occurrence	Third Occurrence	Fourth Occurrence
(1) Gambling	Oral or Written Reprimand	Written Reprimand or up to 10 day Suspension	Up to 30 days Suspension or dismissal	Dismissal
(2) Horseplay or Fighting	Same	Same	Same	Same
(3) Loafing	Same	Same	Same	Same
(4) Tardiness (With a 2-month period)	Same	Same	Same	Same
(5) Excessive Absenteeism	Same	Same	Same	Same
(6) Malicious Use of Profane or Abusive Language Toward Inmates, Visitors, or Persons Under Supervision	Same	Same	Same	Same
(7) Absence Without Authorized Leave	Same	Same	Same	Same
(8) Unauthorized Distribution of Written or Printed Material of any Description	Same	Same	Same	Same
(9) Unauthorized Solicitations or Sales on DC Premises or While on Duty	Same	Same	Same	Same
(10) Substandard Quality and/or Quantity of Work	Same	Same	Same	Same
(11) Reporting to Work Improperly Dressed for Job Assignment	Same	Same	Same	Same
(12) Sleeping on Job	Written Reprimand, up to 30 days Suspension or Dismissal	Dismissal		
(13) Negligence	Same	Same		
(14) Revealing Confidential Information in DC records to unauthorized person	Same	Same		
(15) Possession of an Unauthorized Intoxicant, Narcotic, Barbiturate, Hallucinogenic drug, Central nervous system stimulant, Weapon or Firearm on DC Property	Same	Same		

(16*) Reporting to Work under the Influence of an Intoxicant, Narcotic, Barbiturate, Hallucinogenic drug, or Central nervous system stimulant	Same	Same		
(17*) Drinking an Intoxicant or using a Narcotic, Barbiturate, Hallucinogenic drug, or Central nervous system stimulant on the job	Same	Same		

*The Governor and Cabinet by Resolution adopted July 17, 1973, have established the State Policy on Alcoholism which recognized alcoholism as treatable illness, a medical and public health problem and an employment problem. When an employee drinks to the extent that it affects his or her work performance, the employee is a problem drinker. As with any health liability, alcoholism is of serious concern to the employee and employer alike. Therefore, it is the policy of this state to recognize alcoholism as a disease. The Career Service

Personnel Rules and Regulations (Rule 60K-4.010, F.A.C.) requires that a dismissal action taken against an employee for habitual drunkenness shall be in accordance with the State Policy on Alcoholism as adopted by the Administration Commission and the guidelines issued by the Secretary of Administration.

(18) Failure to maintain direct (sight) supervision of assigned medium, close or maximum custody inmates while outside the institution security perimeter	Written Reprimand, up to 30 days of Suspension or Dismissal	Dismissal
(19) Leaving the Assigned Work Station without Authorization	Same	Same
(20) Use of Corporal Punishment, Verbal or Physical Abuse of an Inmate	Same	Same
(21) Falsification of Forms or Records	Same	Same
(22) Conduct Unbecoming a Public Employee	Same	Same
(23) Stealing DC Property, Property of an Inmate Visitor or Employee	Same	Same
(24) Willful Violation of Rules, Regulations, Directives or Policy Statements	Same	Same
(25) Unauthorized Use of DC Equipment, or Property, or Weapons	Same	Same
(26) Insubordination	Same	Same
(27) Destruction or Abuse of DC Property or Equipment	Same	Same
(28) Destruction of Evidence or Giving False Testimony	Written Reprimand, up to 30 days Suspension or Dismissal	Dismissal
(29) Unlawfully Obtaining Money from or on behalf of an Inmate or Person under Supervision	Same	Same
(30) Failure to Report and Turn in Without Delay all Property Found, Seized, or Taken Officially	Same	Same
(31) Failure to Submit to a Required Physical Exam	Same	Same
(32) Failure to follow Oral or Written Instructions	Same	Same
(33) Abuse of Sick Leave Privileges	Same	Same
(34) Careless or Unsafe Handling of Firearms or Other Weapons	Same	Same
(35) Cowardice	Same	Same

(36) Failure to report for duty when instructed to do so in time of emergency or potential emergency	Same	Same
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Rulemaking Specific Authority 944.09 FS. Law Implemented 110.227, 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47 FS. History--New 10-8-76, Formerly 33-4.03, Amended 1-30-96, Formerly 33-4.003, Amended 8-5-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Glory Parton, Director of Human Resources
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-602.210
 RULE TITLE: Use of Force

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to: clarify the scope of the rule; specify the type of information that should be stated on camera after a spontaneous use of force; specify the circumstances under which electronic immobilization devices may or may not be used; clarify the circumstances under which chemical agents may be used; outline the procedures that should be followed after the use of chemical agents; and add storage, issuance, and safety provisions.

SUMMARY: The proposed rule specifies the procedures to be used in the event of a spontaneous use of force, clarifies the circumstances under which chemical agents may be used, lays forth the procedures that must be followed after the use of chemical agents, specifies additional storage, issuance, and safety provisions, and generally clarifies the scope of the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 776.07, 944.09, 944.35 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.210 Use of Force.

(1) Except as otherwise provided by law or Department rules, employees are prohibited from using force on anyone other than an inmate, or in any manner not expressly authorized herein.

~~(2)(1)~~ Non-deadly Force. This subsection applies only to non-deadly levels of force; use of deadly force is addressed in subsections (3) and (4) ~~(2) and (3)~~. In accordance with Section 944.35, F.S., employees are authorized to apply physical force only when and to the degree that it reasonably appears necessary in order to:

(a) ~~To~~ Defend himself or another against an inmate using unlawful force;

(b) ~~To~~ Prevent the escape from a state correctional institution or facility of an inmate or aid in the recapture of an escaped inmate;

(c) ~~To~~ Prevent the escape of an inmate during transporting or while outside a correctional institution or facility;

(d) ~~To~~ Prevent damage to property;

(e) ~~To~~ Quell a disturbance;

(f) ~~To~~ Overcome an inmate's physical resistance to a lawful command;

(g) ~~To~~ Prevent an inmate from inflicting further injury to himself (suicide attempt); or

(h) ~~To~~ Restrain the inmate when ordered to allow medical treatment in accordance with the provisions of subsection (13)(12) of this rule.

(3)(2) Use of Deadly Force – For the purposes of this rule, deadly force refers to force that is likely to cause death or great bodily harm. A correctional officer is authorized to use deadly force only when the officer believes that such force is necessary to prevent imminent death or great bodily harm to himself or another.

~~(4)(3)~~ Use of Deadly Force to Prevent Escape or to Recapture Escapee. Generally, correctional officers are authorized to use force, including deadly force, as necessary to prevent the escape of an inmate from a penal institution.

(a) Escape attempts from inside an institutional perimeter where armed perimeter staff are assigned:

1. In institutions that have a double fence, where time permits, a verbal warning to halt shall be given before the inmate touches the inner fence. Time permitting, a warning shot shall then be fired before the inmate begins to pass over, through or under the inner fence. The firearm shall not be fired at the inmate until he has begun to pass over, through or under the inner fence.

2. In institutions that have a single fence, and time permitting, a verbal warning will be given to halt and a warning shot will be fired before the inmate reaches the perimeter fence. The firearm shall not be fired at the inmate until he has begun to pass over, through or under the fence.

3. Warning shots are only authorized as provided in subparagraphs ~~(4)(a)1.~~ ~~(3)(a)1.~~ and 2. above. In all other instances where deadly force is authorized during inmate escape attempts, a verbal warning shall be issued if time and circumstances permit.

(b) Apprehension of escaped inmates once they are outside an institutional perimeter.

1. Correctional officers are considered to be in active pursuit of an inmate who has escaped from an institution or supervised work squad so long as the escape commander determines that the escape recovery efforts are active. When the inmate has refused a verbal order to stop, the correctional officer is authorized to use deadly force to stop the inmate, once the officer has clearly identified the individual as the escaped inmate and is sure of the target and what lies beyond.

2. Once the escape commander determines that immediate recapture efforts are over, recapture becomes a law enforcement agency function and department staff only provide assistance to local law enforcement. Correctional officers who are utilized to assist outside law enforcement agencies are authorized to use deadly force only in self defense or to defend others against deadly use of force.

3. When an inmate fails to return from a furlough or non-supervised outside assignment or escapes from a department work release center or a contract work release center, recapture is a law enforcement agency function and department staff only provide assistance to local law enforcement. Correctional officers who are utilized to assist outside law enforcement agencies are authorized to use deadly force only in self defense or to defend others against deadly use of force.

(c) Escape attempts by inmates while being transported or escorted outside institutional perimeters, e.g., court appearances, hearings and medical visits, or while being supervised while in a hospital for treatment. Deadly force is only authorized in accordance with paragraph ~~(2)(c)~~ ~~(1)(e)~~, when the officers are in immediate active pursuit of the escapee. The escape commander will determine when the period of active pursuit has ended. At this point, involvement by correctional officers will be limited to assisting law enforcement officers and deadly force is only authorized for self defense or to defend others against deadly use of force.

~~(5)(4)~~ Physical force shall be employed only as a last resort when it reasonably appears that other alternatives are not feasible to control the situation and will not be used solely in response to verbal abuse that does not rise to a level of a disturbance. When the use of force is justified, only that amount and type of force that reasonably appears necessary to

accomplish the authorized objective shall be used. Utilization of the custodial touch, with the hand firmly grasped around the inmate's tricep or elbow, during internal transport of restrained inmates shall not be considered a use of force when the transport hold is for the safety of the inmate and resistance is not met.

(a) All authorized use of force incidents will be video recorded.

(b)1. The administration of chemical agents on an inmate creating a disturbance in his or her cell when the officer is attempting to resolve the situation without extracting the inmate from the cell will also be video recorded. The video recording will include: a specific introductory statement, including the date and time, the names and ranks of the supervisor present and the camera operator, and the name and DC number of the inmate; the attempts to resolve the situation without the use of chemical agents; the final order by the supervisor; an advisement to the inmate that chemical agents will be administered if he or she continues the disruptive behavior; an additional advisement to the inmate that this warning will not be repeated prior to the application of chemical agents should he or she become disruptive again after the supervisor, camera and camera operator have left the area; and any response made by the inmate. The video recording will also include the actual application of chemical agents, the offer of a decontaminating shower and medical examination, and the inmate's return to a secure, decontaminated cell. Should the inmate refuse the shower for decontamination purposes or refuse the medical examination, both the staff providing the opportunity in each case and the inmate's responses will be recorded.

2. If, during the same shift, the inmate should cease the conduct creating the disturbance while the supervisor, camera and camera operator are present, but resume such conduct after the supervisor, camera and camera operator have left the area, videotaping of the actual application of the chemical agents is not required. The department will defer to the judgment of the supervisor as to whether the reintroduction of the camera and operator at the scene of the disruptive conduct to videotape the actual application of the chemical agents will be counterproductive to his or her efforts to regain control of the situation. If the determination is made to return the camera and operator to the scene, the warning that chemical agents will be administered if he or she continues the disruptive behavior and application of the chemical agents will be recorded. If the determination is made not to videotape the actual application of the chemical agents, the original video recording will resume following the final exposure to chemical agents, include a statement referring to the originating incident, and continue from this point until the decontaminating shower and medical examination are offered and the inmate is returned to secure, decontaminated housing.

3. If a different supervisor takes command of the incident due to shift change or other circumstances in which there is a staff change, a new video recording will be initiated and the requirements in 1. and 2. above will be repeated.

(c) All spontaneous use of force incidents will be videotaped from the point the video camera operator arrives at the scene. Videotaping shall continue uninterrupted until the incident is under control, the involved inmate is escorted to medical, and the inmate is subsequently returned to secure housing. At the conclusion of the recording of such incidents, the shift supervisor or designee shall provide an on-camera statement including as much of the following information as is available at the time:

1. Date and time;

2. His or her name and rank;

3. The name and rank of the camera operator;

4. The inmate's name and DC number;

5. A brief summary of the events leading up to the use of force;

6. The names and ranks of all involved staff members.

(d) Videotaping of post use of force medical exams shall be done in such a manner as to provide the privacy needed for the exam. If it is necessary to transport the inmate to an outside facility for treatment or to another department facility for secure housing purposes, videotaping shall continue until the inmate is loaded and secured in the transport vehicle.

~~(6)(5)~~ There shall be no corporal punishment of any kind. Handcuffs, leg irons and other such devices shall be used only for restraint, and not for punishment.

~~(7)(6)~~ The provisions of this rule shall be incorporated into the Department of Corrections' use of force training curriculum.

~~(8)(7)~~ The warden or, in his absence, the duty warden will be consulted and give her or his permission prior to use of physical force. In spontaneous use of force incidents when circumstances do not permit prior approval, the warden or, in his absence, the duty warden will be notified immediately following any use of force incident. Whenever force is authorized, the employee who was responsible for making the decision to use force pursuant to subsection ~~(2)(4)~~ shall prepare, date and sign Form DC6-232, Authorization for Use of Force Report, either during, or immediately after, the tour of duty when force was used. If the authorization for force is given after normal working hours, the person authorizing the force shall complete and sign Form DC6-232 within one working day (Monday through Friday) following the incident. Form DC6-232 is incorporated by reference in subsection ~~(25)(22)~~ of this rule.

~~(9)(8)~~ Whenever force is used the employee initially using force shall complete Form DC6-230, Institutions Report of Force Used, and the completed form shall include a detailed written report of force used. If more than one employee was involved in the initial use of force, the highest ranking official

involved or the most senior employee shall complete the report. Each additional employee involved in the use of force who agrees with the facts and circumstances as reported on Form DC6-230 Section I shall prepare Form DC6-231, Institutions Report of Force Used Staff Supplement. The report shall describe in detail the type and amount of force used by him or her. Each employee shall individually write his or her own report, then submit the completed report to the clerical personnel designated by the warden to type all the reports onto one form to be signed by each employee. Any additional employee who does not agree with the facts and circumstances as reported in Form DC6-230 Section I shall prepare a separate Form DC6-230, Institutions Report of Force Used. Forms DC6-230 and DC6-231 are incorporated by reference in subsection ~~(25)(22)~~ of this rule.

~~(10)(9)~~ The Authorization for Use of Force Report and the Institutions Report of Force Used shall be completed by those staff involved either during or immediately after the tour of duty when force was used. If an emergency arises, the warden may authorize the employee to complete the reports immediately upon his return on the next calendar day. Barring such an emergency, all reports must be typed and submitted to the warden or acting warden within 1 working day (Monday through Friday) following the incident.

~~(11)(10)~~ The warden or acting warden shall immediately conduct a preliminary review of the video tape(s) and all associated reports for signs of excessive force or procedural deviation. If signs of excessive force or procedural deviation are noted by the warden or assigned inspector, she or he will notify the Office of the Inspector General directly, so that there is no undue delay in initiating an investigation. The warden shall then appoint a staff member of equal or higher rank than those involved in the use of force to collect all pertinent information and required documentation. This information will include the reports of all involved staff and the statements of staff witnesses, inmate witnesses, the inmate subject, and the completed Form DC1-813, Use of Force File Checklist. Form DC1-813 is incorporated by reference in subsection (25) of this rule. All inmate statements (subject and witnesses) shall be made in writing using Form DC6-112C, Witness Statement. Form DC6-112C is incorporated by reference in Rule 33-601.313, F.A.C. All employees who witness but do not participate in the use of force shall complete, Form DC6-210, Incident Report. Form DC6-210 is incorporated by reference in subsection ~~(25)(22)~~ of this rule. This process will be completed within 5 working days (Monday through Friday). The warden shall review the information and note any inappropriate actions. The warden shall review Form DC1-813, Use of Force File Checklist, and shall forward the videotape(s) and associated reports on the use of force and the warden's review to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Use of Force Unit within the Office of the Inspector General (OIG) within 5

working days. The Use of Force Unit within the OIG, following its review, will either approve the use of force action or disapprove it. If the Use of Force Unit finds that the use of force was appropriate, the OIG's written determination of the appropriateness of the force used and the reasons therefor, shall be forwarded to the circuit administrator or warden upon completion of the review. If the Use of Force Unit finds that the use of force was inappropriate, the OIG shall conduct a complete investigation into the incident and forward the findings of fact to the appropriate regional director. The OIG shall also advise the warden in writing of the reason for the disapproval so that the warden can take any needed corrective action. If employee disciplinary action appears warranted, the warden shall prepare Form DC6-296, Disapproved Use of Force/Disposition Report, and forward the materials to the service center employee relations supervisor. Form DC6-296 is incorporated by reference in subsection ~~(25)(22)~~ of this rule. The warden shall document all corrective action taken. Copies of the employee's report, the warden's summary and the inspector general's review and determination shall be kept in the inmate's file. Form DC2-802, Use of Force Log, shall be placed in every employee's personnel file. This form will be maintained by the servicing personnel office and shall contain a record of every report of use of force and staff supplement completed by the employee. The warden or his designee shall be responsible for submitting accurate information to the personnel office in order to maintain Form DC2-802. Any use of force reports completed prior to April 15, 1998 shall remain in the file. Form DC2-802 is incorporated by reference in subsection ~~(25)(22)~~ of this rule.

~~(12)(44)~~ Any employee who witnesses, or has reasonable cause to suspect, that an inmate has been unlawfully abused shall immediately prepare, date and sign Form DC6-210, Incident Report, pursuant to Section 944.35(3)(d), F.S., specifically describing the nature of the force used, the location and time of the incident and the persons involved. The report shall be delivered to the inspector general of the department with a copy delivered to the warden of the institution. The inspector general shall conduct an appropriate investigation and, if probable cause exists that a crime has been committed, notify the state attorney in the circuit in which the institution is located.

~~(13)(42)~~ Force or restraint may be used to administer medical treatment when ordered by a physician or clinical associate, and only when treatment is necessary to protect the health of other persons, as in the case of contagious and venereal diseases, or when treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death. The physician or clinical associate shall prepare Form DC6-232, Authorization for Use of Force Report, documenting the reasons that force or restraint was authorized. The physician's or clinical associate's report shall be attached to Form DC6-230, Institutions Report of Force Used, when actual force is used, or Form DC6-210, Incident Report, when

restraints are applied without the use of force as described above. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In all cases where physical force is used to manage an inmate, the inmate and any employee who is involved will be required to receive a medical examination or will sign Form DC4-711A, Refusal of Health Care Services, declining the examination. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Forms DC4-711A, DC4-701C and DC4-708 are incorporated by reference in subsection ~~(25)(22)~~ of this rule. When the use of four-point or five-point psychiatric restraints is authorized and the inmate does not offer resistance to the application of the restraints, the completion of Form DC6-230, Institutions Report of Force Used, or Form DC6-231, Institutions Report of Force Used Staff Supplement, will not be required. In these situations, where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped and Form DC6-210, Incident Report, will be completed. The videotape, the completed Incident Report, and the completed Form DC6-232, Authorization for Use of Force Report, will be forwarded to the warden or acting warden for review within one working day. The warden will forward the videotape and associated reports to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Office of the Inspector General, as outlined in subsection ~~(11)(40)~~ above, for review. If at any time prior to or during the application of the psychiatric restraints the inmate offers resistance to the application, the steps outlined in subsection ~~(9)(8)~~ above will be followed.

~~(14)(43)~~ The use of electronic immobilization devices (EIDs), batons, chemical agents, or specialty impact munitions within institutions shall be authorized only by the warden, or duty warden if the warden is not available. Batons shall be used only by trained baton squad members to disarm an inmate or during situations in which the squad has been activated to quell a disturbance. The decision to use chemical agents, specialty impact munitions, or authorized EIDs ~~electronic immobilization devices~~ shall be based on which level of force is most likely to resolve the situation with the least amount of injury to all parties involved. Hands-on physical force shall be avoided if injury is less likely to occur by using chemical agents, specialty impact munitions, or EIDs ~~electronic immobilization devices~~.

~~(15)(14)~~ Batons, chemical agents, EIDs ~~electronic immobilization devices~~, and specialty impact munitions shall not be used on inmates who are assigned to inpatient mental health care in an infirmary, transitional care unit, crisis stabilization unit, corrections mental health institution, or other mental health treatment facility, except when it appears reasonably necessary to:

(a) Prevent an inmate or inmates from taking control of the health unit, or to subdue a take-over of the health unit.

(b) Prevent an inmate or inmates from taking a hostage or to help free a hostage.

(c) Prevent an inmate or inmates from escaping.

(d) Stop an assault on staff or other inmates when other means of intervention are likely to be ineffective or pose a risk of injury to the intervening staff.

~~(16)(15)~~ Use of EIDs ~~electronic immobilization devices~~. EIDs shall not be used on anyone other than an inmate during an authorized use of force.

(a) EIDs ~~Electronic immobilization devices~~ authorized by the department include:

1. Handheld EIDs ~~Ultron II or Nova Sprit handheld~~, which shall be the intermediate level of force alternative, issued primarily for the purpose of transportation and supervision of inmates outside the institution;

2. Electronic ~~Ultron~~ ~~electronic~~ shields, which shall be primarily used by force cell extraction teams; and

3. Electronic restraint belts, which are ~~is~~ authorized ~~for use~~ for inmate court appearances and other transports of high profile or high-risk inmates.

(b) EIDs ~~Electronic immobilization devices~~ shall only be used by officers who have successfully completed the Department of Corrections' authorized training for these devices.

(c) EIDs shall be used only in the following circumstances:

1. After all reasonable efforts and lesser levels of force, especially verbalization, have been exhausted;

2. To prevent any unauthorized individual from taking possession of an officer's firearm;

3. To prevent an inmate from physically harming himself or others;

4. To prevent an inmate from escaping;

5. To prevent an inmate from taking a hostage or to help free a hostage;

6. In cell extractions, when it is determined that less injury will result than if other force alternatives are utilized; and

7. To gain control of an inmate so that the appropriate restraint devices can be applied.

(d)(e) EIDs ~~Electronic immobilization devices~~ shall be used in accordance with the manufacturer's specifications and limitations, and will not be:

1. Used to punish any inmate;

2. Employed into any large metal object;

3. Used in the presence of combustible materials;

4. Used if the officer's hand, the unit, or the inmate is wet;

5. Used on a female inmate who is known to be pregnant;

6. Applied to the head, genitals, female breasts (handheld unit), open wounds or stitches;

7. Used on people with known neuromuscular diseases;

8. Used on an inmate who is less than 80 pounds in weight (electronic shield);

9. Used against an inmate brandishing a handgun, firearm, or knife, except in life-threatening situations;

10. Used to threaten or gain information from an inmate;

11. Used on an inmate unless physical resistance has to be overcome;

12. Used to wake up a suspected intoxicated individual; or

13. Used as a prod.

(e)(d) If possible, the shift supervisor shall counsel with the inmate, issue the final order, and be present when EIDs ~~electronic immobilization devices~~ are used at the institution or facility.

(f)(e) When in a close management or confinement setting, prior to utilizing EIDs ~~electronic immobilization devices~~, the officer shall review Form DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, to determine whether the inmate has a medical condition which may be exacerbated by use of EIDs ~~electronic immobilization devices~~. If no form is available, and where time and circumstances permit, medical staff shall be consulted to determine if the inmate has any medical condition that would make the use of an EID ~~electronic immobilization device~~ dangerous to that inmate's health. Form DC4-650B is incorporated by reference in subsection ~~(25)(22)~~ of this rule.

(g)(f) Handheld EIDs ~~electronic immobilization devices~~ shall be issued to the unarmed officers on any inmate transport where firearms are issued, or on any outside hospital assignment where firearms are issued. The chief of security, or in his absence, the shift supervisor, shall determine the number of officers who will be issued firearms and EIDs ~~electronic immobilization devices~~ during such trips.

(h)(g) As soon as possible following each use of an EID, ~~electronic immobilization device~~ the inmate shall be afforded medical examination and treatment. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in subsection ~~(25)(22)~~ of this rule. Mental health staff shall evaluate the inmate not later than the next working day to determine whether a higher level of mental health care

(isolation management, transitional, or crisis stabilization) is indicated. For the purposes of this rule, the following definitions shall apply:

1. S-2 is the mental health classification denoting mild impairment in the ability to meet the ordinary demands of living within general inmate housing (which includes segregation), which impairment is associated with an Axis I disorder (excluding substance use disorders) or symptoms thereof, schizotypal personality disorder, borderline personality disorder, or mental retardation. The impairment in functioning is not so severe as to prevent satisfactory adjustment in general inmate housing, with provision of mental health services.

2. S-3 is the mental health classification denoting moderate impairment in the ability to meet the ordinary demands of living within general inmate housing, due to the presence of an Axis I disorder (excluding substance abuse disorders), borderline personality disorder, or schizotypal personality disorder. The impairment in functioning is not so severe as to prevent satisfactory adjustment in general inmate housing with provision of mental health services. Clinical management of the disorder may require at least periodic administration of psychotropic medication, of which the inmate may exercise his or her right to refuse.

~~(i)(4)~~ In any case where EIDs ~~electronic immobilization devices~~ are used, Form DC6-230, Institutions Report of Force Used, shall be prepared and shall include:

1. What precipitated the use of the device; and
2. To what extent it was used and what results were derived from its use.

~~(j)(4)~~ EIDs ~~Electronic immobilization devices~~ shall be stored and maintained in either the main arsenal or the control room mini-arsenal. The warden may authorize, in writing, the storage of one handheld unit and one shield in the confinement unit or close management unit. These devices shall be kept secured in a locked cabinet when not in use. The arsenal sergeant will be responsible for the proper documentation of the maintenance, storage, and issue of EIDs.

~~(k)(4)~~ All EIDs ~~electronic immobilization devices~~ shall be accounted for in the same manner as firearms.

~~(l)(4)~~ There shall be no attempt to alter, tamper with, or repair any EID ~~electronic immobilization device~~. If a unit malfunctions or needs repair, it shall be sent to an authorized repair station. If a unit requires attention, it shall not be issued until repaired. If a unit ~~any electronic immobilization device~~ is dropped or knocked out of the hand, it shall be immediately tested to determine if it is damaged or is operating properly. Repair will be conducted by authorized repair sources only.

~~(m)(4)~~ EIDs ~~Electronic immobilization devices~~ shall not be utilized after the application of any chemical agents.

~~(17)(46)~~ Use of Chemical Agents. Chemical agents shall not be used on anyone other than an inmate during an authorized use of force.

(a) The following chemical agents are authorized for use by the department:

1. OC – Oleoresin Capsicum (pepper spray) – An inflammatory agent that causes tearing and involuntary closing of the eyes, nasal discharge, sneezing, disorientation, and the sensation of respiratory distress.

a. OC is the primary chemical agent to be used for cell extractions and other in-cell, individual, use, unless circumstances exist as outlined in subparagraph 2. below.

b. OC shall be used only in the manner prescribed in department rules and procedures, consistent with manufacturer directions.

c. OC shall not be used in conjunction with any EID ~~electronic immobilization device~~.

2. CS – Orthochlorbenzal Malononitrile or Orthochlorobenzylidene Malononitrile – An irritant agent that causes eyes to burn and tear, nasal discharge, and skin and upper respiratory irritation.

a. CS shall be used for cell extractions and other in-cell, individual, use only when OC is ineffective and efforts to talk the inmate into cooperating have failed.

b. When documentation is available, e.g., Form DC6-230, Institutions Report of Force Used, to substantiate that the use of OC has in the past proven ineffective in controlling a specific inmate, the warden or duty warden has the option to authorize the use of CS as the initial/primary chemical agent.

c. CS is additionally authorized as the initial/primary chemical agent during in-cell applications in which the inmate has covered his person or fabricated a barrier in an effort to prevent direct contact with the chemical agent.

d. When CS is used as the initial/primary chemical agent the justification shall be listed in Section I of Form DC6-230, Institutions Report of Force Used.

e. CS shall be used only in the manner prescribed in department rules and procedures, consistent with manufacturer directions.

f. CS shall not be used in conjunction with any EID ~~electronic immobilization device~~.

3. CN – Chloroacetophene – An lacrimator agent that causes tearing of the eyes, nasal discharge, and skin and upper respiratory irritation.

a. CN projectiles, grenades and thermal foggers shall only be used for institutional disturbances and crowd control.

b. CN shall be authorized for use as set forth in sub-subparagraph a. above only until the expiration date of current stores, at which time CN is no longer authorized for use.

c. CN shall not be used in conjunction with any EID ~~electronic immobilization device~~.

