

1. An employer whose remaining penalty is less than \$13,500, shall pay the remaining penalty in twelve consecutive monthly installments.

2. An employer whose remaining penalty is \$13,500 or greater shall pay the remaining penalty in twenty-four consecutive monthly installments.

3. The employer may at any time pre-pay the installments of the remaining penalty, which have not become due.

4. The first monthly payment installment shall be due on the first day of the second month following the month of issuance of the Conditional Release From Stop Work Order, Form Number DFS-F4-1602 (rev. 6/04), and each subsequent payment installment shall be due on the first day of each consecutive month.

(c) Monthly payment installments shall only be remitted to the Department's address designated in the Payment Agreement Schedule for Periodic Payment of Penalty.

(d) Monthly payment installments shall be in the form of a cashier's check or money order only, made payable to the Workers' Compensation Administration Trust Fund.

(e) If the employer is a corporation, only an officer of the corporation may execute the Payment Agreement Schedule For Periodic Payment of Penalty on behalf of the employer.

(f) If the employer is a business entity other than a corporation, any principal of the business entity may execute the Payment Agreement Schedule For Periodic Payment of Penalty on behalf of the employer.

(g) Failure by the employer to meet or violation of any term or condition of the Payment Agreement Schedule For Periodic Payment of Penalty shall constitute a default by the employer.

(3) The Payment Agreement Schedule For Periodic Payment of Penalty becomes effective when it is executed on behalf of the employer and by the Department. Upon execution of the Payment Agreement Schedule For Periodic Payment of Penalty, the Department will provide the employer with a Monthly Payment Installment Invoice, Form Number DFS-F4-1601 (rev. 8/04), which shall be submitted with each monthly payment installment. Each Monthly Payment Installment Invoice contains a probationary reporting section that shall be completed by the employer.

(4) If an employer defaults under any of its obligations under the Payment Agreement Schedule For Periodic Payment of Penalty, the Stop Work Order to which the penalty applies shall be immediately reinstated and the entire unpaid balance of the remaining penalty shall immediately become due and payable.

(5) The Department hereby adopts and incorporates the following forms by reference. Copies of the forms can be obtained from the Division of Workers' Compensation's Bureau of Compliance, 200 East Gaines Street, Tallahassee, Florida 32399-4228, or from any field office identified in Rule 69L-6.009, F.A.C.

(a)	DFS-F4-1600	Payment Agreement Schedule For Periodic Payment of Penalty	rev. 7/04
(b)	DFS-F4-1601	Monthly Payment Installment Invoice	rev. 8/04
(c)	DFS-F4-1602	Order of Conditional Release From Stop-Work Order	rev. 6/04

Specific Authority 440.107(9), 440.591 FS. Law Implemented 440.107(7)(a) FS. History--New \_\_\_\_\_

## Section II Proposed Rules

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Division of Administration

RULE CHAPTER TITLE: Agricultural Vehicle Inspection  
 RULE NOS.: 5A-16

PROCEDURE TITLES: Procedure for Conducting Vehicle Inspection 5A-16.003  
 Florida Exempt Cargo Manifest 5A-16.004  
 Commercial Carrier Pre-clearance Program 5A-16.005

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to establish criteria by which non-agricultural laden commercial motor vehicles may be permitted to transport goods without being required to regularly stop at agricultural interdiction stations for physical inspection; establish guidelines associated with permitting process and activities; establish penalties for violation; eliminates the Florida Exempt Cargo Manifest program.

SUMMARY: This rule establishes conditions under which vehicles may pass agricultural interdiction stations without stopping for inspection as required by subsections 570.15(2) and (5), F.S. and makes technical corrections to reflect current number of stations. Repeals the Florida Exempt Cargo Manifest rule.

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

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

SPECIFIC AUTHORITY: 570.07(23), 570.15(5) FS.

LAW IMPLEMENTED: 570.15(1), 570.15(2), 570.15(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT A TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 2:00 p.m., October 25, 2004

PLACE: Department of Agriculture and Consumer Services, Agricultural Law Enforcement Conference Room, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Clark R. Jennings, Chief Counsel, Office of Agricultural Law Enforcement, 2005 Apalachee Parkway, Room 222, Tallahassee, Florida 32399-6500, (850)245-1300, Fax (850)245-1330

THE FULL TEXT OF THE PROPOSED RULES IS:

5A-16.003 Procedure for Conducting Vehicle Inspection.

(1) "Inspection" means for those vehicles designated in Section 570.15(1)(a), Florida Statutes:

(a) The examination of documents including but not limited to bill of lading, proof of ownership, certificate of inspection, Florida Exempt Cargo Manifest and similar or related documents.

(b) In addition to paragraph (1)(a) of this rule, inspection also includes ~~visual~~ examination of the cargo of the following vehicles:

1. All livestock carrying vehicles;
2. All vehicles having no valid documentation of cargo except empty semitrailer rigs;
3. Vehicles having documentation of cargo which is apparently altered or inconsistent with the physical characteristics of said vehicle;

4. All vehicles participating in the Commercial Carrier Pre-clearance Program which voluntarily enter agricultural inspection stations to declare commodities over which the Department exercises regulatory authority;

5. All vehicles participating in the Commercial Carrier Pre-clearance Program which are routed into an agricultural inspection station for a compliance inspection;

~~6.4. All vehicles with valid documentation indicating agricultural products, horticultural products, aquaculture, products derived from aquaculture, or livestock, products derived from livestock, or other commodities products over which the Department exercises regulatory authority with the exception of:~~

a. Fully loaded vehicles transporting only fresh citrus fruit accompanied by a valid inspection certificate covering an amount of fruit compatible with the carrying capacity of said vehicle.

b. Fully loaded vehicles transporting only tomatoes accompanied by a valid inspection certificate covering an amount of tomatoes compatible with the carrying capacity of said vehicle.

~~7.5. Every 20th other such vehicle at inspection stations 6A, 6B, 9A, 9B, 16A and 16B with every 10th other such vehicle at remaining inspection stations.~~

a. Inspection Stations 1 and 14 shall calculate the every 10th vehicle count by maintaining two separate counts, one for the northbound ramp and one for the southbound ramp.

b. Inspection Stations 2, 3, 4, 5, 7, 8, 10, 10A, 11, 12, 13, ~~and 15, 17 and 18~~ shall calculate the every 10th vehicle count by maintaining a combined count for the northbound and southbound lanes.

~~e. Vehicles accompanied by a valid Florida Exempt Cargo Manifest shall not be included in the count described in Section (1)(b)5. of this rule.~~

(2) The following vehicles unless carrying agricultural products, horticultural products, aquaculture, products derived from aquaculture, ~~or~~ livestock, products derived from livestock, or other commodities over which the Department exercises regulatory authority shall be exempt from inspection and shall not be included in the count specified in subparagraph (1)(b)~~7.5.~~, of this rule:

- (a) Car and boat carriers;
- (b) Designated U.S. Mail vehicles;
- (c) Clearly marked vehicles operated by parcel delivery companies;
- (d) Open log, pulpwood and lumber trucks;
- (e) Chip, bark, mulch, charcoal, beverage and bread trucks;
- (f) Empty flatbeds;
- (g) Tank carriers of other than agricultural products;
- (h) Trucks transporting rock, limestone, dirt or sand;
- (i) Clearly marked telephone company, electric company or cooperative, city, county, state and federal vehicles;
- (j) Pickups or vans which have visible access to the entire cargo area of said vehicles;
- (k) Sealed vehicles transporting prescription drugs.

(3) All vehicles approved by the Department to participate in the Commercial Carrier Pre-clearance Program, with the exception of those vehicles described in subparagraph (1)(b)4. and subparagraph (1)(b)5. of this rule, shall be exempt from the requirement to enter agricultural inspection stations for inspection and shall not be included in the count specified in subparagraph (1)(b)7. of this rule;

~~(4)(3)~~ All vehicles so designated in Section 570.15, Florida Statutes, entering agricultural inspection stations with the exception of those vehicles designated in paragraph (2) shall be inspected in accordance with subsection (1).

~~(5)(4)~~ In the event the driver of a vehicle subject to visual inspection under this rule refuses access to cargo area of said vehicle, or where probable cause exists as evidenced by senses (e.g., sight, sound, smell) or reliable information exists to believe a vehicle is transporting agricultural products, horticultural products, aquaculture, products derived from aquaculture, or livestock, products derived from livestock, or other commodities over which the Department exercises regulatory authority products, and the driver refuses to allow

the inspector to conduct an inspection, a search warrant shall be requested from the appropriate official of ~~the that~~ county in which the inspection station is located.

(5) ~~Notwithstanding the above, all vehicles subject to the Florida Special Fuel and Motor Fuel Use Tax Act of 1981, Chapter 207, Florida Statutes, shall stop for vehicle use tax permit (decal) checks.~~

(6) No vehicle which has stopped for purposes of inspection shall be detained for a period longer than that reasonably required to conduct an inspection and/or seek, obtain and execute a search warrant if valid grounds for securing a warrant exist.

Specific Authority 570.07(23), 570.15(1)(5)(b)2- FS. Law Implemented 570.15 FS. History—New 6-20-84, Amended 2-3-85, Formerly 5E-12.03, Amended 10-8-87, Formerly 5E-12.003, Amended \_\_\_\_\_.

#### 5A-16.004 Florida Exempt Cargo Manifest.

Specific Authority 570.07(23), 570.15(1)(b)2. FS. Law Implemented 570.15 FS. History—New 2-3-85, Formerly 5E-12.04, Amended 4-1-86, Formerly 5E-12.004, Repealed \_\_\_\_\_.

#### 5A-16.005 Commercial Carrier Pre-clearance Program.

(1) Based upon prior approval by the Department, trucking concerns and truck lines may participate in the Commercial Carrier Pre-clearance Program for the purpose of transporting goods without being regularly required to stop at the Department's agricultural inspection stations for physical inspection.

(2) Qualifying trucking concerns and truck lines may apply to the Department requesting approval to participate in the Commercial Carrier Pre-clearance Program by submitting a completed Commercial Carrier Pre-clearance Program application form number DACS-01281 to the Office of Agricultural Law Enforcement, Post Office Box 850, Old Town, Florida 32680.

(3) Approval to participate in the Commercial Carrier Pre-clearance Program will be granted only to those trucking concerns and truck lines that meet the following criteria:

(a) Applicant must be verified by the Florida Department of Revenue as being exempt from or enrolled and actively participating in the Florida Department of Revenue's Electronic Bill of Lading Program;

(b) Applicant must be a recognized trucking concern or truck line engaged primarily in the transportation of commodities other than commodities over which the Department exercises regulatory authority. Applications received from trucking concerns and truck lines that routinely or regularly transport agricultural products, horticultural products, aquaculture, products derived from aquaculture, livestock, products derived from livestock, or other commodities over which the Department exercises regulatory authority will be denied;

(c) Applicant must agree to allow any department representative to inspect the cargo, regular manifest and/or other billing of all vehicles participating in the Commercial

Carrier Pre-clearance Program at all Florida terminals or drop sites any time during hours of operation, should the Department wish to check such cargo and/or billing;

(d) Applicant must agree that each and every truck shipment which contains or includes agricultural products, horticultural products, aquaculture, products derived from aquaculture, livestock, products derived from livestock, or other commodities over which the Department exercises regulatory authority will voluntarily stop at all agricultural inspection stations and declare such commodities even though pre-clearance approval is received.

(4) The privilege of participating in the Commercial Carrier Pre-clearance Program shall be revoked or canceled for any of the following causes:

(a) Notification by the Department of Revenue that the trucking concern or truck line has lost its exemption, been removed from or is no longer participating in the Department of Revenue's Electronic Bill of Lading Program or is not in compliance with applicable Florida Statutes or Administrative Rules;

(b) Notification to or discovery by the Department that the trucking concern or truck line has begun to routinely or regularly transport agricultural products, horticultural products, aquaculture, products derived from aquaculture, livestock, products derived from livestock, or other commodities over which the Department exercises regulatory authority.

(c) Discovery by the Department that a vehicle owned, leased, rented, loaned to or by the trucking concern or operated by an employee or agent of the trucking concern was used in the commission of a criminal act or was discovered to have been transporting contraband or undocumented or otherwise unauthorized foreign nationals.

(5) Participants of the Commercial Carrier Pre-clearance Program shall be subject to disciplinary action for any of the following causes:

(a) Failure to make available for inspection by any department representative the cargo, regular manifest and/or other billing pertaining to any vehicle participating in the Commercial Carrier Pre-clearance Program at any Florida terminal or drop site during hours of operation;

(b) Failure of any vehicle participating in the Commercial Carrier Pre-clearance Program which is transporting agricultural products, horticultural products, aquaculture, products derived from aquaculture, livestock, products derived from livestock, or other commodities over which the Department exercises regulatory authority to voluntarily stop at any agricultural inspection station and declare such commodities even though pre-clearance approval is received;

(c) Failure of any vehicle participating in the Commercial Carrier Pre-clearance Program, which is routed into an agricultural inspection station for a compliance spot check, to enter said inspection station and/or submit for inspection;

(6) Participants of the Commercial Carrier Pre-clearance Program who are determined to have engaged in those acts prescribed in paragraph (5) above shall be subject to the following penalties:

(a) First time offenders shall be subject to an administrative fine of up to two thousand dollars (\$2,000) and an increase in compliance spot checks of the participating carrier vehicles up to fifty percent (50%):

(b) Second offense shall be subject to an administrative fine of up to five thousand dollars (\$5,000) and suspension of their participation in the program for a period not to exceed one hundred eighty (180) days:

(c) Subsequent offenses shall result in expulsion from the program without leave to reapply for a period of twelve months.

(7) Five percent (5%) of vehicles participating in the Commercial Carrier Pre-clearance Program which pass a specified agricultural inspection station shall be routed into the inspection station for inspection of the cargo, regular manifest and/or other billing, as a means to ensure compliance. The compliance spot check count shall be conducted separately at each specified agricultural inspection station.

(a) The percentage of vehicles subject to compliance spot checks may be reduced to zero percent (0%) to address safety concerns resulting from ramp renovation, construction projects, natural and manmade disasters, and heavy traffic:

(b) The percentage of vehicles subject to compliance spot checks may be increased to one hundred percent (100%) during emergencies as defined by the Governor or Commissioner of Agriculture.

(c) The percentage of vehicles subject to compliance spot checks may be increased up to fifty percent (50%) as a condition of readmission into the program following suspension or revocation.

