

64D-3.018 Partner Notification.

(1) through (3) No change.

Specific Authority 381.0011(13), 381.003(2), 381.0031(5), 384.25(2), 384.33 FS. Law Implemented ~~454~~, 381.0011(4), 381.003(1)(c), 384.26 FS. History--New 7-5-87, Amended 2-7-90, 2-26-92, Formerly 10D-3.100.

64D-3.019 Blood Testing of Pregnant Women.

(1) through (3) No change.

(4) Physicians required by law to report births and stillbirths shall record on such report the date or approximate date a blood test for syphilis was made on the woman who bore the child ~~or state the reason for not making the test if none was made~~. In no case shall the result of the test be recorded on the birth certificate.

(5) through (6) No change.

(7) Form Availability – The form to be used to report results of a blood test for syphilis in a pregnant woman is the Florida Confidential Report of Sexually Transmitted Diseases, DH 720, 10/97. The form, incorporated by reference in this rule, will be furnished by the local county health department. ~~Form # DOH 552 Effective Date (Dec 88)~~

~~Title Serology Syphilis~~

~~Availability county public health units~~

Specific Authority 381.0011(13), 381.003(2), 384.33 FS. Law Implemented 381.0011(4), 381.003(1)(c), 384.25, 384.26, 458, 459, 464, 467 FS. History--New 7-5-87, Amended 2-26-92, Formerly 10D-3.101, ~~Amended~~.

64D-3.020 Enforcement and Penalties

(1) through (2) No change.

(a) through (d) No change.

(e) All amounts collected pursuant to this section shall be deposited in the ~~HRS~~ county public health department unit trust fund.

Specific Authority 381.0011, 381.003, 384.33, 384.34 FS. Law Implemented 381.0011, 384.33, 284.34 FS. History--New 7-5-87, Amended 5-20-96, Formerly 10D-3.102, ~~Amended~~.

Section II
Proposed Rules

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Schedule of Fees for Services	5C-24
RULE TITLES:	RULE NOS.:
Definitions	5C-24.001
General Requirements	5C-24.002
Official Certificate of Veterinary Inspection (OCV1)	5C-24.003

PURPOSE AND EFFECT: The purpose and effect of proposed rule 5C-24 is for the Department to partially recover the cost of printing and administrating Official Veterinary Certificates (Animal Health Certificates) required for the movement of animals both interstate and intrastate. The Department is required to provide these forms to the Industry and to receive copies and review for correctness to allow the free movement of animals.

SUMMARY: This rule implements the process for recovery of administrative costs associated with animal health certificates.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs has been prepared.

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.

SPECIFIC AUTHORITY: 585.002(4),(5), 585.145(2) FS.

LAW IMPLEMENTED: Chapter 94-339, Laws of Florida, 585.002(5), 585.145(2), 828.29(3)(b) 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:

TIME AND DATE: 9:00 a.m., May 28, 1999

PLACE: Department of Agriculture and Consumer Services, Conference Room, 407 S. Calhoun Street, Room 316, Tallahassee, Florida 32399-0800

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Joe W. Kight, Assistant Director, Division of Animal Industry, 407 S. Calhoun Street, Room 321, Tallahassee, Florida 32399-0800, (850)488-7079, Fax (850)487-3641

THE FULL TEXT OF THE PROPOSED RULES IS:

5C-24.001 Definitions.

(1) Accredited Veterinarian. A veterinarian licensed in the state of origin and approved by the Deputy Administrator, United States Department of Agriculture, Animal and Plant

Health Inspection Service, to perform certain functions of federal and cooperative state-federal programs in accordance with the provisions of 9 CFR 160-162 (1998).

(2) Cattle. Cattle shall include any bull, steer, ox, cow, heifer, calf, or any other bovine animal.

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

(4) Division. The Division of Animal Industry of the Florida Department of Agriculture and Consumer Services.

(5) Domestic Animal. Any equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, rhea or emu, or other domesticated beast or bird. The term "animal" shall include wild or game animals whenever necessary to effectively control or eradicate dangerous transmissible diseases or pests which threaten the agricultural interests of the state.

(6) Domesticated Fowl. Any member of the Class Aves that is propagated or maintained under control of a person for commercial, exhibition or breeding purposes, or as pets.

(7) Horses. Any horse, mule, ass, zebra or other Equidae.

(8) Licensed Veterinarian. Any veterinarian who has a current license with the Florida Board of Veterinary Medicine.

(9) Livestock. Any grazing animals, such as cattle, horses (equidae), sheep, swine, goats, cervidae and other hoofed animals and ratites which are raised for private use or commercial purposes.

(10) National Poultry Improvement Plan (NPIP). A cooperative state-federal-industry program for prevention and control of certain hatchery disseminated diseases and for improvement of poultry and poultry products as provided in 9 CFR 145 and 147 (1998).

(11) Official Certificate of Veterinary Inspection (OCVI). An official form provided by the Division to a licensed and accredited veterinarian for the purpose of certifying the identification, test requirements, and health of specific animals for movement, exhibition, and other designated purposes for the species of animal.

(12) Ratites. Ostriches, emus, and rheas.

(13) Materials: Title 9 CFR 161-162, 145, and 147 (1998) are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, DC 20402-9328.

Specific Authority 585.002(4) FS. Law Implemented 585.002(4) FS. History--New

5C-24.002 General Requirements.

(1) Forms Provided. The Division of Animal Industry, Department of Agriculture and Consumer Services will provide forms when required by statute or rule for certification of identification, required tests, and health as required for movement, exhibition, and other designated purposes for the species of animal.

(2) Request for Forms. The OCVI will be provided to licensed and accredited veterinarians only, unless otherwise provided in this rule. The forms may be obtained by written request to the Florida Department of Agriculture and Consumer Services, Health Form Request, Post Office Box 6710, Tallahassee, Florida 32314-6710. The form number and name, and the quantity of forms must be included in the written request.

(3) Fees for Forms. A fee will be charged for the forms as provided in the specific section of this rule. The fee must be submitted with the request for forms, as a check or money order made payable to the Florida Department of Agriculture and Consumer Services.

(4) Deposit of Fees. The fees collected shall be deposited in the Department's General Inspection Trust Fund.

Specific Authority 585.002(4)(5) FS. Law Implemented Chapter 94-339, Laws of Florida, 585.002(5), 828.29(3)(b) FS. History--New

5C-24.003 Official Certificate of Veterinary Inspection (OCVI).

(1) Horses.

(a) OCVI. The OCVI for horses is the Official Equine Certificate of Veterinary Inspection, DACS 09002 (SN 6001) (10/97).

(b) The fee for the OCVI, DACS 09002 (SN 6001) (10/97) is \$25 per book of 25.

(2) Livestock.

(a) The OCVI for cattle, goats, sheep, swine, cervidae, ratites, and other hoofed animals, excluding horses, is the Official Certificate of Veterinary Inspection, DACS 09001 (SN 6000) (1/98).

(b) The fee for the OCVI, DACS 09001 (SN 6000) (1/98) is \$25 per book of 25.

(3) Domesticated Fowl.

(a) OCVI. The OCVI for domesticated fowl originating from other than NPIP participating flocks, hatcheries or dealers is the Official Certificate of Veterinary Inspection, DACS 09001 (SN 6000) (1/98).

1. The OCVI, DACS 09001 (SN 6000) (1/98) will be provided to licensed and accredited veterinarians.

2. The fee for the OCVI, DACS 09001 (SN 6000) (1/98) is \$25 per book of 25.

(b) NPIP Participating Flocks, Hatcheries, and Dealers. The certification of health status for interstate shipment of flocks, hatcheries, and dealers participating in the NPIP is the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (8/95).

1. The Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (8/95) will be certified by a Division representative and provided to an NPIP participating flock, hatchery, or dealer.

2. The certification and processing fee for the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (8/95) is \$25 for 25 certified forms.

(c) Official Health Certificate Avian, DACS 09023 (8/95). The Official Health Certificate Avian, DACS 09023 (8/95) is the OCVI for NPIP participating flocks, hatcheries, and dealers which are required by the country or state of destination to provide an OCVI in addition to the Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (8/95).

1. The Official Health Certificate Avian, DACS 09023 (8/95) is certified by a Division veterinarian and is provided to the NPIP participating flock, hatchery or dealer.

2. The fee for the Official Health Certificate Avian, DACS 09023 (8/95) is \$35 per 100 certificates.

3. Special Certifications. The fee for individual OCVI including, but not limited to, certificates requiring individual identification numbers of domesticated fowl, vaccination status, or the Florida Department of Agriculture seal, is \$15.00 for each certificate.

(4) Dogs, Cats and Other Non-Livestock Species.

(a) OCVI for Interstate Movement. The OCVI for dogs, cats and other non-livestock species, including but not limited to zoo animals and domesticated non-native wildlife, is the Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and Other Non-livestock Species, DACS 09086 (SN 6002) (1/98).

(b) OCVI for Sale of Dog or Cat. The OCVI for Sale of Dog or Cat, DACS 09085 (SN 6003) (10/97) must accompany any dog or cat sold, or offered for sale, in the state of Florida.

(c) The fee for the OCVI, DACS 09085 (SN 6003) (10/97) or DACS 09086 (SN 6002) (10/97) is \$25 per package of 25.

(5) Forms. The Official Equine Certificate of Veterinary Inspection, DACS 09002 (SN 6001) (10/97); the Official Certificate of Veterinary Inspection, DACS 09001 (SN 6000) (1/98); the Official Certificate of Veterinary Inspection for Interstate Movement of Dogs, Cats, and Other Non-Livestock Species, DACS 09085 (SN 6002) (1/98); the Official Certificate of Veterinary Inspection for Sale of Dog or Cat, DACS 09086 (SN 6003) (10/97); and the Official Health Certificate Avian, DACS 09023 (8/95) are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 South Calhoun Street, Room 323, Mayo Building, Tallahassee, Florida 32399-0800. The Report of Sales of Hatching Eggs, Chicks, and Poults, VS Form 9-3 (8/95) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, DC 20402-9328.

Specific Authority 585.002(4),(5), 585.003, 585.08(2)(a), 585.11(1), 585.15, 585.145(2),(3) FS. Law Implemented 585.002(3),(4),(5), 585.08(1),(2), 585.145(1),(2),(3), 585.155, 585.23, 585.50, 585.51, 585.02, 585.15, 585.53, 585.59, 585.68, 585.671, 828.29 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe W. Kight, Assistant Director, Division of Animal Industry, 407 S. Calhoun St., Rm. 321, Tallahassee, FL 32399-0800, (850)488-7079, FAX (850)487-3641

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Leroy M. Coffman, Dir., Division of Animal Industry, 407 S. Calhoun St., Rm. 330, Tallahassee, FL 32399-0800, (850)488-7747, FAX (850)922-8969

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLE: Security Claims

RULE NO.: 5J-13.004

PURPOSE AND EFFECT: The purpose and effect of this rule change is to define procedures to be utilized when processing consumer claims against a pawnbroker's security.

SUMMARY: This rule adopts procedures for processing consumer claims in relation to the Florida Pawnbroking Act.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Rule implementation costs are zero.

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.

SPECIFIC AUTHORITY: 539.001(22), 570.07(23) FS.

LAW IMPLEMENTED: 539.001(4)(a)2. 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:

TIME AND DATE: 10:00 a.m., May 31, 1999

PLACE: Department of Agriculture and Consumer Services, Conference Room, City Centre Building, 227 N. Bronough Street, Suite 7200, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James R. Kelly, Director, Division of Consumer Services, Mayo Building, Room 235, Tallahassee, Florida 32399-0800, Phone (850)922-2966

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-13.004 Security Claims.

For purposes of s. 539.001(4), F.S., relating to the processing of consumer claims against a pawnbroker's security, the Department shall utilize the following procedures:

(1) Any person claiming to be injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of any provision of s. 539.001, F.S., by any pawnbroker may enter a complaint against the pawnbroker to the Department.

(2) Upon the filing of such complaint, the Department shall investigate the matters complained of. If, in the opinion of the Department, the facts contained in the complaint warrant such action, the Department shall send to the pawnbroker in question, by certified mail, notice of the filing of the complaint. Such notice shall inform the pawnbroker to respond in writing to the Department that the allegations in the complaint are admitted or denied or that the complaint has been satisfied. Such notice shall also inform the pawnbroker that the Department intends to make a demand for payment of the security proceeds to the Department if the complaint is not satisfied, and that the pawnbroker has a right to a hearing to contest the security demand in accordance with Chapter 120, F.S.

(3)(a) If the pawnbroker admits the allegations of the complaint, but fails to satisfy the complaint or request a hearing to contest the allegations, the Department shall thereupon order payment to the complainant of the amount owed from the proceeds of any security.

(b) If the pawnbroker denies the allegations of the complaint, but fails to request a hearing to contest the allegations, the Department shall thereupon order payment to the complainant of the amount owed from the proceeds of the pawnbroker's security.

(c) If the pawnbroker requests a hearing to contest the allegations of the complaint, the Department shall process said request in accordance with Chapter 120, F.S.

(4) Upon adjudication of any claims by the Department, the Department shall proceed to pay the adjudicated claims from the proceeds of the pawnbroker's security. In the event the amount of all adjudicated claims exceeds the amount of the security proceeds, the Department shall pay the adjudicated claims on a pro rata basis until the amount of the security proceeds is exhausted. Upon the adjudication by the Department of any subsequent claims, the Department shall proceed to pay those adjudicated claims on a pro rata basis to the extent any security proceeds are available.

(5) In calculating the amount to award in each claim, the Department shall consider the amount financed in the original pawn transaction or any extension thereof, and the extent to which any portion of the amount financed has been repaid by the complainant.

Specific Authority 539.001(22), 570.07(23) FS. Law Implemented 539.001(4)(a)2, FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lisa Velez-Davis, Regulatory Program Administrator,
Division of Consumer Services, Second Floor, Mayo Building,
Tallahassee, Florida 32399-0800, Phone (850)922-2966

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, 235 Mayo Building, Tallahassee, Florida 32399-0800, Phone (850)922-2966

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 15, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE TITLE: Fish and Fishery Products
RULE NO.: 5K-4.010

PURPOSE AND EFFECT: The rule amendment updates the current fish and fishery and blue crab standards, amends the temperature standards for fish and fishery products.

SUMMARY: This rule amendment addresses the safe and sanitary cooking, holding, processing and handling of fish and fishery products, crustacea including blue crab and blue crab food.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 500.09, 500.12(1)(d), 570.07(23) FS.

LAW IMPLEMENTED: 500.03, 500.04, 500.09, 500.10, 500.11, 500.12, 500.13 FS.

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

TIME AND DATE: 10:00 a.m., June 8, 1999

PLACE: Florida Department of Agriculture and Consumer Services, Conner Complex, George Eyster Auditorium, 3125 Conner Boulevard, Tallahassee, FL, Telephone (850)488-3951

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. H. Wayne Derstine, Environmental Administrator, Bureau of Food and Meat Inspection, 3125 Conner Blvd., Tallahassee, FL 32399-1650, Telephone (850)488-3951

THE FULL TEXT OF THE PROPOSED RULE IS:

5K-4.010 Fish and Fishery Products.

(1) through (2) No change.

(3) PROCESSING.

(a)6. All steps in the processing of fish after cleaning or sanitizing shall be done under such conditions that the flesh of the fish is 41 degrees Fahrenheit ~~40° F~~ or below.

(4) No change.

(5) CRUSTACEA INCLUDING BLUE CRAB.

(a) General – This subsection provides requirements for the handling and processing of fish and fishery products which are crustacea, and are in addition to other requirements established in Chapter 500, F.S., the HACCP requirements incorporated by reference in 5K-4.002, F.A.C., the provisions of 5K-4.004, F.A.C., General Requirements for the Manufacturing, Processing, Packing, Holding, and Retailing of Foods, and the other sections of this chapter.

(b)(a) Definitions. –

1. Approved – acceptable to the department following a determination as to conformance with appropriate standards and good public health practices.

2. Blue Crab – for the purposes of this section means the genus and species of crab known as Callinectes sapidus, either picked, peeled, or in the shell and any edible product thereof.

3. Blue crabmeat – any cooked or processed edible substance, used or intended for use in whole or in part for human consumption, derived from the blue crab.

4. Blue crabmeat Processing Establishment – any food establishment in which blue crabmeat is processed or otherwise prepared, packaged, and stored for human consumption.

5. Crustacea – is that class of arthropod which includes, but is not limited to, crabs, lobsters and shrimp.

6. HACCP (Hazard Analysis Critical Control Point) – a preventive food safety program used to protect the food supply against biological, chemical, and physical hazards.

7. Potentially Hazardous Food – a perishable food capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

8. Safe Temperatures – temperatures of forty-one degrees Fahrenheit (41° F) or below and one hundred-forty degrees Fahrenheit (140° F) or above as applied to blue crabmeat.

(c)(b) Crustacea establishment plant operations.

1. Cooking – All crustacea including stone crab claws except the common blue crab (members of the genus Callinectes and genus Portunus) may be cooked by steaming or in boiling water. Only live blue crab may be cooked and such blue crab shall be cooked by such methods that the crab will be sterile when cooking is completed. No cooking operations will be permitted outside the food establishment plant.

2. Retorts, when used, shall be so designed to completely vent all dead air and drain dry. Horizontal roll-in type retorts shall have sufficient steam inlets and exhaust outlets to insure thorough steam distribution and exhaust. Retorts shall be equipped with accurate thermometers and pressure gauges located to give true readings. Exhaust steam shall be carried away from cooking rooms by pipes, fans or other means to prevent condensation, odors and heat in cooking rooms.

b. Metal racks shall be provided for storage of cooked blue crab. Minimum clearance between basket and floor to be eighteen (18) inches. Direct contact with contaminated surface by baskets of cooked blue crab is prohibited.

2. Backing and washing – Where operation is not carried on at a picking table, a unit of approved design shall be provided. Spray nozzles used for rinsing waste out of backed blue crab crustacea shall be smooth and easily cleaned. Backed blue crab shall be washed only under running water and placed in containers of approved design. Containers of cooked, washed blue crab shall not be exposed to additional splash or other contamination.

3. Holding – Food products from crustacea are of animal origin and are potentially hazardous food. Except during preparation, cooking or cooling, all products intended for use as food shall be maintained at safe temperatures. Dismembered bodies if held longer than one (1) hour before picking shall be kept under refrigeration. Cooked product shall be cooled by placing under refrigeration to reach a temperature of 41° F or less within six (6) hours. The practice of cooling blue crab overnight at room temperature is prohibited.

4. Picking – No picker shall accumulate more than three (3) pounds of picked meat, or keep longer than 30 minutes, before same is weighed, sealed and refrigerated. After each three (3) pounds of meat is picked, pickers shall wash, rinse and sanitize hands, knife, block, pan or other device used to pick meat before resuming operations.

5. Packing – Blue crab shall be packed directly into the container from which it is to be sold except where prior approval has been given by the department for use of containers larger than one (1) pound. Such approval will be granted in writing only after thorough examination of the intended packing process.

6. Separate rooms – A Blue Crab plant picking and packing operation shall be separated from cooking, backing and washing operations by solid partition walls. Screened partition or screened doors between such rooms are prohibited.

7. Cooling – Refrigeration equipment used for blue crab and blue crab products shall be maintained within a temperature range of thirty two degrees Fahrenheit (32° F) and forty degrees Fahrenheit (40° F). Containers of fresh picked meat shall be placed in crushed ice immediately after weighing and sealing. Ice shall be from approved source and of satisfactory bacteriological quality, kept free from contamination, stored and handled in a sanitary manner. Ice crushers and ice receiving boxes shall be of impervious construction and shall be protected from foot traffic and flooding.

8. Blue crab standards.

~~a. Bacteriological standards for fresh cooked blue crab— Fresh cooked blue crab meat offered or held for sale shall meet current production and market bacteriological criteria recommended by the Federal Food and Drug Administration.~~

~~b. No fresh blue crab meat from sources outside the state shall be brought into the state for purpose of resale or public distribution unless product bears evidence of certification from its state or nation of origin based on requirements comparable to the provisions of this rule.~~

(d) Blue crabmeat processing operations. In addition to requirements for crustacea establishment operations, the following regulations pertain to cooking, handling and other processing of blue crabmeat.

1. Equipment and facility requirements – The following equipment and facilities shall be provided where applicable to the operations conducted:

a. Conveniently located refrigeration and freezer facilities of capacity adequate to maintain all blue crabmeat at forty-one degrees Fahrenheit (41^o F) or below and all frozen foods at zero degrees Fahrenheit (0^o F) or below shall be available. Where temperature requirements must be met, blue crabmeat storage facilities shall be provided with controls which insure the maintenance of such temperatures. Each facility used for the storage of blue crabmeat shall be provided with an indicating thermometer accurate to plus or minus two degrees Fahrenheit ($\pm 2^{\circ}$ F) located in the warmest part of the facility and of such type and so situated that the temperature can be easily and readily observed.

b. Installation of equipment – Machinery and equipment intended for connection to the water supply or sewer system shall be installed in accordance with Sec. 553.06, F.S.

c. All blue crabmeat processing wastes shall be disposed of in a manner to prevent the development of unsanitary conditions on the premises of the food establishment.

2. General Operations.

a. Packaging materials – All cans, bottles, cartons, containers and other product packaging materials shall be stored in clean dry rooms or areas completely separate from blue crabmeat preparation and processing operations. Such materials shall be protected from dust, flies, rodents and other vermin, toxic materials, unnecessary handling, flooding by sewage, overhead leakage and all other sources of contamination.

b. Housekeeping – The blue crabmeat processing plant and its premises shall be kept neat, clean and free of litter and rubbish. All facilities, food machinery, equipment and utensils shall be cleaned within two (2) hours following cessation of daily operation. Cleaning operations shall be conducted in such a manner as to minimize contamination of blue crabmeat and blue crabmeat-contact surfaces. Unused equipment and articles not necessary for plant operation shall not be stored in

preparation or processing areas. Soiled clothes, aprons, coats and other uniform apparel shall be kept in suitable containers until removed for laundering.

3. Blue crab cooking operations.

a. Blue crab shall be cooked only by pressure steam methods. Pressures, temperature and time of cooking shall be such that blue crab will be sterile when cooking is complete.

b. Capacity of boiler and size of steam supply lines shall be adequate to insure delivery of sufficient steam to the retort to maintain adequate pressure throughout the cooking period. Steam shall be of adequate pressure and volume to expel all air from the retort and maintain adequate pressure and temperature to achieve sterility.

c. Retorts shall be so designed to completely vent all dead air and drain dry. Horizontal roll-in type retorts shall have sufficient steam inlets and exhaust outlets to insure thorough steam distribution and exhaust. Retorts shall be equipped with accurate thermometers and pressure gauges located to give true readings. Exhaust steam shall be carried away from cooking room by pipes, fans or other means to prevent condensation, odors and heat in cooking rooms.

d. Metal racks shall be provided for storage of cooked blue crab. Minimum clearance between basket and floor shall be six (6) inches. Direct contact with any contaminated surface by baskets of cooked blue crab is prohibited.

4. Requirements for handling of blue crab and blue crabmeat.

a. Backing and washing – Where operation is not carried on at a picking table, a unit of approved design shall be provided. Spray nozzles used for rinsing waste out of backed blue crab shall be smooth and easily cleaned. Backed blue crab shall be washed only under running water and placed in containers of approved design. Containers of cooked, washed blue crab shall not be exposed to additional splash or other contamination.

b. Holding – Dismembered bodies if held longer than one (1) hour before picking shall be kept under refrigeration. The practice of cooling blue crab overnight at room temperature is prohibited.

c. Picking – Only blue crabs alive at the time of cooking shall be picked for crabmeat. Cooked blue crabs or blue crabmeat shall not be left out of refrigeration for more than 2 hours. After each 2 hour period each picker shall wash, rinse, and sanitize hands, knife, block, work surface, pan, or other device used to pick blue crabmeat, and table or work surfaces which blue crabmeat may contact before resuming operations. The use of individual hand dip bowls is prohibited.

d. Packing –

1. Blue crabmeat shall be packed directly into the 1lb or smaller container from which it is to be sold. Blue crabmeat containers shall be promptly sealed upon filling and weighing, or

2. Blue crabmeat shall be picked into a reusable 1 lb container and upon filling the container the crabmeat shall be promptly transferred to the sale container and placed in the cooler on ice. The reusable container shall be washed, rinsed, and sanitized prior to the start of picking and before each subsequent fill. When the sale container is filled it shall be promptly labeled, weighed and sealed.

e. Separate rooms – Raw blue crab and finished blue crabmeat products shall be stored in separate rooms in order to prevent cross contamination of the finished product. Blue crab picking and packing operations shall be separated from cooking operations by solid partition walls. Screened partition or screened doors between such rooms are prohibited.

f. Cooling – Refrigeration equipment used for blue crabmeat shall be maintained at forty-one degrees Fahrenheit (41^o F) or below. Sealed containers of picked blue crabmeat shall be placed in crushed ice immediately after weighing and sealing. Ice shall be from an approved source and of satisfactory microbiological quality, kept free from contamination, and stored and handled in a sanitary manner. Ice crushers and ice receiving boxes shall be of impervious construction and shall be protected from foot traffic and flooding. No ice, water, or other foreign substance shall be allowed in direct contact with cooked blue crab or blue crabmeat during refrigeration or at any other time.

g. Miscellaneous – Packing cans and lids for daily use shall be kept in elevated compartments conveniently located in picking room. Tubs, buckets, and baskets shall be stored on an impervious rack elevated from the floor. Blue crab picking knives and breaking blocks shall be of one (1) piece construction. Aprons shall be water repellent material. Gloves shall be washable or of waterproof material.