(b) Chemical agents, OC, CN or CS, shall be used only after all other reasonable efforts to control a disorderly inmate or group of inmates have been exhausted. All chemical agents shall be used with caution.

(c) In controlled situations when time constraints are not an issue, chemical agents can only be used if authorized by the warden or, in his or her absence, the duty warden. Additionally, in accordance with paragraph (k) below, certified correctional staff will be pre-authorized to administer chemical agents in instances where chemical agents must be used for intervention in self-defense, i.e., when the officer believes that he or she is in imminent threat of bodily harm or that the use of chemical agents will prevent injury to other staff, visitors, volunteers or inmates.

(d) Except in cases of emergency, as determined by the warden or duty warden, chemical agents shall be employed only by persons trained in their use.

(e) Chemical agents shall never be used to punish an inmate.

(f) No inmate shall be removed from his assigned cell and placed into another cell for the purpose of administering chemical agents.

(g) No inmate shall be handcuffed solely for the purpose of administering chemical agents. If chemical agents are administered to a handcuffed inmate, an explanation as to why the removal of the handcuffs was not feasible shall be included in Section I of Form DC6-230, Institutions Report of Force Used.

(h) No inmate shall be stripped of his clothing or comfort items for the explicit purpose of administering chemical agents.

(i) Chemical agents shall only be used when a use of force is necessary and when this level of force is the least likely to cause injuries to staff or inmates.

(j) All chemical agents shall be used with caution and in accordance with the manufacturer's instructions. The Material Safety Data Sheet (MSDS) for chemical agents shall be kept where chemical agents are located.

(k) Chemical agents shall be stored in the main arsenal. A small amount of chemical agents may be stored in secure locations such as the control room mini-arsenal or the officer's station in confinement and close management units until its use is authorized. Each stored chemical agent dispenser will be numbered. Form DC6-216, Chemical Agent Accountability Log, will be kept in all areas in which chemical agents are stored and will be utilized to record the weight of each numbered chemical agent dispenser prior to issue and again when it is returned to the secure inventory storage area. The weighing process will be conducted and a verifying entry will be made in the log, including the signature of the shift supervisor authorizing the use of the chemical agent. The chief of security shall monitor the canister weights following each use of chemical agents to ensure the amounts used are

consistent with that expected by reviewing and initialing Form DC6-216. Form DC6-216 is incorporated by reference in subsection ~~(25)(22)~~ of this rule.

(l) Issuance of chemical agents.

1. Certified officers assigned to major institutions and work camps are designated by the Secretary of the Department as required to carry chemical agents and shall be issued one three or four ounce dispenser of OC pepper spray after being properly trained in chemical agent utilization. These officers are authorized to administer chemical agents in spontaneous circumstances without additional authorization for intervention in self-defense, i.e., when the officer believes that he is in imminent threat of bodily harm or that the use of chemical agents will prevent injury to other staff, visitors, volunteers, or inmates. Certified security officers assigned to armed perimeter posts may be exempted from this requirement by the warden.

2. Certified officers assigned to major institutions and posted to internal security, recreation field, shift supervisor posts, or designated as "A" team response members are authorized by the Secretary to be issued one MK-9, or equivalent, dispenser of OC in addition to the dispenser issued in accordance with subparagraph ~~(17)(D)1. (16)(4)1.~~ These officers are authorized to administer the chemical agents listed in this subparagraph in spontaneous disturbance situations involving multiple inmates in locations where large numbers of inmates are present, such as recreation fields, canteen, and meal lines. This option shall only be utilized in disturbance situations rising to the level of inmate involvement where this enhanced option is deemed necessary and shall not be used indoors.

3. The chemical agent dispenser shall be securely encased and attached to the officer's belt. Each chemical agent dispenser will be secured within a pouch or to a holstering device by a numbered, breakable seal. Form DC6-213, Individual Chemical Agent Dispenser Accountability Log, will be utilized to document the name of the officer to whom each dispenser is assigned as well as the seal number on the dispenser she or he received. Form DC6-213 is incorporated by reference into subsection ~~(25)(22)~~ of this rule. Upon receiving the dispenser and pouch, the officer will examine the safety seal to ensure that it is intact. If the seal is broken, the Shift Supervisor will be notified immediately and Form DC6-210, Incident Report, will be written. The arsenal sergeant shall maintain a master inventory of all individual chemical agent dispensers complete with the weight of the dispenser at the time the original seal is attached. Whenever a dispenser is returned with a broken seal, the arsenal sergeant shall document the weight of the dispenser on Form DC6-216, Chemical Agent Accountability Log, and attach a new seal. Any discrepancies in the weight of the dispenser will be reported to the chief of security, and Form DC6-210, Incident Report, shall be completed.

(m) In any case where chemical agents are used, an accurate record shall be maintained as to what type of agent was used, how much was used, method of administration, person authorized to draw chemical agent when issued from a secure location, person administering the chemical agent, location administered, and reason for use. This information shall be included in Section I of Form DC6-230, Institutions Report of Force Used.

(n) Procedure for the use of chemical agents on disruptive inmates under controlled conditions:

1. If an inmate becomes disorderly, disruptive, or unruly to the point he is creating a disturbance impacting the housing unit, other inmates, or the officer's ability to provide unit security, and attempts by officers at counseling and ordering the cessation of disruptive behavior fails, the confinement or close management lieutenant or shift supervisor or person of higher rank shall be contacted for further instructions

2. If the confinement or close management lieutenant or shift supervisor's efforts to control the disorderly inmate have failed and the use of chemical agents is the least level of force that can be expected to successfully gain control of the disruptive inmate while minimizing the risk of injuries to all involved, the shift supervisor shall:

a. When in a close management or confinement setting, review Form DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, to determine if the inmate has a medical condition that would be exacerbated by the use of chemical agents; as with the use of EIDS, if no form is available, where time and circumstances permit, contact medical staff to determine whether the inmate has any medical condition that would make the use of chemical agents dangerous to that inmate's health; and

b. Contact the warden or, in his or her absence, the duty warden and request authorization to utilize chemical agents.

3. Prior to using chemical agents, the inmate again shall be counseled with by the shift supervisor concerning his behavior.

a. If this attempt to counsel with the inmate is unsuccessful, the inmate will be given a final order by the shift supervisor to cease his actions. The inmate will also be informed at this time that chemical agents will be administered if he continues his disruptive behavior.

b. If the inmate continues his disruptive behavior, approximately three minutes after the order is given, staff are authorized to administer chemical agents in the form of no more than three one-second bursts. Staff are authorized to immediately utilize chemical agents if physical injury to staff or other inmates appears imminent.

c. If after approximately five minutes from the initial exposure the inmate still continues his disruptive behavior, staff are authorized to again administer chemical agents for no more than three one-second bursts.

d. If the second administration of chemical agents fails to control the inmate's disruptive behavior, the duty warden shall again be consulted to determine the next course of action. Additional actions include:

I. Additional administration of the same type or other type of chemical agent; and

II. Other uses of force as authorized by this rule.

e. Any uninvolved inmates in the cell or immediate area shall be given an opportunity to leave the potentially affected area, if it will not jeopardize the safety of staff or other inmates.

f. Except in cases of extreme emergency as determined by the warden or duty warden, the confinement or close management lieutenant or the shift supervisor shall counsel with, issue the final order, and be present during the administering of chemical agents. If the confinement or close management lieutenant or the shift supervisor is unavailable, he shall provide a written explanation as to why he was not available to supervise the administration of chemical agents.

(o) Medical Requirements.

1. Following the administration of chemical agents, the inmate will be monitored for any signs of respiratory distress; i.e., labored breathing, excessive or persistent coughing, or other signs of distress. The inmate will be questioned about any past history of respiratory problems such as asthma, bronchitis, emphysema, or shortness of breath. If the inmate displays or reports any of these symptoms or conditions, the inmate requires immediate attention by medical staff who have reviewed the inmate's medical record for any history of such respiratory problems.

2. In the event chemical agents are utilized on an inmate who is out of control to the degree where four (4)-point restraints are required for safety purposes, he will be constantly monitored by health services staff for signs of distress and, if distress occurs, treated to alleviate the distress. Approval from the warden or the duty warden is to be obtained prior to placing an inmate in four (4)-point restraints. Approval must also be subsequently obtained from the designated health authority.

3. Following the use of chemical agents, except as noted above, staff will avoid placing the inmate in a lying-down position, either face down or face up.

a. The inmate will be maintained in a sitting or standing position for at least forty-five (45) to sixty (60) minutes after the use of chemical agents.

b. Constant observation for the possibility of respiratory distress is required and any indication of distress will prompt immediate assessment by medical staff.

c. If symptoms of the spray persist after sixty (60) minutes, the inmate will be brought for immediate medical attention.

4. The inmate will not be held or mechanically restrained in any way that would obstruct movement of the inmate's chest or abdomen. If the inmate has been subjected to chemical

agents and then personally restrained to allow security to place mechanical restraining devices on the inmate (such as handcuffs), the inmate will be moved to a sitting or standing position immediately after s/he is secured.

5. Once the inmate is compliant, he shall be showered as soon as possible but not later than 20 minutes after final application of chemical agents. The inmate shall be examined by medical staff immediately after showering. In each instance a Form DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. If an injury is claimed or found to exist, Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In those cases where an injury is claimed but not substantiated by medical examination, the statement shall indicate that, and the documentation shall be sufficient to support that no injury was found upon examination. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Mental health staff shall evaluate the inmate not later than the next working day, to determine whether a higher level of mental health care (isolation management, transitional or crisis stabilization) is indicated.

(p) Any part of the body exposed to chemical agents, especially eyes, shall be flushed with water as soon as possible after exposure for at least five to ten minutes or until the affected inmate experiences relief. The affected area shall not be rubbed with a cloth or towel, and no oils, creams, or topical medications shall be applied unless medical staff so directs.

(q) Inmates exposed to chemical agents shall be ordered by the shift supervisor to shower and change both inner and outer wear within 20 minutes after exposure for decontamination purposes.

1. If an inmate refuses to shower or change, the refusal shall result in a disciplinary report and be documented:

a. On Form DC6-210, Incident Report, by the shift supervisor; or

b. On Form DC6-229, Daily Record of Segregation, by the confinement lieutenant or shift supervisor, if the inmate is in confinement or close management. Form DC6-229 is incorporated by reference in Rule 33-602.220, F.A.C.

2. In the event the inmate refuses to shower or change, staff shall advise the medical staff member who is responsible for examining the inmate following the use of force of this refusal and medical staff shall immediately report to the area to

conduct a cell-front examination and to explain the importance of showering after exposure to chemical agents, except in case of emergency which shall be documented.

3. The shift supervisor shall again order the inmate to shower. If the inmate refuses again, this refusal shall also be documented in writing and witnessed by the shift supervisor and medical staff.

4. If medical staff determine that there is no immediate medical need for the inmate to shower, then for the next 2 hours the inmate shall be checked every 30 minutes and given the opportunity to shower. These checks shall be documented on Form DC6-229, Daily Record of Segregation.

5. If health services staff determine that a medical need requires the inmate to be showered, the provisions of subsection ~~(13)~~ 33-602.210(12), F.A.C., shall be followed to shower the inmate and move him to a decontaminated cell.

(r) Upon request, appropriate health services staff shall provide the following completed forms to Department inspectors or legal staff: Form DC4-701C, Use of Force Exam; Form DC4-708, Diagram of Injury; and Form DC4-701, Chronological Record of Health Care.

~~(18)~~(17) Specialty Impact Munitions. Specialty impact munitions shall be used primarily by the department's rapid response teams and correctional emergency response teams during riots and disturbances. They are intended as a less lethal alternative to the use of deadly force. Specialty impact munitions shall only be employed by officers trained in their use and effects and shall not be used on anyone other than an inmate during an authorized use of force.

(a) Definitions:

1. Specialty Impact Munitions – Munitions designed to incapacitate, distract, and control a subject with less likelihood of life-threatening injury.

2. Rubber Ball Rounds – Multiple pellets fired from cartridges at the lower extremities of rioters, designed to inflict pain compliance.

3. Wooden Baton Rounds – Multiple wooden baton rounds fired from a 37-mm weapon, designed to be skip fired into the lower extremities of rioters to inflict pain compliance.

4. Skip Firing – The practice of firing specialty impact munitions 5-7 feet in front of rioters, thereby deflecting the munitions into the legs of the rioters.

5. Direct Firing – The practice of firing specialty munitions directly into a group of rioters, from a distance of greater than 20 feet with a target area of the waist or below.

(b) The following specialty impact munitions have been approved for use by the department:

1. 37-mm rubber ball pellet rounds,
2. 12 gauge rubber ball pellet rounds,
3. 37-mm wooden baton rounds.
4. 40-mm direct impact – OC marking rounds.

(c) Selection and deployment of specialty impact munitions during a riot or disturbance shall be authorized by the ultimate commander and supervised by the rapid response or correctional emergency response team leader. For the purposes of this rule, the ultimate commander is the secretary or his designee at the central office level, the regional director or his designee at the regional level, or the warden or his designee at the institution level.

(d) Specialty impact munitions shall only be used after all other reasonable alternatives to regain control have been exhausted. They are generally intended to be used as an interim force response between the use of chemical agents and lethal force.

(e) Specialty impact munitions shall not be deployed in the direction of any individual at a distance of less than 10 feet, unless the threat justifies the escalation to deadly force.

(f) Storage of Specialty Impact Munitions.

1. Specialty impact munitions shall be stored and maintained in the main arsenal.

2. Specialty impact munitions shall not be mixed with lethal munitions. Weapons designated to deploy specialty impact munitions shall be marked in a manner to alert staff of their intended use.

3. All specialty impact munitions will be accounted for in the same manner as firearms and ammunition.

(g) After each use of specialty impact munitions, exposed inmates shall be examined by medical personnel.

(h) In any case where specialty impact munitions are deployed Form DC6-230, Institutions Report of Force Used, shall be filed in accordance with use of force procedures set forth in this rule.

~~(19)(18)~~ Use of Firearms. In order for all concerned to be aware of their responsibilities, the statewide procedures set forth in this rule shall be included in the appropriate Department of Corrections procedures, post orders and escape emergency plans at each institution.

(a) No employee shall, in conjunction with his job responsibilities, carry a firearm or weapon on or about his person, either concealed or unconcealed, unless it is state equipment which has been properly issued and the employee is acting within the scope of official duties with the Department of Corrections.

(b) Firearms or weapons shall be issued to an employee only upon instructions of the warden, duty warden, chief of security or shift supervisor by the arsenal officer or the officer designated to issue weapons. Employees shall not intentionally discharge a firearm at or in the direction of another person except under the following circumstances and after all reasonable non-lethal alternatives have been exhausted, and there is no danger to innocent bystanders:

1. Escape or apprehension of an identified escapee;

2. Use of vehicle to gain unauthorized entry into or exit from a correctional institution in order to facilitate an escape;

3. To prevent injury to a person including self-defense; or

4. To quell a riot.

(c) The use of twelve gauge #6 steel turkeyshot is approved for use by the rapid response teams during riots and disturbances. It is intended to be fired from a distance in the direction of the rioters' lower extremities to inflict pain compliance to directions and orders. It is acknowledged that the #6 steel shot has the potential of inflicting a lethal injury; however, its use is considered a less lethal interim munition to be used prior to more lethal loads authorized by the department.

(d) Weapons to be used shall be designated by the person in charge.

(e) Firearms shall not be discharged:

1. In any case where there is reason to believe that the life of an innocent bystander will be endangered by discharge of the firearm;

2. From any moving vehicle unless such action is reasonably believed necessary to protect oneself or another from imminent death or great bodily harm;

3. As a warning except during escapes, unless exceptional circumstances exist which would justify the firing of a warning shot;

4. Until the employee is sure that an escape is occurring or has occurred and he is reasonably certain that the person to be fired upon is an escapee;

5. Until the employee is sure of the target and what lies beyond;

6. If an inmate is escaping and the officer is recapturing the inmate in a congested area;

7. Except after all reasonable non-lethal alternatives have been exhausted; or

8. On the mere suspicion that a crime, no matter how serious, has been committed.

(f) Any correctional employee who willfully or wantonly fires or otherwise discharges his weapon carelessly or at random may be prosecuted in accordance with Florida law.

(g) Because helicopters or other aircraft may be used during an escape or assault, the following policy shall apply:

1. When it can be done safely, actions other than firing of weapons, such as waving of arms in such a manner as to indicate disapproval to enter an area, shall be made in an attempt to cause the aircraft to leave.

2. If these attempts fail, the aircraft shall be allowed to land.

3. All inmates shall be kept away from the aircraft.

4. Secure the aircraft using armed security staff, or prevent it from being flown away by securing the flight equipment with locks and chains without causing damage to the aircraft.

5. If the landing was brought about due to an emergency, i.e., engine failure or other reason, maintain security of the aircraft and all occupants until their removal from the site.

6. Once the aircraft lands, efforts shall be directed to stop any inmate from boarding the aircraft in an attempt to escape. Staff are authorized to shoot any inmate attempting to escape in accordance with existing policy. When circumstances permit, a verbal warning to halt and a warning shot shall be fired prior to the inmate reaching the aircraft.

7. If weapons are fired from an aircraft, department personnel are authorized to return fire and use deadly force to protect the life and well being of inmates, staff and other individuals who may be on the compound.

8. If attempts to prevent inmates from boarding the aircraft fail and the aircraft leaves, the aircraft is not to be fired upon, unless the officer is returning fire as described in subparagraph 7. above. Immediate notification should be made to law enforcement personnel and the Federal Aviation Administration giving departing flight directions and any other information necessary to identify the aircraft. Additional information on the escaped inmates, possible damage to the aircraft, and weapons used by persons in the aircraft should also be reported.

9. All inmates shall receive orientation in regard to this policy. This orientation shall contain instructions indicating that should any helicopter or aircraft either attempt to land on or near the property of any Department of Corrections facility, inmates are required to move away from the aircraft. Movement toward the aircraft by an inmate shall be viewed as an escape attempt and shall subject the inmate to the use of deadly force to prevent him from escaping.

10. This policy shall be made a part of the department's orientation program at all reception centers.

(h) Use of vehicle to gain unauthorized entry into or exit from a correctional institution:

1. The institution or facility shall take steps to prevent vehicles from being used to gain unauthorized forced entry into or forced exit from its perimeter area.

2. If it becomes necessary, the following procedure should be followed:

a. Time permitting, a verbal order to halt shall be issued followed by a warning shot if the vehicle fails to stop.

b. If the vehicle continues and it is evident that it is going to ram the perimeter area and will thereby endanger lives of staff or inmates, and if there is a clear line of fire, firearms shall be used to disable the vehicle. If weapons are fired from a vehicle, staff are authorized to return fire and use deadly force to protect the lives of staff, inmates, or other individuals.

c. When possible and time permitting, any shot fired at a vehicle, shall be aimed at a tire or engine with the intent of disabling the vehicle.

(i) The employee discharging a weapon shall file a complete written report of the incident. If any correctional employee has fired a weapon during the performance of his duty, every effort shall be made to collect the empty cartridges

which shall be tagged, dated, and signed for, so that accurate information and evidence are maintained for future investigation of the incident.

~~(20)~~(19) Pepperball Launching System (PLS). The PLS shall be used primarily by restricted labor squad supervisors and exercise officers for designated confinement, close management, maximum management, and death row populations. The PLS is intended for the dispersal of chemical agents in situations where the use of aerosol type agents would not be effective due to weather conditions or when their use could subject the officer or uninvolved inmates to injury. The PLS shall only be employed by officers trained in their use and effects

(a) The secretary shall designate those institutions authorized to utilize the PLS.

(b) In controlled situations when time constraints are not an issue, the PLS can only be used if authorized by the warden or duty warden. Additionally, certified correctional staff will be designated by the warden to utilize the PLS and will be pre-authorized to administer chemical agents in instances where chemical agents must be used immediately to quell assaults and fights among inmates assigned as outlined in paragraphs (c) and (d) below.

(c) PLS is authorized for use to quell assaults and fights among inmates assigned to restricted labor squads. Authorized activation of the PLS by staff assigned to restricted labor squads does not constitute deadly force.

(d) PLS is authorized for use in designated confinement, close management and death row recreation areas to quell assaults and fights among inmates.

(e) PLS is classified as less-than-lethal at all distances, but, unless the incident necessitates otherwise, it shall be primarily utilized at a distance of five (5) feet or greater to prevent the inmate from attempting to take control of the launcher.

(f) Written authorization from the warden or acting warden shall be received prior to utilization of the PLS for situations other than those described in paragraphs (c) and (d) above. This written authorization shall detail the reasons it was necessary to utilize the PLS in addition to or in place of aerosol type chemical agents.

(g) All subsequent reports, medical requirements and reviews required for the use of chemical agents as outlined in subsection ~~(17)~~(16) above shall be completed after the use of the PLS.

(h) Each assigned PLS system shall be numbered, maintained, and inventoried by the shift supervisor or designee on Form DC6-216, Chemical Agent Accountability Log.

~~(21)~~(20) Medical Attention Following Use of Force. Appropriate medical treatment shall be provided immediately or, in the case of a riot or other man-made or natural disaster, as soon as possible following resolution of the riot or disaster. Any treatment or follow-up action shall be documented in Section III of Form DC6-230, Institutions Report of Force

Used. A qualified health care provider shall examine any person physically involved in a use of force to determine the extent of injury, if any, and shall prepare a report which shall include a statement of whether further examination by a physician is necessary. Any noticeable physical injury shall be examined by a physician and the physician shall prepare a report documenting the extent of the injury and the treatment prescribed. Such report shall be completed within 1 working day of the incident and shall be submitted to the warden for initial review. The qualified health provider and physician shall use Form DC4-701C, Emergency Room Record, to document an examination following use of force. Form DC4-708, Diagram of Injury, shall be used along with Form DC4-701C to document obvious physical injuries. A copy of the report, along with the referenced forms, shall be attached to the Institutions Report of Force Used. The original reports shall be filed in the medical record.

(22) No weapon shall be issued for any purpose other than the authorized use of force, or to a certified training officer for the purpose of approved training, without prior written authorization from the warden.

(23) Any officer who accidentally discharges a weapon shall complete Form DC6-210, Incident Report, by the end of his or her assigned shift.

~~(24)~~ Any violations of the provisions of this section shall be subject to the penalties prescribed in Section 944.35, F.S.

~~(25)~~(22) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

- (a) DC1-813, Use of Force File Checklist, effective September 18, 2006.
- (b) DC2-802, Use of Force Log, effective February 7, 2000.
- (c) DC4-529, Staff Request/Referral, effective January 6, 2009.
- (d) DC4-701C, Emergency Room Record, effective October 4, 2007.
- (e) DC4-708, Diagram of Injury, effective October 4, 2007.
- (f) DC4-711A, Refusal of Health Care Services, effective January 6, 2009.
- (g) DC6-210, Incident Report, effective March 3, 2008.
- (h) DC6-213, Individual Chemical Agent Dispenser Accountability Log, effective September 18, 2006.
- (i) DC6-216, Chemical Agent Accountability Log, effective July 25, 2002.
- (j) DC6-230, Institutions Report of Force Used, effective August 25, 2003.
- (k) DC6-231, Institutions Report of Force Used Staff Supplement, effective August 25, 2003.

(l) DC6-232, Authorization for Use of Force Report, effective July 25, 2002.

(m) DC6-296, Disapproved Use of Force/Disposition Report, effective July 25, 2002.

(n) DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, effective August 4, 2008.

Rulemaking Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History--New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, 5-26-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Redd, Assistant Secretary of Institutions
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.: 40B-1.704
 RULE TITLE: Bond

PURPOSE AND EFFECT: The purpose of the proposed rule is to revise this section of Chapter 40B-1, F.A.C., to require a bond or other form of surety for certification of completion of surface water management systems authorized by environmental resource permits. The effect of implementation will be an increase in the compliance rate of the certifications. SUMMARY: This proposed rule will revise existing rule language to require a bond or other form of surety, including but not limited to, cash deposit, letter of credit, and performance bond, for certification of completion of surface water management systems authorized by environmental resource permits under Chapters 40B-4 and 40B-400, F.A.C. These certifications are required by paragraphs 40B-4.1140(2)(c) and 40B-400.115(1)(j), F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Costs will be incurred at the inception of the permitting process; however, the amount paid will be returned to the permittee once the certification of completion has been received, inspected, and the project is approved. The costs associated with the proposed bond or other form of surety range from \$1,000 to \$10,000, depending on the project size.

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, 383.083, 373.113 FS.

LAW IMPLEMENTED: 373.085, 373.103, 373.219, 373.413, 373.416 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Welch, Rules Coordinator, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only).

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-1.704 Bond.

(1) No change.

(2) Applicants for environmental resource permits under Chapters 40B-4 and 40B-400, Florida Administrative Code (FAC), shall furnish a bond or other form of surety for certification of completion of construction as required by paragraphs 40B-4.1140(2)(c) and 40B-400.115(1)(j), F.A.C. The forms of surety acceptable to the District include but are not limited to, cash deposit, letter of credit, and performance bond. Bonds and other forms of surety shall be in the following amounts: project area less than one acre, \$1,000; project area less than 10 acres, \$2,000; project area less than 40 acres, \$3,000; project area less than 100 acres, \$4,000; project area less than 200 acres, \$5,000; project area greater than or equal to 200 acres, \$10,000. The District shall release the bond or other form of surety, without interest, upon final acceptance of certification of completion of construction and transfer of operation and maintenance to an entity approved by the District as required by Rule 40B-4.2035, F.A.C.

(3)(2) The Board may require liability insurance in such amount as the Board shall determine endorsed in favor of the District or a hold harmless agreement satisfactory to the Board.

(4)(3) The Board may require that the bond or liability insurance be maintained as a condition of the continued validity of the permit.

Rulemaking Specific Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.103, 373.219, 373.413, 373.416 FS. History—New 9-15-81, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 19, 2009

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-8.041
 RULE TITLE: Minimum Flows

PURPOSE AND EFFECT: To amend Rule 40D-8.041, F.A.C.m to establish Minimum Flows for the Lower Alafia River System as required pursuant to Section 373.042, Florida Statutes. For purposes of this rule the Lower Alafia River System includes the watercourse downstream of the USGS Gage No. 02301500 Alafia River at Lithia, FL including Lithia Springs, Buckhorn Spring, and their associated spring runs.

SUMMARY: The Minimum Flow is proposed as 81% of the daily flow to the Lower Alafia River System that is above 120 cfs. Flow to the lower river is calculated as flow at the United States Geological Survey gaging station Alafia River at Lithia (multiplied by a factor of 1.117 to account for flow between the gage and Bell Shoals Road), plus flows from Lithia and Buckhorn Springs. In addition, a Low Flow Threshold (LFT) of 120 cubic feet per second (cfs) is proposed which prohibits all withdrawals from the river and springs when flows in the lower river fall are below that rate of flow. Minimum five-year and ten-year moving average values are set forth in the rule as a tool to assess whether flows to the Lower Alafia River remain above flow rates that are expected to occur with implementation of the Minimum Flow.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Only two permittees currently withdraw water from the Alafia River. Only one is expected to be affected by the proposed minimum flow. No significant costs are anticipated to the agency or other state or local governments. There are no small businesses with water use permits withdrawing from the Lower Alafia River and therefore there are no impacts to existing small business permittees from the proposed establishment of the minimum flow. It is unknown whether in the future any small business will seek a water use permit for withdrawals from the Lower Alafia River System that would impact the proposed Minimum Flow. If withdrawals from surface water during the low flow periods impact the proposed minimum flow, individuals and entities have various mitigation options:

- a) Groundwater may be used to augment the flow of the Lower Alafia if the applicant is able to provide a net benefit. The net benefit will be in the form of a retirement of historically used quantities. These quantities should equal the amount of the predicted impact plus 10%.
 - i. Cost: 0.24 per 1,000 gallons
- b) The applicant may suspend or avoid surface water withdrawals during the low flow season and purchase reclaimed water.
 - i. Incremental Cost: \$2.56 per 1,000 gallons

c) The applicant may suspend or avoid surface water withdrawals during the low flow season and use storm water.

Incremental Cost: \$1.07 per 1,000 gallons

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, 373.0361, 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 FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, 2379 Broad Street, Brooksville, FL 34605

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.041 Minimum Flows.

(1) through (9) No change.

(10) Minimum Flows for Alafia River – Freshwater Segment.