Specific Authority 570.07(23), 570.15(5) FS. Law Implemented 570.15(1), 570.15(2),570.15(5) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Clark R. Jennings, Chief Counsel, Office of Agricultural Law Enforcement, 2005 Apalachee Parkway, Room 235, Tallahassee, Florida 32399-6500, (850)245-1300, Fax (850)245-1330

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Colonel A. Darrell Liford, Director, Office of Agricultural Law Enforcement, 2005 Apalachee Parkway, Room 235, Tallahassee, Florida 32399-6500; (850)245-1300; FAX: 245-1330

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 7, 2004

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Animal Industry**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Importation of Animals	5C-3
RULE TITLES:	RULE NOS.:
Definitions	5C-3.001
General Requirements and Limitations	5C-3.002
Equidae	5C-3.003
Cattle	5C-3.004
Goats or Sheep	5C-3.005
Swine	5C-3.007
Dogs or Domestic Cats	5C-3.009
Cervidae	5C-3.011
Domestic Fowl Poultry, Poultry Products and Ratites	5C-3.012

PURPOSE, EFFECT AND SUMMARY: This proposed rule amendment modifies and updates general requirements, definitions, species-specific requirements, tests and documentation needs of both state and federal governing agencies regarding interstate animal transportation, animal movement and disease control.

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 within 21 days of this notice.

SPECIFIC AUTHORITY 585.002(4), 585.08(2)(a) FS.

LAW IMPLEMENTED: 534.081, 585.08(1),(2)(a), 585.11(1),(2), 585.145(1),(2), 585.16 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, A HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dr. Cesar Ruiz, Vet. Manager, Bureau of Animal Disease Control, Division of Animal Industry, Rm. 333, 407 S. Calhoun St., Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0957

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 5C-3.001 follows. See Florida Administrative Code for present text.)

5C-3.001 Definitions.

For the purpose of this chapter the following words shall have the meaning indicated:

(1) Accredited Veterinarian. A veterinarian licensed in the state of origin and approved by the United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA, APHIS) to perform certain functions of federal and

cooperative state-federal programs in accordance with the provisions of Title 9 Code of Federal Regulations (9 CFR) § 160 - § 162 (2004).

(2) Administrator. The Administrator of USDA, APHIS or any person authorized to act for the Administrator.

(3) Animal. Any equine, bovine, 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.

(4) Approved All-Class Market. A livestock market approved by the Administrator pursuant to 9 CFR Part (§) 71.20 (2004), where breeding, feeding, and slaughter swine are received, handled and released in accordance with Federal interstate regulations and applicable state regulations; and released in accordance with 9 CFR § 71 (2004), § 78 (2004), and § 85 (2004).

(5) Approved Slaughter Market. A livestock market approved by the Administrator pursuant to 9 CFR § 71.20 (2004) where slaughter swine are received, handled and released, in accordance with applicable state regulations and 9 CFR § 71 (2004), § 78 (2004), and § 85 (2004).

(6) Authorized Representative. An employee of the state or federal government, or a licensed veterinarian accredited by the USDA, who is authorized to conduct animal disease control and eradication activities.

(7) Avian Influenza (AI) or Exotic Newcastle Disease (END)-Affected State. Any state in which High Path Avian Influenza subtype H5 or H7 or END virus has been diagnosed in poultry within the last 90 days prior to importation.

(8) Cleaned and Disinfected. Free of organic matter and disinfected with an approved agent.

(9) Commercial Production Swine. Swine that have been continuously managed with adequate facilities and practices to prevent exposure to either transitional or feral swine and so recognized by state animal health officials.

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

(11) Domestic 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.

(12) Feral Swine. Swine that are free-roaming.

(13) Import, Imported, Importation. The movement of animals into the state of Florida, from another state, United States (U.S.) possession, or foreign country.

(14) 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 (2004) and § 147 (2004).

(15) Official Certificate of Veterinary Inspection (OCVI). A legible certificate made on an official form from the state of origin or from the USDA, issued by an authorized representative, and approved by the chief animal health official of the state of origin.

(16) Official Individual Identification. A unique individual identification that is secure, traceable, and capable of carrying unique numbers from a central repository; including, but not limited to: official USDA ear tags that conform to the alphanumeric National Uniform Eartagging System, flank tattoo, tail web or ear tattoo, or lip tattoo using the National Uniform Tag code number assigned by USDA to the state of origin, or official leg or wing band, or any electronic identification device with a unique number that is recorded in a single central database, or other USDA-approved identification device that conforms to the alphanumeric National Uniform Eartagging System, or biometrics, or the digital image or notarized photograph of the animal signed by the licensed accredited veterinarian or notary public, drawing, or other forms of identification developed through technology in which natural physical marks such as signalments are recorded and/or documented. It may bear the valid premises identification used in conjunction with the producer's livestock production numbering system to provide a unique identification number. An owner's private brand or tattoo, even though permanent and registered in the state of origin, is not an acceptable individual animal identification for the purposes of entry into Florida.

(17) Poultry. Chickens, turkeys, quail, pheasants, chukars, peafowl, guineas, ratites and waterfowl.

(18) Poultry and Eggs for Hatching Purposes. A specific designation of those species of domestic fowl and the qualified eggs produced by these that are eligible for testing and qualification under the supervision of the NPIP including, but not limited to, chickens, turkeys, waterfowl, exhibition poultry and game birds. The term also includes other domestic fowl used for commercial, exhibition or breeding purposes or as pets.

(19) Poultry Products. Hatching eggs, chicks, poults, table eggs, litter, and offal but does not include processed poultry meat for human consumption.

(20) Prior Permission. Written or verbal authorization by the Division prior to importation into Florida. An authorization number must be obtained and shown on the OCVI accompanying the animals.

(21) Recognized Slaughtering Establishment. A slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), or equivalent state meat inspection program.

(22) Restricted. Animals that are quarantined, infected with, or exposed to any infectious or communicable disease.

(23) Specifically Approved Livestock Market. A stockyard, livestock market, buying station, concentration point or any other premises under state or federal veterinary

supervision where livestock are assembled for sale or sale purposes and which has been approved by the Administrator as provided in 9 CFR § 71.20 (2004).

(24) Transitional Swine. Swine that have been, or have had the potential to be, exposed to feral swine.

(25) USDA. United States Department of Agriculture.

(26) Vesicular Stomatitis (VS)-Affected State. Any state in which VS virus serotypes New Jersey or Indiana have been diagnosed within the last 60 days prior to importation.

(27) Forms and Materials. 9 CFR § 71 (2004), § 71.20 (2004), § 78 (2004), § 85 (2004), § 145 (2004), § 147 (2004), § 160 - § 162 (2004), and the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and VS Form 9-3 (Aug 95). Report of Sales of Hatching Eggs, Chicks, and Poults are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2)(a) FS. Law Implemented 585.08(2)(a), 585.145(1),(2) FS. History--New 6-29-62, Amended 2-5-85, Formerly 5C-3.01, Amended 9-6-89, 3-23-94, 6-4-95, \_\_\_\_\_.

(Substantial rewording of Rule 5C-3.002 follows. See Florida Administrative Code for present text.)

5C-3.002 General Requirements and Limitations.

(1) OCVI Required. Animals imported into the state must be accompanied by an OCVI unless exempted by this rule. The OCVI must be attached to the waybill or be in the possession of the driver of the vehicle or person otherwise in charge of the animals. The OCVI must accompany the animals to their final destinations in Florida.

(a) All information required on the OCVI must be fully completed by the issuing veterinarian and must include the following:

1. The name and address of the consignor;
2. The name and address of the consignee;
3. The point of origin and premises identification, if assigned by state officials in the state of origin;
4. The point of destination;
5. The date of examination;
6. The number of animals examined;
7. The official individual identification of each animal; and the name or registered brand or tattoo number;
8. The sex, age, and breed of each identified animal;
9. Test results and herd or state status on certain diseases as specified in this chapter;
10. Prior permission number, if required;
11. A statement by the issuing veterinarian that the animals identified on the OCVI are free of signs of infectious or communicable disease; and
12. For Equidae only, the establishment or premises at which the horse was examined, body temperature at examination, and color and markings or digital image.

(b) A copy of the OCVI must be forwarded immediately to the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 S. Calhoun St., Tallahassee, FL 32399-0800.

(c) The OCVI will be void after 30 days except that OCVIs for Equidae may be extended as provided in subsection 5C-3.003(5), F.A.C.

(2) Proof of Ownership. Animals which are not required to have an OCVI for importation, as exempted by this rule, and animals being transported totally within the state must be accompanied by a document signed by the owner or agent as evidence of ownership or authority for possession of the transported animals. These documents must disclose:

- (a) The name and address of the consignor.
- (b) The name and address of the consignee.
- (c) The point of origin.
- (d) The point of destination, and
- (e) A description of the animals sufficient to identify them for any and all purposes.

(3) Restricted Animals. All restricted animals must have prior permission for importation into the state or to be transported within the state.

(4) Importation for Slaughter. Animals imported into the state for slaughter must be consigned directly to a recognized slaughtering establishment and must be slaughtered within 10 days after arrival at their destination.

(5) Vesicular Stomatitis.

(a) Certification for Vesicular Stomatitis (VS). All hoofed animals, including horses, ruminants, swine, exotic and wild hoofed animals, originating from a VS-affected state must be accompanied by an OCVI which includes the following statement: "All animals susceptible to Vesicular Stomatitis (VS) identified and included in this OCVI for shipment have been examined and found to be free from clinical signs and vectors of VS and have not been exposed to VS virus and have not been within 10 miles of a VS-infected premises within the last 30 days." Documentation must also accompany the animals to show that the animals have been tested and found negative to an approved test for VS within the previous 10 days.

(b) Prior permission. Animals originating from a VS-affected state will require prior permission.

(6) Violations. Animals entering the state in violation of the provisions of this chapter shall be stopped by an agent, or employee of the Division or by any FDACS law enforcement officer of the state of Florida or any subdivision of the state. Any person, firm, or association having charge, custody, or control of animals imported in violation of this rule will remove the animals from the state as directed by the Division.

Specific Authority 585.002(4), 585.08(2)(a) FS. Law Implemented 534.081, 585.11(1),(2), 585.145(1),(2), 585.16 FS. History--New 6-29-62, Amended 2-5-85, Formerly 5C-3.02, Amended 9-6-89, 3-23-94, 6-4-95, \_\_\_\_\_.

(Substantial rewording of Rule 5C-3.003 follows. See Florida Administrative Code for present text.)

5C-3.003 Equidae.

(1) OCVI Required. An OCVI must accompany all Equidae imported into the state except the following:

(a) Equidae consigned directly to a veterinary medical treatment facility for emergency medical care and placed under quarantine at the medical facility until it recovers and exits the state, or

(b) Equidae accompanied by an Equine Event Extension (DACS-09051) Rev. (8/04), Equine Interstate Passport Card (DACS-09207) Rev. (8/04), or equivalent, of the state of origin, signed by the State Veterinarian or chief animal health official as provided in subsection 5C-3.003(5), F.A.C.

(2) Prior Permission. Prior permission must be obtained for:

(a) Equidae consigned directly to a veterinary medical treatment facility for emergency medical care;

(b) Equidae imported from a state or U.S. possession where Equine piroplasmiasis is endemic; or

(c) Equidae imported into the state from countries where Contagious Equine Metritis (CEM) is endemic.

(3) Equine Infectious Anemia (EIA) Test.

(a) All Equidae imported into the state must be accompanied by evidence of an official negative EIA serologic test within 12 months prior to importation, except the following:

1. Foals under six months of age accompanied by their dam which has met the EIA test requirements, and

2. Equidae exempted from the OCVI requirement under paragraph 5C-3.003(1)(a), F.A.C.

(b) The EIA test information must be recorded on the OCVI, Equine Event Extension (DACS-09051) Rev. (8/04), Equine Interstate Passport Card (DACS-09207) Rev. (8/04), or equivalent, of the state of origin signed by the State Veterinarian or chief animal health official as provided in subsection 5C-3.003(5), F.A.C., and must include the following:

1. The date of the test;

2. The result of the test;

3. The name of the testing laboratory; and

4. The laboratory accession number.

(4) Equine Piroplasmiasis Test Requirements:

(a) All Equidae imported from states or U.S. possessions where Equine piroplasmiasis is endemic must be accompanied by evidence of a negative official test for both *Babesia caballi* and *Babesia equi* as approved by the USDA within 30 days prior to importation.

(b) All Equidae meeting the above requirements for importation will be quarantined upon arrival at their destination. The Equidae will remain under quarantine until

such time as negative official tests for *B. caballi* and *B. equi* are conducted at the owner's expense not less than 30 days nor more than 60 days after importation.

Equidae which test positive for *B. caballi* or *B. equi* will remain under quarantine, with all treatment and related costs at the owner's expense, until:

1. The animal is treated by a Florida licensed and accredited veterinarian and is negative on retesting; or

2. Is returned to the point of origin under VS Form 1-27 (JUN 89); or

3. Is euthanized and disposed of by methods approved by the Division; or

4. Is moved directly to a recognized slaughtering establishment under VS Form 1-27 (JUN 89).

(5) Equine Event Extension or Equine Interstate Passport Card. Equine Event Extension (DACS-09051) Rev. (8/04), or Equine Interstate Passport Card (DACS-09207) Rev. (8/04), or equivalent, will be issued to certify the existence of an official negative EIA test within the previous 12 months and a valid Florida Official Equine Certificate of Veterinary Inspection. This card will be valid for up to six months provided that:

(a) The purpose is solely to allow routine interstate movement between Florida and other states that have mutually agreed to recognize such Equine Event Extension (DACS-09051) Rev. (8/04), or Equine Interstate Passport Card (DACS-09207) Rev. (8/04), or equivalent, to equine events such as horse shows or meets, races, trail rides, or fox hunts-and

(b) The OCVI includes all other information required by subsections 5C-3.002(1) and 5C-3.003(3), FAC; and

(c) The new expiration date will not be later than the expiration date of the EIA test; and

(d) An Equine Event Extension (DACS-09051) Rev. (8/04), or Equine Interstate Passport Card (DACS-09207) Rev. (8/04), or equivalent, does not supersede or replace the requirements of any given event; and

(e) An Equine Event Extension (DACS-09051) Rev. (8/04), or Equine Interstate Passport Card (DACS-09207) Rev. (8/04), or equivalent, will not be issued for an owner, owner's agent, or horse which has been the subject of cancellation of an Equine Event Extension (DACS-09051) Rev. (8/04), or Equine Interstate Passport Card (DACS-09207) Rev. (8/04), or equivalent.