5. Bacteriological standards for unpasteurized blue crabmeat offered for sale.

a. Escherichia coli MPN less than fifty (50) per one hundred (100) grams and coliform MPN less than ten thousand (10,000) per one hundred (100) grams.

b. Standard plate count of less than one hundred thousand (100,000) per gram.

c. Coagulase positive staphylococcus count to be less than one hundred (100) per gram.

(e) Pasteurization of blue crabmeat.

1. Pasteurization process controls

a. Recording and Indicating Thermometers. Both a recording and an indicating thermometer shall be provided on all pasteurization equipment. The sensor portion of each thermometer shall be positioned to give the coolest temperature in the vat during the pasteurization cycle. During one pasteurization cycle per day, the equipment operator shall check the temperature shown by the recording thermometer against the temperature shown by the indicating thermometer. The comparison shall be noted on the recording thermometer

chart or entered into the automated record. The recording thermometer shall not read higher than the indicating thermometer.

b. Recording/indicating thermometer range shall be 120^o F to 220^o F (48.8^o C to 104.4^o C) with accuracy of $\pm 2^{\circ}$ F (1^o C). Accuracy of both thermometers shall be verified at the beginning of the blue crab season and at least every 3 months thereafter.

c. Recording Thermometer Timer Accuracy. The accuracy of the recorded lapsed time shall be verified at the beginning of the blue crab season and at least every 3 months thereafter.

2. Records – Pasteurization time/temperature recordings may be kept on computer or kept on paper recording charts. Each pasteurization cycle or batch shall be recorded individually as a separate record and shall be retained on file for one year. The following information shall be kept on each pasteurization record:

a. Date of Processing.

b. Quantity of each batch processed (pounds or number and size of cans).

c. Time beginning and end of each pasteurization cycle.

d. Processor's code of each pack (Lot Number)

e. Packer's name, address, permit number (unless pasteurizers are processing blue crabmeat packed in their own plant).

f. Any power or mechanical failure (opening of recording thermometer case, etc).

g. Check of both indicating and recording thermometer readings at some period during at least one of the pasteurization cycles each day, and

h. Signature of pasteurizer operator. (Name may be entered if automated record).

3. Preparation for pasteurization.

a. Preparation – Blue crabmeat for pasteurization shall be prepared in compliance with this section. Repacking shall not be permitted.

b. Sealing of cans – The cans of blue crabmeat shall be sealed as they are brought to the delivery window. When blue crabmeat is being packed for pasteurization on other premises, a clip-on cover may be used prior to final sealing in the pasteurizing plant.

c. Refrigeration – The sealed cans of blue crabmeat shall be placed immediately under ice refrigeration or equivalent cooling method, and held at or below a temperature of forty-one degrees Fahrenheit (41^o F) until pasteurization.

4. Preparation and pasteurization by different processors - Blue crabmeat for pasteurization may be packed by one processor for pasteurization and sale by another, or be packed for sale by the initial processor but for pasteurization by another, provided the blue crabmeat is packed into the final can and sealed in conformance with subparagraph (e)3. Packing

may be done by one processor for another in cans furnished for that purpose by the latter. In all instances the products processed in this manner shall meet the labeling requirements of paragraph (f).

5. Pasteurization of blue crabmeat.

a. Pasteurizing operation – Blue crabmeat for pasteurization shall be pasteurized within 24 hours of the time it is packed. The minimum pasteurization specifications shall be the holding of the internal temperature of the can of blue crabmeat at one hundred eighty-five degrees Fahrenheit (185^oF) for at least one minute.

b. Chilling – The cans of blue crabmeat must be chilled adequately to allow refrigerated storage within one hour after processing.

c. Refrigeration – Refrigerated storage shall be provided for the chilled pasteurized blue crabmeat and shall maintain a storage temperature at or below forty-one degrees Fahrenheit (41^oF).

6. Bacteriological standards for pasteurized blue crabmeat.

a. Escherichia coli – There shall be no Escherichia coli present in pasteurized blue crabmeat.

b. Total bacteria count – The standard plate count shall not exceed 25,000 bacteria per gram of pasteurized blue crabmeat.

c. Adulterated product – The presence of Escherichia coli, or a total bacteria count in excess of 25,000 per gram, shall be construed as adulteration rendering the product unfit for human consumption.

(f) Blue crabmeat container identification and labeling.

1. Container identification.

a. All blue crabmeat containers shall be identified by a number consisting of the packer's food establishment firm number preceded by the state abbreviation and followed by the letter 'c' (e.g., FL123456c), which must be embossed, imprinted, lithographed or otherwise permanently recorded and readily visible on the body of container, or on the cover if cover becomes an integral part of container during the sealing process. Blue crabmeat packed for freezing shall show date or coded date of pack.

b. The transfer of cooked blue crabmeat from the identified container to another receptacle is prohibited. The refilling or re-use of identified containers with cooked blue crabmeat is prohibited.

c. No blue crabmeat from sources outside the state shall be brought into the state for purpose of sale or public distribution unless product bears evidence of certification from its state or nation of origin based on requirements comparable to the provisions of this chapter.

2. Labeling of blue crabmeat .

a. Label – Each blue crabmeat container shall bear a label stating as a minimum, the name of the product, net weight in pounds and/or ounces plus kilograms and/or grams in

parentheses, packer's name and address, ingredients, and batch and day of filling. The batch and date of filling may be designated in code, provided the packer maintains accurate records correlating to the code.

b. Refrigeration instructions – The statement, "Perishable – Keep Under Refrigeration" shall be prominently displayed on the label.

c. Designation of pasteurized product – When pasteurization has been used, the label shall clearly identify the contents of the can as pasteurized blue crabmeat. Whenever the term "Blue crabmeat" (or its equivalent) appears on the label, the word "pasteurized" shall be used in immediate conjunction in lettering of equal prominence. The batch and date of filling may be designated in code, provided the packer maintains accurate records correlating to the code.

3. Preparation and pasteurization by different processors – When preparation/packing and pasteurization of blue crabmeat by different processors is practiced, in conformance with subparagraph (e)4., container identification and labeling shall be as follows.

a. The container identification, as described in sub-subparagraph (f)1.a., shall include the pasteurizer's food establishment firm number, rather than that of the packer.

b. The label shall clearly identify the packer and the pasteurizer.

(6) SHELLFISH.

(f)6. Refrigeration – Shucked shellfish shall be cooled to an internal temperature of ~~forty-five (45)~~ ^{forty-one (41^o)} degrees Fahrenheit or less within two (2) hours after delivery to the packing room and stored at a temperature between thirty-two (32^o) degrees and ~~forty (40)~~ ^{forty-one (41^o)} degrees Fahrenheit until delivered to consumer. All freezers, refrigerators and coolers shall be equipped with accurate thermometers.

(f)8.a. Shucked shellfish intended for repacking-Shucked shellfish to be repacked shall be obtained from certified sources and received at the repacking plant in approved shipping containers at a temperature of not more that ~~forty (40)~~ ^{forty-one (41^o)} degrees Fahrenheit. Frozen shellfish which have thawed shall not be repacked or repackaged.

(f)8.b. Refrigeration during repacking-The temperature of the shellfish shall not exceed ~~forty (40)~~ ^{forty-one (41^o)} degrees Fahrenheit during the repacking process.

(7) No change.

Specific Authority 500.09, 500.12(1)(d), 570.07(23) FS. Law Implemented 500.03, 500.04, 500.09, 500.10, 500.11, 500.12, 500.13 FS. History—New 9-8-68, Revised 3-1-72, Repromulgated 12-31-74, Formerly 5E-6.10, Amended 6-9-93, 9-12-94, Formerly 5E-6.010, Amended 8-8-95, 9-9-96,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: H. Wayne Derstine, D.V.M., Environmental Administrator, Bureau of Food and Meat Inspection, 3125 Conner Boulevard, Tallahassee, FL 32399-1650

NAME OF PERSON OR SUPERVISOR WHO APPROVED THE PROPOSED RULE: Dr. Marion H. Fuller, Director, Division of Food Safety, 3125 Conner Boulevard, Tallahassee, FL 32399-1650

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 1999

DATE OF NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 5, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Repayment of Excellent Teaching Program Certification Fee
RULE NO.: 6A-10.060

PURPOSE AND EFFECT: The purpose and effect of this rule are to incorporate into rule provisions pursuant to Section 236.08106, Florida Statutes, for forgiveness and repayment of certification fees paid by the state of Florida to the National Board for Professional Teaching Standards on behalf of Florida Excellent Teaching Program participants.

SUMMARY: The content of the rule addresses the repayment of certification fees to the state of Florida by teachers who fail to complete the National Board for Professional Teaching Standards program within the year for which the fee subsidy was paid or fail to teach in a public school in the state of Florida for one year after completion of the program. The rule establishes a deferment or multiple payment process for teachers with hardships.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 the notice.

SPECIFIC AUTHORITY: 236.08106 FS.

LAW IMPLEMENTED: 236.08106 FS.

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

TIME AND DATE: 9:30 a.m., June 8, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Director, Division of Human Resource Development, Department of Education, 325 West Gaines Street, Room 203, Tallahassee, Florida 32399-0400, (850)487-3663

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.060 Repayment of Excellent Teaching Program Certification Fee.

The repayment of the certification fee subsidy paid to the National Board for Professional Teaching Standards on behalf of a teacher by the state of Florida shall be required when the recipient fails to complete the certification program or fails to teach for one (1) year in a public school in the state of Florida after completion of the certification program.

(1) The Department shall forgive the repayment of the certification fee subsidy paid by the state of Florida to the National Board for Professional Teaching Standards pursuant to Section 236.08106, Florida Statutes, for reasons of death of the recipient, of a total and permanent disability which renders the recipient unable to work, or of a reassignment of a military spouse to active duty outside the state of Florida.

(2) Death shall be verified by submission of a copy of the certificate of death. A total and permanent disability shall be verified in writing by a Florida licensed medical physician. An active military assignment outside the state of Florida shall be verified by a copy of the order of reassignment.

(3) A recipient of the certification fee subsidy desiring to make multiple payments to satisfy the total amount due to the state of Florida may establish a repayment schedule agreeable to the Department which shall not exceed a period of two (2) years from the date of the written notice from the Department requesting repayment of the fee.

(4) Repayment of the certification fee subsidy may be deferred for a period not to exceed one (1) year from the date of the written notice from the Department requesting repayment of the fee for a temporary disability which renders a recipient unable to work or for other hardships as determined by the Department to render the recipient unable to work or to make repayment. A written request shall be submitted to the Department for consideration of a deferment of the repayment. The Department may request documentation of the conditions supporting the request for a deferment.

(5) Repayment of the certification fee shall be to the Florida Department of Education.

Specific Authority 236.08106 FS. Law Implemented 236.08106 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 12, 1999

DEPARTMENT OF EDUCATION

Education Practices Commission

RULE TITLES:	RULE NOS.:
Criteria for Professional Practices in the Transfer of Instructional Personnel	6B-4.005
Criteria for Professional Practices for Reassignment of Instructional Personnel Within a School Center	6B-4.006
Criteria for Contractual Obligations	6B-4.007
Criteria for Contractual Procedures	6B-4.008

PURPOSE AND EFFECT: These rules are to be repealed. After a review of the existing statutory authority as mandated by Chapter 120, Florida Statutes, it was determined that sufficient statutory authority no longer existed. The effect of the repeal of these rules will be the removal from the Florida Administrative Code rules which are without statutory authority.

SUMMARY: The rules are to be repealed.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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 the notice.

SPECIFIC AUTHORITY: 229.053(1), 231.546(2)(a)(b) FS.

LAW IMPLEMENTED: 230.23(5)(3), 230.33(7)(d), 231.36(4)(c), 231.546(2)(a) FS.

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

TIME AND DATE: 9:30 a.m., June 8, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Betty Coxe, Director, Division of Human Resource Development, Department of Education, 325 West Gaines Street, Room 201, Tallahassee, Florida 32399-0400, (850)487-3663

THE FULL TEXT OF THE PROPOSED RULES IS:

6B-4.005 Criteria for Professional Practices in the Transfer of Instructional Personnel.

Specific Authority 229.053(1), 231.546(2)(a)(b) FS. Law Implemented 230.23(5)(e), 230.33(7)(d), 231.546(2) FS. History--New 12-25-66, Repromulgated 12-5-74, Amended 8-12-81, 4-5-83, Formerly 6B-4.05, Repealed.

6B-4.006 Criteria for Professional Practices for Reassignment of Instructional Personnel Within a School Center.

Specific Authority 229.053(1), 231.546(2)(a) FS. Law Implemented 231.546(2)(a) FS. History--New 12-25-66, Repromulgated 12-5-74, Amended 8-12-81, Formerly 6B-4.06, Repealed.

6B-4.007 Criteria for Contractual Obligations.

Specific Authority 229.053(1), 231.546(2)(a) FS. Law Implemented 231.546(2)(a) FS. History--New 12-25-66, Repromulgated 12-5-74, Amended 8-12-81, Formerly 6B-4.07, Repealed.

6B-4.008 Criteria for Dismissal Procedures.

Specific Authority 229.053(1), 231.546(2)(a) FS. Law Implemented 231.546(2)(a) FS. History--New 12-25-66, Repromulgated 12-5-74, Amended 8-12-81, Formerly 6B-4.08, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE TITLES:	RULE NOS.:
Manufacturing	12A-1.043
Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property	12A-1.051

PURPOSE AND EFFECT: The amendment of Rules 12A-1.043 and 12A-1.051, F.A.C., is necessary to remove portions of the rules concerning cost of manufactured or fabricated items that exceed statutory authority in accordance with the mandate of Chapter 96-159, Laws of Florida, codified at section 120.536, F.S.

The effect of amending Rules 12A-1.043 and 12A-1.051, F.A.C., is to exclude certain overhead items from the manufactured or fabricated cost on which use tax is based when taxpayers manufacture or fabricate items for their own use.

SUMMARY: Proposed amended Rule 12A-1.043, F.A.C., discusses the elements of the cost on which use tax must be paid when a taxpayer manufactures or fabricates tangible personal property for the manufacturer's own use rather than for sale.

Proposed amended Rule 12A-1.051, F.A.C., conforms the provisions of that rule to the corresponding provisions of proposed amended Rule 12A-1.043, F.A.C. Rule 12A-1.051, F.A.C., deals specifically with real property contractors who manufacture or fabricate tangible personal property for their own use in performing contracts. In regard to the amended provisions, Rule 12A-1.051, F.A.C., mirrors Rule 12A-1.043, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Since the amendment of these rule provisions does not implement any new administrative program or procedure, no new regulatory costs are being created. Therefore, no statement of estimated regulatory costs has been prepared.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS.
 LAW IMPLEMENTED: 212.02(4), (7), (15), (19), 212.052,
 212.06(1), 212.08(6), 212.12(12), 212.14(5), 366.051 FS.

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

TIME AND DATE: 9:00 a.m., June 1, 1999

PLACE: Conference Room, Room B-12, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda W. Bridges, Tax Law Specialist, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-9412

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should call (850)488-8026 (voice) or 1(800)367-8331 (TDD), at least five working days before such proceeding.

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.043 Manufacturing.

(1)(a) Any person who manufactures, produces, compounds, processes, or fabricates in any manner an article of tangible personal property for his own use shall pay a tax upon the cost of the property manufactured, produced, compounded, processed, or fabricated without any deduction therefrom on account of the cost of material used, labor or service costs, or transportation charges, ~~or other direct or indirect overhead costs which are a part of the manufacturing, producing, compounding, processing, or fabricating cost of the property notwithstanding the provisions of Section 212.02(4), F.S., defining "cost price"; provided, however, that the cost of labor to manufacture, produce, compound, process, or fabricate expendable items of tangible personal property which are directly used by such person in manufacturing, producing, compounding, processing, or fabricating other tangible personal property for sale or his own use is exempt.~~

(b) Elements of cost price will include the following materials, labor, service, or transportation ~~those costs that are directly or indirectly attributable to the manufacturing, producing, compounding, processing, or fabricating an article of tangible personal property for one's own use and which are properly chargeable to a capital account or to the cost of the product under generally accepted cost accounting standards. Major elements to be included in the manufactured cost price of tangible personal property for one's own use include direct materials, direct labor, and indirect manufacturing costs.~~

1. Material ~~Direct material~~ costs include the following:

a. All direct ~~all~~ materials and related freight costs that are physically observable as being identified to the finished tangible personal property, that are consumed in producing the

property, or that become a component or ingredient of the finished property. See paragraphs (c) and (d), below, for calculating the tax on the cost of the finished product when sales tax has or has not been paid on direct materials.

b. Material handling and warehousing of direct materials and goods in process.

c. Manufacturer's excise taxes on materials.

2. Labor costs include the following:

a. The total direct ~~Direct labor includes labor costs for employees or contract labor~~ that are allocable ~~traceable~~ to the production of the finished property, including the entire amount of payroll burden, which includes but is not limited to overtime premium, vacation and holiday pay, sick leave pay, shift differential, payroll taxes, payments to a supplemental unemployment benefit plan, and employee fringe benefits.

b. Compensation of officers, to the extent it is allocated to production and not administrative functions.

c. Costs of service, engineering, design or other support employees allocated to production.

3. Service costs include the costs of non-employee services that are allocated to the production of the tangible personal property, such as engineering, design or similar consulting or professional services. Indirect manufacturing costs refer to all costs other than direct materials and direct labor that are associated with the manufacturing process and include both variable and fixed factory overhead. Other terms describing this category include "factory overhead," "factory burden," and "manufacturing overhead." Such indirect manufacturing costs include, but are not limited to the following, notwithstanding the fact that sales tax has been paid:

a. Indirect labor and all direct and indirect labor overhead including overtime premium, vacation and holiday pay, sick leave pay, shift differential, payroll taxes, payments to a supplemental unemployment benefit plan, and employee fringe benefits and supervisory personnel;

b. Compensation of officers, to the extent it is related to production and not administrative functions;

c. Indirect materials and supplies;

d. Rework labor, scrap, and spoilage;

e. Tools and equipment, to the extent not capitalized;

f. Depreciation;

g. Amortization;

h. Depletion;

i. Insurance;

j. Rent of equipment, facilities, or land;

k. Interest expense attributable to production costs;

l. Costs of administrative, service, or support departments allocable to production;

m. General and administrative expenses incurred in production activities (for example, security services, factory accounting, and data processing);

- ~~n. Material handling and warehousing of direct materials and goods in process;~~
- ~~o. Repairs and maintenance related to production facilities;~~
- ~~p. Taxes, other than taxes based on or measured by income;~~
- ~~q. Freight costs of direct materials (freight in);~~
- ~~r. Expenses incurred in implementing quality control;~~
- ~~s. Utilities, including electricity, water, telephone, etc.;~~
- ~~t. Waste disposal; and/or~~
- ~~u. Any other indirect costs allocable to production, however described or classified.~~

(c) Direct materials on which the tax has been paid shall not be included when computing the tax on the cost price of items of tangible personal property manufactured, produced, compounded, processed, or fabricated.

(d) Persons who manufacture, produce, compound, process, or fabricate items of tangible personal property for resale or for their own use or consumption may purchase direct materials tax exempt but shall include the cost of the direct materials when computing tax on the cost price of the items so manufactured, produced, compounded, processed, or fabricated for such persons' own use or consumption. If tax has been paid on the direct materials, the method described in paragraph (c) should be used when computing the tax on the cost price of the items so manufactured, produced, compounded, processed, or fabricated.

~~(d)(e)~~ The tax is due at the time the article of tangible personal property is manufactured, produced, compounded, processed, or fabricated for use or consumption, and such tax shall be remitted to the Department of Revenue in accordance with Rule 12A-1.056, F.A.C.

(2) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (7), 212.052, 212.06(1), 212.12(12), 366.051 FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 1-19-74, 12-26-83, Formerly 12A-1.43, Amended 1-2-89, 2-28-90, 3-20-96, _____.

12A-1.051 Sales to or by Contractors Who Repair, Alter, Improve and Construct Real Property.

(1) through (4) No change.

(5)(a) Contractors, except asphalt contractors, who operate fabricating or manufacturing plants which make items of tangible personal property for their own consumption and use in the performance of contracts for the construction or improvement of real property are subject to tax upon the fabricated or manufactured cost of such items.

(b) The tax is based upon the cost price of the product manufactured, produced, compounded, or processed or fabricated. The elements of taxable fabricated or manufactured Elements of cost are set forth in Rule 12A-1.043(1), F.A.C. price will include those costs that are directly or indirectly attributable to the manufacturing, producing, compounding, processing, or fabricating of an article of tangible personal

property for one's own use and which is properly chargeable to a capital account or to the cost of the product under generally accepted cost accounting standards. Major elements to be included in the manufactured cost price of tangible personal property for one's own use include direct materials, direct labor, and indirect manufacturing costs.

1. Direct material costs include all materials and related freight costs, that are physically observable as being identified to the finished tangible personal property, that are consumed in producing the property, or that become a component or ingredient of the finished property. See paragraphs (c) and (d); below, for calculating the tax on the cost of the finished product when sales tax has or has not been paid on direct materials.

2. Direct labor includes labor costs that are traceable to the production of the finished property.

3. Indirect manufacturing costs refer to all costs other than direct materials and direct labor that are associated with the manufacturing process and include both variable and fixed factory overhead. Other terms describing this category include "factory overhead," "factory burden," and "manufacturing overhead." Such indirect manufacturing costs include, but are not limited to the following, notwithstanding the fact that sales tax has been paid:

a. Indirect labor and all direct and indirect labor overhead including overtime premium, vacation and holiday pay, sick leave pay, shift differential, payroll taxes, payments to a supplemental unemployment benefit plan, and employee fringe benefits and supervisory personnel;

b. Compensation of officers, to the extent it is related to production and not administrative functions;

e. Indirect materials and supplies;

d. Rework labor, scrap, and spoilage;

e. Tools and equipment, to the extent not capitalized;

f. Depreciation;

g. Amortization;

h. Depletion;

i. Insurance;

j. Rent of equipment, facilities, or land;

k. Interest expense attributable to production costs;

l. Costs of administrative, service, or support departments allocable to production;

m. General and administrative expenses incurred in production activities (for example, security services, factory accounting, and data processing);

~~n. Material handling and warehousing of direct materials and goods in process;~~

~~o. Repairs and maintenance related to production facilities;~~

~~p. Taxes, other than taxes based on or measured by income;~~

~~q. Freight costs of direct materials (freight in);~~

- ~~r. Expenses incurred in implementing quality control;~~
- ~~s. Utilities, including electricity, water, telephone, etc.;~~
- ~~t. Waste disposal; and/or~~
- ~~u. Any other indirect costs allocable to production, however described or classified.~~

(c) Direct materials on which the tax has been paid shall not be included when computing the tax on the ~~cost price~~ of items of tangible personal property manufactured, produced, compounded, processed, or fabricated.

(d) Persons who manufacture, produce, compound, process, or fabricate items of tangible personal property for resale or for their own use or consumption may purchase direct materials tax exempt but shall include the ~~cost price~~ of the direct materials when computing tax on the cost price of the items so manufactured, produced, compounded, processed, or fabricated for such persons' own use or consumption. If tax has been paid on the direct materials, the method described in paragraph (c) should be used when computing the tax on the ~~cost price~~ of the items so manufactured, produced, compounded, processed, or fabricated.

(e) The tax is due at the moment the contractor manufactures an item of tangible personal property for his own use, and such tax shall be remitted to the Department of Revenue in accordance with Rule 12A-1.056, F.A.C.

(f) Fabrication labor incurred at the job site in the performance of repairing, altering, improving, or constructing real property is not subject to tax. For the purpose of this rule, "job site" means a temporary site where fabrication is performed for a specific job. This site becomes a permanent manufacturing plant site when fabrication is performed for any job other than the specific job for which the site was selected.