(a) through (c) No change.

(11) Minimum Flow for Lower Alafia River System.

(a) For purposes of this rule, the Lower Alafia River System includes the watercourse downstream of the USGS Gage No. 02301500 Alafia River at Lithia, FL (the “Alafia River at Lithia Gage”) including Lithia Springs, Buckhorn Spring, and their associated spring runs.

(b) The Minimum Flow is to ensure that the minimum hydrologic requirements of the water resources or ecology of the natural systems associated with the Lower Alafia River System are met. Daily flows to the Lower Alafia River System are calculated by multiplying mean daily flow values at the Alafia River at Lithia Gage by a factor of 1.117, then adding the mean daily flows from Lithia Spring Major and Buckhorn Spring. Flows are calculated in the absence of withdrawals and are based on mean flows at the Alafia River at Lithia Gage from the previous day and the most recently recorded periodic values from Lithia Spring Major and Buckhorn Spring. The Minimum Flow for the Lower Alafia River System is intended to preserve 81% of the natural flow to the Lower Alafia River System when flows exceed a low-flow threshold of 120 cfs.

(c) The Minimum Flow is 81% of the daily flow to the Lower Alafia River System that is above 120 cfs.

(d) Minimum five-year and ten-year moving average values are set forth in Table 8-19 as a tool to assess whether flows to the Lower Alafia River remain above flow rates that are expected to occur with implementation of the Minimum Flow. These values represent minimum values of the averages of yearly mean and median flows to the Lower Alafia River

System calculated over moving five-year and ten-year periods. These values were calculated by applying the potential maximum withdrawals that do not violate the Minimum Flow to historic flow records. It is, therefore, expected that flows to the Lower Alafia River System will not go below these values if compliance with the Minimum Flow is maintained. However, future climatic conditions or structural alterations in the watershed of the Lower Alafia River System could potentially affect surface water or ground contributions to the Lower Alafia River System’s flow regime. The District will, therefore, periodically evaluate whether these minimum moving average values expected with application of the Minimum Flow, or other factors, have possibly caused flows in the Lower Alafia River System to decline.

<u>Table 8-19 Minimum Values of Five-year and Ten-year Moving Averages of Yearly Mean and Median Flows to the Lower Alafia River System</u>	
<u>Value</u>	<u>Flow (cfs)</u>
<u>Minimum 10-Year Moving Average (Based On Yearly Mean Flows)</u>	<u>247</u>
<u>Minimum 10-Year Moving Average Median (Based On Yearly Median Flows)</u>	<u>150</u>
<u>Minimum 5-Yearly Mean Flows (Based on Yearly Mean Flows)</u>	<u>217</u>
<u>Minimum 5 Year Moving Average (Based On Yearly Median Flows)</u>	<u>120</u>

Flows to the Lower Alafia River System were estimated for the period of record at the Alafia River at Lithia Gage. The period from 1987 to 2003 was used to create a relationship between daily flows at the Gage and total flows to the Lower Alafia River System. Five-year and ten-year moving average statistics were then calculated for estimated long-term flows to the Lower Alafia River System that were derived from the Alafia River at Lithia Gage.

(12)(11) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.042 FS. History–Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06, 4-6-06, 1-1-07, 11-25-07, 2-18-08, 3-2-08, 5-12-08, 5-10-09.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marty Kelly, Minimum Flows and Levels Program Director
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 11, 2009

WATER MANAGEMENT DISTRICTS**Southwest Florida Water Management District**

RULE NO.: 40D-80.075
 RULE TITLE: Recovery Strategy for the Lower Alafia River System

PURPOSE AND EFFECT: To adopt rules describing the recovery strategy for minimum flows for the Lower Alafia River System which minimum flows are being adopted simultaneously with these rules. The actual flows are below the minimum flows being proposed for the Lower Alafia River System, so pursuant to Section 373.0421, F.S., the District must develop a recovery strategy to achieve the minimum flows. The proposed rules will establish a recovery strategy for the minimum flows for the Lower Alafia River System.

SUMMARY: Mosaic Fertilizer's Riverview Facility (Water Use Permit No. 20001532) depends on withdrawals from Lithia Major Spring and Buckhorn Main Spring for plant operations. Because there is no LFT limitation in the permit, the permitted withdrawals will violate the proposed minimum flows. When this occurs, Florida law, Section 373.0421, Florida Statute, requires a recovery strategy so that the minimum flow is achieved. The District and Mosaic have developed a recovery strategy that will allow Mosaic to continue the operation of the Riverview facility during low flow periods and meet the minimum flows by January 1, 2017. The recovery strategy requires augmentation of the South Prong of the Alafia River to replace their spring withdrawals when the flow in the lower Alafia River for the previous day falls below the LFT of 120 cfs. The augmentation will be done using upper Floridan aquifer agriculture wells permitted to Mosaic. The wells are located within the MIA of the SWUCA and a Net Benefit is required to use the agricultural wells for this purpose. The necessary quantities will be retired by December 31, 2016, to meet the Net Benefit requirements and to replace the withdrawals from the springs. In July 2009 Mosaic was issued a water use permit to use the agricultural wells for this purpose, subject to adoption of the minimum flows and recovery strategy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Only Mosaic Fertilizer is affected by this proposed rule. There are various mitigation options for complying with the proposed minimum flow and 40D-2, F.A.C. in order to achieve recovery:

- a) Groundwater may be used to augment the flow of the Lower Alafia if the applicant is able to provide a net benefit. The net benefit will be in the form of a retirement of historically used quantities. These quantities should equal the amount of the predicted impact plus 10%.
 - i. Cost: 0.24 per 1,000 gallons
- b) Surface water withdrawals can be suspended or avoided during the low flow season and purchase reclaimed water.
 - i. Incremental Cost: \$2.56 per 1,000 gallons

c) Surface water withdrawals can be suspended or avoided during the low flow season and use storm water.

Incremental Cost: \$1.07 per 1,000 gallons

There are other anticipated transactional costs associated with mitigating withdrawals from the river. The costs are associated with augmenting the river with groundwater and include well construction, water quality and level recording and reporting and assessing the feasibility of using reclaimed water. These costs were to be incurred in order to comply with conditions of issuance regarding stream flow under existing Chapter 40D-2, F.A.C., rule provisions.

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: 373.0421, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.016, 373.023, 373.036, 373.0395, 373.042, 373.0421, 373.171 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, 2379 Broad Street, Brooksville, FL 34605

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-80.075 Recovery Strategy for the Lower Alafia River System.

(1) Background.

Pursuant to Section 373.042, F.S., the District has established Minimum Flows for the Lower Alafia River System and are set forth in subsection 40D-8.041(11), F.A.C. In establishing the Minimum Flows, the District determined that under certain conditions the existing flow rates are below the Minimum Flows due to withdrawals from Lithia and Buckhorn Springs by Mosaic Fertilizer, LLC ("Mosaic") for the operation of its Riverview plant pursuant to Water Use Permit no. 2001532. In such circumstances, Section 373.0421, F.S., requires the District to implement a recovery strategy so that a violation of Minimum Flows is not caused by withdrawals. The District has developed a phased recovery strategy under which Mosaic will augment the South Prong of the Alafia River using ground water so that by January 1, 2017, withdrawals by Mosaic do not cause the Minimum Flows to be violated.

(2) Recovery Strategy – beginning 90 days after the effective date of this rule and after obtaining all necessary permits for the discharge of well water to the Alafia River, compliance by Mosaic with paragraphs (a) and (b) below shall be deemed compliance by Mosaic with the Minimum Flows for the Lower Alafia River System.

(a) Through December 31, 2016, Mosaic shall augment the South Prong of the Alafia River with up to 1,300,000 gallons per day of ground water when stream flow at United States Geologic Survey ("USGS") Gage No. 02301500 Alafia River at Lithia ("Alafia River at Lithia Gage") for the previous day falls below a flow rate of 67 cfs based on real-time readings posted on the USGS web site. Provided, however, the augmentation shall not exceed the quantity of water withdrawn by Mosaic from the Lower Alafia River System on the previous day.

(b) Beginning January 1, 2017, Mosaic shall, augment the South Prong of the Alafia River with up to 4,500,000 gallons per day of ground water when stream flow at United States Geologic Survey ("USGS") Gage No. 02301500 Alafia River at Lithia ("Alafia River at Lithia Gage") for the previous day falls below a flow rate of 67 cfs based on real-time readings posted on the USGS web site. Provided, however, the augmentation shall be equal to but shall not exceed the quantity of water withdrawn by Mosaic from the Lower Alafia River System on the previous day.

Rulemaking Authority 373.0421, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.023, 373.036, 373.0395, 373.042, 373.0421, 373.171 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marty Kelly, Minimum Flows and Levels Program Director
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 11, 2009

DEPARTMENT OF VETERANS' AFFAIRS

Division of Veterans' Benefits and Assistance

RULE NO.: 55A-3.006
 RULE TITLE: Continuing Certification

PURPOSE AND EFFECT: The proposed amendment will require Veteran Service Officers attending a training refresher course to pass an exam demonstrating mastery of the covered material.

SUMMARY: Currently, the rule cited provides discretion to FDVA regarding training requirements for Veteran Service Officers. At the request of the Joint Administrative Procedures Committee (JAPC), we are removing this discretion, making the rule requirements mandatory.

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

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

RULEMAKING AUTHORITY: 292.05(3) FS.

LAW IMPLEMENTED: 292.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ron Lynn, (850)487-1533

THE FULL TEXT OF THE PROPOSED RULE IS:

55A-3.006 Continuing Certification.

As a condition of remaining in employment, each county or city Veteran Service Officer shall attend the Department's periodic training refresher courses. The refresher courses are designed to acquaint the Veteran Service Officer with new regulations and amendments to existing regulations as well as to answer any questions which the Officer may have concerning the responsibilities of the office. Each Veteran Service Officer attending a training refresher course shall ~~may~~ be required to pass a test demonstrating mastery of the subject covered during the refresher training session.

Rulemaking Specific Authority 292.05(3) FS. Law Implemented 292.11 FS. History—New 8-14-79, Formerly 9H-3.06, 22S-3.06, 22S-3.006, Amended 10-4-89, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: FDVA
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cabinet
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2909
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009, Vol. 35/33

DEPARTMENT OF VETERANS' AFFAIRS

Division of Veterans' Benefits and Assistance

RULE NO.: 55A-3.007
 RULE TITLE: Failure to Attend Training Refresher Course

PURPOSE AND EFFECT: The proposed amendment requires county or city Veteran Service Officers who fail to attend a required refresher training course to demonstrate proficiency in the course material as a condition of continued certification.

SUMMARY: Currently, the rule cited provides discretion to FDVA regarding training requirements for Veteran Service Officers. At the request of the Joint Administrative Procedures Committee (JAPC), we are removing this discretion, making the rule requirements mandatory

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

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

RULEMAKING AUTHORITY: 292.05(3) FS.

LAW IMPLEMENTED: 292.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ron Lynn, (850)487-1533

THE FULL TEXT OF THE PROPOSED RULE IS:

55A-3.007 Failure to Attend Training Refresher Course.

Failure of a county or city Veteran Service Officer to attend any required training refresher course shall subject that Officer to revocation of certification. A county or city Veteran Service Officer who fails to attend a required training refresher course ~~shall may~~ be required to demonstrate proficiency in the matters covered in that refresher course as a condition of continued certification.

Rulemaking Specific Authority 292.05(3) FS. Law Implemented 292.11 FS. History—New 8-14-79, Formerly 9H-3.07, 22S-3.07, 22S-3.007, Amended 10-4-89,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: FDVA

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 28, 2909

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009 Vol. 35/33

DEPARTMENT OF VETERANS' AFFAIRS

Division of Veterans' Benefits and Assistance

RULE NO.: 55A-5.008
 RULE TITLE: Supervisory Inspection Review

PURPOSE AND EFFECT: The proposed amendment requires FDVA's Bureau of State Approving Agency to suspend for 60 days an educational institution from participation in GI Bill educational programs, for noncompliance with Federal standards. At the end of the 60 day period, if FDVA finds that the institution has conformed its programs to the standards then it shall lift the suspension.

SUMMARY: Currently, the rule cited provides discretion to FDVA regarding suspension of educational institutions from participating in GI Bill Programs. At the request of the Joint

Administrative Procedures Committee (JAPC), we are removing this discretion, making the rule requirements mandatory.

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

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

RULEMAKING AUTHORITY: 292.05(3) FS.

LAW IMPLEMENTED: 295.124 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ron Lynn, (850)487-1533

THE FULL TEXT OF THE PROPOSED RULE IS:

55A-5.008 Supervisory Inspection Review.

(1) The Bureau shall conduct an ongoing review of institutions which have a veteran or other eligible person enrolled in an accredited or nonaccredited course or program for the purpose of determining if the approved course or program continues to meet all the conditions for approval. Supervisory and inspection visits shall be coordinated to the extent possible with the schedule of compliance surveys to be conducted by the U.S.D.V.A. in order to avoid duplication of effort. The following priorities shall be observed by the Bureau when scheduling visits:

Priority I – Reports and Visits Requested by the U.S.D.V.A.

Priority II – New Approvals

Priority III – Revision of Existing Approvals

Priority IV – Routine Supervisory Visits

(2) Following each review, the Bureau shall advise the educational institution of its findings. A copy of the inspection report shall be furnished the Secretary of Veterans' Affairs.

(3) In any case where the Bureau determines that a course or program no longer meets the applicable standards, it ~~shall may~~ suspend the educational institution for a period of 60 days during which time no new veterans may be enrolled for purposes of receiving benefits. At the end of the 60 day period, if the Bureau finds that the educational institution has conformed its courses or programs to the applicable standards, the Bureau ~~shall may~~ lift the suspension. If the Bureau finds the courses or programs still do not comply with the applicable standards, it shall issue a letter of disapproval to the educational institution and forward a copy of the letter to the U.S.D.V.A.

Rulemaking Specific Authority 292.05(3) FS. Law Implemented 295.124 FS. History—New 9-2-79, Formerly 9H-5.08, 22S-5.08, 22S-5.008, Amended 10-30-89, 12-5-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
FDVA

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: August 21, 2009 Vol. 35/33

AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: 59A-7.034
RULE TITLE: Alternate-Site Testing

PURPOSE AND EFFECT: The agency is proposing to amend the rule that specifies the parameters around which tests can be performed at alternate test sites within hospitals.

SUMMARY: Revisions to clarify where alternative site testing can be performed, who can perform the tests and the qualifications of those performing alternative site testing.

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

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

RULEMAKING AUTHORITY: 483.051 FS.

LAW IMPLEMENTED: 483.051, 483.106, 483.181, 483.201, 483.221, 483.23 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: October 29, 2009, 1:30 p.m.

PLACE: Agency for Health Care Administration, Building 3, Conference Room C, 2727 Mahan Drive, 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 5 days before the workshop/meeting by contacting: Karen Rivera, Laboratory Unit, 2727 Mahan Drive, Building 1, Mail Stop 32, Tallahassee, Florida 32308, (850)487-3109. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Rivera, Laboratory Unit, 2727 Mahan Drive, Building 1, Mail Stop 32, Tallahassee, Florida 32308, (850)487-3109

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-7.034 Alternative-Site Testing.

Alternate-site testing shall include laboratory tests performed in a hospital facility licensed under Chapter 395, F.S., out of the physical or administrative confines of the central laboratory which is licensed under Chapter 483, Part I, F.S. A clinical laboratory licensed under Chapter 483, Part I, F.S. may establish satellite locations under its administrative confines on the same or adjoining grounds of a hospital licensed under Chapter 395, F.S. that is not an alternate-site. Clinical laboratory testing within the satellite locations shall be performed by clinical laboratory personnel licensed under Chapter 483, Part III or exempt from licensure under that part, whereas testing at an alternate-site location shall be performed by personnel permitted under paragraph 59A-7.034(5)(a), F.A.C. Alternate-site testing allows specific personnel, who are not licensed clinical laboratory personnel, and are listed under subparagraphs 59A-7.034(5)(a)1.-7. and 9., F.A.C., to perform limited laboratory tests identified under paragraphs 59A-7.034(7)(a)-(e), F.A.C. Locations of alternate-site testing include, patients' bedsides, nurses' stations as well as locations determined appropriate by the laboratory director in a written plan that meets the requirements of Rule 59A-7.034, F.A.C.

(1) through (2)(a) No change.

(b) The laboratory must be licensed in all specialties or subspecialties in which testing is performed at the sites referenced in paragraph (a), above. Testing at these sites shall be limited to those tests for which the supervising director and laboratory personnel are qualified pursuant to Title 64B3 590 and authorized under Chapter 59A-7, F.A.C.

(3) Testing shall be the responsibility of the clinical laboratory director and shall be performed under the director's supervision and administrative control as specified under subsection 59A-7.035(1), F.A.C. The director shall be responsible for selecting the tests to be performed in accordance with Rule 59A-7.034, F.A.C. All such testing is subject to requirements specified in Chapter 59A-7, F.A.C. The laboratory director has the authority and responsibility to determine corrective action to be taken to maintain an equivalent standard of care for the entire hospital facility up to and including termination of alternate-site testing where there is documentation of noncompliance with Chapter 59A-7, F.A.C.

(a) A written protocol shall be established by the director and implemented by the service(s) performing alternate-site testing as required under subsection 59A-7.029(3), F.A.C., applicable to tests performed.

1. through 3. No change.

(b) through (c) No change.

(d) The director shall designate in writing, for each test site, a director, supervisor or technologist qualified under Chapter 483, Part ~~III~~, ~~IV~~, F.S., who in the absence of the director, monitors the performance of testing personnel, reporting of results and compliance with established policies.

(4) Records.

(a) All records of personnel authorized to perform alternate-site testing must be readily available for inspection by the agency for at least two years. These records shall include the name of each person performing such testing and documentation that each individual performing alternate-site testing is licensed by the state or certified by a national organization in a health care profession as required in subsection 59A-7.034(5), F.A.C., competency evaluations, patient results, quality control, corrective actions, proficiency surveys, and instrument maintenance.

(b) Results of all testing performed shall be made a part of the patient's permanent medical record and shall meet the requirements specified in Rule 59A-7.028, F.A.C.

(5) Alternate-site testing personnel requirements.

(a) Testing personnel shall have a high school diploma, or its equivalent, and have met the HIV/AIDS educational requirements pursuant to Section 381.0035, F.S. In addition, all testing personnel in the alternate-test site locations shall meet one of the following requirements:

1. Is licensed as an advanced registered nurse practitioner, a registered nurse or licensed practical nurse pursuant to Chapter 464, F.S.

2. through 4. No change.

5. Is licensed as a physician assistant pursuant to Chapters ~~458~~ and 459, F.S.

6. Is a perfusionist certified by the American Board of Cardiovascular Perfusionists.

7. Is a cardiovascular technician certified by the Cardiovascular Credentialing International (CCI) ~~American Board of Cardiovascular Perfusion, or~~

8. Is licensed as a director, supervisor, technologist or technician under Chapter 483, Part ~~III~~, ~~IV~~, F.S., or exempt from such licensure as provided in that chapter, or

9. Is a licensed Emergency Medical Technician (EMT) or Paramedic pursuant to Chapter 401, Florida Statutes.

(b) through (c) No change.

(6) Responsibilities of the laboratory director pertaining to the alternate-test site.

(a) The laboratory director shall:

1. Ensure that testing personnel are limited to those who meet the requirements of paragraph 59A-7.034(5)(a), F.A.C.; and

2. No change.

(b) through (c) No change.

(d) Documentation of licensure or certification, as applicable, pursuant to subsection 59A-7.034(5), F.A.C., and competency evaluations must be maintained during the tenure of all testing personnel and for a minimum of two years thereafter and made available to the agency at the time of inspection.

(7) Tests performed. Only test procedures approved by the laboratory director and documented in the internal needs assessment in accordance with Rule 59A-7.034, F.A.C., shall be performed at the alternate-test site.

(a) through (d) No change.

(e) ~~Notwithstanding paragraph (b), above, Waived tests are permitted to be performed by hospital staff designated to provide the testing under the hospital's policies and procedures, under a certificate of exemption as provided in Section 483.106, F.S. Such testing shall meet the requirements specified for a certificate of exemption as specified under Chapter 59A-7, F.A.C.~~

(8) No change.

Rulemaking Specific Authority 483.051 FS. Law Implemented 483.051, 483.106, 483.181, 483.201, 483.221, 483.23 FS. History—New 12-27-95, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen Rivera

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Benson

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 20, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares and Mobile Homes

RULE NO.: 61B-39.003
RULE TITLE: Filing of Single-Site Timeshare Plans
PURPOSE AND EFFECT: This rule amendment is required to address the new public offering statement disclosure requirement relating to a timeshare owner's obligation to pay assessments as amended by Section 8 of Chapter 2009-133, LOF. The amendment also deletes redundant disclosure requirements in this rule.

Other rules incorporating this rule: Rules 61B-39.002, 39.003, 39.004, 39.005, 39.006, 39.008 and 41.003, F.A.C. The amendment to this rule will have no significant impact on the referenced rules.

SUMMARY: This rule amendment addresses the public offering statement disclosure requirements for timeshare interests.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A Statement of Estimated Regulatory Costs has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 721.07(5), 721.26(6) FS.

LAW IMPLEMENTED: 721.05, 721.06(1)(g), 721.07(5), (6), 721.52(4), (5), 721.53 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: October 19, 2009, 10:00 a.m.

PLACE: The Northwood Centre, Suite 16, Conference Room, 1940 N. Monroe Street, 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 48 hours before the workshop/meeting by contacting: Sharon A. Malloy, Senior Management Analyst II at (850)488-1631. 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: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-39.003 Filing of Single-Site Timeshare Plans.

(1) No change.

(2) Every single-site registered POS must organize the required information and disclosures in the following manner and format:

(a) through (b) No change.

(c) The next consecutive page(s) shall be the index and shall list the sections of the POS text with corresponding subject matter and page number, pursuant to Section 721.07(5)(c), F.S., as prescribed in DBPR Form TS 6000-10, Index to Single-Site/Component Site Public Offering Statement Text, incorporated ~~herein~~ by reference and effective 12-18-01, a copy of which may be obtained at the address referenced in subsection 61B-39.002(4), F.A.C. If any required information or disclosure is not applicable to a particular POS, the index shall contain a notation to that effect where such information or disclosure would otherwise be described in the

index. However, such notations shall not cause a POS to deviate from either the order or numbering of presentation as prescribed in this rule;

(d) through (f) No change

(g) The next consecutive pages shall be labeled "III. Public Offering Statement Text" and shall contain the subject matter indicated by, and be organized by section according to, the Index to Public Offering Statement Text, and contain the information and disclosures required in Sections 721.07(5)(e)-(ii)(gg), 721.55, F.S., in the following order:

1. through 13. No change.

~~14. Section 5.i. shall contain the information required in Section 721.07(5)(n), F.S.;~~

~~15. Section 5.j. shall contain the information and disclosure, if applicable, required in Section 721.07(5)(r), F.S.;~~

~~14.16.~~ Section 6. shall contain the information required in Section 721.07(5)(t), F.S.;

~~15.17.~~ Section 7.a. shall contain the information required in Section 721.07(5)(z), F.S.;

~~16.18.~~ Section 7.b. shall contain the information required in Sections 721.07(5)(u), (5)(v), (5)(x), and (5)(y), F.S.;

~~17.19.~~ Section 7.c. shall contain the information required in Section 721.07(5)(j), (cc) and (dd), F.S. If the developer does not own the real property underlying any particular accommodation or facility, the developer shall disclose the extent to which such accommodation or facility will be available to purchasers, including an explanation of any limitations, risk, or restrictions on availability. This disclosure shall not relieve the developer from complying with the financial assurance or non-disturbance requirements of Chapter 721, F.S., or these rules, where applicable;

~~18.20.~~ Section 7.d. shall contain the information required in Sections 721.07(5)(p)1. and (p)2. ~~and (5)(ii), F.S.; and~~

~~19.21.~~ Section 8. shall contain the information required in Section 721.07(5)(bb), F.S.;

(h) The next consecutive page(s) shall contain the POS exhibits tabbed and labeled by "Exhibit #", as previously listed pursuant to paragraph (2)(b) of this rule or required pursuant to Section 721.07(5), F.S., including:

1. An exhibit containing the form receipt for timeshare documents to be furnished to purchasers as prescribed in DBPR Form TS 6000-7, Receipt for Timeshare Documents, incorporated ~~herein~~ by reference and effective 12-18-01, a copy of which may be obtained at the address referenced in subsection 61B-39.002(4), F.A.C.; and

2. A description of exhibits that will not be provided to purchasers.

(3) No change.

(4) The single-site registered POS shall be accompanied by the following completed and executed forms and documents, where applicable:

(a) No change.

(b) DBPR Form TS 6000-8, Certificate of Identical Documents, incorporated ~~herein~~ by reference and effective 12-18-01, a copy of which may be obtained at the address referenced in subsection 61B-39.002(4), F.A.C.;

(c) through (e) No change.

(5) through (6) No change.

Rulemaking Specific Authority ~~721.07(5), 721.26(6) FS. Law Implemented 721.05, 721.06(1)(g), 721.07(5), (6), 721.52(4), (5), 721.53 FS. History—New 5-8-94, Amended 12-11-94, 6-12-96, 12-18-01,_____.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Cochran, Director, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles W. Drago, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 31, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Regulatory Council of Community Association Managers

RULE NO.: 61E14-2.001 RULE TITLE: Standards of Professional Conduct

PURPOSE AND EFFECT: The proposed rule is necessary to modify the standards of professional conduct.

SUMMARY: The proposed rule modifies the standards of professional conduct.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: •2,768 Management Firms in addition to the already regulated 11,000 Community Association Manager will be required to comply with the rule; furthermore, all licensed Community Association Management Firms and Community Association Managers will be required to comply.

•The only costs to be incurred are rulemaking costs. No effect on state or local revenue is expected.

•Minimal cost of of \$105.00 each biennium will be incurred by each management company as they are now required to be licensed. Each Community Association Manager now incurs this cost as the cost of licensure each biennium.

•The proposed change will impact 1,000-4,999 small businesses. No small county or city will be impacted by the rule.

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

RULEMAKING AUTHORITY: 468.4315(2), 468.436(3) FS. LAW IMPLEMENTED: 468.433, 468.436 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Regulatory Council of Community Association Managers, 1940 North Monroe Street, Tallahassee, Florida 32399-0762

THE FULL TEXT OF THE PROPOSED RULE IS:

61E14-2.001 Standards of Professional Conduct.

~~All~~ Licensees ~~and registrants~~ shall adhere to the following provisions ~~and~~, standards of professional conduct, and such provisions and standards shall be deemed automatically incorporated, as duties of all licensees ~~and registrants~~, into any written or oral agreement for the rendition of community association management services, the violation of which shall constitute gross misconduct or gross negligence:

(1) Definitions. As used in this rule, the following definitions apply:

(a) The word “control” means the authority to direct or prevent the actions of another person or entity pursuant to law, contract, subcontract or employment relationship, but shall specifically exclude a licensee’s ~~or registrant’s~~ relationship with a community association, its board of directors, any committee thereof or any member of any board or committee.

(b) “Licensee” means a person licensed pursuant to Section 468.432(1) and (2), F.S.

~~(c) “Registrant” means an entity registered pursuant to Section 468.432(2), F.S.~~

~~(c)(4)~~ The word “funds” as used in this rule includes money and negotiable instruments including checks, notes and securities.

(2) Honesty. During the performance of management services, a licensee ~~or registrant~~ shall not knowingly make an untrue statement of a material fact or knowingly fail to state a material fact.

(3) Professional Competence. A licensee ~~or registrant~~ shall undertake to perform only those community association management services which he or it can reasonably expect to complete with professional competence.

(4) Due Professional Care.

(a) A licensee ~~or registrant~~ shall exercise due professional care in the performance of community association management services.

(b) A licensee ~~or registrant~~ shall not knowingly fail to comply with the requirements of the documents by which the association is created or operated so long as such documents comply with the requirements of law.

(5) Control of Others. A licensee ~~or registrant~~ shall not permit others under his or ~~the management firm's~~ ~~its~~ control to commit on his or the firm's ~~its~~ behalf, acts or omissions which, if made by ~~either the licensee or registrant~~, would place ~~that licensee him or it~~ in violation of Chapters 455 or 468, Part VIII, F.S., or Chapter 61-20, F.A.C. ~~or other applicable statutes or rules~~. A licensee ~~or registrant~~ shall be deemed responsible by the department for the actions of all persons who perform community association management related functions under his or its supervision or control.

