

claims. The database may also include information of damage due to ground settling and other subsidence activity. The DFS consulted with the FGS and the DEP to determine the form and content of the database which is set forth in the proposed rule.
SUBJECT AREA TO BE ADDRESSED: The creation of a complete electronic database of sinkhole activity in the State of Florida.

RULEMAKING AUTHORITY: 624.308(1), 627.7065(6) FS.

LAW IMPLEMENTED: 627.706, 627.7065 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 4, 2009, 2:00 p.m.

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, FL

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: Greg Thomas at (850)413-5768 or Greg.Thomas@myfloridacfo.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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Greg Thomas, Chief, Bureau of Education, Advocacy & Research, Department of Financial Services, 200 E. Gaines Street, Tallahassee, Florida 32399, (850)413-5768

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE FROM THE CONTACT PERSON LISTED ABOVE OR ON THE DEPARTMENT'S WEBSITE AT: <http://www.myfloridacfo.com/LegalServices/RuleHearing/>

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
690-200.004	Qualification to Obtain and Hold a License
690-200.005	Use of the Statutory Deposit
690-200.006	Contractual Liability Insurers
690-200.009	Form Filings
690-200.011	Disapproval of Forms
690-200.013	Rate Filings
690-200.014	Exemption From Financial Examination
690-200.015	Forms Incorporated by Reference
690-200.016	New Car Motor Vehicle Service Agreements Issued on Used Cars

PURPOSE AND EFFECT: Incorporates into the existing rules a new category of Motor Vehicle Service Agreement Companies: “Motor Vehicle Manufacturers.”

SUBJECT AREA TO BE ADDRESSED: Motor Vehicle Service Agreement Companies.

RULEMAKING AUTHORITY: 634.021, 634.031, 634.041, 634.121, 634.1213, 634.1216, 634.061, 634.252 FS.

LAW IMPLEMENTED: 634.041(12), 637.137(6) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 10, 2009, 9:30 a.m.

PLACE: 116 Larson Building, 200 East Gaines 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 5 days before the workshop/meeting by contacting: Amy Groszos, Office of Insurance Regulation, E-mail Amy.Groszos@flor.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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Amy Groszos, Office of Insurance Regulation, E-mail Amy.Groszos@flor.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II
Proposed Rules**

DEPARTMENT OF STATE

Division of Corporations

RULE NOS.:	RULE TITLES:
1N-5.001	Definitions
1N-5.002	Notary’s Electronic Signature

PURPOSE AND EFFECT: In 2007 the Legislature initiated electronic notarization in Florida by enacting Chapter 2007-257, Laws of Florida. This was codified as Section 117.021, Florida Statutes. Subsection (5) of this section authorizes the Department of State to adopt rules to insure security, reliability, and uniformity of signatures and seals to be utilized in the electronic notarization process. This rule establishes the manner in which a signature and a seal must be electronically affixed and the assurance level of security needed to insure reliability and uniformity. The law and the rule do not assign any regulatory responsibilities on the

Department. The rule establishes a mechanism by which a duly commissioned notary public is enabled to notarize documents electronically in a secure, reliable, and uniform manner.

SUMMARY: Provides definitions, security measures and procedures.

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: 117.021(5) FS.

LAW IMPLEMENTED: 117.021 FS.

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

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 five days before the workshop/meeting by contacting: Jay Kassees, 500 S. Bronough Street, Tallahassee, FL 32399-0250, (850)245-6000. 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: Jay Kassees 500 S. Bronough Street, Tallahassee, FL 32399-0250, (850)245-6000

THE FULL TEXT OF THE PROPOSED RULE IS:

ELECTRONIC NOTARIZATION

1N-5.001 Definitions.

(1) “Capable of independent verification” means any interested person may reasonably determine the notary’s identity, the notary’s relevant authority and that the electronic signature is the act of the particular notary identified by the signature.

(2) “Electronic document” means information that is created, generated, sent, communicated, received, or stored by electronic means.

(3) “Electronic notarization” and “electronic notarial act” means an official act authorized under Section 117.021(1), F.S. using electronic documents and electronic signatures.

(4) “Electronic Notary System” means a set of applications, programs, hardware, software, or technology designed to enable a notary to perform electronic notarizations.

(5) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the electronic document or record.

(6) “Attached to or logically associated with” means the notary’s electronic signature is securely bound to the electronic document in such a manner as to make it impracticable to falsify or alter, without detection, either the signature or the document.

(7) “Unique to the notary public” means the notary’s electronic signature is attributable solely to the notary public to the exclusion of all other persons.

(8) “Retained under the notary public’s sole control” means accessible by and attributable solely to the notary to the exclusion of all other persons and entities, either through being in the direct physical custody of the notary or through being secured with one or more biometric, password, token, or other authentication technologies in an electronic notarization system that meets the performance requirements of Sections 117.021(2) and (3), F.S.

(9) “Public key certificate” means a computer-based record that:

- (a) Identifies the certification authority issuing it;
- (b) Names or identifies its subscriber;
- (c) Contains the subscriber’s public key; and
- (d) Is digitally signed by the certification authority issuing it.

Rulemaking Authority 117.021(5) FS. Law Implemented 117.021 FS. History–New _____.

1N-5.002 Notary’s Electronic Signature.

(1) In performing an electronic notarial act, a notary shall execute an electronic signature in a manner that attributes such signature to the notary public identified on the official commission.

(2) A notary shall take reasonable steps to ensure the security, reliability and uniformity of electronic notarizations, including, but not limited to, the use of an authentication procedure such as a password, token, card or biometric to protect access to the notary’s electronic signature or the means for affixing the signature.

(3) The notary’s electronic signature and seal information may be affixed by means of a public key certificate.

(4) The notary’s electronic signature and seal information may be affixed by means of an electronic notary system.

(5) Any public key certificate or electronic notary system that is used to affix the Notary’s electronic signature and seal information shall be issued at the third or higher level of assurance as defined by the U. S. National Institute of Standards and Technology Special Publication 800-63 (NIST800-63) which may be accessed at the following URL: http://csrc.nist.gov/publications/nistpubs/800-63/SP800-63V1_0_2.pdf.

Rulemaking Authority 117.021(5) FS. Law Implemented 117.021 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jay Kassees
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Secretary Kurt S. Browning
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: September 30, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: August 14, 2009

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.043
RULE TITLE: Electronic File Reporting Relating to
Absentee Ballot Requests
Information, Voting Activity, and
Election Results

PURPOSE AND EFFECT: The primary purpose of the proposed rule is to codify current practices and procedures that have arisen out of implementing state law requirements of certain voting and elections related data. The collection, reporting and public availability of the data are mandated by provisions by provisions adopted in 2005 (Ch. 2005-277 and 2005-278, Laws of Florida), in 2007 (Ch. 2007-30, Laws of Florida), and in 2008 (Ch. 2008-95, Laws of Florida) and involve primarily data collected, compiled and transmitted by the Supervisors of Elections to the Division of Elections. The proposed rule establishes uniform file format specifications, timelines for collection and transfer of data, and other content requirements for compilation, transmission and reporting or availability of absentee ballot request information, early voting activity, precinct-level election results, official results export data, and voting history activity. The proposed rule incorporates only one form by reference (DS-DE #70) which is an application form that must be completed only by statutorily authorized persons or entities who want to obtain otherwise publicly exempt voter absentee ballot request information.

SUMMARY: The proposed rule establishes procedures and deadlines for the electronic format, collection, transfer and reporting of data relating to election results, voter activity and voting history.

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: 20.10(3), 97.012(1), 98.0981(5), 101.62(3), 101.657(2), 102.141(10) FS.

LAW IMPLEMENTED: 98.0981, 101.62, 101.657, 102.141, FS.

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

DATE AND TIME: November 9, 2009, 1:30 p.m.

PLACE: Room 307, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250

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: Amber Barrett, Division of Elections, Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250; telephone: (850)245-6224; anbarrett@dos.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice). 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: Maria Matthews, Assistant General Counsel, Office of General Counsel, Florida Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250; telephone: (850)245-6536; e-mail: mimatthews@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.043 Electronic Reporting Relating to Absentee Ballot Request Information, Voting Activity, and Election Results.

(1) General applicable provisions. This rule establishes file format specifications, timelines and other content requirements for the electronic compilation, transmission and reporting of absentee ballot request information, early voting activity, precinct-level election results, official results export data, and voting history activity. The Supervisors of Elections shall ensure that the files required under this rule transmit successfully and timely to the Division of Elections.

(2) Definitions. For purposes of this rule:

(a) "FVRS" refers to the Florida Voter Registration System.

(b) "Supervisor" refers to the county Supervisor of Elections.

(c) "Division" refers to the Division of Elections.

(d) "Election", except as otherwise expressly stated, means primary and general elections (held in even-numbered years), presidential preference primary elections, and special elections held pursuant to Section 100.101, F.S. This rule does not apply for municipal, local referendum, special district, or independent district elections.

(3) Absentee ballot request information files.

(a) Compilation. For each election as defined in subsection (2), the Supervisor shall compile daily an electronic file that contains information related to receiving and processing

absentee ballot requests. Each day's file shall be a complete replacement of the previous day's file. The Supervisor shall create a separate file for each election.

(b) File Transmission. The Supervisor shall transmit to the Division the electronic file compiled under paragraph (a) no later than noon Eastern Standard Time of the day after the day being reported. The file shall be sent daily beginning the first day absentee ballots are mailed in that county for the upcoming election or 35 days before a primary election or 45 days before a general election, whichever is earlier. The last file shall be sent 10 day after the election. The daily file shall be sent even if there is no new information to report. The file shall be in the format specified in paragraph (c).

(c) File specifications.

1. Each file shall be created or converted into a tab-delimited text file.

2. Quotes shall not be used to enclose alphanumeric data.

3. For each record of a registered voter, the address included shall be the address to which the voter has requested the ballot to be delivered. However, if the requested mailing address is the same as the residential address, such addresses and the precinct location must be redacted in the file for those registered voters whose addresses are protected from public disclosure as requested under Section 119.071(4)(d), F.S.

4. Each record in the file must contain the following information in the specified format:

<u>Data Element Name</u>		<u>TranRead</u>	<u>Data Format Rules</u>
<u>RecordType</u>	<u>AbStat</u>	<u>Y</u>	<u>"AbStat"</u>
<u>CountyId</u>	<u>County providing summary</u>		<u>Char(3)</u> <u>Use FVRS county codes</u>
<u>FVRSVoterIdNumber</u>	<u>FVRS Voter Id Number</u>	<u>Y</u>	<u>Numeric (10)</u>
<u>FVRSElectionNumber</u>	<u>FVRS Election identifier</u>	<u>Y</u>	<u>Numeric (10)</u>
<u>ElectionDate</u>	<u>Date of the election</u>	<u>Y</u>	<u>MM/DD/YYYY</u>
<u>ElectionName</u>	<u>Name of Election</u>	<u>Y</u>	<u>Char(35)</u>
<u>LastAbsRecordChangeDate</u>	<u>Date the absentee summary record was last updated</u>	<u>Y</u>	<u>MM/DD/YYYY</u>
<u>AbsenteeRequestStatus</u>		<u>Y</u>	<u>Char(1)</u> <u>C: Cancelled</u> <u>E: Voter Error</u> <u>M: Mailed</u> <u>R: Requested</u> <u>U: Returned Undeliverable</u> <u>V: Voted</u>
<u>AbsReqDate</u>		<u>Y</u>	<u>MM/DD/YYYY</u>
<u>AbsDelivery Date</u>			<u>MM/DD/YYYY</u>
<u>AbsReturnDate</u>			<u>MM/DD/YYYY</u>
<u>AbsReqCanceledDate</u>			<u>MM/DD/YYYY</u>
<u>AbsMilitary</u>			<u>Char(1) Y, N</u>
<u>AbsOverseasFlag</u>			<u>Char(1) Y, N</u>
<u>AbsMilitary Dependent</u>			<u>Char(1) Y, N</u>
<u>Precinct</u>			<u>Char (6)</u>
<u>Abs Party</u>			<u>Char (3)</u>
<u>Voter Name</u>			<u>Char (99)</u>
<u>AbsReqMailingAddressLine 1</u>			<u>Char (40)</u>
<u>AbsReqMailingAddressLine 2</u>			<u>Char (40)</u>
<u>AbsReqMailingAddressLine 3</u>			<u>Char (40)</u>
<u>AbsReqMailingAddress City</u>			<u>Char (40)</u>
<u>AbsReqMailingAddress State</u>			<u>Char (2)</u>
<u>AbsReqMailingAddressZip</u>			<u>Char (15)</u>
<u>AbsReqMailingAddressCountry</u>			<u>Char (40)</u>

(d) Public access.

1. Persons or entities authorized under Section 101.62, F.S., may access absentee ballot request information from the Supervisor pursuant to his or her established procedures or from the Division as specified in subparagraph 2.

2. The Division shall post on its website (<http://election.dos.state.fl.us>) links to the daily county files of absentee ballot request information as directly received from the Supervisor. In order to access this information, a person or entity authorized under Section 101.62, F.S., must first submit form DS DE #70, entitled "Access Application for Absentee Ballot Request Information" (eff. /). The Division shall then assign a username and password. Authorization for access is only valid for one general election cycle. All passwords for access expire at the end of the calendar year in which requested and the request for access must be renewed annually. Form DS DE #70 is incorporated by reference and is available by contacting the Florida Department of State, Division of Elections, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6200, or by access to the Division website at: <http://election.dos.state.fl.us>.

3. An individual voter requesting access to his or her personal absentee ballot request information must obtain such information directly from the Supervisor of his or her county of residence.

(4) Early voting history files.

(a) Compilation. For each election as defined in subsection (2), the Supervisor shall compile electronic files that contain early voting activity as follows:

1. Early voting summary file. This file shall contain, in accordance with the specifications in paragraph (c), early voting summary information that consists of the total number of voters casting a ballot at each early voting location processed up to the close of business for each day. The file shall also include a complete status summary from the point of the file creation to the close of the business for the day being reported.

2. Early voting voters list file. This file shall contain in accordance with specifications in paragraph (c), a list of the individual voters who cast a ballot during the early voting period for the election up through the last day being reported.

(b) File transmission. The Supervisor shall transmit to the Division the electronic files in paragraph (a) no later than noon Eastern Standard Time of the day after the day that is being reported. The files shall be sent daily even if there is no new information or activity to report. The first file transmission shall occur the day after the early voting period begins and the last file transmission shall occur the day after the early voting period ends for that respective election in that county.

(c) File specifications.

1. Early voting summary file:

a. Each file shall be created or converted into a tab-delimited text file.

b. Alphanumeric data shall not be enclosed in quotes.

c. The file shall contain a record for location and date for which votes were cast early for a given election.

d. Each record in the file must contain the following information in the specified format:

<i>Data Element Name</i>		<i>TranRead</i>	<i>Data Format Rules</i>
RecordType	Etots	Y	"Etots"
CountyId	County providing summary		Char(3) Use FVRS county codes
FVRSElectionNumber	FVRS Election identifier	Y	Numeric
ElectionDate	Date of the election	Y	MM/DD/YYYY
ElectionName	Name of Election	Y	Char(35)
Location	Location of early voting	Y	Char(35)
DateOfSummary		Y	MM/DD/YYYY
TotalEarlyVotes		Y	Numeric

2. Early voting voters list file:

a. The file shall be created or converted into in a tab-delimited text file format.

b. Alphanumeric data shall not be enclosed in quotes.

c. Each record in the file must contain the following information in the specified format for each voter who is recorded as having voted early by the time the file is prepared:

<u>Table 3</u> <u>Early Voting Voters List File Layout</u>			
<i>Data Element Name</i>		<i>TranReqd</i>	<i>Data Format Rules</i>
RecordType	EVtrs	Y	“EVtrs”
CountyId	County providing summary		Char(3) Use FVRS county codes
FvrsElectionNumber	Fvrs Election identifier	Y	Numeric
ElectionDate	Date of the Election	Y	MM/DD/YYYY
ElectionName	Name of Election	Y	Char(35)
FvrsVoterIdNumber		Y	Numeric
VoterName		Y	Char(60)
EVPrecinct			Char(6)
EVParty			Char (3)
Location	Location of Early Voting	Y	Char(35)
DateofEarlyVote	Date voter cast ballot	Y	MM/DD/YYYY

(d) Public access. In addition to these files being made available to the public by the Supervisor pursuant to Section 101.62, F.S., the Division shall post to its (<http://election.dos.state.fl.us>) a public access link on its website to these files as directly received from the Supervisors.

(5) Official results database export files. For each election as defined in subsection (2), the Supervisor shall:

(a) Use the file export function to create a file that includes the official results from the database of the county’s voting system used in the election.

(b) File with the Florida Department of State’s Division of Elections’ a copy of the official results export file for the applicable election by transmitting the file at the same time that the official results of the election are certified.

(6) Precinct-level election results reports.

(a) Compilation. After each presidential preference primary election, special election and general election only, the Supervisor shall aggregate and record for each precinct the total number of ballots cast by all voters voting in the election. The Supervisor shall compile separately within those reports

the precinct-level election results for the primary or special primary election preceding the general or special election, as applicable.

(b) Transmission. The Supervisor shall submit electronically precinct-level election results, including summary results to the Division no later than noon Eastern Standard Time of the 45th day after the applicable election cycle.

(c) File specifications. The files containing the precinct-level election results shall be created in accordance with the applicable file specifications for either of the following two methodologies:

1. Manual method.

a. The precinct level results file shall be created or converted into a tab-delimited text file.

b. Alphanumeric data shall not be enclosed in quotes.

c. The row immediately before the first data record shall contain the column names of the data elements that make up the data records. There should be one header-record followed by multiple data records.

<u>Table 4</u> <u>Precinct-Level Election Results Header Layout</u>		
<i>Data Element Name</i>		<i>Data Format Rules</i>
County Name	County providing summary	Char(3)
Election Number	Election identifier	Numeric
Election Date	Date of the election	MM/DD/YYYY
Election Name	Name of Election	Char(35)
Record header	Column names	Tab-delimited

d. Each data record in the file must contain the following information in the specified format.

<u>Data Element Name</u>		<u>Data Format Rules</u>
<u>Precinct Code</u>	<u>County precinct identifier</u>	<u>Char (6)</u>
<u>Precinct Location</u>	<u>Precinct location name</u>	<u>Alphanumeric</u>
<u>Contest Name</u>	<u>Contest title</u>	<u>Numeric</u>
<u>Candidate/Retention/Issue Name</u>	<u>Candidate name/retention or issue identifier for approval or rejection</u>	<u>Char (35)</u>
<u>Candidate Party</u>	<u>Major, Minor or No Party Affiliation</u>	<u>Char (3)</u>
<u>Undervote Total</u>	<u>Undervote total</u>	<u>Numeric</u>
<u>Overvote Total</u>	<u>Overvote total</u>	<u>Numeric</u>
<u>Write-in Total</u>	<u>Write-in total</u>	<u>Numeric</u>
<u>Vote Total</u>	<u>Vote total</u>	<u>Numeric</u>

2. File export method. In accordance with the specifications for the applicable voting system, the precinct-level election results created by the file export function shall include precinct-level election results from the voting system database used in the election.

(7) Voting history activity reports.

(a) Compilation. After a general election only, each Supervisor shall compile an electronic file that includes voting history activity information on each of the individual voters who were qualified to vote for the primary or the general election, and who cast a ballot in the primary or general election.

(b) Transmission. The Supervisor shall transmit electronically to the Division complete voting history no later than 45 days after the general election. The files shall be transmitted to the specified voting history subdirectory under each county's existing transfer directory using secure file transfer protocol (SFTP).

(c) File specifications.

1. The file shall contain records for only one county for each election.

2. The file shall contain records for all qualified voters who: voted at a precinct location, voted during the early voting period, voted by absentee ballot, attempted to vote by absentee ballot but the ballot was not counted or attempted to vote by

provisional ballot but the ballot was not counted in that election for that county regardless of the voter's county of residence or active or inactive registration status at the time the file is created.

3. Each file shall be created or converted into a tab-delimited format.

4. File names shall adhere to the following convention:

a. Three character county identifier followed by underscore.

b. Followed by four character file type identifier of 'VH03' followed by an underscore.

c. Followed by FVRS election ID followed by an underscore.

d. Followed by Date Created followed by an underscore.

e. Date format is MMDDYYYY.

f. Followed by Time Created – HHMMSS.

g. Followed by '.txt'.

5. Numeric data and date information shall be provided as specified in subparagraph 11.

6. Alphanumeric data shall not be enclosed in quotes.

7. The file shall contain a header record as the first row in the file as follows:

<u>Field Position</u>	<u>Field</u>	<u>Type</u>	<u>Length</u>	<u>Required</u>	<u>Format</u>	<u>Comment</u>
<u>1</u>	<u>File Indicator</u>	<u>varchar2</u>	<u>2</u>	<u>Y</u>	<u>VH</u>	<u>Specifies the file type</u>
<u>2</u>	<u>County ID</u>	<u>varchar2</u>	<u>3</u>	<u>Y</u>		<u>Identifies the source of the input data.</u>
<u>4</u>	<u>File Creation Timestamp</u>	<u>varchar2</u>	<u>19</u>	<u>Y</u>	<u>MM/DD/YYYY HH24:MM:SS</u>	<u>Timestamp for beginning of file creation process</u>

8. The file shall contain a footer record as the last row in the file as follows:

<u>Field Position</u>	<u>Field</u>	<u>Type</u>	<u>Length</u>	<u>Required</u>	<u>Format</u>	<u>Comment</u>
1	Transaction Code	varchar2	4	Y	'TRALR'	Specifies the data layout for the current line
3	Record Count	integer	8	Y	99999999	Number of voting history records contained within the file.

9. Each record in the file must contain the following information, in the specified format, for each voter who qualified to vote in the presidential preference primary, the primary election or the general election:

	<u>Field Name</u>	<u>Max Length</u>	<u>Valid Codes/ Format</u>	<u>Description</u>
1	Record Identifier	4	'VH03'	
2	FVRS Voter ID Number	10	Numeric	
3	FVRS Election ID Number	10	Numeric	
4	Vote Date		MM/DD/YYYY	Date vote was cast
5	Vote History Code	1	Y = Voted at the Polls A = Absentee Voted E = Voted Early B = Absentee Ballot Not Counted P = Provisional Ballot Not Counted	Provisional ballots cast that are subsequently counted as recorded as Y
6	Precinct	6	text	
7	Congressional District	3	999	
8	House District	3	999	
9	Senate District	3	999	
10	County Commission District	40	text	
11	School Board District	40	text	

(d) Access. The Division shall post within 60 days a public access link to the legislative report on the Division's website at: <http://election.dos.state.fl.us> that also includes the file layout and codes. Such report shall also be made available upon request.

Rulemaking Authority 20.10(3), 97.012(1), 98.0981(5), 101.62(3), 101.657(2), 102.141(10) FS. Law Implemented 98.0981, 101.62, 101.657, 102.141 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Donald L. Palmer, Director of the Division of Elections
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary of State Kurt S. Browning
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.0014
RULE TITLE: Comprehensive Management Information System

PURPOSE AND EFFECT: The purpose of this rule amendment is to revise existing requirements of the statewide comprehensive management information system which are necessary in order to implement changes recommended by school districts and to make changes in state reporting and local recordkeeping procedures for state and/or federal programs. The effect is to maintain compatibility among state and local information systems components. The statewide comprehensive management information system provides the data on which the measurement of school improvement and accountability is based.

SUMMARY: The rule incorporates revisions to selected data elements, procedures and timelines for state reporting, local recordkeeping, and statewide records transfer which are to be

implemented by each school district and the Department of Education within the automated statewide comprehensive management information system. The rule contains the security, privacy and retention procedures to be used by the Department of Education for school district, student, staff and finance records collected and maintained at the state level.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will 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: 120.536(1), 120.54, 1001.02(1), 1002.22(3)(a), 1008.385(3) FS.

LAW IMPLEMENTED: 1002.22, 1008.385(2), 1010.305 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lavan Dukes, Education Information and Accountability Services Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0014 Comprehensive Management Information System.

(1) Each school district and the Department shall develop and implement an automated information system component which shall be part of, and compatible with, the statewide comprehensive management information system. Each information system component shall contain automated student, staff and finance information systems and shall include procedures for the security, privacy and retention of automated records. The procedures for the security, privacy and retention of automated student records shall be in accordance with the requirements of 20 U.S.C. 1232g(b)(3), 34 C.F.R. Part 99 and Section 1002.22, F.S.

(2) The data elements, procedures and timelines for state reporting, local recordkeeping and statewide records transfer to be implemented by each school district and the Department within its automated information system component as prescribed in the publications entitled "DOE Information Data Base Requirements: Volume I – Automated Student Information System, 2009 2008," "DOE Information Data Base Requirements: Volume II – Automated Staff Information System, 2009 2008," and "DOE Information Data Base Requirements: Volume III – Automated Finance Information System, 1995." These publications which include the

Department procedures for the security, privacy and retention of school district student and staff records collected and maintained at the state level are hereby incorporated by reference and made a part of this rule. Copies of these publications may be obtained from Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

(3) If any portion of this rule and reference materials is adversely affected by the courts, the affected portion should be considered, repealed and the rule shall be repromulgated.

Rulemaking Specific Authority 1001.02(1), 1008.385(3) FS. Law Implemented 1001.23, 1002.22(3)(d)3., 1008.385(2) FS. History–New 2-19-87, Amended 12-21-87, 12-13-88, 3-25-90, 3-24-91, 3-17-92, 12-23-92, 2-16-94, 3-21-95, 7-3-96, 5-20-97, 10-13-98, 10-18-99, 10-17-00, 5-19-03, 7-20-04, 4-21-05, 3-1-07, 3-24-08, 11-26-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeff Sellers, Deputy Commissioner, Accountability, Research, and Measurement.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2009

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.039	Supplemental Educational Services in Title I Schools

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the updated application form, Form SES 100, Supplemental Educational Services Provider Application, for 2010 applicants. The effect is the adoption of the updated form for applicants seeking to provide Supplemental Educational Services during the 2010-2011 school year.

SUMMARY: The rule is amended to adopt the updated application form for applicants to apply as Supplemental Educational Services providers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has 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: 1008.331 FS.

LAW IMPLEMENTED: 1008.331 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Bacen, Bureau Chief, Bureau of Student Assistance, K-12 Public Schools, 325 West Gaines Street, Suite 314, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.039 Supplemental Educational Services in Title I Schools.

(1) Purpose. This rule implements supplemental educational services in Title I schools as authorized by Section 1008.331, F.S.

(2) Definitions. For the purpose of this rule, the following definitions shall be used:

(a) “District/provider contract” means the agreement for the provision of supplemental educational services between each school district and each is required to enter into with state-approved supplemental educational services providers in the district for the provision of supplemental educational services.

(b) “Eligible school” is a Title I school that is in year ~~two~~ or beyond of school improvement, corrective action, or restructuring.

(c) “Eligible student” means students from low-income families, as determined by the school district consistent with 20 U.S.C, Section 6316, who are attending a Title I funded school that is in year ~~one~~ or beyond of school improvement, corrective action, or restructuring.

(d) “Hearing Officer” means an individual employed by the Department and appointed by the Commissioner of Education to hear disputes about the denial and removal of providers as well as the award of a service designation.

(e)(d) “School district” for the purposes of this rule, refers to all local education agencies in the state of Florida.

(f)(e) “State-approved supplemental educational services provider” means a provider that has been approved by the Florida Department of Education to provide supplemental educational services in one or more school districts.

(g)(f) “Student learning plan” means the document plan developed in consultation with the parent, school district, and state-approved provider, which is designed to improve academic achievement of a child receiving supplemental educational services.

(h)(g) “Supplemental educational services” means additional academic instruction, such as tutoring, remediation, and other supplemental academic enrichment services or other educational interventions, that is provided by state-approved supplemental educational services providers outside of the

regular school day, on weekends, or in the summer, and that are designed to increase the academic achievement of students from low-income families who are attending Title I schools in their ~~first~~ second year of school improvement, corrective action, or restructuring.

(i) “Service designation” means a designation of excellent, satisfactory, or unsatisfactory assigned by the Department to each state-approved supplemental educational services provider. ~~“Increasing academic proficiency” means the provider has demonstrated increased academic proficiency as measured by sixty percent of students earning a minimum of one normal curve equivalency point learning gain in reading/language arts and seventy percent of students earning a minimum of one normal curve equivalency point learning gain in mathematics on assessments identified by the Department.~~

(3) Roles and Responsibilities.

(a) The Department shall:

1. Provide annual notice of the process for obtaining approval to provide supplemental educational services.

2. Approve supplemental educational services providers based upon the application requirements set forth in Form SES 100, Supplemental Educational Services Provider Application 2010 2009, which is hereby incorporated by reference to become effective upon the effective date of this rule. Form SES 100 may be obtained from the Florida Department of Education, Bureau of Student Assistance, 325 West Gaines Street, Tallahassee, Florida 32399-0400 or on the Department’s webbiest at www.fldoe.org/flbpso.

3. Maintain a list of state-approved providers.

(b) School districts providing supplemental educational services shall:

1. Identify eligible students and develop equitable procedures for prioritizing services if demand exceeds available funding.

2. Notify eligible families prior to and after the start of the school year regarding the availability of services and the process for obtaining supplemental educational services in an understandable and uniform format. This notice shall include:

a. Contact information for state-approved providers serving the school district, including providers that are able to serve students with disabilities or English Language Learners and accessible through technology, such as distance learning;

b. A description of services, tutor qualifications, and evidence of effectiveness as determined by the Department’s evaluation of academic proficiency of each provider;

c. A description of the procedures and timelines for selecting a provider and the commencement of services;

d. The enrollment form with clear instructions; ~~and~~

e. An offer to assist parents in choosing a provider; and

f. An explanation of the benefits of receiving SES.

3. Unless a waiver is granted by the State Board of Education, pursuant to Section 1008.331(3)(a), F.S., hold open student enrollment for supplemental educational services until the school district has obtained a written election to receive or reject services from the parents of at least a majority of eligible students or until the school district has expended all available funds.

4. Make available the supplemental educational services enrollment forms to the parents of eligible students and providers prior to and after the start of the school year.

5. Provide enrollment lists, parent contact information, and available student diagnostic data to supplemental educational services providers sufficiently in advance of October 15 so that eligible students may begin receiving supplemental educational services no later than October 15.

6. Enter into a district/provider contract with each approved supplemental educational services provider approved to serve the school district; the school district is responsible for ensuring services are consistent with the district/provider contract.

7. Notify the Department when a district/provider contract is terminated with cause due to a breach by the provider where the termination is based upon a failure to comply with or meet provider assurances set forth in SES Form 100. Notification shall occur within fifteen (15) days of the date of the termination of the contract. Notification shall include the name of the company or organization, the date the contract was terminated, the assurance the provider failed to comply with, and the factual basis which resulted in a breach of contract.

8. Develop in consultation with the parent and the provider a student learning plan. Enter into a student learning plan. The plan shall be consistent with the student's individual education plan, English language learner plan, or the plan developed under Section 504 of the Rehabilitation Act. The plan shall include the following:

a. A statement of specific achievement goals for the student; these goals shall be aligned with the Sunshine State Standards as approved by the State Board of Education;

b. An explanation of how the student's progress will be measured;

c. A timetable for improving achievement; and

d. An explanation describing how the student's parents and teacher(s) will be regularly informed of the student's progress.

~~9.8.~~ Reassign students to another provider for the remainder of the students funding allocation if the providers services do not begin by the timelines established in this rule, or if the providers district/provider contract is terminated, or if the provider is removed from the state-approved list.

10. Display on its Web site the following information:

a. Beginning with the data from the 2007-2008 school year, and for each subsequent school year, the number of students who were eligible for and the number of students who participated in SES; and

b. For the current year, a list of state-approved providers serving the school district and the locations where services are provided.

(c) State-approved supplemental educational services providers shall:

1. Be capable of delivering supplemental educational services in the school districts where approved by the Department.

2. Provide services that are secular, neutral, and non-ideological.

3. Provide services outside of the regular school day, such as before or after school, on weekends, or in the summer.

~~4. Unless provided by the school district, Ceonduct a pre-assessment diagnostic assessments~~ to determine student's gaps in knowledge and skills prior to beginning services.

~~5. Consult with the school district and Use the results of the diagnostic assessments, student academic performance information provided by the district, and input from the parents~~ to develop the student learning plan.

6. Provide educational services designed to enable the student to attain achievement goals specified on the student learning plan.

7. Measure the student's progress and regularly report progress to the student's parents and teachers.

8. Adhere to the timetable in the student learning plan for improving the student's achievement.

9. Provide services consistent with health, safety, and civil rights laws.

10. Abide by school district policies and procedures on criminal background checks and the provisions of Section 1012.465, F.S.

11. Refrain from altering, completing, or submitting enrollment forms on behalf of a parent.

12. Provide services to eligible students no later than October 15 of each school year contingent upon receipt of the district-approved student enrollment lists at least twenty (20) days prior to the start date. In the event that a contract with a state-approved provider is signed fewer than twenty (20) days prior to October 15, the provider shall have no fewer than twenty (20) days from the date the contract is executed to begin delivering services.

(4) Supplemental Educational Provider Approval.