(6) through (41) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), (7), (15), (19), 212.06(1), 212.08(6), 212.14(5) FS. History—Revised 10-7-68, 1-7-70, 6-16-72, Amended 2-3-80, 3-27-80, 6-3-80, 8-26-81, 11-15-82, 6-11-85, Formerly 12A-1.51, Amended 1-2-89, 8-10-92.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda W. Bridges, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9412

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark A. Zych, Revenue Program Administrator, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)488-2576

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Amended Rules 12A-1.043 and 12A-1.051, F.A.C., were noticed for a Rule Development Workshop in the Florida Administrative Weekly on December

24, 1998 (Vol. 24, No. 52, p. 6913). The workshop was held on January 27, 1999. Five people appeared at the workshop to testify. No one submitted written comments prior to or at the workshop. One person submitted written comments subsequent to the workshop. All comments were taken into consideration. As a result of the comments received, the rules were further amended to provide more specific guidance on which elements of cost would be taxable.

ADMINISTRATION COMMISSION

RULE CHAPTER TITLE: Land Planning Regulations for the Florida Keys Area of Critical State Concern, Monroe County

RULE CHAPTER NO.: 28-20

RULE TITLE: Comprehensive Plan – Part II

RULE NO.: 28-20.100

PURPOSE, EFFECT AND SUMMARY: On March 9, 1999, the Administration Commission considered reports and recommendations submitted by Monroe County, the Department of Community Affairs and others regarding progress made toward implementing the Work Program set forth in Rule 28-20.100, F.A.C. Based on the data and information contained in these reports, the Administration Commission found that substantial progress toward the overall objectives of the Work Program had not been made, and authorized amendments to Rule 28-20.100 to address the following:

- Adjust the timeframes for the completion of the carrying capacity study and the wastewater and storm water master plans.
- Continue cesspit identification and refocus cesspit replacement to areas outside of Hot Spots based on preliminary findings of the wastewater master plan, and develop a funding mechanism to assist property owners in replacing cesspits.
- Refocus efforts to improve wastewater treatment from individual cesspit replacement to the Hot Spots and concentrate on making on-the-ground improvements to at least one system in the upper, middle, and lower Keys within the next three years.
- Maintain the principle of no net increase in nutrient loadings to the environment while this program is being implemented, and expand the types of wastewater improvements that will earn credit for new residential building permits.
- Guarantee that for the next three years the County will be able to issue a minimum of 88 building permits a year, with the ability to issue up to 182 per year. This guarantee will avoid a moratorium and will allow the County to direct attention to the Hot Spots. The nutrient loading of these guaranteed permits will be offset by the elimination of cesspits and other wastewater system upgrades with monies provided by the state.
- Adopt higher wastewater treatment standards for wastewater treatment facilities and bring the standards for onsite systems in line with those of the small wastewater treatment systems.

- Require Monroe County to establish a mechanism to fund its local share of wastewater treatment improvements.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Regulatory Cost has been prepared.

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

Information should be filed with: Teresa Tinker, Administration Commission, The Capitol, Room 2105, Tallahassee, Florida 32399-0001

SPECIFIC AUTHORITY: 380.05(8), 380.0552(9) FS.

LAW IMPLEMENTED: 380.0552 FS.

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

TIME AND DATE: 7:00 – 9:00 p.m., June 1, 1999

PLACE: Emergency Operations Center, Second Floor, Marathon Government Center, 2798 Overseas Highway, Marathon, Florida

Any person requiring a special accommodation to participate in the hearing because of a disability should contact Barbara Leighty at (850)488-7793 at least 5 business days in advance to make appropriate arrangements.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE AND FOR COPIES OF THE PROPOSED RULE IS: Barbara Leighty, Senior Governmental Analyst, Administration Commission, The Capitol, Room 2105, Tallahassee, Florida 32399-0001, telephone (850)488-7793

THE FULL TEXT OF THE PROPOSED RULE IS:

28-20.100 Comprehensive Plan – Part II.

The Monroe County Comprehensive Plan Policy Document and Map Atlas, Which were adopted by Monroe County Ordinance 016-1993, are hereby amended as follows:

- (1) 2.0 General is amended to add:

Policy 4

Monroe County shall be responsible to implement the Comprehensive Plan to the extent authorized by law. While all plan policies are contingent upon funding, many require substantial funds in order to be implemented. Therefore, the County shall be responsible to implement the objectives and policies enumerated in Policy 1 (a) and (b) above, to the extent that local funds for implementation are available, and to maintain and continue implementation to the extent that additional local funds or state and federal funds, become available. Further, the County, with the assistance of the State, shall determine the ultimate fiscal cost of implementing the plan and the federal, state and local fair share of implementation. By June 13, 2000, Within one year of the effective date of the plan, the County, with the assistance of the Environmental Protection Agency and the Department of

Community Affairs, shall report to the Legislature the full fiscal cost of implementing the plan, the state and local shares of such implementation, and shall include recommendations for funding initiatives and alternatives for implementation. The report shall include a full cost/benefit analysis relative to the costs of providing facilities and services to development in the county as compared to the costs of acquiring the remaining undeveloped land. ~~These recommendations shall be presented to the Florida Legislature within one year of the effective date of this plan. The state shall seek the assistance of the Advisory Council for Intergovernmental Relations, if available, to implement the objective and its supporting policies.~~

(35) Policy 101.2.13

Monroe County shall establish an interim Permit Allocation System for new residential development. The interim Permit Allocation System shall supersede Policy 101.2.1 and remain in place until such time as Monroe County determines its future growth capacity based on hurricane evacuation, public safety and environmental needs including water quality and habitat protection, and amends its plan consistent with such determination, based on the results of the work program as set forth below. DEP, DOH, DCA and Monroe County shall develop a coordinated permit review process that will insure that no state agency shall issue a wastewater disposal permit that would allow development in excess of the number of permits that Monroe County may issue under this interim policy. Similarly, Monroe County shall not issue development permits under this interim policy in excess of wastewater disposal permits that DEP or DOH may issue. For the ROGO periods beginning July 14, 1999, and July 14, 2000, (The interim Permit Allocation System shall allow a minimum of 88 new residential permits per year which may be used to address the backlog of ROGO allocations. Additional new residential permits will be allowed but limited ~~limit the number of permits issued for new residential development~~ to the number of nutrient reduction credits earned ~~cesspits replaced~~ within the same unincorporated ROGO area. Nutrient reduction credits shall be earned consistent with Table 1 below. Nutrient reduction credits earned using funds provided by the State and matched by the County in fiscal years 1997-98 and 1998-99 will be used to offset the nutrient impacts of the 88 new residential permits per year, but may not be used for additional new residential permits until such time that these funds generate more than 88 cesspit replacements or an equivalent nutrient offset per Years Three and Four and at least 88 nutrient reduction credits during Year Five. For the ROGO period starting July 13, 2001, the interim Permit Allocation System shall allow a minimum of 88 new residential permits per year. If fewer than 88 cesspits or equivalent nutrient reduction is not achieved in Year Five, the deficit shall be made up in Year Six prior to issuance of any new permits. Additional new residential permits will be allowed but limited to the number of nutrient reduction credits earned in excess of 88 within the same unincorporated ROGO area. For the ROGO

periods starting July 12, 2002 and beyond, the interim permit allocation system shall limit the number of permits issued for new residential development to the number of nutrient reduction credits earned within the same unincorporated ROGO area, ~~but~~ For all years the number of permits issued for new residential development under the Rate of Growth Ordinance shall not exceed a total unit cap of ~~182~~ 255 new residential units per year. Monroe County shall develop a tracking system for monitoring the nutrient reduction credits

earned cesspit replacements. The tracking system shall commence upon the effective date of this rule and the number of nutrient reduction credits earned cesspits replaced shall be cumulative and may be applied to future years of the interim Permit Allocation System.

Table 1
Nutrient Reduction Credits

	Treatment System Upgraded To			
	On-site Treatment	Centralized Systems		
	OWNR or Equivalent On-site Treatment and Disposal Systems	Secondary Treatment	Best Available Treatment (BAT)	Advanced Wastewater Treatment (AWT)
Cesspit	1 EDU Credit	1 EDU Credit	1.5 EDU Credit	2 EDU Credit
Substandard OSTDS	0.5	0.5	1.0	1.5
Approved OSTDS	0.5	0	1	1.5
Secondary Treatment	n/a	n/a	1	1.5

Additionally, the unit cap for new residential development shall be linked to the following work program which identifies actions necessary to correct existing wastewater and storm water problems, as well as actions necessary to determine appropriate future growth. Beginning August 1, 2000 ~~January 15, 1998~~, and each year of the work program thereafter, Monroe County and the Department of Community Affairs shall report to the Administration Commission documenting the degree to which the work program objectives for that year have been achieved. The Commission shall consider the findings and recommendations provided in those reports and shall determine whether substantial progress has been achieved toward accomplishing the ~~tasks overall objectives~~ of the work program. If the Commission determines that substantial progress has not been made, the unit cap for new residential development shall be reduced by at least 20 percent for the following year. If the Commission determines that substantial progress has been made, then the Commission may increase the unit cap for new residential development for the following year up to a maximum of 227 units. Other agencies identified in the work program, or any interested persons, may likewise report and make recommendations for consideration by the Commission. Notwithstanding any other dates set forth in this plan, the dates set forth in the ~~five-year~~ work program shall control where conflicts may exist. For each task in the work program, the Department of Community Affairs shall request of all relevant and appropriate federal, state, regional, and local agencies that they contribute any relevant data, analysis and recommendations, and that they take an active role in assisting the county in completing the task. Each such agency shall prepare, in coordination with the county, a section to be

included in Monroe County's reports which indicates the agency's actions relative to the work plan. The Department of Community Affairs shall specifically request that the Florida Keys National Marine Sanctuary (~~FKNMS~~) Water Quality Protection Program Steering Committee (Water Quality Steering Committee) take an active role in coordinating with Monroe County, and relevant state and federal agencies, in the implementation of the tasks related to water quality, ~~and~~ wastewater and storm water facilities, and in the development and implementation of the carrying capacity study. The Steering Committee will provide technical assistance and substantive comments and recommendations to ensure that the county's wastewater and storm water master plans and the carrying capacity study ~~are is~~ consistent with the objectives of the FKNMS Water Quality Protection Program. The Steering Committee will make recommendations on wastewater systems and Hot Spot priorities prior to implementation by the County. It is the intent of this rule to accelerate the pace, and increase the effectiveness of the current cesspit replacement effort through both a regulatory and an incentive-based program. No later than August, 1999 Monroe County shall engage in a public education program to ensure that the public understands that the County is committed to the swift identification and replacement of cesspits, as a full partner with the Department of Health. The public education program shall explain the role of cesspit removal in the overall context of the Work Plan and Wastewater Master Plan. The County and the state shall request the participation of the Steering Committee in the public education program as well as the Florida Keys Aqueduct Authority.

FIVE YEAR WORK PROGRAM¹

YEAR ONE (ending December 31, 1997)

A. Complete Phase I (data collection) for the Wastewater and Storm Water Master Plans, and secure funding for plan completion. (Ref. County obj. 901.4)

Agencies: County, DCA, DEP, DOH and SFWMD.

B. Complete a conceptual plan or scope of work to develop a carrying capacity. The carrying capacity analysis shall be designed to determine the ability of the Florida Keys ecosystem, and the various segments thereof, to withstand all impacts of additional land development activities. The analysis shall be based upon the findings adopted by the Administration Commission on December 12, 1995, or more recent data that may become available in the course of the study, and shall be based upon the benchmarks of, and all adverse impacts to, the Keys land and water natural systems, in addition to the impact of nutrients on marine resources. The carrying capacity analysis shall consider aesthetic, socioeconomic (including sustainable tourism), quality of life and community character issues, including the concentration of population, the amount of open space, diversity of habitats, and species richness. The analysis shall reflect the interconnected nature of the Florida Keys' natural systems, but may consider and analyze the carrying capacity of specific islands or groups of islands and specific ecosystems or habitats, including distinct parts of the Keys' marine system. (Ref. 1991 Stip. Settlement Agreement)

Agencies: County, DCA, DEP, DOH, DOT, GFC, SFWMD, NMS, SFRPC, EPA, USFWS, Army COE, and other interested parties to include representatives of environmental organizations and development interests.

C. Complete AWT/OSDS demonstration study and initiate rulemaking for new standards for OSDS. (Ref. County pol. 901.4.3)

Agencies: DOH.

D. Complete Marathon Facilities Plan and secure funding for the facility site(s). The wastewater facilities plan should implement the most cost effective method of collecting, treating, and disposing of wastewater, and shall include an investigation of the feasibility of using alternative nutrient-stripping on-site disposal systems. The development of the facilities plan shall be a component of the Wastewater Master Plan as that Plan is developed.

Agencies: County, DCA and DEP.

E. Continue cesspit elimination process with identification of Hot Spots as first priority in accordance with Objective 901.2, and seek funding for cesspit identification. Enter into an

1. On March 9, 1999, the Administration Commission determined that substantial progress toward the work program objectives had not been made and authorized rulemaking to amend the work program beginning in Year Three. Work program tasks from years One and Two not completed by the end of Year Two were included as tasks in subsequent years of the work program.

interlocal agreement with DOH to specify the responsibilities and procedures for the OSDS inspection/compliance program as required by Policy 901.2.3. Adopt an ordinance which specifies the implementation procedures for the OSDS inspection/compliance program. The ordinance shall include authorization for DOH to inspect wastewater treatment systems on private property as required by Policy 901.2.3. (Ref. County obj. 901.2)

Agencies: County, DCA and DOH.

F. Submit status of CARL and ROGO land acquisition to the Administration Commission.

Agencies: County, Land Authority and DEP.

G. Revise the Habitat Evaluation Index (HEI) based on peer review.

Agencies: County, DCA, DEP, GFC and Federal agencies.

YEAR TWO (ending December 31, 1998)

A. Complete the Wastewater and Storm Water Master Plans and execute interagency agreements to define construction schedule by phases. Document that significant reduction in nutrients will be achieved each year thereafter within each of the sub-areas. The Master Plans shall include facility plans for all proposed treatment strategies, and determine retrofit and funding requirements for Hot Spots and cesspits identified in D. below.

Agencies: County, DCA, DEP and DOH.

B. Secure funding for the carrying capacity study and initiate Phase I (data collection) of the study.

Agencies: County and DCA.

C. Complete final design for Marathon Facilities Plan and secure facility site(s).

Agencies: County, DCA and DEP.

D. Complete cesspit ID process in Hot Spots, excluding the Marathon area.

Agencies: County, DCA and DOH.

E. Submit status of CARL and ROGO land acquisition to the Administration Commission.

Agencies: County, Land Authority, GFC and DEP.

F. Document the extent and quality of the fresh groundwater lens system on Big Pine Key; delineate the associated recharge areas; and determine the safe yield of the system. (Ref. County pol. 103.1.5)

Agencies: County, DCA, SFWMD, USFWS.

YEAR THREE (January 1, 1999 through July 12, 2000 ending December 31, 1999)

A. Complete and begin implementation of Wastewater Master Plan. Utilizing the findings of the Wastewater Master Plan and recommendations of the Water Quality Steering Committee relating to Hot Spots do the following: refine and prioritize areas identified as Hot Spots, determine retrofit and funding requirements for priority Hot Spots and cesspit replacement for areas outside those areas identified for central or cluster wastewater collection systems, and begin developing

facility plans for priority Hot Spots. Execute interagency agreements to define facility plan, design and construction schedules for each Hot Spot facility. Establish a water quality monitoring program to document the reduction in nutrients as a result of these facilities. Complete a wastewater treatment finance plan and a service area implementation plan, and continue efforts to secure funding for Wastewater Master Plan implementation, with priority given to Hot Spots. Determine the feasibility and legal ramifications of establishing an escrow account as a means of providing long-term funding for replacing cesspits or substandard onsite sewage systems. Establish a mechanism such as special assessments, impact fees, infrastructure surcharge, or other dedicated revenues, to fund the local share of wastewater improvements in Years Four and Five. Seek to provide comparable subsidies for both wastewater collection systems and individual cesspit replacement. Secure funding to implement the Wastewater and Stormwater Master Plans; complete land acquisition and final design for selected treatments strategies as defined by the Master Plans for each sub-area.

Agencies: County, FCAA, DCA, DEP, DOH, SFWMD, EPA and Water Quality Protection Program Steering Committee (WQSC).

B. Secure funding for Storm Water Master Plan development, contract selected firm for development of Master Plan, and complete Phase I (data collection). Determine the feasibility of providing nutrient reduction credits for stormwater improvements.

Agencies: County, DCA, DOT, SFWMD, EPA and WQSC.

C.B. Conclude acquisition of North Key Largo Hammocks CARL project. Make offers to 33% of remaining private owners with property located in other CARL project boundaries. Submit status of CARL and ROGO land acquisition to the Administration Commission.

Agencies: County, Land Authority and DEP.

D.C. Secure remaining funds for the Complete Phase II of the carrying capacity study, conduct workshops as outlined in the Scope of Work, select prime contractor, and initiate Phase I (data collection) of the study, analysis and initial recommendations presented to review agencies).

Agencies: County, DCA, DEP, DOH, DOT, FFWCC, SFWMD, WQSC, SFRPC, EPA, USFWS, Army COE, GFC, DOT, and other interested parties to include representatives of environmental organizations and development interests, federal agencies as appropriate.

E.D. Continue efforts to secure funding for the Marathon Facility. Complete Little Venice construction design, secure lands needed for Little Venice facility, and begin bid process and selection of construction firm. Design a water quality monitoring program to document Little Venice project impacts. Initiate construction of Marathon Facility.

Agencies: County, FCAA, DCA, and DEP, WQSC, and EPA.

F.E. Continue cesspit identification by providing notice to all property owners with unknown systems, outside of Hot Spots. Initiate replacement of cesspits outside of Hot Spots, process outside of Hot Spots; begin retrofit of cesspits with priority to Hot Spots. Award financial assistance grants to qualified applicants using FY 1997-98 state funds to ensure a minimum of 70 cesspit replacements. Develop a low interest loan and grant program to assist all residents in replacing cesspits, with priority of funds going, in order of preference, to very low-, low- and moderate-income households. Investigate the appropriate point at which nutrient reduction credits can be awarded for future committed water quality treatment facilities.

Agencies: County, DCA, FCAA, WQSC and DOH.

G. Document the extent and quality of the fresh groundwater lens system on Big Pine Key; delineate the associated recharge areas; and determine the safe yield of the system. (Ref. County pol. 103.1.5)

Agencies: County, FCAA, DEP, DCA, SFWMD, EPA, WQSC and USFWS.

H. Develop an integrated funding plan for the purchase of land from ROGO applicants who have competed unsuccessfully for four consecutive years and applied for administrative relief.

Agencies: County.

YEAR FOUR (July 13, 2000 through July 12, 2001 ending December 31, 2000)

A. Continue implementation of Wastewater Master Plan, execute interagency agreements to define construction schedule by phases, and continue developing facility plans for priority Hot Spots in each ROGO area. Secure funding to implement the Wastewater Master Plan. Document that reduction in nutrients has been achieved within each of the sub-areas. Initiate construction of Phase I of the Wastewater and Storm water Master Plans pursuant to agreed upon construction schedule.

Agencies: County, FCAA, DCA, DEP, DOH, EPA and WQSC.

B. Complete Storm Water Master Plan. Identify priority projects for implementation and seek funding for plan implementation.

Agencies: County, DCA, DEP, DOT, SFWMD, EPA and WQSC.

C.B. Make offers to 50% of remaining private owners with property located in CARL project boundaries. Submit status of CARL and ROGO land acquisition to the Administration Commission.

Agencies: County, Land Authority and DEP.

D.C. Complete Phase II of the Final draft of the environmental carrying capacity study (data analysis) and present initial recommendations to must be completed and accepted by review agencies.

Agencies: County, DCA, and DEP, DOH, DOT, FFWCC, SFWMD, WQSC, SFRPC, EPA, USFWS, Army COE, and other interested parties to include representatives of environmental organizations and development interests.

E.D. Continue efforts to secure funding for Complete Phase I (to be determined) of the Marathon Facility, initiate construction of Little Venice wastewater treatment facility. Establish baseline water quality for surface and groundwater quality potentially impacted by Little Venice project.

Agencies: County, DCA, and DEP, FCAA, WQSC and EPA.

F.E. Complete Continue cesspit identification and continue cesspit replacement process outside of Hot Spots, with a priority of funds going, in order of preference, to low- and moderate-income households; ensure that a minimum of 88 cesspits are replaced; eliminate 50% of identified cesspits within Hot Spots.

Agencies: County, FCAA, WQSC and DOH.

YEAR FIVE (July 13, 2001 through July 12, 2002 ending December 31, 2001)

A. Continue implementation of the Wastewater Master Plan pursuant to executed interagency agreements. Begin construction of wastewater facilities in priority Hot Spots. Complete Phase I in accordance with construction schedule. Initiate Phase II (to be defined) of the construction schedule, and document significant nutrient reductions within each sub-area.

Agencies: County, FCAA, DCA, DOH, DEP, EPA, and WQSC.

B. Execute interagency agreements to define construction schedule for priority storm water improvement projects. Complete land acquisition and final design for selected treatment strategies for Storm Water Master Plan.

Agencies: County, DCA, DEP, DOT, WQSC and SFWMD.

C.B. Conclude negotiations with all willing owners with property within CARL project boundaries. Acquire a total-to-date of 45% of the Key Deer/Coupon Bight project and 25% of the Florida Keys Ecosystems project. Submit status of CARL and ROGO land acquisition to the Administration Commission.

Agencies: County, Land Authority, and DEP.

D.C. Complete final draft of the carrying capacity study including acceptance by review agencies. Implement the carrying capacity study by, among other things, the adoption of all necessary plan amendments to establish a rate of growth and a set of development standards that ensure that any and all new development does not exceed the capacity of the county's environment and marine system to accommodate additional

impacts. Plan amendments will include a review of the County's Future Land Use Map series and changes to the map series and the "as of right" and "maximum" densities authorized for the plan's future land use categories based upon the natural character of the land and natural resources that would be impacted by the currently authorized land uses, densities and intensities.

Agencies: County, FCAA, DCA, DEP, DOH, DOT, FFWCC, SFWMD, WQSC, SFRPC, EPA, USFWS, Army COE, and other interested parties to include representatives of environmental organizations and development interests, and DCA.

E.D. Secure funds for Phase II (to be determined) of the Marathon Facility and continue construction of Little Venice facility, completed and operational.

Agencies: County, FCAA, DEP, DCA, EPA and WQSC.

F.E. Continue eliminating Complete cesspits and inoperative septic tanks in areas identification process outside of Hot Spots; eliminate all identified cesspits and inoperative septic tanks within Hot Spots.

Agencies: County, and DOH, FCAA and WQSC.

F. Any wastewater facilities plans (as identified in the Wastewater Master Plan) should implement the most cost effective method of collecting, treating, and disposing of wastewater, and shall include an investigation of the feasibility of using alternative nutrient stripping on-site disposal systems.

YEAR SIX (July 13, 2002 through July 12, 2003)

A. Finalize construction and begin operating wastewater facilities in Hot Spots begun in previous year. Contract to design and construct additional wastewater treatment facilities in Hot Spots in accordance with the schedule of the Wastewater Master Plan. Continue implementation of Wastewater Master Plan with emphasis on Hot Spots.

Agencies: County, FCAA, DEP, DOH, DCA, EPA and WQSC.

B. Initiate construction of priority projects as identified in the Storm Water Master Plan.

Agencies: County, SFWMD, DEP, DCA, DOT, EPA and WQSC.

C. Continue implementation of the carrying capacity study.

Agencies: County, FCAA, FFWCC, DCA, DEP, DOH, DOT, SFWMD, SFRPC, EPA, Army COE, WQSC, and USFWS.

D. Initiate construction of Phase II of the Marathon Facility and complete construction and begin operating the Little Venice Facility.

Agencies: County, FCAA, DCA, DEP, EPA and WQSC.

E. Complete the elimination of all cesspits in areas outside of Hot Spots.

Agencies: County, FCAA, DOH and WQSC.

YEAR SEVEN (July 13, 2003 through July 12, 2004)

A. Continue implementation of Wastewater Master Plan with continued emphasis on Hot Spots.

Agencies: County, FKAA, DEP, DCA, DOH, EPA and WQSC

B. Continue implementing priority projects as identified in the Storm Water Master Plan.

Agencies: County, DCA, DEP, DOT, SFWMD, EPA and WQSC

C. Continue construction of the Marathon Facility.

Agencies: County, FKAA, DCA, DEP, EPA and WQSC.

(58) Policy 901.1.1

Monroe County shall ensure that, at the time a development permit is issued, adequate sanitary wastewater treatment and disposal facilities, including wastewater treatment facilities and onsite sewage treatment and disposal systems, are available to support the development at the adopted level of service standards, concurrent with the impacts of such development. [9J-5.011(2)(c)2.]