(6) Records.

(a) A licensee ~~or registrant~~ shall not withhold possession of any original books, records, accounts, funds, or other property of a community association when requested by the community association to deliver the same to the association upon reasonable notice. Reasonable notice shall extend no later than ~~10~~ 20 business days after ~~termination of any management or employment agreement and~~ receipt of a written request from the association. ~~The manager may retain those records necessary for up to 20 days to complete an ending financial statement or report. Failure of the association to provide access or retention of accounting records to prepare the statement or report shall relieve the manager of any further responsibility or liability for preparation of the statement or report.~~ The provisions of this rule apply regardless of any contractual or other dispute between the licensee and the community association, ~~or between the registrant and the community association~~. It shall be considered gross misconduct, as provided by Section 468.436(2), F.S., for a licensee ~~or registrant~~ to violate the provisions of this subsection.

(b) A licensee ~~or registrant~~ shall not deny access to association records, for the purpose of inspecting or photocopying the same, to a person entitled to such by law, to the extent and under the procedures set forth in the applicable law.

(c) A licensee ~~or registrant~~ shall not create false records or alter records of a community association or of the licensee ~~or registrant~~ except in such cases where an alteration is permitted by law (e.g., the correction of minutes per direction given at a meeting at which the minutes are submitted for approval).

(d) A licensee ~~or registrant~~ shall not, to the extent charged with the responsibility of maintaining records, fail to maintain his or its records, and the records of any applicable community association, in accordance with the laws and documents requiring or governing the records.

(7) Financial Matters. A licensee ~~or registrant~~ shall use funds received by him or it on the account of any community association or its members only for the specific purpose or purposes for which the funds were remitted.

(8) Other Licenses.

(a) A licensee ~~or registrant~~ shall not commit acts of gross negligence or gross misconduct in the pursuit of community association management or any other profession for which a

state or federal license is required or permitted. It shall be presumed that gross negligence or gross misconduct has been committed where a licensee's ~~or registrant's~~ other professional license has been suspended or revoked for reasons other than non-payment of ~~fees dues~~ or noncompliance with applicable continuing education requirements.

(b) A licensee ~~or registrant~~ shall not perform, agree to perform or hold himself or itself out as being qualified to perform any services which, under the laws of the State of Florida or of the United States, are to be performed only by a person or entity holding the requisite license or registration for same, unless the licensee ~~or registrant~~ also holds such license or registration; provided, however, that no violation hereof shall be deemed to have occurred unless and until the authority administering the license or registration in question makes a final determination that the licensee or registrant has failed to obtain a license or registration in violation of the law requiring same.

(c) A licensee ~~or registrant~~ shall reveal all other licenses or registrations held by him or it under the laws of the State of Florida or the United States, if, as a result of such license or registration, a licensee ~~or registrant~~ receives any payment for services or goods from the community association or its board.

(d) Violation of any provision of Section 455.227(1), F.S., or of any part of this rule shall subject the licensee ~~or registrant~~ to disciplinary measures as set out in Section 468.436, F.S.

Rulemaking Specific Authority 468.4315(2) FS. Law Implemented 468.433, 468.436 FS. History—New 5-5-88, Amended 2-5-91, Formerly 7D-55.007, 61B-55.007, Amended 1-8-98, 5-31-99,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Regulatory Council of Community Association Managers
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Regulatory Council of Community Association Managers
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 22, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE NO.: 61G14-19.001
 RULE TITLE: Percentage of Gross Pilotage Assessed

PURPOSE AND EFFECT: The Board proposes the rule amendment to require the state pilot associations to change their current methodology for computing the gross pilotage assessment from one percent to 8/10 of one percent.

SUMMARY: The rule amendment will revise language to change the state pilot associations' current methodology for computing the gross pilotage assessment from one percent to 8/10 of one percent.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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: 310.131, 310.185 FS.

LAW IMPLEMENTED: 310.131 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G14-19.001 Percentage of Gross Pilotage Assessed.

(1) The Department of Business and Professional Regulation shall assess the pilots in the respective ports of the state eight tenths of one percent (.8%) ~~one percent (1%)~~ of the gross amount of pilotage earned by said pilots during each year. For the purposes of said assessment, the gross amount of pilotage earned shall be the amount of money collected by each pilot or by each entity of which the pilot is a member for piloting which shall include and not be limited to payment for piloting vessels to and from ports of this state, docking or undocking vessels, shifting vessels, running lines, delivering orders at sea, cancelled orders, boat service, detention, pilots being carried to sea, anchoring vessels, and any other related services rendered. Funds collected due under this are to be made payable to the Board and paid by the fifteenth of the following month. When received, the funds are paid into the Professional Regulation Trust Fund as created within the Department.

(2) In order to insure compliance with the requirements of subsection (1), each pilot or the entity of which the pilot is a member shall, on an annual basis, not later than April 15, beginning with the fiscal year ending December 31, 1980:

(a) Submit to the Department a statement prepared by a certified public accountant showing the gross amount of pilotage earned during the previous year; or

(b) Submit to the Department the first page of the Federal Income Tax return filed by the pilot or entity for the previous year. If the income tax return discloses income other than pilotage, there must also be submitted any other schedules

necessary to reconcile the amount of pilotage earned with the amount of the assessment submitted to the Department. In the event that the pilot or the entity of which the pilot is a member fails to submit either a statement prepared by a certified public accountant or the first page of the appropriate Federal Income Tax return and other required schedules, the Department shall hire certified public accountants to audit the pilot or the entity of which the pilot is a member for the purpose of determining the gross amount of pilotage earned during the previous year. The cost of such an audit will be borne by the pilot or the entity of which the pilot is a member.

Rulemaking Specific Authority 310.131, 310.185 FS. Law Implemented 310.131 FS. History—New 2-5-76, Amended 1-19-77, 1-1-78, 12-7-78, 11-1-81, 6-8-82, 8-9-82, 7-31-83, Formerly 21SS-3.01, Amended 5-30-89, 2-19-90, 12-30-91, 12-2-92, Formerly 21SS-3.001, 21SS-19.001, Amended 3-20-94, 1-5-95, 1-30-96, 3-17-96, 11-21-96, 8-25-97, 1-26-99, 1-31-01, 8-1-02, 7-8-03, 2-17-05, 10-2-05, 2-1-06, 5-1-06, 7-1-06, 1-1-07, 8-1-07, 12-16-07, 7-1-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pilot Commissioners

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION	
RULE NOS.:	RULE TITLES:
62-17.510	General
62-17.520	Definitions
62-17.535	Notification of Construction of Transmission Lines Not Subject to the Act
62-17.540	Application for Corridor Certification and Precertification, Amendments
62-17.543	Alternate Corridor Information
62-17.545	Fees, Disbursement of Funds, Contracts
62-17.570	Insufficiency of Application, Resolution Procedures
62-17.580	Conduct of Studies
62-17.590	Agency Reports, Project Analysis
62-17.600	Conditions of Certification

62-17.610	Proprietary Interest in State-owned Lands
62-17.625	Alternate Corridor Processing
62-17.660	Post-Certification Monitoring and Reporting
62-17.665	Management and Storage of Surface Waters, Activities in Surface Waters and Wetlands, and Water Quality Postcertification Review
62-17.680	Modification of Certification
62-17.695	Emergency Replacement
62-17.700	Revocation or Suspension of Certification
62-17.710	Termination of Certification
62-17.750	Public Noticing Requirements
62-17.760	Evidence of Notice, Additional Notice

PURPOSE AND EFFECT: This proposed rule implements changes to the Florida Electrical Transmission Siting Act enacted in Senate Bill 888, signed into law on June 19, 2006 and House Bill 7135, signed into law on April 29, 2008. The proposed rule also includes clarifications to rule sections.

SUMMARY: The draft proposed rule clarifies rule sections related to definitions, applicability, application requirements, completeness process, the conduct of studies, agency statements of issues and reports, alternate corridor processes, requirements for conditions of certification, post certification review, post certification amendments, modifications, public notice, and fees and brings them up to date with the current statute. It creates Rule 62-17.535, F.A.C., to provide noticing guidelines pursuant to Section 403.524(4), F.S., and Rule 62-17.610, F.A.C., to implement the requirements of Section 403.531(3)(b), F.S., regarding proprietary interest in state owned lands.

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

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

RULEMAKING AUTHORITY: 403.520-.539 FS.

LAW IMPLEMENTED: 403.520-.539 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:

DATE AND TIME: Monday, October 26, 2009, 9:00 a.m.

PLACE: Department of Environmental Protection, Marjory Stoneman Douglas Building, 3900 Commonwealth Blvd., Conference Room A, Tallahassee, Florida 32399-3000

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: Ms. Jill Stoyshich at (850)245-2001. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ms. Jill, Stoyshich, Florida Department of Environmental Protection, Siting Coordination Office, 3900 Commonwealth Boulevard, MS 48, Tallahassee, Florida 32399; or jill.stoyshich@dep.state.fl.us, phone (850)245-2001

THE FULL TEXT OF THE PROPOSED RULES IS:

PART II
TRANSMISSION LINE SITING

62-17.510 General.

~~(1) The Department adopts Part II of this chapter pursuant to the charge of the legislature to provide an efficient, centralized, and coordinated permitting process for evaluating the location of the transmission line corridors, the construction, electric and magnetic field effects, and maintenance of transmission lines, and their effects on human health, safety and welfare, the environment, and electric power system reliability and integrity.~~

The purpose of Part II of this chapter is to implement the provisions of the Florida Electric Transmission Line Siting Act, Sections 403.52 through 403.5365, F.S., an act relating to all non-federal environmental permitting of electric transmission lines, and electric system reliability and integrity, and public welfare.

~~(2) The certification of a transmission line corridor shall incorporate the determination of need issued by the Public Service Commission and shall constitute the sole license of the state and any agency as to the approval of the location of the transmission line corridors, the construction, electric and magnetic field effects, and maintenance of transmission lines, subject to the terms of the conditions of certification.~~

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.521, 403.534 FS. History—New 11-20-80, Amended 6-26-84, Formerly 17-17.510, Amended _____.

62-17.520 Definitions.

Words, terms, and phrases used in this chapter, unless otherwise indicated, shall have the meaning set forth in Section 403.522, F.S Florida Statutes. In addition, the following words when used in this Part shall have the indicated meanings:

~~(1) “Act” means the Transmission Line Siting Act, Sections 403.52 through 403.539, F.S.~~

~~(1)(2) “Access road” means shall mean a road within the corridor as recorded pursuant to Section 403.5312, F.S., and which is proposed to be used to gain access to the rights-of-way, transmission towers, or other utility property or~~

facilities, including those roads used for maintenance purposes. The term includes access roads within the certified corridor outside of the transmission line rights-of-way.

(2)(3) "Alternate corridors" shall mean corridors proposed by the applicant in the application that are secondary in preference to its preferred corridor or corridors proposed by parties to the certification proceeding other than the applicant pursuant to the provisions of Section 403.5271 403.527(5), F.S.

(3) "Clerk of the Siting Board" means the person designated as the clerk of the Department pursuant to Rule 62-103.050, F.A.C.

(4) "Construction" means any clearing of land, erection of structures, excavation or other action by the applicant that which would alter the physical environment or ecology of a right-of-way for the transmission line, but does not include those activities essential for surveying, preliminary corridor evaluation, environmental studies, trimming of vegetation, or activities on the right-of-way not associated with the certified transmission line.

(5) "Electronic Copies" means documentation submitted by the applicant that is stored on electronic media (for example, compact disc) in a manner suitable for ease of copying and pasting text or graphics into word processing software. Acceptable formats for electronic copies include Microsoft Word for Windows Versions 5.0 or higher; Rich Text Format, and portable document format (pdf). Any portable document format (.pdf) files must be of a version that allows all narrative and tables to be readily converted to text.

(6) "Established" means, when referring to an established right-of-way, a right of use created by purchase, grant, reservation, dedication, condemnation, permit, license, or any other procedure authorized by law.

(7) "Life of the facility" means the duration of construction and operational life of the certified transmission line, including any appurtenant structures, until the removal and abandonment of the entire facility.

(8)(5) "Maintenance" means the act of physically maintaining the transmission line including the right-of-way.

(9) "Precertification amendments" means documentation submitted by the applicant during the application review period pursuant to Section 403.5275, F.S., that reflects changes proposed by the applicant to the designs or plans contained in its previously submitted application. It does not mean responses to requests for additional information to make the application complete as determined by reviewing agencies.

(10)(6) "Primary corridor" shall mean the preferred original corridor which the applicant seeks to have certified.

(11) "Postcertification amendments" means documentation that reflects changes in the certified project under the provisions of Section 403.5317(1), F.S.

(7) "Secondary corridors" shall mean corridors proposed for certification by the applicant which are not the primary corridor for which certification is sought.

(12)(8) "Secretary" means the Secretary of the Department of Environmental Protection, or the duly authorized designee.

(9) "Working days" shall mean the days of the week during which the state conducts business. Unless otherwise indicated, "days" shall mean calendar days.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.522 FS. History--New 11-20-80, Amended 6-26-84, Formerly 17-17.520, Amended _____.

62-17.535 Notification of Construction of Transmission Lines Not Subject to the Act.

The notification required pursuant to subsection 403.524(4), F.S., shall provide the following information:

(1) Location of the line in terms of county, or sections/townships/ranges;

(2) Names or identifiers of connection points, e.g. "X" switchyard to "Y" substation;

(3) Line size and total length; and

(4) If the basis of the exemption from the Act under subsection 403.524(4), F.S., is construction of any portion of the transmission line within one or more established transmission line rights-of-way, documentation regarding the date each such right-of-way was established by means of a deed, grant, permit, license or reservation of easement, final judgment of condemnation or other legal instrument. If documentation of the date of establishment for such a right-of-way is not specifically available, the utility shall consult with the Department as to an acceptable substitute for demonstrating the establishment of the transmission line right-of-way at least five years prior to the start of construction.

Rulemaking Authority 403.523(1) FS. Law Implemented 403.524(4) FS. History--New _____.

62-17.540 Application for Corridor Certification and Precertification Amendments, Modifications.

(1) Applications for certification shall follow the format and shall be supported by information and technical studies, as prescribed by the Department's application guide form 62-1.212(1), F.A.C. Copies of this guide are available from a local District Office or by writing to the Department of Environmental Protection, Siting Coordination Office, MS 48, Commonwealth Blvd., Tallahassee, FL 32399-3000 as well as located on web site <http://www.dep.state.fl.us/siting> unless otherwise agreed to by the Department.

(a) The applicant shall consult with the Department to determine the number of copies of the certification application or precertification amendments thereto to be submitted to the Department for its own use. The applicant shall submit the number of hard copies and electronic copies the Department determines it needs. The Department's determination of how many copies it needs shall be based upon the number of district offices, divisions, or programs required to review the

application, plus one for the Department to provide to the Division of Administrative Hearings. The applicant shall send copies directly to the applicable district office, division, or program personnel at the addresses provided by the Department. A copy of the transmittal letter shall be provided to the Siting Coordination Office.

(b) The applicant shall consult with each agency identified in subsection 403.527(2)(a), F.S. and any newly affected agencies under Section 403.5271, F.S., to determine the number of printed and electronic copies of the application needed for those agencies to conduct their reviews. A copy of the transmittal letter shall be provided to the Siting Coordination Office.

(c) The applicant shall submit one copy of the application and any amendments thereto to a main public library in proximity to the corridor for each county in which the corridor will be located.

(2) Prior to application filing, upon request from applicant the applicant may request and the Department shall grant a meeting between the applicant, the Department and any all potentially interested statutory parties which are known to determine whether specified what informational requirements required by the application guide form may be waived, modified, or reduced in scope for a particular application. Subsequent to this meeting, the applicant may submit a written agreement to the Department and all potential statutory parties which are known as to the appropriate changes in scope, quantity, and specificity of information to be provided in the application. The Department shall publish notice of receipt of the proposed written agreement as provided in Rule 62-17.750(2), F.A.C. After publication of notice, such written agreement shall be deemed binding except to the extent an affected agency specifically disagrees within 25 days of receipt of the proposed written agreement and indicates all changes necessary to render the written agreement acceptable to the agency. All such changes with which the applicant agrees in writing shall be incorporated into the agreement. If an agency and the applicant are unable to agree on a proposed change of application information requirements, the applicant must fully complete the portion of the application with which there is disagreement. Any affected agencies' disagreements shall be in writing and include the reasons for such disagreements.

(2) Ten copies of the certification application shall be submitted by the applicant to the Department. The Department may provide in the application form, or by written agreement with the applicant, that less than 10 copies be submitted of parts of the certification application. Within 7 days of receipt of an application, the Department shall request the Division of Administrative Hearings to designate a hearing officer. The Department shall file a copy of the application with the hearing officer immediately upon being advised by the Division of Administrative Hearings of assignment of the hearing officer and the following shall be accomplished:

(a) Within 7 days of the filing of the application, the Department shall provide the applicant and the Division of Administrative Hearings the names and addresses of those affected or other agencies entitled to notice and copies of the application and any amendments.

(b) Within 7 days after completeness has been determined, the Department shall provide a schedule of significant dates to be followed during the certification process to the hearing officer, the applicant, and the agencies identified pursuant to subsection (a).

(c) Within 7 days after completeness has been determined, the applicant shall distribute copies of the application to the agencies identified by the Department pursuant to subsection (a) and to all other parties to the certification proceeding within 7 days the determination of completeness or within 7 days of their appearance, whichever is later.

(d) Within five days of distribution, the applicant shall provide a list to the Department of the names and addresses of all the persons to whom the application was distributed.

(3) Applications shall also include:

(a) Information supporting any request for a variance, exception, exemption or other relief from the non-procedural standards or rules of the Department or from the standards or rules of any other agency, including the reasons justifying such relief, and the condition which the applicant seeks to have included in the certification on this issue.

(b) Information describing the works or properties of any agency that the applicant seeks to use, connect to, or cross over, and the intended use.

(4)(a) Any precertification amendments made to an the application shall be sent by the applicant to the administrative law judge hearing officer and to all parties to the proceeding as well as to all agencies and persons who received a copy of the application. Such amendments shall be sent at the same time the amendments are sent to the Department. Except as otherwise provided in the conditions of certification, requests or petitions to modify certification shall be filed for all changes in transmission line corridor alignment.

(b) Precertification aAmendments to an application shall follow the format and shall be supported by information as prescribed in Section C of the Application Guide which is the section applicable to transmission lines form 62-1.212(1), FAC. Appropriate revisions to the application text, figures, and photographs are required to must be made to reflect the changes. Amendments may be submitted initially as correspondence, but formal revisions to the application, either in the form of amended application pages or an errata sheet listing all necessary changes to application pages, are required to must be distributed within 15 days of correspondence submittal to all agencies, parties and persons previously receiving an application. Except as otherwise provided in the

conditions of certification, expansions in right-of-way width will be considered modifications pursuant to Section 403.5315, Florida Statutes.

(c) Any correspondence from the applicant, including responses to agency completeness or sufficiency findings, which materially alters information contained in the application, shall be deemed an amendment.

Rulemaking Specific Authority 403.523(1), 403.531(2)(4)(b) FS. Law Implemented 403.523(1), (2), (3), (5), (6), 403.525, 403.5251, 403.5275 FS. History—New 11-20-80, Amended 6-26-84, 17-17.54(4) Transferred to 17-17.545(1) and Amended 6-26-84, 1-26-93, Formerly 17-17.540, Amended _____.

62-17.543 Alternate or Multiple Corridor Information.

(+) Information submittals for Alternate Corridor proposals must address all portions of the application guide applicable to transmission lines form (DEP form 62-1.212(1)). The level of detail therein shall be commensurate with the scale of change in comparison to the applicant's original proposal. ~~The information shall be filed with the Division of Administrative Hearings and served on the Department and all other parties to the proceeding within 45 days of the filing of the alternate corridor proposal.~~ Failure to file and serve the information as provided in subsections 403.5271(1)(a)-(e), F.S., ~~this subsection~~ shall constitute a voluntary withdrawal of the proposed alternate corridor and the alternate corridor shall not be a corridor proper for certification at the certification hearing.

(2) ~~An applicant may choose at its option to propose more than one corridor as being proper for certification in the original application. If information on more than one corridor is included in the application, the applicant must clearly indicate which is the primary corridor versus secondary corridors.~~

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.523(1), (2), (3), (5), (6), 403.5271(1), 403.5275(5) FS. History—New 6-26-84, Formerly 17-17.543, Amended _____.

62-17.545 Fees, Disbursement of Funds, Contracts.

(1) The Department will take no action on any application, ~~or petition for modification request, or precertification corridor alignment change amendment,~~ until it has received the appropriate fee described below. All fees shall be paid by check made payable to the Department. The fee shall be determined by measuring along the centerline of the corridor. Portions of a mile shall be computed on a decimal basis.

(2) Application fee. The application fee shall be as prescribed in Section 403.5365(1), F.S. is \$1000 for each mile of the proposed transmission line corridor as measured along the centerline of the corridor, plus the amount listed in 2. Portions of a mile shall be computed on a decimal basis, e.g. the fee for 74.33 miles would be \$74,330.00. When an applicant proposes alternate secondary corridors as well as a

primary one for consideration for certification, the application fee shall be computed on the basis of the total of all corridor lengths submitted by the applicant the longest corridor.

2. The following amounts are required in addition to the specified application fee:

Project Size	Number of Substations or Substation Expansions Included	Certification Application Fee
230	kV:	
0-2		\$ 5,000
3-4		\$10,000
5-6		\$15,000
7-8		\$20,000
over 8		\$25,000
500	kV:	
0-2		\$10,000
3-4		\$20,000
5-6		\$30,000
7-8		\$40,000
over 8		\$50,000

(b) ~~A fee of \$2,000 plus \$750 per mile of the total realigned portion(s) of the corridor is required whenever an amendment is proposed by the applicant which includes one or more corridor alignment changes. Portions of a mile shall be computed on a decimal basis. No additional fee is required from an applicant for corridor changes initiated by other parties even if the applicant either does not object to or supports such a change.~~

(c)1. A \$4,000 modification fee is required where no change in corridor alignment is proposed by the applicant.

2. Where a modification is proposed by the applicant requires a corridor alignment change, the fee shall be \$1,000 for each mile of corridor realignment as measured along the centerline of the realigned portion of the corridor, plus the amount listed below. Portions of a mile shall be computed on a decimal basis.

Project Size	Number of Substations or Substation Expansions Included	Certification Application Fee
230	kV:	
0-2		\$ 1,000
3-4		\$ 2,000
5-6		\$ 3,000
7-8		\$ 4,000
over 8		\$ 5,000
500	kV:	
0-2		\$ 2,000
3-4		\$ 4,000
5-6		\$ 6,000
7-8		\$ 8,000
over 8		\$10,000

~~(2) All fees shall be paid by check made payable to the Department. All fees received from applicants under this Chapter will be deposited into the Department's Operating Trust Fund to be used by the Department for costs incurred in the conduct of activities pertaining to applications for certification or modification of electrical transmission lines.~~

~~(3) Sixty percent of each fee shall be reserved for Department costs associated with reviewing and acting upon applications or petitions; for costs of public notices published by the Department; and for field services associated with monitoring construction and operation of the facility.~~

~~(4) Forty percent of the fee shall be reserved to reimburse for authorized expenses identified in subsection (6) below the Department of Community Affairs; the Department of Environmental Protection; the Game and Fresh Water Fish Commission; and the water management district, regional planning council, or local government in whose the jurisdiction the proposed electrical transmission line corridor is to be located; or any other agency which received a copy of the application for review pursuant to Rule 62-17.540, F.A.C. In the event these reserved funds are not sufficient to provide for complete reimbursement of all agencies, reimbursement to each agency shall be on a prorated basis.~~

~~(5) All sums remaining after the payment of authorized agency expenses shall be retained by the Department for its use in the same manner as is otherwise authorized by the Transmission Line Siting Act.~~

~~(6) The following procedures for reimbursement of authorized agency expenses shall apply after final agency action by the Board or withdrawal of the application. No later than 90 days after final action by the Siting Board or 60 days after withdrawal, invoices for reimbursement must be submitted to the Department's Siting Coordination Office for a review by the Department's Bureau of Finance & Accounting. Each invoice must be accompanied by an itemization of the time and expenses incurred. Reimbursement shall occur no sooner than 120 days after final action by the Siting Board, or 90 days after withdrawal of the application.~~

~~(a) Direct application related salary the following:~~

~~1. The conduct of studies for, and preparation of, reports required in accordance with Section 403.526, F.S.~~

~~2. Site inspections.~~

~~3. Attendance at hearings, depositions, and other administrative or legal proceedings.~~

~~4. managerial Technical review, and legal support~~

~~(b) Other Personal Service (OPS) help for technical review, site inspections, studies, report preparation and participation in siting proceedings.~~

~~(c) Contracts for studies pursuant to subsection (7) below.~~

~~(d) Application related expenses for the following:~~

~~1. Travel costs. Any reimbursement claims for travel costs must be accompanied by an approved State of Florida travel voucher.~~

2. Copying and reproduction costs for reports, notices, and legal pleadings.

3. Telephone and communication expenses.

4. Materials needed for studies and report preparation (e.g. maps, aerial photographs).

5. Authorized local governments may charge for the cost of public notice directly related to informational public meetings held pursuant to Section 403.5272, F.S.

(a)(7) Any agency intending to seek reimbursement from the fee incur an expense for a contract for studies to support its report pursuant to Section 403.526, F.S., shall first obtain prior written approval from the Department for the amount and purpose of the expenditure. Except as provided in subsection 403.523(4), F.S., aAll such studies shall be related to the jurisdiction of the requesting agency ageneies and shall be directly related to the evaluation of the certification application. The applicant shall be furnished with a copy of any request for approval of a contract for studies, as well as the report or results from any approved studies, within 10 days of receipt by the Department.

(b)(a) Any contract must specify that:

1. Receipt of the preliminary results will be available in time for agency report submittals with final results available at least 30 days prior to the certification hearing;:-

2. The studies shall be finalized in writing;:-

3. Final reimbursement to the agency and thus to the contractor shall not occur unless complete results are submitted such that the schedule of paragraph 1. above can be met; and:-

4. The contractor will be available to act as a witness in certification proceedings.

(c)(b) The breach of any provision of a contract for studies shall not be grounds for the alteration of any time limitation in the Act pursuant to Section 403.528, F.S.

~~(8) If the application is withdrawn, the Department shall request all agencies to compute their expenses up to the time of application withdrawal, and within 30 days of the request, to submit invoices for that time period, including any expenses incurred in preparing the invoice, in accordance with subsection (6). Within 90 days of the notification of withdrawal, the applicant shall be refunded whatever amount remains after subtraction of all documented agency and Department expenses.~~

(3) Modification fee.

2. Where a modification is proposed by the licensee that applicant requires a corridor alignment change, the fee shall include the per-mile amount prescribed by Section 403.5365(3)(b), F.S., be \$1,000 for each mile of corridor realignment as measured along the centerline of the realigned portion of the corridor, plus the following amount listed below. Portions of a mile shall be computed on a decimal basis.

(a) 230 kV and higher, but less than 500 kV, transmission line: \$7,000.

(b) 500 kV or higher transmission line: \$10,000.

(4) Amendment fee.

(b) A fee of \$2,000 plus \$750 per mile of the total realigned portion(s) of the corridor is required whenever an amendment is proposed by the applicant which includes one or more corridor alignment changes. Portions of a mile shall be computed on a decimal basis. No additional fee is required from an applicant for corridor changes initiated by other parties even if the applicant either does not object to or supports such a change.

Rulemaking Specific Authority 403.523 FS. Law Implemented 403.523, 403.5275, 403.5365 FS. History—New 11-20-80, Formerly 17-17.54(4), Transferred from and Amended 6-26-84, 4-14-86, 1-22-91, 1-26-93, Formerly 17-17.545, Amended _____.

62-17.570 Insufficiency of Application, Resolution Procedures.