(a) Application for approval by the Department for the provision of supplemental educational services shall be made on Form SES 100, Supplemental Educational Services Provider Application.

(b) Except for that portion of the application submitted in hard-copy as set forth in Form SES 100 documenting financial soundness and assurances, applications shall be submitted on-line at www.fldoe.org/flbpo. The hard-copy financial soundness documentation and assurances of the application shall be delivered to the following address: Florida Department of Education, Bureau of Student Assistance Public School Options, 325 West Gaines Street, Suite 348 346, Tallahassee, Florida 32399-0400.

(c) Applications submitted by means other than those set forth above and applications received after the deadline for submission, set forth in Form SES 100, regardless of the cause or nature of the delay, will not be accepted or considered for approval by the Department.

(d) Approval requires the timely submission of all documents and meeting the requirements set forth in Form SES 100.

(e) Approval shall be for one year. Approval is non-transferable and valid only for the person or entity named by the Department in its notice of approval.

(f) An applicant is ineligible to apply for approval to provide supplemental educational services for the next school year subsequent to any of the following:

1. Termination of a supplemental educational services contract with a school district with cause in fifty (50) percent or more of the districts served in the previous school year, where the termination is based upon the provider's failure to comply with, or meet, provider assurances set forth in SES Form 100; or

2. The award of an unsatisfactory service designation for two (2) consecutive years, beginning with the service designation awarded in the 2010-2011 school year.

(5) Monitoring of Supplemental Educational Services. The Department is authorized to conduct announced and unannounced site visits of school districts and of approved providers to monitor compliance with the approved application, district/provider contract, student learning plan, and requirements of this rule.

(a) Monitoring shall be in compliance with Education Department General Administrative Regulation 34CFR 80.40(a) and consistent with the authority for oversight in Section 1008.32, F.S.

(b) Each district and provider shall maintain documentation to verify compliance with the requirements of law and rules applicable to supplemental educational services and comply with the Department's monitoring procedures, including on-site and desktop monitoring and self-evaluations.

(c) The Department shall annually develop a report of the results of the monitoring reviews.

(6) Evaluation of Supplemental Educational Services: The Department shall evaluate and report the quality and effectiveness of supplemental educational services provided by each state-approved provider. The evaluation shall be

implemented pursuant to Section 1008.331(5), Florida Statutes will measure academic proficiency in reading/language arts and mathematics for all students participating in supplemental educational services.

(7) Complaint Process: The following process is established to allow for notification to the Department of a violation of the laws or rules related to supplemental educational services by providers or school districts.

(a) To initiate a complaint, a person must submit a written complaint to the Florida Department of Education using Form SES 200, Complaint Regarding Supplemental Educational Services, which is hereby incorporated by reference to become effective upon the effective date of this rule. This complaint form may be obtained by contacting the Florida Department of Education, Bureau of Student Assistance Public School Options at (850)245-0479, or 325 West Gaines Street, Suite 348 346, Tallahassee, Florida 32399-0400 or by downloading the form on the Department's web site at www.fldoe.org/flbpo.

(b) Upon receipt of a complaint, the Department shall review for sufficiency and shall close the complaint where it does not allege a violation of the laws regarding supplemental educational providers. Where the complaint alleges a violation of the laws regarding supplemental education providers, the Department shall cause the complaint to be investigated. The provider and school district shall cooperate fully in the investigation.

(c) The Department shall review the investigation and provide notice of its intended action to the provider, specifying the nature of the action, such as dismissal of the complaint, request for corrective action, referral to the district, or removal from the approved provider list or enforcement under Section 1008.331, F.S. The notice shall state the grounds for the intended action. Nothing in this rule shall restrict the Department's authority to summarily suspend or remove a provider from the approved provider list where the Department finds that an immediate serious danger to the public health, safety, or welfare exists. Upon determination that there is a need for immediate action, the Commissioner or designee shall provide written notice of the immediate action.

(d) Unless the complaint is closed under the provisions of paragraph (7)(b) of this rule, or summary action is taken under the provisions of paragraph (7)(c) of this rule, the entity against whom a complaint has been made shall be provided notice of the complaint and the opportunity to respond prior to the Department's intended action.

(8) Removal from the State-Approved Supplemental Educational Services Provider List. A provider shall be removed from the approved list, and the provider and any related organizations shall be ineligible to re-apply during the following two-year period, following the process established in subsection (7) of this rule, for the following reasons:

(a) The failure to deliver services as provided in Section 1008.331(3)(b), F.S.;

(b) ~~The award of an unsatisfactory service designation The failure to contribute to increasing the academic proficiency of students for two consecutive years, beginning with the service designation awarded in the 2010-2011 school year; or~~

(c) When the investigation reveals that a school district has been fraudulently invoiced; or

(d)~~(e)~~ When the Department determines that the matter is of such magnitude that it cannot be addressed by the school district through its enforcement mechanisms, the failure to comply with provider responsibilities and assurances, the failure to meet and maintain the eligibility application requirements found in Form SES 100, the Supplemental Educational Services Providers Request for Applications, and the failure to comply with the requirements established for providers in this rule.

(9) Reporting Requirements.

(a) School districts are required to report, through the Department's automated student information data base system, students who are served by supplemental educational services.

(b) Supplemental educational services providers must provide auditable documentation of services and contact hours provided to each student to the school district.

(c) School districts and state-approved providers shall cooperate with Department requests for information pertaining to supplemental educational services.

(10) Grievance Procedures for Providers. This subsection establishes the basis and procedures for the resolution of disputes about the denial to serve as a state-approved supplemental educational services provider and the removal from the State-Approved Educational Services Provider List, as well as disputes about the award of a service designation.

(a) Hearing Officer. The Commissioner shall appoint one or more hearing officers to hear disputes and make a recommendation to the Commissioner for resolution of the grievance.

(b) Process for Filing a Grievance.

1. Grievances shall be in written form.

2. The grievance shall be mailed or delivered to the following address: Florida Department of Education, Bureau of Student Assistance, 325 West Gaines Street, Suite 348, Tallahassee, Florida 32399-0400.

3. In order to be timely, grievances shall be received no later than ten (10) days after the Department mails notice of the intended action.

4. Grievances that are not provided in written form will not be considered. Grievances received after the deadline will not be considered, absent demonstration of extraordinary circumstances beyond the control of the grievant.

(c) Contents of Grievance.

1. All grievances shall contain the following items: the name and mailing address of the organization, the name, mailing address, e-mail address, and telephone number of the grievant or representative, the provider identification number, the grounds or basis for the grievance, and any documentation the grievant intends to rely on. A grievance that requests reconsideration without identifying alleged errors or deviation from the application is insufficient.

2. Unless the Department receives an alternative address, all Departmental notices to the grievant will be provided by e-mail to the e-mail address provided by the grievant.

(d) Basis of Grievance.

1. Grievances must contain a statement of specific facts the grievant contends warrants reversal or modification of the Department's action and a statement of the specific rules or statutes that the grievant contends requires reversal or modification of the Department's action. A grievance that requests reconsideration without identifying the specific facts that warrant reversal or modification or that fails to include the specific rules or statutes that require reversal or modification will not be considered.

(e) Pre-review procedures.

1. Within thirty (30) days of receipt, the Department shall review the grievance and any supporting documentation identifying the specific alleged errors and deviations submitted with the grievance.

2. Where the Department determines that the grievance should be granted, the grievant shall be notified within three (3) working days of the decision and the grievance shall be dismissed with no further action by the Department.

3. Where the Department determines that the grievance should not be granted, the grievance and response shall be forwarded to the Hearing Officer.

(g) Conduct Review. Proceedings shall be as informal as fairness and principles of due process will allow. The Hearing Officer may disregard or discount evidence that is not credible, material, competent, or relevant.

1. The determination shall be based upon written submissions unless a request for a formal review is received with the grievance and the Hearing Officer determines that a formal hearing is necessary in order to resolve the grievance. Either the agency or grievant may request a formal review.

2. Reviews may be conducted telephonically.

(h) Recommendation. The Hearing Officer shall recommend findings of fact and conclusions of law to the Commissioner.

(11)~~(10)~~ Confidentiality. The identity of any student who is eligible for or receiving supplemental educational services shall not be disclosed to the public without prior written consent of the parents of the student, however, unless a student is a dependent student as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), when a student has

attained 18 years of age, prior written consent of the student is required before disclosure under this subsection occurs. Providers shall abide by the procedures of the school district and the Department for the security, privacy and retention of student records in accordance with the requirements of Section 1002.22, F.S. and 20 U.S.C. § 1232g.

Rulemaking Specific Authority 1008.331 FS. Law Implemented 1008.331 FS. History—New 4-14-08, Amended 5-24-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2009

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.09401 RULE TITLE: Student Performance Standards

PURPOSE AND EFFECT: The purpose of the rule amendment is to establish a periodic review and revision cycle for the Next Generation Sunshine State Standards. The effect is to ensure that Florida’s curriculum standards remain current and relevant.

SUMMARY: This rule is amended to require that each set of standards be reviewed by an expert group no less than every twelve years. The expert group will make recommendations to the Commissioner and he will then authorize the necessity for any revisions.

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: 1001.02 FS.

LAW IMPLEMENTED: 1003.41(2) FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, 325 West Gaines Street, Suite 1502, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09401 Student Performance Standards.

(1) Standards to benchmark student achievement serve as guides to best practices for local curriculum designers to help schools implement school improvement strategies to raise student achievement. Beginning with the 2007-2008 school year, the reading and language arts benchmarked standards for reading and language arts referenced below in paragraph (1)(a), describe what students should know and be able to do at grade level progression. Beginning with the 2008-2009 school year, the mathematics and science benchmarked standards for mathematics and science referenced below in paragraphs (1)(b) and (c), describe what students should know and be able to do at grade level progression from kindergarten to grade 8 and for each of the mathematics content areas of: algebra, calculus, discrete mathematics, financial literacy, geometry, probability, statistics, and trigonometry, and each of the science content areas of: earth and space science, life science, physical science, and nature of science for grades 9-12. Beginning with 2009-2010, the health, physical education, and social studies benchmarked standards describe what students should know and be able to do at ten progression levels (grades K, 1, 2, 3, 4, 5, 6, 7, 8, 9-12). The benchmarked standards in paragraphs (1)(e)-(f) of this rule describe what students should know and be able to do at four progression levels (grades Pre-K-2, 3-5, 6-8, 9-12) in the subjects of the arts and foreign languages. The access points contained in either the Next Generation Sunshine State Standards or the Sunshine State Standards provide access to the general education curriculum for students with significant cognitive disabilities. Public schools shall provide appropriate instruction to assist students in the achievement of these standards or the Sunshine State Standards for Special Diploma as appropriate. These standards, benchmarks, and access points are contained in the following publications which ~~and~~ are hereby incorporated by reference and made a part of this rule.

- (a) Sunshine State Standards – Reading and Language Arts, July 2007,
- (b) Sunshine State Standards – Mathematics, 2008,
- (c) Sunshine State Standards – Science, 2008,
- (d) Next Generation Sunshine State Standards – Social Studies, 2009,
- (e) Sunshine State Standards – Foreign Languages, 1996,
- (f) Sunshine State Standards – The Arts, 1996,
- (g) Next Generation Sunshine State Standards – Health, 2009,
- (h) Next Generation Sunshine State Standards – Physical Education, 2009, and
- (i) Sunshine State Standards for Special Diploma, 1999.

Copies of these publications may be obtained from the Division of Public Schools, Department of Education, 325 West Gaines St., Tallahassee, Florida 32399-0400.

(2) No less than every twelve (12) years an expert group shall review the standards and make recommendations to the Commissioner for their review and revision. The Commissioner shall determine whether revisions are necessary based on the recommendations.

~~(3)~~(2) Each district school board shall incorporate the Sunshine State Standards, Sunshine State Standards for Special Diploma, or Next Generation Sunshine State Standards as appropriate for subject areas contained herein into the district Student Progression Plan.

~~(4)~~(3) The Sunshine State Standards and Next Generation Sunshine State Standards shall serve as the basis for statewide assessments.

Rulemaking Specific Authority 1001.02 FS. Law Implemented 1001.03, 1003.41 FS. History--New 6-18-96, Amended 9-28-99, 3-1-07, 7-25-07, 11-25-07, 4-14-08, 9-22-08, 2-1-09.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 30, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 13, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.099821
 RULE TITLE: Voluntary Prekindergarten (VPK) Provider Kindergarten Readiness Rate

PURPOSE AND EFFECT: The purpose of the amendment is to adopt procedures for the Department to calculate each Voluntary Prekindergarten Provider’s 2008-2009 Kindergarten Readiness Rate. These readiness rates must be based exclusively upon the results of the statewide kindergarten screening for students completing the VPK education program during the 2008-09 school year and who are administered the statewide kindergarten screening during the 2009-10 school year. The effect is to implement the requirements of Section 1002.69, Florida Statutes, and continued implementation of the calculation of kindergarten provider readiness rates.

SUMMARY: This rule prescribes the procedures for the Department of Education to use to calculate each Voluntary Prekindergarten Provider’s 2008-09 Kindergarten Readiness Rate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The costs to the Department are estimated to be \$77,385. There are no estimated costs to other states or local governmental entities. Although small

businesses will be subject to the rule, the Department estimates no regulatory cost increase as a result of the proposed revisions.

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: 1002.69(5), (6), 1002.73(2)(d) FS.

LAW IMPLEMENTED: 1002.69(5), (6) FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Shan Goff, Director, Office of Early Learning, Department of Education, 325 West Gaines Street, Tallahassee, Florida; (850)245-0445

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.099821 Voluntary Prekindergarten (VPK) Provider Kindergarten Readiness Rate.

(1) Purpose. The purpose of this rule is to implement the requirements of Section 1002.69, F.S.

~~(2) Kindergarten Screening. In addition to the administration of the kindergarten screening measures, adopted by the Department of Education, school districts shall also administer the Letter Naming Fluency Measure of the Indicadores Dinamicos del Exito en la Lectura (IDEL) to public school kindergarten students whose native language is Spanish and who answered “yes” to at least two (2) questions on the Home Language Survey.~~

~~(2)~~(3) Accuracy of Data.

(a) Prior to the calculation of the VPK Provider Kindergarten Readiness Rate, as described in subsection ~~(4)~~(5) of this rule, private and public school VPK providers shall have the opportunity to review a cumulative list of all of the children served in their program and the total number of hours they attended.

(b) If a private or public provider disputes the accuracy of the cumulative list of VPK participants or the total number of hours they attended when such change would result in their inclusion or exclusion in the calculation of the VPK Provider Kindergarten Readiness Rate, as measured by the threshold of seventy (70) percent, as described in subparagraph ~~(3)~~(4)(a)1. of this rule, the provider may submit corrective information to the Office of Early Learning of the Department of Education within 14 days after publication of the cumulative list on the Department’s website (vpk.fldoe.org). The Department, in collaboration with the Agency for Workforce Innovation and the respective Early Learning Coalition, shall review the

corrective information and accept or reject the requested corrective information within 21 days after publication of the cumulative list on the Department’s website. Upon completion of the corrective process, the Department shall calculate a preliminary VPK Provider Kindergarten Readiness Rate in accordance with the method described in subsection ~~(4)(5)~~ of this rule.

(c) If a private or public school provider disputes the accuracy of the preliminary VPK Provider Kindergarten Readiness Rate as published on the Department’s website or if a private provider disputes ownership at the time of the ~~2008-09 2007-08~~ VPK program, the provider may file a dispute on the Department’s website and submit documentation to the Department for its review and consideration within 14 days after publication of the preliminary rate. The Department shall review and accept or reject any changes to the data within ~~21~~ 14 days after publication. The VPK Provider Kindergarten Readiness Rate will be recalculated in accordance with the method described in subsection ~~(4)(5)~~ of this rule and submitted to the State Board of Education for the purpose of adopting a minimum readiness rate, as required by Section 1002.69(6), F.S.

~~(3)(4)~~ Criteria for Inclusion in the VPK Provider Kindergarten Readiness Rate for ~~2008-09 2007-08~~.

(a) After the conclusion of the review of the data described in subsection ~~(2)(3)~~ of this rule, the Department shall calculate the Kindergarten Readiness Rate for each private or public school VPK provider of either the school year (five hundred forty (540) hour) or summer (three hundred (300) hour) program that served at least four (4) children who:

1. Attended in the VPK program for seventy (70) percent or more of the total number of instructional hours; and
2. Participated in each of the kindergarten screening measures.

(b) If a private or public school provider does not meet the criteria described above, information as to why the provider was not included in the VPK Provider Readiness Rate calculation shall be displayed on the VPK Provider Profile required by Section 1002.53(5), F.S.

~~(4)(5)~~ Procedures for Calculating the VPK Provider Kindergarten Readiness Rate for ~~2008-09 2006-07~~.

(a) The “Percent of Children Ready for Kindergarten” shall be calculated as the number of of “Children Ready for Kindergarten” on each screening measure divided by the total number of “Children Screened” on that measure.

(b) One point is assigned for each percent of “Children Ready for Kindergarten” on each screening measure.

(c) The VPK Provider Kindergarten Readiness Rate shall be the sum of the “Percent of Children Ready for Kindergarten” on each screening measure with a maximum of two ~~three~~ hundred (200) ~~(300)~~ points.

(d) The Kindergarten Readiness Rate for private and public school VPK Providers will be displayed as follows:

	Screening Measure #1	Screening Measure #2	Screening Measure #3
Children Ready for Kindergarten	22	15	12
Children Screened	22	20	20
Percent of	100	75	60
Children Ready for Kindergarten VPK Provider Readiness Rate			<u>175</u> 235

~~(e) For children who also participated in the Letter Naming Fluency Measure of the Indicadores Dinamicos del Exito en la Lectura (IDEL), as described in subsection (2) of this rule, the higher of the two (2) Letter Naming Fluency Measures shall be used to calculate the “Percent of Children Ready for Kindergarten” as described in paragraph (5)(d) of this rule.~~

~~(e)(f)~~ All providers shall be ranked according to their final score.

~~(5)(6)~~ VPK Provider Kindergarten Readiness Rates. VPK Provider Kindergarten Readiness Rates shall be binding on new private VPK owners if the change of ownership occurred at a point in time in which seventy (70) percent or more of the VPK school-year or summer program remained. For the purpose of this rule, a change of ownership does not include the sale or transfer to family members or persons with a pre-existing ownership interest in the business.

~~(6)(7)~~ Low Performing VPK Providers. If the readiness rate of a private or public VPK provider falls below the minimum rate adopted by the State Board, the provider shall be designated as a low performing VPK provider, notified of each designation by the Department, and acknowledge such designation on the Department’s website within 21 days of the State Board of Education’s adoption of the minimum readiness rate.

Rulemaking Specific Authority 1002.69(5), (6), 1002.73(2)(d) FS. Law Implemented 1002.69(5), (6) FS. History—New 6-3-07, Amended 1-16-08, 1-5-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 4, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-2.0010 RULE TITLE: Educational Facilities

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the 2009 Supplement to the State Requirements for Educational Facilities to address changes made in Florida Law during the 2009 legislative session and to update forms to meet requirements of rule and law.

SUMMARY: The rule is amended to include raises in the threshold limits for Day Labor projects and studies, establishes requirements for using a board’s own labor and equipment for completing capital improvement projects, identification of Green Building Standards used for a project, and required information on a Certificate of Occupancy.

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: 1001.02(1) FS.

LAW IMPLEMENTED: 255.20, 255.2575, 1013.371 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.
 PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Spessard Boatright, Director, Office of Educational Facilities, 325 West Gaines Street, Suite 1054, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-2.0010 Educational Facilities.

State Board of Education requirements adopted pursuant to Chapter 120, Florida Statutes, to implement the State Uniform Building Code for Public Educational Facilities Construction in Chapter 1013, Florida Statutes, are contained in Section 423 of the Florida Building Code and the Department of Education publication titled “State Requirements for Educational Facilities 2007 and the 2009 Supplement to the State Requirements for Educational Facilities, which are ~~is~~ hereby incorporated by reference and made a part of this rule to become effective with the effective date of the amended rule. All educational and ancillary facilities constructed by a school board or community college board shall comply with “State Requirements for Educational Facilities 2007 and the 2009 Supplement to the State Requirements for Educational Facilities”. Copies of “State Requirements for Educational Facilities 2007 and the 2009 Supplement to the State

Requirements for Educational Facilities” are available from the Office of Educational Facilities, Florida Department of Education, 325 West Gaines Street, Room 1054, Tallahassee, Florida 32399-0400, at a cost to be determined by Commissioner, but which shall not exceed actual cost, or from the Department of Education’s website at: <http://www.fldoe.org/edfacil> in PDF format.

Rulemaking Specific Authority Section 1(a) Article IX, State Constitution; 1001.02(1), 10013.02(2), 1013.37 FS. Law Implemented 1(a) Article IX, State Constitution; 1001.02, 1001.42(9), 1001.453, 1011.09, 1011.74, 1031.01, 1013.03, 1013.31, 1013.35, 1013.37, 1013.371, 1013.60, 1013.61, 1013.64, 1013.735, 1013.736, 1013.737 FS. History–New 10-30-94, Amended 4-28-97, Formerly 6A-2.0111, Amended 1-5-00, Formerly 6-2.001, Amended 8-22-05, 7-2-06, 2-12-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Spessard Boatright, Director, Office of Educational Facilities

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 18, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-2.0020 RULE TITLE: Eligibility for Charter School Capital Outlay

PURPOSE AND EFFECT: The purpose of this new rule is to clarify the process by which charter school capital outlay plans are approved by the Department. The effect will be a more clearly defined process consistent with Section 1013.62, Florida Statutes.

SUMMARY: The proposed rule defines the criteria necessary for a charter school to be eligible for capital outlay.

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: 1013.62 FS.

LAW IMPLEMENTED: 1013.62 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.
 PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adam Miller, Director of Charter Schools, Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 522, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-2.0020 Eligibility for Charter School Capital Outlay.

The following provisions are established for the determination of eligibility of charter schools pursuant to Section 1013.62, Florida Statutes.

(1) A charter school may be considered a part of an expanded feeder chain under Section 1013.62, Florida Statutes, if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to Section 1013.62, Florida Statutes.

(2) The eligibility requirement for satisfactory student achievement under Section 1013.62, Florida Statutes, shall be determined in accordance with the language in the charter contract and the charter school's current school improvement plan if the school has a current school improvement plan. A charter school receiving an "F" grade designation through the state accountability system, as defined in Section 1008.34, Florida Statutes, shall not be eligible for capital outlay funding for the school year immediately following the designation.

Rulemaking Authority 1001.02, 1013.62 FS. Law Implemented 1013.62 FS. History--New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 10, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-2.0030 RULE TITLE: Qualified School Construction Bond Program

PURPOSE AND EFFECT: The purpose of this new rule is to implement the administration of the Qualified School Construction Bond Program, which was established as part of the American Recovery and Reinvestment Act of 2009.

SUMMARY: The proposed rule sets forth the allocation and application processes for the Program, including required documentation to be provided by the education agencies.

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: 159.845 FS.

LAW IMPLEMENTED: 159.841, 159.842, 159.843, 159.844, 159.845 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Spessard Boatright, Director, Office of Educational Facilities, 325 West Gaines Street, Suite 1054, Tallahassee, Florida 32399-0400, (850)245-9229

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-2.0030 Qualified School Construction Bond Program.

(1) Qualified School Construction Bonds (QSCBs). The American Recovery and Reinvestment Act of 2009 authorized the issuance of Qualified School Construction Bonds (QSCBs) to finance school construction and other eligible projects for public schools. The amount of QSCBs issued in each state is limited under federal law. This rule is created pursuant to Sections 159.841, 159.842, 159.843, 159.844, and 159.845, Florida Statutes, which authorizes the Department of Education (Department) to establish a program for allocating the available allocation authority in Florida. Under this program, qualified school districts, charter schools or state education agencies can borrow funds with no interest cost. A Qualified School Construction Bond is an interest-free bond issued by a state or local governmental entity, the proceeds of which are used to construct or improve certain eligible public schools, or for certain land or equipment purchases. Instead of receiving periodic interest payments from the issuer, the QSCB bondholder (potential bondholders include banks, insurance companies, and corporations actively involved in the business of lending money) receives a federal income tax credit while the bond is outstanding, in an amount equal to a percentage of the face amount of the bond. The education agency's debt service obligation is only for the principal amount of the bonds. The full faith and credit of the State of Florida is not pledged to QSCB bonds issued by agencies other than the Florida Department of Education.

(a) Eligibility Criteria.

1. All school districts, charter schools or state education agencies are eligible to apply.

2. Eligible QSCB projects include all projects permitted to be financed with QSCBs under federal law, including:

- a. New construction of a public school owned facility,
- b. Rehabilitation or repair of an existing public school owned facility,
- c. Land acquisition for the facility to be constructed with the QSCB proceeds, and
- d. Equipment to be used in the facility that is being constructed, rehabilitated, or repaired with the proceeds of QSCBs.

NOTE: Lease payments may not be made with QSCB proceeds.

(b) Application Process.

1. Application shall be made through submission of Form OEF 411, Qualified School Construction Bond (QSCB) Program Notice of Intent to Issue Bonds and Request for Written Confirmation, which is hereby incorporated by reference to become effective with the effective date of this rule. Form OEF 411 may be obtained from the Department's website at <http://www.fldoe.org/edfacil/oef/federalbond.asp>.

2. Applications must be received from the districts or charter schools on or before October 1, or such other date as established by the Department.

3. Districts or charter schools should not request more bonding authority than can be reasonably expected to be repaid, and the district or charter school must expect that the QSCBs will be issued prior to the end of the calendar year in which an application is made.

4. Applications must clearly explain the pledged revenue from which the district or charter school intends to repay the bond principal upon maturity.

5. The application must include the following documents:

- a. A copy of the resolution referenced in the Certificate of Eligibility section of Form OEF 411.
- b. A completed Qualified School Construction Bonds Notice of Intent to Issue and Request for Written Confirmation Project Spending Plan, Form OEF 412, which is hereby incorporated by reference to become effective with the effective date of this rule. Form OEF 412 may be obtained from the Department's website at <http://www.fldoe.org/edfacil/oef/federalbond.asp>.

6. Charter schools must submit a copy of the most current financial audit containing an auditor's opinion that the charter school will remain operational until the QSCBs mature.

(c) Allocation Process.

1. After the federally imposed state bonding authority is known for each calendar year, the school districts and charter schools will be notified by the Department.

2. The total available state volume cap limitation will be divided between two pools, the school district's pool and the charter school's pool. The pools will be established based on

the ratio of the number of charter schools divided by the number of students served, as compared to the total student population.

3. Applications are reviewed for eligibility and completeness. Districts or charter schools may be contacted for further information or clarification.

4. Applications from school districts must include only survey recommended projects.

5. District applications will be considered and allotments awarded based on the following factors:

a. Existing classroom funding needs for compliance with the constitutionally mandated class-size reduction requirements;

b. Increasing enrollment growth of greater than one (1) percent per year;

c. Need to replace aging facilities, fifty (50) years and older, based on a Department approved analysis; or

d. Existing funding needs for survey recommended projects included in a current Educational Plant Survey approved by the Department.

6. Charter school applications will be considered and allotments awarded based on the review and evaluation of the description of the facility; including, but not limited to, the age, condition, ownership, number of students currently being served, projected number of students to be served, and a photograph(s) of the existing facility demonstrating a need for the project to be financed with QSCB proceeds.

7. Once the Department determines the allocations to be awarded, each district or charter school will be notified in writing. Districts or charter schools whose applications have been denied and those with ineligible projects will also be notified.

8. Any allotment balance remaining after the initial allocation process will revert to a state-wide allocation pool, to which unissued/returned allotments will be added. The state-wide pool may be reallocated at a later date to other qualifying districts.

9. A final confirmation letter of the allocation will be provided upon the districts or charter schools submission of the State of Florida, Department of Education Issuance Report Pursuant to Part IX of Chapter 159, Florida Statutes, Form OEF 413 and a copy of the official statement cover. Form OEF 413 is hereby incorporated by reference to become effective with the effective date of this rule. This form may be obtained from the Department's website at <http://www.fldoe.org/edfacil/oef/federalbond.asp>.

(2) In addition to previously stated requirements, there are a number of administrative items school districts or charter schools must keep in mind:

(a) Qualified School Construction Bond (QSCB) proceeds cannot be used to pay debt service or other outstanding debt obligations incurred to finance project costs.

(b) Qualified School Construction Bond (QSCB) proceeds cannot be used to make lease payments.

(c) The district or charter school must comply with all information requests from the Department so that federal accountability and reporting requirements can be met.

(d) Each district or charter school must determine whether the purposes for which QSCBs are issued conform to state law regarding indebtedness.

(e) Each district or charter school is responsible for repayment of the principal upon maturity.

(f) School districts shall not use PECO or CO&DS revenues to pay QSCB debt service obligations, but may use District School Tax revenues pursuant to Section 1011.71, F.S. (often referred to as local discretionary capital outlay millage).

(g) If District School Tax proceeds are proposed for repayment of QSCB debt, those proceeds shall not exceed the Certificates of Participation (COPs) limit established for District School Tax revenue in Section 1011.71, F.S.

(h) If a district or charter school determines that its allotment will not be used, the district or charter school should notify the Department as soon as possible.

(i) If the scope of one of a district's or charter school's approved projects changes, the district or charter school must receive the approval of the Department before reallocating the funds to other projects. Requests will be reviewed on a case-by-case basis.

1. The Department may allow reallocations among approved projects, as identified on the current QSCB award letter, to another current approved project.

2. The Department will disallow the reallocation of funds to new or unapproved projects.

(j) Districts or charter schools must have all bonds issued by December 31 of its funding year.

(k) As districts or charter schools issue QSCB bonds, Form OEF 413 and a copy of the cover of the official statement must be forwarded to the Department upon issuance of the bonds in order to receive a final confirmation of the volume cap allocation.

(l) On December 31 of the district's or charter schools' funding year, unused allotments will revert back to the Department for reallocation.

(m) Allocations of the volume limitation are granted first from carried-forward balances from previous years and then from the current year balance.

Rulemaking Authority 159.845 FS. Law Implemented 159.841, 159.842, 159.843, 159.844, 159.845 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mr. Spessard Boatright, Director, Office of Educational Facilities, 325 West Gaines Street, Suite 1054, Tallahassee, Florida 32399-0400, (850)245-9229

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NOS.:	RULE TITLES:
6A-6.03013	Exceptional Student Educational Eligibility for Students Who Are Deaf or Hard-of-Hearing
6A-6.030151	Exceptional Student Education Eligibility for Students with Orthopedic Impairment
6A-6.030152	Exceptional Student Education Eligibility for Students with Other Health Impairment
6A-6.030153	Exceptional Student Education Eligibility for Students with Traumatic Brain Injury
6A-6.03016	Exceptional Student Education Eligibility for Students with Emotional/Behavioral Disabilities
6A-6.03022	Special Programs for Students who are Dual-Sensory Impaired
6A-6.03023	Exceptional Student Education Eligibility for Students With Autism Spectrum Disorder
6A-6.03027	Special Programs for Children Three Through Five Years Old who are Developmentally Delayed
6A-6.03028	Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities
6A-6.0331	General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services

PURPOSE AND EFFECT: The purpose of the rule amendments for Rules 6A-6.03013, 6A-6.030151, 6A-6.030152, 6A-6.030153, 6A-6.03016, 6A-6.03023, F.A.C., is to conform cross references to rules that have been recently revised and to include content related to evaluation procedures that are currently included in the ESE Policies and Procedures document in accordance with Rule 6A-6.03411, F.A.C. The effect will be rules that include applicable cross references, and improved access to information on the required content of

evaluations for school district personnel and families. Rules 6A-6.030151, 6A-6.030152, 6A-6.030153, F.A.C., also include an amendment permitting a school district, at the discretion of the ESE administrator, to utilize an evaluation report from a physician licensed in another state for the purpose of evaluation and eligibility determination. The effect will be to reduce hardships to school districts and families for those districts where it is commonplace that students receive their medical care in an adjacent state. In addition, to align with statutory changes made to Section 1003.01(3), Florida Statutes, the titles of these three rules have been changed to remove reference to the term "physically impaired." The effect will be alignment with current statutory language. The purpose of the rule amendment for Rule 6A-6.03022, F.A.C., is to conform cross references to a rule that has recently been revised and to delete a section of rule related to a funding methodology that is now obsolete. The effect will be a rule that includes applicable cross references and accurate content. The purpose of the rule amendment for Rule 6A-6.03027, F.A.C., is to align requirements for general education interventions and activities prior to evaluation with Rule 6A-6.0331, F.A.C., which was recently revised. The effect will be the consistent alignment of requirements across these two rules. The purpose of the rule amendment for Rule 6A-6.03028, F.A.C., is to change the requirement related to when an individual educational plan (IEP) team must give consideration to a student's need for information and instruction in the area of self determination from age 16 to age 14. The effect will be earlier consideration of the student's needs for skills that will support active participation in the development of the student's IEP. The purpose of the rule amendment for Rule 6A-6.0331, F.A.C., is to allow a school district, at the discretion of the ESE administrator, to utilize an evaluation report from a physician licensed in another state for the purpose of evaluation and eligibility determination. The effect will be to reduce hardships to school districts and families for those districts where it is commonplace that students receive their medical care in an adjacent state. In addition, the amendment to Rule 6A-6.0331, F.A.C., includes a recent change in the Individuals with Disabilities Education Act (IDEA) with regard to revocation of parent consent. The effect will be policies and procedures that align with the requirements of IDEA.