Permanent Level of Service Standards.

A. No new or expanded discharges shall be allowed into surface waters.

B. All new or expanded discharges into other than surface waters and all onsite sewage treatment and disposal systems permitted after the effective date of this amendment shall comply with the requirements of subsection C and with the rules of the Department of Environmental Protection or the Department of Health, as applicable.

C.1. Sewage facilities with design capacities greater than or equal to 100,000 gallons per day that do not discharge to surface waters shall provide basic disinfection as defined by Department of Environmental Protection rule and the level of treatment that will produce an effluent that contains not more, on a permitted annual average basis, than the following concentrations:

- a. Biochemical Oxygen Demand (CBOD5) of 5 mg/l;
- b. Suspended Solids of 5 mg/l;
- c. Total Nitrogen, expressed as N, of 3 mg/l;
- d. Total Phosphorus, expressed as P, of 1 mg/l.

2. Sewage facilities with design capacities less than 100,000 gallons per day that do not discharge to surface waters shall provide basic disinfection as defined by Department of Environmental Protection rule and the level of treatment that will produce an effluent that contains not more, on a permitted annual average basis, than the following concentrations:

- a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l;
- b. Suspended Solids of 10 mg/l;
- c. Total Nitrogen, expressed as N, of 10 mg/l;
- d. Total Phosphorus, expressed as P, of 1 mg/l.

3. Onsite sewage treatment and disposal systems shall provide the level of treatment that will produce an effluent that contains not more, on a permitted annual average basis, than the following concentrations:

a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l;

b. Suspended Solids of 10 mg/l;

c. Total Nitrogen, expressed as N, of 10 mg/l;

d. Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to injection wells shall provide basic disinfection as defined by Department of Health rule. Applicants may use composting or incineration toilets which, in addition, discharge grey water in a separate system meeting BAT or other applicants may use technologies approved under the DOH innovative technologies program.

D. Class V injection wells, as defined by Department of Environmental Protection or Department of Health rule, shall meet the following requirements and shall otherwise comply with Department of Environmental Protection or Department of Health rules, as applicable:

1. If the design capacity of the facility is less than 1,000,000 gallons per day, the injection well shall be at least 90 feet deep and cased to a minimum depth of 60 feet or to such greater cased depth and total well depth as may be required by Department of Environmental Protection rule;

2. If the design capacity of the facility is equal to or greater than 1,000,000 gallons per day, the injection well shall be cased to a minimum depth of 2,000 feet or to such greater depth as may be required by Department of Environmental Protection rule.

E. The requirements of subsections A-D do not apply to the following:

1. Class I injection wells as defined by Department of Environmental Protection rule, including any authorized mechanical integrity tests;

2. Authorized mechanical integrity tests associated with Class V wells as defined by Department of Environmental Protection rule; and

3. The following types of reuse systems authorized by Department of Environmental Protection domestic wastewater rules:

a. Slow-rate land application systems;

b. Industrial uses of reclaimed water; and

c. Use of reclaimed water for toilet flushing, fire protection, vehicle washing, construction dust control, and decorative water features.

However, disposal systems serving as backups to reuse systems shall comply with the other provisions of this plan.

F. All sewage treatment facilities shall monitor effluent for total nitrogen and total phosphorus concentrations as required by Department of Environmental Protection rule beginning October 1, 1999. All onsite sewage treatment and disposal systems issued a construction permit after the effective date of this amendment shall be monitored for total nitrogen and total phosphorus concentrations as required by Department of Health rule.

The interim level of service standards for wastewater treatment plants and OSDS set forth below shall be superseded and replaced by standards established as a result of completion of the Sanitary Wastewater Master Plan (see Objective 901.4 and supporting policies). These standards shall be made on the best available data based on nutrient loading, cost, technical feasibility and reliability, while improving the quality of ground, near shore and offshore waters. [9J-5.011(2)(c)2.]

Interim Level of Service Standards:

(A) Wastewater Treatment Plants

(1) Quantity: The annual average daily flow shall not exceed 100% of permitted capacity of the wastewater treatment plant.

(2) Quality: For all new and expanding sewage treatment plants Monroe County shall require that effluent discharging to groundwater or to surface water be treated to AWT standards as defined in section 403.086, F.S., or as close as possible thereto using best available technology (BAT). Exceptions to this BAT requirement shall be allowed for facilities discharging to Class I injection wells of systems or portions of systems permitted for reuse in accordance with Chapter 62-610, F.A.C., provided that there are reasonable assurances that no adverse ecological impact will result.

(B) On-Site Disposal Systems (OSDS)

The interim level of service standard for OSDS will be the use of aerobic treatment units (ATUs) which discharge to best available disposal systems as determined by the Department of Health. Applicants may use composting or incineration toilets which, in addition, discharge gray water in a separate system meeting BAT, or other applicants may use technologies approved under the DOH innovative technologies program to achieve AWT standards or better. As new feasible technologies become available for enhanced nutrient stripping, these technologies will be required.

(C) The County and the State shall actively engage in an educational program to reduce demand for phosphate products detergent.

(D) The County shall require mandatory pump-out of septic tanks and require regular reports from qualified contractors to ensure proper septage disposal.

(64) Policy 101.2.14

For those ROGO applications and properties which have been denied a ROGO award for four consecutive years and have applied for administrative relief, which are located in a CARL project or the National Wildlife Refuge and have received negative habitat scores under ROGO, the County or the state shall offer to purchase the property if funding for such is available. Refusal of the purchase offer shall not be grounds for granting a ROGO award.

Specific Authority 380.05(8), 380.0552(9) FS. Law Implemented 380.00552 FS. History--New 1-2-96, Amended 7-17-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Teresa Tinker, Administration Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Teresa Tinker, Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 9, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19,1999

WATER MANAGEMENT DISTRICTS

South Florida Water Management District

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

PURPOSE AND EFFECT: The purpose and effect of these proposed rules is to list new forms pertaining to the District's requirements for establishing and operating a mitigation bank pursuant to Sections 373.403, 373.4135 and 373.4136, F.S.

SUMMARY: These proposed rule amendments list the new forms referenced above.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.4136 FS.

LAW IMPLEMENTED: 373.4135, 373.4136 FS.

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

TIME AND DATE: 9:00 a.m, June 10, 1999

PLACE: South Florida Water Management District Headquarters, Auditorium, 3301 Gun Club Road, West Palm Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marcy LaHart, Attorney, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-1.659 Forms and Instructions.

(1) The following forms and instructions are hereby incorporated by reference into this chapter:

Form No.	Date	Title
0050A	7-89	Application to the South Florida Water Management District for a Permit for Utilization of District Works and Modification of Existing Permit Works of the District No.
0108	3-91	Application for Release of Mineral, Canal,

		and Road Reservations Reserved Under Chapters 6456, 6957, 7305, 9131, 14717 and 20658, Laws of Florida.	0960	8-95	Environmental Resource/Surface Water Management Permit Construction Commencement Notice
0113	8-95	Surface Water Management Permit No.	0961	8-95	Environmental Resource/Surface Water Management Permit Annual Status Report for Surface Water Management System Construction
0115	8-95	Surface Water Management Permit Modification No.			
0119	8-95	Wetland Resource Permit No.			
0122	4-93	Application to the South Florida Water Management District for Authority to Utilize Works or Land of the District	0970	8-95	Applicant Transmittal Form for Requested Additional Information
0123	8-90	Well Construction Permit Application	0971	8-95	Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit
0124	11-90	Well Completion Report			
0145	8-95	Environmental Resource Permit No.			
0157	8-95	Environmental Resource Permit Modification No.	0972	8-95	Petition for a Formal Wetland and Surface Water Determination
0195	6-91	Public Water Supply Well Information and Classification	0973	8-95	Above Ground Impoundment Inspection/Certification Report
0196	10-89	Water Well Inspection Scheduling Card	0974	8-95	Notice of Intent to Construct a Minor Silvicultural System
0299	1-90	Water Use Permit No.			
0444	8-95	Application for a Standard General Permit for Incidental Site Activities	0980	8-95	Notice of Intent to Use a Noticed General Environmental Resource Permit
0445	7-87	Notice of Intent to Short-term Dewater	<u>1019</u>	<u>10-98</u>	<u>Mitigation Bank Performance Bond to Demonstrate Construction and Implementation Financial Assurance</u>
0483	8-95	Request for Environmental Resource, Surface Water Management, Water Use, or Wetland Resource Permit Transfer	<u>1020</u>	<u>10-98</u>	<u>Mitigation Bank Irrevocable Letter of Credit to Demonstrate Construction and Implementation Financial Assurance</u>
0645	8-95	Water Use Permit Application			
0659	3-94	Notice of Intent to Use Water in Conjunction with Oil Well Drilling in Lee, Collier and Hendry Counties	<u>1021</u>	<u>10-98</u>	<u>Mitigation Bank Standby Trust Fund Agreement to Demonstrate Construction and Implementation Financial Assurance</u>
0779	5-92	Guidance for Preparing an Application for a "Works of the District" Permit in the Everglades/Application for a Works of the District Permit	<u>1022</u>	<u>10-98</u>	<u>Mitigation Bank Trust Fund Agreement to Demonstrate Construction and Implementation Financial Assurance</u>
0830	4-94	Special Use Application and License	<u>1023</u>	<u>10-98</u>	<u>Mitigation Bank Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance</u>
0881	8-95	Environmental Resource/Surface Water Management Permit Construction Completion/Construction Certification	<u>1024</u>	<u>10-98</u>	<u>Mitigation Bank Standby Trust Fund Agreement to Demonstrate Perpetual Management Financial Assurance</u>
0889	8-95	Certification of Waiver of Permit Application Processing Fee			
0920	8-95	Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity			(2) No change.
0938	8-95	Mitigation Construction Commencement Notice			Specific Authority 120.53, 373.044, 373.113 FS. Law Implemented 120.53, 373.113 FS. History--New 9-3-81, Amended 12-1-82, 3-9-83, Formerly 16K-1.90, Amended 7-26-87, 11-21-89, 1-4-93, Formerly 40E-1.901, Amended 5-11-93, 4-20-94, 10-3-95.
0941	8-95	Environmental Resource Standard/Noticed General Permit No.			NAME OF PERSON ORIGINATING PROPOSED RULE: Terrie Bates, Director, Regulation Department
0942	8-95	Surface Water Management General Permit No.			NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 1997

WATER MANAGEMENT DISTRICT

South Florida Water Management District

RULE TITLE: Publications Incorporated by Reference RULE NO.: 40E-4.091

PURPOSE AND EFFECT: The purpose and effect of these proposed rules is to conform the District’s requirements for establishing and operating a mitigation bank pursuant to Sections 373.403, 373.4135 and 373.4136, F.S., and to simplify and clarify the financial responsibility requirements for mitigation banks.

SUMMARY: These proposed rule amendments change sections 4.4 of the District’s Basis of Review for Environmental Resource Permits to conform this section to Sections 373.403, 373.4135 and 373.4136, F.S. Unnecessary language was deleted, while other portions have been reorganized for clarity. The proposed rule amendments also simplify and clarify the forms of financial responsibility that must be provided to insure the construction, implementation and perpetual maintenance of mitigation banks. The proposed rule amendments incorporate by reference certain forms which may be used to assure financial responsibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.4136 FS.

LAW IMPLEMENTED: 373.4135, 373.4136 FS.

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

TIME AND DATE: 9:00 a.m., June 10, 1999

PLACE: South Florida Water Management District Headquarters, Auditorium, 3301 Gun Club Road, West Palm Beach, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marcy LaHart, Attorney, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406

THE FULL TEXT OF THE PROPOSED RULE IS:

40E-4.091 Publications Incorporated by Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – ~~May 1999~~ ~~November 1996~~”

(b) through (j) No change.

(2) No change.

Specific Authority 373.044, 373.113, 373.171, 373.412 FS. Law Implemented 373.413, 373.4135, 373.416, 373.421, 373.426 FS. History–New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-15-87, 4-21-88, 11-21-89, 1-23-94, 4-20-94, 10-3-95, 1-1-97,

(The following represent proposed changes to section 4.4 of the document entitled “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – November 1996” incorporated by reference in Rule 40E-4.091, F.A.C.)

4.4 Mitigation Banking

4.4.1 Intent

~~4.4.1.1.1 The Environmental Reorganization Act of 1993 directed the District to adopt rules governing the creation and use of mitigation banks to offset adverse impacts caused by activities regulated under Part IV of Chapter 373, F.S. This section, in addition to other rules promulgated under Part IV of Chapter 373, F.S., is intended to meet this requirement.~~

4.4.1.1 4.4.1.2 The District recognizes that, in certain instances, adverse impacts of activities regulated under Part IV of Chapter 373, F.S. can be offset through the utilization of mitigation credits from a permitted mitigation bank. ~~participation in a Mitigation Bank.~~ This rule provides criteria for this mitigation alternative to complement existing mitigation criteria and requirements. This section does not supersede any other criteria and requirements in rules promulgated under Part IV of Chapter 373, F.S.

4.4.1.2 4.4.1.3 The District intends that ~~m~~mitigation banks be used to minimize mitigation uncertainty associated with traditional mitigation practices, provide greater assurance of mitigation success, and optimize opportunities to restore any degraded habitats which may be incorporated into the bank. It is anticipated that the consolidation of multiple mitigation projects into larger contiguous areas will provide greater assurance that the mitigation will yield long-term, sustainable, regional ecological benefits. ~~m~~mitigation banks should emphasize restoration and enhancement of degraded ecosystems and the preservation of uplands and wetlands as intact ecosystems rather than alteration of landscapes to create wetlands. This is best accomplished through restoration of ecological communities that were historically present. The establishment and use of mitigation banks in or adjacent to areas of national, state, or regional ecological significance is encouraged, provided the area in which the mitigation bank is proposed to be located is determined appropriate for mitigation banking and the bank meets all applicable permit criteria.

4.4.4.3 ~~4.4.1.4~~ Nothing in this section shall affect the mitigation requirements set forth in any mitigation bank agreement or any permit issued pursuant to Chapter 84-79, Laws of Florida, or Part IV of Chapter 373, F.S., prior to the effective date of this section. Modification of a mitigation bank individual permit or conceptual approval shall be governed by section 373.4136(10), F.S. (1996) and this section. ~~If a permittee wishes to substantially modify a mitigation bank previously established by agreement or permit, the permittee must comply with this section.~~ This section does not prohibit an applicant from proposing project-specific pre-construction on-site mitigation, or off-site mitigation, without establishing a mMitigation bBank pursuant to this section.

4.4.2 Use of a Mitigation Bank

4.4.2.1 Use of a mMitigation bBank is an appropriate, ~~desirable~~, and a permissible mitigation option when the mMitigation bBank will offset the adverse impacts of the project; and

(a) No change.

(b) use of the mMitigation bBank would provide greater improvement in ecological value than on-site mitigation.

4.4.2.2 In some cases, a combination of on-site mitigation and participation in a mMitigation bBank will be appropriate to offset adverse impacts of a project.

4.4.3 Criteria for Establishing a mMitigation bBank

The following criteria shall be met to establish a mMitigation bBank:

4.4.3.1 The banker shall provide reasonable assurance that the proposed mMitigation bBank will:

(a) improve ecological conditions of the regional watershed;

(b) provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;

(c) be effectively managed in perpetuity ~~the long term~~;

(d) not destroy areas with high ecological value;

(e) achieve mitigation success; and

(f) be adjacent to lands which will not adversely affect the perpetual long-term viability of the mMitigation bBank due to unsuitable land uses or conditions.

4.4.3.1.2 No change.

4.4.3.2 A mMitigation bBank may be implemented in phases if each phase independently meets the requirements of subsections 4.4.3.1 and 4.4.3.1.2 above.

4.4.3.3 No change.

4.4.4 Permit Applications for an mMitigation bBank Individual Permit or mMitigation bBank Conceptual Approval ~~Environmental Resource Permits for a Mitigation Bank~~

Any person or entity proposing to establish a mMitigation bBank must apply for an mMitigation bBank ~~Environmental Resource~~ Permit pursuant to this section. An application for an mMitigation bBank ~~Individual permit or mitigation bank~~

~~Conceptual Approval Environmental Resource Permit~~ shall constitute an application for any related activity which would require a permit authorized under Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F.A.C. Therefore, a separate application for a permit to construct a surface water management system proposed as part of the mitigation bank is not required. ~~mMitigation bBank Environmental Resource~~ permit applications to establish or conceptually approve a mMitigation bBank shall be processed according to Chapter 120, F.S. To provide the District with reasonable assurances that the proposed mMitigation bBank will meet the criteria in this section, section 373.4136, F.S., and the criteria contained in Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F.A.C. each permit application submitted to the District shall include the information needed to review any permit required under Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F.A.C. and the information specified below as appropriate for the project:

4.4.4.1 A description of the location of the proposed mMitigation bBank which shall include:

(a) a map at regional scale showing the project area in relation to the regional watershed and proposed mitigation service area;

(b) a vicinity map showing the project area in relation to adjacent lands and offsite areas of ecologic or hydrologic significance which could affect the perpetual long-term viability or ecological value of the bank;

(c) an aerial photograph identifying boundaries of the project area;

(d) a highway map showing points of access to the mMitigation bBank for site inspection; and

(e) a legal description of the proposed mMitigation bBank boundaries.

4.4.4.2 A description of the ecological significance of the proposed mMitigation bBank to the regional watershed in which it is located.

4.4.4.3 A description and assessment of current site conditions which shall include:

(a) a soils map of the project area;

(b) a topographic map of the project area and adjacent hydrologic contributing and receiving areas;

(c) a hydrologic features map of the project area and adjacent hydrologic contributing and receiving areas;

(d) current hydrologic conditions in the project area;

(e) a vegetation map of the project area;

(f) ecological benefits currently provided to the regional watershed by the project area;

(g) adjacent lands, including existing land uses and conditions, projected land uses according to comprehensive plans adopted pursuant to Chapter 163, F.S., by local governments having jurisdiction, and any special designations or classifications associated with adjacent lands or waters; and

(h) a disclosure statement of any material fact which may effect the contemplated use of the property, including potentially inconsistent title encumbrances such as mineral rights, linear facility easements, drainage easements and other existing interests in the land.

(i) a Phase I environmental audit of the property.

4.4.4.4 A mitigation plan describing the actions proposed to establish, construct, operate, manage and maintain the mMitigation bBank which shall include:

(a) construction-level drawings detailing proposed topographic alterations and all structural components associated with proposed activities;

(b) proposed construction activities, including a detailed schedule for implementation;

(c) the proposed vegetation planting scheme and detailed schedule for implementation;

(d) measures to be implemented during and after construction to avoid adverse impacts related to proposed activities;

(e) a detailed perpetual long-term management plan comprising all aspects of operation and maintenance, including water management practices, vegetation establishment, exotic and nuisance species control, fire management, and control of access; and

(f) a proposed monitoring plan to demonstrate mitigation success.

4.4.4.5 An assessment of improvement or changes in ecological value anticipated as a result of proposed mitigation actions which shall include:

(a) a description of anticipated site conditions in the mMitigation bBank after the mitigation plan is successfully implemented;

(b) a comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; and

(c) a description of the expected ecological benefits to the regional watershed.

4.4.4.6 Evidence of sufficient legal or equitable interest in the property which is to become the mMitigation bBank to meet the requirements of section 4.4.9.

4.4.4.7 Draft documentation of financial responsibility meeting the requirements of section 4.4.10.

4.4.4.8 Any additional information which may be necessary to evaluate whether the proposed mMitigation bBank meets the criteria of section 373.4136, F.S., and this section.

4.4.4.9 A person or entity who wishes to obtain an estimation of the legal and financial requirements necessary for a mitigation bank, information necessary for evaluation of an application for an individual permit for a mitigation bank, and potential credits to be awarded pursuant to a mitigation bank individual permit may apply for a mitigation bank conceptual

approval. An application for a mitigation bank conceptual approval must contain the information listed in 4.4.4.1-8 above.

4.4.5 Establishment and Release of Mitigation Credits.

4.4.5.1 Based upon the information submitted by the applicant, and an assessment of the proposed mMitigation bBank pursuant to the criteria in this section, the District will assign a number of mMitigation cCredits to the proposed mMitigation bBank, or phases thereof.

4.4.5.2 The number of credits awarded shall be based on the degree of improvement in ecological value expected to result from the establishment and operation of the mitigation bank as determined using a functional assessment methodology. For purposes of establishing a standard unit of measure, one mMitigation cCredit is equivalent to the ecological value gained by the successful creation of one acre of wetland. Mitigation cCredits assigned for enhancement, restoration or preservation of wetlands or uplands will be based on the extent of improvement in ecological value resulting from these activities relative to that obtained by successfully creating one acre of wetland. In determining the degree of improvement in ecological value, the following factors shall will be considered:

(a) The extent to which target hydrologic regimes can be achieved and maintained.

(b) The extent to which management activities promote natural ecological conditions, such as including natural fire patterns.

(c) The proximity to areas with regionally significant ecological resources or habitats of national, state, or regional ecological significance, such as national or state parks, Outstanding National Resource Waters and associated watersheds, Outstanding Florida Waters and associated watersheds, and other regionally significant ecological resources or habitats, such as lands acquired or to be acquired through governmental or non-profit land acquisition programs for environmental conservation; and the extent to which the mitigation bank establishes corridors for fish, wildlife, or listed species and the establishment of corridors to those resources or habitats.

(d) The quality and quantity of wetland or upland restoration, enhancement, preservation, or creation.

(e) The ecological and hydrological relationship between wetlands and uplands in the mMitigation bBank.

(f) The extent to which the mMitigation bBank provides habitat for fish and wildlife, especially habitat for species listed as threatened, endangered or of special concern, or provides habitats that which are unique for that mitigation service area.

(g) The extent to which the lands that are to be preserved are already protected by existing state, local or federal regulations or land use restrictions.

(h) The extent that lands to be preserved would be adversely affected if they were not preserved.

(i) Any special designation or classification of the affected waters and lands.

4.4.5.3 No credit shall be available for freshwater wetland creation until the success criteria included in the mitigation bank permit are met. ~~of the created wetlands is demonstrated~~

4.4.5.4 The number of credits and schedule for release shall be determined based upon the performance criteria for the mitigation bank, and the success criteria for each mitigation activity. Some mMitigation cCredits may be withdrawn prior to meeting all of the performance criteria specified in the mitigation bank individual permit. Release of all of a mitigation bank's awarded mitigation credits shall occur only after the bank meets the mitigation success criteria specified in the permit. ~~The number of credits and schedule for release shall be determined based upon the performance criteria for the Mitigation Bank, and the success criteria for each mitigation activity.~~ A Mitigation Bank will be credited with its maximum number of Mitigation Credits only after meeting the mitigation success criteria specified in the permit. However, no credits shall be released prior to meeting the requirements of Sections 4.4.9 and 4.4.10.

4.4.5.5. The release schedule for a specific mitigation bank or phase thereof shall be related to the actions required to implement the bank, such as site protection, site preparation, earthwork, removal of wastes, planting, removal or control of nuisance and exotic species, installation of structures, and annual monitoring and management requirements for success. In determining the specific release schedule for a bank, the following factors, at a minimum, will be considered:

- (a) Whether the mitigation consists solely of preservation or includes other types of mitigation.
- (b) The length of time anticipated to be required before a determination of success can be achieved.
- (c) The ecological value to be gained from each action required to implement the bank.
- (d) The financial expenditure required for each action to implement the bank.

Mitigation Credits available for withdrawal may be transferred, sold or used subject to the provisions of this section.

4.4.5.6 If at any time the banker is not in material compliance with the terms of the individual permit, no mMitigation cCredits may be withdrawn. Mitigation cCredits shall again be available for withdrawal if the banker comes back into compliance.

4.4.5.7 The individual permit shall contain a ledger listing the number and type of mMitigation cCredits in the mMitigation bBank. The ledger will provide the maximum number and type of mMitigation cCredits which would be available for withdrawal when the mMitigation bBank meets all of the performance criteria in the permit.

4.4.5.8 A mitigation credit that has been released by the District may be sold or used to offset adverse impacts from an activity regulated under Part IV, Chapter 373, F.S. Mitigation

~~Credits may be sold whole or in part at the banker's discretion. Mitigation Credits may be sold or resold until they are used to offset adverse impacts.~~

4.4.5.9 The District shall maintain a ledger of the mMitigation cCredits available in each mMitigation bBank. Mitigation cCredits shall be withdrawn as a non-substantial modification of the individual permit. To withdraw mMitigation cCredits, the banker shall permit applicant shall document that mMitigation cCredits have been reserved, sold or transferred to the entity proposing to use the credits permit applicant, and ~~that the Mitigation Credits have been withdrawn from the Mitigation Bank.~~ If the agency permitting the impact determines that use of the mMitigation cCredits proposed by the applicant is appropriate to offset the adverse impacts, it shall notify the District. Upon receipt of this notice, the District shall determine if a sufficient number and type of mMitigation cCredits are available, withdraw the mMitigation cCredits, and notify the agency permitting the impact and the banker in writing of the withdrawal of the mMitigation cCredits and the remaining balance of mMitigation cCredits.