(1) Should the Department determine that an application is insufficient, a detailed statement explaining the insufficiency of the application may be served on the applicant and the parties concurrent with the completeness determination or may be served at a later time but no later than 20 working days after receipt of a complete application. Amendments shall be reviewed for sufficiency on a 10 working day schedule. The Department's sufficiency finding shall be based on the recommendations of agencies required to submit reports pursuant to Section 403.526, F.S.; therefore, the sufficiency concerns of all reporting agencies shall be filed with the Department and served on all parties no later than 10 working days after the agency's receipt of the application or 7 working days after receipt of an amendment. Failure to file sufficiency remarks with the Department in a timely fashion shall be a waiver of the individual agency's sufficiency concerns.

(2) Within 15 days after the filing of the Department's statement that the application or amendment is insufficient, the applicant shall file one of the following with the Division of Administrative Hearings, the Department, and the parties:

(a) Supplemental information which renders the application or amendment sufficient.

(b) A statement agreeing with the statement of the Department but indicating that the information cannot be supplied within 15 days which shall toll the time for the certification schedule, or the application or amendment may be withdrawn.

1. If the certification schedule is tolled, upon the filing of sufficient information to render the application or amendment sufficient, the times provided in the Act and this Chapter shall recommence as of the date of the filing of the Department's determination that the application or amendment is sufficient.

2. If an application is withdrawn then later resubmitted, the certification schedule shall commence anew as for an original application. However, when reviewing a resubmitted application for completeness and sufficiency, the agencies shall take into account previous determinations of completeness and sufficiency and attempt to shorten the time period necessary to make such determinations for the resubmitted application.

(c) A statement contesting the sufficiency statement of the Department and providing information explaining its position. The applicant's responses and hearings on sufficiency shall follow the same procedures and time schedules as for completeness set forth in paragraph 62-17.560(3)(e), F.A.C., and both sufficiency and completeness issues may be addressed in the same responses and hearings.

(3) If, after an amendment has been filed to address agency sufficiency concerns, an agency or the Department determines that the amendment is incomplete or insufficient to such a degree that the filing of a preliminary report would result in no meaningful information produced for use in the voluntary public meetings held by the local governments, the agency shall advise the Department and the Department may so inform the hearing officer and request that the certification schedule be revised such that the filing date of the preliminary reports, and thus the final reports, the Compiled Agency Report, and date of the certification hearing is postponed in order to afford the preparation of meaningful reports.

(4) If an amendment is filed after the submission of agency reports to the Department, or after the filing of the Compiled Agencies' Report, an agency may request the hearing officer to adjust the certification schedule if the agency determines that the amendment alters the findings of the report or variance information or suggested conditions of certification.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.523(3)(5), 403.525(3) FS. History—New 11-20-80, Amended 6-26-84, Formerly 17-17.570, Repealed _____.

62-17.580 Conduct of Studies.

(1) As needed to verify or supplement the studies made by the applicant in support of the application, the Department within 15 days of the filing of a complete application shall commence or contract for joint or independent studies to aid in the evaluation of the certification application. For studies in areas outside of the Department's jurisdiction and in the jurisdiction of another agency, the Department may initiate such studies, but only with the consent of such agency. The Department shall give written notice of all such studies to the applicant before they are commenced. Such studies may include the consideration of the following criteria in regards to corridor location impacts, transmission line construction impacts, electric and magnetic field effects, right-of-way and access road maintenance impacts, and mitigation measures, as applicable:

(a) Potential impacts of transmission line crossings on navigable waters, and submerged lands or wetlands.

(b) Potential impact on water quality and quantity, including hydrology and surface drainage resulting from construction, clearing, and maintenance.

(c) Potential impact on terrestrial and aquatic plant and animal life, including endangered or threatened species within the Department's jurisdiction.

(d) Commensurate with the level of detail of information provided in the application, a final or preliminary identification of those areas where the Department has dredge/fill jurisdiction; specific identification and the location of the landward extent of jurisdiction may not occur until after the right-of-way has been defined.

(e) If site specific dredging and filling information has not been provided for all locations in the corridor at the time of application filing:

1. An analysis of areas in which the right-of-way, if located, would cause the transmission line not to be certifiable. Designation of such areas may be premised on, but is not limited to, the following:

a. There are no construction techniques which can reasonably be used in that area to mitigate adverse construction impacts to the extent that permitting requirements can be met, including considerations of cumulative impact as provided for in Section 403.919, F.S., and therefore it would be appropriate for this particular location to be excluded from the certified corridor.

b. Other matters relating to dredging and filling which fail to comply with all non-procedural requirements of an agency or fail to comply with the standards set forth in Section 403.529, F.S., e.g., endangered species habitat within the Department's jurisdiction.

2. An analysis of areas where construction techniques and potential right-of-way locations may exist which will comply with Departmental permitting requirements, but the Department does not possess sufficient information to make such determination. For example, such an instance might occur when neither the applicant nor the Department has permission to enter property to verify conditions deduced from aerial photography or other remote means.

(f) Potential transmission line electric and magnetic field effects on health, safety, and welfare, if any.

(g) Site specific environmental studies due to the particular nature of the corridor.

(2) At the time of distribution of the application, the Department shall inform the local governments and regional planning councils of the general process of transmission line siting, and that they would have the right to conduct studies on matters within their jurisdiction relating to the presence of or impacts to:

(a) Special requirements for county/city permitting activities, such as for road crossings, stormwater control, etc., which will be included under certification;

(b) Compliance with adopted local government comprehensive plans and areas where a corridor location is unauthorized by such a plan placed in established rights-of-way.

(c) Compliance with zoning restrictions, placed in established rights-of-way including noise ordinances as compared with the estimated noise levels produced by the transmission line, and airport flight overlay zoning restrictions;

(d) City/county owned lands and easements necessary thereto;

(e) Potential impacts to socioeconomic factors addressed in zoning ordinances;

(f) Potential conflicts with support services, such as radio interference with emergency vehicles or broadcast towers;

(g) Environmental or special use factors with which the county/city has a particular concern, such as proximity to landfills or aircraft flight approach paths;

(h) Compliance with adopted Regional Comprehensive Plans;

(i) Potential impacts from regionally significant projects such as pending Developments of Regional Impact.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.523(2)(4)(14), 403.526(2)(7)(8), 403.527(5) FS. History—New 11-20-80, Amended 6-26-84, 4-15-85, Formerly 17-17.580, Repealed

62-17.590 Agency Reports, Project Analysis Compiled Agencies' Report with Summaries.

(1) The preliminary agency reports shall be submitted to the Department no later than 60 days after the Department's receipt of a complete application, and shall be made available to each local government for use as information at public meetings held pursuant to Section 403.5272, F.S.

(2) The final agency reports shall be submitted to the Department no later than 90 days after each agency's receipt of a complete application:

(1)(3) The agency reports shall contain:

(a) A report as An assessment of to the impacts of the project related to matters within the agency's jurisdiction as determined by the studies required by Section 403.526, F.S.;

(b) Expected compliance with agency standards and an identification of any nonprocedural requirements not specifically listed in the application from which a variance or exemption is needed in order for the board to certify the corridor, including a statement of the agency's position on each variance exception, exemption, or other relief within the agency's jurisdiction needed by the project;

(c) A summary of potential impacts the proposed project may have on any proposed use of, connection to, or crossing over of properties or works of the agency, inclusive of the

agency's position on the request (i.e., support or opposition of the request) and any standards which the agency proposes the applicant should satisfy in order for the applicant to use, connect, or cross over the agency's properties or works.

~~(d)(e)~~ Conclusions and recommendations regarding certification including reasons for recommendations and legal basis of denial, if the agency recommends denial of certification;

~~(e)(d)~~ Proposed Conditions of Certification, if the agency intends to recommend certification, on matters within the agency's jurisdiction, listing the specific statute, rule, or ordinance, as applicable, that which authorizes the proposed condition, and including:

1. Any impact monitoring or postcertification review that needs to be conducted including reasons and legal basis; and

2. Applicable conditions that may be necessary in the event the Siting Board or Secretary determines that the project should be certified.

~~(e)~~ An identification of what matters are within their jurisdiction which will be materially affected by the transmission line or corridor.

~~(4)~~ The Department shall file the Compiled Agencies' Report required by Section 403.523(8), F.S., with the hearing officer and serve it on all parties no later than four months after the complete application has been filed with the Department or 30 days prior to the certification hearing, whichever is earliest.

~~(5)~~ The Compiled Agencies' Report shall contain:

~~(a)~~ The Department's recommendations relating to the disposition of the application;

~~(b)~~ Reports by governmental agencies as specified by Section 403.523(8) and 403.526, F.S.;

~~(c)~~ A summary by the Department of the significant comments made in all the reports; and

~~(d)~~ A compilation of the various recommended conditions of certification.

(2) The Project Analysis prepared by the Department shall contain a statement of whether the proposed transmission line meets the electric and magnetic field standards adopted in Chapter 62-814, F.A.C.

Rulemaking Specific Authority 403.523(2), (3), (4), (5), (6), (7), (8), (9), (10), 403.527(5) FS. Law Implemented 403.523(7)(8), 403.526 FS. History—New 11-20-80, Amended 6-26-84, Formerly 17-17.590, Amended _____.

62-17.600 Conditions of Certification,—Delegated Modifications.

~~(1)~~ The applicant can construct the transmission line in compliance with the terms of certification. If appropriate, the agencies' proposed conditions of certification shall recognize that the construction of the proposed transmission line may take place over a substantial period of time. Therefore, compliance with the terms of certification may be monitored by the agencies.

~~(2)~~ The Department shall request that the Board delegate authority to the Secretary to review and modify specific conditions in the certification pursuant to Section 403.5315(1), F.S. The specific conditions to be requested for delegation shall include, but not be limited to, the following:

~~(a)~~ Except for modification of the location of the certified corridor, the Secretary of the Department is delegated the authority pursuant to Section 403.5315(1), F.S., to modify Conditions of Certification relating to:

~~1.~~ A modification of the transmission line that would not cause any significant additional adverse environmental impact.

~~2.~~ Modifications necessary to meet licensing conditions or requirements imposed on the applicant by any federal regulatory agency. The permittee shall notify the Department at least 30 days prior to the issuance of the federal license that would require such a modification, if known, or in any event, as soon as the federal agency notifies the permittee.

~~(b)~~ The Department shall give written notice to the parties to the original certification of any requests for modification received pursuant to this section.

~~(3)~~ If the information relating to dredging and filling in waters of the State over which the Department has dredging and filling jurisdiction pursuant to Chapter 403, F.S. was not provided by the applicant with the application for certification or amendments thereto, the Department may request the Board to deny certification unless the following conditions of certification are imposed:

~~"A.~~ For all construction activities in waters of the state where the Department has dredge and fill jurisdiction pursuant to Chapter 403, F.S., which are identified in the conditions of certification, the permittee shall file with the Department of Environmental Protection, Bureau of Permitting, Siting Coordination Section, the information requested in Florida Administrative Code Rule 62-17.665.

~~"B.~~ The Department shall promptly review the submittal for completeness; for the purposes of this condition, completeness shall mean that the information submitted is both complete and sufficient. If found to be incomplete, the applicant shall be so notified. Failure to issue such a notice within 30 days after filing of the submittal shall constitute a finding of completeness.

~~"C.~~ Within 90 days of filing of complete information, DEP shall determine whether there is reasonable assurance of compliance with applicable substantive agency regulations as required by the conditions of certification if the plans are executed as filed. If it is determined that reasonable assurance has not been provided, the permittee shall be notified with particularity and possible corrective measures suggested. Failure to notify the permittee in writing within 90 days of receipt of a complete information submittal shall constitute a compliance verification.

~~“D. If the Department does not object within the time period specified, the utility may begin construction pursuant to the terms of the conditions of certification and the subsequently submitted construction details and the Department shall provide to the Corps of Engineers a letter indicating that the full requirements of this condition have been met and that water quality certification for the purposes of 33 USC 1341 is hereby conveyed.~~

~~“E. Any information submittal after Board certification required by this section shall be solely for the purpose of facilitating the Department’s monitoring of the applicant’s compliance with the conditions of certification.~~

~~“F. The permittee, at its option, may submit information for different dredging and filling activities at different time intervals. Each submittal by the permittee shall be processed by the Department separately.”~~

~~(4) In conjunction with (3), the Department may request that the Board adopt conditions of certification which provide that:~~

~~(a) The applicant not locate the right of way within certain areas of the corridor. These are to be identified by the Department as to the extent and reason for such “avoidance area”.~~

~~(b) The applicant receive prior approval for specific construction techniques to be used or not used in areas specified in the conditions; this may be in lieu of an avoidance area designation.~~

~~(c) The applicant consult with the Department prior to submittal of any post certification monitoring data to establish where gauged stream flow information will be necessary. Disputes over such consultations shall be resolved in accordance with Chapter 120, F.S.~~

~~(d) The applicant consult with the Department’s dredge and fill permitting staff prior to finalization of the access road locations, including those which will not be located on the right of way, and tower locations and establishment of construction techniques which are to be reflected on any post certification review information submittals.~~

~~(e) The acquisition of a particular right of way or the expenditure of funds towards acquisition of a particular right of way prior to the Department’s review pursuant to (3) above will be at the permittee’s risk, and the Department or any other party is not estopped from objecting to the construction of the transmission line and access roads in the right of way even if other construction has been approved or occurred on both sides of the proposed location.~~

~~(5) Any submittal of information pursuant to a requirement contained in a condition of certification is for the purpose of monitoring for compliance with the issued certification pursuant to Section 403.5317(2), F.S., which does not require agency action or which would authorize an activity by the permittee without further agency action does not provide a point of entry for a person other than the applicant to~~

an administrative determination on the adequacy of the submittal, unless the Department makes a determination that the submittal or activity is not in compliance with the terms and conditions of certification, or applicable law including applicable rules. Persons whose substantial interests may be affected by the submittal may have the right to petition for a declaratory statement pursuant to Section 120.565, F.S., or to file a verified complaint pursuant to Section 403.412, F.S. However, such persons would not be entitled to raise issues which were or could reasonably have been litigated in the certification hearing process pursuant to Section 403.527, F.S.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.531(2), 403.5315(4), 403.523(8) FS. History–New 11-20-80, Amended 6-26-84, 4-15-85, Formerly 17-17.600, Amended _____.

62-17.610 Proprietary Interest In State-owned Lands.

Where a certification order approves a corridor that crosses or otherwise impacts Sovereign or State owned lands, following acquisition of the right-of-way the licensee shall provide a copy of any license, easement, or other ownership document issued by the appropriate land owning entity for the affected property to the Department’s Siting Coordination Office within 30 days of issuance of such document by the public agency.

Rulemaking Authority 403.523(1) FS. Law Implemented 403.531(3)(b) FS. History–New _____.

62-17.625 Criteria for Rejection of an Alternate Corridor Processing.

(1) The Department shall reject a proposed alternate corridor if one or more of the following criteria is met: Pursuant to Section 403.527(5)(b), F.S., within five days of receipt of a proposed alternate corridor filing, the Department and the applicant shall each file with the Division of Administrative Hearings a notice of acceptance or rejection of the alternate corridor proposed for consideration. The criteria of the Department for this rejection of a proposed alternate corridor shall be:

(a) The alternate does not have appropriate end points which connect to the remainder of the transmission line;

(b) The quality of the filing is so poor as to make it difficult for the Department to evaluate the proposal; or

(c) Failure to submit the information required by Section 403.5271(1)(a) 403.527(5)(a), F.S., has not been submitted; however, this shall be without prejudice to re-file within the timeframes set forth in Section 403.5271(1) 403.527(5), F.S.

(2) Acceptance by the Department of an alternate corridor proposed for consideration pursuant to Section 403.5271(1), F.S., (4) above shall not require the Department to support or oppose certification of such alternate corridor.

(3) Acceptance by the applicant of an alternate corridor proposed for certification shall not require the applicant to support or oppose certification of such alternate corridor.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.5271(5) FS. History--New 6-26-84, Formerly 17-17.625, Amended _____.

62-17.660 Post-Certification Monitoring and Reporting.

(1) At its own expense, the licensee The applicant shall conduct at its expense such postcertification monitoring and reporting required by the final order of certification as is of the effects arising from the location of the transmission line corridor, the construction of the transmission line or lines and the maintenance of the transmission line right-of-way pursuant to the conditions to assure continued compliance with the terms of certification. The monitoring and reporting shall be carried out in the manner prescribed in the conditions of certification established under Section 403.529(4), F.S. and this rule.

(2) Within 90 days after certification, the licensee shall provide a complete summary of those submittals where due dates are identified in the Conditions of Certification. Such submittals include monitoring reports, management plans, and wildlife surveys. The summary shall be provided to the Siting Coordination Office and any affected agency to which the submittal is required to be provided, in both electronic and paper form, using a sortable spreadsheet in a format substantially similar to the following.

Condition number	Requirement	Due date or timeframe	Name of agency to which the submittal is required to be provided

Rulemaking Specific Authority 403.532(1) FS. Law Implemented 403.523(10) FS. History--New 11-20-80, Amended 6-26-84, Formerly 17-17.660, Amended _____.

62-17.665 Management and Storage of Surface Waters, Activities in Surface Waters and Wetlands, and Water Quality ~~Dredging and Filling~~, Postcertification Review, ~~Water Quality~~. The requirements of this section ~~shall only apply to the where construction, alteration, operation, maintenance, or repair (excluding custodial maintenance), abandonment, and removal of the transmission line, including access roads and structure pads, requires dredging or filling activities in waters of the state over which the Department has dredge and fill jurisdiction pursuant to the non-procedural requirements of Part IV of Chapter 373 403, F.S.~~

(1) The applicant must demonstrate shall show compliance with the Department's non-procedural dredging and filling requirements set forth in Chapter 62-330, F.A.C., Department rules and may, at its option, elect to do so:

(a) As part of the certification application and prior to the conduct of any construction activities within the landward extent of waters of the state; or

(b) As part of a post-certification monitoring review process for monitoring compliance with pursuant to the conditions of certification and prior to the conduct of any

construction activities within the landward extent of wetlands and other surface waters of the state. Five copies are required of all post-certification information submittals, including modifications thereof.

(2) Unless a project qualifies for an exemption under Section 373.406 or 403.813, F.S., authorization must be obtained from the Department or Siting Board prior to construction, alteration, operation, maintenance or repair (excluding routine custodial maintenance), abandonment, or removal of any surface water management system required for the certified project within a certified corridor or prior to any wetland vegetation management for the certified project within a certified corridor other than that considered to be routine custodial maintenance.

(3)(2) The information submitted as part of subsection (1) of this section above shall be in accordance with the Department's application guide DEP Form 62-1.212(1) and the following. Regardless of the type of drawings submitted, specific water quality assurance information must be submitted. When information is to be submitted after certification, the applicant may choose to submit the post-certification review of the transmission line in segments provide the information in one or more submittals.

(a) Generic drawings will be acceptable:

1. Where there is a defined bed or channel in which water flows (incised streams, rivers, etc., with little or no associated floodplain); or
2. Where there are unchannelized wetlands or floodplains where the vegetation is predominantly herbaceous such as in a Cladium or Juncus marsh or grass prairie; or
3. Where there is forested wetlands are only comprised of isolated cypress domes, isolated bayheads, cypress sloughs, or forested wetlands not covered under subparagraph (b)1. (2)(b)1. of this subsection; or
4. Where there is any combination of subparagraphs 1., 2., or 3., of this paragraph; or
5. In other areas if approved by the Department.

(b) Specific information will be required for construction located, at a minimum, in the following areas unless otherwise agreed to between the Department and the applicant or as is provided for in paragraph (a) of this subsection:

1. In forested wetlands, consisting of unchannelized wetlands or multiple watercourses in riverine floodplains, other than the isolated cypress domes, isolated bayheads, or cypress sloughs listed above;
2. In lakes; and
3. In waters in which construction has the potential to interfere with navigation.

(c) Applicants must describe impacts and mitigation, if any, that provide reasonable assurance of compliance with the non-procedural requirements of Section 373.414, F.S., and

applicable provisions of the appropriate water management district's rules as well as the applicable interjurisdictional rule for where the line is being cited.

~~(d)(3)~~ Information which will not be required for either generic or specific data submittals will be The names and addresses of adjoining property owners will not be required as part of an application unless that owner is the Trustees of the Internal Improvement Trust Fund. Notification of the project will be given as part of the certification notice published in accordance with Section 403.5363, F.S. and Rule 62-17.750, F.A.C., and no further individual notice will be given by the Department.

~~(e)(4)~~ If upon ground truthing it is discovered of a dredge and fill site for which generic information was submitted, the permittee discovers that the site is of a different type of general contour or vegetation type other than the type provided in the generic drawings or if the information provided is not accurate, the applicant permittee shall submit a revised generic drawings or information, as applicable, to the Department. Such revised generic drawings or information shall be in accordance with the above application form requirements.

~~(4)(5)(a)~~ Where the certification is issued requiring the Department's ministerial issuance of an of Environmental Protection (DEP) approval for easement or other interest in state lands the applicant shall provide apply directly to the Department's Division of State Lands DEP for each required easement or other interest in state lands information required in an application for such an interest for such approval. The applicant shall send a copy of the information submittal application to the Department's Siting Coordination Office. The DEP, or the applicant if DEP fails to do so, shall forward a copy of the letter of approval for such easement or other interest to the Department so that the Department can verify compliance with the conditions of certification.

(b) In the event the applicant files information relating to activities in waters of the State dredging and filling as part of the application rather than after certification, the Department's position on compliance with permitting standards shall be stated indicated in the Department's report required by paragraph 62-17.590(5)(3)(b), F.A.C. DEP shall be copied whenever an interest in state lands must be acquired.

~~(5)(6)~~ The licensee applicant shall apply directly to the U. S. Army Corps of Engineers (COE) for permits required by the COE for construction of the transmission line. A copy of the final COE permit application shall be sent to the Siting Coordination Office and Environmental Resource Permitting program of the applicable District Office of the Department by the applicant.

~~(6)(7)~~ If the material is submitted after certification pursuant to this section, the following procedures shall be used by the Department for the monitoring of compliance with the conditions of certification review:

(a) The Department's Siting Coordination Office Section in Tallahassee shall coordinate the processing of reviews.

(b) Submittals Copies of the non-procedural environmental resource program (ERP) dredge and fill information typically provided in an ERP application shall be sent by the Department's Siting Coordination Office Department to the applicable Water Management District, the Game and Freshwater Fish and Wildlife Conservation Commission, the Department of Environmental Protection and any other agency that is identified in the conditions of certification which so requests in writing. Copies will not be sent to adjacent landowners unless a landowner within or immediately adjacent to the corridor requests copies in writing.

(c) The Department shall promptly review the post-certification non-procedural ERP Dredge and Fill submittal for completeness. For the purposes of this section, completeness shall mean that the information submitted is both complete and sufficient. If found to be incomplete the licensee permittee shall be so notified within 30 days of receipt; failure to notify the licensee permittee accordingly shall constitute a finding of completeness. The provisions of Section 403.5317(2), F.S., govern the review completion deadlines.

(d) Within 90 days of filing of complete information, the Department shall determine whether there is reasonable assurance of compliance with substantive agency regulations as required by the conditions of certification.

(e) If the reviewing agencies and offices determine, as a result of their monitoring review, it is determined that reasonable assurance of compliance with the conditions of certification has not been provided, the Department's Siting Coordination Office Department shall notify the licensee permittee with particularity and provide suggestions for suggest possible corrective measures; however, this will not bar the Department from taking enforcement action in appropriate cases. Failure to notify the permittee in writing within 90 days of receipt of a complete information submittal shall constitute a compliance verification.

(f) For those areas where the Department has joint jurisdiction with the U. S. Army Corps of Engineers, the Department's Siting Coordination Office shall provide to the Corps of Engineers and the licensee a letter stating that the applicant has met the requirements for 33 USC 1341 certification if:

1. The Department has notified the licensee that the monitoring review shows upon determining that the activities construction proposed are is in compliance accordance with the permitting requirements of the Conditions of Certification; or;

2. The Department has not made a determination whether the activities proposed are in compliance within 90 days of the licensee's submission of complete information the Department shall provide to the Corps of Engineer a letter stating that the applicant has met the requirements for 33 USC 1341 certification and copy the applicant.

~~(7)(8) If the Department has does not notified the licensee object within 90 days as the time period specified in Section 403.5317(2), F.S., on the grounds of noncompliance with the permitting requirements of the conditions of certification, the licensee utility may begin construction in such waters of the state pursuant to the terms of the conditions of certification and the subsequently submitted construction details. In such a case, the~~

~~(9) The licensee applicant shall notify the Department's Siting Coordination Office and the applicable Department District's Submerged Lands and Environmental Resource Office, Section or as otherwise indicated in the conditions of certification, of the place and anticipated starting date, i.e., county and month, of the construction dredge and fill activities in wetlands and other surface waters of the state no later than 10 working days prior to initiating any such dredge and fill activity.~~

~~(10) In the instance where the Department has determined prior to the expiration of the full review period that it has no objections to the construction plans, it may so advise the applicant in writing. Any information submittal after Board certification required by this section shall be solely for the purpose of facilitating the Department's monitoring of the applicant's compliance with the conditions of certification.~~

~~Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.531(3)(2) FS. History-New 4-15-85, Formerly 17-17.665, Amended _____.~~

62-17.680 Modification of Certification.

~~(1)(a) Except as otherwise provided in the conditions of certification, the licensee shall petition to modify certification for all changes in transmission line corridor alignment.~~

~~(b) Except as otherwise provided in the conditions of certification, expansions in right-of-way width following the narrowing of the certified area pursuant to Section 403.522(10), F.S., will be considered modifications pursuant to Section 403.5315, F.S.~~

~~(c) Once all property interests required for the right-of-way have been acquired by the licensee, the area of the corridor certified narrows to only that land within the boundaries of the right-of-way, unless specified otherwise by the conditions of certification. Under the provisions of Section 403.522(10), F.S., this shall not be construed to require a modification or further agency review.~~

~~(1) Certification, including conditions of certification, may be modified pursuant to the provisions of Section 403.5315, F.S., and the appropriate one of the following procedures:~~

~~(2)(a) Delegated Modifications pursuant to Section 403.5315(1), F.S. and Rule 62-17.680(3)(a), F.A.C.~~

~~(b) Modifications requested by a licensee shall be processed in accordance with Section without objections pursuant to Section 403.5315(2), F.S., and the following: F.A.C. Rule 62-17.680(3)(b).~~

~~(c) Modification by petition pursuant to Section 403.5315(3), F.S. and paragraph 62-17.680(3)(c), F.A.C.~~

~~(a) The process is initiated by the filing of a complete petition for modification. The petition shall contain a concise statement of the proposed modification; the factual reasons asserted for the modification; the changes in circumstance which justify the modification; a statement of whether, and if so, how the proposed modification if approved would affect the conditions of certification; a description of the portion of the transmission line as certified or previously modified which is the subject of the proposed modification; the anticipated effects of the proposed modification on the applicant, public, and the environment; and a copy of the appropriate alterations of the application as modified by the final order of certification, or subsequent modifications.~~

~~Modification of certification shall be initiated by filing a request or petition for modification, along with the applicable fee with the Department, with service of a copy of the request on all other parties to the original certification proceeding. All requests or petitions for modification shall contain:~~

~~(a) The proposed modification;~~

~~(b) A description of the portion of the transmission line as certified or previously modified which is the subject of the proposed modification;~~

~~(c) A concise statement of the facts, including changes in circumstance which justify the modification, as well as the rules and statutes which entitle the applicant to the modification;~~

~~(d) A discussion of the anticipated effects of the proposed modification, including any additional environmental effects;~~

~~(e) A statement of whether and how a proposed modification if granted would affect the conditions of certification, Findings of Fact or Conclusions of Law, and studies conducted pursuant to F.A.C. Rule 62-17.580, F.A.C., upon which the certification or conditions of certification were based;~~

~~(f) A copy of the appropriate alterations of the application as modified by the final order of certification, or subsequent modifications;~~

~~(b) To be deemed properly filed, the licensee shall submit the number of paper and electronic copies determined below.~~

~~1. The licensee shall consult with the Department to determine the number of paper copies needed to support the modification review. At a minimum, three paper copies of the request shall be submitted to the Department's Siting Coordination program, one copy shall be submitted to the Department's agency clerk, and at least one copy of the request shall be sent to all parties to the original proceedings and any previous modification proceedings, at the last address on record for the party. Parties have a duty to notify the Department of changes of address.~~

2. The licensee shall consult with the Department and parties to determine the number of electronic copies needed to support the modification review, and shall submit the number of electronic copies as determined.