SUMMARY: These rule amendments incorporate specific evaluation procedures for students being considered as eligible students with disabilities who are deaf or hard-of-hearing, orthopedically impaired, other health impaired, traumatic brain injured, emotionally/behaviorally disabled, or having an autism spectrum disorder. The rule amendment incorporated in Rule 6A-6.03027, F.A.C., aligns general education interventions and procedures prior to evaluation for children three through five years of age who are suspected of being developmentally delayed with procedures included in Rule 6A-6.0331, F.A.C. Reevaluation procedures are included for students with dual-sensory impairment and rule language related to an obsolete funding methodology has been deleted

from Rule 6A-6.03022. Rule 6A-6.03028, F.A.C., is amended to include requirements for consideration of instruction in self determination by IEP teams no later than age fourteen. Rule 6A-6.0331, F.A.C, is amended to incorporate recent IDEA requirements related to the revocation of parental consent. Additionally, language has been added to permit use of reports from physicians licensed in other states for the purpose of evaluation and eligibility determination.

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: 1003.01, 1003.57, 1003.571 FS.

LAW IMPLEMENTED: 1003.01, 1003.57, 1003.571 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, 325 West Gaines Street, Suite 614, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

6A-6.03013 Exceptional Student Educational Eligibility for Students Who Are Deaf or Hard-of-Hearing.

(1) **Definition.** Students who are deaf or hard-of-hearing. A student who is deaf or hard-of-hearing has a hearing loss aided or unaided, that impacts the processing of linguistic information and which adversely affects performance in the educational environment. The degree of loss may range from mild to profound.

(2) General education interventions and activities ~~Activities prior to referral.~~ Prior to referral for evaluation, the requirements in subsection ~~subsections~~ 6A-6.0331(1)-(3), F.A.C., must be met.

(3) **Evaluation.** In addition to the provisions of subsection 6A-6.0331(5)(4), F.A.C., the evaluation for determining eligibility shall include the following: ~~a student must also include the procedures identified in the district's Policy and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C.~~

(a) Audiological evaluation;

(b) Evaluation of developmental skills or academic achievement, including information on the student's academic strengths and weaknesses;

(c) Evaluation of social development;

(d) Evaluation of receptive and expressive communication; and.

(e) A comprehensive nonverbal assessment of intellectual functioning or developmental scales, if more appropriate, for children under age seven.

(4) Criteria for eligibility. A student who is deaf or hard-of-hearing is eligible for exceptional student education if the following criteria are met:

(a) An audiological evaluation documents a permanent or fluctuating hearing threshold level that interferes with progress in any one (1) of the following areas: developmental skills or academic performance, social-emotional development, or linguistic and communicative skills as evidenced by:

1. 25 decibel (db) + ± 5 dB or greater based on pure tone average or average of 500, 1000, and 2000 Hz unaided in the better ear; or

2. A high frequency hearing threshold level of 25 dB ± 5 dB or greater based on pure tone average of 1000, 2000, and 3000 Hz unaided in the better ear; or

3. A unilateral hearing threshold level of 50 dB ± 5 dB or greater based on pure tone average of 500, 1000, and 2000 Hz unaided; or

4. Auditory Evoked Potential responses evidencing permanent hearing loss at multiple frequencies equivalent to or in excess of the decibel hearing loss threshold criteria for pure tone audiometric testing specified in subparagraphs (4)(a)1., 2., and 3., above; and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk)(e), F.A.C.

(5) Reevaluation shall occur at least every three (3) years and shall include at a minimum an audiological evaluation, and, if appropriate, any other formal evaluations addressed in the initial evaluation in accordance with subsection (3) of this rule.

~~(6)(5)~~ A screening for Usher’s Syndrome shall be administered to each student who is deaf or hard-of-hearing at least once during grades 6-12.

Rulemaking Specific Authority ~~1003.01 1000.01, 1001.42(4)(1), 1003.57, 1003.571~~ FS. Law Implemented ~~1003.01 1000.01, 1001.42(4)(1), 1003.21, 1003.57(5), 1003.571 1011.62(4)(e)~~ FS. History–New 7-1-77, Amended 9-11-84, Formerly 6A-6.3013, Amended 7-1-94, 7-1-07, _____.

6A-6.030151 Exceptional Student Education Eligibility for Students ~~Who are Physically Impaired~~ with Orthopedic Impairment.

(1) Definition. Orthopedic impairment means a severe skeletal, muscular, or neuromuscular impairment. The term includes impairments resulting from congenital anomalies (e.g. including but not limited to skeletal deformity or spina bifida), and impairments resulting from other causes (e.g., including but not limited to cerebral palsy or amputations).

(2) General education interventions and activities ~~Activities prior to referral.~~ Prior to referral for evaluation, the requirements in subsection ~~subsections~~ 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5)(4), F.A.C., the evaluation for determining eligibility shall include the following: ~~a student must also include the procedures identified in the district’s Policies and Procedures for the Provision of Specially Designed Instruction and Related Services as required by Rule 6A-6.03411, F.A.C.~~

(a) A report of a medical examination, within the previous twelve-month (12) period, from a physician(s) licensed in Florida in accordance with Chapter 458 or 459, Florida Statutes, unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician’s report must provide a description of the impairment and any medical implications for instruction; and.

(b) An educational evaluation that identifies educational and environmental needs of the student.

(4) Criteria for eligibility. A student with an orthopedic impairment is eligible for exceptional student education, if the following criteria are met:

(a) Evidence of an orthopedic impairment that adversely affects the student’s performance in the educational environment in any of the following: ambulation, hand movement, coordination, or daily living skills, and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk)(e), F.A.C.

Rulemaking Specific Authority ~~1003.01 1001.02(4), 1003.57(1)(e), 1003.571~~ FS. Law Implemented ~~1001.03, 1003.01(3), 1003.21(1), 1003.57(1)(e), 1003.571 1011.62~~ FS. History–New 7-1-07, Amended _____.

6A-6.030152 Exceptional Student Education Eligibility for Students ~~Who are Physically Impaired~~ with Other Health Impairment.

(1) Definition. Other health impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems. This includes, but is not limited to, asthma, attention deficit disorder or attention deficit hyperactivity disorder, Tourette syndrome, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and acquired brain injury.

(2) General education interventions and activities ~~Activities prior to referral.~~ Prior to referral for evaluation, the requirements in subsection ~~subsections~~ 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5)(4), F.A.C., the evaluation for determining eligibility shall include the following: a student must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services as required by Rule 6A-6.03411, F.A.C.

(a) A report of a medical examination, within the previous twelve-month (12) period, from a physician(s) licensed in Florida in accordance with Chapter 458 or 459, Florida Statutes, unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the impairment and any medical implications for instruction; and,

(b) An educational evaluation that identifies educational and environmental needs of the student.

(4) Criteria for eligibility. A student with other another health impairment is eligible for exceptional student education if the following criteria are met:

(a) Evidence of other another health impairment that results in reduced efficiency in schoolwork and adversely affects the student's performance in the educational environment, and

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk)(e), F.A.C.

Rulemaking Specific Authority 1003.01 ~~1001.02(4)~~, 1003.57(1)(e), 1003.571 FS. Law Implemented ~~1001.03~~, 1003.01(3), 1003.21(1), 1003.57(1)(e), 1003.571, ~~1011.62~~ FS. History—New 7-1-07, Amended _____.

6A-6.030153 Exceptional Student Education Eligibility for Students ~~Who Are Physically Impaired~~ With Traumatic Brain Injury.

(1) Definition. A traumatic brain injury means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term applies to mild, moderate, or severe, open or closed head injuries resulting in impairments in one (1) or more areas such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing, or speech. The term includes anoxia due to trauma. The term does not include brain injuries that are congenital, degenerative, or induced by birth trauma.

(2) General education interventions and activities ~~Activities prior to referral~~. Prior to referral for evaluation, the requirements in subsection ~~subsections~~ 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5)(4), F.A.C., the evaluation for determining eligibility shall include the following: a student must also

include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services as required by Rule 6A-6.03411, F.A.C.

(a) A report of medical examination, within the previous twelve-month (12) period from a physician(s) licensed in Florida in accordance with Chapter 458 or 459, Florida Statutes, unless a report of medical examination from a physician licensed in another state is permitted in accordance with paragraph 6A-6.0331(3)(c), F.A.C. The physician's report must provide a description of the traumatic brain injury and any medical implications for instruction;

(b) Documented evidence by more than one person, including the parent, guardian, or primary caregiver, in more than one situation. The documentation shall include evidence of a marked contrast of pre and post-injury capabilities in one of more of the following areas: cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem solving; sensory, perceptual, and motor abilities, psychosocial behavior; physical functions; information processing or speech; and,

(c) An educational evaluation that identifies educational and environmental needs of the student.

(4) The evaluation may also include a neuropsychological evaluation when requested by the exceptional student education administrator or designee.

(5)(4) Criteria for eligibility. A student with a traumatic brain injury is eligible for exceptional student education, if the following criteria are met:

(a) Evidence of a traumatic brain injury that impacts one or more of the areas identified in subsection (1) of this rule.

(b) The student needs special education as defined in paragraph 6A-6.03411(1)(kk)(e), F.A.C.

Rulemaking Specific Authority 1003.01 ~~1001.02(4)~~, 1003.57(1)(e), 1003.571 FS. Law Implemented ~~1001.03~~, 1003.01(3), ~~1003.21(1)~~, 1003.57(1)(e), 1003.571 ~~1011.62~~ FS. History—New 7-1-07, Amended _____.

6A-6.03016 Exceptional Student Education Eligibility for Students with Emotional/Behavioral Disabilities.

(1) Definition. Students with an emotional/behavioral disability (E/BD). A student with an emotional/behavioral disability has persistent (is not sufficiently responsive to implemented evidence based interventions) and consistent emotional or behavioral responses that adversely affect performance in the educational environment that cannot be attributed to age, culture, gender, or ethnicity.

(2) General education interventions and activities ~~Activities prior to referral~~. Prior to referral for evaluation, the requirements in subsection ~~subsections~~ 6A-6.0331(1)-(3), F.A.C., must be met.

(3) Evaluation. In addition to the provisions in subsection 6A-6.0331(5)(4), F.A.C., the evaluation for determining eligibility shall include the following: a student must also

include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C.

(a) A functional behavioral assessment (FBA) must be conducted. The FBA must identify the specific behavior(s) of concern, conditions under which the behavior is most and least likely to occur, and function or purpose of the behavior. A review, and if necessary, a revision of an FBA completed as part of general education interventions may meet this requirement if it meets the conditions described in this section. If an FBA was not completed to assist in the development of general education interventions, one must be completed and a well-delivered scientific, research-based behavioral intervention plan of reasonable intensity and duration must be implemented with fidelity prior to determining eligibility. Implementation of the behavioral intervention plan is not required in extraordinary circumstances described in paragraph (4)(e) of this rule;

(b) The evaluation must include documentation of the student's response to general education interventions implemented to target the function of the behavior as identified in the FBA;

(c) A social/developmental history compiled from a structured interview with the parent or guardian that addresses developmental, familial, medical/health, and environmental factors impacting learning and behavior, and which identifies the relationship between social/developmental and socio-cultural factors, and the presence or non-presence of emotional/behavioral responses beyond the school environment;

(d) A psychological evaluation conducted in accordance with Rule 6A-6.0331, F.A.C. The psychological evaluation should include assessment procedures necessary to identify the factors contributing to the development of an emotional/behavioral disability, which include behavioral observations and interview data relative to the referral concerns, and assessment of emotional and behavioral functioning, and may also include information on developmental functioning and skills. The psychological evaluation shall include a review of general education interventions that have already been implemented and the criteria used to evaluate their success;

(e) A review of educational data which includes information on the student's academic levels of performance, and the relationship between the student's academic performance and the emotional/behavioral disability; additional academic evaluation may be completed if needed; and

(f) A medical evaluation must be conducted when it is determined by the administrator of the exceptional student program or the designee that the emotional/behavioral responses may be precipitated by a physical problem.

(4) Criteria for eligibility. A student with an emotional/behavioral disability must demonstrate an inability to maintain adequate performance in the educational environment that cannot be explained by physical, sensory, socio-cultural, developmental, medical, or health (with the exception of mental health) factors; and must demonstrate one or more of the following characteristics described in paragraph (4)(a) or (4)(b) of this rule and meet the requirements of paragraphs (4)(c) and (4)(d) of this rule:

(a) Internal factors characterized by:

1. Feelings of sadness, or frequent crying, or restlessness, or loss of interest in friends and/or school work, or mood swings, or erratic behavior; or

2. The presence of symptoms such as fears, phobias, or excessive worrying and anxiety regarding personal or school problems; or

3. Behaviors that result from thoughts and feelings that are inconsistent with actual events or circumstances, or difficulty maintaining normal thought processes, or excessive levels of withdrawal from persons or events; or

(b) External factors characterized by:

1. An inability to build or maintain satisfactory interpersonal relationships with peers, teachers, and other adults in the school setting; or

2. Behaviors that are chronic and disruptive such as noncompliance, verbal and/or physical aggression, and/or poorly developed social skills that are manifestations of feelings, symptoms, or behaviors as specified in ~~subparagraph~~ ~~(4)(a)1-3.~~ of this rule.

(c) The characteristics described in paragraph (4)(a) or (b) of this rule must be present for a minimum of six (6) months duration and in two (2) or more settings, including but not limited to, school, educational environment, transition to and/or from school, or home/community settings. At least one (1) setting must include school.

(d) The student needs special education as defined in paragraph 6A-6.03411(1)(~~kk~~)(e), F.A.C.

(e) In extraordinary circumstances, general education interventions and activities prior to referral for evaluation as described in subsection (2) of this rule and criteria for eligibility described in paragraph (4)(c) of this rule may be waived when immediate intervention is required to address an acute onset of an internal emotional/behavioral characteristic as listed in paragraph (4)(a) of this rule.

(5) Characteristics not indicative of a student with an emotional/behavioral disability:

(a) Normal, temporary (less than six (6) months) reactions to life event(s) or crisis, or

(b) Emotional/behavioral difficulties that improve significantly from the presence of evidence based implemented interventions, or

(c) Social maladjustment unless also found to have an emotional/behavioral disability.

Rulemaking Specific Authority 1003.01, 1003.57, 1003.571 ~~1000.01, 1001.42(4)(1), 1003.57, 1003.571~~ FS. Law Implemented 1003.01, 1003.571 ~~1000.01, 1001.42(4)(1), 1003.57(5), 1003.571~~ ~~1011.62(1)(e)~~ FS. History—New 7-1-77, Amended 10-23-79, 11-25-80, 1-6-83, 9-27-84, 3-10-85, Formerly 6A-6.3016, Amended 7-1-07, _____.

6A-6.03022 Special Programs for Students who are Dual-Sensory Impaired.

(1) through (3) No change.

(4) Re-evaluation. Re-evaluation shall occur at least every three (3) years and shall include a minimum of the evaluations required in paragraph (3)(b) of this rule, and any other evaluations specified by an evaluation specialist and an exceptional student teacher after examination of available information in all areas addressed in the initial evaluation or in subsequent re-evaluations of the student in accordance with subsections (7) and (8) of Rule 6A-6.0331 ~~subparagraph 6A-6.03411(2)(i)~~, F.A.C. The medical aspect of re-evaluation for students with bilateralanophthalmia may be waived by a written recommendation of a physician.

(5) Instructional Program. Each individual student who is dual-sensory impaired shall be served in any program or combination of programs for ~~handicapped or non-handicapped~~ students with or without disabilities where the student can receive appropriate services. The district shall establish procedures to ensure that each student's program is adequately met.

(6) No change.

~~(7) Funding. Students eligible for programs for students with dual sensory impairments may be reported for FTE generation purposes at the weight for profoundly handicapped students any time they are served in classes with other handicapped students.~~

Rulemaking Specific Authority 1003.01, 1003.57, 1003.571 ~~1000.01, 1001.42(4)(1), 1011.62(1)(e)~~ FS. Law Implemented 1003.01, 1003.571 ~~1000.01, 1001.42(4)(1), 1003.24, 1003.57(5), 1003.571~~ ~~1011.62(1)(e)~~ FS. History—New 7-2-79, Formerly 6A-6.3022, Amended 10-3-91, _____.

6A-6.03023 Exceptional Student Education Eligibility for Students With Autism Spectrum Disorder.

(1) Definition. Students with Autism Spectrum Disorder. Autism Spectrum Disorder is defined to be a range of pervasive developmental disorders that adversely affects a student's functioning and results in the need for specially designed instruction and related services. Autism Spectrum Disorder is characterized by an uneven developmental profile and a pattern of qualitative impairments in social interaction, communication, and the presence of restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities. These characteristics may manifest in a variety of combinations and range from mild to severe. Autism Spectrum Disorder may include Autistic Disorder, Pervasive

Developmental Disorder Not Otherwise Specified, Asperger's Disorder ~~Aspergers Syndrome~~, or other related pervasive developmental disorders.

(2) General education interventions and activities ~~Activities prior to referral~~. Prior to referral for evaluation the requirements in subsection ~~subsections~~ 6A-6.0331(1) ~~(3)~~, F.A.C., must be met.

(3) Evaluation. In addition to the procedures identified in subsection 6A-6.0331 ~~(5)(4)~~, F.A.C., the evaluation for determining eligibility shall include the following; ~~must also include the procedures identified in the district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students as required by Rule 6A-6.03411, F.A.C.~~

(a) Documented and dated behavioral observations conducted by members of the evaluation team targeting social interaction, communication skills, and stereotyped patterns of behavior, interests, or activities, across settings. General education interventions and activities conducted prior to referral may be used to meet this criterion, if the activities address the elements identified in this paragraph;

(b) A comprehensive social/developmental history compiled with the parents(s) or guardian(s) that addresses the core features of autism spectrum disorder;

(c) A comprehensive psychological evaluation to identify present levels of performance and uneven patterns of development in language, social interaction, adaptive behavior, and cognitive skills; and,

(d) A comprehensive speech/language evaluation.

(e) Medical information provided shall be considered.

(4) Criteria for eligibility. A student with Autism Spectrum Disorder is eligible for exceptional student education if all of the following criteria are met:

(a) Evidence of all of the following:

1. Uneven developmental profile as evidenced by inconsistencies across or within the domains of language, social interaction, adaptive behavior, and/or cognitive skills; and

2. Impairment in social interaction as evidenced by delayed, absent, or atypical ability to relate to people or the environment; and

3. Impairment in verbal and/or nonverbal language or social communication skills, and

4. Restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities; and

(b) The student needs special education as defined in paragraph 6A-6.03411(1) ~~(kk)(e)~~, F.A.C.

Rulemaking Specific Authority 1003.01, 1003.57, 1003.571 ~~1000.01, 1001.42(4)(1), 1003.57, 1003.571~~ ~~1011.62(1)(e)~~ FS. Law Implemented 1003.01, 1003.571 ~~1000.01, 1001.42(4)(1), 1003.24, 1003.57(5), 1003.571~~ ~~1011.62(1)(e)~~ FS. History—New 7-2-79, Formerly 6A-6.3023, Amended 7-1-07, _____.

6A-6.03027 Special Programs for Children Three Through Five Years Old who are Developmentally Delayed.

(1) Definition. A child who is developmentally delayed is three (3) through five (5) years of age and is delayed in one (1) or more of the following areas:

- (a) Adaptive or self-help development,
- (b) Cognitive development,
- (c) Communication development,
- (d) Social or emotional development,
- (e) Physical development including fine, or gross, or perceptual motor.

(2) Criteria for eligibility. A child is eligible for the special program for children who are developmentally delayed when the following criteria are met:

- (a) The child is three (3) through five (5) years of age.
- (b) Documentation of one of the following:

1. A score of two (2) standard deviations (SD) below the mean or a twenty-five (25) percent delay on measures yielding scores in months in at least one (1) area of development; or

2. A score of 1.5 standard deviations (SD) below the mean or a twenty (20) percent delay on measures yielding scores in months in at least two (2) areas of development; or

3. Based on informed clinical opinion, the eligibility staffing committee makes a recommendation that a developmental delay exists and exceptional student education services are needed.

(c) The eligibility staffing committee in accordance with ~~subsection paragraph~~ 6A-6.0331(6)(2)(b), F.A.C., has made a determination concerning the effects of the environment, cultural differences, or economic disadvantage.

(3) Procedures prior to initial evaluation for prekindergarten children shall be in accordance with subsection (2) of Rule 6A-6.0331, F.A.C. General education interventions and activities for students in kindergarten shall be in accordance with subsection (1) of Rule 6A-6.0331, F.A.C. for referral. Before a child is referred for evaluation, the following activities shall occur:

~~(a) A review of existing social, psychological, and medical data with referral for a health screening when need is indicated; and~~

~~(b) A screening for vision, hearing, and communication functioning with referral for complete evaluations when need is indicated.~~

(4) Procedures for evaluation.

(a) Delay is documented by a multidisciplinary team ~~in accordance with paragraph 6A-6.0331(2)(e), F.A.C.~~, utilizing multiple measures of assessment which include:

1. Standardized instruments, judgement based assessments, criterion referenced instruments, systematic observation, functional skills assessments, or other procedures selected in consultation with the parent(s); or

2. Informed clinical opinion utilizing qualitative and quantitative information to determine the need for early intervention services; and

3. Parent report which can confirm or modify information obtained and describe behavior in environments that the district may not be able to access.

(b) When a developmental delay cannot be verified by the use of standardized instruments, the delay(s) may be established through observation of atypical ~~a typical~~ functioning in any one (1) or more of the developmental areas. A report shall be written documenting the evaluation procedures used, the results obtained, the reasons for overriding those results from standardized instruments, and the basis for recommending eligibility.

(5) Instructional program.

(a) As appropriate, ~~The~~ family support plan or individual educational plan (IEP) shall be developed through interagency collaboration with the family and other providers of services to the child and family and in accordance with Rules 6A-6.03026, 6A-6.03028, and 6A-6.03029, F.A.C.

(b) Because of the rapid development of young children, on-going observations and assessments shall be conducted as needed to plan for family support plans or IEP modifications.

(6) Continued eligibility. Continued eligibility for special programs shall be determined before the child is six (6) years old.

Rulemaking Specific Authority 1003.01(3), 1003.57, 1003.571 229.053(1), (2)(i), 230.23(4)(m), 232.01(1)(e), 236.081(1)(e) FS. Law Implemented 1003.01(3), 1003.57, 1003.571 228.041(18), (19), 232.01(1)(e), 229.053(2)(i), 230.23(4)(m), 236.081(1)(e) FS. History—New 7-13-93, Amended _____.

6A-6.03028 Provision of Free Appropriate Public Education (FAPE) and Development of Individual Educational Plans for Students with Disabilities.

(1) through (3)(g) No change.

(h) Contents of the IEP. The IEP for each student with a disability must include:

1. through 8. No change.

9. In order to ensure quality transition planning and services, IEP Teams shall begin the process of identifying transition services needs of students with disabilities, to include consideration of the student's need for instruction or the provision of information in the area of self-determination to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, beginning no later than age fourteen (14), so that needed postsecondary goals may be identified and in place by age sixteen (16).

10. Beginning not later than the first IEP to be in effect when the student turns sixteen (16), or younger, if determined appropriate by the IEP Team and updated annually:

a. A statement of appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where

appropriate, independent living skills and the transition services (including courses of study) needed to assist the student in reaching those goals.

~~b. Consideration of instruction or the provision of information in the area of self determination to assist the student to be able to actively and effectively participate in IEP meetings and self-advocate, if appropriate.~~

~~b.e.~~ If a participating agency responsible for transition services, other than the school district, fails to provide the transition services described in the IEP, the school district shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP. However, this does not relieve any participating agency, including Division of Vocational Rehabilitation Services, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

~~11.40.~~ Beginning at least one (1) year before the student's eighteenth (18th) birthday, a statement that the student has been informed of his or her rights under Part B of the IDEA, if any, that will transfer from the parent to the student on reaching the age of majority, which is eighteen (18) years of age.

(i) through (t) No change.

~~Rulemaking Specific Authority 1001.02(1), (2)(n), 1003.01(3)(a), (b), 1003.57, 1003.571 FS. Law Implemented 1001.42(4)(i), 1003.01(3)(a), (b), 1003.57, 1003.571 1011.62(1)(e), (e), 1001.03(8) FS. History—New 7-13-93, Amended 10-17-04, 12-22-08, _____.~~

6A-6.0331 General Education Intervention Procedures, Identification, Evaluation, Reevaluation and the Initial Provision of Exceptional Education Services.

The state's goal is to provide full educational opportunity and a free appropriate public education (FAPE) to all students with disabilities ages three (3) through twenty-one (21) and to school age students who are gifted. School districts have the responsibility to ensure that students suspected of having a disability are subject to general education intervention procedures. They must ensure that all students with disabilities or who are gifted and who are in need of specially designed instruction and related services are identified, located, and evaluated, and appropriate exceptional student education is made available to them if it is determined that the student meets the eligibility criteria specified in Rules 6A-6.03011 through 6A-6.0361, F.A.C. These requirements apply to all students, including those who are homeless or are wards of the state or who attend private schools, regardless of the severity of their disability. Additionally, school districts may elect to serve children with disabilities below the age of three (3) years in collaboration with the Part C Early Steps Program. The procedures and criteria for general education interventions, identification, evaluation, and determination of eligibility of students with disabilities and gifted students by school districts

shall be set forth in the school district's Exceptional Student Education (ESE) Policies and Procedures document consistent with the following requirements.

(1) through (2) No change.

(3) Initial evaluation. Each school district must conduct a full and individual initial evaluation before the initial provision of ESE. Either a parent of a student or a school district may initiate a request for initial evaluation to determine if the student is a student with a disability or is gifted.

(a) Prior to a school district request for initial evaluation, school personnel must make one (1) of the following determinations and include appropriate documentation in the student's educational record to the effect that:

1. For a student suspected of being a student with a disability, the general education intervention procedures have been implemented as required under this rule and indicate that the student should be considered for eligibility for ESE; or

2. The nature or severity of the student's areas of concern make the general education intervention procedures inappropriate in addressing the immediate needs of the student.

(b) If the parent of the child receiving general education interventions requests, prior to the completion of these interventions, that the school conduct an evaluation to determine the student's eligibility for specially designed instruction and related services as a student with a disability, the school district:

1. Must obtain consent for and conduct the evaluation; and

2. Complete the activities described in subsection (1) of this rule concurrently with the evaluation but prior to the determination of the student's eligibility for specially designed instruction; or

3. Must provide the parent with written notice of its refusal to conduct the evaluation that meets the requirements of Rule 6A-6.03311, F.A.C.

(c) The school district shall be responsible for conducting all initial evaluations necessary to determine if the student is eligible for ESE and to determine the educational needs of the student. Such evaluations must be conducted by examiners, including physicians, school psychologists, psychologists, speech-language pathologists, teachers, audiologists, and social workers who are qualified in the professional's field as evidenced by a valid license or certificate to practice such a profession in Florida. In circumstances where the student's medical care is provided by a physician licensed in another state, at the discretion of the district administrator for exceptional student education, a report of a physician licensed in another state may be accepted for the purpose of evaluation and consideration of eligibility as a student with a disability. Educational evaluators not otherwise covered by a license or certificate to practice a profession in Florida shall either hold a valid Florida teacher's certificate or be employed under the provisions of Rule 6A-1.0502, F.A.C.

1. Tests of intellectual functioning shall be administered and interpreted by a professional person qualified in accordance with Rule 6A-4.0311, F.A.C., or licensed under Chapter 490, F.S.

2. Standardized assessment of adaptive behavior shall include parental input regarding their student's adaptive behavior.

(d) The school district shall ensure that initial evaluations of students suspected of having a disability are completed within sixty (60) school days (cumulative) that the student is in attendance after the school district's receipt of parental consent for the evaluation. For prekindergarten children, initial evaluations must be completed within sixty (60) school days after the school district's receipt of parental consent for evaluation.

(e) The sixty (60)-day timeframe for evaluation does not apply to a school district if:

1. The parent of the student repeatedly fails or refuses to produce the student for the evaluation; or

2. A student enrolls in a school served by the school district after the timeframe has begun, and prior to a determination by the student's previous school district as to whether the student is a student with a disability. This exception applies only if the subsequent school district is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent school district agree to a specific time when the evaluation will be completed. Assessments of students with disabilities who transfer from one school district to another school district in the same school year must be coordinated with those students' prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(f) The school district shall ensure that students suspected of being gifted are evaluated within a reasonable period of time.

(4) through (8) No change.

(9) Parental Consent for Services.

(a) A school district responsible for making FAPE available to an exceptional student must obtain informed consent from the parent of the student before the initial provision of special education and related services to the student.

(b) The school district must make reasonable efforts to obtain informed consent from the parent for the initial provision of ESE services to the student.

(c) If the parent of a student fails to respond or refuses to consent to the initial provision of services, the school district may not use mediation or due process hearing procedures in order to obtain agreement or a ruling that the services may be provided to the student.

(d) If the parent of the student refuses consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the

initial provision of special education and related services, the school district will not be considered to be in violation of the requirement to make FAPE available to the student for the failure to provide the student with the special education and related services for which the school district requests consent. In addition, the school district is not required to convene an IEP Team meeting or develop an IEP for the student for the special education and related services for which the school district requests such consent.

(e) If, at any time subsequent to the initial provision of special education and related services, the parent of a student revokes consent in writing for the continued provision of special education and related services, the school district may not continue to provide special education and related services to the student, but must provide prior written notice before ceasing the provision of special education and related services. The school district may not use mediation or due process hearing procedures in order to obtain agreement or a ruling that the services may be provided to the student.

(f) If a parent of a student revokes consent in writing for the continued provision of special education and related services, the school district:

1. Will not be considered to be in violation of the requirement to make FAPE available to the student for its failure to provide the student with further special education and related services; and

2. Is not required to convene an IEP Team meeting or develop an IEP for the student for further provision of special education and related services.

(g) If a parent of a student with a disability revokes consent in writing for their child's receipt of special education services after the initial provision of special education and related services to the student, the school district is not required to amend the student's education records to remove any references to the student's receipt of special education and related services because of the revocation of consent.

Rulemaking Specific Authority ~~1001.02(1)(2), (n), 1003.01(3)(a), (b), 1003.57, 1003.571~~ FS. Law Implemented ~~1001.42(4)(l), 1003.01(3)(a), (b), 1001.02(2)(a)~~, 1003.57, 1003.571 FS. History New 6-17-74, Repromulgated 12-5-74, Amended 7-1-77, 3-28-78, 7-12-78, 8-31-78, 11-29-78, 10-7-81, 7-13-83, 6-2-85, Formerly 6A-6.331, Amended 7-13-93, 1-2-95, 9-20-04, 12-22-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.05281
RULE TITLE: Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, or Day Treatment Program

PURPOSE AND EFFECT: The purpose of this rule amendment is to revise the rule that addresses educational programs for Youth in Department of Juvenile Justice Detention, Commitment, Day Treatment, or Early Delinquency Intervention Programs. The effect will be a rule that addresses curricular flexibility in the provision of education to youth in these programs. Additionally, the revisions will align the rule with Florida Statutes, including removing early delinquency intervention programs from the title as Department of Juvenile Justice education programs are composed of detention, commitment, and day treatment programs.

SUMMARY: The rule is amended to allow programs to offer curricular flexibility in the provision of education to youth in juvenile justice education programs.

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: 1003.51, 1003.52 FS.

LAW IMPLEMENTED: 1003.51, 1003.52 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jane Tappen, Deputy Chancellor for Curriculum, Instruction, and Student Services, 325 West Gaines Street, Suite 1502, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.05281 Educational Programs for Youth in Department of Juvenile Justice Detention, Commitment, or Day Treatment Program, ~~or Early Delinquency Intervention Programs.~~

School districts must provide instruction to prepare all students to demonstrate proficiency in the skills necessary for successful grade-to-grade progression and high school graduation. For students placed in Department of Juvenile Justice (DJJ) programs, collaboration between the DJJ, the

Department of Education, school districts, and private providers is essential in order for these students to attain this goal and become productive members of the community.

(1) Student Eligibility.

(a) Students who do not attend a local public school due to their placement in a DJJ detention, commitment, or day treatment ~~or early delinquency intervention~~ program shall be provided high quality and effective educational programs by the local school district in which the DJJ facility is located or by a Juvenile Justice provider through a contract with the local school district.

(b) through (d) No change.

(2) Student Records.

(a) Content. Each school district shall maintain educational records for students in DJJ programs as required by Section 1003.25, F.S. The content of these records shall be as defined in subsections 6A-1.0955(2)-(5) and 6A-1.0014(2), F.A.C., Section 1003.51, F.S., and paragraph (5)(d) of this rule.

(b) Transfer of Educational Records. Each school district shall transfer records of students entering or exiting DJJ programs as provided in paragraph 6A-1.0955(7)(b) and subsection 6A-1.0014(2), F.A.C. ~~Beginning with the 2000-2001 school year,~~ Each school district shall provide these students' educational records no later than five (5) school days after the receipt of the request. Each school district shall make available a copy of the student's transcript record, including pertinent exceptional student education information, to designated DJJ staff for inclusion in the DJJ file when the student exits the program. DJJ staff shall provide this information to the receiving school district.