4.4.5.10 When the Department is the banker, the Department shall maintain its own ledger. The Department shall annually submit a report of the mMitigation cCredits sold, transferred, or used from its mMitigation bBank to the District.

4.4.6 Addition Contribution of Lands.

A permit applicant may add contribute land to a permitted mMitigation bBank if the addition of land meets the requirements of section 4.4, herein, and results in an increase in the ecological value of the existing mitigation bank pursuant to section 4.4.5.2, herein. Addition of land shall be accomplished through a modification to the permit that reflects the corresponding increase in the total number of mitigation credits assigned to the bank.

~~(a) the adverse impacts to be offset by the land donation are within the mitigation service area of the Mitigation Bank, except as provided in Section 4.4.8.4;~~

~~(b) the land will offset adverse impacts of the proposed project;~~

~~(c) the land is adjacent to or will become a District approved Mitigation Bank;~~

~~(d) the land will improve or enhance the ecological value of a District approved Mitigation Bank;~~

~~(e) the land will be encumbered pursuant to the requirements of section 4.4.9; and~~

~~(f) the grantee of the conservation easement or fee simple interest agrees to accept such conveyance.~~

4.4.8 Mitigation Service Area.

4.4.8.1 A mMitigation sService aArea will be established for each mMitigation bBank in the individual permit pursuant to the criteria of subsection 373.4136(6), F.S. and this subsection. The District will notify and consider comments received on the proposed mitigation service area from each local government that operates a wetlands regulatory program within the

proposed mitigation service area. Except as provided in subsection 4.4.8.4, herein, mMitigation cCredits may only be withdrawn and used to offset adverse impacts in the mMitigation sService aArea. The extent of the Mitigation Service Area will depend upon whether adverse impacts within the Mitigation Service Area can be adequately offset by the Mitigation Bank.

4.4.8.2 The boundaries of the mitigation service area shall depend upon the geographic area where the mitigation bank could reasonably be expected to offset adverse impacts. Generally, the boundaries of a service area correlate to the boundaries of regional watersheds. See Figure 4.4-2. However, mitigation service areas may be larger or smaller than a regional watershed pursuant as follows:

(a) A mitigation service area may be larger than the regional watershed if the mitigation bank provides exceptional ecological value such that adverse impacts outside the regional watershed could reasonably be expected to be adequately offset by the mitigation bank. See Figure 4.4-3. In determining the extent to which a mitigation bank provides exceptional ecological value, the District will consider the characteristics, size, and location of the mitigation bank and, at a minimum, the extent to which the mitigation bank:

1. Will promote a regional integrated ecological network;
2. Will significantly enhance the water quality or restoration of an offsite receiving waterbody that is designated as an Outstanding Florida Water, a Wild and Scenic River, an aquatic preserve, a water body designated in a plan adopted pursuant to section 373.456, F.S. (Surface Water Improvement and Management Act), or a nationally designated estuarine preserve;

3. Will provide for the long-term viability of endangered or threatened species or species of special concern; and

4. Is consistent with the objectives of a regional land acquisition, restoration and/or management plan adopted or endorsed by the Department of Environmental Protection, the District or other water management district. A Mitigation Service Area may be larger than the regional watershed if adverse impacts to wetlands outside the regional watershed could be adequately offset by the Mitigation Bank because of local ecological or hydrological conditions.

(b) A mitigation service area may be smaller than a regional watershed if adverse impacts throughout the regional watershed cannot reasonably be expected to be offset by the mitigation bank because of local ecological or hydrological conditions. A Mitigation Service Area may be smaller than a regional watershed, such as in an aquatic preserve, Outstanding Florida Water, or Area of Critical State Concern, if adverse impacts throughout the regional watershed could not be offset by the Mitigation Bank because of local ecological or hydrological conditions.

4.4.8.3 Mitigation sService aAreas may overlap and multiple mMitigation sService aAreas for two or more mitigation banks may be approved for a given regional watershed.

4.4.8.4 Notwithstanding the fact that they are not completely located within the mitigation service area In addition to projects located wholly within the Mitigation Service Area of a Mitigation Bank, the following projects are eligible to use a mMitigation bBank if the requirements in section 4.4.2 are met:

(a) Projects with adverse impacts partially located within the mMitigation sService aArea.

(b) Linear projects, such as roadways, transmission lines, distribution lines, pipelines, or railways.

(c) Projects with total adverse impacts of less than one half acre in size.

4.4.8.5 When mMitigation cCredits are applied to offset adverse impacts within the regional watershed, the mitigation credit requirement shall be the same as that specified for mitigation on the project site.

4.4.8.6 When mMitigation cCredits are applied to offset adverse impacts outside the regional watershed, the mitigation credit requirement shall may be higher than that specified for mitigation on the project site, if necessary to adequately offset the adverse impacts of the project.

4.4.9 Land Use Restrictions on Mitigation Banks

4.4.9.1 Before mMitigation cCredits may be used from a mMitigation bBank or any phase of a mMitigation bBank, the banker shall either (1) cause a fee interest to be conveyed to the District, or (2) cause a conservation easement to be conveyed to both the Department of Environmental Protection and the District pursuant to section 704.06, F.S. The grantor of a conservation easement may convey a conservation easement to additional grantees provided that such conveyance is consistent with the preservation requirements of the permit and do not alter the rights of the District as grantee. Mitigation bBanks on Federally or state owned land shall be encumbered in perpetuity by conservation easements or other mechanisms ensuring perpetual preservation in accordance with the individual permit.

4.4.9.2 All conservation easements shall be granted in perpetuity without encumbrances, unless such encumbrances do not adversely affect the ecological viability of the mMitigation bBank. All conservation easements shall be of a form and content sufficient to ensure preservation of the Mitigation Bank according to the permit, and shall, at a minimum, meet the requirements and restrictions of Section 704.06, F.S., except as provided in the individual permit, and meet the requirements of subsection 4.4.9.9. The conservation easement shall also provide that the banker shall have access to the property and the authority to perform all acts necessary to ensure compliance with the mitigation bank permit (unless the

banker is the fee owner of the property) and that the District shall have access and the authority to perform these acts if the banker fails to do so.

4.4.9.3 All real property conveyances shall be in fee simple and by statutory warranty deed, special warranty deed, or other deed, without encumbrances that adversely affect the District's title to the mMitigation bBank property or preservation of the mMitigation bBank according to the permit. The District shall accept a quit claim deed if necessary to aid in clearing minor title defects or otherwise resolve a boundary question in the mMitigation bBank.

4.4.9.4 As part of providing reasonable assurance that the mitigation bank site will be preserved in perpetuity, ~~The~~ grantor of the property or conservation easement shall provide the following unless the District determines such items are not necessary to ensure preservation of the mMitigation bBank according to the permit:

(a) A boundary survey of the real property being conveyed ~~or the area within the conservation easement.~~ The survey must be certified by a land surveyor registered in the State of Florida as meeting the requirements of the District, and the minimum technical standards set forth by the Florida Board of Professional Land Surveyors in Chapter 61G17-6, F.A.C., pursuant to Section 472.027, F.S.

(b) A certified appraisal of the market value of the property or interest to be conveyed to determine the appropriate amount of title insurance.

(c) ~~Assurance of the marketability of the interest in real property being acquired in the form of A~~ marketable title commitment issued to the District as beneficiary and owner's title policy (ALTA Form B) in an amount at least equal to the fair market value, as established in subsection 4.4.9.4(b), of the interest being conveyed real property. An owner's title insurance policy (ALTA Form B) naming the District as beneficiary shall be issued to the District within the time frames specified by the permit. The coverage, form and exceptions of the title insurance policy shall ensure that the mMitigation bBank will be preserved according to the mitigation bank individual permit.

(d) ~~A~~ If a fee simple interest is being conveyed, a Phase I environmental audit identifying any environmental problems that which may adversely affect construction, implementation, and perpetual management of the mitigation bank or that affect the liability of the District and any additional audits as are necessary to disclose the presence of any substance or condition that could subject the District to liability.

4.4.9.5 All existing mortgages on the property shall be joined or subordinated prior to conveyance of the conservation easement. The District shall require additional documentation or actions from the grantor of the conservation easement or fee interest if such additional documentation or actions are necessary to adequately protect the District's interest in, or the integrity of, the mMitigation bBank.

4.4.9.6 The banker grantor shall pay the documentary revenue stamp tax and all other taxes or costs associated with the conveyance, including the cost of recording the deed or conservation easement and any other recordable instruments required by the District, unless prohibited or exempt by law, as a condition of the receipt of the conveyance.

4.4.9.7 All real estate taxes and assessments which are or which may become a lien against the property shall be satisfied of record by the banker grantor before or at the time of conveyance closing. If required by Section 196.295, F.S., the banker grantor shall place funds in escrow with the county tax collector. The mitigation banker shall also provide the District with annual documentation demonstrating that such taxes and assessments have been paid.

4.4.9.8 The banker grantor shall remove all abandoned personal property and solid waste from the property that reduces the proposed ecological value of the property, will adversely affect the construction, implementation or management of the bank, or poses a liability risk to the District, as a condition of receipt of the conveyance.

4.4.9.9 ~~The grantor shall provide in the~~ conservation easement shall provide that the banker and the District shall have access to the property to perform all acts necessary to ensure compliance with the mitigation bank individual permit and any permits issued under this part.

4.4.9.10 The banker shall record the conservation easement or property deed within 30 days of issuance of the mitigation bank individual permit, or as otherwise required in the mitigation bank individual permit. The banker shall submit to the District a certified copy of the recorded conservation easement or property deed within 30 days of recording. The banker shall submit to the District the original recorded conservation easement or property deed as soon as such document is available from the public records office.

4.4.10 Financial Responsibility.

4.4.10.1 To provide reasonable assurances that the proposed mMitigation bBank will meet the requirements of section 373.4136, F.S., this section and the associated permit conditions, non-governmental bankers shall provide proof of financial responsibility for: (1) the construction and implementation phase of the bank, and (2) the perpetual long term management of the bank, as required in this section. Governmental entities shall provide proof of financial responsibility pursuant to Section 4.4.10.8. The amount of financial responsibility provided in the mechanisms required in this section shall be based on the cost estimates determined pursuant to Section 4.4.10.6.

4.4.10.2 Financial Responsibility Documentation.

The applicant shall provide draft documentation of the required financial responsibility mechanisms described below with the permit application, and shall submit to the District the executed or finalized documentation within the time frames specified in

the permit, and in any event prior to the release of credits. The provisions of this section shall also apply for any modifications to the mitigation bank individual permit.

4.4.10.3 General Terms for Financial Responsibility Mechanisms.

In addition to the specific provisions regarding financial responsibility mechanisms for construction and implementation in subsection 4.4.10.4 and perpetual long term management in subsection 4.4.10.5, the following terms shall be complied with and, where applicable, included in the financial responsibility mechanism:

(a) The financial mechanisms shall name the District as sole beneficiary or shall be payable at the direction of the to the District to its designee or to a standby trust. Co-beneficiaries, and the terms of such status, is subject to the approval of the District. If the financial responsibility mechanism is of a type which is retained by the beneficiary according to industry standards, it shall be retained by the District.

(b) Demonstration of financial responsibility shall be continuous until complete satisfaction of the applicable permit conditions and approved release of financial responsibility by the District.

(c) All financial mechanisms must guarantee that the banker will perform all of its obligations under the permit. The financial mechanism shall also provide for alternative financial assurance, as allowed by this section, to address situations such as cancellation of a bond or a financial institution's intent not to extend the expiration date of a letter of credit. The banker must obtain the District's written approval of the alternative assurance provided, within 90 days after receipt by both the banker and the District of a notice of cancellation of a bond or intent not to extend expiration date of a letter of credit.

(d) A banker may satisfy the requirements of this section by establishing more than one acceptable financial mechanism per mitigation bank.

(e) A banker may use a financial assurance mechanism allowed under this section for more than one mitigation bank. The amount of funds available through the mechanism must be no less than the sum of funds that would be available through separate mechanisms acceptable for each mitigation bank.

(f) A banker must notify the District by certified mail within 10 days after the commencement of a voluntary or involuntary proceeding i) to dissolve the banker, ii) to place the banker in receivership, or iii) for entry of an order for relief against the banker under Title 11 of the United States Code. A banker may not assign its assets for the benefit of creditors. A banker will be deemed to be without the required financial assurance in the event of a bankruptcy of the trustee of any trust provided under this rule, or the suspension or revocation of the authority of any trustee to act as trustee, or in the event of a bankruptcy of the issuing institution of any bond or letter of credit, or the revocation of the authority of such institution to issue such instruments. The banker must notify the District

within 10 days, and establish other financial assurance within 60 days after such an event. The financial institution issuing or maintaining the financial responsibility mechanism must have the legal authority to conduct such operations and must be regulated and examined by a Federal agency or the State of Florida. If insurance is provided to the financial institution by a Federal agency, the amount of insurance shall not be less than the amount of financial responsibility required by this section. Surety or guarantee bonds must be issued by a surety company registered with the State of Florida.

(g)(e) No person shall withdraw or transfer any portion of the monies provided for financial responsibility in a manner that reduces without first obtaining prior written approval from the District, which shall be granted provided that such withdrawal or transfer does not reduce the amount of financial responsibility below the cost requirements in Sections 4.4.10.4(c) and 4.4.10.5(b), as applicable.

(d) The financial responsibility mechanisms shall not expire or terminate prior to completion of the applicable permit conditions.

(e) The financial responsibility mechanisms shall not be terminated or cancelled by the banker. Within 90 days of receipt of a notice of cancellation of a financial responsibility mechanism or other actual or constructive notice of cancellation, the banker shall provide an alternate financial responsibility mechanism which meets the requirements of this section.

(h)(f) If the mMitigation bBank has failed to comply with the terms and conditions of the permit, the District upon reasonable notice may draw upon the financial mechanism.

4.4.10.4 Financial Responsibility for Construction and Implementation.

(a) No financial responsibility shall be required where the construction and implementation of the mMitigation bBank, or a phase thereof, is completed and successful prior to the withdrawal of any credits.

(b) Financial responsibility for the construction and implementation of each phase of the mMitigation bBank may be established by surety guarantee bonds, performance bonds, insurance certificates, irrevocable letters of credit, or trust funds agreements, or securities. If a bonds or an irrevocable letter of credit is are used as the financial mechanism, a standby trust fund shall be established, in a form meeting standard industry practices, in which all payments under the bonds or letter of credit shall be directly deposited.

(c) The amount of financial responsibility established shall equal 110% of the cost of construction and implementation of each phase of the mMitigation bBank which is being constructed and implemented, pursuant to the cost estimate requirements of sSection 4.4.10.6. When a current phase has been completely constructed, implemented and is trending towards success according to the terms of the permit, the respective amount of financial responsibility shall be released.

(d) ~~The financial responsibility mechanism shall become effective prior to the release of any mitigation credits, at least 60 days prior to initiation of construction of the next phase of the Mitigation Bank, or as otherwise required by the individual permit prior to initiation of implementation and construction of the subject phase.~~

(e) Surety or Performance Bond.

1. A banker may satisfy the requirements of Section 4.4.10.4 by obtaining a surety or performance bond that conforms to the requirements of this subsection. The company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 of the U.S. Department of the Treasury, or a Florida-domiciled surety or insurance company with at least an A-rating in the latest printing of the A.M. Best's Key Rating Guide to write individual bonds up to 10 percent of the policyholder's surplus. The banker shall provide proof that the bond company meets these requirements.

2. The surety or performance bond shall be worded in substantial conformance with form number 1019. Deviations from the form shall be identified and submitted to the District for review and approval.

3. Under the terms of the bond, the surety shall become liable on the bond obligation when the mitigation banker fails to perform as guaranteed by the bond. In all cases, the surety's liability shall be limited to the sum stated therein.

4. The mitigation banker who uses a surety or performance bond to satisfy the requirements of Section 4.4.10.4 shall be required to establish a standby trust fund when the surety or performance bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund for distribution by the trustee in accordance with the District's instructions. The standby fund agreement must meet the requirements specified in Section 4.4.10.4(g).

5. Notice of cancellation of a bond must be made by certified mail to the banker and to the District. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the banker and the District, as evidenced by the return receipt.

6. A bond may be canceled by the banker if the District has given prior written consent. The District shall provide such consent when either the banker substitutes alternative financial assurance allowed under this rule and such alternate financial assurance is approved by the District and is effective; or the District releases the banker from the requirements of this section.

(f) Irrevocable Letter of Credit

1. A mitigation banker may satisfy the requirements of Section 4.4.10.4 by obtaining an irrevocable letter of credit that conforms to the requirements of this subsection. The irrevocable letter of credit shall be provided by a federally insured depository that is "well capitalized" or "adequately

capitalized" as defined in Section 38 of the Federal Deposit Insurance Act. The banker shall submit proof of such capitalization to the District.

2. The irrevocable letter of credit shall be worded in substantial conformance with Form 1020. Deviations from the form shall be identified and submitted to the District for review and approval.

3. A mitigation banker who uses an irrevocable letter of credit to satisfy the requirements of Section 4.4.10.4 must also establish a standby trust fund when the irrevocable letter of credit is acquired. Under the terms of the irrevocable letter of credit, all amounts paid pursuant to a sight draft by the District will be deposited by the issuing institution directly into the standby trust fund to be distributed by the trustee in accordance with instructions from the District. This standby trust fund must meet the requirements specified in Section 4.4.10.4(g).

4. Letters of credit must be irrevocable and issued for a period of at least one year, and the expiration date must be automatically extended for a period of at least one year unless, at least 120 days prior to the expiration date, the issuing institution notifies both the banker and the District by certified mail of a decision not to extend the expiration date. The terms of the irrevocable letter of credit must provide that the 120 days must begin on the date when both the banker and the District received the notice, as evidenced by the return receipts.

(g) Standby Trust Fund.

1. A mitigation banker using a surety or performance bond or irrevocable letter of credit shall contemporaneously establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal agency or an agency of the state in which the fund is established. The banker shall provide proof of such regulation and examination to the District.

2. The standby trust agreement shall be worded in substantial conformance with form number 1021. Deviations from the form shall be identified and submitted to the District for review and approval.

(h) Trust Fund.

1. A mitigation banker may satisfy the requirements of Section 4.4.10.4 by establishing a trust fund that conforms to the requirements of this section. The trustee of the trustee fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal agency or an agency of the state in which the fund is established. The banker shall provide proof of such regulation and examination to the District.

2. The trust agreement must be worded in substantial conformance to form number 1022. Deviations from the form shall be identified and submitted to the District for review and approval.

4.4.10.5 Financial Responsibility for the Perpetual Long Term Management.

(a) A banker shall establish either a trust fund or an irrevocable letter of credit or surety or performance bond with a corresponding standby trust fund agreement to provide financial responsibility for perpetual the long term management of the mMitigation bBank, or phase thereof. When a trust fund is used, the requirements of section 4.4.10.4 (h) must be met. When a surety or performance bond or irrevocable letter of credit is used with a standby trust fund, the requirements of sections 4.4.10.4 (e), 4.4.10.4 (f) and 4.4.10.4 (g), respectively, must be met. Trust fund agreements for perpetual management shall be worded in substantial conformance with form number 1023. Standby trust fund agreements for perpetual management shall be worded in substantial conformance with form number 1024. Deviations from the forms shall be identified and submitted to the District for review and approval submitted in a format which meets standard industry practices.

(b) The amount of financial responsibility provided shall be sufficient to be reasonably expected to generate annual revenue shall equal to the annual cost of perpetual long term management, established pursuant to section 4.4.10.6 at an assumed average rate of return of six percent per annum, for the bank, or for banks constructed in phases, for all previously constructed phases and the current phase for which credits have been released approved for withdrawal.

(c) The financial responsibility mechanism must be in effect trust fund agreement shall be effective and fully funded at least 60 days prior to the withdrawal of credits from the mMitigation bBank, or applicable phase thereof, and shall be funded in a percentage as provided in the mitigation bank permit to ensure the availability of management funds for perpetual operation of the mitigation bank or phase thereof, or as otherwise provided in the mitigation bank permit prior to the withdrawal of credits.

4.4.10.6 Cost estimates.

(a) For the purposes of determining the amount of financial responsibility that is required in this section, the banker shall submit a detailed written estimate, in current dollars, of the total cost of construction and implementation, and of the cost of perpetual long term management of the mMitigation bBank. The written cost estimate shall be certified by a licensed professional whose license authority in the State of Florida includes the ability to provide such certified written estimates.

(b) The cost estimate for construction and implementation shall include all costs associated with completing construction and implementation of the mMitigation bBank, or phase thereof, including, as applicable, earth moving, planting, exotic/nuisance vegetation removal, land surveying, structure installation, consultant fees, taxes, monitoring activities and reports.

(c) The cost estimate for the perpetual long term management of the mMitigation bBank shall be based on the costs of maintaining, and operating, and replacing any structures, controlling nuisance or exotic species, fire management, consultant fees, monitoring activities and reports, taxes and any other costs associated with perpetual long term management. The amount of financial responsibility shall equal the cost of perpetual long term management for all the bank, or for banks constructed in previously constructed phases, and the current phase the phase for which the withdrawal of credits have been released is imminent.

(d) The banker shall submit a written cost the estimates, together with verifiable documentation, to the District along with the proof of financial responsibility mechanism.

(e) The costs shall be estimated based on a third party performing the work at the fair market value of services. The source of any cost estimates shall be indicated.

4.4.10.7 Cost Adjustments.

(a) ~~The banker shall, E~~very two years, the banker shall undertake an estimate of the costs of the remaining adjust the amount of financial responsibility provided for construction, implementation, and perpetual long term management. Every two years The banker shall submit the estimate to the District in writing certified by a licensed professional whose license authority in the State of Florida includes the ability to provide such certified written estimates, a cost adjustment statement accompanied by supporting documentation. Construction, implementation, and perpetual long term management costs shall be listed separately. The District shall review the cost adjustment statement and supporting documentation to determine if it reflects all construction, implementation, and perpetual long term management costs. If the cost adjustment statement and supporting documentation accurately reflects a good faith estimate of all construction, implementation and perpetual management costs, tThe District shall approve the cost adjustment statement if all such costs are reflected.

(b) At each cost adjustment, the banker shall revise the construction, ~~and implementation and perpetual management~~ cost estimate to reflect for inflation and changes in the costs to complete the current phase of the mMitigation bBank.

~~(e) At each cost adjustment, the banker shall revise the long term management cost estimate for inflation and changes in the costs to carry out the long term management conditions of the permit.~~

~~(c)(d)~~ Revised cost estimates shall be used as the basis for modifying the financial mechanism. If the value of the financial mechanism is less than the total amount of the current construction and implementation and long term management cost estimates, the banker shall, upon District approval of the cost adjustment statement, increase the value of the financial mechanism to reflect the new estimate within 60 days. If the value of the funding mechanism is greater than the total amount of the current cost estimate, the banker may reduce the

value of the funding mechanism to reflect the new estimate upon receiving District approval of the cost adjustment statement.

(d) The District shall require adjustment of the amount of financial responsibility provided for construction, implementation or ~~perpetual long term~~ management at times other than the cost adjustment period when estimated ~~the~~ costs associated with compliance with the permit conditions exceed the current amount of financial responsibility and such financial assurances are deemed necessary to ensure compliance with the permit conditions.

4.4.10.8 Financial Responsibility for Governmental, Non-Department, Mitigation Banks.

(a) Governmental entities other than the Department shall demonstrate that they can meet the financial responsibility requirements for construction and implementation in Section 4.4.10.4 by any of the mechanisms in Section 4.4.10.4 above, or by other financial mechanisms which meet the requirements of this section.

(b) Governmental entities other than the Department shall establish a trust fund for the ~~perpetual long term~~ management of the mMitigation bBank ~~which meets the requirements of ~~in accordance with~~ sSection 4.4.10.5(b) and (c), above.~~ The trust fund agreement for ~~perpetual long term~~ management may be funded as mMitigation cCredits are withdrawn, provided that the trust fund agreement is fully funded when all mMitigation cCredits are withdrawn. Governmental entities shall comply with the cost adjustment provisions in Section 4.4.10.7.

4.4.11 Individual or Conceptual Approval Environmental Resource Permit for a Mitigation Bank.

If the mMitigation bBank proposal meets the criteria of section 373.4136, F.S., the criteria contained in these mitigation bank rules and Chapters 40E-4, 40E-40, 40E-41 or 40E-400, F.A.C., as applicable in this section, the District shall issue either a mitigation bank individual permit or a mitigation bank cConceptual aApproval to the banker.