(c) If the applicant is required by the Department to publish newspaper notice of the petition for modification pursuant to Section 403.5363(1)(b)6., F.S., such publication shall comply with Rule 62-17.750, F.A.C.

(d) The petition shall be reviewed for completeness. Within 25 days of the filing of the petition with the Department, agencies with jurisdictional matters affected by the proposal shall file completeness recommendations with the Department. Within 30 days of the filing of the petition with the Department, the Department shall issue a completeness determination. Any subsequent information filings intended to render the petition complete shall be reviewed by the agencies and the Department under these same deadlines.

(e) If no objections are received from the parties to the prior certification proceedings within 45 days after issuance of the notice by mail, or from other persons whose substantial interests will be affected by the modification within 30 days after publication of the newspaper notice specified in paragraph (c) above, if such notice is required by the Department pursuant to Section 403.5363(1)(b)6., F.S., or within 30 days after publication of notice by the Department pursuant to Section 403.5363(3)(f), F.S., then the Department shall issue a Final Order on the modification consistent with the noticed proposed order. If written objections are filed that address only a portion of the proposed order on a modification, then the Department shall issue a Final Order on the portion of the modification to which no objections were timely filed, unless that portion of the requested modification is substantially related to or necessary to implement the portion to which written objections are timely filed.

(f) If objections are filed, the provisions of Chapter 120, F.S., shall govern.

(g) The legal authority that entitles the person to seek the modification:

(3) The request for modification shall be processed by the Department in accordance with the following:

(a) If the proposed modification is one for which the Department has been delegated approval authority by the Board pursuant to Section 403.5315(1), F.S., the procedures set forth below shall apply:

1. Within 60 days of receipt of a request for modification, the Department shall provide notice of receipt of the request and the Department's proposed action on the request as set forth in subsection 62-17.750(8), F.A.C.

2. If no person whose substantial interests would be determined by the Department's decision on the request files a petition within fourteen calendar days from receipt or publication of notice, whichever is earlier, the Department

shall issue an order adopting its proposed agency action as set forth in the notice published pursuant to subparagraph 1. above.

3. Petitions for an administrative proceeding on the request for modification, if any, shall be filed with the Department with a copy served on all parties to the original certification proceeding. The Department may request the Division of Administrative Hearings to conduct a proceeding on the petition. The Hearing Officer shall submit the recommended order to the Secretary of the Department who shall take final agency action.

4. The Department shall issue its final order within 20 days after receipt of any exceptions to the recommended order.

5. Failure to submit a complete or sufficient request for modification shall be grounds for the Department to deny a modification.

(b) If the proposed modification is one for which the Department can approve if no objections are received pursuant to Section 403.5315(2), F.S., the procedures set forth below shall apply:

1. Within 15 days of receipt of such a request for modification the Department shall provide notice of receipt of the request as set forth in Rule 62-17.750(9), F.A.C.

2. If no party or other person whose substantial interests would be affected by the Department's decision on the request files an objection within the time period allotted in Section 403.5315(2), F.S., the modification shall be approved and the Department shall issue an order modifying the certification.

3.a. Objections to the request for modification, if any, shall be filed with the Department with a copy served on all other parties to the original certification proceeding.

b. Upon the filing of an objection, the Department shall conduct an informal conference after at least five days written notice to all parties and to all persons whose substantial interests would be determined who filed a timely objection, to determine if the objecting parties are able to reach mutual written agreement on modification of the terms and conditions of certification, or whether changes can be made to the proposed modification so as to have the objections withdrawn. However, if the changes significantly alter the proposed modification, the modification as changed shall be noticed in accordance with this paragraph 62-17.680(3)(b), F.A.C., with persons whose substantial interests are affected given another right to object.

e. If no agreement can be reached, the Department shall deny the request for modification without prejudice to the applicant to file a petition pursuant to Section 403.5315(3), F.S. and paragraph 62-17.680(3)(c), F.A.C.

d. If a mutual written agreement can be reached by all parties or if the objections are withdrawn, the Department shall issue an order modifying the terms and conditions of certification as set forth in the agreement.

4. Failure to submit a complete or sufficient request for modification may be grounds for any party to object to the modification.

(c) If the proposed modification is one for which approval authority has not been delegated to the Department, and if the Department is unable to approve the proposed modification pursuant to Section 403.5315(2), F.S. and paragraph 62-17.680(3)(b), F.A.C., or at the applicant's option, the applicant may file a petition for modification pursuant to Section 403.5315(3), F.S., and the procedures below shall apply.

1. Within 5 days of receipt of a petition for modification, the Department shall forward the petition to the DOAH for assignment of a hearing officer and shall request the hearing officer to establish a schedule for the processing of the petition, including a schedule for appropriate notices.

2. Within 15 days of receipt of a petition for modification the Department shall arrange for notice as set forth in Rule 62-17.750(10), F.A.C.

3. The provisions of Rules 62-17.560 and 62-17.570, Florida Administrative Code, relating to completeness and sufficiency shall apply to review of petitions for modification filed pursuant to this subsection, but with a shorter time period commensurate with the significance of the modification.

4. Petitions filed pursuant to this subsection shall be disposed of in the same manner as an application but with shortened time periods commensurate with the significance of the modification requested.

5. The Hearing Officer shall submit the Recommended Order to the Board for final agency action.

6. The Department shall request the Board to take final agency action within 30 days from issuance of the recommended order by the hearing officer or at the next available regularly scheduled Board meeting.

(4) Except to the extent that the Act or this Chapter sets forth a specific procedural requirement, the Model Rules of Procedures, Florida Administrative Code Chapter 28-5, shall govern.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.5315 403.523(11), 403.535 FS. History-New 11-20-80, Amended 6-26-84, Formerly 17-17.680, Amended _____.

62-17.695 Emergency Replacements.

Emergency replacement of transmission lines certified under the Act requiring deviation from any condition of certification shall not be considered a modification pursuant to Section 403.5315, F.S. A verbal report of the emergency shall be made to the department as soon as possible. Within 30 days after correction of the emergency a report to the department shall be made outlining the details of the emergency and the steps taken for its relief. The report shall be a written description of all of the work performed and shall set forth any pollution control

measures or mitigative measures which were utilized or are being utilized to prevent pollution of waters, harm to sensitive areas or alteration of archaeological or historical resources.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.531(2), 403.5315 FS. History-New 6-26-84, Formerly 17-17.695, Repealed _____.

62-17.700 Revocation or Suspension of Certification.

(1) Any certification may be revoked or suspended by the Board in accordance with Section 403.532, F.S.

(2) Any agency with regulatory jurisdiction over a certified transmission line, as authorized by law, may at its discretion cause to be conducted any investigations, monitoring or studies related to certification, deemed appropriate in contemplation or in pursuance of suspension or revocation proceedings.

Rulemaking Specific Authority 403.523(1), F.S. Law Implemented 403.532 FS. History-New 11-20-80, Amended 6-26-84, Formerly 17-17.700, Repealed _____.

62-17.710 Termination of Certification.

The applicant shall commence construction on or condemnation or acquisition of the right of way of a transmission line which has been certified within 5 years of the date of certification or such later date as may be authorized by the Board, or certification shall be terminated.

Rulemaking Specific Authority 403.523(1)(8) FS. Law Implemented 403.529 FS. History-New 11-20-80, Amended 6-26-84, Formerly 17-17.710, Repealed _____.

62-17.750 Public Noticing Requirements.

(1) The following forms used by the Department of Environmental Protection are adopted and incorporated by reference. The forms are listed by rule number which is also the form number, with the subject, title and effective date. Copies of forms may be obtained from the Department of Environmental Protection, Siting Coordination Office, MS. 48, 3900 Commonwealth Blvd., Tallahassee, FL 32399 or by accessing the Office's web site at <http://www.dep.state.fl.us/siting>.

(a) The applicant shall provided newspaper notice as required by Section 403.5363, F.S., using the forms and procedures listed below.

1. Notice of Filing an Application – DEP Form 62-17.750(1). This notice shall:

a. Be published within 15 days after filing with the department;

b. Be published in a newspaper of general circulation within each county crossed by a transmission line corridor;

c. Be no less than one half page in size (one full page in a tabloid size newspaper);

d. Contain a map, which occupies a minimum of one quarter of the display advertisement, clearly showing the corridors proper for certification inclusive of Selected Townships and Ranges, and where possible, Sections, with all patterns or other graphics used to indicate special features bold enough to register legibly on newsprint.

2. Notice of Certification Hearing – DEP Form 62-17.750(2). This notice shall:

a. Be published not less than 65 days prior to scheduled certification hearing;

b. Be published in a newspaper of general circulation within each county crossed by a transmission line corridor not less than 65 days prior to any scheduled certification hearing;

c. Be no less than one half page in size (one full page in a tabloid size newspaper);

d. Have a heading in bold letters not less than 3/8 inch high.

e. Include a map of the proposed corridor(s) location.

3. Notice of Cancellation of Certification Hearing – DEP Form 62-17.750(3) This notice shall:

a. Be published in a newspaper of general circulation within each county crossed by a transmission line corridor at least 3 days prior to any scheduled certification hearing;

b. Be one-fourth page in size in a standard size newspaper or one-half page in a tabloid size newspaper;

c. Have a heading in bold letters not less than 3/8 inch high.

4. Notice of Deferment of Certification Hearing – DEP Form 62-17.750(TL4) This notice shall:

a. Be published in a newspaper of general circulation within each county crossed by a transmission line corridor;

b. Be published at least 7 days before the date of the originally scheduled certification hearing;

c. At a minimum, be one-eighth page in size in a standard size newspaper or one-fourth page in a tabloid size newspaper;

d. Not require a map to be included;

e. In the event that the certification hearing is deferred and dates of rescheduling are available, this notice may be combined with the notice of Rescheduled Certification Hearing – DEP Form 62-17.750(5).

5. Notice of Rescheduled Certification Hearing – DEP Form 62-17.750(5). This notice is required to be provided by the applicant in those counties which are traversed by the corridor proposed in the application, but not by an accepted alternate corridor for which a hearing is being rescheduled. The notice shall:

a. Be published in the same newspapers the Notice of Filing of Application and Notice of Certification Hearing were published in for those particular counties;

b. Be one-fourth page in size in a standard size newspaper or one-half page in a tabloid size newspaper;

c. Have a heading in bold letters not less than 3/8 inch high;

d. Have a copy of a map or maps showing the location of all corridors proper for certification.

6. Notice of Modification of Certified Transmission Line Corridor – DEP Form 62-17.750(6). This notice shall:

a. Be published in a newspaper of general circulation in each county affected by any proposed modification;

b. Be one-half page in size in a standard size newspaper or one full page in a tabloid size newspaper;

c. Have a heading in bold letters not less than 3/8 inch high;

d. Have a copy of a map showing modification location.

(b) The proponent of an alternate corridor shall provide newspaper notice as required by Section 403.5363, F.S., using the form and procedures listed below.

1. Notice of Filing an Alternate Corridor – DEP Form 62-17.750(8). This notice shall:

a. Be published within 15 days after filing with the department;

b. Be published in a newspaper of general circulation within each county crossed by a transmission line corridor;

c. Be no less than one half page in size (one full page in a tabloid size newspaper);

d. Contain a map, which occupies a minimum of one quarter of the display advertisement, clearly showing the corridors proper for certification inclusive of Selected Townships and Ranges, and where possible, Sections, with all patterns or other graphics used to indicate special features bold enough to register legibly on newsprint.

2. Notice of Rescheduled Certification Hearing – DEP Form 62-17.750(5). This notice is required to be provided by the proponent of an alternate corridor in those counties traversed by the proponent's accepted alternate corridor, pursuant to subsection 403.5363(2), F.S. The notice shall:

a. Be published in the same newspapers the Notice of Filing of Application and Notice of Certification Hearing were published in for those particular counties;

b. Be one-fourth page in size in a standard size newspaper or one-half page in a tabloid size newspaper;

c. Have a heading in bold letters not less than 3/8 inch high

d. Have a copy of a map or maps showing the location of all corridors proper for certification.

(c) A local government or regional planning council whose jurisdiction is to be crossed by a proposed transmission line corridor who requests an Informational Public Meeting shall provide newspaper notice as required by Section 403.5363, F.S., using the form and procedures listed below.

1. Notice of Informational Public Meeting – DEP Form 62-17.750(7). This notice shall be published by a local government or regional planning council in a newspaper of

general circulation within whose jurisdiction is to be crossed by a proposed transmission line corridor and be published at least 15 days before the date of the meeting.

(2) The Applicant or alternate proponent shall provide direct notice to property owners located within one-quarter mile of the proposed boundaries of the proposed transmission line corridor(s) in accordance with subsection 403.5363(5)(a) or (6)(a), F.S. A copy of the direct notice provided by the applicant or the proponent of an alternate corridor and a list of all persons to whom the notice was delivered shall be provided to the Department's Siting Coordination Office in electronic format by the applicant or the proponent of an alternate corridor, as applicable.

(1)(a) The department shall prepare the text for the public notices required under this chapter and send the notices to the appropriate newspapers when required. The department shall notify the newspaper that the invoice for publication is to be sent to the department. If the application for certification proposes one or more secondary corridors, the notices provided by this chapter shall be amended by the department to reflect that such secondary corridors are proper for certification.

(b) Many of the notice requirements of this section are beyond the notice content requirements of the Act and are solely provided as a voluntary public service by the department. The content of any notice may be different than that provided in this section so long as the deviation does not materially and substantially alter the substance of such notice. A person challenging any such notice content deviation must show that but for the particular notice content deviation such person would have had notice of the certification proceedings. Upon such showing, the hearing officer may correct such deficiency as provided in Rule 62-17.760, F.A.C.

(2) Notice of Binding Agreement.

Within 15 days of receipt of a proposed written agreement, as provided for in subsection 62-17.540(1), F.A.C., on the scope, quantity, and specificity of the information to be provided in the application, notice shall be provided:

(a) To the agencies in whose jurisdiction the corridor may pass, informing the agencies that any disagreements must be in writing and served on the department by the agency within 25 days of receipt of the notice.

(b) In the Florida Administrative Weekly, containing the following information:

1. The name, size, and a brief description of the transmission line.

2. A list of places where the proposed agreements are available for inspection.

3. Text which substantially states "The department and other affected agencies are authorized by subsection 62-17.540(1), F.A.C., to enter into binding written agreements with regarding the scope, quantity, and level of information to be provided in the application for certification which will subsequently be filed. The public may provide comments

regarding the substance of such an agreement to its local government or the Transmission Line Siting Coordinator, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32301, within 25 days of the publication of this notice".

4. A statement informing persons whose substantial interests may be affected by the agreement of their rights under Chapters 120 and 403, F.S., regarding any decision on the agreement.

(e) At the discretion of the department, in newspapers of general circulation, as defined in (3)(a) below, consisting of the same information described in (b) above.

(3) Notice of Receipt of Application.

No later than 15 days after the receipt of an application, the department shall arrange for publication of a public notice consisting of the following:

(a) Publication in a newspaper of general circulation within each county crossed by a transmission line corridor. A newspaper of general circulation is the newspaper which has the largest daily circulation within that county and whose principal office is in that county; if such newspaper has its principal office outside the county, then the notice shall appear in both that newspaper and in a newspaper authorized to publish legal notices within the county. The public notice shall bear be no less than one-half page in size (one full page in a tabloid size newspaper), bearing the heading "Notice of Receipt of Transmission Line Certification Application" in bold letters not less than 3/8 inch high. The notice shall contain the following:

1. A map of the corridors proper for certification. The map shall be supplied by the applicant and shall be a camera ready copy. The applicant shall consult with the department as to how many copies will be necessary. The map shall clearly show the corridors proper for certification. Selected Townships and Ranges, and where possible, Sections, shall be shown on the map. All patterns or other graphics used to indicate special features shall be bold enough to register legibly on newsprint. The map shall occupy at least one quarter of the display advertisement.

2. Text which substantially states the following:

a. "Application number for certification to authorize location of a transmission line corridor, construction, operation and maintenance of a kilovolt electrical transmission line(s) commonly referred to as _____ and maintenance of the transmission line right-of-way from _____, Florida to _____, Florida was received by the Department of Environmental Protection on ____, 19__. The case is pending before the Division of Administrative Hearings, Case No. _____, prior to action by the Governor and Cabinet, pursuant to the Florida Transmission Line Siting Act, Chapter 403, Part II, F.S. The corridor will pass through the following local government jurisdictions:

b. "A certification hearing will be held regarding this application in approximately 4 months and a notice stating the date, time and location of the hearing will be published in this newspaper at least 80 days before the date set for the hearing. The Hearing Officer will receive testimony and evidence from the parties and the public at the certification hearing. If timely requested by a local government pursuant to Section 403.527(2), F.S., a public hearing where members of the public not parties to the certification proceedings may testify under oath as to relevant facts and subject to cross examination by all parties shall be held in each county through which the corridor passes; however, the public should be aware that the majority of the testimony and evidence in the case will be heard at the centrally located certification hearing.

e. "State agencies and local governments will be studying the application and preparing testimony and evidence for the certification hearing. It is recommended that interested individuals review the application and bring matters of concern to the appropriate agency's attention as soon as possible (see below for listing of participating agencies). The application for certification which more specifically depicts the corridor is available for public inspection at the following locations:" (Here list the addresses of the main and appropriate district offices of the department serving the area of the corridor; the general business office of the applicant and the local business office of the applicant, if any, in every county through which the proposed corridor passes; and a public library in each county through which the corridor passes.)

3.d. "Consideration may be given in this proceeding to corridors alternate to the route preferred by (the applicant). The applicant may propose corridors secondary to the primary corridor in order to preserve its options, and persons other than the applicant may also propose alternate routes for portions or all of the corridor. To propose an alternate corridor, persons must request to become a party to the proceedings (see below), and then must file a notice of proposed alternate corridor with the hearing officer pursuant to Section 403.527(5), F.S., all parties, and any local governments in the jurisdiction of which the alternate is proposed, by no later than 45-50 days prior to the certification hearing. The filing must include the most recent United States Geological Survey 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in Section 403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the certification hearing. See Section 403.527(5), F.S., and Rule 62-17.543, F.A.C., for further information and requirements."

e. "Anyone wishing to become a party to the proceedings should file an appropriate petition pursuant to Rule 28-5.207, F.A.C., with, Hearing Officer, Division of Administrative Hearings, Tallahassee, Florida. Copies of the petition should be sent by mail to all parties. Those wishing to intervene in these proceedings, unless appearing on their own behalf, must be represented by an attorney or other person who can be determined to be qualified to appear in administrative proceedings pursuant to Chapter 120, F.S. or Rule 62-103.020, F.A.C.

f. The text shall also include Section 403.527(4), F.S., in its entirety.

(b) The department shall mail the same text and map used in the public notice to any person who has requested to be placed on the department's mailing list for notification of transmission line certification hearings.

(c) Publication of an appropriate notice of the application in the Florida Administrative Weekly.

(4) Notice of Certification Hearing.

At least 80 days prior to the certification hearing, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers identified pursuant to subsection (3) above. The notice shall also be of the same size, and have the same heading height, as set forth in subsection (3) above. Such public notice shall bear the heading, "Notice of Certification Hearing on Proposed Electrical Transmission Line Corridor". The public notice shall contain the following information:

1. Same as (3)(a)1. above.

2. Text which substantially states the following:

a. Same as (3)(a)2.a.

b. "Pursuant to Section 403.527, F.S., the certification hearing will be held by the Division of Administrative Hearings on ____, 19__, at ____, in ____, Florida, at ____.m. to determine whether the application should be approved in whole, approved with modifications and conditions, or denied. In making this determination, the hearing officer, and ultimately the Governor and Cabinet, shall consider whether, and the extent to which, the location of the transmission line corridor, and the construction and maintenance of the transmission line will:

"(a) Ensure electric power system reliability and integrity;

"(b) Meet the electric energy needs of the state in an orderly and timely fashion;

"(c) Comply with nonprocedural requirements of agencies;

"(d) Be consistent with applicable local government comprehensive plans; and

"(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low cost electrical energy and the impact to the public and the

environment resulting from the location of the transmission line corridor, and construction, maintenance, and electric and magnetic field effects of the transmission line.

“Consideration of individual private property rights, equitable compensation for condemnation proceedings which may be necessary to obtain access and use of the right of way, and the electrical need for the transmission line will not be heard at this hearing. Need for the transmission line is considered by the Public Service Commission at a separate hearing.”

e. Where individual local government hearings have been requested, the public notice for the particular county shall state: “As requested by” (local governments’ names) “a local public hearing where members of the public not a party to the certification hearing may testify under oath as to relevant facts and subject to cross-examination by all parties shall be held on __, 19__, at __, in __, Florida”.

d. Same as (3)(a)2.e.

e. Same as (3)(a)2.d., except that the date by which an alternate corridor must be filed shall be specifically listed.

f. Same as (3)(a)2.e. f.

g. A statement that “This notice is in lieu of other notices, including those relating to variances, changes to zoning ordinances and local governments’ plans, or any other non-federal government license or permit”.

h. A statement that “A term or condition of the certification, if granted, may provide for the subsequent submittal of information necessary for agencies to monitor the effects arising from the location of the transmission line corridor and the construction, and maintenance of the transmission line to assure continued compliance with state water quality requirements or compliance with other agency non-procedural rules and standards, particularly with regards to dredging and filling activities, without any further government action. A person whose substantial interest may be affected by such submittals or monitoring must petition to become a party to this proceeding if they desire an administrative determination relative to the post certification monitoring process in that this certification proceeding provides such a person with the opportunity for a hearing as required by Chapter 120, F.S., and the Act. Failure to petition to become a party within the time frames set forth in this notice constitutes a waiver to an administrative determination (or hearing) pursuant to Chapter 120, F.S., and the Act on the postcertification review and monitoring unless otherwise specified by a term or condition of certification”.

(b) Publication of an appropriate notice of the hearing in the Florida Administrative Weekly.

(5) Reminder Notice.

No more than two weeks prior to the centrally located certification hearing, the department shall publish a brief notice in the Legal Advertisements section of the same newspapers in which the notice of certification hearing was published, reminding the public of the time and place of the hearing.

(6) Notice on Rescheduled Certification Hearing Due to Filing of Alternate Corridors.

At least 80 days prior to the rescheduled certification hearing, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers used in (3) above. The notice shall also be of the same size or larger if necessary to accommodate maps, have the same heading height, and shall be subject to the same specifications for the map. The notice shall bear the heading, “Notice of Rescheduled Transmission Line Certification Hearing”. The public notice shall contain the following:

1. A copy of a map or maps showing the location of all corridors proper for certification. Alternates located in only certain counties need only be published in the newspapers for those counties.

2. Text which substantially states the following:

a. “Pursuant to the provisions of Section 403.527(5), F.S., corridors alternate to the one sought by (applicant's name) in the to (project name) Transmission Line Certification proceedings, application number __, Division of Administrative Hearings Case No. __ have been submitted. In order to allow citizens and agencies to study the proposal, the certification hearing originally scheduled for __, 19__ and noticed in this paper on __, 19__ has been rescheduled to __, 19__, at __, Florida, commencing at __.m.”

b. Where individual local government hearings had been requested, the public notice for the particular county shall state: “The local public hearing where members of the public not a party to the proceeding could testify has also been rescheduled to 19__, at __, Florida, commencing at __.m.; citizens should be aware that the majority of the testimony and evidence of the case will be heard at the centrally located certification hearing identified above”.

e. “State agencies and local governments have been studying the application as was originally proposed and shall do the same for the alternate corridor locations proposed. It is recommended that interested individuals review the information available on the alternate proposal and bring matters of concern to the appropriate agency’s or the alternate proponent’s attention as soon as possible (see below for listing of participating agencies). The information on alternates is available at the following locations:”

(Here list the addresses of the main and appropriate district offices of the department, the applicable local governments, the applicant, the alternate proponent, and any other appropriate locations.)

d. "Persons substantially affected by any corridor proper for certification may become a party to the proceedings as described below. Persons becoming parties are entitled to propose corridors alternate to the alternate previously proposed. To propose an alternate, persons must request to become a party to the proceedings (see below), and then must file a notice of proposed alternate corridor with the hearing officer, all parties, and any local governments in the jurisdiction of which the alternate is proposed, by (here list a date at least 50 days prior to the certification hearing). The filing must include the most recent United States Geological Service 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in Section 403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the certification hearing. See Section 403.527(5), F.S., and Rule 62-17.543, F.A.C., for further information and requirements."

e. Same as in (3)(a)2.e. f.

(b) Same as (3)(b).

(c) Publication of an appropriate notice of rescheduled certification hearing in the Florida Administrative Weekly.

(7) Notice on Completeness or Sufficiency Hearings.

Written notice of a hearing on the completeness or sufficiency of an application shall be given to all parties.

(8) Notice of a Modification Request pursuant to Section 403.5315(1), F.S. The notice of receipt of, and of proposed agency action, (one notice for both) on a request for modification filed pursuant to Rule 62-17.680(3)(a), F.A.C., shall be in substantial conformance with the following:

(a) Florida Administrative Weekly Notice.

"Notice of Proposed Modification of Transmission Line Corridor Certification"

"Please take notice that the Department of Environmental Protection has received a request for modification of a Transmission Line Corridor Certification issued under the Florida Transmission Line Siting Act pursuant to Section 403.5315(1), F.S., and Florida Administrative Code Rule 62-17.680(3)(a), concerning: (name and file number of certification). The proposed modification involves (description and location of modification).

"The department proposes to (issue/issue with changes or conditions/deny) the request.

"A copy of the request and proposed agency action is available for inspection at (name and address).

"RIGHT TO PETITION"

"Any person whose substantial interest may be determined by the proposed agency action may petition pursuant to Chapter 120, F.S., for an administrative proceeding (hearing) within 14 days from receipt of this notice. The petition must

conform to the requirements of Model Rule Section 28-5.201, F.A.C. and Rule 62-17.680, F.A.C., and must be filed during business hours with (received by) the Office of General Counsel, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32301. Failure to file a petition within the aforementioned time period constitutes a waiver of Chapter 120, F.S., right to such administrative proceeding."

(b) A similar notice shall be sent to all parties and to all persons on the department mailing list.

(c) The department in its discretion may also require the person requesting the modification to publish notice in a newspaper of general circulation (as defined in (3)(a) above) in the affected area.

(9) Notice of Modification Request pursuant to Section 403.5315(2), F.S.

Within 15 days of receipt of a request for modification pursuant to Section 403.5315(2), F.S., the department shall provide notice of receipt of such modification request by:

(a) Publication in a newspaper of general circulation, as defined in (3)(a), in each county affected by the modification. The text of the notice shall contain substantially the following information:

1. The name of the utility and a brief description of the requested modification;

2. If corridor alignment changes are proposed, a map of the same quality required by (3)(a)1. showing the location of the modification;

3. A list of readily accessible places where copies of the modification information are available;

4. A statement that: "Request number to authorize a modification to the previously certified electrical transmission line has been received by the Department of Environmental Protection, pursuant to the Transmission Line Siting Act, Ch. 403, Part II. The modification will pass through or affect the following local governmental jurisdictions. Persons who are not already parties to the certification proceeding and whose substantial interests are affected by the proposed modification and who object to it must file their objections in writing with the Department of Environmental Protection, Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32301, during normal business hours within 30 days of publication of this notice. A copy of such objection must be served on all parties. Persons who fail to have the objection filed with (received by) the department within the prescribed time period will have waived their right to object.

(b) Publication of notice in the Florida Administrative Weekly; and

(c) Mailing notice to the last address of record for each party to the original certification proceedings. Such notice shall contain statements that advise that parties have the right, pursuant to Section 403.5315(2), F.S., to object to the proposed modification by filing an objection with the department during

normal business hours within 45 days of the mailing of the notice, and that a party who fails to have the objection filed with (received by) the department within the prescribed time period will have waived their right to object.