(f) An Equine Event Extension (DACS-09051) Rev. (8/04) or Equine Interstate Passport Card (DACS-09207) Rev. (8/04) may be applied for by submitting an Application for Equine Event Extension or Equine Interstate Passport Card (DACS-09078) Rev. (8/04) to the Division of Animal Industry, Florida Department of Agriculture and Consumer Services, 407 S. Calhoun St., Mayo Building, Tallahassee, Florida 32399-0800, Fax: (850)410-0957; or through the Department's Licensing, Permits and Registration website: <http://www.doacs.state.fl.us/onestop/ai/aiinst.html>.

(6) Brucellosis. Equidae which are positive to a brucellosis test or which show evidence of “poll evil” or “fistulous withers” whether draining or not, will not be allowed to enter the state for any purpose.

(7) Forms. Equine Event Extension (DACS-09051) Rev. (08/04), and Equine Interstate Passport Card (DACS-09207) Rev. (08/04), are hereby incorporated by reference. Copies may be obtained from the Florida Department of Agriculture and Consumer Services, Division of Animal Industry, 407 S. Calhoun St., Tallahassee, FL 32399-0800. USDA APHIS VS Form 1-27 (JUN 89) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(1),(2)(a), 585.145(1),(2) FS. History—Amended 11-21-65, 6-26-66, 3-1-72, 10-15-73, 3-17-76, 9-14-82, 2-5-85, Formerly 5C-3.03, Amended 9-6-89, 3-23-94, 6-4-95,\_\_\_\_\_.

(Substantial rewording of Rule 5C-3.004 follows. See Florida Administrative Code for present text.)

#### 5C-3.004 Cattle.

(1) OCVI Required. All cattle imported must be accompanied by an OCVI except the following:

(a) Steers;

(b) Spayed heifers;

(c) Cattle consigned directly to specifically approved livestock markets; and

(d) Ceattle consigned directly to recognized slaughtering establishments.

#### (2) Other Requirements and Limitations. General.

(a) Restricted cattle must have prior permission and be accompanied by VS Form 1-27 (JUN 89 );

(b) Cattle known to be infected with paratuberculosis (Johne’s Disease) shall not be imported except to a recognized slaughtering establishment or to a specifically approved livestock market for sale to a recognized slaughtering establishment.

#### (c) Testing.

##### 1. Tuberculosis Test.

a. A tuberculosis test is not required for importation provided that the cattle originate from an Accredited Tuberculosis-Free Herd or State. The herd accreditation number or state status must be listed on the OCVI.

b. A negative tuberculosis test is required within 30 days prior to importation for cattle over 6 months of age that originate from a state or herd that is not an Accredited Tuberculosis-Free Herd or State.

##### 2. Brucellosis Test.

a. A brucellosis test is not required for importation provided that the cattle:

(i) Originate from a Certified Brucellosis-Free Herd or Brucellosis Class-Free State or Area; or

(ii) Are official calfhood vaccinates under 18 months of age, or are steers or spayed heifers

b. A negative brucellosis test is required within 30 days prior to importation for cattle not exempted in sub-subparagraph 5C-3.004(2)(c)2.a., F.A.C., and which originate from a state or area not recognized as a Brucellosis Class-Free State or Area under the provisions of 9 CFR § 78 (2004).

c. The herd certification number or state status must be listed on the OCVI.

#### (3) Rodeo Bulls.

(a) Tuberculosis Test. A negative tuberculosis test is required within 12 months prior to importation.

(b) Brucellosis Test. Rodeo bulls performing in rodeo events may be imported without tests provided the bulls are not changing ownership and are under 18 months of age; or individual bulls are negative to a brucellosis test within 12 months prior to importation.

(c) Rodeo bulls imported for purposes other than performing in rodeo events must meet the requirements for importation in subsections 5C-3.004(1) and (2), F.A.C.

(4) Prior Permission. Prior permission shall be required for all cattle originating from states with less than Tuberculosis Accredited-Free State or Brucellosis Class-Free State classifications.

(5) Forms and Materials. VS Form 1-27 (JUN 89) and 9 CFR. § 78 (2004) are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(1),(2)(a), 585.145(1),(2) FS. History—Amended 3-22-63, 8-20-64, 9-23-65, 7-25-66, 11-15-67, 3-1-68, 3-12-70, 7-1-70, 9-1-72, 4-5-77, 7-1-79, 7-1-80, 9-30-80, 8-9-81, 9-14-82, 6-26-83, 2-5-85, Formerly 5C-3.04, Amended 9-6-89, 3-23-94, 6-4-95,\_\_\_\_\_.

(Substantial rewording of Rule 5C-3.005 follows. See Florida Administrative Code for present text.)

#### 5C-3.005 Goats or Sheep.

(1) OCVI Required. All goats or sheep imported into the state, except goats or sheep consigned directly to recognized slaughtering establishments, must be accompanied by an OCVI. The OCVI must include the following:

(a) The official individual identification of each animal as required in 9 CFR § 79.2 (2004) and § 79.3 (2004) and the Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-066, October 1, 2003; and

(b) A statement that each goat or sheep, is free of the clinical signs of the diseases: caseous lymphadenitis, contagious ecthyma (Orf), chlamydial keratoconjunctivitis, scabies, scrapie, and contagious footrot.

#### (2) Testing Requirements for Dairy Goats.



(a) Tuberculosis Test. Dairy goats over 6 months of age must originate from an Accredited Tuberculosis-Free Herd, or have had a negative tuberculosis test within 90 days prior to importation.

(b) Brucellosis Test. Dairy goats over 6 months of age must originate from a Certified Brucellosis-Free Herd, or have had a negative brucellosis test within 90 days prior to importation.

(3) Immediate Slaughter Goats or Sheep.

(a) Goats or sheep older than 18 months of age must have an official individual identification as required in 9 CFR § 79.2 (2004) and § 79.3 (2004), and the Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-066, October 1, 2003.

(b) Evidence of ownership or authority to transport the animals as provided in subsection 5C-3.002(2), F.A.C., must accompany the shipment.

(c) The goats or sheep will be moved directly to a recognized slaughter establishment.

(5) Materials. 9 CFR § 79.2 (2004), § 79.3 (2004), and the Scrapie Eradication Uniform Methods and Rules, APHIS 91-55-066, October 1, 2003 are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(1),(2)(a), 585.145(1),(2) FS. History—New 6-29-62, Amended 2-5-85, Formerly 5C-3.05, Amended 9-6-89, 3-23-94, 6-4-95, \_\_\_\_\_.

(Substantial rewording of Rule 5C-3.007 follows. See Florida Administrative Code for present text.)

5C-3.007 Swine.

(1) OCVI Required. All swine imported into the state, except swine consigned directly to a recognized slaughtering establishment, must be accompanied by an OCVI.

(2) Prior Permission. Prior permission is required for all swine imported originating from any state with less than a Validated Brucellosis-Free State, or Pseudorabies Stage IV or V (Pseudorabies-Free) State status or Transitional swine from any state, except swine consigned directly to a recognized slaughtering establishment.

(3) Breeding, Exhibition and Pet Swine.

(a) Brucellosis Test. Swine imported for breeding, exhibition or pet purposes must:

1. Originate from herds not known to be infected with or exposed to brucellosis and be accompanied by proof of a negative brucellosis test conducted within 30 days prior to importation, or

2. Be commercial production swine that originate directly from a Validated Brucellosis-Free State; or

3. Originate directly from a Validated Brucellosis-Free Herd. The Brucellosis-Free Herd number and the date of expiration or state status must be listed on the OCVI.

(b) Pseudorabies Tests. Swine entering the state for breeding, exhibition or pet purposes must:

1. Originate from a herd not known to be infected with or exposed to pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days prior to importation; or

2. Originate from a Qualified Pseudorabies-Negative (QN) Herd; or

3. Be commercial production swine that originate directly from a Pseudorabies Stage IV or V (Pseudorabies-Free) State.

(4) Feeder Swine.

(a) Brucellosis Test. Swine imported for feeder purposes must originate from herds not known to be infected with or exposed to brucellosis.

(b) Pseudorabies Tests. Swine imported for feeder purposes must:

1. Originate from herds not known to be infected with or exposed to pseudorabies and be accompanied by proof of a negative pseudorabies test conducted within 30 days prior to importation; or

2. Originate from a Qualified Pseudorabies-Negative (QN) Herd; or

3. Originate from a Pseudorabies-Monitored Feeder Pig (MFPH) Herd; or

4. Be commercial production swine that originate directly from shipped directly from the farm of origin in a Pseudorabies Stage III, IV, or V (Pseudorabies-Free) State.

(5) Immediate Slaughter Swine.

(a) Commercial Production Swine not known to be infected with or exposed to brucellosis or pseudorabies may enter the state without restrictions provided they are:

1. Consigned directly to an approved slaughtering establishment; or

2. Consigned directly to an approved slaughter market or an approved all-class market and then directly to another approved slaughter market or to a recognized slaughtering establishment.

(b) Transitional swine and swine known to be infected with or exposed to pseudorabies or brucellosis must have prior permission and be accompanied by VS Form 1-27 (JUN 89) and may be imported provided the swine are consigned directly to a recognized slaughtering establishment

(c) Evidence of ownership or authority to transport the animals as provided in subsection 5C-3.002(2), F.A.C., must accompany the shipment.

(6) Forms. VS Form 1-27 (JUN 89) is hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(1),(2)(a), 585.145(1),(2) FS. History—Amended 3-24-65, 11-7-67, 6-20-68, 1-1-71, 3-1-72, 8-4-77, 2-5-85, 10-23-85, Formerly 5C-3.07, Amended 9-6-89, 3-23-94, \_\_\_\_\_.

(Substantial rewording of Rule 5C-3.009 follows. See Florida Administrative Code for present text.)

5C-3.009 Dogs or Domestic Cats.

(1) OCVI Required. All dogs or domestic cats imported into this state, except dogs or domestic cats imported for exhibition purposes only and that will remain in the state less than six months, must be accompanied by an OCVI stating that they are:

(a) Free from signs of any infectious or communicable disease;

(b) Did not originate within an area under quarantine for rabies; and

(c) Not known to have a history of exposure to a rabies-infected animal prior to importation.

(2) Rabies Vaccination. Dogs and domestic cats 3 months of age and older transported into the state must have a current rabies vaccination with a USDA-approved rabies vaccine.

(3) Prior Permission. Dogs or domestic cats originating from areas under quarantine for rabies must have prior permission from the Department as provided in subsection 5C-3.002(3), F.A.C.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(1),(2)(a), 585.145(1),(2) FS. History—New 6-29-62, Amended 2-5-85, Formerly 5C-3.09, Amended 9-6-89, 3-23-94, 6-4-95, \_\_\_\_\_.

(Substantial rewording of Rule 5C-3.011 follows. See Florida Administrative Code for present text.)

5C-3.011 Cervidae.

(1) OCVI Required. All cervidae imported into the state, except cervidae consigned directly to a recognized slaughtering establishment, must be accompanied by an OCVI. The OCVI must list the official individual identification of each animal, and the date and results of any required test as provided in Rule 5C-26.005, F.A.C.

(2) Prior Permission. All cervidae imported into the state, except cervidae consigned directly to a recognized slaughtering establishment, must have prior permission and meet the requirements of Chapter 5C-26, F.A.C.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(1),(2)(a), 585.145(1),(2) FS. History—New 3-23-94, Amended \_\_\_\_\_.

(Substantial rewording of Rule 5C-3.012 follows. See Florida Administrative Code for present text.)

5C-3.012 Domestic Fowl, Poultry, Poultry Products and Ratites.

(1) OCVI Required. All domestic fowl, poultry and eggs for hatching purposes imported into the state, unless exempted by this rule, must be accompanied by an OCVI. Poultry and hatching eggs classified under provisions of the NPPI may substitute VS Form 9-3 (AUG 95), Report of Sales of Hatching Eggs, Chicks and Poults, for the OCVI. Racing pigeons that are transported out of the state for racing purposes in a sealed

crate(s) and reenter the state with unbroken seals or poultry consigned directly to a recognized slaughtering establishment are exempt from the OCVI importation requirements.

(2) Prior Permission. Prior permission is required for importation of all domestic fowl and poultry and eggs for hatching purposes except:

(a) Poultry consigned directly to a recognized slaughtering establishment;

(b) Individual exotic and pet birds;

(c) Exhibition birds originating in NPPI participating flocks in Florida and are returning to the state.

(3) Pullorum-Typhoid Test

(a) An official negative test for Pullorum-Typhoid is required within 30 days of importation for poultry or on the flock from which hatching eggs originate that do not meet the requirements in paragraph 5C-3.012(3)(b), F.A.C.

(b) Exemptions to the test requirements. No tests is required for the following:

1. Importing poultry or eggs for hatching purposes originating from flocks classified under provisions of the NPPI as Pullorum-Typhoid Clean or from flocks that have met comparable standards of the poultry disease control authority of the state of origin;

2. Quail, pheasants, pigeons and other birds used strictly for hunting purposes and which are consigned directly to a Florida Fish and Wildlife Conservation Commission-licensed hunting preserve;

3. Racing pigeons entering the state for release for return to state of origin;

4. Ratites;

5. Waterfowl imported for exhibition purposes;

6. Exotic birds or other pet birds;

7. Exhibition birds originating from NPPI-participating flocks in Florida returning to the state. These birds must be accompanied by proof of a valid NPPI flock testing record indicating that the flock test was conducted within the previous 12 months or proof of a valid NPPI participant card current within the past 12 months; or

8. Poultry consigned directly to a recognized slaughtering establishment.

(4) Backyard poultry flocks that are not used for commercial or exhibition purposes, entering the state without prior permission, must be quarantined to their destination until the birds are found to be negative to an official Pullorum-Typhoid test and any other tests required by the State Veterinarian. The tests will be conducted by an authorized representative of the Department.

(5) Importations from an Avian Influenza (AI) or Exotic Newcastle Disease (END)-Affected State.

(a) Approval. All domestic fowl, live poultry or poultry products from an AI- or END-affected state(s) will be considered for approval by the State Veterinarian on a case-by-case basis following a risk assessment.

(b) Documentation. Poultry or poultry products must originate from a flock that is NPIP AI Clean and the shipment is accompanied by a VS Form 9-3 (AUG 95), or VS Form 1-27 (JUN 89), or OCVI indicating poultry or poultry product originates from an AI- or END-negative flock, listing the description of birds, test date, test results, and the name of testing laboratory.