4.4.11.1 ~~The An~~ individual permit authorizes the construction, implementation and operation of the mMitigation bBank and sets forth the associated rights and responsibilities of the banker ~~for the implementation, management, maintenance and operation of the Mitigation Bank. The individual permit and shall include the following:~~

(a) A description of the mMitigation sService aArea.

(b) The maximum number of mMitigation cCredits available for use when the mMitigation bBank, or phase thereof, is deemed successful, the type of mMitigation cCredits awarded, and the number and schedule of mMitigation cCredits available for use prior to success.

(c) The success criteria by which the mMitigation bBank will be evaluated.

(d) The financial responsibility mechanism(s) which must be employed by the banker ~~including the procedure for drawing on the financial mechanisms by the District,~~ and provisions for adjustment of the financial responsibility mechanism.

(e) Requirements for the execution and recording of the conservation easement or conveyance of the fee interest as provided in section 4.4.9.

(f) A ledger listing mMitigation cCredits available in the mMitigation bBank.

(g) A schedule for implementation of the mMitigation bBank, and any phases therein.

(h) The ~~perpetual long term~~ management requirements for the mMitigation bBank.

(i) The conditions required pursuant to Chapters 40E-4, 40E-40, 40E-41 or 40E-400, F.A.C., as applicable, for construction and operation of any surface water management system proposed within the mMitigation bBank.

4.4.11.2 An individual permit issued in accordance with 4.4.11 shall automatically expire five years from the date of issuance if the banker has not recorded a conservation easement or conveyed fee simple interest, as appropriate, over the real property within the mMitigation bBank, or phase thereof, in accordance with the individual permit, or, when no property interest is required to be recorded, the individual permit shall automatically expire if no construction has been commenced pursuant thereto. Except as provided above, an individual permit shall be perpetual unless revoked or modified.

4.4.11.3 A mMitigation bBank cConceptual aApproval estimates the legal and financial requirements necessary for the mMitigation bBank, information necessary for evaluation of the application for an individual permit for the mitigation bank, and potential mMitigation cCredits to be awarded pursuant to the individual permit. The mMitigation bBank cConceptual aApproval does not authorize the use or withdrawal of mMitigation cCredits, or any construction within the mMitigation bBank. The level of detail provided in the mMitigation bBank cConceptual aApproval will depend on the level of detail submitted with the application. A mMitigation bBank cConceptual aApproval shall be valid for a term of five years from the date of issuance.

4.4.12 Surrender, Transfer, or Modification of an Individual or Conceptual Approval Environmental Resource Permits for a Mitigation Bank.

4.4.12.1 A banker may apply to surrender an individual permit, or permitted phase thereof, by submitting a written request to the District. The written request must identify which phase of the mMitigation bBank will be surrendered, indicate the extent of mitigation work performed in that phase, and describe the conservation property interest encumbering that phase. The District shall authorize release from an individual permit when no credits have been debited from the ledger ~~and~~ and relinquishment of the phase would not compromise the

ecological value of the remaining portions of the mMitigation bBank. A release of a geographic phase of the bank shall be made by modification of the mitigation bank permit.

4.4.12.2 If a property interest has been conveyed as provided in Section 4.4.9 for an individual permit which is surrendered as provided in Section 4.4.12.1 above, the District shall convey the property interest back to the grantor of that interest.

4.4.12.3 If a surface water management system has been constructed or altered within the mMitigation bBank, the banker shall obtain any permits required pursuant to Chapters 40E-4, 40E-40, 40E-41 and 40E-400, F.A.C., to abandon the surface water management system.

4.4.12.4 To transfer an individual permit, the banker shall meet the requirements of Rule 40E-1.6107, F.A.C., and the entity to which the permit will be transferred must provide reasonable assurances that it can meet the requirements of sections 4.4.9 and 4.4.10.

4.4.12.5 ~~An mitigation bank individual permit Individual Environmental Resource Permit for a Mitigation Bank~~ can be issued as a modification to a mMitigation bBank cConceptual aApproval. Modifications shall be governed by section 373.4136(10), F.S. (1996).

4.4.13 Department of Environmental Protection Mitigation Banks.

The Department may construct, operate, manage, and maintain a mMitigation bBank pursuant to this section after obtaining an individual permit from the District.

4.4.13.1 The Department may apply to establish a mMitigation bBank by submitting a mMitigation bBank plan which meets the applicable permitting criteria of this section, in one of the following formats:

(a) A mMitigation bBank plan identifying one or more parcels of lands to be acquired for mitigation site(s).

(b) A mMitigation bBank plan identifying one or more parcels of land in which the Department has a legal or equitable interest.

4.4.13.2 The Department shall maintain the land within the rRegional mMitigation bBank pursuant to the terms of the individual permit. Any change in the land use shall require a modification of the mMitigation bBank pPermit.

4.4.13.3 Notwithstanding any other provision of this Chapter, the Department may sell, transfer, or use mMitigation cCredits prior to acquiring the proposed mitigation site as set forth in its individual permit.

4.4.13.4 Department Financial Responsibility.

A portion of the funds contributed to a Department mMitigation bBank from the sale of credits shall be dedicated for the construction and implementation of the mMitigation bBank, and a portion of the funds shall be dedicated for the long-term management of the bank as set forth in the individual permit. Funds derived from the sale of mMitigation cCredits which are not necessary for the construction, implementation, and long-term management of a Department

rRegional mMitigation bBank shall be dedicated for the initiation of other Department mMitigation bBank, or expansion of other Department land acquisition or restoration projects which improve regional ecological conditions.

4.4.13.5 Procedures for Establishment of Mitigation Banks.

Mitigation bBanks established by the Department shall be permitted pursuant to the procedures encompassed in the Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S. adopted by reference in Section 40E-4.091, F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Terrie Bates, Director, Regulation Department

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: South Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 13, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 1997

insert map here - 40E-4

DEPARTMENT OF HEALTH

Board of Massage Therapy

RULE TITLE: Application for Licensure; Fees
RULE NO.: 64B7-27.002

PURPOSE AND EFFECT: The purpose is to eliminate a fee made unnecessary by the requirement that applicants for licensure apply directly to the examination vendor for examination. In addition, the Board is consolidating the fees for the colonic irrigation exam.

SUMMARY: The rule eliminate a fee made unnecessary by the requirement that applicants for licensure apply directly to the examination vendor for examination.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1) 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).

TIME AND DATE: 3:00 p.m., June 2, 1999

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL 32310

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Buckhalt, Executive Director, Board of Massage, 2020 Capital Circle, Southeast, BIN #C09, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B7-27.002 Application for Licensure; Fees.

(1) ~~Effective January 1, 1996, the application and examination fee for licensure pursuant to Section 480.041(1), F.S., shall be \$230 which includes a \$50 nonrefundable application fee.~~

(2) ~~Effective January 1, 1997, the application fee for licensure for applicants who have taken and passed a Board approved examination shall be a \$50 nonrefundable application fee.~~

(2)(3) The application and examination fee for certification in colonic irrigation Colonies examination fee shall be \$150 \$100 which includes a \$50 nonrefundable application fee. For reexamination, the application and examination fee for certification in colonic irrigation shall be \$150, which includes a \$50 nonrefundable application fee.

Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1) FS. History—New 11-27-79, Amended 2-6-85, Formerly 21L-27.02, 21L-27.002, Amended 6-28-94, 11-22-94, 9-9-96, 1-29-97, Formerly 61G11-27.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Massage Therapy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Massage Therapy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 13, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 12, 1999

DEPARTMENT OF HEALTH

Board of Nursing

RULE TITLE: Disciplinary Guidelines; Range of Penalties;
RULE NO.: 64B9-8.006

Aggravating and Mitigating Circumstances
PURPOSE AND EFFECT: The purpose of the amendment is to add violations of Chapter 455, Part II to the disciplinary guidelines, and to update current violations.

SUMMARY: The amendment will add violations of Chapter 455, Part II to the disciplinary guidelines and to update current violations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 455.627 FS.

LAW IMPLEMENTED: 455.627, 464.018 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).

TIME AND DATE: 2:00 p.m., June 9, 1999

PLACE: Cay Resort, 61 Hawks Cay Blvd., Duck Key, Florida 33050-3256

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Ruth R. Stiehl, Executive Director, Board of Nursing, 4080 Woodcock Drive, Suite 202, Jacksonville, Florida 32207

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.006 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

- (1) through (2) No change.
- (3) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the noted statutes and rules:
 - (a) Violation of Reprimand to denial of license 464.016(1)(a) or (2)(b), F.S., unlicensed practice by an applicant

– Practice on an inactive license or prior to endorsement	Fine of \$100 plus \$10 per day for each day worked over 10	relating to practice or ability to practice nursing (464.018(1)(c), F.S.), <u>or 455.624(1)(c), F.S.)</u>	\$250 and reprimand to referral to IPN or \$1000 fine one year suspension and two years probation with conditions. Felony: From fine of \$500, referral to IPN, two years suspension and probation for the duration of court ordered probation to revocation and \$1000 fine.
– Practice on a suspended license (464.016(1)(b), F.S.)	From \$500 fine and lengthened suspension to revocation and \$1000 fine		
(b) Giving misleading statements or knowing misrepresentations to obtain a license (464.016(1)(d), or 464.018(1)(a) <u>or 455.624(1)(e), (h) or (s), F.S.)</u>	Fine of \$500-\$1000 payable prior to reapplication and license denial or revocation		
– Concealing criminal record on application	From reprimand and \$100 fine to <u>Denial of application</u>	– Conviction of felony under Chapter 893, controlled substances (455.245, 464.018(1)(i), F.S.)	Emergency suspension by Department. Thereafter, Board action in accordance with these guidelines including drug treatment or IPN participation and fine from \$250-\$1000
– Renewing a license by knowing misrepresentations or error of the Department or the Board (continuing education)	Fine of up to \$100 per hour of incorrectly reported CE and suspension continued until such time as incorrectly reported CE is completed and fine paid. If an error of the Department or the Board, suspension, probation with conditions and fine up to \$250.	(g) Knowingly making or filing false report (464.018(1)(f), <u>or 455.624(1)(1), F.S.)</u>	From reprimand and fine of \$250 to suspension and \$1000 fine
– <u>Error of the Department or the Board</u>	<u>Revocation</u>	(h) False, deceptive or misleading advertising; <u>or making misleading, deceptive or fraudulent representations in or related to the practice of nursing</u> (464.018(1)(g), <u>or 455.624(1)(a) or (m), F.S.)</u>	Fine not to exceed \$1000
– Attempting to procure license by bribery, knowing misrepresentation	Suspension or revocation and fine of \$1000 if licensed (denial and refer to state attorney if not licensed)	(i) Unprofessional conduct (464.018(1)(h), <u>or 455.624(1)(j), (n), (o) or (p), F.S.</u>	
(c) Knowingly employ unlicensed persons (464.016(1)(c), 464.018(1)(1))	From fine of \$250 and a reprimand to fine of \$1000 and at least a 90-day suspension followed by probation with conditions	– In delivery of nursing services	Fine from \$250-\$1000 plus from one year probation with conditions and appropriate CE courses to suspension until proof of safety to practice, followed by probation with conditions
(d) Knowingly conceal or failure to report violations of this act (464.016(2)(c), 464.018(1)(k), (l) <u>or (m), 455.624(1)(i), F.S.)</u>	From reprimand and fine not to exceed \$1000 to at least 90-day suspension and \$1000 fine followed by probation with or conditions	– In administrative duties (e.g. charting, supervision of others, etc.)	Fine from \$250-\$1000 plus from 6 months probation with conditions and CE courses to two years probation with conditions and CE courses
(e) License disciplined by another jurisdiction (464.018(1)(b), <u>or 455.624(1)(f), F.S.)</u>	Fine of \$100-\$250 plus same penalty as imposed by other jurisdiction consistent with Florida law and these guidelines for similar offense. Impaired practitioners ordered working in this state may be ordered into the IPN.	– Other instances including but not limited to those listed in 59S-8.005(1)(e)	Fine from \$250-\$1000 plus from reprimand to suspension, probation with conditions and fine
(f) Criminal conviction	Misdemeanor: From fine of	(j) Unlawful possession of controlled substances	From \$250-\$1000 fine and probation with conditions or

(464.018(1)(i), F.S.)	IPN participation to five year suspension followed by probation with conditions	(464.018(1)(d)3., F.S.)	treatment if needed, probation with conditions, a minimum of \$250 fine to revocation. If
(k) Impairment (464.018(1)(j), F.S.)	Fine from \$100-\$1,000 plus referral to IPN and stayed suspension under IPN or probation with conditions		patient is victim, from probation with conditions, direct supervision, and a
– Not in IPN, multiple offenses, or other violations aside from impairment	Suspend for time certain to show continuous sobriety and until proof of safety to practice, fine from		a minimum of \$250 fine to revocation. If non-patient/drug related, from a minimum of
	\$250-\$1,000 prior to reinstatement followed by probation with conditions or IPN participation	– Criminal Conviction Lewdness	suspension. If misdemeanor, from reprimand and minimum
	Permanent revocation with no ability to reapply for licensure	(464.018(1)(d)4., F.S.)	of \$200 fine to probation with conditions. If felony or
– Third offense involving diversion (464.018(4), F.S.)	From \$250-\$1,000 fine and lengthened probation		substance abuse involved, from a minimum of \$250 fine, referral to and participation in
(l) Violation of Board order or rule (464.018(1)(l), or 455.624(I)(b) or (q), F.S.)	with conditions if previously imposed, to suspension of at least 90 days until full compliance with Board order or rule	– Criminal Conviction Assault, Battery	the IPN to denial of licensure or suspension for a term of
	or rule	(464.018(1)(d)5., F.S.)	years. If misdemeanor, fine from a minimum of \$200, probation with conditions including
(m) Sexual misconduct (464.017, F.S.)	Fine from \$500-\$1000, referral to IPN, and one year probation with conditions to revocation		counseling to suspension. If patient is victim, direct supervision may be imposed. If
			felony, fine from a minimum of \$250, psychological evaluation prior to practice followed by
(n) Specified criminal convictions, regardless of adjudication			probation with conditions to suspension.
– Criminal Conviction Forcible felony	From satisfactory psychological evaluation prior to practice, probation with conditions including direct supervision for duration of court sanction and minimum of	– Criminal Conviction Child Abuse	From psychological evaluation prior to practice, fine of at least \$500, referral to the IPN,
(464.018(1)(d)1., F.S.)	\$250 fine to denial or revocation	(464.018(1)(d)6., F.S.)	and possible probation with conditions including direct supervision to denial or
	If misdemeanor, from reprimand and minimum of \$200 fine to probation with conditions. If felony, from probation with conditions and a	– Criminal Conviction Abuse of Elderly	revocation if aggravated abuse. From psychological evaluation prior to practice, referral to
– Criminal Conviction Theft, Robbery	minimum of \$250 fine to suspension. If patient is victim, direct supervision.	(464.018(1)(d)7., F.S.)	the IPN, fine of at least \$500, and possible probation with conditions including direct
(464.018(1)(d)2., F.S.)	If prescription drugs, from referral to the IPN for		supervision to denial or revocation if aggravated abuse.
		(o) Findings of Abuse or Neglect	From probation with conditions including
– Criminal Conviction Fraud			

- (464.018(1)(e), F.S.) counseling, stress management, direct supervision, and at least a \$250 fine to suspension for a period of years.
- (p) Failure to Report Violation (464.018(1)(k), or 455.624(1)(i) or (m), F.S.) Reprimand and \$250 fine to suspension and \$1000 fine
- (q) Using a Class II or IV laser suspension, device or product without having complied with rules governing registration of such devices (455.624(1)(d), F.S.) Fine from \$250-\$1000 plus reprimand to probation with conditions.
- (r) Having been found liable in a civil proceeding for knowingly filing a false report or complaint against another licensee (455.624(1)(g), F.S.) \$1000 fine and reprimand.
- (s) Failing to perform any statutory or legal obligation placed upon a licensed nurse (455.624 (1)(k), F.S.) Fine from \$250-\$1000 plus reprimand to probation with conditions
- (t) Improperly interfering with an investigation or disciplinary proceeding (455.624(1)(r), F.S.) Fine from \$500-\$1000 plus reprimand
- (4) No change.

Specific Authority 455.627 FS. Law Implemented 455.627, 464.018 FS. History—New 2-5-87, Amended 8-12-87, 12-8-87, 11-23-89, 7-28-92, Formerly 21O-10.011, Amended 12-5-93, Formerly 61F7-8.006, Amended 5-1-95, Formerly 59S-8.006, Amended 8-18-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 10, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19, 1999

**DEPARTMENT OF HEALTH
Board of Opticianry**

RULE TITLE: Examination for Licensure
PURPOSE AND EFFECT: Rule 64B12-9.001 is being amended to eliminate superfluous language.

RULE NO.: 64B12-9.001

SUMMARY: The amendments simplify language within subsection (7).

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

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

SPECIFIC AUTHORITY: 455.574(1), (5), 484.005 FS.

LAW IMPLEMENTED: 455.574(1), (5) 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: Sue Foster, Executive Director, Board of Opticianry/MQA, 2020 Capital Circle, S. E., Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-9.001 Examination for Licensure.

(1) through (6) No change.

(7) The neutralization portion of the examination for opticianry licensure shall require candidates to neutralize ~~twenty (20) out of twenty five (25) possible measurements of six (6) lenses~~ within the tolerances set out in the American National Standard (Z80.1-1987) which is incorporated herein by reference to achieve a score of seventy (70). ~~In that two intermediate measurements are required to neutralize total combined vertical prism, an incorrect total combined vertical prism is counted as two (2) incorrect measurements. The correct answer for prism measurements shall be determined by Computer type lensometer.~~

(8) through (11) No change.

Specific Authority 455.574(1), (5), 484.005 FS. Law Implemented 455.574(1), (5) FS. History—New 12-6-79, Amended 8-10-80, 3-11-81, 10-29-81, 6-30-82, 8-11-82, 2-2-83, 8-29-85, Formerly 21P-9.01, Amended 9-17-87, 3-30-89, 2-18-93, Formerly 21P-9.001, Amended 5-2-94, Formerly 61G13-9.001, Amended 5-4-97, Formerly 59U-9.001, Amended 4-20-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Opticianry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 4, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19, 1999

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE TITLES:	RULE NOS.:
Definitions	64E-2.001
Advanced Life Support Service License – Ground	64E-2.003
EMS Training Programs	64E-2.011
Records and Reports	64E-2.013
Prehospital Requirements for Trauma Care	64E-2.015
Trauma Registry	64E-2.018

PURPOSE AND EFFECT: To repeal those rules identified as not being authorized by statute. These revisions will bring Chapter 64E-2, F.A.C., into compliance with the provisions of Chapter 120.536, F.S.

SUMMARY: Advanced Life Support Service License: The proposed rule will remove the current staffing requirements for advanced life support ambulances.

EMS Training Programs: The repeal of this rule will result in the limitation of the department’s authority to approve emergency medical services training programs to verification of compliance with the most recent course of the United States Department of Transportation. Such verification would be provided by the applicant for certification as an emergency medical technician or paramedic.

Records and Reports: The proposed rule removes the requirement that EMS providers must leave a copy of a run report with the receiving facility or hospital.

SPECIFIC AUTHORITY: 381.001, 395.405, 401.121, 401.30, 401.35 FS.

LAW IMPLEMENTED: 381.001, 381.0205, 395.401, 395.402, 395.4025, 395.404, 395.4045, 395.405, 401.23, 401.24, 401.25, 401.27, 401.30, 401.31, 401.34, 401.35, 401.411, 401.45 FS.

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

TIME AND DATE: 10:00 a.m., June 2, 1999

PLACE: Bureau of Emergency Medical Services, 2002 Old St. Augustine Road, Building D, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pam Lesley, Senior Management Analyst, Bureau of Emergency Medical Services, 2002-D Old St. Augustine Road, Tallahassee, Florida 32301, (850)487-6754, or FAX (850)487-2911

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-2.001 Definitions.

(18) Run Report – means the written record described in section 64E-2.013, F.A.C., and in DOH Pamphlet (DOHP) 150-14, October 93, Statewide Run Reporting System User Guide, which is incorporated by reference and available from the department.

Specific Authority 381.0011(13), 395.4025(13), 395.405, 401.121, 401.35 FS. Law Implemented 381.0011, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, 395.4045, 395.405, 401.121, 401.211, 401.23, 401.25, 401.35, 401.435 FS. History–New 11-29-82, Amended 4-26-84, 3-11-85, 11-2-86, 4-12-88, 8-3-88, 8-7-89, 6-6-90, Formerly 10D-66.485, Amended 12-10-92, 11-30-93, 10-2-94, 1-26-97, Formerly 10D-66.0485, Amended 8-4-98.

64E-2.003 Advanced Life Support Service License – Ground.

~~(6) Each ALS provider shall staff each ALS permitted vehicle in use with a minimum of two individuals; one of whom shall be a paramedic or licensed physician who shall attend the patient throughout transport, the other shall be a paramedic, EMT, or licensed physician who meets the requirements of section 401.281, FS.~~

~~(6)(7)~~ Each ALS provider shall ensure that a current copy of all standing orders authorized by the medical director shall be available in each of the provider’s vehicles; for review by the department; to each of the provider’s paramedics; and supplied to each physician designated by the medical director to receive a copy.

~~(7)(8)~~ In addition to the equipment and supplies listed in Table III, the medications and I.V. solutions and equipment listed in Table V are required on each ALS permitted vehicle, except those exempted in section 64E-2.006(1)(a), F.A.C. Substitutions are allowed with signed approval from the medical director and written notification to the department.

~~(8)(9)~~ The medical director may authorize an EMT instead of the paramedic or licensed physician to attend a BLS patient on an ALS permitted ambulance under the following conditions:

Specific Authority 381.0011, 395.405, 401.121, 401.35 FS. Law Implemented 381.0011, 381.025, 395.401, 395.4015, 395.402, 395.4025, 395.403, 395.404, 395.4045, 395.405, 401.23, 401.24, 401.25, 401.26, 401.27, 401.281, 401.30, 401.31, 401.321, 401.34, 401.35, 401.41, 401.411, 401.414, 401.121 FS. History–New 11-29-82, Amended 4-26-84, 3-11-85, Formerly 10D-66.50, Amended 4-12-88, 8-3-88, 8-7-89, 12-10-92, 11-30-93, 1-26-97, Formerly 10D-66.050, Amended 8-4-98, 1-3-99.

64E-2.011 EMS Training Programs.

Specific Authority 401.35 FS. Law Implemented 401.24, 401.27, 401.34, 401.35, 401.411 FS. History–New 12-10-92, Formerly 10D-66.058. Amended 11-30-93, 3-19-95, 12-10-95, 1-26-97, Formerly 10D-66.0586, Amended 8-4-98, Repealed.

64E-2.013 Records and Reports.