(10) Notice of Receipt of a Modification Petition Filed Pursuant to Section 403.5315(3), F.S. The department shall provide notice of a modification petition filed pursuant to Section 403.5315(3), F.S., by:

(a) Publication in a newspaper of general circulation as defined in (3)(a), in each county affected by the modification. The public notice shall be no less than 1/2 page in size (one full page in tabloid size newspaper), bearing the heading, "to Transmission Line; Notice of Receipt of Modification Petition" in bold letters. The text of the public notice shall contain substantially the following information:

1. The same as in (9)(a)1.-2.

2. A statement that: "A petition to authorize a modification to the previously certified electrical transmission line from Florida to, Florida, is now pending before the Division of Administrative Hearings, Case Number ____, prior to action by the Governor and Cabinet, pursuant to the Transmission Line Siting Act, Chapter 403, Part II, F.S. The modification will pass through the following local governmental jurisdictions." (Here list the Cities and Counties as appropriate).

3. A statement that: "Pursuant to Sections 403.527 and 403.5315(4), F.S., a hearing regarding any disputed issues over the modification of the previously issued certification will be held on at a later date, to be announced in this paper. The Hearing Officer has (or will) established a schedule for processing the Petition which may be shorter than the schedule allowed for the original application. A copy of the schedule is available from. The Hearing Officer will receive testimony and evidence from the parties and the public at the modification hearing. If requested by a local government pursuant to Section 403.527(2), F.S., within the time period set by the hearing officer, a public hearing where members of the public not parties to the modification proceedings may testify under oath as to relevant facts and subject to cross examination by all parties shall be held in each county through which the modification would occur; however, the public should be aware that the majority of the testimony and evidence in the case will be heard at the centrally located modification hearing.

4. "State agencies and local governments will be studying the proposed modification and preparing testimony and evidence for the modification hearing. It is recommended that interested individuals review the proposal and bring matters of concern to the appropriate agency's attention as soon as possible (see below for listing of participating agencies). The petition for modification which more specifically describes the matters of issue is available for public inspection at the following locations:" (Here list the addresses of the main and appropriate district offices of the department serving the area of the proposed modification; the general business office of the

applicant and the local business office of the applicant, if any, in every county through which the proposed modification would occur; and a public library in each county through which the proposed modification would occur.)

5. Where a corridor location change has been proposed, the following: "Consideration may be given in this proceeding to corridors alternate to the route for which the modification is proposed. Persons who become parties to the modification proceeding (see below) may also propose alternate routes for the portion of the corridor at issue. A notice of proposed alternate corridor must be filed with the hearing officer pursuant to Section 403.527(5), F.S., all parties, and any local governments in the jurisdiction of which the alternate is proposed, by no later than (50 days/a time period established by the hearing officer) prior to the modification hearing. The filing must include the most recent United States Geological Survey 1:24000 quadrangle maps specifically delineating the corridor boundaries, a description of the proposed alternate corridor, and a statement of the reasons the proposed alternate should be certified. Each party proposing an alternate corridor shall have the burden to provide the data necessary for the agencies listed in Section 403.526, F.S., to prepare a supplementary report, and the burden of proof on the certifiability of the alternate corridor at the modification hearing. See Section 403.527(5), F.S., and Florida Administrative Code Rule 62-17.543 for further information and requirements."

6. "Anyone whose substantial interests are affected by the proposed modification and who wishes to become a party to the proceedings should file an appropriate petition pursuant to Florida Admin. Code Rule 28-5.207 with, Hearing Officer, Division of Administrative Hearings, Tallahassee, Florida. Copies of the petition should be sent by mail to all parties."

7. The text shall also include Section 403.527(4), Florida Statutes, in its entirety:

(b) By publication of appropriate notice in the Florida Administrative Weekly.

(c) The department shall mail the same text and map used in the public notice to any person who has requested to be placed on the department's mailing list for notification of transmission line certification hearings.

(11) Notice of Hearing on Modification Petition Filed Pursuant to Section 403.5315(3), F.S. At least 80 days prior to the modification hearing, or as otherwise ordered by the Hearing Officer, public notice shall be provided and shall consist of the following:

(a) Publication in the same newspapers identified pursuant to subsection (10) above. The notice shall also be of the same size, and have the same heading height, as set forth in subsection (10) above. Such public notice shall bear the heading, "to Transmission Line; Notice of Certification Modification Hearing". The public notice shall contain the following information:

- 1. Same as (9)(a)2. above.
- 2. Text which substantially states the following.
 - a. The name of the utility and a brief description of the requested modification.
 - b. ~~“Pursuant to Sections 403.527 and 403.5315(4), F.S., the modification hearing will be held by the Division of Administrative Hearings on _____, 19____, at _____, in _____, Florida, at m. to determine whether the proposal for modification should be approved in whole, approved with other modifications and conditions, or denied. In making this determination, the hearing officer, and ultimately the Governor and Cabinet, shall consider whether, and the extent to which, the location of the transmission line corridor, and the construction and maintenance of the transmission line will:

 - “(a) Ensure electric power system reliability and integrity;
 - “(b) Meet the electric energy needs of the state in an orderly and timely fashion;
 - “(c) Comply with nonprocedural requirements of agencies;
 - “(d) Be consistent with applicable local government comprehensive plans; and
 - “(e) Effect a reasonable balance between the need for the transmission line as a means of providing abundant low-cost electrical energy and the impact to the public and the environment resulting from the location of the transmission line corridor, and construction, maintenance, and electric and magnetic field effects of the transmission line.~~

~~“Consideration of individual private property rights, equitable compensation for condemnation proceedings which may be necessary to obtain access and use of the right of way, and the electrical need for the transmission line will not be heard at this hearing. Need for the transmission line is considered by the Public Service Commission at a separate hearing.”~~

 - e. Where individual local government hearings have been requested, the public notice for the particular county shall state: “As requested by” (local governments’ names) “a local public hearing where members of the public not a party to the modification hearing may testify under oath as to relevant facts and subject to cross examination by all parties shall be held on _____, 19____, at _____, in _____, Florida.
 - d. Same as (10)(a)4.
 - e. Same as (10)(a)5., except that the date by which an alternate corridor must be filed shall be specifically listed.
 - f. Same as (10)(a)6. 7.
 - g. Same as (4)(a)2.g.-h.
 - (b) Publication of an appropriate notice of the hearing in the Florida Administrative Weekly.
 - (c) Same as (10)(c).
 - (12) ~~Reminder Notice for Modification Hearing Conducted on Petition Filed Pursuant to Section 403.5315(3), F.S. No more than two weeks prior to the modification hearing,~~

~~the department shall publish a brief notice in the Legal Advertisements section of the newspapers in which the notice of modification hearing was published, reminding the public of the time and the place of the hearing.~~

(3) Evidence of Notice Pursuant to Chapter 403, F.S.

(a) The applicant or alternate proponent, whichever is responsible for the publication of a newspaper notice, shall provide to the Siting Coordination Office:

1. A newspaper clipping of the actual notice, or a portable document format file of a copy of the actual notice, either of which includes the date of publication and the name of the newspaper in addition to a depiction of the full notice, within five (5) days of actual publication.

2. Proof of publication of each newspaper notice, within seven (7) days of the applicant’s or alternate proponent’s receipt of the proof of publication.

(b) Evidence of any notices shall be filed with the Administrative Law Judge.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.527(6)(c), 403.5271(1), 403.5271(1)(c), 403.5315(2), 403.5363 403.523(9), 403.527(1), (5), 403.535 FS. History–New 11-20-80, Transferred from 17-17.61, Amended 6-26-84, Formerly 17-17.750, Amended _____.

62-17.760 Evidence of Notice, Additional Notice.

(1) Evidence of any notice made pursuant to this chapter, together with a copy of the notice, shall be filed with the hearing officer by the Department at the commencement of the hearings held pursuant to the subject of the notice.

(2) Failure of service on, or to give notice to the public by publication or otherwise or any of the persons entitled to receive such service or notice pursuant to provisions of this chapter, may be cured by an order of the hearing officer designed to afford the public or such persons adequate notice to enable their effective participation in the proceedings.

(3) The hearing officer may, at any time for good cause shown, require the Department to serve or publish additional notices of hearing and file evidence thereof.

Rulemaking Specific Authority 403.523(1) FS. Law Implemented 403.523(6), (9), 403.527(1), (5), 403.5315 FS. History–New 11-20-80, Transferred from 17-17.62 and Amended 6-26-84, Formerly 17-17.760, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael P. Halpin, PE, Florida Department of Environmental Protection, Siting Coordination Office, 3900 Commonwealth Boulevard, MS 48, Tallahassee, Florida 32399

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Mike Sole

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: 64B2-11.003
 RULE TITLE: Licensure Examination

PURPOSE AND EFFECT: The Board proposes to repeal the rule because the Department no longer gives a practical examination.

SUMMARY: The rule will be repealed due to the fact that the Department no longer gives a practical exam.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.017(1), 460.405 FS.

LAW IMPLEMENTED: 456.017(1), 460.406(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-11.003 Licensure Examination.

~~(1) The Board requires the candidate to pass the practical examination developed by the Department of Health, which measures competency in the following subject areas:~~

~~(a) X-ray interpretation of chiropractic and pathology films. The subject areas and associated approximate weights for the x-ray examination shall be as follows:~~

Congenital anomalies and normal skeletal variants	12-25%
Trauma	15-20%
Arthritic disorders	10-15%
Tumors and tumorlike processes	5-10%
Infection	1-5%
Hematological and vascular disorders	1-5%
Nutritional, metabolic, and endocrine disorders	1-5%
Chest	1-5%
Biomechanics	5-10%
Alternative	1-5%
Technique	5-10%
Anatomy	5-10%

~~(b) Technique, which may include manipulation or adjustment of any of the following anatomical areas: the occiput, cervical, thoracic, lumbar, pelvis, ribs, extremities, soft tissue, and the whole body according to the following approximate weights:~~

Doctor/patient position	25%
Location of segment	25%
Contact point	25%
Line of drive	25%

~~(c) Physical diagnosis, which may include any of the following: case history, chiropractic examination, general physical examination, orthopedic examination, neurological examination, X-ray technique and diagnosis, laboratory technique and diagnosis, nutrition, differential diagnosis, and clinical judgment according to the following approximate weights:~~

Orthopedic and neurological	30-35%
Diagnostic imaging	20-25%
Case history and physical	15-20%
Laboratory	5-10%
Diagnosis	15-20%
Clinical judgment	5-10%

~~(2) A score of 75% on each subject area in subsection (1) shall be necessary to achieve a passing score on the practical portion of the examination outlined in subsection (1). Upon initial examination, an applicant must take the entire practical examination. The applicant must pass at least two (2) of the three (3) subject areas of the practical examination in order to retake any failed subject area. The applicant may retake a failed subject area only twice, within 24 months of the date of the first failure, after which time the applicant must retake the entire practical examination.~~

~~(3) In addition to the examinations in subsection (1), the Board also requires the candidate to pass the examination developed and administered by the Department of Health, which measures an applicant's knowledge of Chapters 456 and 460, F.S., and the rules promulgated thereunder. A score of 75% shall be necessary to achieve a passing score on this part of the examination.~~

~~(4) Upon written request from an applicant who has been approved for examination, the Department shall provide a translated version of the examination for licensure into a language other than English. If no such translated examination exists however, the Department shall require the applicant to pay the cost of the translation before employing translators to perform the task.~~

Rulemaking Specific Authority 456.017(1), 460.405 FS. Law Implemented 456.017(1), 460.406(1) FS. History—New 1-10-80, Amended 3-15-81, 10-25-83, 10-10-85, Formerly 21D-11.03, Amended 10-6-86, 5-10-87, 10-12-87, 1-5-88, 3-24-88, 4-19-89, 12-31-89, 7-8-90, 7-15-91, 4-26-93, 7-14-93, Formerly 21D-11.003, Amended 3-7-94, Formerly 61F2-11.003, 59N-11.003, Amended 11-4-98, 5-5-02, 5-4-03, 12-28-04, Repealed _____ .

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 21, 2009

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: RULE TITLE:
64B2-11.007 Criteria for the Selection of
 Examiner Consultants

PURPOSE AND EFFECT: The Board proposes to repeal the rule because the Department no longer gives practical examination.

SUMMARY: The rule will be repealed due to the fact that the Department no longer gives the practical exam.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 456.017, 460.405 FS.

LAW IMPLEMENTED: 456.017(1)(b) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-11.007 Criteria for the Selection of Examiner Consultants.

~~(1) In order to be eligible to act as an examiner consultant for the licensure examination, the prospective examiner must meet the following criteria:~~

~~(a) The prospective examiner must have been actively licensed in the State of Florida as a chiropractor for at least five (5) years.~~

~~(b) The prospective examiner must not have had a chiropractic license or other health care license suspended, revoked, or otherwise acted against. If the prospective examiner has had prior disciplinary actions, he or she may apply to the Board for permission to act as an examiner, and shall provide all information pertinent to that determination.~~

~~(c) The prospective examiner must not be currently under investigation by the Department, or by any state or federal agency;~~

~~(d) Effective February 28, 1996 the prospective examiner must have completed not less than 20 additional hours of post graduate training or education beyond the continuing education required for renewal of licensure during the previous biennium;~~

~~(e) The prospective examiner must submit a current vita including a list of all post graduate education.~~

~~(2) In order to be eligible to act as an examiner consultant for a certification examination, the prospective examiner must meet the criteria established in subsection (1), and in addition, be certified in the area to be examined.~~

~~(3) Individuals who meet the qualifications of subsections (1) and (2) of this rule must be certified pursuant to Rule 64B 1.007, F.A.C. The Department shall select, from the Board's recommended list, a sufficient number of individuals to insure that there will be an adequate pool from which to draw the requisite number of examiners.~~

Rulemaking Specific Authority 460.405, 456.017 FS. Law Implemented 456.017(1)(b) FS. History--New 5-10-87, Amended 10-12-87, 2-1-88, Formerly 21D-11.007, Amended 3-7-94, Formerly 61F2-11.007, Amended 2-20-95, Formerly 59N-11.007, Amended 4-22-98, 7-12-99, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Chiropractic Medicine
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Chiropractic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 21, 2009

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: RULE TITLE:
64B5-4.004 Advertising Specialty Services

PURPOSE AND EFFECT: To repeal the rule due to the case of Ducoin v. Board of Dentistry.

SUMMARY: The Board proposes to repeal the rule due to the case of Ducoin v. Board of Dentistry.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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: 466.004(4), 466.019 FS.

LAW IMPLEMENTED: 466.019, 466.028(1)(d), 466.0282 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, FL 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-4.004 Advertising Specialty Services.

~~(1) The Board recognizes as a specialty only those specialties recognized by the American Dental Association (ADA).~~

~~(2) Any advertisement of specialty services must state whether the service will be performed by a general dentist or a specialist. Only dentists who meet the qualifications of subsection 64B5-4.004(4), F.A.C., may hold themselves out as specialists. Specialty services advertised by a dentist who is not so qualified and who limits his practice to a specialty area must be advertised in the following manner: "General Dentist, Practice limited to (particular specialty area)."~~

~~(3) Specialty services for the purpose of this rule shall include all endodontic procedures (ADA Code # 03000 03999), all orthodontic procedures (ADA Code # 08000 08999), all oral surgery procedures except nonsurgical extraction (ADA Code # 07200 07999), and all periodontal surgical procedures (ADA Code # 04200 04272). Use of terms which generally describe specialty services, i.e. children's dentistry, pediatric dentistry, pedodontics or similar phrases are also considered to be advertisement of specialty services.~~

~~(4) No dentist may hold himself or herself out as a specialist unless such licensee meets one of the following qualifications:~~

~~(a) The dentist is eligible for examination by an ADA recognized national specialty board.~~

~~(b) The dentist is a diplomate of an ADA recognized national specialty board.~~

~~(c) The dentist has continuously held himself out as a specialist since December 31, 1964.~~

~~(d) The dentist has completed a specialty educational program approved by the American Dental Association and the Commission on Dental Accreditation.~~

~~(5) No dentist may advertise a service in a manner which in its form or content would lead a reasonable person to believe that the service is a specialty unless that service is a specialty recognized by the Board. For example, it is misleading for a dentist to advertise that he is a specialist or that he limits his practice to the diagnosis and treatment of temporomandibular joint disorders, facial pain therapy or implantology since these are not Board recognized specialties. However, a dentist may advertise that he diagnoses and treats temporomandibular joint disorders or facial pain and that he places dental implants.~~

Rulemaking Specific Authority 466.004(4), 466.019 FS. Law Implemented 466.019, 466.028(1)(d), 466.0282 FS. History—New 1-11-89, Formerly 21G-4.004, 61F5-4.004, Amended 6-9-96, Formerly 59Q-4.004, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-11.001
RULE TITLE: Application for Licensure Fee

PURPOSE AND EFFECT: The purpose of this amendment is to modify the Nursing Home Administrators Examination Endorsement/Temporary form, DH-MQA-NHA002.

SUMMARY: The amendment modifies the Application for Nursing Home Administrators Examination Endorsement/Temporary form.

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

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

RULEMAKING AUTHORITY: 456.033, 468.1685(1), (2), 468.1695(1) FS.

LAW IMPLEMENTED: 456.033, 468.1685(2), 468.1695(1), 468.1075 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-11.001 Application for Licensure Fee.

Any person desiring to be licensed as a nursing home administrator shall apply to the Board of Nursing Home Administrators. The application shall be made on the Application for Nursing Home Administrators Examination Endorsement/Temporary form DH-MQA-NHA002 (revised 6/09 10/07), hereby adopted and incorporated by reference, and can be obtained from the Board of Nursing Home Administrators' website at <http://www.doh.state.fl.us/mqa/nurshome/index.html>.

Rulemaking Specific Authority 456.033, 468.1685(1), (2), 468.1695(1) FS. Law Implemented 456.033, 468.1685(2), 468.1695(1), 468.1075 FS. History–New 12-26-79, Formerly 21Z-11.01, Amended 1-18-87, 10-2-88, 3-5-89, 3-15-90, 12-3-90, 11-3-92, Formerly 21Z-11.001, 61G12-11.001, Amended 12-4-95, 9-4-96, 7-21-97, Formerly 59T-11.001, Amended 5-15-00, 1-7-04, 2-15-06, 11-9-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-11.003
RULE TITLE: Reexamination

PURPOSE AND EFFECT: The purpose of this amendment is to modify the Application for Nursing Home Administrators Re-Examination form DH-MQA 1129 (revised 6/09).

SUMMARY: The amendment modifies the revision date on the Application for Nursing Home Administrators Re-Examination form.

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

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

RULEMAKING AUTHORITY: 456.017(2), 468.1685(1) FS.
LAW IMPLEMENTED: 456.017(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-11.003 Reexamination.

(1) An applicant must pass both parts of the Nursing Home Administrators Examination (NAB) within one year of the date of application for licensure. If the applicant fails to pass both parts within the stated one-year period, the applicant must reapply and meet current licensing requirements.

(2) An applicant must pass both parts of the examination within one year from first failure; otherwise, the applicant must retake both parts of the examination and pay the full fees. The application shall be made on the Application for Nursing Home Administrators Re-Examination form DH-MQA 1129 (revised ~~6/09~~ ~~8/08~~), hereby adopted and incorporated by reference) and can be obtained from the Board of Nursing Home Administrators’ website at <http://www.doh.state.fl.us/mqa/nurshome/index.html>.

Rulemaking Specific Authority 456.017(2), 468.1685(1) FS. Law Implemented 456.017(2) FS. History–New 12-26-79, Amended 3-1-82, 6-14-82, Formerly 21Z-11.03, Amended 3-5-89, 8-19-92, Formerly 21Z-11.003, 61G12-11.003, Amended 6-2-96, Formerly 59T-11.003, Amended 5-15-00, 11-6-02, 2-15-06, 4-22-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-11.012
RULE TITLE: Notification of Change of Address or Employing Facility

PURPOSE AND EFFECT: The purpose of this amendment is to incorporate by reference the Change of Address of Employing Facility form, DH-MQA 1130 (revised 06/09).

SUMMARY: The amendment incorporates by reference the Change of Address of Employing Facility form.

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

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

RULEMAKING AUTHORITY: 456.035, 468.1685(1), (5), (7), (8) FS.

LAW IMPLEMENTED: 456.035, 468.1685(1), (5), (7), (8) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-11.012 Notification of Change of Address or Employing Facility.

(1) Within 48 hours of assuming or leaving a position as a nursing home administrator, assistant nursing home administrator or any change in the identity of the employing facility within the State of Florida, each licensee must inform the Department of Health, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3257, in writing of the exact date of assuming or leaving the position, or change in the identity of the facility. The notification shall be made on the Change of Address of Employing Facility, Form DH-MQA 1130 (revised 06/09 hereby adopted and incorporated by reference) and can be obtained from the Board of Nursing Home Administrators' website at <http://www.doh.state.fl.us/mqa/nurshome/index.html>.

(2) ~~Each licensee shall notify the board office at the above address, within 48 hours of a change in their mailing address.~~

Rulemaking Specific Authority 456.035, 468.1685(1), (5), (7), (8) FS. Law Implemented 456.035, 468.1685(1), (5), (7), (8) FS. History—New 6-14-82, Formerly 21Z-11.12, 21Z-11.012, Amended 10-26-93, Formerly 61G12-11.012, Amended 10-17-94, 7-27-97, Formerly 59T-11.012, Amended 11-6-02, 12-3-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-15.002
RULE TITLE: Criteria for Approved Continuing Education

PURPOSE AND EFFECT: The purpose of this amendment is to clarify the criteria for approved continuing education, including clarification that any licensee who acts as a consultant to the Department of Health's Testing Services Unit shall be allowed a maximum of four (4) hours of continuing education credit for that biennium.

SUMMARY: The amendment clarifies that any licensee who acts as a consultant to the Department of Health's Testing Services Unit shall be allowed a maximum of four (4) hours of continuing education credit for that biennium.

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

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

RULEMAKING AUTHORITY: 468.1685(1), 468.1725(3) FS. LAW IMPLEMENTED: 456.013, 468.1715, 468.1725 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-15.002 Criteria for Approved Continuing Education.

(1) To be eligible for credit toward the licensee's continuing education requirement, a course shall be designed to enhance the learning and promote the continued development of knowledge and skills of the individual licensee's professional practice.

(2) Continuing education will be approved for credit if it is in one of the Domains of Practice as defined in Rule 64B10-16.005, F.A.C.

(3) Fifteen hours of continuing education credit shall be granted for each college credit course in the domains of practice successfully completed during the biennium. The college transcript shall be accepted as proof of attendance.

(4) Administrator certification or re-certification by American College of Health Care Administrators may be accepted as satisfying the total continuing education requirement for license renewal for the biennium in which certification is completed. Verification of certification shall be accepted as proof of attendance.

(5) To satisfy the requirements of this rule, in any biennium a licensee shall have a minimum of forty (40) hours of continuing education credit. In any biennium:

(a) A licensee shall have a minimum of twenty (20) hours of continuing education credits that include personal attendance at a live presentation.

(b) A licensee is allowed a maximum of twenty (20) hours of continuing education credits for web-based, video or audio-transmitted, or on-line instruction programs that require the licensee to interact or communicate back and forth with the instructor during the presentation of the program.

(c) A licensee is allowed a maximum of ten (10) hours home-study continuing education credits. Home-study education is independent study and includes pre-recorded programs that were previously classified as live or interactive under paragraphs (5)(a) and (b). A validation form shall be

signed by the vendor and licensee verifying the subject covered and total viewing time. Home-study courses must not exceed five (5) hours per subject.

(6) Providers, and licensees who self-submit continuing education hours earned, shall identify the course type as described in subsection (5).

(7) Any licensee who acts as a consultant to the Department of Health's Testing Services Unit shall be allowed a maximum of four (4) hours of continuing education credit for that biennium.

~~(8)(7)~~ Any licensee who acts as a preceptor for an Administrator-in-Training and completes such preceptorship within any biennium shall be allowed a maximum of ten (10) hours of continuing education credit for that biennium.

~~(9)(8)~~ Any licensee who acts as a preceptor for an internship and completes such preceptorship within any biennium shall be allowed a maximum of five (5) hours of continuing education credit for that biennium.

~~(10)(9)~~ Continuing education courses approved by the National Association of Boards of Examiners of Long Term Care Administrators are accepted as long as the requirements are similar to or more stringent than those required by the Board in subsection 64B10-15.002(1) and Rule 64B10-16.005, F.A.C.

~~(11)(10)~~ The Board shall not accept credit for continuing education programs of less than 1 contact hour.

~~(12)(11)~~ Any subject matter dealing with internal affairs of an organization will not qualify for credit hours.

Rulemaking Specific Authority 468.1685(1), 468.1725(3) FS. Law Implemented 456.013, 468.1715, 468.1725 FS. History--New 12-11-80, Amended 2-20-83, Formerly 21Z-15.02, Amended 6-22-87, 2-26-89, 12-6-89, 11-11-92, Formerly 21Z-15.002, 61G12-15.002, 59T-15.002, Amended 10-12-97, 12-2-02, 8-11-03, 8-9-04, 2-23-06, 10-24-07, 5-8-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 27, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-16.001
RULE TITLE: General Information

PURPOSE AND EFFECT: The purpose of this amendment is to clarify the administrator-in-training rule, including clarifying that one member of the Board shall function as a Monitor of an AIT program, and that the Monitor shall review the quarterly reports and information.

SUMMARY: The amendment clarifies that one member of the Board shall function as a Monitor of an AIT program, and that the Monitor shall review the quarterly reports and information required by Rule 64B10-16.005, F.A.C.

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

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

RULEMAKING AUTHORITY: 468.1685(1), 468.1695(2) FS.
LAW IMPLEMENTED: 468.1695(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-16.001 General Information.

(1) An Administrator-in-Training is a supervised internship during which the Administrator-in-Training (AIT) works under the supervision of a preceptor, a licensed administrator meeting the qualifications in Rule 64B10-16.002, F.A.C.

(2) An applicant for the AIT program must meet those qualifications established by Section 468.1695, F.S., at the time of application, including completion of an Administrator in Training Application, form DH-MQA-NHA003 (Revised 10/2007), hereby adopted and incorporated by reference, and pay the application fee specified in Rule 64B10-12.013, F.A.C. Form DH-MQA-NHA003 can be obtained from the Board of Nursing Home Administrators' website at <http://www.doh.state.fl.us/mqa.nurshome/index.html>. The applicant is required to indicate on form DH-MQA-NHA003 (Revised 10/2007) whether the applicant is applying for the AIT 1000-hour program or the AIT 2000-hour program as referenced in Rule 64B10-11.002, F.A.C.

(3) The Board must approve each facility at which the training will take place.

(4) The training must be under the full-time supervision of the preceptor. A preceptor shall supervise only one AIT or intern at any given time; however, if the facility has a minimum of 120 beds and an assistant administrator duly licensed under Chapter 468, Part II, F.S., the preceptor may then supervise a maximum of two AITs or interns, or a combination thereof.

(5) The AIT shall serve his training in a normal work-week, containing a minimum of 30 hours and a maximum of 50 hours, with not less than six hours to be served daily between the hours of 7:00 a.m. and 10:00 p.m., except that during the year a minimum of 40 hours and a maximum of 160 hours are to be served between 10:00 p.m. and 7:00 a.m.

(6) The AIT program shall begin on the first day of the month following the approval of the Board.

(7) The AIT and the Preceptor shall sign an agreement acknowledging to each other and the Board that the training shall be in accordance with these rules. The agreement shall contain any other agreements between the AIT and the Preceptor concerning the training.

(8) The AIT shall be allowed two weeks leave for military training, two weeks leave for vacation, and reasonable sick leave.

(9) The Board may approve a temporary discontinuance of the training for up to 1 year, but the AIT shall only retain credit for those quarters completed and for which reports have been submitted and approved by the monitor.

(10) The Board will approve an interruption of an AIT program for the compulsory service of the AIT in the armed forces of the United States. The AIT may resume his training at any time within one year of his discharge from active duty.

(11) The AIT and the Preceptor must report any discontinuance of training to the Board within 10 days.

(12) A rotation through the various departments and duties in the nursing home is essential to the proper completion of the training. An AIT shall not, during the normal working hours of his program, fill a specific, specialized position in the nursing home.

(13) One member of the Board shall function as a Monitor of ~~an each~~ AIT program. The Monitor shall review the quarterly reports and information required by Rule 64B10-16.005, F.A.C., maintain communication with the AIT and Preceptor, and report to the Board on the progress of the AIT. The Board shall not certify an AIT for examination unless the Monitor notifies the Board that the AIT has satisfactorily completed the AIT program. The Board shall require the AIT to do further work toward meeting objectives or attaining the core of knowledge, or to work with a different Preceptor, if reports and progress in the program are inadequate.