(c) Prior permission. All domestic fowl, live poultry or poultry products originating from AI- or END-affected states will require prior permission.

(d) Quarantine. All domestic fowl, poultry or poultry products originating from AI- or END- affected states will remain under quarantine at destination for a period of time not less than 14 days and will be subject to inspection by an authorized representative.

(e) Quarantine Area. No domestic fowl, live poultry or poultry products originating from a quarantine area may enter Florida.

(f) Purpose of Movement. No domestic fowl or poultry can enter Florida from an AI- or END-affected state for the purpose of being offered for sale, exchange or exhibition, or any market channel.

(g) Containers for Shipment. Chicks or hatching eggs approved for import into Florida must be transported in new, disposable containers. Chicks may be transported in non-disposable containers if protocol for clean and disinfect and reuse is approved by the Division. All shipments will be required to be sealed at origin and seal broken by an authorized representative at destination. A statement verifying these requirements must be included on a VS Form 9-3 (AUG 95), VS Form 1-27 (JUN 89), or OCVI. Disposable containers must be properly disposed of at point of destination.

(h) Domestic Fowl, Poultry or Poultry Products Originating from Florida. Domestic fowl, poultry or poultry products originating from Florida that have been transported into an AI- or END-affected state will not return to Florida until the above requirements in subsection 5C-3.0012(5), F.A.C., have been met.

(i) Chicks or Eggs. No chicks or eggs originating from a hatchery that received eggs from a positive AI or END flock within 90 days may enter Florida.

(j) Vehicles. All vehicles associated with transporting domestic fowl, poultry or poultry products from AI- or END-affected states must be clean and disinfected prior to loading poultry or poultry products. In addition, the loaded vehicle shall have tires and undercarriage clean and disinfected after leaving premises and prior to entry into Florida. A statement verifying compliance to the requirement must be

included on VS Form 9-3 (AUG 95), VS Form 1-27 (JUN 89), or OCVI or other applicable document. Vehicles will be inspected by FDACS at destination to ensure compliance.

(k) Restrictions. The restrictions specified in subsection 5C-3.0012(5), F.A.C., will remain in effect for a period of 90 days from last date an AI or END premises was depopulated.

(6) Containers for Shipment. All imported domestic fowl, poultry, and eggs for hatching purposes must be shipped in new or properly cleaned and disinfected reusable containers.

(7) Forms. VS Form 9-3 (AUG 95), Report of Sales of Hatching Eggs, Chicks and Poults, and VS Form 1-27 (JUN 89), are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(1),(2)(a), 585.145(1),(2) FS. History--New 3-23-94, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Cesar Ruiz, Vet. Manager, Bureau of Animal Disease Control, Division of Animal Industry, Rm. 333, 407 S. Calhoun St., Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0957

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Wm. C. Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Rm. 332, 407 S. Calhoun St. Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0957

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 17, 2004

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Animal Industry**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Pseudorabies	5C-21
RULE TITLES:	RULE NOS.:
Definitions	5C-21.002
General Requirements and Limitations	5C-21.010
Vaccination, Approval and Procedures	5C-21.011
Procedures for Control and Eradication of Pseudorabies	5C-21.012
Feral or Transitional Swine, Movement and Test Requirements	5C-21.015
Commercial Production Swine Herd Requirements	5C-21.018

PURPOSE: This proposed rule amendment specifies and delineates the guidelines for the implementation of the National Pseudorabies Eradication Program for all domestic and feral swine populations in Florida. By incorporating these

guidelines and modifications, the State of Florida should be able to fulfill the requirements to attain Stage V in which a state is declared pseudorabies free in the national program.

SUMMARY: This proposed rule amendment modifies and updates the general requirements, definitions, procedures for control and eradication, and requirements for commercial production, transitional, and feral swine populations to fit the particular idiosyncrasies of such industries in the state.

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 within 21 days of this notice.

SPECIFIC AUTHORITY: 585.002(4), 585.08(2) FS.

LAW IMPLEMENTED: 570.0705, 585.002(5), 585.01, 585.08(1), 585.08(3), 585.09, 585.11, 585.11(1),(2), 585.145, 585.145(1), 585.145(1),(2), 585.16, 585.17, 585.20, 585.21, 585.23, 585.40 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dr. Cesar Ruiz, Vet. Manager, Bureau of Animal Disease Control, Division of Animal Industry, Rm. 333, 407 S. Calhoun St. Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0957

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 5C-21.002 follows. See Florida Administrative Code for present text.)

5C-21.002 Definitions.

(1) Accredited Veterinarian. A veterinarian licensed in the state of origin and approved by the Administrator, United States Department of Agriculture, Animal and Plant Health Inspection Service (USDA, APHIS) to perform certain functions of federal and cooperative state-federal programs in accordance with the provisions of Title 9 Code of Federal Regulations (9 CFR) § 160 - § 162 (2004).

(2) Administrator. The Administrator of USDA, APHIS, or any person authorized to act for the Administrator.

(3) Approved Game Reserve. A premises containing game animals intended for hunting which complies with the requirements of a Quarantined Feedlot under 9 CFR § 85.1 (2004) also meeting the following criteria:

(a) Operates under a written herd health plan that is approved by the State Veterinarian;

(b) Is surrounded by fencing adequate to reasonably prevent both the escape of enclosed animals and unsolicited additions of animals outside of the enclosure;

(c) Accepts swine of unknown disease status;

(d) Collects blood and/or tissue samples from swine at the time of kill and submits the samples for testing in an official laboratory;

(e) Allows swine to leave the facility only when they are killed or sold through direct-to-slaughter-only trade channels, or transported to another Approved Game Reserve.

(4) Approved All-Class Market. A livestock market approved by the Administrator pursuant to 9 CFR § 71.20 (2004) where swine are received, handled and released in accordance with Federal interstate regulations and applicable state regulations and 9 CFR § 71 (2004), § 78 (2004), and § 85 (2004).

(5) Approved Differential Pseudorabies Test. Any test for the diagnosis of pseudorabies that:

(a) Can distinguish vaccinated swine from infected swine;

(b) Is produced under license from the Secretary of Agriculture with indications for use in the Cooperative State-Federal-Industry Pseudorabies Eradication Program; and

(c) Is conducted in a laboratory approved by the Administrator.

(6) Approved Feral Swine Holding Facility. A temporary holding facility for captured feral swine prior to being slaughtered, moved directly to slaughter, or moved to an Approved Game Reserve. Such facility must be inspected and approved annually.

(7) Approved Pseudorabies Vaccine. A pseudorabies vaccine approved by USDA and the State Veterinarian for use in the state.

(8) Approved Slaughter Market. A livestock market approved by the Administrator pursuant to 9 CFR § 71.20 (2004) where slaughter swine are received, handled, and released in accordance with applicable state regulations and 9 CFR § 71 (2004), § 78 (2004), and § 85 (2004).

(9) Area Veterinarian-in-Charge (AVIC). The veterinary official of USDA, APHIS who is assigned by the Administrator to supervise and perform animal health work in the state/area.

(10) Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus *Brucella*.

(11) Commercial Production Swine Herd. A swine herd approved and recognized by the Division that has been continuously managed with adequate facilities and practices to prevent exposure to either transitional or feral swine. These herds meet or exceed the requirements of a Pseudorabies Monitored Feeder Pig Herd, a Validated Brucellosis Herd, and a Qualified Pseudorabies Negative Herd, provided that after the initial qualifying test, an appropriate percentage of the herd is tested monthly or quarterly as specified in The Pseudorabies Eradication Program Standards, APHIS 91-55-071, November 1, 2003, The Swine Brucellosis Control/Eradication Uniform Methods & Rules, APHIS 91-55-042, April 1998, and 9 CFR § 78.1 & § 85.1 (2004).

(12) Commercial Production Swine Herd Management Plan. A written herd management and testing agreement between the Division and the herd owner which must be renewed annually.

(13) Common Ground. The ground, area, building, and equipment commonly shared by any specific group of livestock.

(14) Dealer. Any person who engages in the business of buying or selling swine in commerce, either for their own account or as an employee or agent of the seller or buyer or any person who engages in the business of buying or selling swine in commerce on a commission basis. The term shall not include persons who buy or sell swine only as part of their own breeding and feeding operation or who receive swine exclusively for immediate slaughter on their own premises and who are not otherwise engaged in the business of buying, selling, trading, or negotiating transfer of swine.

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

(16) Direct Shipment of Feral or Transitional Swine. Movement of feral or transitional swine without unloading en route, and without contact with infected or exposed livestock.

(17) Division. The Division of Animal Industry of the Department.

(18) Exposed Livestock. All susceptible livestock that have been in contact with an animal infected with pseudorabies, including all susceptible livestock in a known infected herd. Susceptible livestock other than swine that have not been exposed to a clinical case of pseudorabies for the last ten consecutive days shall no longer be considered to be exposed.

(19) Feral Swine. Swine that are free-roaming.

(20) Feral Swine Dealer. Any person that traps, buys, sells, or trades feral swine and is registered with the Division.

(21) Herd. Any group of livestock maintained on common ground for any purpose or two or more groups of livestock under common ownership or supervision geographically separated but which have an interchange of animals.

(22) Herd Cleanup Plan. A written, mandatory plan to eliminate pseudorabies from a swine herd which is developed by a pseudorabies epidemiologist or other designated state or federal representative in consultation with the herd owner and, when requested by the owner, the owner's veterinary practitioner, and is approved by the Division.

(23) Isolation. Separation of individual swine by a physical barrier in a manner that assures one pig does not have access to the body, excrement, or discharges of another pig; does not share a building with a common ventilation system; and is not within ten feet of another pig.

(24) Official Individual Identification. A unique individual identification that is secure, traceable, and capable of carrying unique numbers from a central repository; including, but not limited to: official USDA eartags that conform to the

alphanumeric National Uniform Eartagging System, ear tattoo, using the National Uniform Tag code number assigned by USDA to the state of origin, or any electronic identification device with a unique number that is recorded in a single central database, or other USDA-approved identification device that conforms to the alphanumeric National Uniform Eartagging System. It may bear the valid premises identification used in conjunction with the producer's livestock production numbering system to provide a unique identification number. An owner's private brand or tattoo, even though permanent and registered in the state of origin, is not an acceptable individual animal identification for the purposes of entry into Florida.

(25) Official Random-Sample Test. A sampling procedure utilizing a pseudorabies test or an approved differential pseudorabies test, which provides a 95 percent probability of detecting infection in a herd in which at least 5 percent of the swine are positive for pseudorabies. Each segregated group of swine on an individual premises is considered to be a herd and must be sampled as provided in the Program Standards.

(26) Owner. The owner of the animal or herd or the owner's authorized representative or agent.

(27) Program Standards. The requirements for the pseudorabies eradication program as provided in USDA APHIS publication, Pseudorabies Eradication, State-Federal-Industry Program Standards, APHIS 91-55-071, November 1, 2003.

(28) Pseudorabies. The contagious, infectious, and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

(29) Pseudorabies Epidemiologist. A state or federal veterinarian designated by the State Veterinarian and the USDA, APHIS AVIC to investigate and diagnose pseudorabies in livestock.

(30) Pseudorabies Test. Any official test used for the diagnosis of pseudorabies approved by the Division and conducted in an approved laboratory. Approved tests are listed in 9 CFR § 85.1 (2004).

(31) Quarantine. A legally directed isolation of animals or defined geographic area to prevent the spread of disease or pests.

(32) Quarantined Feedlot. A premises under supervision and control of a state or federal representative at which pseudorabies infected or exposed swine are fed and from which swine are moved directly to a recognized slaughtering establishment or directly through no more than one slaughter market and then directly to a recognized slaughtering establishment.

(33) Recognized Slaughtering Establishment. A slaughtering establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or equivalent state meat inspection program.

(34) Risk Assessment. An epidemiologic analysis completed by a state or federal representative, and approved by the Division that evaluates the probability for exposure to swine of unknown disease status.

(35) Segregate. To maintain a group of swine separate from another group of swine in such a manner as to prevent physical contact between swine of the two groups.

(36) State or Federal Representative. A full-time employee of USDA, APHIS approved by the Area Veterinarian-in-Charge; or a full-time employee of the Department approved by the State Veterinarian.

(37) State Swine Health Advisory Committee. An advisory committee appointed by the State Veterinarian which is composed of representatives of swine producers and swine organizations within the state, licensed accredited veterinarians, general farm organizations, livestock markets, recognized slaughtering establishments, animal scientists, and state and federal regulatory officials.

(38) State Veterinarian. The Director of the Division of Animal Industry, Florida Department of Agriculture and Consumer Services.

(39) Susceptible Livestock. Swine, cattle, sheep, and goats.

(40) Transitional Swine. Swine that have been, or have had the potential to be, exposed to swine of unknown status, including feral swine.

(41) Materials. Pseudorabies Eradication, State-Federal-Industry Program Standards, APHIS 91-55-071, November 1, 2003, 9 CFR § 160 - § 162 (2004), The Swine Brucellosis Control/Eradication Uniform Methods & Rules, APHIS 91-55-042, April 1998, 9 CFR § 71 (2004), 9 CFR § 85 (2004), are hereby incorporated by reference. Copies may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 570.0705, 585.01, 585.08(1), 585.11, 585.145(1) FS. History—New 5-17-87, Amended 10-23-94, 9-2-99,\_\_\_\_\_.

(Substantial rewording of Rule 5C-21.010 follows. See Florida Administrative Code for present text.)

5C-21.010 General Requirements and Limitations.

(1) Owner Cooperation Required. With notice from the Department, the owner of any swine must present the swine for testing and other procedures required in this chapter, and provide the necessary facilities and personnel to assist the state or federal representative in conducting these tests and procedures.

(2) Official Individual Identification. All swine presented for testing must have official individual identification.

(3) Cooperation with USDA, APHIS. The Department shall cooperate with the USDA, APHIS in implementing the Pseudorabies Eradication, State-Federal-Industry, Program Standards as specified in APHIS 91-55-071, November 1, 2003.

(4) State Swine Health Advisory Committee. The State Veterinarian is authorized to establish the State Swine Health Advisory Committee. The committee shall act in an advisory capacity to the State Veterinarian regarding the control and eradication of swine diseases.

(5) Herd Cleanup Plan, mandatory.