(c) No change.

(3) Student Assessment.

(a) To ensure high quality and effective educational programs for youth in DJJ detention, commitment, or day treatment ~~program, or early delinquency intervention programs,~~ the school district shall provide for the review of the student's educational records and conduct assessments, consistent with the requirements of this subsection, in order to identify the students' functioning levels, provide appropriate educational programs, and report the learning gains of the student.

(b) All students in DJJ commitment, or day treatment ~~program, or early delinquency intervention programs,~~ who have not graduated from school, shall be assessed within ten (10) school days of the student's commitment. The entry assessments shall include:

1. Academic measures that provide proficiency levels in:
 - a. Reading,
 - b. Mathematics,
 - c. Writing.
2. Vocational interest and/or aptitude measures.

(c) For the students referenced in paragraph (3)(b) of this rule, exit assessments shall include, at a minimum, the academic measures.

(d) Students placed in a detention center shall be assessed within ten (10) school days ~~only~~ upon entry for academic measures.

(e) No change.

(f) All students in DJJ detention, commitment, or day treatment ~~program, or early delinquency intervention programs~~ shall also participate in the state and district-wide assessments required by Sections 1008.22, 1008.25, 1003.43, and 1003.438, F.S.

(g) The results of the academic measures, as required by paragraphs (3)(b)-(d) of this rule shall be reported in the format prescribed by Rule 6A-1.0014, F.A.C., to the Department of Education via the Automated Student Data System. The format for the reporting of the results of the academic measures shall include at a minimum standard scores for each academic area assessed.

(h) ~~Beginning in the 2000-2001 school year,~~ The Department of Education shall include the results of these assessments in applicable statewide and school reports.

(4) Individual Academic Plans.

(a) An individual plan for educational progress shall be developed within twenty-two (22) school calendar days of student entry to DJJ detention programs and within fifteen (15) school days of entry to DJJ commitment, or day treatment ~~program, or early delinquency intervention programs~~. This plan shall be based upon the student's entry assessments and past educational history and must address the areas of academic, literacy, and life skills. The plan shall include:

1. Specific and individualized long-term goals and short-term instructional academic and career vocational/technical objectives;
2. Remedial strategies and/or tutorial instruction;
3. Evaluation procedures;
4. A schedule for determining progress toward meeting the goals and instructional and career vocational/technical objectives.

(b) Progress monitoring plans, required by Section 1008.25, F.S., or individual educational plans (IEPs) developed for eligible exceptional students, 504 plans developed for eligible students with disabilities, or individual plans developed for limited English proficient students may incorporate the requirements of subsections (4) and (5) of this rule.

(5) Transition Services.

(a) For all students in DJJ commitment, or day treatment ~~program, or early delinquency intervention programs~~, an individual transition plan based on the student's post-placement goals shall be developed cooperatively with the student, his/her parents, school district and/or contracted provider personnel and DJJ program staff. Re-entry

counselors, probation officers, and personnel from the student's "home" school district shall be involved in the transition planning to the extent practicable.

(b) through (c) No change.

(d) Exit portfolios shall be created for each student prior to exit from a commitment, or day treatment, ~~or early delinquency intervention~~ program and provided to the program DJJ personnel for inclusion in the youth's individual record DJJ file. ~~DJJ shall provide~~ This information shall be provided to the home school district. The exit portfolio shall include the records required by Sections 1003.51, F.S., and include at a minimum:

1. Transition plan;
 2. Results of district and state-wide assessments;
 3. Individual academic plan, 504 plan, and/or individual educational plan for exceptional students;
 4. Academic record or transcript; and
 5. Work and/or project samples.
- (6) Instructional Program and Academic Expectations.

(a) School Day and Year. The instructional program shall consist of 250 days of instruction, or its hourly (1200) equivalent, of which ten (10) days for residential or twenty (20) days for day treatment ~~of which~~ may be used for teacher training/planning, distributed over twelve (12) months as required by Section 1003.01(11), F.S. Each school district shall collaborate with private providers and the DJJ, as appropriate, to develop a school calendar for these programs to be adopted by the local school board.

(b) Requirements. DJJ schools shall have the flexibility in student scheduling to meet the basic academic and career needs of the student. The instructional program shall meet the requirements of Sections 1003.42, 1003.43, 1003.438, 1003.52, 1008.23, and 1008.25, F.S., and include:

1. Curricular offerings, consistent with the Florida Course Code Directory and Instructional Personnel Assignments as adopted in Rule 6A-1.09441, F.A.C., that reflect the students' assessed educational and transition needs and meet the students' needs as identified by the individual plan as required by paragraph (4)(a) of this rule. All students shall receive a curriculum to address their individual, academic, career, and transition needs. Students shall receive career vocational/technical training, workplace readiness training, or career awareness and exploration instruction while in the juvenile justice program.

2. GED preparation that meets ~~shall meet~~ GED course requirements specified in Rules 6A-6.0571 and 6A-6.021, F.A.C., and adult education course descriptions and/or the school district's approved GED/HSCT Exit Option that must meet the requirements specified by the Department of Education.

3. Instructional Tutorial activities that are based on the students' assessed academic needs. Such activities shall be designed to assist students in advancing to their age

appropriate grade level or to assist students in meeting their goals for reentry into the public school system, alternative schools, adult education, ~~career vocational/technical~~ education, employment, or post secondary education.

4. Instruction ~~that is shall be~~ individualized to address the academic and ~~career vocational/technical~~ goals and objectives that are outlined in each student’s individual academic plan.

5. Instruction ~~that is shall be~~ delivered through a variety of instructional techniques to address students’ academic levels and learning styles, including competency based programs and access to the Florida Virtual School as required in Section 1003.52(4), F.S.

(7) through (8)(a)2. No change.

3. Certain interruptions to the education program, over which the teacher and student have no control, do not have to be deducted from the direct instructional time reported for FTE. These include:

- a. Disaster Fire drills;
- b. Lockdowns of the classroom or program for security purposes;
- c. Bomb scares;
- d. Court hearings; and
- e. Meetings students have with law enforcement personnel during school hours.

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

(9) Contracts with Private Providers.

(a) School districts may provide services directly or may enter into a contract with a private provider to provide educational services to these youth. ~~Beginning in 2000-2001,~~ Such contracts with private providers shall address the responsibilities of the school district and the private provider for implementing the requirements of this rule. The private provider shall have, at a minimum:

1. through 2. No change.

(b) Prior to contracting with a private provider, the school district shall:

1. Review and consider the provider’s past performance history, including the results of prior Quality Assurance Reviews.

2. Review the private provider’s contract, if any, with DJJ for the care and custody of the youth in the commitment, detention, ~~or day treatment, or early delinquency intervention~~ program to ensure that services and resources are coordinated and not duplicative.

(c) Contracts with private providers, as described above, shall be submitted to the Department of Education prior to the October FTE Reporting Survey for review to verify compliance with this rule.

(d) The provider(s) of ~~career education workforce development~~ programs in the district in which the DJJ facility is located shall be responsible for notifying the DJJ program of the requirements for enrollment and completion of these programs. The inclusion of DJJ students in the school district’s

~~career education workforce development~~ program may be included in the contract referenced above and the cooperative agreement required by Section 1003.52, F.S.

(10) Interventions and Sanctions.

(a) If the educational program in a DJJ detention, commitment, ~~or day treatment, or early delinquency intervention~~ program has received an unsatisfactory rating on the educational component of the Quality Assurance Review, does not meet the minimum requirements for standards for a designated priority indicator of the Educational Quality Assurance Review, or has demonstrated noncompliance with state and federal requirements, the Department of Education shall initiate a series of interventions and graduated sanctions. Sanctions shall be initiated against programs that have not taken appropriate corrective actions within six months.

(b) through (11) No change.

Rulemaking Specific Authority 1003.51 FS. Law Implemented 1003.51, 1003.52 FS. History–New 4-16-00, Amended 5-19-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, Division of Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

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

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.0784
 RULE TITLE: Approval of Charter School Governance Training

PURPOSE AND EFFECT: The purpose of this rule amendment is to revise and improve the process by which charter school governance training plans are approved by the Department and to ensure consistency with Section 1002.33(9)(k), Florida Statutes.

SUMMARY: Charter school governing board members will be required to participate in Department approved governance training every three years. Public Officers, as defined in statute, will be permitted to meet the requirements of this rule by providing evidence of training received during the course of their duties as Public Officers.

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: 1002.33(26) FS.

LAW IMPLEMENTED: 1002.33(9)(j) FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adam Miller, Director of Charter Schools, Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 522, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0784 Approval of Charter School Governance Training.

The following provisions are established for the approval of charter school governing board training submitted to the Florida Department of Education for approval pursuant to Section 1002.33, F.S.

(1) General training requirements.

(a) Beginning with the effective date of this rule, every member of the governing body of a charter school operating in Florida shall participate ~~annually~~ in governance training ~~on or before August 1 of each calendar year. The charter school governance training must meet the requirements of this rule and be approved by the Department. Governing boards composed entirely of "school officers", as defined by Section 1012.01, F.S., may meet the requirements of this rule by complying with the procedures set forth in subsection (6) of this rule. The training must be delivered consistent with a training plan that has been submitted and approved by the Department as described in this rule.~~

(b) ~~Each governing board member must complete Training for charter school governing boards with one or more members who have had no previous board service or have served on the board for less than ninety (90) days must include~~ a minimum of four (4) hours of instruction focusing on government in the sunshine, conflicts of interest, ethics, and financial responsibility as specified in Section 1002.33(9)(k), F.S. After the initial four (4) hour training, each member is required, within the subsequent three (3) years and for each three (3) year period thereafter, to complete a two (2) hour refresher training on the four (4) topics above in order to retain his or her position on the charter school board. Any member who fails to obtain the two (2) hour refresher training within any three (3) year period must take the four (4) hours of instruction again in order to remain eligible as a charter school board member.

(c) ~~New members joining a charter school board must complete the four (4) hour training within 90 days of their appointment to the board. A minimum of two (2) hours of refresher instruction on the four (4) topics in Section~~

~~1002.33(9)(k), F.S., may be offered if a charter school's governing board is composed entirely of members who have served continuously on the school's board for ninety (90) days or more, and all board members have completed four (4) hours of instruction as described in paragraph (1)(b) of this rule.~~

(d) Instruction beyond the hours specified in paragraphs (1)(b) and (c) of this rule may be included in the training plan to address additional topics generally recognized and supported by research or practitioners as important for effective governing board operation.

(e) Each charter school is responsible for contracting with or providing a trainer who delivers governance training consistent with a governance training plan that has been approved by the Department.

(2) No change.

(3) Submission and review of training plans.

(a) Potential training providers shall complete Form IEPC-9, Charter School Governance Training, Training Plan Approval Application, for submitting a charter school governance training plan for review and approval. Form IEPC-9 is hereby incorporated by reference to become effective with the effective date of this rule. Copies of the form may be obtained electronically on the Department's website at <http://www.floridaschoolchoice.org> or from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(b) After completing and signing the form, a training provider seeking approval must submit the original and ~~three (3) five (5)~~ copies of the form, or an original and an electronic copy on a CD saved as a PDF file, to the Office of Independent Education and Parental Choice as described on the form. The Department will conduct two review periods each year, with deadlines for submitting applications on or before May 1 and on or before October 1. This requires that all applications and supporting documentation must be received by the Department on or before these dates.

(c) The Commissioner of Education shall appoint a ~~review committee~~ team to review charter school governance training plans. The review team shall be ~~appointed by the Commissioner of Education and~~ composed of individuals with knowledge in education, finance, governance, and law. A training plan submitted for approval to the Department will be reviewed within thirty (30) days ~~of the deadlines listed in paragraph (3)(b) of this rule of receipt~~ to determine compliance with the components identified in paragraph (2)(b) of this rule.

(d) The review team's findings will be consolidated and provided as recommendations to the Commissioner or designee. Using the recommendations of the ~~review team committee~~, the Commissioner shall determine if the provider has met the criteria for approval or denial. Within ten (10)

working days following the Commissioner's determination, the Department shall send a written notification to the proposed provider regarding the outcome of the training plan review.

(e) The names of training providers whose training plans have been approved to meet requirements of Section 1002.33(9)(k), F.S., will be posted on the Department's website at <http://www.floridaschoolchoice.org> and will be available in hard copy upon request to the Office of Independent Education and Parental Choice. ~~Governance training that was delivered between January 1, 2008, and the effective date of this rule will be considered to have met statutory requirements if it was delivered pursuant to a training plan subsequently approved by the Department and reported as described in subsection (5) of this rule.~~

(f) A notice of denial ~~of approval~~ shall be sent to proposed training providers who submitted plans that do not comply with the components identified in paragraph (2)(b) of this rule. The notice of denial will identify specific areas of program weakness that must be corrected prior to reconsideration for approval. The provider may correct the application and resubmit on the next available submission deadline outlined in paragraph (3)(b) of this rule ~~shall have sixty (60) days after receipt of the notice of denial to resolve any outstanding issues, including submission of a revised training plan for reconsideration and review pursuant to paragraphs (3)(b), (c) and (d) of this rule. If issues with the training plan have not been resolved within sixty (60) days after receipt of the original notice of denial or any subsequent notice of denial following reconsideration of the revised training plan, whichever is later, the application for approval shall be administratively closed. After sixty (60) days from the date the application is administratively closed, a new training plan may be submitted to the Department as described in paragraphs (3)(a) and (b) of this rule.~~

(4) Length of approval and renewal of training plans.

(a) Each approval or extension shall be granted for a period of time determined by the Department of Education, but shall not exceed two (2) years from the date of approval.

(b) No earlier than six (6) months prior to the expiration of approval, a training provider may submit a request for renewal of an approved training plan by completing and submitting Form IEPC-10, Charter School Governance Training, Application to Renew an Approved Training Plan. Form IEPC-10 is hereby incorporated by reference to become effective with the effective date of this rule and will be available electronically on the Department's website at <http://www.floridaschoolchoice.org> or may be obtained from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(c) A request for training plan renewal submitted for approval to the Department will be reviewed within thirty (30) days of receipt to determine continued compliance with the

components identified in paragraph (1)(b) and (2)(b) of this rule. Within ten (10) working days following the Commissioner's determination, the provider will be notified in writing of the Department's decision to renew the plan or not to renew. If a training plan is not renewed, a provider may submit a new training plan to the Department as described in paragraphs (3)(a) and (b) of this rule.

(5) Report of governing board training.

(a) Each training provider offering an approved training program in accordance with this rule shall submit a report of each governing board's training to the Department and a copy of the report to the charter school director within thirty (30) days of the training. The charter school director is responsible for providing a copy of the report to the school's sponsor within ~~ten (10) thirty (30)~~ days of receiving the report from the trainer.

(b) ~~Information to be reported shall include the name of the charter school governing board and individual members who received training, the date and location of the training, and whether or not the training objectives were achieved.~~ The report shall be submitted using the IEPC-11 form. Form IEPC-11 is hereby incorporated by reference to become effective with the effective date of this rule. Copies of the form may be obtained electronically on the Department's Web site. The report shall be submitted electronically to the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(c) Each training provider offering an approved charter school governance training program shall provide a certificate of participation to every governing board member who completes the training and achieves the training objectives as stated in the training plan.

(6) A charter school governing board composed entirely of "school officers" as defined in Section 1012.01, F.S., may comply with the requirements of this rule by providing documentation that they have received charter school governance training consistent with this rule. Documentation of charter school governance training shall be submitted to the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Suite 522, Tallahassee, Florida 32399-0400, and must include:

(a) Date and location of charter school governance training received.

(b) Name, contact information, qualifications, and experience of all persons actively involved in providing charter school governance training.

Rulemaking Specific Authority 1002.33(24) FS. Law Implemented 1002.33(9)(k) FS. History--New 7-21-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 10, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-10.0311 RULE TITLE: Assessment of Student Attainment of College-Level Communication and Computation Skills

PURPOSE AND EFFECT: Senate Bill 1676, passed by the 2009 Legislature, repealed Section 1008.29, Florida Statutes, relating to the College-Level Academic Skills Testing (CLAST) Program. The purpose of this rule amendment is to revise the rule language to reflect the 2009 statutory changes that elimination of the examination (CLAST) and to implement recommendations relating to the remaining College-Level Academic Skills (CLAS) Requirements (pursuant to Section 1007.25, Florida Statutes).

SUMMARY: Section 1007.25, Florida Statutes, directs the State Board of Education, in conjunction with the Board of Governors, to establish minimum requirements for receipt of an associate in arts or baccalaureate degree from a Florida public postsecondary institution. The requirements are intended to ensure that students have demonstrated proficiency in college-level communication and computation skills prior to the conference of a degree. Specifically, these include the establishment of minimum scores on nationally standardized assessments and the identification of postsecondary coursework that can be used to meet the requirements. The Articulation Coordinating Committee approved recommendations on August 13, 2009 that served as the foundation for the proposed rule revision.

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: 1001.02(2)(d), 1007.25(12)(a) FS.

LAW IMPLEMENTED: 1001.02, 1007.25 FS.

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

DATE AND TIME: November 11, 2009, 1:00 p.m.

PLACE: Palm Beach Community College, Lake Worth Campus, 4200 Congress Ave., Lake Worth, FL 33461

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Heather Sherry, Director, Office of Articulation, Department of Education, 325 West Gaines St., Suite 1401, Tallahassee, FL 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.0311 Assessment of Student Attainment of College-Level Communication and Computation Skills.

~~(1) The skills in Rule 6A-10.0316, F.A.C., shall be used by the Articulation Coordinating Committee as the basis for the development of specifications for test items.~~

~~(2) The specifications shall be used by the Articulation Coordinating Committee as the basis for the development of tests and other assessment procedures to measure the level of student attainment of the skills.~~

~~(3) The College Level Academic Skills Test, an achievement test developed by the Department pursuant to Section 1008.345(8)(h), Florida Statutes, to measure the level of attainment of college-level communication and computation skills listed in Rule 6A-10.0316, F.A.C., is approved and designated for use in community colleges and state universities. Scores on the reading, writing, and computation subtests shall be reported on the score scale which was established by the Department in the October, 1982 test administration. From October 1, 1982 through September 30, 1991, scores on the essay shall be reported on a four (4) point score scale established by the Department in the October, 1982 test administration. Beginning October 1, 1991, scores on the essay shall be reported on a six (6) point scale established by the Department in the October, 1991 test administration. For purposes of the requirements of Section 1008.29(4), Florida Statutes, a total score of four on a four point score scale shall be considered equivalent to a total score of five on a six point score scale for students retaking the essay portion of the examination.~~

~~(4) Admission criteria for the College Level Academic Skills Test shall be specified by the Commissioner in the Test Administration Plan.~~

~~(5) A person required to take the College Level Academic Skills Test who has a record of physiological disorder(s) which substantially impairs that person's visual, auditory, manual or speaking abilities or who has a record of a learning disability shall be deemed to have satisfied any requirement to present a score on any subtest which has not been modified in administration so as best to ensure that the performance of the person on the subtest accurately reflects the person's achievement of the skill being measured, rather than the person's impaired abilities. The test modifications may include but are not limited to the following:~~

~~(a) Flexible scheduling. The person may be administered a subtest during several brief sessions, so long as all testing is completed on the test administration date.~~

(b) Flexible setting. The person may be administered a subtest individually or in a small group setting by a proctor rather than in a classroom or auditorium setting.

(c) Recording of answers. The person may mark answers in a test booklet, type the answers by machine, or indicate selected answers to a test proctor. The proctor may then transcribe the person's responses onto a machine scorable answer sheet.

(d) Revised format. The person may use a large print booklet, a Braille test booklet, or a magnifying device.

(e) Auditory aids. The person may use audio devices. A tape recorded version of appropriate portions of the test may be used, along with a printed copy. Appropriate portions of the test may be read to the student by a narrator.

(6) Each college and university shall establish a committee for the purpose of evaluating requests for exemption from the testing requirements of this rule which are submitted by students with specific learning disabilities. Each institution shall adopt its own procedures for implementing the provisions of this Subsection and Section 1008.29(5), Florida Statutes. The student shall have the right to appeal the findings of the committee directly to the president of the institution. Once a waiver is granted by an institution, the waiver is transferable to other institutions.

(7) Each community college president and university president shall establish a committee to consider requests for waivers from the testing requirements of this rule for students other than those with specific learning disabilities. The committee shall be chaired by the chief academic officer of the institution and shall have four (4) additional members appointed by the president which shall include a member of the mathematics department, a member of the English department, the institutional test administrator, and a fourth faculty member from a department other than English or mathematics. The terms of office of the committee members and the meeting times and conditions shall be established by the president. However, as part of the process of determining whether to recommend a waiver from the provisions of Section 1008.29(3), Florida Statutes, the committee shall conduct a personal interview with each student requesting a waiver.

(8) Any student who has taken any of the four (4) subtests of the College-Level Academic Skills Test at least four (4) times and has not earned a passing score on the subtest but has otherwise earned a minimum grade point average of 2.0 in all college credit courses in that same subject area and met the requirements defined in Rule 6A-10.030, F.A.C., for that area may appeal to the committee described in subsection (7) of this rule for a waiver from that subtest. In considering the request, the committee shall review the student's academic records and such other information as may be appropriate.

(9) The committee described in subsection (7) of this rule shall determine whether the student's inability to pass the reading, English language skills, or essay subtest is due to the student having English as second or foreign language. If the student has completed instructional programs for English as a second language or English as a foreign language with a minimum grade point average of 2.0, and has otherwise earned a minimum grade point average of 2.0 in all college credit courses in the subtest area as that for which a waiver is being considered, and has met the requirements of Rule 6A-10.030, F.A.C., for that area, then a waiver may be considered.

(10) In considering a request for a waiver from any subtest, the committee described in subsection (7) of this rule shall determine whether the student has demonstrated sufficient effort to pass the subtest and has satisfactorily completed remediation studies related to the failed subtest in addition to meeting the requirements in subsections (8) and (9) of this rule. Waivers shall not be granted under any circumstance unless the student first has demonstrated effort to learn the required skills to the level required by the subtest.

(11) If the committee described in subsection (7) of this rule recommends by majority vote that a waiver be given for a specified subtest, such recommendation shall be accompanied by documentation that the student has acquired the skills to the level required by the subtest and statements of explanation or justification to be considered by the president who then may approve or disapprove the recommendation. If a waiver is granted, the student's official college or university transcript shall include a statement that the student did not meet the requirements of Section 1008.29(3), Florida Statutes, for an identified subtest, and a waiver was granted.

(12) Each institution granting waivers to students under the provisions of this rule shall provide information about the students receiving waivers to the Department of Education in accordance with procedures established by the Commissioner of Education. This information shall include documentation of the student's name and social security number, the test section waived, and the reasons for the waiver.

(13) A community college shall not grant a waiver unless it is in conjunction with the awarding of the associate in arts degree.

(14) Pursuant to Section 1008.29(9)(a), Florida Statutes, any student fulfilling Students must demonstrate college-level proficiency in communication and computation skills by successfully completing one or more of the following requirements before the award completion of the associate in arts degree requirements or baccalaureate degree requirements is exempt from the testing requirements of this rule:

~~(1)(a) Achieve a score that meets or exceeds a minimum score on a nationally standardized examination as listed below: Students may present scores from the Scholastic Achievement Test (SAT I) as follows:~~

Skill Area	Required Score on Examination
Reading	<ul style="list-style-type: none"> • 500 or above on the SAT Critical Reading portion taken after February 2005 • 500 or above on the Verbal section of the recentered SAT I taken prior to March 2005 • 421 or above (non-recentered score) on the Verbal section of the SAT I taken prior to March 2005 • 22 or above on the ACT program in Reading • 20 or above on the Composite of the ACT taken prior to October 1989 • 93 or above on the ACCUPLACER Reading Comprehension Examination
English Language and Essay	<ul style="list-style-type: none"> • 500 or above on the SAT Writing portion taken after February 2005 • 500 or above on the Verbal section of the recentered SAT I taken prior to March 2005 • 421 or above (non-recentered score) on the Verbal section of the SAT I taken prior to March 2005 • 21 or above on the ACT program in English • 21 or above on the ACT program in English/Writing (English with Essay component) • 20 or above on the Composite of the ACT taken prior to October 1989 • 105 or above on the ACCUPLACER Sentence Skills Examination
Computation	<ul style="list-style-type: none"> • 500 or above on the SAT Mathematics portion taken after February 2005 • 500 or above on the Mathematics section of the recentered SAT I taken prior to March 2005 • 473 or above (non-recentered score) on the Mathematics section of the SAT I taken prior to March 2005 • 21 or above on the ACT program in Mathematics • 21 or above on the ACT taken prior to October 1989 • 91 or above on the ACCUPLACER Elementary Algebra examination

~~1. Quantitative. Students who have earned a quantitative score of five hundred (500) or above on the recentered score scale of the Scholastic Achievement Test (SAT I), or its equivalent on the original score scale, shall be exempt from the computation section of the College Level Academic Skills Test.~~

~~2. Verbal. Students who have earned a verbal score of five hundred (500) or above on the recentered score scale of the Scholastic Achievement Test (SAT I), or its equivalent on the original score scale, shall be exempt from the Reading, English Language Skills, and Essay sections of the College Level Academic Skills Test.~~

~~(b) Students may present scores from the American College Testing Program (ACT) as follows:~~

~~1. Mathematics. Students who have earned a score of twenty one (21) or above on the Enhanced American College Testing Program in mathematics, or a score of twenty one (21)~~

~~or above on the original ACT, shall be exempt from the Computation section of the College Level Academic Skills Test.~~

~~2. English. Students who have earned a score of twenty two (22) or above on the Enhanced American College Testing Program in Reading, or a score of twenty (20) or above on the Composite of the original ACT, shall be exempt from the Reading section of the College Level Academic Skills Test. Students who have earned a score of twenty one (21) or above on the American College Testing Program in English, or a score of twenty (20) or above on the original ACT, shall be exempt from the English Language Skills and Essay sections of the College Level Academic Skills Test.~~

~~(2)(e) Achieve Students who have earned a grade point average of 2.5 or above on a 4.0 grade scale in selected postsecondary level courses at Florida public institutions and non-public institutions on the Statewide Course Numbering System, pursuant to Section 1007.24(7), Florida Statutes shall be exempted from one or more sections of the College Level Academic Skills Test, as specified below. Each postsecondary institution shall establish its own policies for the evaluation of students' coursework when that student earned credits that are not part of the Statewide Course Numbering System from an institution other than a Florida public community college or university.~~

~~(a)1. To meet the College Level Academic Skills requirements in communication, a student must earn a 2.5 grade point average in a combination of at least one (1) course with the ENC prefix and any other course, exclusive of those with the SPC prefix, that is designated as a Gordon Rule writing course pursuant to the requirements of paragraph 6A-10.030(2)(a), F.A.C. Course prefixes are assigned in accordance with Section 1007.24, Florida Statutes. To exempt the English Language Skills, Reading and Essay sections of the College Level Academic Skills Test, the student must have earned a 2.5 grade point average in two (2) courses for a minimum of six (6) semester hours of credit from: ENC 1101, English I and ENC 1102, English II or other equivalent college-level English course.~~

~~(b)2. To meet the College Level Academic Skills requirements in computation, a student must earn a 2.5 grade point average in any combination of two (2) courses from the list below:~~

- ~~1. Any MAC course with the last three (3) digits of 102 or higher.~~
- ~~2. MGFX106-Liberal Arts Mathematics I.~~
- ~~3. MGFX107 – Liberal Arts Mathematics II.~~
- ~~4. MGFX113-Topics in College Mathematics I.~~
- ~~5. MGFX114-Topics in College Mathematics II.~~
- ~~6. MGFX118-Mathematics for CLAST Review.~~
- ~~7. Any MGF course with last three (3) digits of 202 or higher.~~
- ~~8. Any Gordon Rule statistics course.~~

9. Any mathematics course that has College Algebra (MACX105 as a prerequisite).

To exempt the Computation section of the College Level Academic Skills Test, the student must have earned a 2.5 grade point average in two (2) courses for a minimum of six (6) semester hours of credit from:

a. Option 1. The student shall complete any two (2) of the following: MAC*102 College Algebra or any other MAC course with the last three digits being higher than 102; MGF*106 Liberal Arts Mathematics I, MGF*107 Liberal Arts Mathematics II, MGF*202 Finite Mathematics or any other MGF courses with the last three digits being higher than 202; or STA*014 Statistical Methods or any other STA course.

b. Option 2. The student shall complete any two (2) of the following: MGF*106 Liberal Arts Mathematics I and MGF*107 Liberal Arts Mathematics II; MGF*113 Topics in College Mathematics I; MGF*114 Topics in College Mathematics II; or MGF*118 Mathematics CLAST Review.

e. Option 3. MGF*106 Liberal Arts Mathematics I or MGF*113 Topics in College Mathematics I, and MAC*102 College Algebra or MAC*105 College Algebra.

(c) Credits granted in accordance with the Articulation Coordinating Committee Credit-by-Examination Equivalencies shall be substituted for the courses specified above. The document, Articulation Coordinating Committee Credit-By-Examination Equivalencies, is hereby incorporated by reference as a part of this rule to become effective with the effective date of this rule. Copies may be obtained by contacting the Office Articulation, Department of Education, 325 West Gaines Street, Tallahassee, FL or from the Department's web site at <http://www.fldoe.org/articulation/pdf/ACC-CBE.pdf>. If a student earns credit by examination for two (2) courses listed in both paragraphs (2)(a) and (2)(b), of this rule, the requirement will be considered to be met. If a student earns credit by examination for one (1) course within either paragraph (2)(a) or (2)(b), of this rule, no grade will be assigned for that course. The 2.5 grade point calculation will be based solely on grades earned in courses completed at an institution.

(15) Students who do not initially earn passing scores on the Scholastic Achievement Test (SAT I) or the American College Testing Program may submit scores earned on other administrations of the tests as long as subsequent scores are not earned within thirty (30) days of the preceding score.

(16) Pursuant to Section 1008.29(9), Florida Statutes, any student denied a degree based on the failure of at least one (1) subtest of the CLAST may use any of the alternatives specified in this rule for receipt of a degree if such student meets all degree program requirements at the time of application for the degree under the exemption provisions of this rule. This provision does not require a student to take the CLAST before being given the opportunity to use any of the alternatives

specified in this rule. The exemptions provided herein do not apply to requirements for teacher certification as provided in Section 1012.56, Florida Statutes.

(17) For purposes of evaluating student grade point averages to implement the provisions of subsection (14) of this rule, each postsecondary institution may determine how to make allowances for students who have earned credits in Advanced Placement, College Level Examination, and International Baccalaureate Programs.

Rulemaking Specific Authority 1001.02(6), 1007.25(12)(a) FS. Law Implemented 1001.02, 1007.25, 1008.29, 1008.345, 1012.56 FS. History—New 9-3-81, Amended 5-25-82, 10-7-82, 12-7-82, 12-20-83, 3-28-84, Formerly 6A-10.311, Amended 4-13-88, 4-1-91, 8-19-91, 10-18-94, 11-25-97, 3-28-00, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Heather Sherry, Director, Office of Articulation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric J. Smith, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 4, 2009

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."

WATER MANAGEMENT DISTRICTS

St. Johns River Water Management District

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

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to (1) amend established minimum water levels for the following lakes in the following counties: Lake Grandin in Putnam County, and Lakes Colby and Shaw and Three Island Lake in Volusia County; (2) add a duration and return interval to the established minimum water levels for Lake Ashby in Volusia County and Lake Gore in Flagler County and delete their listed hydroperiod categories; (3) make minor technical changes by rounding to the nearest decimal place for the minimum average levels for Lake Broward in Putnam County and Lake Sand Hill in Clay County; (4) make minor technical changes by changing the name of the hydroperiod category from "temporarily flooded" to "seasonally flooded" for the frequent high levels for the following lake in the following counties: Bird Pond, McKasel, and Pam in Putnam County, and Mills in Seminole County; (5) make a minor technical change by changing the name of the

hydroperiod category from “seasonally flooded” to “temporarily flooded” for Lake Sunset in Lake County; (6) make minor technical changes by changing the name of the hydroperiod category from “typically flooded” to “typically saturated” for the minimum average water level of the following lakes in the following counties: Daugharty and Dias in Volusia County, Disston in Flagler County, and Echo in Putnam County; and (7) revise the formatting of existing subsections 40C-8.031(1)-(2), F.A.C., for clarity.