(3) Each provider shall document on DOH Form 1894 or 1895, October 93, Florida EMS Report each instance as described in section 64E-2.013(2), F.A.C. ~~Instructions for completing run reports are published in DOHP 150-14, October 93. DOHP 150-14, October 93, provides direction in the completion of prehospital, abbreviated and interfacility run reports.~~

~~(4) An accurate and complete run report, as required in sections 64E-2.013(2) and (3), F.A.C., shall be provided to the receiving facility. The EMS provider may provide to the receiving facility an abbreviated run report in lieu of the complete run report required in sections 64E-2.013(2) and (3);~~

~~F.A.C. If the EMS provider elects to provide the abbreviated run report before departure, the hospital copy of the run report shall be signed with an original signature of the lead crew member. DOHP 150-14, October 93, identifies the minimum data elements necessary for an abbreviated run report.~~

~~(5) If an EMS provider elects to provide the receiving facility with an abbreviated run report at the time responsibility of the patient is transferred to the receiving facility, the EMS provider shall have the complete and accurate run report, as required in sections 64E-2.013(2) and (3), F.A.C., available within 24 hours of the time the vehicle was originally dispatched in response to the request for emergency medical assistance.~~

~~(4)(6) Non-transporting vehicle personnel shall provide information pertinent to the patient's identification, patient assessment and care provided to the patient to the transporting vehicle personnel at the time the responsibility of the patient is transferred to the transporting service. The non-transporting EMS provider shall have the complete and accurate run report, as required in sections 64E-2.013(2) and (3), F.A.C., within 24 hours of the time the vehicle was originally dispatched in response to the request for emergency medical assistance.~~

~~(5)(7) Each EMS provider shall maintain the second copy of DOH Form 1894 or 1895, October 93, Florida EMS Report for a period of at least 5 years. This copy is considered to be the copy of record, shall contain an original signature by the lead crew member and is certifiable as a true copy.~~

~~(6)(8) Each licensed EMS provider is responsible for quality review for completeness and accuracy of their own run reports. Each quarter, the Office of EMS will notify licensed providers by exception reports of incompleteness or inaccuracy of submitted run reports. It is the provider's responsibility to prospectively correct procedure and performance so that the types of errors identified in the department's exception report do not reoccur. The exception reports will be reviewed by the Office of EMS staff in conjunction with routine inspections and serve as the basis for a determination of reporting deficiencies which will require corrective action.~~

~~(7)(9) Any EMS provider who desires to provide run report data in a manner other than prescribed in this section shall submit a variance to collect and provide the data by an alternative method to the Office of EMS. Any variance request shall be in accordance with the intent of this section.~~

~~(8)(10) Medication errors and reactions en route shall be reported to the physician who ordered the medication, the receiving physician, and the ALS medical director.~~

~~(9)(11) Each provider shall maintain a written plan, available for review by the department, for the proper handling, storage, and disposal of biohazardous wastes in accordance with chapter 64E-16, F.A.C.~~

~~(10)(12) Each provider shall return his license to the department within 15 calendar days after a change of name or ownership of the service or upon permanently ceasing to provide service.~~

~~(11)(13) Each air ambulance provider shall maintain documentation describing the service rendered to the patient and cost as part of the patient's record in accordance with section 401.251(4)(c), FS.~~

~~(12)(14) Each EMS provider shall have a disaster plan which integrates into both the local and regional disaster plans.~~

~~(13)(15) A fixed wing air ambulance provider shall have an air medical crew member document the cabin altitude hourly. The cabin pressure shall be documented on the patient record.~~

~~Specific Authority 381.0011, 395.405, 401.30, 401.35 FS. Law Implemented 381.001, 381.0205, 395.401-395.405, 401.23, 401.25, 401.27, 401.30, 401.35, 401.411 FS. History-New 11-29-82, Amended 4-26-84, 3-11-85, Formerly 10D-66.60, Amended 11-2-86, 4-12-88, 8-3-88, 12-10-92, 11-30-93, 12-10-95, 1-26-97, Formerly 10D-66.060, Amended _____.~~

~~64E-2.015 Prehospital Requirements for Trauma Care.~~

~~(4) Each EMS provider shall ensure that the applicable elements of the trauma information section of the run report are completed and the form is delivered with the trauma patient to a SATC, SAPTRC, or hospital as required in section 64E-2.013, F.A.C. ALS non-transporting vehicle personnel shall provide to the transporting vehicle personnel complete information about the patient's identity, the initial patient assessment and care provided prior to arrival of the transporting vehicle personnel, at the time that responsibility for the patient is transferred. The transporting vehicle personnel shall deliver the run report with the trauma patient to the SATC, SAPTRC, or hospital as required by section 64E-2.013, F.A.C., and DOHP 150-14, October 93.~~

~~Specific Authority 395.405, 401.35 FS. Law Implemented 395.401-395.403, 395.404-395.405, 401.30, 401.35 FS. History-New 8-3-88, Amended 12-10-92, 11-30-93, Formerly 10D-66.100, Amended 8-4-98, _____.~~

~~64E-2.018 Trauma Registry.~~

~~(2) Each EMS provider, SATC, SAPTRC, and hospital shall collect trauma registry data and provide such data to the department, or to the trauma agency or entity with which the department has an agreement or contracts. Each SATC, SAPTRC, or hospital shall, as follows:~~

~~(a) Each EMS provider shall comply with trauma registry reporting requirements by completing the run report including applicable elements of the trauma information section of DOH Form 1894, October 93, or Form 1895, October 93, Florida EMS Report as required in section 64E-2.013, and DOHP 150-14, October 93.~~

~~(a)1- Complete the patient information, emergency department, and discharge information sections of DOH Form 1728, October 93, which is incorporated by reference and available from the department, when the trauma patient is delivered to the facility by an EMS provider or arrives by any~~

other means and is admitted, dies in the emergency department, or is transferred to another licensed acute care facility. Instructions for completing and submitting DOH Form 1728, October 93, are published in DOPH 150-13, October 93, Trauma Registry Guidebook, which is incorporated by reference and available from the department.

(b)2- Submit DOH Form 1728, October 93, to the department on a monthly basis, no later than the 15th of the month following the month the trauma patient was discharged from acute care or died in the facility.

(c)3- Maintain a completed copy of each DOH Form 1728, October 93, for a period of at least 5 years. Copies of these completed forms shall be made available for review by the department upon request.

Specific Authority 395.405, 401.35 FS. Law Implemented 395.3025(4)(f), 395.401, 395.4015, 395.402, 395.4025, 395.404, 395.4045, 395.405, 401.30, 401.35 FS. History--New 8-3-88, Amended 12-10-92, 11-30-93, Formerly 10D-66.013, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Lesley, Senior Management Analyst
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dino J. Villani, Chief
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 1999
P.O. EU 0568

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation

RULE TITLES:	RULE NOS.:
Definitions	65C-13.001
Private Agency Foster Homes	65C-13.002
Pre-Service and In-Service Training	65C-13.003
Initial Licensing Procedures for Foster Homes, Emergency Shelters and Group Homes	65C-13.004
Changes During the Licensed Year	65C-13.005
Relicensing Procedure	65C-13.006
Respite Care	65C-13.007
Prospective Substitute Care Inquiries	65C-13.008
Parent Preparation	65C-13.009
Substitute Care Parents' Role as a Team Member	65C-13.010
Minimum Standards for Licensure of Family Foster Homes, Family Emergency Shelter Homes and Family Group Homes	65C-13.011
Substitute Family Records	65C-13.012

PURPOSE AND EFFECT: Section 409.175, Florida Statutes authorizes the Department of Children and Family Services to develop rules which protect the health, safety, and well-being of all children in the state who are cared for by family foster

homes, residential child caring agencies and child placing agencies by providing for the establishment of licensing requirements for such homes and agencies and providing procedures to determine adherence to these requirements.

The modifications contained in 65C-13.001 – 13.012 will ensure standards for substitute care providers, which include family foster homes, emergency family shelter homes, and family foster group homes. The specific modifications include: changes to the type of pre-service training offered to substitute care families; relicensure of substitute care families; respite care; parent preparation; Bilateral Service Agreement; minimum standards for licensure of family foster homes, family emergency shelter homes and family group homes; and substitute family records.

SUMMARY: This Rule establishes criteria and procedures for selecting, training, licensing and relicensing substitute care families. Amendment of 409.175(15), Florida Statutes provides an exemption from the public records law for all identifying information, except name, in the foster family licensing file.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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.

SPECIFIC AUTHORITY: 402.305(1)(d), 402.313(10), 409.175 FS.

LAW IMPLEMENTED: 409.175 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):

TIME AND DATE: 9:00 a.m., May 28, 1999

PLACE: 1317 Winewood Blvd., Building 8, Conference Room, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Amy West, Specialist, 1317 Winewood Blvd. Building 8, Tallahassee, FL 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-13.001 Definitions.

The following definitions describe the types of care that are addressed in this chapter, ~~of the manual:~~

(1) "Bilateral Service Agreement" means a written agreement entered into by the substitute care parents and the Department of Children and Families which stipulates the duties and responsibilities both parties have to each other and to children served in the substitute care program. "~~Family Foster Home~~" means a private residence in which children who are unattended by a parent or legal guardian are provided 24 hour care. ~~Such homes include emergency shelter family~~

homes, family foster group homes, and specialized foster homes for children with special needs. A person who cares for a child of a friend for a period not to exceed 90 days, a relative who cares for a child and does not receive reimbursement for such care from the state or federal government, or an adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption is not considered a family foster home. Exceptions may be made in order to keep siblings together. No more than two of the five children should be infants.

(a) Family foster homes are limited to five children, including the family's own children.

(b) Therapeutic foster homes are limited to two children.

(c) Individual residential treatment family homes are limited to one child.

(2) "Emergency Family Shelter Homes" means a private residence licensed under F.A.C. 65C-13.001 through 65C-13.012 to provide care to children on an emergency basis. Family emergency shelter homes are limited to five children including the family's own children. Exceptions may only be made for sibling groups, children who have been previously placed in the home, and teenage mothers and their babies. "Foster Family Group Home" means a licensed private family home occupied by a married couple or individual who have demonstrated the interest and special qualifications to care for a total of no more than five pre-adolescent and adolescent children, including the family's own children. The family group home parent should be able to work in close cooperation with the department. Foster family group homes differ from a traditional foster family home in several respects:

(a) Group homes must submit any requested written reports and carry out any designated treatment plans for the children in their care.

(b) Group home parents must sign the affidavit of civil rights compliance.

(c) Group work, individual casework, and psychiatric consultation are provided as needed to group homes to further the treatment objectives.

(3) "Family Foster Home" means a private residence licensed under F.A.C. 65C-13.001 through 65C-13.012 to provide 24 hour care to children who are unattended by a parent or legal guardian. Family foster homes are limited to five children including the family's own children. Exceptions may be made to keep siblings together, children returning to care or teenage mothers and their babies.

(4) "Foster Family Group Home" means a private residence licensed under F.A.C. 65C-13.001 through 65C-13.012 that specializes in the care of a group of adolescents or pre-adolescent children. Foster family group homes are limited to five children including the family's own children. ~~"Group Preparation and Selection Model~~

~~Approach to Partnerships in Parenting"~~ is the pre-service training program selected by the department. References to this program throughout the rule will be by its initials, GPS MAPP.

(5) "Substitute Care" is a service for children who are unable to live with their own families and are placed in family foster homes, family emergency shelters or family group homes.

(6) "Respite Care" is time limited care, one to fourteen days, which allows licensed substitute care parents to use a licensed temporary caretaker in order to obtain relief. Continuous respite care which exceeds fourteen days, must be approved by the District Administrator or designee.

(7) "Therapeutic Foster Home" includes homes certified as a Medicaid provider and is a private residence licensed under F.A.C. 65C-13.001 through 65C-13.012 that provides specialized care to children diagnosed with moderate to severe emotional problems which meets or exceeds standards under F.A.C. 65E-10 to provide such care. These homes are limited to no more than two children, not including the family's own biological children.

(8) "Intensive Residential Treatment Home" means a private residence licensed under F.A.C. 65C-13.001 through 65C-13.012 that provides specialized care to children with severe emotional problems and which has been approved under F.A.C. 65E-10 to provide such care.

(9) "Medical Foster Care Home" means a licensed private residence providing 24-hour care for dependent children. A health care site used by an individual who has been assessed by the Children's Multidisciplinary Assessment Team, CMAT and placed by the medical director of the program in order for the individual to receive routine and required health care treatment, consultation and referral.

(10) "Child Resource Record" (CRR) means a standardized record which contains the basic legal, demographic and known medical information pertaining to a specific child. This folder is to be kept with the child and shall accompany the child to every health care encounter so that medical information may be shared with the provider and updated as appropriate. The information includes, but is not limited to, medical/psychological information; immunization record; Medicaid card; service agreement; school information and records; name, telephone number and address of the child's parent (s) or significant other person(s); names and telephone numbers of the Family Service Counselor and the Family Service Counselor Supervisor; the emergency contact person and the way such person can be contacted; dates and duration of Family Service Counselor visits with the family; and any other information pertinent to the child's care and well being.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Amended 7-18-95, Formerly 10M-6.015, Amended _____.

65C-13.002 Private Agency Foster Homes.

~~A private child-placing agency licensed under F.A.C. 65C-15 is responsible for recruitment, assessment, training and supervision of their substitute care parents who volunteer or are paid for the service by that agency. The department is responsible for the issuance of licenses to family foster homes approved by licensed child placing agencies that operate throughout the state. Licensed child placing agencies will receive the application and complete the foster home study. A private child placing agency must certify to the department in writing that the family meets the licensing requirements and request the department to issue the license. Responsibility for recruitment, assessment, training of staff and supervision of these homes rests with the licensed child placing agencies. Responsibility for investigating complaints of family foster homes of licensed by child-placing agencies rests with the department. Subsection Section 409.175(7)(a), F.S., requires that all foster homes and agencies are inspected annually. Inspections shall be conducted by the county health unit pursuant to s. 409.175(5)(e), F.S. The department will verify the agency's compliance with the licensing standards set forth in F.A.C. 65C-15 at the time of the agency's yearly relicensing study.~~

~~(1) The private child-placing agency is responsible for assuring the qualifications of their substitute parents. Substitute care parents licensed through private agencies are not required by statute to attend mandatory pre-service or in-service training provided to department substitute care parents.~~

~~(2) Department personnel in the district responsible for licensing the child-placing agency will issue the family foster home license to the private agency foster home. The district responsible for licensing the child placing agency will issue the family foster home license to the private agency home. If the home is located in a district other than the district where the child placing agency is located, it will be the responsibility of the district program office to notify the district where the private agency home is located.~~

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.016, Amended _____.

65C-13.003 Pre-Service and In-Service Training.

Section 409.175(13)(a), (b), F.S., requires the department to provide or cause to provide pre-service and in-service training for foster and emergency shelter parents who are licensed and supervised by the department as a condition of licensure.

(1) Pre-Service Training. Substitute care parents ~~licensed by the department~~ are required by statute to complete a minimum of 21 hours of training. The department shall consider the pre-service training uniform statewide if the training and the curriculum, at a minimum, addresses the topics found in s. 409.175(13)(b). Districts shall require additional pre-service training in other topic areas in order to enhance the skills of the foster parents who will be caring for children with special needs. The pre-service training schedule may be

flexible to accommodate the participants, such as day time, evenings and weekend hours and can be scheduled more than once during the week, i.e. a weeknight and all day Saturday. This pre-service training must be uniform statewide. The department has selected a pre-service training program for its prospective foster family parents, emergency shelter parents, group home parents and adoptive parents called Group Preparation and Selection, GPS-MAPP. This program provides 30 hours of pre service training which is focused on parent preparation, education and mutual selection. The department will not offer any other program for use in preparing its prospective parents. During the GPS MAPP program, prospective parents will be given a number of handouts to enhance their learning experience and for future reference. These handouts will not appear as attachments to this chapter. GPS leaders will have received training on the contents and use of these handouts during certification training at the Professional Development Centres. The handouts should be ordered from the warehouse in Jacksonville.

(2) In-Service Training. Section 409.175(13)(c), F.S., requires that prior to the renewal of a license, each foster parent, emergency shelter parent and family group home parent successfully complete eight hours of in-service training. Districts must supply in-service training at least quarterly to family foster parents licensed and supervised by the department. This training shall include subjects affecting the daily living experiences of these families and must be appropriate to the need of the substitute care parents and the children for whom they provide care. All the in-service training must be approved by the department prior to its use. Upon completion of the training, staff will document completion in the licensure file. Appropriate training may include, but not be limited to: CPR, child safety and injury prevention, sexual abuse, HIV infection, addictions, etc. If a parent chooses to obtain their in-service training hours through reading books or viewing videos, they must have the materials selected for the in-service training approved by staff prior to its use. The parents must also be able to demonstrate to staff that their knowledge and skills have been enhanced. Upon completion of the training, staff will issue the parent a certificate of completion. A copy will be retained in the licensure file. Parents will be reimbursed for travel and child care, as stipulated in the statute, from the district's expense funds. Travel will be reimbursed at the established rate set by the department for all travel, and child care will be reimbursed at a reasonable rate consistent with expenses found locally. The statute specifically requires the department to:

~~(a) Reimburse such parents for travel expenses to attend this training; and~~

~~(b) To provide child care or reimburse the parents for baby-sitting expenses, if both parents attend the training. Single parents may also be reimbursed for baby sitting expenses to attend this training.~~

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.017, Amended _____.

65C-13.004 Initial Licensing Procedures for Foster Homes, Emergency Shelters and Group Homes.

(1) The unit office submits to the district administrator or his designated representative a copy of the family portfolio substitute care family licensing file, including all required and completed forms. The study must be reviewed and signed by the prospective parent and pre-service training certified GPS leader prior to submission to the GPS pre-service training leader's supervisor for review.

(2) The district administrator or his designated representative will review the Family Portfolio substitute care family licensing file, including the supporting documentation and either approve or reject the application.

(3) through (5) No change.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.018, Amended _____.

65C-13.005 Changes During the Licensed Year.

(1) If the district establishes that the substitute care parents violated the standards found in s. 409.175, F.S., or in the current Administrative Rule 65C-13 or any successor rule or have been found to have abused or neglected children as defined in Chapter 39, F.S., the department has the authority to discontinue the use of the home or revoke the license. The reasons for such action must be discussed with the substitute care parents and they must be advised that they have the right to appeal the department's decision under Section 120.57, F.S. If any administrative action is required, the administrative complaint must be reviewed and signed by the district administrator or his designated representative in accordance with the Administrative Procedures Act. When a district makes the decision to suspend or revoke the license prior to expiration, proceedings must be in accordance with Section 120.57, F.S. Both the license and the form Closing of Substitute Care Home for Dependent Children, CF-FSP 5026, which is hereby incorporated by reference, must be sent to the district office where the license will be canceled. A copy of form 5026 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700. If the substitute care parents voluntarily surrender the license and agree with the decision to terminate as substitute care parents, but then change their mind within 30 days of surrendering their license, they have a right to request an administrative hearing and must be so advised. If the district decides to discontinue the use of a home or revoke the license prior to the expiration date of the license, the reasons for such action must be discussed with the substitute care parents. If they agree with the department's decision, the license must be secured from them and sent to the district office along with a completed closing of foster home for dependent children form. If the substitute care parents do not agree to relinquish their license then an administrative

~~complaint must be filed by the unit. The administrative complaint must be reviewed and signed by the district administrator or his designated representative in accordance with the Administrative Procedures Act. When such situations occur staff should consult their district program office and district legal counsel prior to filing an administrative complaint. If the administrative complaint results in the revocation of the license the substitute care parents must return the license to the unit who will then complete the closing of foster home for dependent children form. Both the license and this form will then be sent to the district office where the license will be canceled. If the substitute care parents voluntarily surrender the license and agree with the decision to terminate as substitute care parents, but then change their mind, they have the right to request an administrative hearing and should be so advised.~~

(2) If a family changes its their location during the licensing year, the new home must be evaluated within 30 days and a new sanitation inspection must be made by the local county public health unit. The certificate of license issued for the old location must be returned to the district office, together with a Relicensing Summary for Foster Homes for Dependent Children, Section A of CF-FSP 5027, Oct 96, relicensing summary for foster homes for dependent children completed on the new home, which is hereby incorporated by reference, a copy of the approved sanitation inspection report, and a recommendation with regard to the issuance of a license for the new address. An application for a license must be signed by the substitute parents showing the new address. If approved, a new certificate of license will be sent to the unit office for delivery to the substitute care parents. A copy of form 5027 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

Specific Authority 409.175 FS. Law Implemented 409.175, Chapter 120 FS. History--New 5-27-92, Formerly 10M-6.019, Amended _____.

(Substantial rewording of Rule 65C-13.006 follows. See Florida Administrative Code for present text.)

65C-13.006 Relicensing Procedures.

Relicensing is accomplished as follows:

(1) The licensing counselor must receive the report of an approved sanitation inspection from the local health program office.

(2) At the time of relicensure the licensing counselor shall review and consider the information on the youth exit interviews from all youth who have exited the foster home during the previous licensing period. Family Services Counselors and case managers shall return the completed youth exit interview forms to the licensing counselor.

(3) At the time of relicensing of a foster home, the family services counselors who have had children in the home during the previous licensing period will complete the Foster Care

Counselor's Review of Foster Parent(s) Performance as Listed in the Bilateral Service Agreement, CF-FSP 5223, May 98, which is hereby incorporated by reference, as listed in the Bilateral Service Agreement and return it to the licensing counselor. A copy of form 5223 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(4) Prior to the issuance of a new license the licensing counselor must obtain and review Florida Abuse Hotline Information System reports, local and state law enforcement records for all household members 12 and over who reside in the home and documentation of any police contact with the home or its residents.

(5) The licensing counselor shall complete and place in the licensing file a Relicensing Summary for Foster Homes for Dependent Children, Section A, CF-FSP 5027, Oct 96, which is hereby incorporated by reference. A copy of form 5027 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(6) The substitute care parent must sign an Application for a License to Provide Foster Home Care for Dependent Children, CF-FSP 5007, Oct 96 which is hereby incorporated by reference. A copy of form 5007 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(7) The licensing counselor must meet with the substitute care family to review the relicensing summary for substitute care for dependent children and to formulate recommendations for relicensure.

(8) The licensing counselor shall complete Foster Parent Summary for Relicensing, Section B, CF-FSP 5027, Oct 96, which is hereby incorporated by reference. A copy of form 5027 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(9) The substitute care parents must have completed a minimum of eight hours of in-service training per license year. The number of hours and the type of training completed must be documented in the licensing file.

(10) The Family Services Counselors responsible for relicensing the substitute care home will review the Bilateral Service Agreement with the substitute care parents to assess the terms of that agreement. If the substitute care parents continue to agree to keep the terms of the Bilateral Service Agreement, they are to initial and date each page along with the Family Services Counselors doing the relicensing home study. The fully initialed Bilateral Service Agreement shall remain a part of the licensure file. At this time, the Family Services Counselors must discuss and evaluate with the substitute care parents their experiences as substitute care parents, the strengths and weakness of the family and areas that need improvement, as part of the relicensing home study.

(11) At least two weeks prior to the date for relicensure, copies of all forms, including the sanitation inspection, must be submitted to the district office with a request for the issuance of a new license.

(12) The licensing counselor must weigh all the information carefully to recommend to the district administrator whether the license should be renewed, revoked or a provisional license issued. Substitute care parents shall be advised of the department's decision and any problems or areas for improvement must be discussed at the time of relicensure.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.020, Amended _____.

65C-13.007 Respite Care.

~~All persons who provide respite care in their own homes must be licensed pursuant to section 409.175, F.S. If the family only wishes to provide respite care they will have one year from the date the license is issued to complete the 30 hours of GPS-MAPP training.~~

(1) All respite care providers must be furnished with written information about each child they will care for such as:

- (a) Phone numbers for a 24-hour response;
- (b) Medical authorization;
- (c) Physician name and phone numbers;
- (d) School; and
- (e) Medicaid number.

The above information is available in the Child's Resource Record. The Child's Resource Record shall accompany the child if respite care is provided outside of the substitute care home.

~~(1) All persons that provide respite care in the child's foster home, emergency shelter or group home on an overnight basis must be screened pursuant to Chapter 85-54. Training in the GPS-MAPP program for these providers should be strongly encouraged in order to assist them in providing quality care. If a respite care provider is unable or unwilling to attend the GPS-MAPP training they must receive an orientation which covers protocol for handling emergencies, confidentiality, the department's discipline policy and an overview of substitute care.~~

(2) All persons who provide respite care in their own home must be licensed under F.A.C. 65C-13. A licensed respite only substitute care provider will not be required to attend the substitute care pre-service training. In situations where providers are licensed for respite care only, wording to that effect must appear on their license. All respite care providers must be furnished with written information about each child they will care for such as:

- (a) Phone numbers for a 24-hour response;
- (b) Medical authorization;
- (c) Physician name and phone numbers;
- (d) School; and
- (e) Medicaid number.

The above information is available in the Child's Resource Record. The Child's Resource Record shall accompany the child if respite care is provided outside of the substitute care home.

(3) Placement of foster care children in a respite only foster home will be done by a Family Services Counselor or supervisor. The length of placement may be from one to fourteen days, respite care exceeding fourteen days will need the approval of the District Administrator or designee.

(4) All persons that provide respite care to substitute care children must be screened pursuant to F.S. 435. A respite care provider must receive information which covers protocol for handling emergencies, confidentiality, the department's discipline policy and an overview of substitute care.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.022, Amended _____.

65C-13.008 Prospective Substitute Care Foster Parent Inquiries.

(1) The ~~department~~ district will respond within 10 working days to all telephone and written inquiries about becoming a substitute care foster parent. Following this initial communication, if the person making the inquiry continues to express an interest in providing substitute foster care and they have no background history that would disqualify them from being substitute care foster parents, the ~~department~~ district will send written orientation information concerning substitute care foster parenting within 14 days of the initial inquiry. The initial substitute care inquiries and follow up contact will be documented and kept on file.

(2) The opportunity to become a shelter or foster parent may not be denied to any person based on race, color, or national origin, of the person, or of the child involved.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 7-18-95, Formerly 10M-6.0221, Amended _____.

(Substantial rewording of Rule 65C-13.009 follows. See Florida Administrative Code for present text.)

65C-13.009 Parent Preparation.

(1) The purpose of the pre-service training is to provide the potential substitute care parents with a knowledge base as well as an understanding of how they will be expected to meet the needs of the children they serve. In addition, the pre-service training provides the department and the potential substitute care family opportunities to evaluate and assess their ability to meet a child's needs. This process is called the home study.