(a) When pseudorabies has been discovered in a swine herd, the owner shall enter into a Herd Clean-Up Plan with the Department within 90 days of receiving Notice of Quarantine, DACS-09030 Rev. 08/04.

(b) The Department and the pseudorabies epidemiologist shall monitor the progress of the herd and coordinate testing and surveillance activities in the surrounding area as determined by epidemiological evidence to detect and prevent the spread of the disease.

(c) Modifications to the original Herd Cleanup Plan are accepted with full agreement of the pseudorabies epidemiologist or his designee, the herd owner, and the owner's veterinary practitioner when requested by the owner, and upon approval by the Division.

(d) If the herd owner fails or refuses to enter into an agreement to establish a Herd Cleanup Plan, the Department shall immediately initiate enforcement action against the owner as provided in Section 585.007, F.S.

(6) Quarantined Feedlots will be established only upon approval by the State Veterinarian.

(7) Materials. Notice of Quarantine, DACS-09030 Rev. 08/04, Pseudorabies Eradication, State-Federal-Industry, Program Standards as specified in APHIS 91-55-071, November 1, 2003, are hereby incorporated by reference. Copies of DACS-09030 may be obtained from the Florida Department of Agriculture, Division of Animal Industry, Room 329, Tallahassee, Florida 32399-0800. Copies of the Program Standards may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 570.0705, 585.002(5), 585.08(1), 585.11, 585.145(1),(2), 585.23, 585.40, 585.17 FS. History—New 10-23-94, Amended 9-2-99,\_\_\_\_\_.

(Substantial rewording of Rule 5C-21.011 follows. See Florida Administrative Code for present text.)

5C-21.011 Vaccination, Approval and Procedures.

(1) Approval. No person shall produce, distribute, sell, or use any pseudorabies vaccine for the immunization of any swine in the state unless such vaccine is an approved pseudorabies vaccine.

(2) Vaccination of swine for pseudorabies shall be authorized provided:

- (a) Prior approval is given by the State Veterinarian;
- (b) Only an approved pseudorabies vaccine is used;
- (c) Vaccination is performed by or under the direct supervision of an accredited veterinarian or a state or federally employed veterinarian;
- (d) Vaccinated animals are permanently identified by an official individual identification; and
- (e) Vaccine is used only in pseudorabies infected, exposed, or high-risk herds as determined and recommended by a pseudorabies epidemiologist.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.11(1),(2), 585.20, 585.21, 585.145 FS. History—New 10-23-94, Amended 9-2-99, \_\_\_\_\_

(Substantial rewording of Rule 5C-21.012 follows. See Florida Administrative Code for present text.)

5C-21.012 Procedures for Control and Eradication of Pseudorabies.

- (1) Negative Test Required.
  - (a) All swine moved within the state must be negative to a pseudorabies test within 30 days prior to movement unless exempted by this rule.
  - (2) A negative test is not required for swine that:
    - (a) Originate directly from a Commercial Production Swine Herd; or
    - (b) Are consigned directly to a recognized slaughtering establishment; or;
    - (c) Are consigned directly to an Approved Game Reserve; or
    - (d) Are consigned directly to an Approved Feral Swine Holding Facility; or
    - (e) Are shown or exhibited at a slaughter-class only event; or
    - (f) Are sold at an approved all-class market or an approved slaughter market for feeding in a quarantined feedlot.

- (3) Area Testing.
  - (a) Pseudorabies Herd Testing.
    - 1. All swine herds in the state are subject to test as required by the Division.
    - 2. Subject to the availability of funds, initial testing required for establishing a Commercial Production Swine Herd shall be conducted at state.
    - 3. All herds determined to have swine positive to a pseudorabies test shall be quarantined.

- (b) Circle Testing. An official random-sample test, is required of all swine herds within a 2 mile radius of positive herds.
- (4) Surveillance Testing. All sows and boars slaughtered at a recognized slaughtering establishment shall be tested for pseudorabies and shall be identified back to the person

consigning the swine to the slaughtering establishment. Any herd to which pseudorabies positive swine are traced shall be placed under quarantine.

- (5) Disposition of Swine.
  - (a) All positive animals must be isolated immediately.
  - (b) Subject to the availability of funds, the Division shall indemnify and reimburse the owner of pseudorabies positive swine, not to exceed the sum of \$35.00 per animal, if it is shown that:
    - 1. The swine were positive to a pseudorabies test;
    - 2. The swine were maintained in strict isolation from the date of the positive test until slaughtered;
    - 3. The swine were slaughtered within 15 days of the date of the positive test;
    - 4. The premises were cleaned and disinfected within 15 days of the date of the removal of all positive animals.

(c) All sows in infected breeding herds must be tested prior to or at farrowing and all positive sows removed from the herd for slaughter or isolation for slaughter within 15 days after weaning. All boars must be tested quarterly and all positives removed from the herd for slaughter or isolation for slaughter within 15 days after test results are reported.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.08(3), 585.09, 585.145(1),(2), 585.11(1),(2), 585.20 FS. History—New 10-23-94, Amended 9-2-99, \_\_\_\_\_

(Substantial rewording of Rule 5C-21.015 follows. See Florida Administrative Code for present text.)

5C-21.015 Feral Swine Transitional Swine, Movement and Test Requirements.

- (1) Breeding Purposes. Feral swine or transitional swine moved for breeding purposes, must be negative to a pseudorabies test conducted within 30 days prior to movement and, must be segregated from all commercial production swine until found negative to a second pseudorabies test, which is conducted 60 days after the first test.
- (2) Natural Habitat Removals. The person who removes feral swine from their natural habitat is responsible for satisfying the test and permit requirements for movement as required by the Division in this section.
- (3) Feral Swine Dealers Registration. Feral Swine Dealers are required to be registered with the Division and must keep records of all transactions, dealing with feral swine, listing names, addresses, telephone numbers (when available), dates, and the total number of animals.

Specific Authority 585.002(4), 585.08(2) FS. Law Implemented 585.11(1),(2), 585.145(1),(2), 585.16 FS. History—New 10-23-94, Amended 9-2-99, \_\_\_\_\_

5C-21.018 Commercial Production Swine Herd Requirements.

A swine herd may be approved and recognized as a Commercial Production Swine herd by fulfilling the following requirements:

(1) Submission of a written request by a swine herd owner to the Division for a herd to be considered for recognition as a Commercial Production Swine herd;

(2) Successful completion of a Risk Assessment;

(3) Completion of negative herd test for pseudorabies and brucellosis, as specified in the Pseudorabies Eradication Program Standards, APHIS 91-55-071, November 1, 2003, and The Swine Brucellosis Control/Eradication, Uniform Methods & Rules, APHIS 91-55-042, April 1998, with subsequent annual negative herd tests (An owner may elect to substitute monthly or quarterly testing in lieu of annual testing to meet this requirement);

(4) Completion of a Commercial Production Swine Herd Management Plan; and

(5) Periodic inspections of swine, facilities, practices and records, as determined necessary by State or Federal representatives.

(6) Materials. Pseudorabies Eradication Program Standards, APHIS 91-55-071, November 1, 2003, and The Swine Brucellosis Control/Eradication, Uniform Methods & Rules, APHIS 91-55-042, April 1998, are hereby incorporated by reference. Copies of them may be obtained from the United States Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

Specific Authority 585.002, 585.08 FS. Law Implemented 585.11, 585.145, 585.16 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Cesar Ruiz, Vet. Manager, Bureau of Animal Disease Control, Division of Animal Industry, Rm. 333, 407 S. Calhoun St., Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0957

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Dr. Wm. C. Jeter, Chief, Bureau of Animal Disease Control, Division of Animal Industry, Rm. 332, 407 S. Calhoun St. Tallahassee, FL 32399-0800, (850)410-0900, Fax (850)410-0957

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 17, 2004

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

**DEPARTMENT OF CORRECTIONS**

RULE TITLES:	RULE NOS.:
Interstate Compact for Adult Offender Supervision	33-301.104
Other State Offenders Community Supervision	33-301.105

PURPOSE AND EFFECT: The purpose and effect of the proposed rule repeal is to eliminate obsolete rules.

SUMMARY: The rules addressing interstate compact for supervised offenders are being repealed as they have been replaced by rules adopted by the Interstate Commission for Adult Supervision applicable to all states.

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: 949.08 FS.

LAW IMPLEMENTED: 949.07, 949.08 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULES IS:

33-301.104 Interstate Compact for Adult Offender Supervision.

Specific Authority 949.08 FS. Law Implemented 949.07, 949.08 FS. History—New 4-15-03, Repealed \_\_\_\_\_.

33-301.105 Other State Offenders Community Supervision.

Specific Authority 949.08 FS. Law Implemented 949.07, 949.08 FS. History—New 4-15-03, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Beth Atchison

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 17, 2004



**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE CHAPTER TITLE: Water Levels and Rates of Flow  
RULE CHAPTER NO.: 40D-8

RULE TITLE: Guidance and Minimum Levels for Lakes  
RULE NO.: 40D-8.624

PURPOSE AND EFFECT: To amend Rule 40D-8.624, F.A.C., to incorporate the next set of priority lakes pursuant to Section 373.042, Florida Statutes for Lakes Bell, Bird, Clear, Green, Hancock, Moon, Padgett, Parker (Ann) and Pasadena/Buddy Pasco County, Florida and Lakes Charles, Dan, Jackson, Reinheimer, Garden Lake, Mound Lake, Platt Lake, and Strawberry (North Crystal) Lake, Hillsborough County, Florida.

SUMMARY: Establishment of minimum lake levels and guidance levels for Hillsborough and Pasco County Lakes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: A Statement of Estimated Regulatory Cost is not being 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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.086 FS.

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

The District does not discriminate on the basis of disability. Anyone requiring reasonable accommodation should contact: Dianne Lee, (352)796-7211, Ext. 4658, TDD only 1(800)231-6103

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen A. Lloyd, Assistant General Counsel, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4651

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.624 Guidance and Minimum Levels for Lakes.

(1) through (12) No change.

(13) Levels for lakes established during or after August 7, 2000, are set forth in the following table. After the High Minimum Lake Level and Minimum Lake Level elevation for each lake is a designation indicating the Method used, as described in subsection 40D-8.624(7), F.A.C., to establish the level. Guidance Levels established prior to August 7, 2000, are set forth in Table 8-3 in subsection 40D-8.624(14), F.A.C., below.

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

Location by County and Basin	Name of Lake and Section, Township and Range Information	Ten Year Flood Guidance Level	High Guidance Level	High Minimum Lake Level	Minimum Lake Level	Low Guidance Level
(a) In Charlotte County Within the Peace River Basin						
	RESERVED					
(b) In Citrus County Within the Coastal Rivers Basin						
	RESERVED					
(c) In Citrus County Within the Withlacoochee River Basin						
	RESERVED					
(d) In DeSoto County Within the Peace River Basin						
	RESERVED					
(e) In Hardee County Within the Peace River Basin						
	RESERVED					
(f) In Hernando County Within the Coastal Rivers Basin						
	RESERVED					
(g) In Hernando County Within the Hillsborough River Basin						
	RESERVED					
(h) In Hernando County Within the Withlacoochee River Basin						
	RESERVED					
(i) In Highlands County Within the Peace River Basin						
	RESERVED					
(j) In Hillsborough County Within the Alafia River Basin						
	RESERVED					
(k) In Hillsborough County Within the Hillsborough River Basin	Stemper, Lake S-13, T-27, R-18 (Levels in feet NGVD)	62.6	61.2	60.8 (CAT 1)	59.4 (CAT 1)	59.1
	RESERVED					
(l) In Hillsborough County Within the Northwest Hillsborough Basin	Alice, Lake S-16, T-27, R-17 (Levels in feet NGVD)	42.4'	40.9'	40.9' (CAT 2)	39.9' (CAT 2)	38.8'
	RESERVED					
	Barbara, Lake S-19, T-27, R-18	54.96	53.15	53.15 (CAT 3)	52.15 (CAT 3)	51.05
	Bird Lake S-26, T-27, R-18 (Levels in feet NGVD)	53.0	49.6	49.6 (CAT 2)	48.6 (CAT 2)	47.5
	RESERVED					
	Brant Lake S-23, T-27, R-18 (Levels in feet NGVD)	60.5	58.0	58.0 (CAT 2)	57.0 (CAT 2)	55.9
	RESERVED					
	Calm Lake S-14, T-27, R-17	51.02	49.41	49.41 (CAT 3)	48.41 (CAT 3)	47.31
	Charles, Lake S-23, T-27, R-18	<u>56.2</u>	<u>54.2</u>	<u>53.8</u> (CAT 1)	<u>52.4</u> (CAT 1)	<u>52.1</u>
	RESERVED					
	Church Lake S-28, T-27, R-17	36.74	35.64	35.64 (CAT 3)	34.64 (CAT 3)	33.54
	RESERVED					
	Crenshaw, Lake S-22, T-27, R-18	57.64	55.5	54.45 (CAT 3)	53.45 (CAT 3)	53.4