SUMMARY: The proposed rule would establish or amend established minimum water levels for the above listed lakes and springs pursuant to the mandate of Section 373.042, Florida Statutes. Each of the established or amended levels have either an associated hydroperiod category or a duration and return interval. The terms herein are already defined in Chapter 40C-8, F.A.C. As with all minimum levels established by the District, if adopted, the minimum levels in this rule amendment would be used as a basis for imposing limitations on withdrawals of groundwater and surface water in the consumptive use permit regulatory process and for reviewing proposed surface water management systems in the environmental resource permit regulatory process. Additionally, the proposed rule would revise the formatting of Rule 40C-8.031, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: In general, the rule amendment contains two types of changes: (1) changes to the format of Rule 40C-8.031, F.A.C., and (2) revisions to the levels and/or hydroperiod categories, and duration and return intervals for several existing MFLs in the same rule. The first type of change (reformatting) is being made to clarify the rule, and is not a substantive change and will not have an economic impact on small business. The second type of change (to levels/hydroperiods/duration/return intervals) is a substantive change, but except for changes to two MFLs described below, will not increase the level of restriction for the existing MFLs. For nine of the existing MFLs, the level of restriction will not change at all, but will be expressed differently. These changes will not have any economic impact on permit applicants. For six existing MFLs, the revisions will make the existing MFLs slightly less restrictive and thus may potentially have a positive economic impact on permit applicants. The existing MFLs that would become less restrictive are: Lake Sand Hill in Clay County; Lake Sunset in Lake County; Lake Grandin in Putnam County; and lakes Colby, Shaw, and Three Island in Volusia County. Finally, there are two existing MFLs that would become more restrictive: Lake Pam in Putnam County; and Lake Mills in Seminole County. There are few consumptive uses of water (CUP) or environmental resource permit (ERP) activities near lakes Pam or Mills. The changes to the

hydroperiod categories for lakes Pam and Mills may or may not have an impact on proposed water uses or ERP activities, depending on the intensity and proximity of the activity to the lake, and depending on any avoidance measures or mitigation proposed. Many factors determine how a proposed water use or ERP activity will affect an MFL. Thus, it is not possible to precisely determine what the economic impact would be to potential CUP or ERP applicants who are small businesses until such a proposed water use or ERP activity is evaluated in the permitting process. The proposed revisions to the existing MFLs for lakes Pam and Mills will not impact existing water uses or ERP activities. 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: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.042, 373.0421 FS.

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

DATE AND TIME: November 10, 2009, Following the regularly scheduled Governing Board/Regulatory Meeting which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, FL 32177-2529

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wendy Gaylord, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)326-3026 or email address wgaylord@sjrwm.com

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) The following minimum groundwater levels and minimum mean annual spring flows are established: ~~The following minimum surface water levels and flows and minimum ground-water levels are established:~~

Spring Name	County	Head (ft NGVD)	Discharge (cfs)
Messant Spring	Lake	32	12
Miami Spring	Seminole	27	4
Palm Spring	Lake	27	7
Rock Spring	Orange	31	53
Sanlando Spring	Seminole	28	15
Seminole Spring	Lake	34	34
Starbuck Spring	Seminole	31	13
Wekiwa Spring	Orange	24	62

(a) Wekiva River at the SR 46 Bridge.

	Level	Flow	Duration	Return Interval
	(ft. NGVD)	(cfs)	(days)	(years)
Minimum Infrequent High	9.0	380	7	5
Minimum Frequent High	8.0	410	30	2
Minimum Average	7.6	240	180	1.7
Minimum Frequent Low	7.2	200	90	3
Phase 1 Restriction	7.0	190	NA	NA
Phase 2 Restriction	6.9	180	NA	NA
Phase 3 Restriction	6.7	160	NA	NA
Phase 4 Restriction	6.5	150	NA	NA
Minimum Infrequent Low	6.1	120	7	100

(b) Wekiva River Minimum Groundwater Levels and Spring Flows.

	Head	Discharge	
	(ft. NGVD)	(cfs)	
Messant Spring	32	12	
Seminole Spring	34	34	
Rock Spring	31	53	
Wekiva Spring	24	62	
Miami Spring	27	4	
Sanlando Spring	28	15	
Starbuck Spring	31	13	
Palm Spring	27	7	

(c) Black Water Creek at the SR 44 Bridge.

	Level	Flow	Duration	Return Interval
	(ft. NGVD)	(cfs)	(days)	(years)
Minimum Infrequent High	27.0	340	7	5
Minimum Frequent High	25.8	145	30	2
Minimum Average	24.3	33	180	1.7
Minimum Frequent Low	22.8	2.5	90	15
Phase 1 Restriction	22.7	2	NA	NA
Phase 2 Restriction	22.5	1	NA	NA
Phase 3 Restriction	22.4	0.6	NA	NA
Phase 4 Restriction	22.3	0.3	NA	NA
Minimum Infrequent Low	21.9	0	7	100

(d) St. Johns River 1.5 miles downstream of Lake Washington weir.

	Level	Flow	
	(ft. NGVD)	(cfs)	Hydroperiod Category
Minimum Frequent High	15.3	1,450	Seasonally flooded
Minimum Average	12.7	240	Typically saturated
Minimum Frequent Low	11.3	28	Semipermanently flooded

(e) Taylor Creek 1.7 miles downstream of structure S-164.

	Flow (cfs)	Hydroperiod Category
	95	
	17	
	0.5	
Minimum Frequent High		Seasonally flooded
Minimum Average		Typically saturated
Minimum Frequent Low		Semipermanently flooded

(f) St. Johns River at SR 44 near DeLand, Volusia County.

	Level	Flow	Duration	Return Interval
	(ft. NGVD)	(cfs)		
Minimum Frequent High	1.9	4600	30 days	3 years

Minimum Average	0.8	2050	180 days	1.5 years
Minimum Frequent Low	0.3	1100	120 days	5 years

(g) Blue Spring, Volusia County

Minimum Long Term Mean Flow		Cfs		
December 3, 2006 through March 31, 2009		133		
April 1, 2009 through March 31, 2014		137		
April 1, 2014 through March 31, 2019		142		
April 1, 2019 through March 31, 2024		148		
After March 31, 2024		157		

(h) St. Johns River at SR 50 in Orange and Brevard Counties:

	Level	Flow	Duration	Return Interval
	(ft NGVD)	(cfs)	(days)	(years)
Minimum Frequent High	8.1	1950	30	2
Minimum Average	5.9	580	180	1.5
Minimum Frequent Low	4.2	140	120	5
Minimum Infrequent Low	2.7	43	60	50

(i) St. Johns River at Lake Monroe in Seminole and Volusia Counties:

	Level	Duration	Return Interval
	(ft NGVD)	(days)	(years)
Minimum Frequent High	2.8	30	2
Minimum Average	1.2	180	1.5
Minimum Frequent Low	0.5	120	5

(2) The following minimum surface water levels and flows are established: The following minimum surface water levels are established:

System Name	County	Minimum Level	Level (ft NGVD)	Flow (cfs)	Hydroperiod Category	Duration (days)	Return Interval (years)
Black Water Creek at the SR 44 Bridge	Lake	Infrequent High	27.0	340	=	7	5
		Frequent High	25.8	145	=	30	2
		Average	24.3	33	=	180	1.7
		Frequent Low	22.8	2.5	=	90	15
		Phase 1 Restriction	22.7	2.0	=	=	=
		Phase 2 Restriction	22.5	1.0	=	=	=
		Phase 3 Restriction	22.4	0.6	=	=	=
		Phase 4 Restriction	22.3	0.3	=	=	=
		Infrequent Low	21.9	0.0	=	7	100
St. Johns River 1.5 miles downstream of Lake Washington weir	Brevard	Frequent High	15.3	1450	Seasonally Flooded	=	=
		Average	12.7	240	Typically Saturated	=	=
		Frequent Low	11.3	28	Semipermanently Flooded	=	=

St. Johns River at SR 44 near DeLand	Volusia	Frequent High	1.9	4600	==	30	3
		Average	0.8	2050	==	180	1.5
		Frequent Low	0.3	1100	==	120	5
Taylor Creek 1.7 miles downstream of structure S-164		Frequent High	==	95	Seasonally Flooded	==	==
		Average	==	17	Typically Saturated	==	==
		Frequent Low	==	0.5	Semipermanently Flooded	==	==
St. Johns River at SR 50 near Christmas	Orange and Brevard	Frequent High	8.1	1950	==	30	2
		Average	5.9	580	==	180	1.5
		Frequent Low	4.2	140	==	120	5
		Infrequent Low	2.7	43	==	60	50
Wekiva River at the SR46 Bridge	Seminole and Lake	Infrequent High	9.0	880	--	7	5
		Frequent High	8.0	410	--	30	2
		Average	7.6	240	--	180	1.7
		Frequent Low	7.2	200	--	90	3
		Phase 1 Restriction	7.0	190	--	--	--
		Phase 2 Restriction	6.9	180	--	--	--
		Phase 3 Restriction	6.7	160	--	--	--
		Phase 4 Restriction	6.5	150	--	--	--
		Infrequent Low	6.1	120	--	7	100

LAKE NAME	COUNTY	HYDROPERIOD CATEGORY	MINIMUM INFREQUENT HIGH	MINIMUM FREQUENT HIGH	MINIMUM AVERAGE LEVEL	MINIMUM FREQUENT LOW	MINIMUM INFREQUENT LOW
(a) APSHAWA NORTH	Lake	Seasonally Flooded Typically Saturated Semipermanently Flooded		85.0	83.3	81.3	
(b) APSHAWA SOUTH	Lake	Seasonally Flooded Typically Saturated Semipermanently Flooded		86.0	84.7	83.2	
(c) ARGENTA	Putnam	Seasonally Flooded Typically Saturated Semipermanently Flooded		50.1	47.7	46.3	
(d) ASHBY	Volusia	Seasonally Flooded Semipermanently Flooded		42.3		41.1	
(e) BANANA	Putnam	Seasonally Flooded Typically Saturated Semipermanently Flooded		38.0	36.2	34.4	
(f) BELL	Putnam	Temporarily Flooded Typically Saturated Semipermanently Flooded		42.5	40.5	38.7	
(g) BIG	Volusia	Seasonally Flooded Typically Saturated Semipermanently Flooded		26.1	25.0	23.7	
(h) BIRD POND	Putnam	Temporarily Flooded Typically Saturated		41.8	39.5		

		Semipermanently Flooded				38.1	
(i) BLUE POND	Clay	Temporarily Flooded		174.1			
		Typically Saturated			173.3		
		Semipermanently Flooded				171.7	
(j) BOGGY MARSH	Lake	Seasonally Flooded		117.3			
		Typically Saturated			115.9		
		Semipermanently Flooded				114.5	
(k) BOWERS	Marion	Temporarily Flooded		57.1			
		Typically Saturated			54.0		
		Semipermanently Flooded				52.7	
(l) BRANTLEY	Seminole	Seasonally Flooded		46.3			
		Typically Saturated			45.6		
		Semipermanently Flooded				44.1	
(m) BROOKLYN	Clay	Temporarily Flooded		114.6			
		Typically Saturated			108.0		
		Semipermanently Flooded				101.0	
(n) BROWARD	Putnam	Temporarily Flooded		40.0			
		Typically Saturated			38.25		
		Semipermanently Flooded				36.5	
(o) BURKETT	Orange	Seasonally Flooded		53.5			
		Typically Saturated			52.6		
		Semipermanently Flooded				51.2	
(p) CHARLES	Marion	Seasonally Flooded		40.2			
		Typically Saturated			39.3		
		Semipermanently Flooded				37.9	
(q) CHERRY	Lake	Seasonally Flooded		96.0			
		Typically Saturated			94.9		
		Semipermanently Flooded				93.4	
(r) CLEAR	Putnam	Temporarily Flooded		37.4			
		Typically Saturated			36.4		
		Semipermanently Flooded				34.9	
(s) COLBY	Volusia	Seasonally Flooded		28.3			
		Typically Saturated			26.6		
		Semipermanently Flooded				25.2	
(t) COMO	Putnam	Seasonally Flooded		38.0			
		Typically Saturated			36.2		
		Semipermanently Flooded				34.4	
(u) COMO, LITTLE LAKE	Putnam	Seasonally Flooded		38.0			
		Typically Saturated			36.6		
		Semipermanently Flooded				35.2	
(v) COWPEN	Putnam	Temporarily Flooded		89.1			
		Typically Saturated			85.7		
		Semipermanently Flooded				84.2	
(w) COW POND	Volusia	Seasonally Flooded		40.5			
		Typically Saturated			39.8		
		Semipermanently Flooded				37.6	
(x) COON POND	Volusia	Seasonally Flooded		35.7			
		Typically Saturated			34.6		

		Semipermanently Flooded				33.1	
(y) CRYSTAL/BAKER	Putnam	Seasonally Flooded		35.5			
		Typically Saturated			33.9		
		Semipermanently Flooded				33.0	
(z) DAUGHARTY	Volusia	Temporarily Flooded		44.8			
		Typically Flooded			42.6		
		Semipermanently Flooded				41.2	
(aa) DAVIS	Volusia	Seasonally Flooded		-36.2			
		Typically Saturated			35.4		
		Semipermanently Flooded				34.0	
(bb) DEEP	Putnam	Seasonally Flooded		35.0			
		Typically Saturated			33.1		
		Semipermanently Flooded				32.2	
(cc) DIAS	Volusia	Seasonally Flooded		34.6			
		Typically Flooded			33.5		
		Semipermanently Flooded				32.2	
(dd) DISSON	Flagler	Seasonally Flooded		13.8			
		Typically Flooded			13.2		
		Semipermanently Flooded				12.5	
(ee) DORR	Lake	Seasonally Flooded		43.5			
		Typically Saturated			43.1		
		Semipermanently Flooded				42.1	
(ff) DREAM POND	Putnam	Seasonally Flooded		49.0			
		Typically Saturated			47.5		
		Semipermanently Flooded				46.0	
(gg) DRUDY	Volusia	Seasonally Flooded		42.1			
		Typically Saturated			40.6		
		Semipermanently Flooded				39.1	
(hh) ECHO	Putnam	Seasonally Flooded		38.8			
		Typically Flooded			36.7		
		Semipermanently Flooded				35.2	
(ii) EMMA	Lake	Seasonally Flooded		94.1			
		Typically Saturated			92.5		
		Semipermanently Flooded				91.1	
(jj) EMPORIA	Volusia	Seasonally Flooded		38.9			
		Typically Saturated			35.8		
		Semipermanently Flooded				34.3	
(kk) ESTELLA	Putnam	Seasonally Flooded		38.6			
		Typically Saturated			37.2		
		Semipermanently Flooded				36.5	
(ll) FOX	Brevard	Temporarily Flooded		16.7			
		Typically Saturated			15.3		
		Semipermanently Flooded				13.8	
(mm) GENEVA	Clay	Seasonally Flooded		103.0			
		Typically Saturated			101.0		
		Semipermanently Flooded				98.5	
(nn) GEORGE SLAKE	Putnam	Seasonally Flooded		98.4			
		Typically Saturated			97.8		
		Semipermanently Flooded				97.0	
(oo) GERTIE	Volusia	Temporarily Flooded		27.5			

		Typically Saturated			25.6		
		Semipermanently Flooded				23.3	
(pp) GORE	Flagler	Seasonally Flooded		21.1			
		Typically Saturated			20.6		
		Semipermanently Flooded				19.2	
(qq) GRANDIN	Putnam	Seasonally Flooded		81.8			
		Typically Saturated			81.3		
		Semipermanently Flooded				80.1	
(rr) HALFMOON	Marion	Seasonally Flooded		49.7			
		Typically Saturated			47.9		
		Semipermanently Flooded				46.5	
(ss) HELEN	Volusia	Temporarily Flooded		46.1			
		Typically Saturated			44.2		
		Semipermanently Flooded				43.6	

(tt) HIRES	Volusia	Seasonally Flooded		41.0			
		Typically Saturated			39.5		
		Semipermanently Flooded				38.0	
(uu) HOKEY	Volusia	Seasonally Flooded		35.4			
		Typically Saturated			33.7		
		Semipermanently Flooded				32.3	
(vv) HOPKINS PRAIRIE	Marion	Seasonally Flooded		25.8			
		Typically Saturated			23.4		
		Semipermanently Flooded				22.0	
(ww) HOWELL	Putnam	Seasonally Flooded		34.5			
		Typically Saturated			33.6		
		Semipermanently Flooded				31.8	
(xx) HOWELL	Seminole	Seasonally Flooded		53.7			
		Typically Saturated			52.9		
		Semipermanently Flooded				51.5	
(yy) INDIAN	Volusia	Seasonally Flooded		37.0			
		Typically Saturated			36.1		
		Semipermanently Flooded				34.4	
(zz) IRMA	Orange	Seasonally Flooded		55.1			
		Typically Saturated			54.8		
		Semipermanently Flooded				53.4	
(aaa) KERR	Marion	Seasonally Flooded		24.4			
		Typically Saturated			22.9		
		Semipermanently Flooded				21.5	
(bbb) LIZZIE	Putnam	Seasonally Flooded		43.9			
		Typically Saturated			42.7		
		Semipermanently Flooded				41.7	
(ccc) LOUISA	Lake	Seasonally Flooded		96.5			
		Typically Saturated			95.4		
		Semipermanently Flooded				94.0	
(ddd) LOWER LAKE LOUISE	Volusia	Seasonally Flooded		31.8			
		Typically Saturated			31.2		
		Semipermanently Flooded				29.7	
(eee) LOWERY	Polk	Temporarily Flooded		130.0			
		Typically Saturated			128.0		
		Semipermanently Flooded				126.5	
(fff) LUCY	Lake	Seasonally Flooded		94.1			
		Typically Saturated			92.5		
		Semipermanently Flooded				91.1	
(ggg) MAGNOLIA	Clay	Seasonally Flooded		124.7			

		Typically Saturated		124.2		
		Semipermanently Flooded			121.4	
(hhh) MALL, LITTLE LAKE	Putnam	Seasonally Flooded	38.7			
		Typically Saturated		36.8		
		Semipermanently Flooded			35.2	
(iii) MARGARET	Putnam	Seasonally Flooded	35.2			
		Typically Saturated		34.5		
		Semipermanently Flooded			32.5	
(jjj) MARTHA	Orange	Seasonally Flooded	53.5			
		Typically Saturated		52.6		
		Semipermanently Flooded			51.2	
(kkk) MARVIN	Putnam	Seasonally Flooded	38.6			
		Typically Saturated		37.3		
		Semipermanently Flooded			36.3	
(lll) MCGRADY	Putnam	Seasonally Flooded	41.5			
		Typically Saturated		39.9		
		Semipermanently Flooded			37.8	
(mmm) MCKASEL	Putnam	Temporarily Flooded	36.7			
		Typically Saturated		35.5		
		Semipermanently Flooded			34.1	
(nnn) MELROSE	Putnam	Seasonally Flooded	105.2			
		Typically Saturated		104.2		
		Semipermanently Flooded			102.8	
(ooo) MILLS	Seminole	Temporarily Flooded	42.5			
		Typically Saturated		41.4		
		Semipermanently Flooded			39.9	
(ppp) MINNEOLA	Lake	Seasonally Flooded	96.0			
		Typically Saturated		95.3		
		Semipermanently Flooded			93.9	
(qqq) MONROE	Seminole and Volusia	N/A	2.8			
		N/A		1.2		
		N/A			0.5	
(rrr) NETTLES/ENGLISH	Putnam	Seasonally Flooded	44.3			
		Typically Saturated		42.7		
		Semipermanently Flooded			41.7	
(sss) NICOTOON	Marion	Seasonally Flooded	54.7			
		Typically Saturated		53.3		
		Semipermanently Flooded			51.9	
(ttt) NORRIS	Lake	Seasonally Flooded	30.5			
		Typically Saturated		29.7		
		Semipermanently Flooded			29.1	
(uuu) NORTH COMO PARK	Putnam	Seasonally Flooded	41.3			
		Typically Saturated		39.7		
		Semipermanently Flooded			38.5	
(vvv) NORTH TALMADGE	Volusia	Seasonally Flooded	55.6			
		Typically Saturated		54.4		
		Semipermanently Flooded			52.9	
(www) OMEGA	Putnam	Temporarily Flooded	57.4			
		Typically Saturated		56.1		
		Semipermanently Flooded			54.0	
(xxx) ORIO	Putnam	Seasonally Flooded	37.1			
		Typically Saturated		35.6		
		Semipermanently Flooded			34.7	
(yyy) PAM	Putnam	Temporarily Flooded	39.3			
		Typically Saturated		37.5		
		Semipermanently Flooded			36.1	
(zzz) PEARL	Orange	Seasonally Flooded	53.5			
		Typically Saturated		52.6		
		Semipermanently Flooded			51.2	
(aaaa) PIERSON	Volusia	Seasonally Flooded	34.4			
		Typically Saturated		33.8		
		Semipermanently Flooded			32.4	
(bbbb) PINE ISLAND	Lake	Seasonally Flooded	107.7			
		Typically Saturated		106.8		
		Semipermanently Flooded			105.4	
(cccc) PREVATT	Orange	Seasonally Flooded	56.0			
		Typically Saturated		53.0		
		Semipermanently Flooded			50.9	
(dddd) PRIOR	Putnam	Seasonally Flooded	42.3			
		Typically Saturated		40.0		
		Semipermanently Flooded			39.0	
(eeee) PURDOM	Volusia	Seasonally Flooded	37.0			
		Typically Saturated		36.4		
		Semipermanently Flooded			35.0	
(fff) SAND	Putnam	Seasonally Flooded	40.9			

		Typically Saturated			39.0		
		Sempermanently Flooded				36.6	
(gggg) SAND HILL	Clay	Seasonally Flooded		132.0			
		Typically Saturated			131.65		
		Sempermanently Flooded				129.5	
(hhhh) SAVANNAH	Volusia	Seasonally Flooded		31.1			
		Typically Saturated			29.5		
		Sempermanently Flooded				28.0	
(hhh) SCOGGIN	Volusia	Seasonally Flooded		35.0			
		Typically Saturated			34.1		
		Sempermanently Flooded				32.7	
(jjjj) SHAW	Volusia	N/A	38.5				
		N/A		36.9			
		N/A			36.2		
		N/A				34.0	
		N/A					32.0
(kkkk) SILVER	Putnam	Seasonally Flooded		36.8			
		Typically Saturated			35.1		
		Sempermanently Flooded				33.7	
(llll) SMITH	Marion	Temporarily Flooded		34.6			
		Typically Saturated			31.4		
		Sempermanently Flooded				30.0	
(mmmm) SOUTH	Brevard	Temporarily Flooded		16.7			
		Typically Saturated			15.3		
		Sempermanently Flooded				13.8	
(nnnn) SOUTH COMO PARK	Putnam	Seasonally Flooded		38.1			
		Typically Saturated			36.7		
		Sempermanently Flooded				35.3	
(oooo) STAR	Putnam	Seasonally Flooded		77.5			
		Typically Saturated			75.4		
		Sempermanently Flooded				74.0	
(pppp) STELLA	Putnam	Seasonally Flooded		39.4			
		Typically Saturated			38.6		
		Sempermanently Flooded				37.2	
(qqqq) SUNSET	Lake	Seasonally Flooded		85.9			
		Typically Saturated			83.5		
		Sempermanently Flooded				81.0	
(rrrr) SWAN	Putnam	Temporarily Flooded		93.0			
		Typically Saturated			90.3		
(ssss) SYLVAN	Seminole	Seasonally Flooded		40.4			
		Typically Saturated			38.9		
		Sempermanently Flooded				37.5	
(tttt) TARHOE	Putnam	Seasonally Flooded		37.0			
		Typically Saturated			36.0		
		Sempermanently Flooded				35.2	
(uuuu) THREE ISLAND LAKES	Volusia	Seasonally Flooded		23.4			
		Typically Saturated			21.8		
		Sempermanently Flooded				18.8	
(vvvv) TRONE	Putnam	Seasonally Flooded		37.5			
		Typically Saturated			35.7		
		Sempermanently Flooded				34.3	
(wwww) TROUT	Volusia	Seasonally Flooded		23.3			
		Typically Saturated			20.9		
		Sempermanently Flooded				17.7	
(xxxx) TUSCAWILLA	Alachua	Seasonally Flooded		77.6			
		Typically Saturated			74.6		
		Sempermanently Flooded				73.2	
(yyyy) UPPER LAKE LOUISE	Volusia	Seasonally Flooded		35.3			
		Typically Saturated			34.6		
		Sempermanently Flooded				33.2	
(zzzz) WASHINGTON	Brevard	Seasonally Flooded		15.6			
		Typically Saturated			14.2		
		Sempermanently Flooded				12.8	
(aaaa) WAUBERG	Alachua	Seasonally Flooded		67.4			
		Typically Saturated			67.1		
		Sempermanently Flooded				65.6	
(bbbb) WEIR	Marion	Seasonally Flooded		37.2			
		Typically Saturated			36.4		
		Sempermanently Flooded				34.9	
(cccc) WINNEMISSETT	Volusia	Seasonally Flooded		39.5			
		Typically Saturated			37.8		
		Sempermanently Flooded				36.0	
(dddd) WINONA	Volusia	Seasonally Flooded		36.1			
		Typically Saturated			33.5		
		Sempermanently Flooded				32.0	

(3) The following minimum surface water flows are established for Blue Spring in Volusia County:

Time Period	Minimum Long Term Mean
	Flow
December 3, 2006 through March 31, 2009	133 cfs
April 1, 2009 through March 31, 2014	137 cfs
April 1, 2014 through March 31, 2019	142 cfs
April 1, 2019 through March 31, 2024	148 cfs
After March 31, 2024	157 cfs

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

System Name	County	Minimum Level	Level (ft NGVD)	Hydroperiod Category	Duration (days)	Return Interval (years)
Apshawa North	Lake	Frequent High	85.0	Seasonally flooded	==	==
		Average	83.3	Typically saturated	==	==
		Frequent Low	81.3	Semipermanently flooded	==	==
Apshawa South	Lake	Frequent High	86.0	Seasonally Flooded	==	==
		Average	84.7	Typically Saturated	==	==
		Frequent Low	83.2	Semipermanently Flooded	==	==
Argenta	Putnam	Frequent High	50.1	Seasonally Flooded	==	==
		Average	47.7	Typically Saturated	==	==
		Frequent Low	46.3	Semipermanently Flooded	==	==
Ashby	Volusia	Frequent High	12.3	==	60	2
		Frequent Low	11.1	==	120	5
Banana	Putnam	Frequent High	38.0	Seasonally Flooded	==	==
		Average	36.2	Typically Saturated	==	==
		Frequent Low	34.4	Semipermanently Flooded	==	==
Bell	Putnam	Frequent High	42.5	Temporarily Flooded	==	==
		Average	40.5	Typically Saturated	==	==
		Frequent Low	38.7	Semipermanently Flooded	==	==
Big	Volusia	Frequent High	26.1	Seasonally Flooded	==	==
		Average	25.0	Typically Saturated	==	==
		Frequent Low	23.7	Semipermanently Flooded	==	==
Bird Pond	Putnam	Frequent High	41.8	Seasonally Flooded	==	==
		Average	39.5	Typically Saturated	==	==
		Frequent Low	38.1	Semipermanently Flooded	==	==
Blue Pond	Clay	Frequent High	174.1	Temporarily Flooded	==	==
		Average	173.3	Typically Saturated	==	==
		Frequent Low	171.7	Semipermanently Flooded	==	==
Boggy Marsh	Lake	Frequent High	117.3	Seasonally Flooded	==	==
		Average	115.9	Typically Saturated	==	==
		Frequent Low	114.5	Semipermanently Flooded	==	==
Bowers	Marion	Frequent High	57.1	Temporarily Flooded	==	==
		Average	54.0	Typically Saturated	==	==
		Frequent Low	52.7	Semipermanently Flooded	==	==
Brantley	Seminole	Frequent High	46.3	Seasonally Flooded	==	==
		Average	45.6	Typically Saturated	==	==
		Frequent Low	44.1	Semipermanently Flooded	==	==
Brooklyn	Clay	Frequent High	114.6	Temporarily Flooded	==	==
		Average	108.0	Typically Saturated	==	==
		Frequent Low	101.0	Semipermanently Flooded	==	==
Broward	Putnam	Frequent High	40.0	Temporarily Flooded	==	==
		Average	38.2	Typically Saturated	==	==
		Frequent Low	36.5	Semipermanently Flooded	==	==
Burkett	Orange	Frequent High	53.5	Seasonally Flooded	==	==
		Average	52.6	Typically Saturated	==	==
		Frequent Low	51.2	Semipermanently Flooded	==	==
Charles	Marion	Frequent High	40.2	Seasonally Flooded	==	==
		Average	39.3	Typically Saturated	==	==
		Frequent Low	37.9	Semipermanently Flooded	==	==
Cherry	Lake	Frequent High	96.0	Seasonally Flooded	==	==
		Average	94.9	Typically Saturated	==	==
		Frequent Low	93.4	Semipermanently Flooded	==	==
Clear	Putnam	Frequent High	37.4	Temporarily Flooded	==	==
		Average	36.4	Typically Saturated	==	==
		Frequent Low	34.9	Semipermanently Flooded	==	==

Colby	Volusia	Frequent High	27.6	==	30	3
		Frequent Low	22.9	==	120	3
Como	Putnam	Frequent High	38.0	Seasonally Flooded	==	==
		Average	36.2	Typically Saturated	==	==
		Frequent Low	34.4	Sempermanently Flooded	==	==
Como, Little Lake	Putnam	Frequent High	38.0	Seasonally Flooded	==	==
		Average	36.6	Typically Saturated	==	==
		Frequent Low	35.2	Sempermanently Flooded	==	==
Coon Pond	Volusia	Frequent High	35.7	Seasonally Flooded	==	==
		Average	34.6	Typically Saturated	==	==
		Frequent Low	33.1	Sempermanently Flooded	==	==
Cowpen	Putnam	Frequent High	89.1	Temporarily Flooded	==	==
		Average	85.7	Typically Saturated	==	==
		Frequent Low	84.2	Sempermanently Flooded	==	==
Cow Pond	Volusia	Frequent High	40.5	Seasonally Flooded	==	==
		Average	39.8	Typically Saturated	==	==
		Frequent Low	37.6	Sempermanently Flooded	==	==
Crystal/Baker	Putnam	Frequent High	35.5	Seasonally Flooded	==	==
		Average	33.9	Typically Saturated	==	==
		Frequent Low	33.0	Sempermanently Flooded	==	==
Daugharty	Volusia	Frequent High	44.8	Temporarily Flooded	==	==
		Average	42.6	Typically Saturated	==	==
		Frequent Low	41.2	Sempermanently Flooded	==	==
Davis	Volusia	Frequent High	36.2	Seasonally Flooded	==	==
		Average	35.4	Typically Saturated	==	==
		Frequent Low	34.0	Sempermanently Flooded	==	==
Deep	Putnam	Frequent High	35.0	Seasonally Flooded	==	==
		Average	33.1	Typically Saturated	==	==
		Frequent Low	32.2	Sempermanently Flooded	==	==
Dias	Volusia	Frequent High	34.6	Seasonally Flooded	==	==
		Average	33.5	Typically Saturated	==	==
		Frequent Low	32.2	Sempermanently Flooded	==	==
Disston	Flagler	Frequent High	13.8	Seasonally Flooded	==	==
		Average	13.2	Typically Saturated	==	==
		Frequent Low	12.5	Sempermanently Flooded	==	==
Dorr	Lake	Frequent High	43.5	Seasonally Flooded	==	==
		Average	43.1	Typically Saturated	==	==
		Frequent Low	42.1	Sempermanently Flooded	==	==
Dream Pond	Putnam	Frequent High	49.0	Seasonally Flooded	==	==
		Average	47.5	Typically Saturated	==	==
		Frequent Low	46.0	Sempermanently Flooded	==	==
Drudy	Volusia	Frequent High	42.1	Seasonally Flooded	==	==
		Average	40.6	Typically Saturated	==	==
		Frequent Low	39.1	Sempermanently Flooded	==	==
Echo	Putnam	Frequent High	38.8	Seasonally Flooded	==	==
		Average	36.7	Typically Saturated	==	==
		Frequent Low	35.2	Sempermanently Flooded	==	==
Emma	Lake	Frequent High	94.1	Seasonally Flooded	==	==
		Average	92.5	Typically Saturated	==	==
		Frequent Low	91.1	Sempermanently Flooded	==	==
Emporia	Volusia	Frequent High	38.9	Seasonally Flooded	==	==
		Average	35.8	Typically Saturated	==	==
		Frequent Low	34.3	Sempermanently Flooded	==	==
Estella	Putnam	Frequent High	38.6	Seasonally Flooded	==	==
		Average	37.2	Typically Saturated	==	==
		Frequent Low	36.5	Sempermanently Flooded	==	==
Fox	Brevard	Frequent High	16.7	Temporarily Flooded	==	==
		Average	15.3	Typically Saturated	==	==
		Frequent Low	13.8	Sempermanently Flooded	==	==
Geneva	Clay	Frequent High	103.0	Seasonally Flooded	==	==
		Average	101.0	Typically Saturated	==	==
		Frequent Low	98.5	Sempermanently Flooded	==	==
Georges Lake	Putnam	Frequent High	98.4	Seasonally Flooded	==	==
		Average	97.8	Typically Saturated	==	==
		Frequent Low	97.0	Sempermanently Flooded	==	==
Gertie	Volusia	Frequent High	27.5	Temporarily Flooded	==	==
		Average	25.6	Typically Saturated	==	==
		Frequent Low	23.3	Sempermanently Flooded	==	==
Gore	Flagler	Frequent High	21.1	==	30	3
		Average	20.6	==	180	1.5
		Frequent Low	19.2	==	120	5