Rulemaking Specific Authority 468.1685(1), 468.1695(2) FS. Law Implemented 468.1695(2) FS. History—New 9-24-81, Formerly 21Z-16.01, Amended 12-18-88, 1-22-90, 11-11-92, Formerly 21Z-16.001, Amended 8-29-93, Formerly 61G12-16.001, Amended 6-2-96, Formerly 59T-16.001, Amended 10-12-97, 6-5-07, 11-9-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 27, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-16.005 RULE TITLE: Domains of Practice, Objectives, Reports

PURPOSE AND EFFECT: The purpose of this amendment is to clarify the requirements of the Administrator-in-Training goal oriented training plan and to incorporate by reference the Florida AIT Domains of Practice Quarterly Checklist form, DH-MQA 1209 (revised 06/09).

SUMMARY: The amendment clarifies the requirements of the Administrator-in-Training goal oriented training plan and incorporates by reference Florida AIT Domains of Practice Quarterly Checklist form.

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

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

RULEMAKING AUTHORITY: 468.1685(1), 468.1695(3), (4) FS.

LAW IMPLEMENTED: 468.1695(3), (4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-16.005 Domains of Practice, Objectives, Reports.

(1) A training plan for the Administrator-in-Training Program shall be prepared by the preceptor and the trainee, prior to the start of the program. This training plan shall include:

(a) A pre-training assessment of the trainee’s background in terms of educational level, pertinent experience, maturity, motivation and initiative. The pre-training assessment should underscore the particular trainee’s strengths and weaknesses in the areas to be covered in the program (e.g. a person with a degree in business administration will have strengths in the finance area; a person with a personnel or management background will have strengths in those areas, etc.).

(b) Based on this assessment, the trainee and the preceptor will jointly develop a detailed goal oriented training plan with adequate supporting documentation which relates educational objectives, subject areas of the internship, internship site(s), agencies involved, total hours for the internship, and a breakdown of the number of hours needed to master each area and its objectives.

(c) Supporting documentation for the training plan shall include, but is not limited to, qualifications of the preceptor, the director of nursing in the program site, and such descriptive documentation for the program site and its staff to determine its adequacy for the specific objectives and areas of the program.

(d) The preceptor and administrator in training must file reports with the Board every 90 days. The report shall be made on the State of Florida AIT Domains of Practice Quarterly Checklist, Form DH-MQA 1209 (revised 06/09, hereby adopted and incorporated by reference) which can be obtained from the Board of Nursing Home Administrators' website at: <http://www.doh.state.fl.us/mqa/nurshome/index.html>. Each report shall be co-signed by the preceptor and administrator in training and shall be filed within two weeks after the completion of each reporting period of the program. The reports shall contain a synopsis of the areas covered in the program and a narrative describing relevant learning experiences. The reports shall show how the administrator in training used the following methods to further his or her training:

1. On-the-job experience;
2. Meetings attended;
3. Surveys completed;
4. Written reports;
5. Texts or periodicals;
6. Visits to other facilities;
7. Academic programs, college or continuing education seminars.

(2) The Administrator-in-Training Program shall cover the following domains of practice:

(a)(1) PERSONNEL. Topics in this area should include recruitment, interviewing, employee selection, training, personnel policies, health and safety. Objectives of training are:

- 1.(a) To understand the need and procedures used in training personnel, including interviewing for vacant positions;
- 2.(b) To become familiar with proper human relations regarding management, employees, patients and families;
- 3.(c) To understand the organizational structure of the facility, the functions of each department, and the personnel relations within the facility.
- 4.(d) To display the ability to instruct staff on conducting appraisals.

5.(e) To demonstrate the knowledge of and use of appropriate supervisory techniques.

(b)(2) FINANCE. Topics in this area should include accounting, budgeting, financial planning and asset management. Objectives of training are:

- 1.(a) To understand accounting procedures, chart of accounts, profit and loss statements, balance sheets, cost reports, accounts receivable, and policies relative to accounts payable and collection of accounts receivable;
- 2.(b) To understand the preparation of budgets;
- 3.(c) To be familiar with cash flow preparations and needs;
- 4.(d) To be familiar with third party payment organizations.
- 5.(e) To possess the ability to prepare a business plan, a feasibility study, and a return on investment (ROI) proposal.
- 6.(f) To understand how to develop, plan and manage an interdisciplinary budget.

(c)(3) MARKETING. Topics in this area should include public relations activities and marketing programs. Objectives of training are:

- 1.(a) To present to the public the essential medical relations and benefits of the facility to the welfare of the local community, the local health agencies, and other organizations such as church groups, social clubs, and service organizations;
- 2.(b) To know and be able to utilize community volunteer agencies' resources in the care of residents;
- 3.(c) To be able to relate to a variety of community resources, such as churches, professional organizations and institutional structures that affect the facility.

(d)(4) PHYSICAL RESOURCE MANAGEMENT. Topics in this area should include safety procedures, fire and disaster plans, and building and environment maintenance. Objectives of training are:

- 1.(a) To develop an effective supply appreciation and supervisory knowledge and ability to keep all medical equipment and appliances necessary, available, and in good working order;
- 2.(b) To have full knowledge of sanitation, communicable disease control, prevention of accidents and complete physical security for staff and patients, coordinating this information by application to safety codes and fire prevention;
- 3.(c) To understand routine maintenance needs and procedures for buildings, surrounding grounds, vehicles and other equipment.

4.(d) To use the concepts of disaster preparedness, and to demonstrate an understanding of the facility's roles and vulnerabilities (including how to conduct an evacuation).

(e)(5) LAWS, REGULATORY CODES AND GOVERNING BOARDS. Topics in this area should include federal, state and local rules and regulations. Objectives of training are:

~~1.(a)~~ To learn how to apply the state's codes, rules, regulations, and laws relating to long-term care facilities;

~~2.(b)~~ To integrate current federal regulations pertaining to health care facilities with current state requirements;

~~3.(c)~~ To become familiar with requirements of medicare and medicaid, and to learn to cope with their problems;

~~4.(d)~~ To understand the basic insurance coverages;

~~5.(e)~~ To have a sense of the legal implications of various activities, procedures or decisions routinely taken or performed in the facility.

~~(f)(6)~~ RESIDENT CARE. Topics in this area should include nursing, food, social and recreational services, pharmacy, rehabilitation, physician services and medical records. Objectives of training are:

~~1.(a)~~ To understand the roles of the medical director, the attending physicians, the director of nursing, the charge nurse, the physical therapist, occupational therapist, speech therapist, dietitians, pharmacist, licensed practical nurses and aides who provide the continuing essential medical care and rehabilitation of the patients in the facility;

~~2.(b)~~ To enable the trainee to develop an ability to understand the various components of personal, social, therapeutic and supportive care programs and their application in the total care program of the resident;

~~3.(c)~~ To develop the ability to function as a planner of the social, therapeutic, and supportive care program;

~~4.(d)~~ To study the emotional problems of aging in the lives of patients within the facility and to determine the role of the administrator in alleviating such characteristic feelings as loss, abandonment, dependency, depression, anxiety, or disengagement;

~~5.(e)~~ To determine the role of the administrator in relating to the patient, and the family, who is faced with death;

~~6.(f)~~ To determine the relationship between changes in a patient's behavior and changes in his or her environmental, intrapsychic, and/or physical state;

~~7.(g)~~ To possess the ability to access and interpret facility quality indicators and quality measures;

~~8.(h)~~ To understand the concepts of benchmarking;

~~9.(i)~~ To be able to assess facility performance using self-assessment tools.

~~(3)(7)~~ In order to afford flexibility, and to account for a particular trainee's strengths or weaknesses in any particular area, the following minimum percentages in every area are established.

(a) PERSONNEL. A minimum of 15% of the program should be devoted to this area.

(b) FINANCE. A minimum of 15% of the program should be devoted to this area.

(c) MARKETING. A minimum of 5% of the program should be devoted to this area.

(d) PHYSICAL RESOURCE MANAGEMENT. A minimum of 10% of the program should be devoted to this area.

(e) LAWS, REGULATORY CODES AND GOVERNING BOARDS. A minimum of 10% of the program should be devoted to this area.

(f) RESIDENT CARE. A minimum of 20% of the program should be devoted to this area.

~~(8)~~ A training plan for the program shall be prepared by the preceptor and the trainee, prior to the start of the program. This training plan shall include:

~~(a)~~ A pre-training assessment of the trainee's background in terms of educational level, pertinent experience, maturity, motivation and initiative. The pre-training assessment should underscore the particular trainee's strengths and weaknesses in the areas to be covered in the program (e.g. a person with a degree in business administration will have strengths in the finance area; a person with a personnel or management background will have strengths in those areas, etc.).

~~(b)~~ Based on this assessment, the trainee and the preceptor will jointly develop a detailed goal-oriented training plan with adequate supporting documentation which relates educational objectives, subject areas of the internship, internship site(s), agencies involved, total hours for the internship, and a breakdown of the number of hours needed to master each area and its objectives.

~~(c)~~ Supporting documentation for the training plan shall include, but is not limited to, qualifications of the preceptor, the director of nursing in the program site, and such descriptive documentation for the program site and its staff to determine its adequacy for the specific objectives and areas of the program.

~~(d)~~ The preceptor and administrator in training must file reports with the Board every 90 days. Each report shall be co-signed by the preceptor and administrator in training and shall be filed within two weeks after the completion of each reporting period of the program. The reports shall contain a synopsis of the areas covered in the program and any relevant learning experiences. The reports shall show how the administrator in training used the following methods to further his or her training:

~~1. On-the-job experience;~~

~~2. Meetings attended;~~

~~3. Surveys completed;~~

~~4. Written reports;~~

~~5. Texts or periodicals;~~

~~6. Visits to other facilities;~~

~~7. Academic programs, college or continuing education seminars.~~

~~(4)(9)~~ Nothing in this rule is intended to preclude any preceptor from requiring any additional areas in the program, objectives, or reports.

Rulemaking Specific Authority 468.1685(1), 468.1695(3), (4) FS. Law Implemented 468.1695(3), (4) FS. History–New 12-18-88, Formerly 21Z-16.005, 61G12-16.005, 59T-16.005, Amended 1-8-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 27, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.350
RULE TITLE: Requirements for Pharmacy Technician Registration

PURPOSE AND EFFECT: The Board proposes the rule promulgation to provide the requirements for pharmacy technician registration.

SUMMARY: Requirements for pharmacy technician registration will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Rebecca Poston, Executive Director, at the address listed below. The following is a summary of the SERC:

- It is estimated that up to 51,000 would register to be a pharmacy technician.
- All initial and renewal permit applicants for the registration of pharmacy technicians will increase the number of applications processed under the contract.
- The initial application is a non-recurring transaction cost of \$100. The biennial renewal is a recurring transaction cost of \$50.
- The rule does not require small business to pay the registration fee. If the small business chooses to pay the application and registration fee, then the impact will be \$105.
- The proposed change is not expected to impact small business, small counties or small cities.

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: 465.014 FS.

LAW IMPLEMENTED: 465.014 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.350 Requirements for Pharmacy Technician Registration.

Applicants who are at least 17 years of age may apply to become a registered pharmacy technician.

(1) All applicants for registration must be made on form DH-MQA PH1183, “Pharmacy Technician Registration Application and Instructions”, effective March 2009, which is incorporated by reference. Contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254, or (850)488-0595 to request an application or download the application from the board’s website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must be accompanied with a non-refundable application fee and an initial registration fee set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

(2) Prior to January 1, 2011, a registered pharmacy technician must submit proof of having met one of the following requirements:

(a) Completed a Board approved training course as outlined in Rule 64B16-26.351, F.A.C.; or

(b) Has worked as a registered pharmacy technician for a minimum of 1500 hours under the supervision of a pharmacist by submitting proof on DH-MQA PH1183, “Pharmacy Technician Work Experience Form”, effective March 2009, which is incorporated by reference. Contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, FL 32399-3254, or (850)488-0595 to request an application or download the application from the board’s website at <https://www.doh.state.fl.us/mqa/pharmacy>.

(c) Received certification as a pharmacy technician by a certification program accredited by the National Commission for Certifying Agencies.

(3) Applicants applying for registration after January 1, 2011 must submit proof of having met the following requirement by completing a Board approved training course as outlined in Rule 64B16-26.351, F.A.C.

Rulemaking Authority 465.014 FS. Law Implemented 465.014 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.:
64B16-26.351

RULE TITLE:
Standards for Approval of Registered
Pharmacy Technician Training
Programs

PURPOSE AND EFFECT: The Board proposes the rule promulgation to provide the standards for approval of registered pharmacy technician training programs.

SUMMARY: Standards for approval of registered pharmacy technician training programs will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Rebecca Poston, Executive Director, at the address listed below. The following is a summary of the SERC:

- Beginning January 1, 2011, an estimated 10,000 persons will be required to complete a pharmacy technician training program approved by a nationally recognized pharmacy technician accrediting agency or by the Board of Pharmacy.
- The agency will incur costs for rulemaking.
- The cost for the applicant attending a required pharmacy technician training program is indeterminate due to the variation in fees charged per credit hour, curriculum, and course description.
- The proposed change is not expected to impact small business, small counties or small cities.

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: 465.014 FS.

LAW IMPLEMENTED: 465.014 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.351 Standards for Approval of Registered Pharmacy Technician Training Programs.

(1) Pharmacy technician training programs approved by a nationally recognized pharmacy technician accredited agency, American Society of Healthsystem Pharmacists, Accreditation Council of Pharmaceutical Education, United States Uniformed Services, Florida Department of Education, or Florida Commission of Independent Education are deemed approved by the board.

(2) All other pharmacy technician training programs must be pre-approved by the board and shall contain a minimum of 160 hours of training, extending over a period not to exceed 6 months. The period of training must include time allocated for didactic and practical experience. The following objectives must be met:

(a) Program content:

1. Introduction to pharmacy and health care systems:

a. Confidentiality.

b. Patient rights and Health Insurance Portability and Accountability Act (HIPAA).

2. Pharmacy law:

a. Federal law.

b. State law.

c. State rules.

d. Pharmacy technician rules and law.

3. Pharmaceutical – medical terminology, abbreviations, and symbols:

a. Medication safety and error prevention.

b. Prescriptions and medication orders.

4. Records management and inventory control:

a. Pharmaceutical supplies.

b. Medication labeling.

d. Medication packaging and storage.

e. Controlled substances.

f. Adjudication and billing.

5. Interpersonal relations, communications, and ethics:

a. Diversity of communications.

b. Empathetic communications.

c. Ethics governing pharmacy practice.

d. Patient and caregiver communication.

6. Pharmaceutical calculations.

(b) Program faculty qualifications:

1. The faculty for the training program shall be competent in the subject matter and qualified by experience, and

2. An appropriate number of program faculty for each activity shall be utilized.

(c) The program must make provision for evaluation of the participants' attainment of the stated objectives through in-process activities that provide a measurable demonstration of the learner's achievement(s).

Rulemaking Authority 465.014 FS. Law Implemented 465.014 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.1001
 RULE TITLE: Examination and Application Fees
 PURPOSE AND EFFECT: The Board proposes the rule amendment to provide an application fee for registered pharmacy technicians.

SUMMARY: An application fee for registered pharmacy technicians will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Rebecca Poston, Executive Director, at the address listed below. The following is a summary of the SERC:

- It is estimated that up to 51,000 would apply to be a pharmacy technician.
- All initial and renewal permit applicants for the registration of pharmacy technicians will increase the number of applications processed under the contract.
- Initial application will be a non-recurring transaction cost of \$50.
- The rule does not require small business to pay the application fee. If the small business chooses to pay the application fee, then the impact will be \$50 per technician.
- The proposed change is not expected to impact small business, small counties or small cities.

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: 465.005, 465.009 FS.
 LAW IMPLEMENTED: 456.025(7), 465.007, 465.0075, 465.009 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B16-26.1001 Examination and Application Fees.
 (1) through (3) No change.
(4) The non-refundable application fee for registered pharmacy technicians shall be \$50, payable to the Board.

Rulemaking Specific Authority 465.005, 465.009 FS. Law Implemented 456.025(7), 465.007, 465.0075, 465.009 FS. History–New 1-11-05, Amended 10-30-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.1002
 RULE TITLE: Initial License Fees
 PURPOSE AND EFFECT: The Board proposes the rule amendment to provide an initial registration fee for registered pharmacy technicians and a fee for unlicensed activity.

SUMMARY: An initial registration fee for registered pharmacy technicians and an unlicensed activity fee will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Rebecca Poston, Executive Director, at the address listed below. The following is a summary of the SERC:

- It is estimated that up to 51,000 would apply for initial registration.
- All initial and renewal permit applicants for the registration of pharmacy technicians will increase the number of applications processed under the contract.
- Initial application will be a non-recurring transaction cost of \$50.
- A \$5.00 unlicensed activity fee will be incurred.
- The rule does not require small business to pay the initial registration fee. If the small business chooses to pay the initial registration fee, then the impact will be \$55 per technician.
- The proposed change is not expected to impact small business, small counties or small cities.

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: 465.005, 465.0125, 465.0126 FS.
 LAW IMPLEMENTED: 456.013(2), 456.065(3), 465.0125, 465.0126 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.1002 Initial License Fees.

(1) through (3) No change.

(4) The initial registration fee for a registered pharmacy technician shall be \$50 plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

Rulemaking Specific Authority 465.005, 465.0125, 465.0126 FS. Law Implemented 456.013(2), 456.065(3), 465.0125, 465.0126 FS. History--New 1-11-05, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: RULE TITLE:

64B16-26.1003 Active License Renewal Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment to provide a biennial registration renewal fee for registered pharmacy technicians and a fee for unlicensed activity; to provide an update of the biennial license renewal fee for an active pharmacist and the biennial license renewal fee for a consultant pharmacist.

SUMMARY: A biennial registration fee for registered pharmacy technicians and an unlicensed activity fee will be provided. A biennial license renewal fee for active pharmacists and consultant pharmacists will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Rebecca Poston, Executive Director, at the address listed below. The following is a summary of the SERC:

- It is estimated that up to 51,000 could apply for registration.
- All initial and renewal permit applicants for the registration of pharmacy technicians will increase the number of applications processed under the contract.
- The recurring transaction cost of \$50 would be incurred biennially.
- The rule does not require small business to pay the initial registration fee. If the small business chooses to pay the initial registration fee, then the impact will be \$50 per technician.
- The proposed change is not expected to impact small business, small counties or small cities.

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

RULEMAKING AUTHORITY: 456.036, 465.005, 465.008, 465.0125, 465.0126 FS.

LAW IMPLEMENTED: 456.036, 456.065(3), 465.008, 465.0125, 465.0126 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.1003 Active License Renewal Fees.

(1) The biennial license renewal fee for an active pharmacist license shall be \$250 ~~\$245~~ plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(2) The biennial license renewal fee for a consultant pharmacist active license shall be \$100 ~~\$50~~ plus a \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

(3) No change.

(4) The biennial registration renewal fee for a registered pharmacy technician shall be \$50 plus \$5 unlicensed activity fee pursuant to Section 456.065(3), F.S.

Rulemaking Specific Authority 456.036, 465.005, 465.008, 465.0125, 465.0126 FS. Law Implemented 456.036, 456.065(3), 465.008, 465.0125, 465.0126 FS. History--New 1-11-05, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: RULE TITLE:

64B16-27.797 Standards of Practice for Compounding Sterile Preparations (CSPs)

PURPOSE AND EFFECT: The Board proposes the rule amendment to include the standard of practice for radio-pharmaceuticals as compounded sterile products.

SUMMARY: A standard of practice concerning radio-pharmaceuticals as compounded sterile products will be added to the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Rebecca Poston, Executive Director, at the address listed below. The following is a summary of the SERC:

- An estimated 33 nuclear pharmacy permitted facilities will be required to comply with compounding radio-pharmaceuticals.
- The estimated cost of converting compounding areas to meet ISO Class 7 and 8 environments is between \$35,000 to \$100,000.
- The proposed change is not expected to impact small counties or small cities.

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: 465.005, 465.0155, 465.022 FS.

LAW IMPLEMENTED: 465.005, 465.0155, 465.022 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.797 Standards of Practice for Compounding Sterile Preparations (CSPs).

(1) through (7) No change.

(8) Radiopharmaceuticals as Compounded Sterile Products.

(a) Upon release of a Positron Emission Tomography (PET) radiopharmaceutical as a finished drug product from a PET production facility, the further manipulation, handling, or use of the product will be considered compounding and will be subject to the rules of this section.

(b) Radiopharmaceuticals compounded from sterile components in closed, sterile containers and with a volume of 100 ml or less for single dose injection or not more than 30 ml taken from a multiple dose container, shall be designated as, and conform to, the standards for low risk compounding.

(c) Radiopharmaceuticals shall be compounded using appropriately shielded vials and syringes in a properly functioning ISO Class 5 PEC (Primary Engineering Control), located in an ISO Class 8 or better buffer area environment in

compliance with special handling, shielding, air flow requirements, and radiation safety programs to maintain radiation exposure as low as reasonably achievable.

(d) Radiopharmaceuticals designed for multi use, compounded with Tc-99m, exposed to an ISO Class 5 environment by components with no direct contact contamination, may be used up until the time indicated by manufacturers recommendations.

(e) Technetium 99/Molybdenum 99 generator systems shall be stored and eluted in an ISO Class 8 or cleaner environment to permit special handling, shielding, and airflow requirements.

(f) Manipulation of blood or blood derived products (e.g. radiolabeling white blood cells) shall be conducted in an area that is clearly separated from routine material handling areas and equipment, and shall be controlled by specific standard operating procedures to avoid cross contamination of products. The buffer area for manipulation of blood or blood derived products shall be maintained as an ISO 7 environment and direct manipulations shall occur in an ISO 5 PEC suitable for these products (e.g. biological safety cabinet).

Rulemaking Specific Authority 465.005, 465.0155, 465.022 FS. Law Implemented 465.0155, 465.022 FS. History--New 6-18-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.: 68B-14.0036

RULE TITLES:

Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption

68B-14.0038

Recreational Snapper Seasons

PURPOSE, EFFECT AND SUMMARY: The purpose of these rule amendments is to modify the Commission's Reef Fish Rule to become consistent with federal recreational reef fish regulations for vermilion snapper in the South Atlantic. Based on federally established benchmarks, the vermilion snapper stocks in the South Atlantic are undergoing overfishing, it is unknown if they are overfished. The most recent vermilion snapper stock assessment update (2007) indicates overfishing is occurring. This means fish are being removed more quickly

than the stock can replace them such that the maximum sustainable yield cannot be achieved. The South Atlantic Fishery Management Council developed regulatory actions in Amendment 16 to their Snapper Grouper Fishery Management Plan to stop the overfishing of the vermilion snapper stocks. Amendment 16 addresses recreational and commercial harvest of vermilion snapper, and reduces the recreational bag limit, creates a recreational closed season, and lowers the commercial quota. However, the success of the vermilion snapper management plan depends not only upon controlling harvest in federal waters, but also upon the four states in the South Atlantic adopting rules that are consistent with the federal rules in their state waters. Florida plays a particularly important role in the success of the vermilion snapper rebuilding plan because Florida's fishery, which occurs in both state and federal waters, accounts for 43 percent of the recreational and 18 percent of the commercial vermilion snapper catch. The effect of the Commission's rule amendments is that federal and state regulations will be applied consistently. Where practicable, this minimizes confusion with the public, aids enforceability, and contributes to the overall vermilion snapper management effort in the South Atlantic. The Commission approved this rule amendment for Florida state waters at a publicly noticed meeting on September 10, 2009.

Rule 68B-14.0036, F.A.C., (Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption) would amend the Commission's Reef Fish Rule governing the recreational vermilion snapper bag limit such that it is consistent with the recreational vermilion snapper bag limit in federally managed waters of the South Atlantic as recently implemented by the National Marine Fisheries Service. The proposed Commission rule would change the recreational vermilion snapper bag limit in the Atlantic from 10 to 5 fish per person to day and would prohibit captain and crew of for-hire vessels from retaining a bag limit of vermilion snapper. Rule 68B-14.0038, F.A.C., (Recreational Red Snapper Season) would amend the Commission's Reef Fish Rule by creating a recreational vermilion snapper fishing closure such that it is consistent with the recreational vermilion snapper fishing season in federally managed waters of the South Atlantic as recently implemented by the National Marine Fisheries Service. The proposed Commission rule would create a recreational vermilion snapper fishing closure from November 1 through March 31 in state waters of the Atlantic.

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

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

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS

NOTICE TO: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764
SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption.

(1) Snapper.

(a) through (c) No change.

(d) Vermilion snapper. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than 5 ~~40~~ vermilion snapper per day. On any vessel licensed to carry customers wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take marine fish in the Atlantic Ocean, the applicable bag and possession limit specified in this rule shall not extend to the operator of such vessel or any person employed as a crew member of such vessel. No recreational harvester shall harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, more than 10 vermilion snapper per day. Such bag and possession shall not be counted for purposes of the aggregate snapper bag and possession limits prescribed in paragraph (a).

(e) through (f) No change.

(2) through (9) No change.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, 1-1-03, 1-3-05, 9-16-05, 1-1-06, 7-1-06, 7-1-07, 4-1-08, 1-6-09, 8-27-09, 10-9-09.

68B-14.0038 Recreational ~~Red Snapper Seasons~~ Season.

(1) Recreational Red Snapper Season. In all state waters of the Gulf of Mexico, the season for the recreational harvest and possession of red snapper shall be from June 1 through August 14, each year (consistent with the Federal Standard established in 74 Fed. Reg. 21.558). Except for persons harvesting red snapper for commercial purposes pursuant to Rule 68B-14.0045, F.A.C., from August 15 through May 31, no person shall harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, any red snapper.

(2) Recreational Vermilion Snapper Season. In all state waters of the Atlantic Ocean, the season for the recreational harvest and possession of vermillion snapper shall be from April 1 through October 31, each year (consistent with the Federal Standard established in 50 C.F.R. § 622.35). Except for persons harvesting vermillion snapper for commercial purposes pursuant to Rule 68B-14.0045, F.A.C., from November 1 through March 31, no person shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, any vermillion snapper.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 10-20-98, Formerly 46-14.0038, Amended 12-30-99, 3-12-09, 8-7-09, 10-9-09.

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: 69K-24.040
RULE TITLE: Licensure of Centralized Embalming Facilities

PURPOSE AND EFFECT: The rule was incorrectly noticed with respect to the annual inspection fee to be paid by Centralized embalming facilities.

SUMMARY: The rule was incorrectly noticed with respect to the annual inspection fee to be paid by Centralized embalming facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not impose any indirect transactional costs on small businesses but will increase the fees paid by Centralized Embalming Facilities, many of which are small businesses.

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

RULEMAKING AUTHORITY: 497.103, 497.385 FS.

LAW IMPLEMENTED: 497.385 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Douglas Shropshire, Executive Director, Board of Funeral, Cemetery, and Consumer Services, 200 East Gaines Street, Tallahassee, Florida 32399-0361

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-24.040 Licensure of Centralized Embalming Facilities.

- (1) through (2) No change.

(3) Centralized embalming facilities shall apply to the Department for renewal of registration and shall pay a nonrefundable renewal fee of \$300 together with the annual inspection fee of \$225 ~~one hundred dollars (\$100)~~ for each year for which the license will be issued.

- (4) through (5) No change.

Rulemaking Specific Authority 497.103, 497.385 FS. Law Implemented 497.385 FS. History–New 7-14-99, Formerly 61G8-24.040, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Funeral, Cemetery, and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2009

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

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.021
RULE TITLE: Revocation of Registration of Political Committees

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. 35, No. 32, August 14, 2009 issue of the Florida Administrative Weekly.

The changes are in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

Subsection (1)(b) shall now read:

(b) The committee fails to file the appointment of a successor within 10 days after the death, resignation or removal of the campaign treasurer pursuant to Section 106.021(2), F.S.;

Subsection (1)(c) shall now read:

(c) The committee fails to file the appointment of a successor within 10 days after the death, resignation or removal of the committee chairperson;

Section (2) shall now read:

(2) The filing officer shall send notification to the committee's chairperson treasurer of the filing officer's intent to revoke the committee's registration to the most recent address on file with the filing officer for the chairperson of the committee. If the notification is returned undeliverable after