Crystal Lake S-14, T-27, R-18 (Levels in feet NGVD)	62.1	59.8	59.8 (CAT 2)	58.8 (CAT 2)	57.7
Cypress Lake S-24, T-27, R-17	50.86	48.89	48.89 (CAT 3)	47.89 (CAT 3)	46.79
<u>Dan, Lake</u> S-6, T-27, R-17	<u>34.9</u>	<u>32.5</u>	<u>31.9</u> (CAT 3)	<u>30.9</u> (CAT 3)	<u>30.4</u>
Deer Lake S-1, T-27, R-18 (Levels in feet NGVD)	70.0	66.5	66.5 (CAT 2)	65.5 (CAT 2)	64.4
Dosson Lake S-20, T-27, R-18 (Levels in feet NGVD)	55.1	53.4	53.4 (CAT 2)	52.4 (CAT 2)	51.3
Echo Lake S-28, T-27, R-17	36.74	35.64	35.64 (CAT 3)	34.64 (CAT 3)	33.54
Ellen, Lake S-19, T-27, R-18	54.96	53.15	53.15 (CAT 3)	52.15 (CAT 3)	51.05
Fairy (Maurine) Lake S-34, T-27, R-17	34.51	33.41	33.41 (CAT 3)	32.41 (CAT 3)	31.31
<u>Garden Lake</u> S-17, T-27, R-17	<u>33.9</u>	<u>31.5</u>	<u>30.5</u> (CAT 3)	<u>29.5</u> (CAT 3)	<u>29.4</u>
Halfmoon Lake S-31, T-27, R-18	45.07	43.3	43.3 (CAT 2)	42.3 (CAT 2)	41.2
<u>Helen, Lake</u> S-19, T-27, R-18	<u>54.96</u>	<u>53.15</u>	<u>53.15</u> (CAT 3)	<u>52.15</u> (CAT 3)	<u>51.05</u>
Hobbs, Lake S-1, T-27, R-18	67.75	65.46	65.46 (CAT 2)	64.46 (CAT 2)	63.36
Horse Lake S-26, T-27, R-17	RESERVED	RESERVED	RESERVED (CAT 3)	RESERVED (CAT 3)	RESERVED
<u>Jackson, Lake</u> S-17, T-27, R-17	<u>34.7</u>	<u>33.0</u>	<u>33.0</u> (CAT 2)	<u>32.0</u> (CAT 2)	<u>30.9</u>
Juanita, Lake S-22, T-27, R-17 (Levels in feet NGVD)	43.8	41.7	41.7 (CAT 2)	40.7 (CAT 2)	39.6
Little Moon Lake S-28, T-27, R-17 (Levels in feet NGVD)	40.8	39.1	39.1 (CAT 2)	38.1 (CAT 2)	37.0
Merrywater, Lake S-22, T-27, R-18 (Levels in feet NGVD)	58.0	55.8	55.8 (CAT 2)	54.8 (CAT 2)	53.7
<u>Mound Lake</u> S-11, T-27, R-17	<u>51.8</u>	<u>50.2</u>	<u>50.7</u> (CAT 1)	<u>49.3</u> (CAT 1)	<u>48.3</u>
<u>Platt Lake</u> S-35, T-27, R-18	<u>52.0</u>	<u>49.7</u>	<u>49.5</u> (CAT 1)	<u>48.1</u> (CAT 1)	<u>45.5</u>
Rainbow Lake S-22, T-27, R-17 (Levels in feet NGVD)	40.8	39.1	39.1 (CAT 2)	38.1 (CAT 2)	37.0
Raleigh, Lake S-27, T-27, R-17	RESERVED	RESERVED	RESERVED (CAT 3)	RESERVED (CAT 3)	RESERVED
<u>Reinheimer, Lake</u> S-15, T27, R-18	<u>60.8</u>	<u>58.6</u>	<u>58.9</u> (CAT 1)	<u>57.5</u> (CAT 1)	<u>56.5</u>
Rogers, Lake S-27, T-27, R-17	RESERVED	RESERVED	RESERVED (CAT 3)	RESERVED (CAT 3)	RESERVED

	Round Lake	56.49	55.6	54.5	53.5	53.5
	S-22, T-27, R-18			(CAT 3)	(CAT 3)	
	Saddleback Lake	56.11	54.58	54.58	53.58	52.48
	S-22, T-27, R-18			(CAT 2)	(CAT 2)	
	Sapphire Lake	64.1	63.4	63.0	61.6	61.3
	S-14, T-27, R-18			(CAT 1)	(CAT 1)	
	(Levels in feet NGVD)					
	Starvation Lake	RESERVED	RESERVED	RESERVED	RESERVED	RESERVED
	S-21, T-27, R-18			(CAT 3)	(CAT 3)	
	Strawberry (North Crystal) Lake	<u>62.0</u>	<u>60.1</u>	<u>60.1</u>	<u>59.1</u>	<u>58.0</u>
	S-14, T-27, R-18			(CAT 3)	(CAT 3)	
	Sunset Lake	35.0	34.8	34.4	33.0	32.7
	S-17, T-27, R-17			(CAT 1)	(CAT 1)	
	(Levels in feet NGVD)					
	Sunshine Lake	55.1	53.4	53.4	52.4	51.3
	S-20, T-27, R-18			(CAT 2)	(CAT 2)	
	(Levels in feet NGVD)					
(m) in Lake County within the Green Swamp Basin RESERVED						
(n) In Levy County Within the Withlacoochee River Basin RESERVED						
(o) In Manatee County Within the Manasota River Basin RESERVED						
(p) In Marion County Within the Withlacoochee River Basin RESERVED						
(q) In Pasco County Within the Coastal Rivers Basin	Big Fish Lake	77.41	76.05	75.65	73.05	71.75
	S-21, T-24, R-19			(CAT 3)	(CAT 3)	
	Green Lake	<u>75.5</u>	<u>74.4</u>	<u>74.2</u>	<u>71.9</u>	<u>70.0</u>
	S-16, T-26, R-18			(CAT 2)	(CAT 2)	
	Moon Lake	<u>41.7</u>	<u>39.9</u>	<u>39.9</u>	<u>38.3</u>	<u>36.2</u>
	S-28, T-25, R-17			(CAT 3)	(CAT 3)	
(r) In Pasco County Within the Green Swamp Basin RESERVED						
(s) In Pasco County Within the Hillsborough County Basin	Bell Lake	<u>73.3</u>	<u>71.6</u>	<u>70.8</u>	<u>69.4</u>	<u>69.2</u>
	S-13, T-26, R-18			(CAT 1)	(CAT 1)	
	Bird Lake	<u>68.2</u>	<u>66.8</u>	<u>66.6</u>	<u>65.2</u>	<u>64.3</u>
	S-36, T-26, R-18			(CAT 1)	(CAT 1)	
	Padgett, Lake	<u>71.5</u>	<u>70.5</u>	<u>70.5</u>	<u>69.5</u>	<u>68.4</u>
	S-24, T-26, R-18			(CAT 1)	(CAT 1)	
(t) In Pasco County Within the Pinellas-Anclote River Basin	Camp Lake	64.3	63.8	63.4	62.0	61.3
	S-34, T-26, R-18			(CAT 1)	(CAT 1)	
	(Levels in feet NGVD)					
	Parker (Ann), Lake	<u>49.5</u>	<u>48.3</u>	<u>48.1</u>	<u>46.7</u>	<u>46.2</u>
	S-35, T-26, R17			(CAT 1)	(CAT 1)	

- (u) In Pasco County Within the Withlacoochee River Basin  
RESERVED
- (v) In Pinellas County Within the Pinellas-Anclote River Basin  
RESERVED
- (w) In Polk County Within the Alafia River Basin  
RESERVED
- (x) In Polk County Within the Green Swamp Basin  
RESERVED
- (y) In Polk County Within the Hillsborough River Basin  
RESERVED
- (z) In Polk County Within the Peace River Basin  
RESERVED
- (aa) In Sarasota County Within the Manasota Basin  
RESERVED
- (bb) In Sumter County Within the Green Swamp Basin  
RESERVED
- (cc) In Sumter County Within the Withlacoochee River Basin  
RESERVED

(14) Guidance Levels established for lakes prior to August 7, 2000, are set forth in the following table:

Table 8-3 Guidance Water Levels adopted prior to August 7, 2000

Location of Impoundment by County and Basin	Ten (10) Year Flood Guidance Level in Feet Above Mean Sea Level (msl)	High Level in Feet Above Mean Sea Level (msl)	Low Level in Feet Above Mean Sea Level (msl)	Extreme Low Level in Feet Above Mean Sea Level (msl)
(a) In Charlotte County Within the Peace River Basin				
(b) In Citrus County Within the Coastal Rivers Basin				
(c) In Citrus County Within the Withlacoochee River Basin				
Bradley, Lake S23 T20S R20E	43.40'	42.50'	40.25'	38.25'
Cato, Lake S5 T19 R20	38.82'	38.00'	35.50'	34.00'
Connell, Lake S6 T19 R20	35.68'	35.50'	32.00'	30.00'
Cooter, Lake S17 T19 R20	41.80'	40.50'	38.25'	36.25'
Hog Pond, Lake (Nina) S2 T19 R19	35.92'	34.50'	32.00'	30.00'
Holden, Lake (Inverness) S32 T19 R20	32.44'	32.00'	29.50'	28.00'
Magnolia, Lake S3 T20 R20	32.36'	31.00'	28.50'	27.00'
Rush, Lake (Williams) S03 T17 R18	36.20'	35.75'	33.25'	31.25'

Lake Tsala Apopka (Floral City Pool)			43.40'	42.50'	40.25'	38.25'
19	19S	21E				
21	19S	21E				
22	19S	21E				
27	19S	21E				
28	19S	21E				
29	19S	21E				
30	19S	21E				
31	19S	21E				
32	19S	21E				
33	19S	21E				
34	19S	21E				
1	20S	20E				
2	20S	20E				
3	20S	20E				
10	20S	20E				
11	20S	20E				
12	20S	20E				
13	20S	20E				
14	20S	20E				
3	20S	21E				
4	20S	21E				
5	20S	21E				
6	20S	21E				
7	20S	21E				
8	20S	21E				
17	20S	21E				
18	20S	21E				
25	19S	20E				
26	19S	20E				
34	19S	20E				
35	19S	20E				
36	19S	20E				
Lake Tsala Apopka (Hernando Pool)			40.50'	39.00'	36.75'	34.75'
Sec.	Twsp.	Rng.				
1	18S	19E				
2	18S	19E				
11	18S	19E				
12	18S	19E				
13	18S	19E				
23	18S	19E				
24	18S	19E				
25	18S	19E				
26	18S	19E				
5	18S	20E				
6	18S	20E				
7	18S	20E				
8	18S	20E				
16	18S	20E				
17	18S	20E				
18	18S	20E				
19	18S	20E				
20	18S	20E				
21	18S	20E				
27	18S	20E				
28	18S	20E				

29	18S	20E				
30	18S	20E				
31	18S	20E				
32	18S	20E				
33	18S	20E				
Lake Tsala Apopka (Inverness 41.80' Pool)			40.50'		38.25'	36.25'
33	18S	20E				
34	18S	20E				
35	18S	20E				
1	19S	20E				
2	19S	20E				
3	19S	20E				
4	19S	20E				
8	19S	20E				
9	19S	20E				
10	19S	20E				
11	19S	20E				
12	19S	20E				
13	19S	20E				
14	19S	20E				
15	19S	20E				
16	19S	20E				
17	19S	20E				
21	19S	20E				
22	19S	20E				
23	19S	20E				
18	19S	21E				
19	19S	21E				
Little Lake (Consuella)			43.40'	41.50'	39.00'	37.25'
S15 T20S R20E						
Lake Twin Lake			38.11'	37.00'	35.00'	33.00'
S6 T19 R20						
(d) In DeSoto County Within the Peace River Basin						
(e) In Hardee County Within the Peace River Basin						
(f) In Hernando County Within the Coastal Rivers Basin						
(g) In Hernando County Within the Hillsborough River Basin						
LAKES						
Nicks Lake	114.46'		113.00'		110.50'	108.50'
S29 T23S R20E						
St. Clair Lake	114.46'		113.00'		110.50'	108.50'
S33 T23S R20E						
(h) In Hernando County Within the Withlacoochee River Basin						
LAKES						
Elizabeth, Lake	62.90'		60.25'		57.00'	55.50'
S11 T23S R21E						
Francis, Lake	62.90'		60.25'		57.00'	55.50'
11 23S 21E						
Geneva, Lake	62.90'		60.25'		57.00'	55.50'
11 23S 21E						
Lindsey, Lake	70.60'		69.00'		66.00'	64.50'
25 23S 19E						
Mountain Lake	105.10'		104.00'		101.00'	99.00'
16 23S 20E						

Neff Lake	104.40'	103.00'	100.00'	98.00'
20 23S 20E				
Sparkman Lake	94.40'	91.50'	89.00'	88.00'
24 23S 19E				
Spring Lake	185.02'	184.25'	181.25'	178.25'
S15 T23S R20E				
(i) In Highlands County				
Within the Peace River Basin				
LAKES				
Sec Twsp Rng				
Adelaide, Lake	110.00'	106.50'	104.00'	102.50'
5 33S 28E				
Angelo, Lake	104.00'	99.50'	97.00'	95.00'
4 27S 25E				
Anoka, Lake	124.00'	124.00'	122.00'	120.00'
27 33S 28E				
Apthorpe, Lake	72.00'	71.50'	68.00'	66.00'
18 36S 30E				
Blue, Lake	78.70'	77.50'	75.00'	73.50'
30 36S 30E				
Bonnet, Lake	91.90'	90.75'	88.00'	86.00'
8 34S 29E				
Brentwood, Lake	102.30'	102.75'	99.50'	98.00'
10 33S 28E				
Buck, Lake	96.40'	94.00'	91.50'	89.50'
29 37S 30E				
Byrd, Lake	110.60'	108.25'	105.50'	104.00'
9 33S 28E				
Carrie, Lake	75.13'	75.50'	73.00'	72.50'
21 36S 29E				
Charlotte, Lake	93.90'	93.75'	91.25'	89.75'
17 35S 29E				
Chilton, Lake	116.30'	114.00'	111.00'	109.50'
7 33S 28E				
Clay, Lake	79.00'	78.75'	76.00'	75.00'
29 36S 30E				
Crews, Lake	120.50'	119.50'	117.00'	115.50'
32 36S 29E				
Damon, Lake	102.30'	101.00'	98.00'	95.00'
3 33S 28E				
Denton, Lake	117.10'	116.50'	114.00'	112.00'
2 34S 28E				
Dinner, Lake	103.50'	102.50'	98.50'	97.00'
17 34S 29E				
Francis, Lake	70.80'	70.50'	67.50'	66.50'
22 36S 29E				
Glenada, Lake	118.40'	120.00'	117.00'	115.50'
34 33S 28E				
Grassy, Lake	92.10'	91.50'	88.50'	87.50'
17 37S 30E				
Harry, Lake	67.60'	67.50'	63.00'	62.00'
1 36S 29E				
Henry, Lake	75.13'	75.50'	73.00'	72.50'
25 36S 29E				
Hill, Lake	101.00'	99.25'	96.00'	94.50'
17 36S 29E				
Huckleberry Lake	104.80'	104.50'	102.00'	101.00'
7 35S 29E				
Huntley, Lake	83.40'	83.75'	81.00'	79.50'
5 37S 30E				
Jackson, Lake	103.20'	103.00'	100.00'	98.00'
30 34S 29E				
Josephine, Lake	72.70'	72.50'	69.00'	68.50'
32 35S 29E				