Grandin	Putnam	Frequent High	81.5	==	30	2
		Frequent Low	78.6	==	120	2
Halfmoon	Marion	Frequent High	49.7	Seasonally Flooded	==	==
		Average	47.9	Typically Saturated	==	==
		Frequent Low	46.5	Sempermanently Flooded	==	==
Helen	Volusia	Frequent High	46.1	Temporarily Flooded	==	==
		Average	44.2	Typically Saturated	==	==
		Frequent Low	43.6	Sempermanently Flooded	==	==
Hires	Volusia	Frequent High	41.0	Seasonally Flooded	==	==
		Average	39.5	Typically Saturated	==	==
		Frequent Low	38.0	Sempermanently Flooded	==	==
Hokey	Volusia	Frequent High	35.4	Seasonally Flooded	==	==
		Average	33.7	Typically Saturated	==	==
		Frequent Low	32.3	Sempermanently Flooded	==	==
Hopkins Prairie	Marion	Frequent High	25.8	Seasonally Flooded	==	==
		Average	23.4	Typically Saturated	==	==
		Frequent Low	22.0	Sempermanently Flooded	==	==
Howell	Putnam	Frequent High	34.5	Seasonally Flooded	==	==
		Average	33.6	Typically Saturated	==	==
		Frequent Low	31.8	Sempermanently Flooded	==	==
Howell	Seminole	Frequent High	53.7	Seasonally Flooded	==	==
		Average	52.9	Typically Saturated	==	==
		Frequent Low	51.5	Sempermanently Flooded	==	==
Indian	Volusia	Frequent High	37.0	Seasonally Flooded	==	==
		Average	36.1	Typically Saturated	==	==
		Frequent Low	34.4	Sempermanently Flooded	==	==
Irma	Orange	Frequent High	55.1	Seasonally Flooded	==	==
		Average	54.8	Typically Saturated	==	==
		Frequent Low	53.4	Sempermanently Flooded	==	==
Kerr	Marion	Frequent High	24.4	Seasonally Flooded	==	==
		Average	22.9	Typically Saturated	==	==
		Frequent Low	21.5	Sempermanently Flooded	==	==
Lizzie	Putnam	Frequent High	43.9	Seasonally Flooded	==	==
		Average	42.7	Typically Saturated	==	==
		Frequent Low	41.7	Sempermanently Flooded	==	==
Louisa	Lake	Frequent High	96.5	Seasonally Flooded	==	==
		Average	95.4	Typically Saturated	==	==
		Frequent Low	94.0	Sempermanently Flooded	==	==
Lower Lake Louise	Volusia	Frequent High	31.8	Seasonally Flooded	==	==
		Average	31.2	Typically Saturated	==	==
		Frequent Low	29.7	Sempermanently Flooded	==	==
Lucy	Lake	Frequent High	94.1	Seasonally Flooded	==	==
		Average	92.5	Typically Saturated	==	==
		Frequent Low	91.1	Sempermanently Flooded	==	==
Magnolia	Clay	Frequent High	124.7	Seasonally Flooded	==	==
		Average	124.2	Typically Saturated	==	==
		Frequent Low	121.4	Sempermanently Flooded	==	==
Mall, Little Lake	Putnam	Frequent High	38.7	Seasonally Flooded	==	==
		Average	36.8	Typically Saturated	==	==
		Frequent Low	35.2	Sempermanently Flooded	==	==
Margaret	Putnam	Frequent High	35.2	Seasonally Flooded	==	==
		Average	34.5	Typically Saturated	==	==
		Frequent Low	32.5	Sempermanently Flooded	==	==
Martha	Orange	Frequent High	53.5	Seasonally Flooded	==	==
		Average	52.6	Typically Saturated	==	==
		Frequent Low	51.2	Sempermanently Flooded	==	==
Marvin	Putnam	Frequent High	38.6	Seasonally Flooded	==	==
		Average	37.3	Typically Saturated	==	==
		Frequent Low	36.3	Sempermanently Flooded	==	==
McGrady	Putnam	Frequent High	41.5	Seasonally Flooded	==	==
		Average	39.9	Typically Saturated	==	==
		Frequent Low	37.8	Sempermanently Flooded	==	==
McKasel	Putnam	Frequent High	36.7	Seasonally Flooded	==	==
		Average	35.5	Typically Saturated	==	==
		Frequent Low	34.1	Sempermanently Flooded	==	==
Melrose	Putnam	Frequent High	105.2	Seasonally Flooded	==	==
		Average	104.2	Typically Saturated	==	==
		Frequent Low	102.8	Sempermanently Flooded	==	==
Mills	Seminole	Frequent High	42.5	Seasonally Flooded	==	==
		Average	41.4	Typically Saturated	==	==
		Frequent Low	39.9	Sempermanently Flooded	==	==

Minneola	Lake	Frequent High	96.0	Seasonally Flooded	==	==
		Average	95.3	Typically Saturated	==	==
		Frequent Low	93.9	Semipermanently Flooded	==	==
Monroe	Seminole and Volusia	Frequent High	2.8	==	30	2
		Average	1.2	==	180	1.5
		Frequent Low	0.5	==	120	5
Nettles / English	Putnam	Frequent High	44.3	Seasonally Flooded	==	==
		Average	42.7	Typically Saturated	==	==
		Frequent Low	41.7	Semipermanently Flooded	==	==
Nicotoon	Marion	Frequent High	54.7	Seasonally Flooded	==	==
		Average	53.3	Typically Saturated	==	==
		Frequent Low	51.9	Semipermanently Flooded	==	==
Norris	Lake	Frequent High	30.5	Seasonally Flooded	==	==
		Average	29.7	Typically Saturated	==	==
		Frequent Low	29.1	Semipermanently Flooded	==	==
North Como Park	Putnam	Frequent High	41.3	Seasonally Flooded	==	==
		Average	39.7	Typically Saturated	==	==
		Frequent Low	38.5	Semipermanently Flooded	==	==
North Talmadge	Volusia	Frequent High	55.6	Seasonally Flooded	==	==
		Average	54.4	Typically Saturated	==	==
		Frequent Low	52.9	Semipermanently Flooded	==	==
Omega	Putnam	Frequent High	57.4	Temporarily Flooded	==	==
		Average	56.1	Typically Saturated	==	==
		Frequent Low	54.0	Semipermanently Flooded	==	==
Orio	Putnam	Frequent High	37.1	Seasonally Flooded	==	==
		Average	35.6	Typically Saturated	==	==
		Frequent Low	34.7	Semipermanently Flooded	==	==
Pam	Putnam	Frequent High	39.3	Seasonally Flooded	==	==
		Average	37.5	Typically Saturated	==	==
		Frequent Low	36.1	Semipermanently Flooded	==	==
Pearl	Orange	Frequent High	53.5	Seasonally Flooded	==	==
		Average	52.6	Typically Saturated	==	==
		Frequent Low	51.2	Semipermanently Flooded	==	==
Pierson	Volusia	Frequent High	34.4	Seasonally Flooded	==	==
		Average	33.8	Typically Saturated	==	==
		Frequent Low	32.4	Semipermanently Flooded	==	==
Pine Island	Lake	Frequent High	107.7	Seasonally Flooded	==	==
		Average	106.8	Typically Saturated	==	==
		Frequent Low	105.4	Semipermanently Flooded	==	==
Prevatt	Orange	Frequent High	56.0	Seasonally Flooded	==	==
		Average	53.0	Typically Saturated	==	==
		Frequent Low	50.9	Semipermanently Flooded	==	==
Prior	Putnam	Frequent High	42.3	Seasonally Flooded	==	==
		Average	40.0	Typically Saturated	==	==
		Frequent Low	39.0	Semipermanently Flooded	==	==
Purdom	Volusia	Frequent High	37.0	Seasonally Flooded	==	==
		Average	36.4	Typically Saturated	==	==
		Frequent Low	35.0	Semipermanently Flooded	==	==
Sand	Putnam	Frequent High	40.9	Seasonally Flooded	==	==
		Average	39.0	Typically Saturated	==	==
		Frequent Low	36.6	Semipermanently Flooded	==	==
Sand Hill	Clay	Frequent High	132.0	Seasonally Flooded	==	==
		Average	131.6	Typically Saturated	==	==
		Frequent Low	129.5	Semipermanently Flooded	==	==
Savannah	Volusia	Frequent High	31.1	Seasonally Flooded	==	==
		Average	29.5	Typically Saturated	==	==
		Frequent Low	28.0	Semipermanently Flooded	==	==
Scoggin	Volusia	Frequent High	35.0	Seasonally Flooded	==	==
		Average	34.1	Typically Saturated	==	==
		Frequent Low	32.7	Semipermanently Flooded	==	==
Shaw	Volusia	Frequent High	36.7	==	30	3
		Average	35.4	==	180	1.7
		Frequent Low	33.7	==	120	3
Silver	Putnam	Frequent High	36.8	Seasonally Flooded	==	==
		Average	35.1	Typically Saturated	==	==
		Frequent Low	33.7	Semipermanently Flooded	==	==
Smith	Marion	Frequent High	54.6	Temporarily Flooded	==	==
		Average	51.4	Typically Saturated	==	==
		Frequent Low	50.0	Semipermanently Flooded	==	==

South	Brevard	Frequent High	16.7	Temporarily Flooded	==	==
		Average	15.3	Typically Saturated	==	==
		Frequent Low	13.8	Semipermanently Flooded	==	==
South Como Park	Putnam	Frequent High	38.1	Seasonally Flooded	==	==
		Average	36.7	Typically Saturated	==	==
		Frequent Low	35.3	Semipermanently Flooded	==	==
Star	Putnam	Frequent High	77.5	Seasonally Flooded	==	==
		Average	75.4	Typically Saturated	==	==
		Frequent Low	74.0	Semipermanently Flooded	==	==
Stella	Putnam	Frequent High	39.4	Seasonally Flooded	==	==
		Average	38.6	Typically Saturated	==	==
		Frequent Low	37.2	Semipermanently Flooded	==	==
Sunset	Lake	Frequent High	85.9	Temporarily Flooded	==	==
		Average	83.5	Typically Saturated	==	==
		Frequent Low	81.0	Semipermanently Flooded	==	==
Swan	Putnam	Frequent High	93.0	Temporarily Flooded	==	==
		Average	90.3	Typically Saturated	==	==
Sylvan	Seminole	Frequent High	40.4	Seasonally Flooded	==	==
		Average	38.9	Typically Saturated	==	==
		Frequent Low	37.5	Semipermanently Flooded	==	==
Tarhoe	Putnam	Frequent High	37.0	Seasonally Flooded	==	==
		Average	36.0	Typically Saturated	==	==
		Frequent Low	35.2	Semipermanently Flooded	==	==
Three Island Lakes	Volusia	Frequent High	23.7	==	30	5
		Frequent Low	19.4	==	120	10
Trone	Putnam	Frequent High	37.5	Seasonally Flooded	==	==
		Average	35.7	Typically Saturated	==	==
		Frequent Low	34.3	Semipermanently Flooded	==	==
Trout	Volusia	Frequent High	23.3	Seasonally Flooded	==	==
		Average	20.9	Typically Saturated	==	==
		Frequent Low	17.7	Semipermanently Flooded	==	==
Tuscawilla	Alachua	Frequent High	77.6	Seasonally Flooded	==	==
		Average	74.6	Typically Saturated	==	==
		Frequent Low	73.2	Semipermanently Flooded	==	==
Upper Lake Louise	Volusia	Frequent High	35.3	Seasonally Flooded	==	==
		Average	34.6	Typically Saturated	==	==
		Frequent Low	33.2	Semipermanently Flooded	==	==
Washington	Brevard	Frequent High	15.6	Seasonally Flooded	==	==
		Average	14.2	Typically Saturated	==	==
		Frequent Low	12.8	Semipermanently Flooded	==	==
Wauberg	Alachua	Frequent High	67.4	Seasonally Flooded	==	==
		Average	67.1	Typically Saturated	==	==
		Frequent Low	65.6	Semipermanently Flooded	==	==
Weir	Marion	Frequent High	57.2	Seasonally Flooded	==	==
		Average	56.4	Typically Saturated	==	==
		Frequent Low	54.9	Semipermanently Flooded	==	==
Winnemisett	Volusia	Frequent High	59.5	Seasonally Flooded	==	==
		Average	57.8	Typically Saturated	==	==
		Frequent Low	56.0	Semipermanently Flooded	==	==
Winona	Volusia	Frequent High	36.1	Seasonally Flooded	==	==
		Average	33.5	Typically Saturated	==	==
		Frequent Low	32.0	Semipermanently Flooded	==	==

(3) through (4) renumbered (5) through (6) No change.

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

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Sonny Hall, Technical Program Manager, Division of Water Supply Management, St. Johns River Water Management District, 4049 Reid Street, Palatka, FL 32177-2529, (386)329-4368, email shall@sjrwm.com

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 24, 2008

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.002
 RULE TITLE: Delegation of Authority

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to incorporate by reference a Well Construction Permitting Agreement between the District and the Marion County Health Department, effective October 1, 2009, by which the District's authority to regulate well construction in Marion County is delegated to the Marion County Health Department.

SUMMARY: Since 2006, the Marion County Health Department (MCHD) has been administering the water well construction permitting program in that portion of Marion County situated within the District pursuant to a delegation agreement. A new two-year Agreement has been approved by both agencies to extend water well construction permitting delegation to October 2011. Rule 40D-1.002, F.A.C., is amended to incorporate by reference the new agreement.

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: 373.044, 373.103, 373.113, 373.118, 373.219, 373.309 FS.

LAW IMPLEMENTED: 253.002, 373.103, 373.149, 373.219, 373.223, 373.224, 373.226, 373.308, 373.309 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: Barbara Martinez, Sr. Administrative Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4660

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.002 Delegation of Authority.

(1) through (2) No change.

(3) The Governing Board hereby incorporates by reference the following documents:

(a) and (b) No change.

(c) Well Construction Permitting Agreement Between the Southwest Florida Water Management District and Marion County Health Department, effective ~~October 1, 2009~~ ~~May 21, 2006,~~ ~~and the First Amendment to Well Construction Permitting Agreement Between the Southwest Florida Water Management District and Marion County Health Department, effective October 9, 2007.~~

Rulemaking Specific Authority 373.044, 373.103, 373.113, 373.118, 373.219, 373.309 FS. Law Implemented 253.002, 373.103, 373.149, 373.219, 373.223, 373.224, 373.226, 373.308, 373.309, 373.427 FS. History—New 3-1-84, Amended 3-10-96, 7-22-99, 12-2-99, 9-26-02, 7-20-04, 10-19-05, 5-21-06, 7-13-06, 12-24-07, 5-12-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tony Gilboy, Well Construction Regulation Manager

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-1.659
 RULE TITLE: Forms and Instructions

PURPOSE AND EFFECT: The purpose and effect of this rulemaking is to include in the list of District forms the Water Use Permit Application Supplemental Form – Public Supply, Form No. LEG-R.033.01 (9/09) and the Small General Water Use Permit Application Public Supply Attachment, Form No. LEG-R.045.00 (9/09), which are being adopted by the District. Amendments also delete from the list the Public Supply Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.012.00(4/09), which is being repealed.

SUMMARY: The District is revising its Water Use Permit (WUP) application forms in coordination with expansion of the Water Management Information System, or WMIS, which can now accept General and Individual WUP applications in addition to applications for Small General WUPs. Rule 40D-1.659, F.A.C., which lists all District forms, is amended to include a revised Public Supply Supplemental form to be submitted for Individual and General WUPs and a new Public Supply Attachment form for use with Small General WUP applications for public supply water use. The Public Supply Supplemental Form for use only in the Southern Water Use Caution Area is no longer be needed and is repealed.

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: 373.044, 373.113, 373.149, 373.171, 373.337 FS.

LAW IMPLEMENTED: 373.0831(3), 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 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: Barbara Martinez, Sr. Administrative Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4660

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-1.659 Forms and Instructions.

The following forms and instructions have been approved by the Governing Board and are incorporated by reference into this chapter or into a specific District rule as indicated. Copies of these forms may be obtained from the District offices or the District's website at www.watermatters.org.

(1) GROUND WATER

(a) through (m) No change.

(n) WATER USE PERMIT APPLICATION SUPPLEMENTAL FORM – PUBLIC SUPPLY, FORM NO. LEG-R.033.0100 (9/09) (~~3/09~~), incorporated by reference in subparagraph 40D-2.101(2)(a)4., F.A.C.

(o) through (w) No change.

~~(x) PUBLIC SUPPLY SUPPLEMENTAL FORM – SOUTHERN WATER USE CAUTION AREA, FORM NO. LEG-R.012.01 (4/09), incorporated by reference in paragraph 40D-2.101(6)(a), F.A.C.~~

(y) through (gg) renumbered (x) through (ff) No change.

(gg) SMALL GENERAL WATER USE PERMIT APPLICATION – PUBLIC SUPPLY ATTACHMENT, FORM NO. LEG-R.045.00 (9/09), incorporated by reference in subparagraph 40D-2.101(2)(c)4., F.A.C.

Rulemaking Authority 373.044, 373.113, 373.149, 373.171, 373.337 FS. Law Implemented 373.0831(3), 373.116, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.229, 373.239, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 668.50 FS. History–New 12-31-74, Amended 10-24-76, Formerly 16J-0.40, 40D-1.901, 40D-1.1.901, Amended 12-22-94, 5-10-95, 10-19-95, 5-26-96, 7-23-96, 2-16-99, 7-12-99, 7-15-99, 12-2-99, 5-31-00, 9-3-00, 10-26-00, 6-26-01, 11-4-01, 6-12-02, 8-25-02, 2-26-03, 9-14-03, 9-30-04, 2-1-05, 6-5-05, 10-19-05, 2-6-07, 2-26-07, 9-27-07, 11-11-07, 11-25-07, 1-8-08, 4-7-08, 5-12-08, 5-20-08, 8-19-08, 12-30-08, 3-26-09, 7-1-09, 8-30-09, 9-1-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Martha A. Moore

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NOS.:	RULE TITLES:
40D-2.091	Publications Incorporated by Reference
40D-2.101	Content of Application

PURPOSE AND EFFECT: The purpose of this rulemaking is to adopt and incorporate by reference a revised Water Use Permit Application Supplemental Form – Public Supply, Form No. LEG-R.033.01 (9/09) and a new Small General Water Use Permit Application Public Supply Attachment, Form No. LEG-R.045.00 (9/09), and to repeal the Public Supply Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.012.00 (4/09). The effect will be to have more specialized application forms for public supply water uses that are intended to eliminate or reduce the necessity for submittal of additional information in order to complete a permit application. Updated and revised forms are being implemented in conjunction with the District's expansion of its on-line permitting system.

SUMMARY: The District is revising its Water Use Permit (WUP) application forms in coordination with expansion of the Water Management Information System, or WMIS, which can now accept General and Individual WUP applications in addition to applications for Small General WUPs. Rule 40D-2.101, F.A.C., is amended to incorporate a revised Public Supply Supplemental form to be submitted for Individual and General WUPs and a new Public Supply Attachment form for use with Small General WUP applications for public supply water use. The Public Supply Supplemental Form for use only in the Southern Water Use Caution Area is no longer needed and is repealed. Section 1.4.1 of the Water Use Permit Information Manual Part B, Basis of Review, which describes application forms, is revised accordingly. Rule 40D-2.091, F.A.C., is amended to incorporate by reference the revised Basis of Review.

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: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 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 RULES IS: Barbara Martinez, Sr. Administrative Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4660

THE FULL TEXT OF THE PROPOSED RULES IS:

40D-2.091 Publications Incorporated by Reference.

(1) The following publications are hereby incorporated by reference into this Chapter, and are available from the District’s website at www.watmatters.org or from the District upon request:

- (a) Water Use Permit Information Manual Part B, “Basis of Review” (_____) (~~8/30/09~~); and
- (b) No change.
- (2) No change.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS. History—New 10-1-89, Amended 11-15-90, 2-10-93, 3-30-93, 7-29-93, 4-11-94, 7-15-98, 7-28-98, 7-22-99, 12-2-99, 8-3-00, 9-3-00, 4-18-01, 4-14-02, 9-26-02, 1-1-03, 2-1-05, 10-19-05, 1-1-07, 8-23-07, 10-1-07, 10-22-07, 11-25-07, 12-24-07, 2-13-08, 2-18-08, 4-7-08, 5-12-08, 7-20-08, 9-10-08, 12-30-08, 1-20-09, 3-26-09, 7-1-09, 8-30-09, _____.

40D-2.101 Content of Application.

- (1) No change.
- (2) The following District application forms shall be used to obtain a new Water Use Permit or to renew an existing Water Use Permit. All permit application forms described herein have been approved by the District Governing Board and are incorporated by reference into this Chapter. Forms are available upon request from any District office or from the District’s website at www.watmatters.org.

(a) Individual Water Use Permit. Application for a new or renewal of an existing Individual Water Use Permit shall be made using the Individual Water Use Permit Application, Form No. LEG-R.029.00 (3/09). Applicants shall also submit one or more of the following Supplemental Forms as appropriate for each type of water use proposed in the permit application:

- 1. through 3. No change.
- 4. Water Use Permit Application Supplemental Form – Public Supply, Form No. LEG-R.033.0100 (9/09) (~~3/09~~)
- 5. No change.

(b) General Water Use Permit. Application for a new or renewal of an existing General Water Use Permit shall be made using the General Water Use Permit Application Form, No. LEG-R.028.00 (3/09). Applicants shall also submit one or more Supplemental Forms listed in subparagraph (2)(a) above as appropriate for each type of water use proposed in the permit application. Applicants seeking an initial or renewal

General Water Use Permit for a combined annual average daily water demand of less than 100,000 gallons per day for public supply use may submit the Small General Water Use Permit Application – Public Supply Attachment, Form No. LEG-R.045.00 (9/09), in lieu of the Supplemental Form – Public Supply.

(c) Small General Water Use Permit. Application for a new Small General Water Use Permit shall be made using the Small General Water Use Permit Application, Form No. LEG-R.027.00 (3/09). To renew a Small General Water Use Permit issued solely for agricultural use, application shall be made using the Application to Renew a Small General Water Use Permit for Agricultural Use, Form No. LEG-R.036.00 (3/09). Application to renew all other Small General Water Use Permits shall be made using the Small General Water Use Permit Application, Form No. LEG-R.027.00 (3/09). One or more of the following Attachment Forms for a specific water use shall be submitted with the application form if the application proposes one of the specified water uses:

- 1. through 3. No change.
- 4. Small General Water Use Permit Application – Public Supply Attachment, Form No. LEG-R.045.00 (9/09).

(3) through (5) No change.

(6) Southern Water Use Caution Area Application Forms. In addition to the permit application and information forms identified in subsections (1)-(5) above, all applicants for permits in the Southern Water Use Caution Area (SWUCA) shall submit the “Supplemental Form – Southern Water Use Caution Area,” Form No. LEG-R.007.02 (4/09) (~~03/09~~) incorporated herein by reference. Applicants in the SWUCA shall also submit the following application and supplemental forms as appropriate for the intended water use type as described in Chapters 3 and 4 of the Water Use Permit Information Manual, Part B “Basis of Review.” All SWUCA application and supplemental information forms may be obtained from the District’s website at www.watmatters.org or from District offices:

- ~~(a) Public Supply Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.012.01 (4/09);~~
- ~~(a)(b)~~ Net Benefit Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.010.01 (4/09); and
- ~~(b)(e)~~ Southern Water Use Caution Area Ground Water Replacement Credit Application, Form No. LEG-R.011.01 (4/09).

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.216, 373.229 FS. History—Readopted 10-5-74, Amended 10-24-76, 1-6-82, 2-14-82, 10-1-89, 10-23-89, 2-10-93, and 1-1-03. Formerly 16J-2.06. Amended 10-1-89, 10-23-89, 2-10-93, 7-15-99, 1-1-03, 1-1-07, 11-25-07, 9-10-08, 7-1-09, 8-30-09, _____.

WATER USE PERMIT INFORMATION MANUAL PART B
BASIS OF REVIEW

1.4.1 SOUTHERN WATER USE CAUTION AREA
(SWUCA) APPLICATION FORMS

All Permit Applicants in the Southern Water Use Caution Area (SWUCA) shall submit the Supplemental Form—Southern Water Use Caution Area, Form No. LEG-R.007.02 (4/09) incorporated by reference in subsection 40D-2.101(6), F.A.C., in addition to the appropriate application and supplemental form(s) described in Section 1.4, above. ~~Applicants for public supply quantities of 100,000 gallons per day or more, including water imported wholesale, shall submit the Public Supply Supplemental Form Southern Water Use Caution Area, Form No. LEG-R.012.00 (09/07) incorporated by reference in paragraph 40D-1.659(1)(y), F.A.C.~~ Permit Applicants in the SWUCA shall also submit the following application and supplemental forms as appropriate for their situation and intended water use type as described in Chapters 3 and 4 of Part B of the Basis of Review for Water Use Permit Applications, of the Water Use Permit Information Manual and incorporated by reference in subsection 40D-2.101(6), F.A.C.:

1. Net Benefit Supplemental Form – Southern Water Use Caution Area, Form No. LEG-R.010.01 (4/09); and
2. Southern Water Use Caution Area Ground Water Replacement Credit Application, Form No. LEG-R.011.01 (4/09).

All SWUCA application forms may be obtained from any District Service Office and from the District’s website at www.watermatters.org.

New 11-25-07, Amended 5-12-08, 7-1-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Martha A. Moore

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.:	RULE TITLE:
40D-4.042	Formal Determination of Wetlands and Other Surface Waters

PURPOSE AND EFFECT: The purpose and effect of the proposed rule revision is to provide entities with existing formal determinations that expire between September 1, 2008 and January 1, 2012 the option to renew the formal determination for a duration of two (2) years without a fee.

SUMMARY: District Rule 40D-4.042, Florida Administrative Code (F.A.C.), currently allows the renewal of existing formal determinations for a period of five (5) years at a reduced fee of Two Hundred Fifty (\$250.00) dollars provided physical conditions on the property have not changed so as to alter the boundaries of wetlands and other surface waters. The entity requesting a renewal is also required to file its petition within 60 days prior to the existing determination’s expiration. The proposed revisions will provide an option to renew existing formal determinations that expire between September 1, 2008 and January 1, 2012 for a duration of two (2) years without a fee. The two (2) year renewal is also limited by the requirement that physical conditions on the property have not changed so as to alter the boundaries or wetlands and other surface waters and the requirement to file a petition for renewal within certain timeframes.

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: 373.044, 373.113, 373.421(2) FS.

LAW IMPLEMENTED: 373.421(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: Annette Zielinski, Senior Administrative Assistant, 2379 Broad Street, Brooksville, FL 34604, (352)796-7211, extension 4651, or Annette.Zielinski@watermatters.org

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-4.042 Formal Determination of Wetlands and Other Surface Waters.

(1) through (6) No change.

(7) A petition for a new formal determination for a property for which a formal determination already exists shall be issued for five years at ~~require~~ the reduced fee set forth in Rule 40D-1.607, F.A.C., provided:

(a) Physical conditions on the property have not changed so as to alter the boundaries of the wetlands and other surface waters during that period; and

(b) The petition is submitted within 60 days prior to the existing determination’s expiration.

(8) A petition for a new formal determination for a property for which a formal determination already exists and that has an expiration date between September 1, 2008 and December 31, 2009, may be submitted and shall be granted for a duration of two years without payment of a fee provided:

(a) The petitioner certifies that the physical conditions on the property have not changed, other than changes which have been authorized by a permit pursuant to Part IV of Chapter 373, F.S.; and

(b) The petition is received prior to December 31, 2009.

(9) A petition for a new formal determination for a property for which a formal determination already exists and that has an expiration date between December 31, 2009 and January 1, 2012, may be submitted and shall be granted for a duration of two years without payment of a fee provided:

(a) The petitioner certifies that the physical conditions on the property have not changed, other than changes which have been authorized by a permit pursuant to Part IV of Chapter 373, F.S.; and

(b) The petition is received within 60 days prior to the expiration of the existing determination.

~~(10)(8)~~ Pursuant to Section 373.421(4), F.S., the Governing Board may revoke the formal wetland determination upon a finding that the petitioner has submitted inaccurate information to the District.

Rulemaking Authority 373.044, 373.113, 373.421(2) FS. Law Implemented 373.421(2) FS. History—New 10-3-95, Amended 7-2-98, 2-14-00, 5-28-00, 7-29-02, 2-27-03, 8-30-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen E. West, Deputy General Counsel
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF ELDER AFFAIRS

Community Care for the Elderly

RULE NO.: 58C-1.0031 RULE TITLE: Lead Agency Dispute Resolution

PURPOSE AND EFFECT: The purpose of the proposed rule is to comply with Section 430.203(9)(a), F.S. The statute requires the department to adopt a rule creating a dispute resolution mechanism for substantially affected parties to protest an area agency on aging’s intent to award the designation of “lead agency” to a party or parties. The statute requires the rule to include standards for bid protest and procedures for resolution.

SUMMARY: The rule develops standards for bid protest and procedures for resolution. The rule also develops minimum requirements for an impartial decisionmaker and review of the decisionmaker’s decision.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: This proposed rule will have an impact on small employers as defined in Section 288.703, F.S. Pursuant to Section 120.54(3)(b)1., F.S., the department’s statement of estimated regulatory costs is provided. The cost of the initial hearing conducted by the impartial decisionmaker is estimated to be approximately \$250.00 per hour. The estimated cost for review of the decision of the impartial decisionmaker is determined to be approximately the same.

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

RULEMAKING AUTHORITY: 430.203(9)(a) FS.

LAW IMPLEMENTED: 430.203(9)(a) FS.

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

DATE AND TIME: November 10, 2009, 10:00 a.m. – 11:00 a.m. EST

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conference Room 301, Tallahassee, Florida 32399-7000

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 72 hours before the workshop/meeting by contacting: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, telephone number: (850)414-2000. Email address: crochethj@elderaffairs.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000, telephone number: (850)414-2000. Email address: crochethj@elderaffairs.org

A copy of this rule and the form incorporated by reference is located on the department website listed below under the heading “Community Care for the Elderly, Rule 58C-1.0031, F.A.C., CCE Lead Agency Dispute Resolution.” <http://elderaffairs.state.fl.us/english/rulemaking.php>

THE FULL TEXT OF THE PROPOSED RULE IS:

58C-1.0031 Lead Agency Dispute Resolution.(1) AREA AGENCY ON AGING PROCEDURES.

(a) In order to meet the requirement set forth in Section 430.203(9)(a)1., F.S., an area agency on aging must specify in its request for proposal that the notice of intent to award will be published in the same manner as the request for proposal was published.

(b) In addition, an area agency on aging (AAA) must comply with the bid process standards set forth in Section 430.203(9)(a), F.S., and this rule.

(c) The AAA must post the notice of intent to award pursuant to paragraph (a) of this subsection upon selection of a lead agency or lead agencies. This notice must include information that substantially affected parties will have an opportunity to request a hearing challenging the proposed action and instruction on how to request a hearing. The notice must also include the following statement: "Failure to file a notice of protest as described in subsection (4) of Rule 58C-1.0031, Florida Administrative Code (F.A.C.), shall constitute a waiver of proceedings under Rule 58C-1.0031, F.A.C."

(2) IMPARTIAL DECISIONMAKERS.

(a) Upon the effective date of this rule, the AAA must solicit and maintain a registry of impartial decisionmakers.

(b) The decisionmaker must meet the minimum qualifications below:

1. Be a member in good standing of The Florida Bar;
2. Have at least 5 years experience in the practice of administrative law, preferably with experience in government procurement procedures;
3. Have not been directly involved, or have any family member who was directly involved, in the intended award of the bid under protest; and
4. Not be currently employed by, or have a family member currently employed by, the AAA awarding the bid, or any lead agency or other agency that has filed a bid for lead agency designation with the AAA awarding the bid; and
5. Not have any other conflict of interest that would affect the decisionmaker's impartiality in the specific proceedings.

(c) Individuals interested in designation as an impartial decisionmaker must complete DOEA Form CCE-001, CCE Impartial Decisionmaker Application, _____, 2009, which is hereby incorporated by reference. The form may be obtained from the following website: <http://elderaffairs.state.fl.us/english/ruleforms/CCE-001.doc>.

(3) STANDARDS FOR BID PROTEST.

(a) In a protest to the notice of award, the following shall apply:

1. No submissions made after the bid or proposal opening that amend or supplement the bid or proposal shall be considered.

2. The burden of proof shall rest with the party protesting the proposed AAA intent to award.

(b) In a protest, the decisionmaker must conduct a de novo proceeding to determine whether the AAA's proposed action is contrary to its governing statutes or rules, or to the solicitation specifications. The standard of proof for the protestor must be whether the AAA's action was clearly erroneous, contrary to competition, arbitrary or capricious.

(4) PROTESTING PARTY PROCEDURES.

(a) Any party who is substantially affected by the AAA's intended decision to award a contract for lead agency must file a written notice of protest with the AAA within 72 hours after the posting of the notice of award, excluding weekends and state holidays. A substantially affected party is any party who bid on the AAA's request for proposal for designation as a lead agency.

(b) A formal written protest must be filed within 10 calendar days after the date the notice of protest is filed, unless the 10th day falls on a weekend or state holiday, in which case the deadline shall be the next business day.

(c) The formal written protest must state, with particularity, the facts and law upon which the protest is based.