(2) The requirements for prospective substitute parents are:

(a) To attend a minimum of 21 hours of pre-service training provided by the department.

1. The meetings which address separation, loss, and helping children with attachments and discipline are mandatory.

2. Substitute parents that miss the pre-service training sessions which address separation, loss, and helping children with attachments and discipline as stated in section 65C-13.009(2)(a)1. will not be considered as meeting the pre-service training requirements.

3. The substitute care parents must receive approval from the district to make up any missed pre-service training sessions.

(b) The substitute care parents must submit the information requested by the department that deals with family history and background.

(c) The substitute care parents must sign an Application for License to Provide Foster Home Care for Dependent Children, CF-FSP 5007, Oct 96; which is hereby incorporated by reference. A copy of form 5007 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(d) Sign a Confidentiality statement, CF-FSP 5087, Jan 98, which is hereby incorporated by reference. A copy of form 5087 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(e) The substitute care parents must sign a Bilateral Service Agreement Between the Department of Children and Families and Foster Parents Licensed by the Department, CF-FSP 5226, Jun 98. Completion of form 5226 will also require the completion of the Foster Parent's Review of Foster Care Counselor's Performance as Listed in the Bilateral Service Agreement, CF-FSP 5224, May 98, and the Service Agreement -- Attachment A, CF-FSP 5227, Jun 98. Forms 5226, 5224 and 5227 are hereby incorporated by reference. A copy of forms 5226, 5224 and 5227 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(f) Sign permission for a yearly foster home evaluation which includes feedback surveys from school teachers, biological parents, Family Safety and Preservation staff, foster children and any other service providers, if applicable.

(g) Meet the screening requirements of s. 409.175(4)(a)6., F.S.

(h) Provide verification of income and to include net income.

(i) Sign an Authorization for Release of Health and Medical Information for Prospective Foster and Adoptive Parents, CF-FSP 5230, Oct 96, which is hereby incorporated by reference. A copy of form 5230 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(j) Must have a home which passes inspections by the local health department.

(k) Pass a radon gas test of the home.

(l) Pass a fire inspection, if required by local county ordinances.

(3) Department staff responsible for licensing prospective substitute care families shall complete the following activities:

(a) Conduct a minimum of two in-home family consultation visits, one of which must include the entire family:

(b) References:

1. Obtain three written personal character references, one of which must be a relative. Character references must have known the person for at least two years.

2. If the substitute care parent has school age children, a written reference from the school must be obtained on each child.

(c) Request a one-time employment history check covering a two-year period of time preceding the family's application and excluding periods of unemployment:

(d) Request Florida Abuse Hotline Information System (FAHIS) clearance on all persons 18 years or older residing in the home:

(e) Request a delinquency clearance on all children residing in the home over the age of 12 years:

(f) Request verification of income to determine financial ability to provide care for children as required in s. 409.175(4)(a)10., F.S., and annually thereafter:

(g) Request completion of the Authorization for Release of Health and Medical Information for Prospective Foster and Adoptive Parents, CF-FSP 5230, Oct 96, which is hereby incorporated by reference. A copy of form 5230 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.023, Amended _____.

(Substantial rewording of Rule 65C-13.010 follows. See Florida Administrative Code for present text.)

65C-13.010 Substitute Care Parents' Role as a Team Member.

(1) Every prospective foster parent must sign a Bilateral Service Agreement Between the Department of Children and Families and Foster Parents Licensed by the Department, CF-FSP 5226, prior to receiving a license. The Bilateral Service Agreement defines the roles and responsibilities both the foster parents and the departmental staff have to the foster child and their family. A copy of form 5226 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(a) After pre-service training has been completed and prior to the issuance of a license, a face-to-face meeting must occur, where departmental staff and the foster parent review and sign the Bilateral Service Agreement.

(b) A signature sheet acknowledging that the foster parents and departmental staff have reviewed the Bilateral Service Agreement must be signed each year prior to relicensure.

(c) The original Bilateral Service Agreement and the yearly initialed acknowledgments of review must be kept in the licensing file. The foster parent must also keep a copy of the agreement.

(2) Discipline.

(a) The substitute care parents must discipline children with kindness, consistency, and understanding. The purpose of this discipline must be to help the child develop responsibility and self-control. Positive methods of discipline must be used by the substitute parent.

(b) Corporal punishment of any kind is prohibited. This includes hitting, slapping, spanking, or any other form of physical discipline.

(c) The following methods of discipline are also prohibited:

1. Cruel, severe, humiliating or unusual punishment such as soap to wash out the mouth, eating hot sauce or pepper, placing in hot water, kneeling on stones.

2. Delegating discipline or permitting punishment of a child by another child or by an adult not known to the child.

3. Withholding meals, clothes, or shelter as a form of punishment.

4. Denying the child contact or visits with his family or resist in implementation of the case plan as punishment for misdeeds of a child.

5. Assigning chores that involve physical exercise so excessive as to endanger the child's health or so intensive as to infringe on time set aside for school work, sleeping or eating.

6. Threatening a child with removal or with a report to authorities as punishment for behavior.

7. Use of degrading statements or profanity directed toward the child or his family.

8. Locking a child in a room or out of the house.

(3) Substitute care parents must maintain and keep current the Child's Resource Record, and see that the resource record accompanies the child to all health care visits. The resource record must accompany the child when he departs a substitute care family, as well as when the child is on respite.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.024, Amended _____.

(Substantial rewording of Rule 65C-13.011 follows. See Florida Administrative Code for present text.)

65C-13.011 Minimum Standards for Licensure of Family Foster Homes, Family Emergency Shelter Homes and Family Group Homes.

Section 409.175(11)(a)2., F.S., makes it unlawful for any person to make a willful or intentional misstatement on any license application or other document required to be filed in connection with an application for a license. Such a violation is

a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Applicants who make such willful or intentional misstatements will have their license denied or revoked. Any exceptions to the following standards must be for good cause and must be approved in writing by the district program office of Family Safety and Preservation prior to the exceptions being implemented. Exceptions to the maximum capacity of five children may only be granted in the case of sibling groups, children who have previously been in the home, and mothers and their babies.

(1) Family Composition.

(a) The placement of choice is a substitute care placement in a family with a husband and wife, who have a stable legal marriage. This type of placement maximizes opportunities for the care and nurturing of children and provides both male and female role models for children.

(b) A single parent shall be selected only when he or she can effectively meet a child's special needs.

(c) Persons that provide emergency family shelter homes shall be available to receive and care for children 24 hours a day.

(d) In instances when a child is well-established in a single parent family and the single parent marries, the foster child can remain in the home if the child's needs can continue to be met. Single substitute care parents that plan to marry must notify the department's licensing counselor so arrangements may be made to have the prospective spouse screened, approved and a new license issued in the names of both spouses prior to them moving into the home.

(e) Foster parent(s) who wish to become adoptive parent(s) shall meet the adoption requirements as stated in Chapter 63, F.S. and 65C-16, F.A.C.

(2) Number of Children in a Family.

(a) The maximum number of children who may be placed in a substitute care home is five, including the substitute care parent's own children. There must be no more than two infants, under the age of two, in a substitute care family home, which includes the substitute care parent's own children. Children who cause the substitute care home to exceed the placement capacity must meet the following criteria:

1. They are minor children of the foster parents' adult children, i.e., grandchildren of the foster parents.

2. The adult children assume complete responsibility for their child(ren), and the adult caretaker does not work outside the home.

3. There is adequate living and sleeping space in the home without sharing bedrooms with the foster or shelter children.

(b) If a substitute care family is willing to care for and has the physical room and emotional capacity to nurture more than five children a waiver may be granted.

1. Waivers to exceed the maximum number and to allow more than five children in a home, shall only be considered:

a. To accommodate a sibling group.

b. To accommodate a child or sibling group needing placement, who is returning to care and has lived in the home previously.

c. To allow for a teen parent in substitute care to have his or her child or children placed in the same home.

d. If the substitute care parent(s) own child is 16 years of age or older and has been assessed and approved by the licensing unit as sufficiently independent, mature and well-behaved, the child may be excluded in the number of total children in home, for licensed maximum capacity purposes. Documentation of approval shall be placed in the substitute care parent's file and will be review annually at the time of relicensure.

2. A waiver can be granted to exceed the maximum of two infants only to accommodate a sibling group in which there are more than two infants in one family, such as triplets or twins and a single sibling under the age of 2. When there are more than two sibling infants to accommodate in a substitute care family home, the home must not have any other infants placed.

3. Capacity waivers are specific to a child or sibling group and expire automatically when the total number of children in a home drops to five children or below.

4. A waiver is a document signed by the Family Safety and Preservation or Children's Services Program Administrator or designee which allows the maximum capacity to be exceeded and approves a specific number of children who can be placed by the department in a family home. Waivers may be approved verbally by the Family Safety and Preservation or Children's Services Program Administrator or designee when placements must be made during non-business hours. Follow up written waivers must be signed on the next business day.

5. The request for a waiver must include:

a. A clear, concise explanation of why the maximum number of five children should be exceeded, including the circumstances that justify the waiver under (2)(b)1. of this section.

b. A description of the special services or support systems which will be put in place to assure that the waiver will not impact on the quality of care the children in the home receive.

c. The planned duration of the waiver.

6. Requirements for Waiver Approvals. In considering whether a substitute care family home will be permitted to exceed the maximum number of children, the following must be considered fully and addressed:

a. Is this the only available resource for the children needing placement;

b. Can the home physically accommodate the additional child/children;

c. Can the substitute parents meet the needs of another child or children;

d. Can the children already in placement in the home accept additional children.

7. Substitute care homes currently licensed for more than five children, including their own children, and who do not meet any of the waiver criteria will have their licensed capacity reduced to a maximum of 5 total children through attrition. As the number of children in the home is reduced by such attrition to 5 children or less, a new licensed will be issued limiting capacity to 5 children.

8. Waivers may be granted by the District Administrator to a foster family group home who made capital improvements to their home in order to care for more than 5 total children, prior to the date of promulgation of this rule.

(c) A substitute family home can be jointly utilized by another Children and Families service office if agreed to by the substitute care parents and the program offices involved, and after the following has been established:

1. A maximum of five total children to be cared for.

2. The needs of all the children placed in the home can best be met through such a joint utilization.

(d) A substitute care provider licensed under this rule chapter shall be able to apply to become a dually licensed family day care home under chapter 65C-20, if they so chose, subject to the following requirements and limitations:

1. All family day care home providers shall be required to complete the department's 3-clock hour family day care course as referenced in 65C-20.002(2) within 60 days of or licensure.

2. All family day care home providers shall be required to comply with the admissions and record keeping standards established in 65C-20.005.

3. There shall be no more than two infants, under two years of age, either residing or being provided day care in the home. This limitation shall include the family's own birth children and any other family children cared for in the home.

4. Including infants under two years of age and the family's own birth and other family children, there shall be no more than five pre-kindergarten age children either residing or being provided day care in the home.

5. Before- and after-school care shall be limited to an additional five school-age children, including the family's own birth and other family and foster children. On non-school days, care shall be limited to a total of 10 children, 5 pre-kindergarten and 5 school age children, including the family's own children and foster children.

6. Overnight care shall not be provided to a child enrolled for day care in the family home.

7. A dually licensed home under this section shall not be eligible to receive both the foster care board rate and the subsidized child care rate for the same child.

(e) The requirements in (d)1. through 7. above shall only be waived for good cause and with the written approval of the district Family Safety and Preservation program office.

(3) Age. The age of substitute care parents must be considered in relation to psychological maturity, health, physical energy, flexibility, ability to care for a specific child and probable duration of placement of a specific child.

(4) Income. Substitute care parents must have sufficient net income to assure their stability and the security of their own family without relying on board payments. The substitute family must have sufficient income to absorb four to eight weeks of a foster child's care until a board payment is received.

(5) Day Care. Day Care for the department's children must be with a licensed day care provider. Substitute care families who wish to use a family day care provider must use a provider who is licensed or a baby-sitter who has been screened and approved by the department.

(6) Health History. Substitute care applicants are required to sign an Authorization for Release of Health and Medical Information for Prospective Foster and Adoptive Parents, CF-FSP 5230, Oct 96, which is incorporated by reference, in order to determine if there are any conditions which would affect the applicant's ability to care for children. Substitute care applicants are to provide a health history on each member of the household including physical, mental health and other treatments received which may impair their ability to care for children. If there is a question regarding the physical, mental or emotional health of any member of the household which may possibly have an injurious effect on a child, the applicant, upon the department's request, must supply clinical reports and evaluations. A copy of form 5230 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.

(7) Religion. A substitute care parent must be willing to provide the opportunity for a child's participation in the faith of his choice or that requested by the birth family. A substitute care parent whose religious preference or other connections preclude the use of a licensed medical physician for the department's children may not be licensed. A substitute care parent must not force religious belief or practice upon a foster child.

(8) Screening. Substitute care parents must meet the screening requirements as stated in Chapter 435, F.S., and be void of any other FAHIS or criminal offenses that may negatively impact their ability to be a foster parent as stated in paragraph 65C-13.009(6)(b) of this chapter.

(9) Physical Facilities.

(a) The substitute care home must be located within reasonable proximity to schools, churches, medical care, recreation and community facilities.

(b) Whenever possible the substitute care home must be located within reasonable proximity of the child's parents and the unit providing foster care services. If the child is school age, consideration needs to be given toward keeping the child in the school he was attending.

(c) The substitute care home environment must meet the sanitation standards contained in 64E-12, F.A.C.

(d) If local ordinances require fire inspections of substitute care homes, proof that the home has successfully passed the inspection must be supplied to the department and maintained in the licensing file.

(10) Physical Environment. Proof that the substitute care home has passed inspection under 64E-12, F.A.C. must be furnished to the department by the local county public health unit.

(11) Play Area and Equipment.

(a) The substitute care home must have a safe outdoor play area as part of the property or a play area within reasonable walking distance which the substitute care family has a right to use.

(b) Children who are placed in family foster homes or emergency shelter homes that have swimming pools or a water hazard or that abut a waterway shall be taught how to swim and shall be instructed in water safety.

(c) Swimming pools must have a barrier on all four sides at least four feet high. The barrier may consist of a house plus a fence on the remaining three sides or a four-sided fence. Access through the barrier door, including windows, must have one of the following safety features: alarm, key lock, or self-locking doors and a bolt lock that is not accessible to children. When the swimming pool is not in use, all entry points must be locked. Above ground pools with steps or ladders leading to them must be secured, locked, or removed when the pool is not in use.

(d) Swimming pools must be well maintained. Pools which are drained of water must be filled in or have a safety cover that is locked. Swimming pools must be equipped with one of the following life saving devices:

1. Ring buoy;
2. Rescue tube; or
3. A flotation device with a rope, or
4. A pole of sufficient length to cover the area.

(e) When children are using the pool or participating in water activities, the following standards will apply:

1. Children who are not proficient in swimming shall not be allowed in the pool or pool area without wearing a life jacket, unless engaged in swimming lessons;

2. There shall be direct adult supervision when children are using the swimming pool, spa or hot tub, or are in the pool area.

(f) All high risk recreation, boating, water sports, or contact sports shall have direct adult supervision.

(g) As prerequisite to licensure, foster and emergency shelter parents who have swimming pools will be required to complete a basic water safety course administered by the American Red Cross, YMCA or other national organization.

(14) Interior Environment.

(a) Each child must be provided with storage space for personal belongings and a designated space for hanging clothes in or near the bedroom occupied by the child.

(b) A substitute care parent shall allow children to personalize their bedrooms so that the area reflects their tastes and expressions.

(c) Each child must have his own bed and each infant his own full size crib. Each child must have individual, clean, and age appropriate bedding.

(d) If more than four children share a room, each child must have 50 square feet of space. Bunk beds must be at least four feet apart.

(e) The following sleeping arrangements are not permitted:

1. Children sharing a bed with an adult or another child.
2. A child age three or older cannot share a room with a child of the opposite sex.
3. Children sharing a bedroom with an adult, except for children 12 months old and under, except when a child's medical or psychological needs so indicate.
4. Children of any age must not sleep on a living room sofa or a fold-away bed.

(f) The substitute care home must be clean and free of hazards to the health and physical well-being of the family.

(g) The substitute care home must have a continuous supply of clean drinking water approved by the county public health unit in the county of residence pursuant to, 64E-8, F.A.C. If the water is not from a standard city water supply, the substitute care parents must have the water tested and approved pursuant to, 64E-8, F.A.C.

(h) The home must have an adequate supply of hot water for bathing and dish washing. Hot water accessible to children must not exceed 120 degrees Fahrenheit, 43 degrees Celsius, at the faucet.

(15) Substitute Care Home Safety.

(a) All medications, poisonous chemicals, and cleaning materials must be in a locked place and inaccessible to children.

(b) To avoid access to alcoholic beverages cabinets containing alcoholic beverages must be locked.

(c) If the substitute care parents own a gun, the ammunition and unloaded firearm must be kept separately in locked cabinets. In lieu of storage in a locked cabinet, a trigger lock must be used on an unloaded firearm.

(d) Pets in the foster home, which are customarily vaccinated, must have current vaccinations.

(e) The substitute care parents must have a method to restrict children's access to large pets or potentially dangerous animals.

(f) Transportation must be available for use at all times.

(g) An operating telephone must be in the home.

(16) Fire Safety.

(a) The home must be free from fire hazards. All combustible items must be stored away from sources of heat.

(b) The home must not be heated by unvented gas heaters.

(c) The substitute care parents must have an evacuation plan posted in a conspicuous place. Substitute care parents must explain to each new child placed in their home where the evacuation plan is posted and must review with the child the route he must follow in the event of a fire. Fire drills shall be held at least every six months. The date of the fire drills shall be recorded by the substitute care parents and available for review by the licensing counselor at the time of relicensure.

(d) All fireplaces, space heaters, steam radiators, and hot surfaces must be shielded against accidental human contact.

(e) Bedrooms must have either a window or door with approved means of exit, in addition to the normal entry/exit door.

(f) The substitute care home shall be equipped with the following:

1. Operating smoke alarms in the kitchen and in each sleeping area;

2. Portable chemical fire extinguisher, size 2A10BC, in the kitchen and must be serviced annually and so tagged.

3. Exits, stairways and hallways shall not be used for storage or otherwise obstructed.

4. All doors with locks must be capable of being opened from the inside.

5. If the home is equipped with burglar bars, the caregiver must demonstrate that:

a. The burglar bars can be released to allow exit;

b. That other means of exit are readily available from each sleeping area.

(g) The approval of mobile homes parks is dependent upon the regulations of Chapter 64E-15, F.A.C.

(17) Transportation Safety.

(a) Substitute parents are required to transport foster children in a safe manner. Transportation in the back of a pickup truck or on a motorcycle is forbidden at all times. All vehicles used to transport children must be equipped with seat belts and have approved car seats for children under the age of four years as required in s. 316.215 through 316.614, F.S. Each child being transported must have his own seat belt or car seat.

(b) The substitute care parents must have all vehicles owned or leased by them insured to include liability insurance and be able to provide proof of that insurance at all times.

(c) If the substitute parents drive they must have a valid drivers license. The substitute care parents shall not allow children in the department's care to be transported by persons who do not possess a valid drivers license.

(18) Medical Care. Substitute care parents must be able to understand and be willing to carry out at home the medical care prescribed by a licensed physician. Families whose religious

convictions preclude the use of licensed physicians on behalf of foster children cannot be used for the care of children in the custody of the department.

Specific Authority 409.175(4), 402.305(1)(d), 402.313(10) FS. Law Implemented 409.175 FS. History--New 5-27-92, Formerly 10M-6.025, Amended _____.

65C-13.012 Substitute Family Records.

A record must be maintained for each substitute care home. Except for confidential information on abuse or neglect reports, the substitute care home record is a public record and can be reviewed by the substitute parent. Subsection 409.175(15), F.S. provides an exemption from the public records law for all identifying information, except name, in the foster home licensing file regarding foster parents, including those who became adoptive parents, their spouses and their children, unless otherwise ordered by a court. All other substantive information is available to the public. The exempted information includes: the home, business, work, child care, or school addresses; telephone numbers; social security numbers; birth dates; photographs of licensees, their family and other adult household members; identifying information about such persons in neighbor references; the floor plan of the foster home; and any identifying information about such persons contained in similar sensitive, personal information that is provided to the department. Records are filed in a central place alphabetically under three headings: Pending in the study process, Approved, and Closed. A unit file must also be established for all approved substitute care homes which must contain all of the completed items listed below, and any other information which the unit may find helpful in utilizing the home:

(1) Application for a License;

(2) Bilateral Service Agreement, fully executed Affidavit of Civil Rights Compliance, if appropriate;

(3) Register of Children in Emergency Shelter Family Home, if appropriate;

(4) Certificate of Completion of the Pre-Service training;

(5) Closing of Foster Home for Dependent Children Form;

(6) Certificate of License;

(7) Relicensing Summary for Foster Homes for Dependent Children;

(8) Foster Care Counselor's Review of Foster Parent(s) Performance as Listed in the Bilateral Service Agreement, CF-FSP 5223, May 98, which is hereby incorporated by reference, as listed in the Bilateral Service Agreement (A copy of form 5223 may be obtained from the Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.) Staff Inquiry Annual Relicensing Study;

(9) Quality of Foster Home Care: Community Input, CF-FSP 5225, Jun 98, which is hereby incorporated by reference (A copy of form 5225 may be obtained from the

Department of Children and Families, 1317 Winewood Boulevard, Building 8, Tallahassee, FL 32399-0700.) Telephone Inquiry;

(10) Documentation regarding the initial inquiry about becoming substitute care parents; Personnel References;

(11) Personnel References; Substitute Care School References;

(12) Written reference from the school the substitute care parents school age child(ren) attend, if applicable

(13)(12) EPSDT Agreement, fully executed;

(14)(13) Agency Reference Sample Letter;

(15)(14) Confidentiality Statement;

(16)(15) Consent to Law Enforcement and Abuse Registry Record Check, signed;

(17)(16) Executed and sworn to Affidavit of for Good Moral Character;

(18)(17) Delinquency Checks, if appropriate;

(19)(18) Health Certificate Sample Letter, if appropriate;

(20)(19) Participant Evaluation;

(20) Agreement to Provide Substitute Care for Dependent Children;

(21) Identification Cards for Substitute Care Parents

(22) Family Profile which is signed, dated and notarized.

Control Cards;

(23) All materials from the pre-service training including home visits and neighbors information; Certificate of License Sample;

(24) Incident Reports. Client Risk Prevention reports which pertain to proposed confirmed or confirmed abuse, neglect or abandonment are confidential. These reports must be placed in an envelope or file marked confidential and will not be considered as part of the public licensing record. These records must be kept separate from the licensing file. Substitute Care Home Ledger;

(25) Family Profile which is signed, dated and notarized.

(26) All GPS MAPP materials from the pre service training including home visits and neighbors information.

(27) Incident Reports. Client Risk Prevention reports which pertain to proposed confirmed or confirmed abuse, neglect or abandonment are confidential. These reports must be placed in an envelope or file marked confidential and should not be considered as part of the public licensing record. These records must be kept separate from the licensing file.

Specific Authority 409.175 FS. Law Implemented 409.175 FS. History—New 5-27-92, Formerly 10M-6.028, Amended _____.

65C-13.013 through 65C-13.021 No change.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Amy West, Specialist, 1317 Winewood Blvd. Building 8, Tallahassee, FL 32399

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Allegretti, Chief, 1317 Winewood Blvd. Building 8, Tallahassee, FL 32399

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 1999

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
9B-43	Florida Small Cities Community Development Block Grant Program

RULE NOS.:	RULE TITLES:
9B-43.003	Definitions
9B-43.004	Eligible Applicants
9B-43.006	Application Procedures for all Categories
9B-43.007	Scoring System
9B-43.009	Program Requirements for Housing
9B-43.014	General Grant Administration for all Categories

SECOND NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 25, No. 5, February 5, 1999, issue of the Florida Administrative Weekly. Minor typographical, spelling or syntax errors were corrected throughout these documents. Changes were made at the request of the Joint Administrative Procedures Committee as follows:

9B-43.003

(8) “Authorized signature” means the original signature of the Chief Elected Official or the signature of a person who is designated by charter, resolution, code, ordinance or other official action of the local government to sign CDBG related documents. If a signature other than the Chief Elected Official is submitted, a copy of that document must accompany that signature.

9B-43.004 Sections (2) and (3) were revised as follows:

(1) No change.

(2)(a) No change.

(a)(b) Pursuant to 24 C.F.R. 570.486(b), an eligible individual applicant may apply to undertake a portion of an eligible Neighborhood Revitalization activity in an otherwise eligible location outside its jurisdiction or service areas, if it can provide written documentation that the activities are