June-in-Winter, Lake 34 36S 29E	75.13'	75.50'	73.00'	72.50'
Lake Lachard 36 36S 29E	79.56'	78.50'	76.00'	74.00'
Lelia, Lake 34 33S 29E	113.00'	114.50'	112.50'	110.50'
Letta, Lake 31 33S 29E	100.00'	100.00'	97.00'	95.00'
Little Bonnet Lake 36 33S 28E	101.70'	100.00'	97.00'	96.00'
Little Lake Jackson 6 35S 29E	103.20'	103.00'	100.00'	98.00'
Little Red Water Lake 14 36S 29E	104.10'	103.25'	100.50'	98.50'
Lost Lake 12 37S 29E	90.60'	88.00'	84.00'	82.75'
Lotela, Lake 26 33S 28E	106.60'	108.50'	105.00'	104.00'
McCoy, Lake 6 37S 30E	87.39'	87.00'	84.00'	82.00'
Mirror, Lake 7 37S 30E	94.70'	93.50'	90.00'	88.00'
Center Nellie 13 36S 29E	73.20'	71.50'	67.00'	65.00'
Nellie N.W., Lake 13 36S 29E	73.20'	71.50'	67.00'	65.00'
Nellie S.E., Lake 13 36S 29E	73.20'	71.50'	67.00'	65.00'
Olivia, Lake 6 33S 28E	118.10'	117.50'	114.50'	113.00'
Pearl, Lake 6 37S 30E	87.27'	87.00'	84.00'	82.00'
Persimmon Lake 10 36S 29E	69.30'	68.25'	65.00'	63.50'
Pioneer, Lake 11 33S 28E	108.60'	108.00'	104.50'	103.00'
Placid, Lake 30 36S 30E	94.70'	94.50'	91.50'	90.00'
Pythias, Lake 2 33S 28E	101.20'	101.00'	98.00'	95.00'
Red Beach Lake 15 35S 29E	76.80'	76.50'	73.75'	72.75'
Red Water Lake 14 36S 29E	70.80'	70.50'	67.50'	66.50'
Ruth, Lake 18 35S 29E	94.20'	94.00'	91.50'	90.00'
Saddlebags, Lake 6 37S 30E	84.27'	84.00'	81.00'	79.00'
Sebring, Lake 14 34S 28E	107.60'	107.25'	104.50'	103.00'
Simmons, Lake 24 36S 29E	74.30'	72.50'	68.00'	66.50'
Sirena, Lake 1 37S 29E	87.27'	87.00'	84.00'	82.00'
Trout Lake 34 32S 28E	100.60'	101.00'	98.00'	95.00'
Tulane, Lake 27 33S 28E	120.50'	120.00'	116.00'	114.00'
Unnamed Lake (B) 20 37S 30E	92.10'	91.50'	88.50'	87.50'
Unnamed Lake (F) 24 36S 29E	78.50'	78.00'	74.00'	72.00'
Verona, Lake 23 33S 28E	123.00'	119.00'	115.25'	113.00'

Viola, Lake	112.20'		109.50'	105.75'	104.00'
14 33S 28E					
Wolf Lake	93.80'		92.50'	90.00'	88.00'
24 35S 28E					
(j) In Hillsborough County					
Within the Alafia River Basin					
LAKES					
Carlton Lake	93.60'		93.50'	90.50'	88.00'
Edward Medard Reservoir	67.10'		62.75'	57.50'	56.00'
Grady Lake	40.70'		39.00'	36.00'	34.00'
Hickory Hammock Lake	32.80'		32.25'	30.50'	29.00'
Unnamed Lake #2	56.00'		56.00'	No Recommendation	
Wimauma, Lake	87.20'		86.75'	83.00'	81.00'
(k) In Hillsborough County					
Within the Hillsborough River Basin					
LAKES					
Bellows Lake (East Lake)	24.50'		23.75'	21.50'	19.00'
Burrell Lake	50.50'		50.00'	47.50'	45.00'
Commiston Lake	64.20'		63.00'	60.50'	59.00'
Eckles Lake	33.40'		32.50'	30.00'	28.00'
Egypt Lake	38.50'		37.50'	35.00'	32.50'
Gornito Lake	39.00'		38.50'	36.00'	34.00'
Hanna Lake	63.50'		62.50'	59.50'	58.25'
Hart Lake	67.20'		66.00'	64.00'	63.00'
Hog Island Lake	67.00'		66.00'	64.00'	61.00'
Hooker Lake	45.50'		45.00'	43.00'	42.00'
Kathy, Lake	45.50'		43.50'	42.50'	42.00'
Keene Lake	63.90'		63.00'	60.50'	59.00'
Kell Lake	67.30'		66.00'	63.50'	62.50'
Long Lake	52.00'		50.25'	48.00'	46.00'
Long Pond	48.50'		46.50'	44.00'	42.00'
Mud Lake (Lake Walden)	115.80'		115.00'	112.50'	110.50'
Thonotosassa, Lake	39.10'		37.00'	34.50'	33.00'
Unnamed Lake	63.40'		63.00'	60.50'	59.00'
Unnamed Lake	62.00'		61.00'	58.50'	57.00'
Valrico Lake	48.50'		45.00'	42.50'	41.00'
Weeks, Lake	43.80'		43.25'	41.00'	39.50'
(l) In Hillsborough County					
Within the Northwest Hillsborough Basin					
LAKES					
Sec	Twsp	Rng	SWEETWATER CREEK WATERSHED		
Avis Lake			38.50'	37.00'	34.50'
15 28S 18E					32.50'
Bay Lake			47.00'	46.75'	44.00'
Boat Lake			38.00'	35.50'	33.75'
Brooker Lake			66.00'	64.25'	61.00'
Carroll Lake			38.50'	37.00'	34.50'
Chapman Lake			52.30'	52.25'	49.50'
<del>Charles, Lake</del>			<del>56.10'</del>	<del>54.75'</del>	<del>52.00'</del>
Cooper, Lake			64.00'	61.75'	59.75'
Elaine, Lake			38.50'	37.00'	34.50'
15 28S 18E					
Gass Lake			51.50'	49.50'	46.25'
George, Lake			51.00'	48.00'	45.00'
Geraci, Lake			65.00'	63.50'	61.50'
Halls Lake					
3 28S 18E			50.70'	50.00'	47.50'
Lipsey, Lake			42.50'	41.50'	39.00'
Magdalene, Lake			50.70'	50.00'	47.50'
<del>Platt Lake</del>			<del>51.80'</del>	<del>50.50'</del>	<del>45.75'</del>
<del>Reinheimer, Lake</del>			<del>61.50'</del>	<del>59.50'</del>	<del>57.00'</del>
<del>Strawberry Lake</del>			<del>62.80'</del>	<del>62.00'</del>	<del>59.75'</del>
Thomas, Lake			64.00'	63.50'	61.25'
Twin Lake			34.00'	32.00'	30.00'
White Trout Lake			38.50'	36.50'	34.00'

				ROCKY CREEK WATERSHED			
Allen, Lake	62.60'			62.50'		59.75'	57.50'
Armistead, Lake	46.50'			44.00'		40.50'	39.00'
Browns Lake	63.70'			63.50'		60.75'	59.00'
Harvey, Lake	62.90'			62.50'		60.25'	58.00'
Josephine, Lake	47.50'			46.00'		42.75'	40.00'
LeClare, Lake	53.50'			52.00'		49.50'	47.00'
Pretty Lake	46.70'			45.50'		42.75'	40.00'
Rock Lake	48.00'			46.00'		42.75'	40.00'
Starvation Lake	55.00'			53.00'		50.00'	48.00'
Turkey Ford Lake	55.00'			54.00'		51.50'	50.00'
Virginia Lake	63.00'			62.50'		60.25'	58.00'
				DOUBLEBRANCH CREEK WATERSHED			
Hixon Lake	37.00'			36.50'		33.25'	31.00'
Unnamed Lake #1	38.90'			37.50'		35.00'	34.50'
2 28S 17E							
Unnamed Lake #2	38.90'			37.50'		35.00'	34.50'
2 28S 17E							
				BROOKER CREEK WATERSHED			
Artillery, Lake	44.50'			44.00'		40.50'	39.00'
3 27S 17E							
Buck Lake	35.50'			35.00'		32.00'	29.50'
Crescent Lake	44.20'			42.50'		40.00'	38.50'
Elizabeth Lake	54.00'			53.00'		51.00'	49.00'
Fern, Lake	48.00'			46.00'		43.00'	41.50'
Frances, Lake	42.50'			40.50'		38.00'	36.00'
<del>Garden Lake</del>	<del>35.00'</del>			<del>32.00'</del>		<del>29.00'</del>	<del>26.50'</del>
Horse Lake	48.40'			46.50'		44.00'	42.00'
Island Ford Lake	42.30'			41.50'		39.00'	37.00'
<del>Jackson, Lake</del>	<del>36.00'</del>			<del>33.50'</del>		<del>31.00'</del>	<del>29.00'</del>
James Lake	47.70'			46.50'		43.50'	42.00'
23 27S 17E							
Keystone Lake	43.20'			42.00'		39.75'	39.00'
Little Lake	47.70'			46.50'		43.50'	42.00'
23 27S 17E							
<del>Mound Lake</del>	<del>51.60'</del>			<del>51.00'</del>		<del>48.00'</del>	<del>46.00'</del>
Raleigh, Lake	43.30'			42.50'		38.00'	35.00'
Rogers, Lake							
Taylor, Lake	39.70'			39.25'		36.75'	34.75'
Velburton Lake	41.50'			40.00'		37.25'	35.00'
				NO LEVELS RECOMMENDED			
				ANCLOTE RIVER WATERSHED			
<del>Dan, Lake</del>	<del>35.00'</del>			<del>32.00'</del>		<del>28.00'</del>	<del>25.00'</del>
Hiawatha, Lake	52.50'			50.50'		48.00'	45.00'
Osceola, Lake	47.40'			46.50'		44.50'	42.50'
(m) In Lake County Within the Green Swamp Basin							
(n) In Levy County Within the Withlacoochee River Basin							
Marion, Lake	56.60'			53.00'		50.50'	48.50'
S02 T14 R17							
(o) In Manatee County Within the Manasota Basin							
(p) In Marion County Within the Withlacoochee River Basin							
Bonable, Lake	65.10'			64.00'		61.50'	59.50'
S31 T15 R18							
Little Bonable, Lake	59.80'			58.00'		55.50'	53.50'
S30 T15 R18							
Tiger, Lake	65.10'			64.00'		61.50'	59.50'
S32 T15 R18							
(q) In Pasco County Within the Coastal Rivers Basin							
				LAKES			
Crews Lake	57.00'			55.00'		52.00'	50.00'
S16 T24S R18E							

Garden Lake		22.10'	19.00'	16.25'	15.75'
S16	T25S R16E				
<del>Moon Lake</del>		<del>41.00'</del>	<del>40.50'</del>	<del>37.50'</del>	<del>35.50'</del>
<del>S28</del>	<del>T25S R17E</del>				
Pasco Lake		67.50'	67.00'	64.00'	62.00'
S22	T24S R18E				
Pierce Lake		73.60'	73.00'	70.00'	68.00'
S9	T25S R18E				
Richey Lake		14.10'	13.00'	10.00'	8.00'
S3	T26S R16E				
Unnamed Lake No. 22		62.60'	62.50'	59.50'	57.50'
S27	T24S R18E				
Worrell, Lake (Bass Lake)		22.10'	19.00'	16.25'	15.75'
S26	T25S R16E				
(r) In Pasco County Within the Green Swamp Basin					
(s) In Pasco County Within the Hillsborough River Basin					
LAKES					
<del>Bell Lake</del>		<del>72.53'</del>	<del>72.50'</del>	<del>70.00'</del>	<del>69.00'</del>
<del>S13</del>	<del>T26S R18E</del>				
<del>Bird Lake</del>		<del>67.70'</del>	<del>67.50'</del>	<del>65.00'</del>	<del>63.00'</del>
Catfish Lake		68.72'	68.00'	65.50'	63.50'
S30	T25 R19				
Cow (East) Lake		78.63'	78.50'	76.00'	75.00'
S19	T26S R19E				
Floyd, Lake		68.41'	68.50'	66.00'	64.00'
S36	T26 R19				
Gooseneck, Lake		75.10'	73.50'	71.00'	69.00'
S29	T26 R19				
Hancock, Lake		107.48'	106.50'	104.00'	102.00'
S5	T24S R20E				
Hog (Joyce) Lake		76.66'	76.50'	73.50'	72.50'
S19	T26S R19E				
Iola, Lake		147.55'	147.50'	145.00'	142.50'
S15	T24S R20E				
Jessamine, Lake		144.18'	142.00'	138.00'	136.00'
S11	T24S R20E				
JoAnn, Lake		68.72'	68.00'	65.50'	63.50'
S30	T26 R19				
King Lake		73.58'	73.50'	71.50'	69.50'
S7	T26S R19E				
King Lake (East)		105.49'	105.25'	102.50'	100.00'
S22	T25S R20E				
Middle Lake		107.48'	107.00'	105.00'	103.00'
S4	T24S R20E				
Moody Lake		110.48'	110.00'	107.50'	105.50'
S10	T24S R20E				
Myrtle, Lake		68.72'	68.00'	65.50'	63.50'
S30	T26 R19				
<del>Padgett, Lake</del>		<del>71.34'</del>	<del>71.25'</del>	<del>69.00'</del>	<del>67.50'</del>
<del>S24</del>	<del>T26S R18E</del>				
Saxon Lake		71.34'	71.25'	69.00'	67.50'
S30	T26S R19E				
Tampa (Turtle) Lake		66.00'	65.50'	63.00'	61.00'
S32	T26 R19				
Toni, Lake		68.72'	68.00'	65.50'	63.50'
S30	T26 R19				
Twin, Lake		68.35'	67.50'	65.00'	63.00'
S28	T26 R19				
Unnamed Lake #26		68.75'	68.00'	65.50'	63.50'
S25	T26 R18				

(t) In Pasco County Within  
the Pinellas-Anclote River  
Basin

LAKES				
Bass Lake (Holiday)	48.80'	48.75'	45.75'	45.00'
S34 T26E R17S				
Big Lake Vienna	70.70'	70.25'	67.00'	65.00'
23 26 18				
Fishing Lake	48.80'	48.75'	45.75'	45.00'
S34 T26E R17S				
Geneva Lake (Mud)	51.20'	50.00'	48.00'	46.00'
S26 T26E R17S				
Linda Lake	67.30'	66.75'	64.00'	62.00'
26 26 18				
Little Moss (Como) Lake	67.00'	66.00'	63.00'	62.00'
35 26 18				
Minniola, Lake	51.20'	50.00'	48.00'	46.00'
S34 T26E R17S				
Moss Lake	65.00'	64.00'	61.50'	59.00'
35 26 18				
<del>Parker Lake (Ann)</del>	<del>48.80'</del>	<del>48.75'</del>	<del>45.75'</del>	<del>45.00'</del>
<del>S35 T26E R17S</del>				
Seminole, Lake	49.20'	48.75'	46.00'	45.00'
S35 T26E R17S				
Thomas, Lake	75.60'	75.00'	72.50'	71.50'
11 26 18				
Wistaria, Lake	74.90'	74.00'	71.00'	69.00'
2 26 18				