(d) Failure to file a notice of protest or failure to file a formal written protest shall constitute a waiver of proceedings.

(e) If any substantially affected party, decides to participate in the protest proceedings, that party must give notice within 3 business days of the posting of the initial notice of protest by the AAA.

(5) PROCEDURES FOR BID PROTEST.

Upon receipt of a timely filed notice of protest, the AAA must take the following steps:

(a) Stop the contract award process until the subject of the protest is resolved by final action as required by Section 430.03(9)(a)2., F.S.

(b) Immediately post the notice of protest in the same manner as the notice of intended award was posted.

(c) Select an impartial decisionmaker as required by Section 430.203(9)(a), F.S., from the registry referenced in subsection (2) of this rule.

1. The decisionmaker must be randomly selected.

2. The AAA must immediately provide the protesting party with the name of the appointed impartial decisionmaker.

3. If the protesting party has an objection to the selected decisionmaker, the protesting party must raise the objection in writing with the AAA within 48 hours, excluding weekends and state holidays, or the objection is deemed to be waived. However, if any party or the decisionmaker later discovers that the decisionmaker has a conflict of interest, the party may raise that objection in writing to the AAA within 48 hours of acquiring knowledge of the conflict, excluding weekends and state holidays, or the objection is deemed to be waived.

4. Upon receipt of a timely objection, the AAA must randomly select another decisionmaker.

(d) Provide an opportunity to resolve the protest by mutual agreement between the parties within 7 days, excluding weekends and state holidays. If the subject of a protest is not resolved by mutual agreement within the time frame set forth in this paragraph, a proceeding must be conducted as set forth in subsection (6) of this rule.

(6) DISPUTE RESOLUTION.

(a) If the protest is not resolved pursuant to paragraph (5)(d) of this rule, the impartial decisionmaker must commence a hearing within 30 calendar days after the AAA receives the formal written protest, unless the 30th day falls on a weekend or state holiday, in which case the deadline shall be the next business day. The provisions of this subsection may be waived only upon stipulation by all parties.

(b) In addition to the provisions included in Section 430.203(9)(a)3., F.S., which outline the rights of all substantially affected parties, the following procedures shall apply:

1. In any bid protest, the service of discovery may begin immediately upon filing of the formal written protest. Responses shall be due within 5 business days of receipt, not counting the day of receipt of any discovery requirement.

a. All discovery must be concluded at least 48 hours prior to the scheduled hearing date.

b. All discovery requests must be commenced in a manner that allows discovery to be concluded at least 48 hours prior to the scheduled hearing.

2. The decisionmaker shall have the authority to issue subpoenas.

3. All depositions must have at least 3 business days notice.

4. If a party fails to comply with the discovery rules provided herein, the decisionmaker must exclude such evidence from the hearing, unless just cause is shown as specified in subparagraph (d)1. of this subsection.

5. Should any party be prejudiced by another party's failure to provide discovery, the decisionmaker may continue the hearing for a period not to exceed 5 business days. The non-complying party must comply with the requested discovery within 48 hours after the decision to continue the hearing.

(c) The decisionmaker must render a written decision within 30 calendar days after the hearing if no transcript of the proceedings is requested, or within 30 days after receipt of the hearing transcript by the decisionmaker. If the 30th day falls on a weekend or state holiday, the deadline shall be the next business day. The provisions of this paragraph may be waived only upon stipulation by all parties.

1. The written decision must include findings of fact and conclusions of law. Based on these findings and conclusions, the decisionmaker may affirm or reject the AAA's intended award.

2. If the decisionmaker rejects the AAA's intended award, the AAA must award the designation of lead agency to the next highest scoring party.

3. If the decisionmaker finds that the procurement was flawed only by scoring errors, the AAA must correct such errors.

4. If the decisionmaker finds that the entire procurement was fundamentally flawed and that no intent to award is appropriate, the AAA must reject all bids and begin the procurement process again.

(d) The decisionmaker must permit all parties the opportunity to submit findings of fact, conclusions of law, draft orders and memoranda on the issues within a time designated by the decisionmaker.

(e) A default must be entered against a party who:

1. Fails to appear at a hearing as directed by the decisionmaker, unless at least one of the following conditions exists:

a. Illness of a party, witness or attorney that would prevent attendance at the hearing;

b. An act of God that would prevent attendance at the hearing.

c. A designated threat to public safety that would prevent attendance at the hearing; or

d. Any other circumstance in the opinion of the decisionmaker that would warrant a continuance of the hearing.

2. Fails to comply with discovery after being granted a continuance as provided in subparagraph (b)5. of this subsection.

(f) An entry of default against a party is deemed the final decision of the decisionmaker and is not subject to the provision of subsection (7) of this rule.

(7) REVIEW OF DECISION.

(a) Pursuant to Section 430.203(9)(a), F.S. in the event a party requests a review of the decision by the decisionmaker, the party must utilize one of the entities referenced in subparagraphs 1. and 2. of this paragraph for this review:

1. An arbitrator with the American Arbitration Association. The arbitrator must have experience with government contracts. Contact information for the association is American Arbitration Association, Bank of America Tower at International Place, 100 S.E. 2nd Street, Suite 2300, Miami, FL 33131, telephone number (305)358-7712.

2. A circuit court civil mediator certified by the Florida Supreme Court, who has experience with government contracts. Contact information for the Florida Supreme Court Dispute Resolution Center is http://199.242.69.70/pls/drc/drc_main_screen.

(b) This action must be taken within 10 calendar days after the date of the decision from the decisionmaker.

(c) The review shall not be a de novo proceeding, but only a review of the decision based on the record from the hearing.

(d) The written decision of the reviewer must be made within 30 calendar days after the request for review, unless the 30th day falls on a weekend or state holiday, in which case the deadline shall be the next business day. The decision shall be binding upon all parties.

Rulemaking Authority 430.203(9)(a) FS. Law Implemented 430.203(9)(a) FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Crochet

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E. Douglas Beach, Ph.D., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009

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

DEPARTMENT OF ELDER AFFAIRS

Long-Term Care Ombudsman Program

RULE NOS.:	RULE TITLES:
58L-1.001	Confidentiality and Disclosure
58L-1.0011	Definitions
58L-1.005	Access
58L-1.006	Conflict of Interest
58L-1.007	Complaint Procedures

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to clarify language; incorporate conflict of interest language into this rule chapter, which is currently included in Rule Chapter 58L-2, F.A.C.; and develop two new rules for definitions and complaint procedures, including a complaint investigation form incorporated by reference.

SUMMARY: The proposed rule amendments and new rules address confidentiality and disclosure of information, access to information, conflict of interest, definitions and complaint procedures, including a complaint investigation form incorporated by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: This proposed rule will not have an impact on small employers as defined in Section 288.703, F.S.; therefore a statement of estimated regulatory costs has not been prepared. This proposed rule will not have an impact on small cities or counties as defined in Section 120.52, F.S.; therefore a statement of estimated regulatory costs has not been 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: 400.0070, 400.0071, 400.0077(5), 400.0081(2) FS.

LAW IMPLEMENTED: 400.0070, 400.0071, 400.0073, 400.0075, 400.0077, 400.0081 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: November 10, 2009, 2:00 p.m. – 3:30 p.m. EST

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conference Room 301, Tallahassee, Florida 32399-7000

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; telephone: (850)414-2000; Email address: crochetj@elderaffairs.org

THE TEXT OF THE PROPOSED RULE IS ALSO AVAILABLE ON THE WEBSITE LISTED BELOW, ALONG WITH THE COMPLAINT INVESTIGATION FORM INCORPORATED BY REFERENCE (DOEA FORM LTCOP-001), UNDER THE HEADING ENTITLED “LONG-TERM CARE OMBUDSMAN PROGRAM, RULE CHAPTER 58L-1, F.A.C. <http://elderaffairs.state.fl.us/english/rulemaking.php>

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 58L-1.001 follows. See Florida Administrative Code for present text.)

58L-1.001 Confidentiality and Disclosure.

(1) APPLICABILITY.

The confidentiality and disclosure of information requirement applies to the complaint files maintained by the entities below, which are established under Chapter 400, Part I, F.S.:

(a) Staff members of the Office of the State Long-Term Care Ombudsman;

(b) Members of the State Long-Term Care Ombudsman Council; and

(c) Members of the district long-term care ombudsman councils.

(2) REQUIREMENTS.

(a) Individuals specified in subsection (1) of this rule must follow the requirements in this subsection regarding the confidentiality and disclosure of information involving complaint files in the performance of their duties:

1. Section 400.0077, F.S.; and

2. Title VII, Chapter 2, of the Older Americans Act of 1965, as amended in 2006, 42 U.S.C., Section 3058g(d).

(b) Complaint case files cannot be released by the program until the case is closed as defined in Rule 58L-1.0011, F.A.C.

Rulemaking Specific Authority 400.0077(5) FS. Law Implemented 400.0077 FS. History--New 7-25-95, Amended _____.

58L-1.0011 Definitions:

In addition to the terms defined in Chapter 400, Part I, F.S., the following terms are defined in this rule chapter:

(1) COMPLAINT INVESTIGATION DEFINITIONS.

(a) CASE: Each inquiry brought to, or initiated by, the ombudsman on behalf of a resident, or group of residents, involving one or more complaints, which requires opening a case and includes ombudsman investigation, strategy to resolve and follow-up.

(b) CASE CLOSED: A case where none of the complaints within the case require any further action on the part of the ombudsman and every complaint has been assigned the appropriate disposition code. For purposes of this rule, each complaint must be reviewed and approved by the long-term care district ombudsman manager, or designee, before it meets this definition.

(c) COMPLAINT: A concern brought to, or initiated by, the ombudsman for investigation and action by, or on behalf, of one or more residents of a long-term care facility relating to health, safety, welfare or rights of a resident. One or more complaints constitute a case.

(d) COMPLAINANT: An individual or a party who files one or more complaints made by, or on behalf of, residents with the ombudsman program.

(2) COMPLAINT INVESTIGATION DISPOSITION CODES.

(a) NO ACTION NEEDED: The complaint/problem required no action.

(b) NOT RESOLVED: The complaint/problem was not addressed to the satisfaction of the resident or complainant.

(c) PARTIALLY RESOLVED: The complaint/problem has been addressed to some degree to the satisfaction of the resident or complainant, but not completely.

(d) REFFERED, AGENCY DID NOT SUBSTANTIATE: The complaint/problem was referred to an agency having jurisdiction over the complaint/problem, but the complaint/problem was not substantiated.

(e) REFERRED, AGENCY FAILED TO ACT: The complaint/problem was referred to an agency having jurisdiction over the complaint/problem, but the agency failed to act.

(f) REFFERED, NO REPORT: The complaint/problem was referred to an agency having jurisdiction over the complaint/problem, but no report of final outcome by the agency was obtained.

(g) REQUIRES GOVERNMENT POLICY, REGULATORY OR LEGISLATIVE CHANGE TO RESOLVE: The complaint/ problem may be resolved only by governmental order or enactment of changes in law, regulation or policy.

(h) RESOLVED: The complaint/problem was addressed to the satisfaction of the resident or complainant.

(i) WITHDRAWN: The complaint was withdrawn by the complainant or resident, the case was discontinued at the option of the ombudsman, or the resident or complainant died before final disposition of the complaint investigation.

(3) COMPLAINT INVESTIGATION VERIFICATION CODES.

(a) NOT VERIFIED: It is determined after work (interviews, record inspection, and observation, etc.) that the circumstances described in the complaint are not accurate.

(b) VERIFIED: It is determined after work (interviews, record inspection, and observation, etc.) that the circumstances described in the complaint are accurate.

(4) CONFLICT OF INTEREST DEFINITIONS.

(a) CONFLICT OF INTEREST: A conflict of interest is a competing interest, obligation or duty which compromises, influences, interferes with (or gives the appearance of compromising, influencing or interfering with) the integrity, the activities or the conduct of the program's representatives, including the State Long-Term Care Ombudsman, in faithfully and effectively fulfilling his or her official duties. Types of conflicts include:

1. Conflicts of loyalty, which involve issues of judgment and objectivity, including, but not limited to, financial incentives that shape an individual's judgment or behavior in such a way that is contrary to residents' interests.

2. Conflicts of commitment, which involve issues of time and attention that direct an individual's time and attention away from the residents' interests.

3. Conflicts of control, which involve issues of independence, including limitations or restrictions that effectively prevent an individual's ability to advocate for residents' interests.

(b) IMMEDIATE FAMILY: Father, mother, husband, wife, son, daughter, brother, sister, or any other individual residing in the household.

(c) INDIRECT REMUNERATION: Receiving remuneration from a company providing a service to a long-term care facility, such as a consulting pharmacist.

(d) LONG-TERM CARE SERVICES: Services provided by a long-term care facility, home health agency, adult day care center, hospice, intermediate care facility, home for special services or transitional living facility as those terms are defined in Chapters 400 and 429, F.S. Long-term care services also include services provided to residents by non-immediate family members who are geriatric care managers, guardians or representative payees.

(3) OTHER DEFINITIONS:

(a) DISTRICT: A geographic area in which the ombudsman program is administered and services are delivered.

(b) DOM: Abbreviation for the Long-Term Care Program's district ombudsman manager.

(c) PROGRAM: The Office of the State Long-Term Care Ombudsman, its representatives and employees, the State Long-Term Care Ombudsman Council, and the district long-term care ombudsman councils as established in Chapter 400, Part I, F.S.

Rulemaking Authority 400.0070, 400.0071 FS. Law Implemented 400.0070, 400.0071, 400.0073, 400.0075 FS. History--New _____.

(Substantial rewording of Rule 58L-1.005 follows. See Florida Administrative Code for present text.)

58L-1.005 Access.

(1) Long-term care facilities must follow the provisions below regarding an ombudsman's access to the facility, residents and records:

(a) Section 400.0081, F.S.; and

(b) Title VII, Chapter 2, of the Older Americans Act of 1965, as amended in 2006, 42 U.S.C. § 3058g(b).

(2) Upon entering a long-term care facility, the ombudsman must identify himself or herself to the administrator or designee prior to conducting any ombudsman activities.

(3) In the event that a facility should deny an ombudsman access as outlined in subsection (1) of this rule, the ombudsman must report the incident to the DOM. The DOM must contact the Office of the Long-Term Care Ombudsman.

Rulemaking Specific Authority 400.0081(2) FS. Law Implemented 400.0081 FS. History--New 7-31-95, Formerly 58L-3.001, Amended _____.

58L-1.006 Conflict of Interest.

(1) PROHIBITIONS.

(a) In addition to the conflict of interest prohibitions set forth in Section 400.0070(1), F.S., and Title VII, Chapter 2 of the Older Americans Act of 1965, as amended in 2006, 42 U.S.C. § 3058g(f), the following situations constitute prohibited conflicts of interest involving an ombudsman; an ombudsman's immediate family member; an officer, employee

or representative of the Office of State Long-Term Care Ombudsman or of the state or district long-term care ombudsman councils:

1. Having, or an immediate family member having, an ownership or investment interest, represented by equity, debt or other financial relationship, in a long-term care facility or long-term care service as defined in Rule 58L-1.0011, F.A.C.:

2. Providing, or having an immediate family member providing, long-term care services, including the provision of personnel for long-term care facilities or the operation of programs which control access to, or services for, long-term care facilities;

3. Participating, or having an immediate family member participating, in the management of a long-term care facility or serving as the medical director of a long-term care facility;

4. Being involved, or having an immediate family member involved, in the regulation of a long-term care facility or provision of a long-term care service to a facility or its residents;

5. Receiving, or having an immediate family member receiving, direct or indirect remuneration under a compensation arrangement with an owner or operator of a long-term care facility;

6. Accepting, or having an immediate family member accepting, substantial or consequential gifts or gratuities from a long-term care facility, facility owner, administrator, resident or resident's representative;

7. Performing ombudsman duties in a facility in which an immediate family member resides;

8. Standing to gain financially through an action or potential action brought on behalf of residents by ombudsman services;

9. Participating in activities which compromise the ability of the Long-Term Care Ombudsman Program to serve residents or are likely to create an appearance that the Long-Term Care Ombudsman Program's primary interest is other than as a resident advocate.

(b) Past employment in a long-term care facility or being related to a long-term care facility resident shall not, in an of itself, be construed as an impermissible conflict of interest.

(2) PROCEDURES.

(a) Upon approval, employment or affiliation with the program, each appointee, officer, employee or representative shall sign and date a conflict of interest statement that includes the following:

1. Acknowledgement that the individual has reviewed Title VII, Chapter 2, of the Older Americans Act of 1965, as amended in 2006, 42 U.S.C., Section 3058g(f), Section 400.0070(1), F.S., and this rule;

2. Acknowledgement that the individual understands the prohibitions contained in subsection (1) of this rule; and

3. A statement that the individual has no conflict of interest as defined in this rule.

(b) All acknowledgements referenced in this subsection must be submitted to the Office of the State Long-Term Care Ombudsman at the following address: Department of Elder Affairs, Office of the State Long-Term Care Ombudsman, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. The Office of the State Long-Term Care Ombudsman must keep the statements on file.

(c) The State Long-Term Care Ombudsman shall receive and review all allegations of conflict of interest and, if appropriate, shall request that the individual remove the conflict of interest.

(d) If the individual does not remove the conflict of interest, the State Long-Term Care Ombudsman shall de-designate the representative from performing any authorized ombudsman duty or responsibility, or shall terminate for cause any such employee.

(e) Deliberate failure to disclose any conflict of interest, or the violation of any prohibition set forth in this rule, shall be considered sufficient grounds for de-designating the representative from performing any authorized ombudsman duty or responsibility, or terminating for cause such an employee.

Rulemaking Authority 400.0070 FS. Law Implemented 400.0070 FS. History—New _____.

58L-1.007 Complaint Procedures.

This rule outlines the procedures for receiving and conducting complaint investigations on behalf of residents in long-term care facilities.

(1) RECEIVING COMPLAINTS.

(a) Any person may make a written or verbal complaint to the Office of State Long-Term Care Ombudsman or its representatives. A complaint may be anonymous.

(b) The receipt of a complaint by the DOM, or designee, triggers the opening of a case as defined in Rule 58L-1.0011, F.A.C.

1. The DOM, or designee, must code complaints based on the requirements of the National Ombudsman Reporting System published by the U.S. Department of Health and Human Services, Administration on Aging.

2. The DOM, or designee, must complete and provide DOEA Form LTCOP-001 to the ombudsman conducting the investigation. DOEA Form LTCOP-001, Case Investigation, 2009, is hereby incorporated by reference and available from the Department of Elder Affairs, Office of the State Long-Term Care Ombudsman, 4040 Esplanade Way, Tallahassee, Florida 32399-7000. The form may also be obtained at the following Web site: <http://elderaffairs.state.fl.us/english/ruleform/LTCOP-001.doc>.

(2) INVESTIGATIVE PROTOCOL.

(a) An investigation is initiated when an ombudsman makes contact with the complainant or resident. The investigation must be initiated no later than 7 calendar days after the district ombudsman manager receives the complaint.

(b) To the extent possible, the ombudsman must make every effort to visit the resident, or representative or immediate family member on whose behalf the complaint was filed. If unable to do so, the ombudsman must document the reason why he or she was unable to visit the resident, or representative or immediate family member.

(c) The complaint investigation must focus on the rights, health, safety and welfare of the resident or residents and may include direct observation, interviews with residents and other individuals, and record reviews, as permitted in 42 U.S.C., Section 3058g(b), and Section 400.0081, F.S.

(d) Investigations must be closed within 90 calendar days after receiving the complaint unless additional time is requested by the ombudsman and granted by the DOM, or designee. The DOM, or designee, may grant an extension of the 90-calendar day period when the ombudsman is unable to complete the investigation due to circumstances beyond his or her control. Such circumstances may be:

1. The investigation is undergoing legal or administrative proceedings;

2. One of the parties is ill and cannot participate in the investigation;

3. There is an act of God or a designated threat to public safety that warrants an extension; or

4. Any other circumstance that warrants an extension in the opinion of the DOM, or designee.

(e) At the conclusion of a case investigation, the ombudsman must:

1. Complete DOEA Form LTCOP-0001, using disposition codes referenced in subparagraph (1)(b)1. of this rule.

2. Contact the resident, or representative, to inform him or her of the preliminary disposition, pending the review and final approval of the DOM, or designee, pursuant to paragraph (f) of this subsection.

3. Conduct an exit interview with the facility administrator, or designee, to discuss preliminary complaint findings, if any; agree upon preliminary remedial action to be taken, if any; agree upon preliminary target dates for the remedial action to be corrected, if warranted; and provide an opportunity for the administrator, or designee, to submit written comments within 3 calendar days after the exit interview in order to be part of the complaint record.

4. Inform the administrator, or designee, that an official report of the findings will be submitted after review and final approval by the DOM, or designee, pursuant to paragraph (f) of this subsection.

5. Submit the complaint investigation form and documentation to the DOM, or designee, within 14 calendar days after the exit interview.

(f) The DOM, or designee, must review and approve the complaint investigation.

1. Within 14 calendar days after case closure as defined in Rule 58L-1.0011, F.A.C., the DOM, or designee, must submit a written summary of the case disposition to the resident or representative, and the facility. The summary must include any changes to the preliminary agreed upon complaint findings, remedial actions to be taken and target dates.

2. The facility may submit written comments regarding the summary to the DOM, or designee, within 7 calendar days from the date on the summary letter in order to be considered as part of the complaint record.

Rulemaking Authority 400.0071 FS. Law Implemented 400.0071, 400.0073, 400.0075 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Jim Crochet
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E. Douglas Beach, Ph.D., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 28, 2009

**DEPARTMENT OF ELDER AFFAIRS
Long-Term Care Ombudsman Program**

RULE NOS.:	RULE TITLES:
58L-2.001	Definitions
58L-2.003	Purpose
58L-2.005	Prohibitions
58L-2.007	Procedures

PURPOSE AND EFFECT: The purpose of the proposed repeal of the rules under this rule chapter, regarding conflict of interest for individuals participating in the ombudsman program, is to incorporate the language under Rule Chapter 58L-1, F.A.C., Long-Term Care Ombudsman Program, F.A.C. The effect is to consolidate all ombudsman rules under one rule chapter.

SUMMARY: These rules are being repealed, as conflict of interest language is included in Rule Chapter 58L-1, F.A.C., Long-Term Care Ombudsman Program, F.A.C., under Rule 58L-1.006, F.A.C., Conflict of Interest.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule repeal will not have an impact on small business as defined in Section 288.703, F.S. It will also not have an impact on small cities or counties as defined in Section 120.52, F.S. Therefore a statement of estimated regulatory costs has not been 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: 400.0065, 400.0067, 400.0069, 400.0087, 400.0087 FS.

LAW IMPLEMENTED: 400.0065, 400.0067, 400.0069, 400.0087, 400.0091 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: November 10, 2009, 2:00 p.m. – 3:30 p.m. EST

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conference Room 301, Tallahassee, Florida 32399-7000

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 72 hours before the workshop/meeting by contacting: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; telephone (850)414-2113; Email address: crocethj@elderaffairs.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; telephone (850)414-2113; Email address: crocethj@elderaffairs.org

THE FULL TEXT OF THE PROPOSED RULES IS:

58L-2.001 Definitions.

Rulemaking Specific Authority 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(1)(a), (3), 400.0067(4), 400.0069(4), (10), 400.0087(1), (3) FS. History—New 6-27-94, Amended 10-20-03, Repealed _____.

58L-2.003 Purpose.

Rulemaking Specific Authority 400.0087(3) FS. Law Implemented 400.0065(3), 400.0067(5), 400.0069(10), 400.0087(1), (3) FS. History—New 6-27-94, Repealed _____.

58L-2.005 Prohibitions.

Rulemaking Specific Authority 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1), (3) FS. Law Implemented 400.0065(3), 400.0067(4), 400.0069(4), (10), 400.0087(1), (3) FS. History—New 6-27-94, Amended 10-20-03, Repealed _____.

58L-2.007 Procedures.

Rulemaking Specific Authority 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1), 400.0091 FS. History–New 6-27-94, Amended 10-20-03, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Crochet
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E. Douglas Beach, Ph.D., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers’ Board

RULE NO.: 61G3-21.009
RULE TITLE: Citations

PURPOSE AND EFFECT: The proposed rule amendment implements penalties for failure to comply with this rule.

SUMMARY: The proposed rule amendment implements penalties for failure to comply with this rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared. The Board has determined that barbers, restricted barbers, and barber assistants will likely be impacted by the rule amendment. If a licensee does not comply with the rule amendment after receiving a Notice of Non-Compliance, a case opened against the licensee, and it is referred to the Department of Business and Professional Regulations, General Counsel’s Office for prosecution. If the licensee is found again to be Non-Complaint, a citation will be issued, pursuant to this 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: 455.224, 476.064(4), 476.204(2), 477.0265 FS.

LAW IMPLEMENTED: 455.224, 477.0265 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, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G3-21.009 Citations.
(1) through (3)(i) No change.

(j) Failure to laminates and display current license or picture on license, in violation of Rule 61G3-19.009, F.A.C., shall result in a fine of \$50 for the first offense, and a fine of \$100 for each subsequent offense;

(k) through (7) No change.

Rulemaking Specific Authority 455.224, 476.064(4), 476.204(2), 477.0265 FS. Law Implemented 455.224, 477.0265 FS. History–New 1-19-92, Amended 3-22-92, 2-18-93, Formerly 21C-21.009, Amended 6-16-94, 9-22-94, 8-21-95, 2-14-96, 11-6-97, 5-13-01, 9-20-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Barbers’ Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Barbers’ Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 3, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 3, 2008

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 NO.: 62-204.800
RULE TITLE: Federal Regulations Adopted by Reference

PURPOSE, EFFECT AND SUMMARY: The proposed rule amendments update, through June 30, 2009 the department’s adoption-by-reference of air pollution regulations promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR Parts 50, 51, 52, 53, 58, 60, 63, 65, 75, and 89.

RULEMAKING AUTHORITY: 403.8055 FS.

LAW IMPLEMENTED: 403.061, 403.087, 403.8055 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 403.8055, F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Ms. Patricia E. Comer, Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Blvd., MS 35, Tallahassee, Florida 32399-3000

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 RULE IS:

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) Title 40, Code of Federal Regulations, Part 50, National Primary and Secondary Ambient Air Quality Standards.

(a) The provisions of 40 C.F.R. Part 50, §§ 50.1 through 50.12, revised as of July 1, 2006; amended November 12, 2008, at 73 FR 66963, § 50.13, promulgated October 17, 2006, at 71 FR 61143; § 50.14, promulgated March 22, 2007, at 72 FR 13559; amended May 22, 2007, at 72 FR 28612; amended October 6, 2008, at 73 FR 58042; amended November 12, 2008, at 73 FR 66963; amended May 19, 2009, at 74 FR 23307; and § 50.15 promulgated, March 27, 2008, at 73 FR 16435; and § 50.16, promulgated November 12, 2008, at 73 FR 66963; are adopted and incorporated by reference.

(b) The following appendices of 40 C.F.R. Part 50, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. through 6. No change.

7. 40 C.F.R. Part 50, Appendix G, Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air; amended November 12, 2008, at 73 FR 66963.

8. through 15. No change.

16. 40 C.F.R. Part 50, Appendix Q, Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected From Ambient Air, promulgated November 12, 2008, at 73 FR 66963.

17. 40 C.F.R. Part 50, Appendix R, Interpretation of the National Ambient Air Quality Standards for Lead, promulgated November 12, 2008, at 73 FR 66963.

(2) Title 40, Code of Federal Regulations, Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

(a) The following subparts of 40 C.F.R. Part 51, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 51, Subpart F, Procedural Requirements; amended January 18, 2007, at 72 FR 2193, amended July 16, 2007, at 72 FR 38787; amended March 24, 2008, at 73 FR 15603; amended January 21, 2009, at 74 FR 3437; amended June 23, 2009, at 74 FR 29595.

2. through 5. No change.

(b) No change.

(3) Title 40, Code of Federal Regulations, Part 52, Approval and Promulgation of Implementation Plans. The following subparts of 40 C.F.R. Part 52, revised as of July 1, 2003, or later as specifically indicated, are adopted and incorporated by reference:

(a) No change.

(b) 40 C.F.R. Part 52, Subpart K, Florida, amended July 22, 2003, at 68 FR 43312; amended August 11, 2003, at 68 FR 47468; amended February 13, 2004, at 69 FR 7127; amended March 29, 2004, at 69 FR 16167; amended June 17, 2004, at 69 FR 33860; amended April 28, 2006, at 71 FR 25327; amended November 28, 2006, at 71 FR 68743; amended October 12, 2007, at 72 FR 58016; amended September 16, 2008, at 73 FR 53378; amended June 1, 2009, at 74 FR 26103.

(4) Title 40, Code of Federal Regulations, Part 53, Ambient Air Monitoring Reference and Equivalent Methods.

The following subparts of 40 C.F.R. Part 53, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

(a) through (b) No change.

(c) 40 C.F.R. Part 53, Subpart C, Procedures for Determining Comparability Between Candidate Methods and Reference Methods; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963.

(d) through (f) No change.

(5) No change.

(6) Title 40, Code of Federal Regulations, Part 58, Ambient Air Quality Surveillance.

(a) The following subparts of 40 C.F.R. Part 58, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. No change.

2. 40 C.F.R. Part 58, Subpart B, Monitoring Network, amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963.

3. No change.

4. 40 C.F.R. Part 58, Subpart D, Comparability of Ambient Data to NAAQS; amended October 17, 2006, at 71 FR 61235; amended November 12, 2008, at 73 FR 66963.

5. through 6. No change.

(b) The following appendices of 40 C.F.R. Part 58, revised as of July 1, 2006, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 58, Appendix A, Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963.

2. 40 C.F.R. Part 58, Appendix C, Ambient Air Quality Monitoring Methodology; amended October 17, 2006, at 71 FR 61235; amended November 12, 2008, at 73 FR 66963.

3. 40 C.F.R. Part 58, Appendix D, Network Design Criteria for Ambient Air Quality Monitoring; amended October 17, 2006, at 71 FR 61235; amended June 12, 2007, at 72 FR 32193; amended November 12, 2008, at 73 FR 66963.

4. No change.

5. 40 C.F.R. Part 58, Appendix G, Uniform Air Quality Index (AQI) and Daily Reporting; amended March 27, 2008, at 73 FR 16435; amended June 26, 2009, at 74 FR 30469.

(7) No change.

(8) Title 40, Code of Federal Regulations, Part 60, Standards of Performance for New Stationary Sources.

(a) No change.

(b) Standards Adopted. The following Standards of Performance for New Stationary Sources contained in 40 C.F.R. Part 60, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 60, Subpart D, Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971; amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071.

2. 40 C.F.R. Part 60, Subpart Da, Electric Utility Steam Generators for Which Construction Is Commenced After September 18, 1978; amended August 14, 2001, at 66 FR 42608; amended May 18, 2005, at 70 FR 28605; amended August 30, 2005, at 70 FR 51266; amended February 27, 2006, at 71 FR 9865; amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.47a.

3. 40 C.F.R. Part 60, Subpart Db, Industrial-Commercial-Institutional Steam Generating Units; amended August 14, 2001, at 66 FR 42608; amended October 1, 2001, at 66 FR 49830; amended February 27, 2006, at 71 FR 9865; amended November 16, 2006, at 71 FR 66681; amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.44b(f) and (g) and 40 C.F.R. § 60.49b(a)(4).

4. 40 C.F.R. Part 60, Subpart Dc, Small Industrial-Commercial-Institutional Steam Generating Units; amended February 27, 2006, at 71 FR 9865; amended June 13, 2007, at 72 FR 32709; amended January 28, 2009, at 74 FR 5071; except that the Secretary is not the Administrator for the purposes of 40 C.F.R. § 60.48c(a)(4).

5. through 12. No change.

13. 40 C.F.R. Part 60, Subpart J, Petroleum Refineries; amended June 24, 2008, at 73 FR 35837; except that the Secretary is not the Administrator for the purposes of 40 C.F.R. § 60.109(b).

14. 40 C.F.R. Part 60, Subpart Ja, Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007; promulgated June 24, 2008, at 73 FR 35837; amended December 22, 2008, at 73 FR 78549; except that the Secretary is not the Administrator for the purposes of 40 C.F.R. § 60.109a(b).

14. through 65. renumbered 15. through 66. No change.

~~67.66.~~ 40 C.F.R. Part 60, Subpart OOO, Nonmetallic Mineral Processing Plants; amended April 28, 2009, at 74 FR 19293.

67. through 79. renumbered 68. through 80. No change.

~~81.80.~~ 40 C.F.R. Part 60, Subpart KKKK, Standards for Stationary Combustion Turbines; promulgated July 6, 2006, at 71 FR 38481; amended March 20, 2009, at 74 FR 11858.

(c) No change.

(d) General Provisions Adopted. The general provisions of 40 C.F.R. Part 60, Subpart A, revised as of July 1, 2001; amended August 27, 2001, at 66 FR 44978; amended July 8, 2004, at 69 FR 41346; amended May 18, 2005, at 70 FR 28605; amended December 16, 2005, at 70 FR 74869; amended June 1, 2006, at 71 FR 31100; amended July 6, 2006, at 71 FR 38481; amended July 11, 2006, at 71 FR 39153; amended May 16, 2007, at 72 FR 27437; amended June 13, 2007, at 72 FR 32709; amended November 16, 2007, at 72 FR 64859; amended January 18, 2008, at 73 FR 3567; amended June 24, 2008, at 73 FR 35837; amended December 22, 2008, at 73 FR 78199; amended January 28, 2009, at 74 FR 5071; are adopted and incorporated by reference except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 60.4, 40 C.F.R. § 60.8(b)(2) and (3), 40 C.F.R. § 60.11(e)(7) and (8), 40 C.F.R. § 60.13(g), (i) and (j)(2), and 40 C.F.R. § 60.16.

(e) Appendices Adopted. The following appendices of 40 C.F.R. Part 60, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. No change.

2. 40 C.F.R. Part 60, Appendix A-2, Test Methods 2G through 3C; amended May 15, 2006, at 71 FR 28081; amended May 22, 2008, at 73 FR 29691; amended May 29, 2009, at 74 FR 25666.

3. No change.

4. 40 C.F.R. Part 60, Appendix A-4, Test Methods 6 through 10B; amended May 15, 2006, at 71 FR 28081; amended May 22, 2008, at 73 FR 29691; amended May 29, 2009, at 74 FR 25666.

5. through 6. No change.

7. 40 C.F.R. Part 60, Appendix A-7, Test Methods 19 through 25E; amended May 15, 2006, at 71 FR 28081; amended September 21, 2006, at 71 FR 55119; amended May 22, 2008, at 73 FR 29691; amended March 25, 2009, at 74 FR 12575; except that in Method 23, the toluene rinse concentrate

may be added to the acetone and methylene chloride concentrate, the filter, and the resin in the Soxhlet apparatus specified at section 5.1.4 of the method prior to analysis, in lieu of separate analysis of the toluene rinse extract pursuant to section 5.1.6 of the method.

8. No change.

9. 40 C.F.R. Part 60, Appendix B, Performance Specifications, amended January 12, 2004, at 69 FR 1785; amended May 18, 2005, at 70 FR 28605; amended September 21, 2006, at 71 FR 55119; amended June 13, 2007, at 72 FR 32709; amended September 7, 2007, at 72 FR 51493; amended March 25, 2009, at 74 FR 12575; amended April 23, 2009, at 74 FR 18474.

10. through 11. No change.

12. 40 C.F.R. Part 60, Appendix F, Quality Assurance Procedures, amended January 12, 2004, at 69 FR 1785; amended June 13, 2007, at 72 FR 32709; amended March 25, 2009, at 74 FR 12575.

(9) through (10) No change.

(11) Title 40, Code of Federal Regulations, Part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories.

(a) No change.

(b) Standards Adopted. The following National Emission Standards for Hazardous Air Pollutants contained in 40 C.F.R. Part 63, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. No change.

2. 40 C.F.R. Part 63, Subpart G, Organic Hazardous Air Pollutants From the Synthetic Organic Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater; amended June 23, 2003, at 68 FR 37333; amended December 23, 2004, at 69 FR 76859; amended April 20, 2006, at 71 FR 20445; amended December 21, 2006, at 71 FR 76603; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.153(c)(1) through (4).

3. 40 C.F.R. Part 63, Subpart H, Organic Hazardous Air Pollutants for Equipment Leaks; amended June 23, 2003, at 68 FR 37333; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.183(c)(1) through (4).

4. through 10. No change.

11. 40 C.F.R. Part 63, Subpart R, Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations); amended June 23, 2003, at 68 FR 37333; amended December 19, 2003, at 68 FR 70959; amended April 6, 2006, at 71 FR 17352; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.429(c)(1) through (4).

12. through 13. No change.

14. 40 C.F.R. Part 63, Subpart U, Group I Polymers and Resins; amended July 16, 2001, at 66 FR 36924; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.507(c)(1) through (4).

15. through 23. No change.

24. 40 C.F.R. Part 63, Subpart HH, Oil and Natural Gas Production Facilities; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended January 3, 2007, at 72 FR 26; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.776(c)(1) through (4).

25. through 43. No change.

44. 40 C.F.R. Part 63, Subpart GGG, Pharmaceuticals Production; amended April 2, 2002, at 67 FR 15486; amended June 23, 2003, at 68 FR 37333; amended May 13, 2005, at 70 FR 25665; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.1261(c)(1) through (4).

45. 40 C.F.R. Part 63, Subpart HHH, Natural Gas Transmission and Storage Facilities; amended September 27, 2001, at 66 FR 49299; amended February 22, 2002, at 67 FR 8202; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.1286(c)(1) through (4).

46. No change.

47. 40 C.F.R. Part 63, Subpart JJJ, Group IV Polymers and Resins; amended July 16, 2001, at 66 FR 36924; amended August 6, 2001, at 66 FR 40903; amended June 23, 2003, at 68 FR 37333; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.1336(c)(1) through (4).

48. through 56. No change.

57. 40 C.F.R. Part 63, Subpart VVV, Publicly Owned Treatment Works; amended October 21, 2002, at 67 FR 64741; amended June 23, 2003, at 68 FR 37333; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.1594(c)(1) through (4).

58. through 61. No change.

62. 40 C.F.R. Part 63, Subpart EEEE, Organic Liquids Distribution (Non-Gasoline); promulgated February 3, 2004, at 69 FR 5038; amended April 20, 2006, at 71 FR 20445; amended July 28, 2006, at 71 FR 42897; amended July 17, 2008, at 73 FR 40977; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.2402(b)(1) through (4).

63. 40 C.F.R. Part 63, Subpart FFFF, Miscellaneous Organic Chemical Manufacturing; promulgated November 10, 2003, at 68 FR 63851; amended July 1, 2005, at 70 FR 38553; amended August 30, 2005, at 70 FR 51269; amended March 1, 2006, at 71 FR 10439; amended April 20, 2006, at 71 FR 20445; amended July 14, 2006, at 71 FR 40315; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.2545(b)(1) through (4).

64. through 76. No change.

77. 40 C.F.R. Part 63, Subpart UUUU, Cellulose Products Manufacturing; promulgated June 11, 2002, at 67 FR 40043; amended June 24, 2005, at 70 FR 36523; amended August 10, 2005, at 70 FR 46683; amended April 20, 2006, at 71 FR 20445; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.5605(b)(1) through (4).

78. through 88. No change.

89. 40 C.F.R. Part 63, Subpart GGGGG, Site Remediation; promulgated October 8, 2003, at 68 FR 58171; amended April 20, 2006, at 71 FR 20445; amended November 29, 2006, at 71 FR 69011; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.7956(c)(1) through (4).

90. 40 C.F.R. Part 63, Subpart HHHHH, Miscellaneous Coating Manufacturing; promulgated December 11, 2003, at 68 FR 69163; amended December 29, 2003, at 68 FR 75033; amended May 13, 2005, at 70 FR 25675; amended July 6, 2005, at 70 FR 38780; amended December 21, 2005, at 70 FR 75923; amended April 20, 2006, at 71 FR 20445; amended October 4, 2006, at 71 FR 58499; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.8100(b)(1) through (4).

91. through 101. No change.

102. 40 C.F.R. Part 63, Subpart YYYYY, National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities; promulgated December 28, 2007, at 72 FR 74087; amended December 1, 2008, at 73 FR 72727; except that the Secretary is not the Administrator for purposes of 40 C.F.R. §§ 63.10691(c)(1) through (6).

103. through 116. No change.

(c) No change.

(d) General Subparts Adopted. The following general subparts of 40 C.F.R. Part 63, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. 40 C.F.R. Part 63, Subpart A, General Provisions; amended February 27, 2002, at 67 FR 9156; amended April 5, 2002, at 67 FR 16581; amended February 18, 2003, at 68 FR 7706; amended April 21, 2003, at 68 FR 19375; amended May 20, 2003, at 68 FR 27645; amended May 23, 2003, at 68 FR

28605; amended May 27, 2003, at 68 FR 28774; amended May 28, 2003, at 68 FR 31745; amended May 29, 2003, at 68 FR 32171; amended May 30, 2003, at 68 FR 32585; amended November 13, 2003, at 68 FR 64431; amended December 19, 2003, at 68 FR 70959; amended January 2, 2004, at 69 FR 129; amended February 3, 2004 at 69 FR 5038; amended April 19, 2004, at 69 FR 20967; amended April 22, 2004, at 69 FR 21905; amended April 26, 2004, at 69 FR 22601; amended June 15, 2004, at 69 FR 33473; amended July 30, 2004, at 69 FR 45943; amended April 15, 2005, at 70 FR 19991; amended May 20, 2005, at 70 FR 29399; amended October 12, 2005, at 70 FR 59401; amended April 20, 2006, at 71 FR 20445; amended December 6, 2006, at 71 FR 70651; amended January 3, 2007, at 72 FR 26; amended January 23, 2007, at 72 FR 2929; amended May 16, 2007, at 72 FR 27437; amended July 16, 2007, at 72 FR 38863; amended October 29, 2007, at 72 FR 61060; amended November 16, 2007, at 72 FR 64859; amended December 26, 2007, at 72 FR 73179; amended December 28, 2007, at 72 FR 74087; amended January 2, 2008, at 73 FR 225; amended January 18, 2008, at 73 FR 3567; amended February 7, 2008, at 73 FR 7210; amended December 22, 2008, at 73 FR 78199; except that the Secretary is not the Administrator for purposes of 40 C.F.R. § 63.5(e), 40 C.F.R. § 63.5(f), 40 C.F.R. § 63.6(g), 40 C.F.R. § 63.6(h)(9), 40 C.F.R. § 63.6(j), 40 C.F.R. § 63.13, and 40 C.F.R. § 63.14.

2. through 5. No change.

(e) Appendices Adopted. The following appendices of 40 C.F.R. Part 63, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference:

1. Appendix A, Test Methods; amended March 25, 2009, at 74 FR 12575; amended April 23, 2009, at 74 FR 18474.

2. through 5. No change.

(12) No change.

(13) Title 40, Code of Federal Regulations, Part 65, Consolidated Federal Air Rule. The following subparts of 40 C.F.R. Part 65, revised as of July 1, 2001, or later as specifically indicated, are adopted and incorporated by reference.

(a) 40 C.F.R. Part 65, Subpart A, General Provisions; amended April 20, 2006, at 71 FR 20445; amended August 27, 2007, at 72 FR 48938; amended December 28, 2007, at 72 FR 73625; amended December 22, 2008, at 73 FR 78199.

(b) through (g) No change.

(14) through (18) No change.

(19) Title 40, Code of Federal Regulations, Part 75, Continuous Emission Monitoring.

(a) The following subparts of 40 C.F.R. Part 75, revised as of July 1, 2005, or later as specifically indicated, are adopted and incorporated by reference:

1. through 5. No change.

6. 40 C.F.R. Part 75, Subpart F, Recordkeeping Requirements; amended January 24, 2008, at 73 FR 4311; amended September 7, 2007, at 72 FR 51493.

7. through 8. No change.

9. 40 C.F.R. Part 75, Subpart I, Hg Mass Emission Provisions; amended January 24, 2008, at 73 FR 4311; amended September 7, 2007, at 72 FR 51493.

(b) The following appendices of 40 C.F.R. Part 75, revised as of July 1, 2005, or later as specifically indicated, are adopted and incorporated by reference:

1. Appendix A, Specifications and Test Procedures; amended September 7, 2007, at 72 FR 51493; amended January 24, 2008, at 73 FR 4311; amended November 4, 2008, at 73 FR 65554.

2. Appendix B, Quality Assurance and Quality Control Procedures; amended September 7, 2007, at 72 FR 51493; amended January 24, 2008, at 73 FR 4311.

3. through 10. No change.

11. Appendix K, Quality Assurance and Operating Procedures for Sorbent Trap Monitoring Systems; amended September 7, 2007, at 72 FR 51493; amended January 24, 2008, at 73 FR 4311.

(20) through (24) No change.

(25) Title 40, Code of Federal Regulations, Part 89, Control of Emissions From New and In-Use Nonroad Compression-Ignition Engines. The following subparts of 40 C.F.R. Part 89, revised as of July 1, 2007, or later as specifically indicated, are adopted and incorporated by reference.

(a) 40 C.F.R. Part 89, Subpart A, General; amended February 24, 2009, at 74 FR 8309.

(b) No change.

(26) through (27) No change.

PROPOSED EFFECTIVE DATE NOVEMBER 18, 2009.

Rulemaking Specific Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.8055 FS. History—New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08; 11-18-09.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-602.720
 RULE TITLE: Inactive Status of License; Reactivation Procedures

PURPOSE AND EFFECT: Modifying existing rule language to align with that of Section 403.874, F.S.

SUMMARY: This rule makes minor changes to procedures for individuals with null and void licenses to reapply to the Department to reacquire their license.

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: 403.869 FS.

LAW IMPLEMENTED: 403.874 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: November 9, 2009, 9:00 a.m.

PLACE: Room 609 of Department of Environmental Protection Bob Martinez Center, 2600 Blair Stone Rd., Tallahassee, FL

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: Mr. Ronald McCulley, Bureau of Water Facilities Funding, MS 3506, Department of Environmental Protection, 2600 Blair Stone Rd., Tallahassee, Florida 32399-2400; (850)245-8384 or email Ronald.mcculley@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mr. Ronald McCulley, Bureau of Water Facilities Funding, MS 3506, Department of Environmental Protection, 2600 Blair Stone Rd., Tallahassee, Florida 32399-2400; (850)245-8384 or email: Ronald.mcculley@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-602.720 Inactive Status of License; Reactivation Procedures.

(1) through (3) No change.

(4) The license of an inactive licensee that does not achieve active status within two years following the end of the most recent licensing period shall be expired (null and void), and subsequent licensure will require meeting all the requirements for the type, and class or level of license sought initial licensure at or below the class or level which he/she was licensed.

Specific Authority 403.869 FS. Law Implemented 403.1832, 403.8533, 403.874 FS. History—New 12-30-99, Amended 10-15-07,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mimi Drew
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Michael W. Sole
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: September 29, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: October 9, 2009

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-606.100	Scope, Intent, Purpose, and Applicability
62-606.200	Definitions
62-606.300	General Requirements
62-606.400	Registration and Verification Requirements and Fees
62-606.500	Notification of Releases into Coastal Waters
62-606.600	Waterfront-landing Facilities

PURPOSE AND EFFECT: The purpose of this chapter is to implement the provisions of Section 376.25, F.S., requiring registration and reporting for gambling vessels and their berth locations.

SUMMARY: This chapter implements Section 376.25, F.S., requiring certain gambling vessels to register with the Department and to report any releases of waste into Florida coastal waters. Chapter 62-606, F.A.C., also requires owners of berths that are registered by gambling vessels to provide certain waste services.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Three entities are identified as likely to be affected by Chapter 62-606, F.A.C.: (1) gambling vessels (their owners or operators); (2) waterfront landing facilities and berth locations (deepwater ports and marinas); and (3) the Department. The Department estimates that the major cost associated with Chapter 62-606, F.A.C., is the annual fees paid by the gambling vessels. This is estimated at \$75,000 for the entire fleet. The aggregate fees to the gambling vessel fleet will be prorated per vessel based on each individual vessel's "Total Persons Allowed" (maximum number of passengers and crew permitted onboard at one time, as reported by the U.S. Coast Guard).

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: 376.25 FS.

LAW IMPLEMENTED: 376.25 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: November 12, 2009, 10:00 a.m. – 5:00 p.m. (local time)

PLACE: Florida Department of Environmental Protection, Room 609, 2600 Blair Stone Road, Tallahassee, FL 32399-2400

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: Gregory M. Brown, P.E., Florida Department of Environmental Protection, Division of Water Res. Mgmt., Water Reuse/Wastewater Wetlands, MS 3540/Room 196 G, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, Voice: (850)245-8617, Fax: (850)245-8621, greg.brown@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory M. Brown, P.E., Florida Department of Environmental Protection, Division of Water Res. Mgmt., Water Reuse/Wastewater Wetlands, MS 3540/Room 196 G, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, Voice: (850)245-8617, Fax: (850)245-8621, greg.brown@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-606.100 Scope, Purpose, and Applicability.

(1) The purpose of this chapter is to implement the provisions of Section 376.25, F.S. This section requires certain gambling vessels to register with the Department and to report to the Department any release of waste into Florida coastal waters. This section also requires owners of berths that are registered by gambling vessels to provide certain waste services and requires the Department to maintain on its website an estimate of the minimum waste-service demand for each berth.

(2) Applicability. Requirements in this chapter:

(a) Apply to gambling vessels as defined in Section 376.25(2)(e), F.S., and in subsection 62-606.200(4), F.A.C.;

(b) Apply to owners of waterfront-landing facilities that are registered by gambling vessels as a berth location;

(c) Are intended to supplement and not to conflict with federal law;

(d) Do not authorize violation of a valid NPDES permit governing releases from a gambling vessel. As used in this subparagraph, the term "NPDES permit" means an activity subject to regulation by the United States Environmental Protection Agency under s. 402 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq.; and

(e) Do not apply to cruise ships as defined in 33 CFR 101.105, hereby adopted and incorporated by reference.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History–New _____.

62-606.200 Definitions.

The meaning of any term not defined in Section 376.25(2), F.S., or below, shall be taken from definitions in other rules of the Department, unless the context clearly indicates otherwise.

(1) “Agent for Service of Process” means an individual resident of the State, a domestic corporation, or a foreign corporation having a place of business in and authorized to do business in the State.

(2) “Berth” means a site in the state where a gambling vessel, or other vessel used to transport passengers to or from a gambling vessel, moors to embark or disembark its passengers.

(3) “Designated representative” means an individual that has been duly designated by the owner or operator of a gambling vessel or by the owner of a waterfront landing facility, as applicable. The designated representative shall be an individual or a position having overall responsibility for the operation of the gambling vessel or the waterfront landing facility, as applicable, such as the position of captain, officer, administrator, manager, or a position of equivalent responsibility. An individual is a duly designated representative only if the authorization is made in writing by the owner or operator of the gambling vessel or by the owner of the waterfront landing facility, as applicable, and the written authorization is submitted to the Department.

(4) “Gambling vessel” means a boat, ship, casino boat, watercraft, or barge that is kept, operated, or maintained for the purpose of gambling and that carries or operates gambling devices for the use of its passengers or otherwise provides facilities for the purpose of gambling whether within or without the jurisdiction of this state; whether the vessel is at berth, lying to, or navigating; and whether the sailing, voyaging, or cruising, or any segment of the sailing, voyaging, or cruising, begins and ends within this state. The term does not include a cruise ship as defined in 33 CFR 101.105.

(5) “Minimum waste-service demand” means the volume of waste that is reasonably expected to be released at a waterfront-landing facility over a calendar year from gambling vessels with registered berths at the facility. For each facility that provides berths for registered gambling vessels, the Department shall estimate the facility’s minimum waste-service demand by considering the registered capacity of the gambling vessel’s systems for treating, holding, or disposing of waste and other information, including, but not limited to, other information provided during registration of the gambling vessel.

(6) “Oily bilge water” means liquid from the bilge of a gambling vessel which contains used lubrication oils, oil sludge and slops, fuel and oil sludge, used oil, used fuel and fuel filters, and other oily waste. Oily bilge water does not include routine discharges of raw water used for engine cooling.

(7) “Total persons allowed” means the value reported to the United States Coast Guard in either the gambling vessel’s current Certificate of Inspection for total persons allowed or Certificate of Compliance for maximum total allowable persons, as applicable. Total persons allowed refers to the total persons allowed on the vessel at any one time.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History—New _____.

62-606.300 General Requirements.

(1) The owner or operator of a gambling vessel registered under Rule 62-606.400, F.A.C., shall designate and continuously maintain an agent for service of process as required by Sections 376.25 and 607.0505, F.S.

(2) Hazardous waste will be managed in accordance with Chapter 62-730, F.A.C.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History—New _____.

62-606.400 Registration and Verification Requirements and Fees.

(1) For each calendar year in which the owner or operator of a gambling vessel intends to operate, or cause or allow to be operated, a gambling vessel in coastal waters, the owner or operator of the gambling vessel shall register with the Department, except as provided in subsection 62-606.400(2), F.A.C. The owner or operator shall register with the Department by submitting DEP Form 62-606.400(4)(a), Gambling Vessel Registration Form, effective date XX-XX-XXXX, hereby adopted and incorporated by reference, with the registration fee established in subsection 62-606.400(5), F.A.C. The form shall be submitted in accordance with the schedule provided in subsection 62-606.400(3), F.A.C.

(2) Any gambling vessel that annually verifies to the Department that the gambling vessel operates a marine waste treatment system that produces sterile, clear, and odorless reuse water without generating solid waste and that eliminates the need to pump out or dump wastes is exempt from registering in accordance with subsection 62-606.400(1), F.A.C. To verify the adequacy of the marine waste treatment system, the gambling vessel shall submit Form 62-606.400(4)(b), Verification of Marine Waste Treatment System, effective date XX-XX-XXXX, hereby adopted and incorporated by reference, to the Department. A marine waste treatment system shall be determined to meet the above criteria if it meets all primary and secondary drinking water standards in Chapter 62-550, F.A.C., and the following:

(a) The marine waste treatment system does not generate any solid waste as described in Chapter 62-730, F.A.C.;

(b) No waste is pumped out or dumped in Florida coastal waters or at waterfront landing facilities in Florida; and

(c) All hazardous waste is managed in accordance with Chapter 62-730, F.A.C.

(3) The annual forms and fees required by subsections 62-606.400(1) and (2), F.A.C., shall be submitted on or before December 1 of the year prior to the calendar year in which the owner intends to operate a gambling vessel except as provided below.

(a) For the calendar year beginning on January 1, 2009, the form and fees shall be submitted within 60 days after the effective date of this rule.

(b) For gambling vessels beginning operations in the state after the effective date of this rule, the forms and fees shall be submitted at least 30 days prior to the vessel entering coastal waters or within 60 days after the effective date of this rule, whichever is later.

(4) The forms used by the Department for vessel registration or verification of the vessel's marine waste treatment system are listed in paragraphs 62-606.400(4)(a) and (b), F.A.C. Copies of the forms and instructions may be obtained by writing to the Bureau of Water Facilities Regulation, Mail Station 3535, Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. These forms are also available at <http://www.dep.state.fl.us/legal/Forms/forms.htm>. The Department adopts and incorporates by reference in this section the following forms:

(a) Gambling Vessel Registration Form, Form 62-606.400(4)(a), effective XX-XX-XXXX.

(b) Verification of Marine Waste Treatment System Form 62-606.400(4)(b), effective XX-XX-XXXX.

(5) An annual registration fee shall be paid by each gambling vessel required to register in accordance with subsection 62-606.400(1), F.A.C. The annual fee for each gambling vessel shall be \$17.35 times the total persons allowed as defined in subsection 62-606.200(6), F.A.C. The registration fee shall be submitted with Form 62-606.400(4)(a).

(6) During the period that a registration is valid, the owner or operator of a registered gambling vessel shall advise the Department within 15 days of any change in the information provided in Form 62-606.400(4)(a), by submitting a revised form. No additional registration fee is required for revising an existing form.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History—New _____.

62-606.500 Notification of Releases into Coastal Waters.

(1) Except as provided in subsection 62-606.500(2), F.A.C., if a gambling vessel releases any waste into coastal waters, the owner or operator shall immediately, but no later than 24 hours after the release, notify the Department of the release. Notification shall be provided to the Department by

calling the STATE WARNING POINT TOLL FREE NUMBER (800)320-0519 and shall include the following information:

(a) Name/call sign of gambling vessel;

(b) Hull identification number;

(c) Name, address, and telephone number of person reporting.

(d) Name, address, and telephone number of owner or operator of the gambling vessel;

(e) Date of the release;

(f) Time of the release;

(g) Location of the release using a geographic coordinate system reporting latitude and longitude referenced to the World Geodetic System of 1984 (WGS 1984) datum;

(h) Volume of the release;

(i) Source and cause of the release; and

(j) Remedial actions taken to prevent future releases.

(2) Releases made for the purpose of securing the safety of the gambling vessel or saving life at sea, and if all reasonable precautions have been taken for the purpose of preventing or minimizing the release, shall be documented and reported to the STATE WARNING POINT TOLL FREE NUMBER (800)320-0519, within three (3) days following the release. Documentation shall include all items in paragraphs 62-606.500(1)(a) through (j), F.A.C.

(3) Gambling vessels required to report a release in accordance with subsection 62-606.500(1) or (2), F.A.C., shall submit a written report containing the information in paragraphs 62-606.500(1)(a) through (j), F.A.C., within three (3) days of the release. The report shall be submitted to the Bureau of Water Facilities Regulation, Mail Station 3535, Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History—New _____.

62-606.600 Waterfront-landing Facilities.

The owner of each waterfront-landing facility that is registered as a gambling vessel's berth location shall:

(1) Establish procedures for the release of waste from gambling vessels at the facility and, upon request, provide the procedures to the Department;

(2) Make available a waste-management service that has the capability, at minimum, of handling and disposing of the facility's minimum waste-service demand. Upon request, the waterfront-landing facility shall provide documentation to the Department of the level of waste-service demand available; and,

(3) Not collect fees that exceed the direct and indirect costs associated with making waste-management services available.

Rulemaking Authority 376.25 FS. Law Implemented 376.25 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mimi Drew
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 29, 2008

DEPARTMENT OF HEALTH

Board of Chiropractic

RULE NO.: 64B2-13.008
RULE TITLE: Retired Status License
PURPOSE AND EFFECT: The Board proposes the rule amendment in order to update the examination and delete the reference to Rule 64B2-11.001, F.A.C.

SUMMARY: The examination will be updated; the reference to Rule 64B2-11.001, F.A.C., will be deleted.

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: 456.036(10), 460.405 FS.

LAW IMPLEMENTED: 456.036(10) 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:

64B2-13.008 Retired Status License.

(1) No change.

(2) A retired status licensee may change to active status provided:

(a) The licensee must meet the continuing education requirements of Rules 64B2-13.004 and 64B2-13.0045, F.A.C., for each biennium the licensee was in retired status and pay all past renewal fees;

(b) If the license has been in retired status for more than 5 years, the licensee must take and pass the SPEC examination as set forth in ~~Rule 64B2-11.001, F.A.C.~~, and retake an approved laws and rules course as set forth in Rule 64B4-6.0045, F.A.C.

Rulemaking Specific Authority 456.036(10), 460.405 FS. Law Implemented 456.036(10) FS. History--New 2-6-06, Amended _____.

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: June 26, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2009

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.204
RULE TITLE: Licensure by Endorsement
PURPOSE AND EFFECT: The Board proposes the rule amendment to add new application and to clarify CE requirements.

SUMMARY: A new application will be incorporated into the rule; CE requirements will be clarified.

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: 456.033, 465.005, 465.0075 FS.

LAW IMPLEMENTED: 456.013(1), 456.033, 465.007, 465.0075, 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:

64B16-26.204 Licensure by Endorsement.

An applicant for licensure by endorsement must be at least 18 years of age and a recipient of a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education.

(1) All applications for licensure by endorsement shall be made on board approved form DH-MQA 100 effective September 2009, DOH/MQA/PH100 (Rev. 01/2009). ~~The instructions and application form, entitled Florida Pharmacist Licensure by Endorsement Application and Instructions (U.S. and Puerto Rico), which is hereby incorporated by reference, can be obtained from the Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254, or (850)488-0595 to request a form or download the form from the board's website at <http://www.doh.state.fl.us/mqa/pharmacy>. The application must~~ and shall be accompanied with a non-refundable endorsement application fee and initial licensure fee as set forth in Rules 64B16-26.1001 and 64B16-26.1002, F.A.C.

(2) The applicant must submit satisfactory proof that one of the following requirements has been met:

(a) Two (2) years of active practice, as defined in Section 465.0075(1)(c), F.S., within the immediately preceding five (5) years. If the applicant meets the requirements of this section, proof of completion of 30 hours of Florida Board of Pharmacy, ACPE, or other state board of pharmacy approved continuing education obtained in the two calendar years immediately preceding application, must also be submitted.

(b) Successful completion of an internship meeting the requirements of Section 465.007(1)(c), F.S., within the immediately preceding two (2) years.

(3) Completion of a Board approved course not less than 2 hours on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety. For applicants who apply within one year following receipt of their pharmacy degree, completed academic course work on medication errors will be accepted by the Board as an educational course under this section, provided such course work is no less than 2 contact hours and that it covers the study of root-cause analysis, error reduction and prevention, and patient safety as evidenced by a letter attesting to subject matter covered from the Dean of the University. The applicant must submit satisfactory proof of completion of the following: ~~A course of no less than two (2) hours on medication errors covering the subjects set forth in Rule 64B16 26.103, F.A.C. The course shall be completed no earlier than 12 months prior to application.~~

(4) through (8) No change.

Rulemaking Authority 456.033, 465.005, 465.0075 FS. Law Implemented 456.013(1), 456.033, 465.007, 465.0075, 465.022 FS. History—New 11-8-01, Amended 1-11-05, 2-18-08, 5-26-09,_____.

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 10, 2009

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

DEPARTMENT OF HEALTH

Council of Medical Physicists

RULE NO.: 64B23-2.001
RULE TITLE: Documentation for Licensure

PURPOSE AND EFFECT: To update, reorganize, and add questions to the licensure application in accordance with legislation passed during the 2009 Session.

SUMMARY: The application for licensure incorporated in the rule by reference is expanded to include additional questions related to certain felonies and for terminations for cause from Federal and state Medicaid and Medicare programs.

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: 456.004, 456.013, 483.901(6)(b) FS.

LAW IMPLEMENTED: 456.013, 483.901(6)(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: Vicki Grant, Executive Director, MQA, 4052 Bald Cypress Way, Bin #C85, Tallahassee, Florida 32399-3250

THE FULL TEXT OF THE PROPOSED RULE IS:

64B23-2.001 Documentation for Licensure.

Each applicant for licensure shall make application on incorporated by reference Form DH 1274 (effective 10/1/2009 ~~1/1/2009~~), Application for Licensure as a Medical Physicist, which is available from the department at www.FLHealthSource.com or by calling (850)245-4910. The following items must be submitted with each application:

(1) through (4) No change.

Rulemaking Authority 456.004, 456.013, 483.901(6)(b) FS. Law Implemented 456.013, 483.901(6)(b) FS. History—New 6-10-99, Amended 8-21-02, 5-10-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Vicki Grant
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 28, 2009

NAME OF PERSON ORIGINATING PROPOSED RULE:
Vicki Grant
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 28, 2009

DEPARTMENT OF HEALTH

Council of Medical Physicists

RULE NO.: 64B23-7.001
RULE TITLE: Application for Physicist-in-Training
PURPOSE AND EFFECT: To update, reorganize, and add questions to the licensure application in accordance with legislation passed during the 2009 Session.

SUMMARY: The application for licensure incorporated in the rule by reference is expanded to include additional questions related to certain felonies and for terminations for cause from Federal and state Medicaid and Medicare programs.

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: 483.901(6)(j) FS.

LAW IMPLEMENTED: 483.901(6)(j) 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: Vicki Grant, Executive Director, MQA, 4052 Bald Cypress Way, Bin #C85, Tallahassee, Florida 32399-3250

THE FULL TEXT OF THE PROPOSED RULE IS:

64B23-7.001 Application for Physicist-in-Training.

Each applicant for physicist-in-training must meet the following requirements:

(1) Each applicant for physicist-in-training must fill out incorporated by reference Form #DH 1279 (effective 10/1/2009 ~~4/1/2009~~), Application for Certification as a Medical Physicist-in-Training, which is available from the department at www.FLHealthSource.com or by calling (850)245-4910, and pay the fee specified in Rule 64B23-3.007, F.A.C.

(2) through (3) No change.

Rulemaking Authority 483.901(6)(j) FS. Law Implemented 483.901(6)(j) FS. History—New 6-10-99, Amended 5-10-09, _____.

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NOS.:	RULE TITLES:
12D-9.001	Taxpayer Rights in Value Adjustment Board Proceedings
12D-9.002	Informal Conference Procedures
12D-9.003	Definitions
12D-9.004	Composition of the Value Adjustment Board
12D-9.005	Duties of the Board
12D-9.006	Clerk of the Value Adjustment Board
12D-9.007	Role of the Clerk of the Value Adjustment Board
12D-9.008	Appointment of Legal Counsel to the Value Adjustment Board
12D-9.009	Role of Legal Counsel to the Board
12D-9.010	Appointment of Special Magistrates to the Value Adjustment Board
12D-9.011	Role of Special Magistrates to the Value Adjustment Board
12D-9.012	Training of Special Magistrates, Value Adjustment Board Members and Legal Counsel
12D-9.013	Organizational Meeting of the Value Adjustment Board
12D-9.014	Prehearing Checklist
12D-9.015	Petition; Form and Filing Fee
12D-9.016	Filing and Service
12D-9.017	Ex Parte Communication Prohibition
12D-9.018	Representation of the Taxpayer
12D-9.019	Scheduling and Notice of a Hearing
12D-9.020	Exchange of Evidence
12D-9.021	Withdrawn or Settled Petitions; Petitions Acknowledged as Correct
12D-9.022	Disqualification or Recusal of Special Magistrates or Board Members
12D-9.023	Hearings Before Board or Special Magistrates