(u) In Pasco County Within  
the Withlacoochee River  
Basin

LAKES				
Buddy Lake	97.02'	94.50'	91.50'	90.00'
S17 T25S R21E				
Pasadena, Lake	97.02'	94.50'	91.50'	90.00'
S16 T25S R21E				
Clear Lake	127.90'	127.50'	125.25'	123.75'
S1 T25S R20E				

(v) In Pinellas County Within  
the Pinellas-Anclote River  
Basin

LAKES				
Lake Tarpon	4.20'	3.80'	2.20'	1.00'
Sec.	Twsp.	Rng.		
7	27S	16E		
8	27S	16E		
16	27S	16E		
17	27S	16E		
18	27S	16E		
19	27S	16E		
20	27S	16E		
21	27S	16E		
28	27S	16E		
29	27S	16E		
30	27S	16E		
32	27S	16E		
33	27S	16E		
4	28S	16E		

(w) In Polk County Within the  
Alafia River Basin

LAKES				
Scott, Lake	168.60'	168.00'	165.00'	164.25'

(x) In Polk County Within the Green Swamp Basin

LAKES

Agnes, Lake	135.20'	135.75'	134.75'	130.75'
Alfred, Lake	132.30'	130.75'	128.25'	126.25'
S30 T27S R26				
Arietta, Lake	144.00'	144.00'	141.00'	138.00'
Camp, Lake	133.40'	134.50'	132.00'	130.00'
Clearwater Lake	146.20'	143.50'	141.00'	139.00'
Cummings, Lake	131.50'	131.00'	127.50'	125.50'
S31 T27 R26				
Eva, Lake	132.30'	131.50'	129.00'	127.00'
S29 T27 R26				
Grassy Lake (Big Glades)	133.20'	132.00'	129.50'	128.00'
Griffin, Lake	132.30'	131.50'	129.00'	127.00'
S30 T27 R26				
Gum, Lake	132.60'	131.00'	128.50'	126.00'
Haines, Lake	129.70'	128.75'	126.50'	124.50'
Helene, Lake	144.80'	144.00'	141.00'	139.00'
Juliana, Lake	134.70'	132.50'	130.00'	127.50'
Little Lake Agnes	135.20'	136.00'	133.00'	131.00'
Little Van Lake	141.40'	139.00'	136.50'	135.50'
Mattie, Lake	134.70'	132.50'	130.00'	127.50'
Mud, Lake	141.80'	141.50'	137.75'	136.00'
Myrtle, Lake	141.70'	141.00'	138.50'	136.50'
Swoope, Lake	133.00'	132.50'	130.00'	128.00'
Tennessee, Lake	134.70'	134.00'	130.00'	128.00'
Van, Lake	133.00'	132.75'	130.00'	128.00'
Whistle, Lake	140.90'	137.50'	135.00'	133.75'

(y) In Polk County Within the Hillsborough River Basin

LAKES

Bonnet, Lake	146.40'	148.00'	145.00'	142.50'
Hunter, Lake	162.30'	162.75'	160.25'	159.00'

(z) In Polk County Within the Peace River Basin

Ada, Lake	123.80'	123.00'	120.00'	118.00
S33 T28 R27				
Altamaha, Lake	122.60'	122.50'	120.00'	118.00'
S11 T30 R27				
Amoret Lake	115.50'	115.25'	113.00'	111.00'
24 30 27				
Annie, Lake	122.10'	119.00'	116.00'	114.00'
S3 T29S R27E				
Arianna, Lake	137.10'	137.00'	134.50'	132.50'
3 28 25E				
Aurora, Lake	103.30'	100.00'	97.00'	95.00'
13 30 28				
Banana, Lake	106.75'	106.50'	103.50'	102.00'
10 29 24E				
Belle, Lake	123.60'	120.00'	117.00'	115.00'
11 30 27				
Bess, Lake	125.50'	125.25'	123.00'	121.00'
18 29S 27E				
Big Gum Lake	95.50'	95.00'	92.00'	89.00'
26 29 R28				
Blue, Lake	149.80'	149.00'	146.50'	144.50'
S13 T28 R25				
Blue, Lake	118.00'	117.00'	114.00'	--
24 30S 27E				
Bonnie, Lake	113.30'	113.00'	110.00'	108.00'
S31 T29 R28				
Bonny, Lake	130.90'	130.50'	128.00'	126.00'
20 28S 24E				
Buckeye, Lake	130.10'	129.00'	126.00'	124.50'
S22 T28S R26E				

Buffum, Lake		132.75'	132.25'	129.25'	--
12 31S	26E				
Cannon, Lake		132.60'	132.00'	129.50'	127.00'
19 28S	26E				
Clinch, Lake		108.00'	106.75'	104.00'	102.50'
31 31S	28E				
Connie, Lake		129.70'	128.75'	126.50'	124.50'
9 28S	26E				
Cooper (Worth)		124.20'	123.50'	121.00'	119.00'
S02 T30	R27				
Crooked, Lake		122.60'	122.00'	118.50'	--
1 31S	27E				
Crystal Lake		121.40'	121.25'	118.00'	115.00'
S02 T30	R27				
Crystal Lake		122.90'	122.00'	119.00'	117.00'
S21 T28	R27				
Crystal Lake		130.00'	129.50'	127.00'	125.00'
23 29S	26E				
Cypress Lake		100.20'	98.50'	95.00'	93.00'
36 29	28E				
Lake Daisy		130.90'	130.00'	127.00'	126.00'
S6 T29	R27				
Lake Deer		141.30'	140.75'	138.50'	136.50'
25 28	25E				
Dell, Lake		125.70'	123.75'	121.50'	119.50'
S28 T28	R27				
Lake Dexter		132.20'	132.00'	129.00'	127.50'
S2 T29	R26				
Dinner, Lake		120.90'	118.50'	116.00'	114.00'
15 29S	27E				
Eagle Lake		131.00'	130.75'	128.50'	126.50'
29	25E				
Easy, Lake		115.50'	115.25'	113.00'	111.00'
19 30	28				
Echo, Lake		132.30'	131.00'	128.00'	126.00'
S05 T28	R26				
Effie, Lake		119.60'	118.00'	115.00'	113.00'
3 30	27				
Elbert, Lake		137.50'	135.50'	133.00'	131.50'
S22 T28	R26				
Eloise, Lake		132.60'	132.00'	129.50'	127.00'
3 29S	26E				
Fannie, Lake		127.00'	125.75'	123.50'	120.00
11 28S	26E				
Lake Florence		128.80'	128.75'	127.00'	125.00'
S35 T28	R26				
Lake Fox		135.20'	135.00'	132.00'	131.00'
S6 T29	R27				
Garfield, Lake		105.70'	104.75'	101.00'	100.00'
5 30	26E				
Gator, Lake		133.60'	133.00'	130.75'	128.50'
26 30S	26E				
George, Lake		130.70'	130.00'	127.50'	125.50'
S06 T28	R26				
Gibson, Lake		144.20'	143.50'	141.50'	141.50'
25 27S	23E				
Gordon, Lake		121.30'	119.00'	116.00'	114.00'
S16 T28	R27				
Lake Grassy		134.80'	129.00'	126.50'	125.50'
2 29	25E				
Lake Gross (Grassy)		138.50'	136.00'	133.50'	132.00'
S14 T29	R26				
Hamilton, Lake		122.50'	121.50'	119.00'	117.25'
18 28S	27E				

Hancock, Lake 8 29S 25E	102.40'	99.00'	96.00'	94.00'
Hart, Lake 24 29S 26E	124.70'	124.50'	122.00'	120.00'
Hartridge, Lake 8 28S 26E	132.60'	132.00'	129.50'	127.00'
Henry, Lake 16 31S 26E	160.10'	159.00'	156.00'	154.00'
Henry, Lake 36 27S 26E	127.00'	126.50'	124.50'	122.50'
Hickory, Lake 17 32S 28E	98.50'	98.50'	96.00'	94.00'
Howard, Lake 30 28S 26E	132.60'	132.00'	129.50'	127.00'
Ida, Lake 28 31S 28E	80.00'	79.00'	76.50'	75.00'
Ida, Lake S17 T28 R26	136.70'	135.25'	132.00'	130.50'
Idyl, Lake S16 T28 R26	134.90'	134.00'	131.50'	130.00'
Idylwild, Lake 18 28S 26E	132.60'	132.00'	129.50'	127.00'
Jessie, Lake 12 28S 25E	132.60'	132.00'	129.50'	127.00'
Josephine, Lake 13 30 27	121.30'	120.00'	116.50'	114.50'
Josephine, Lake S27 T28 R27	124.10'	121.50'	118.00'	116.50'
Lee, Lake S16 T28 R27	123.50'	123.50'	121.50'	120.00'
Lena, Lake 9 28S 25E	137.10'	137.00'	134.50'	132.50'
Leonore, Lake 10 31S 28E	87.40'	87.00'	84.50'	83.00'
Link, Lake 27 28S 26E	128.70'	128.00'	125.00'	123.00'
Little Aurora Lake (Iris) <del>13 30 28</del>	103.30'	100.50'	98.00'	96.00'
Little Gum Lake 35 29S 28E	96.80'	96.50'	94.00'	92.00'
Little Lake Hamilton 5 28S 27E	122.50'	121.50'	119.00'	117.25'
LuLu, Lake 4 29S 26E	132.60'	132.00'	129.50'	127.00'
Lee, Lake 10 29S 27E	122.10'	119.00'	116.00'	114.00'
Lake McLeod 7 29 26E	133.10'	132.00'	129.50'	128.00'
Mabel, Lake 11 29S 27E	114.50'	110.75'	107.00'	105.00'
Mariam, Lake 27 28S 26E	--	124.75'	122.75'	121.00'
Marie, Lake S27 T28 R27	121.00'	121.00'	118.00'	116.00'
Martha, Lake S21 T28 R26	142.50'	142.00'	139.00'	137.00'
Maude, Lake S21 T28 R26	141.70'	140.50'	137.50'	136.00'
May, Lake 29 28S 26E	132.60'	132.00'	129.50'	127.00'
Medora, Lake S36 T27 R25	140.40'	138.00'	134.50'	133.00'



Menzie, Lake		127.00'	122.00'	120.00'	118.00'
S28 T28 R27					
Middle Lake Hamilton		122.50'	121.50'	119.00'	117.25'
7 28S 27E					
Lake Millsite		125.30'	123.50'	121.00'	119.00'
11 29 25E					
Mirror, Lake		132.60'	132.00'	129.50'	127.00'
20 28S 27E					
Moody, Lake		92.80'	93.50'	91.00'	89.00'
17 31S R28E					
Myrtle, Lake		118.70'	118.50'	116.50'	114.50'
19 29S 27E					
Lake Ned		129.60'	128.50'	126.00'	124.00'
S1 T29S R26					
North Lake Wales		116.80'	115.00'	112.00'	110.00'
S01 T30 R27					
Otis, Lake		128.70'	128.00'	125.00'	123.00'
28 28S 25E					
Pansy, Lake		130.00'	129.00'	126.50'	124.50'
S08 T28 R26					
Parker, Lake		122.50'	122.00'	119.50'	117.50'
32 29S 27E					
Parker, Lake		131.60'	131.00'	128.75'	127.50'
8 28 24E					
Parks, Lake		104.50'	102.50'	100.00'	98.00'
36 29S 28E					
Polecat, Lake		142.40'	142.00'	139.50'	137.50'
27 30S 26E					
Reedy, Lake		80.00'	79.75'	77.25	75.25'
35 31S 28E					
Reeves, Lake		125.10'	124.50'	122.00'	120.00'
13 29S 26E					
Lake River		141.60'	139.50'	136.00'	134.00'
S1 T29 R26					
Rochelle, Lake		129.70'	128.75'	126.50'	124.50'
4 28 26E					
Round, Lake		129.40'	129.25'	126.50'	124.50'
13 29S 26E					
Roy, Lake		132.60'	132.00'	129.50'	127.00'
34 28S 26E					
Ruby, Lake		125.50'	125.25'	123.00'	121.00'
12 29S 26E					
Ruth, Lake		123.50'	121.50'	117.50'	115.50'
S28 T28 R27					
Saddlebag, Lake		106.80'	105.00'	102.00'	100.00'
6 30S 29E					
Saint Anne Lake		97.50'	96.00'	93.00'	91.00'
14 30 28					
Sanitary (Marianna), Lake		138.60'	137.50'	135.00'	133.00'
S01 T28 R25					
Sara, Lake		122.50'	121.50'	119.00'	117.25'
S17 T28 R27					
Scott, Lake		168.60'	168.00'	165.00'	164.25'
18 29S 24E					
Lake Sears		143.20'	141.00'	138.00'	136.00'
36 28 25E					
Serena, Lake		125.30'	118.00'	115.00'	113.00'
S12 T30 R27					
Shipp, Lake		132.60'	132.00'	129.50'	127.00'
32 28S 26E					
Silver, Lake		105.00'	103.00'	100.50'	98.50'
5 32S 28E					
Silver, Lake		147.10'	146.50'	144.00'	142.00'
S20 T28 R26					

Smart, Lake		129.70'	128.75'	126.50'	124.50'
9 28S	26E				
Lake Spirit		134.10'	131.50'	129.00'	127.00'
35 28	25E				
Spring, Lake		132.60'	132.00'	129.50'	127.00'
20 28S	27E				
Starr, Lake		115.50'	113.00'	110.00'	108.00'
14 29	27				
Streety Lake		108.70'	105.50'	102.50'	101.00'
24 32S	27E				
Summit, Lake		132.60'	132.00'	129.50'	127.00'
34 28S	26E				
Sunset Lake		101.10'	98.00'	95.50'	93.50'
10 30	28				
Surveyors, Lake		133.60'	133.00'	130.75'	128.50'
26 30S	26E				
Thomas, Lake		104.20'	99.50'	97.00'	95.00'
1 30E	28E				
Lake Thomas		135.60'	132.00'	128.00'	126.00'
35 28	25E				
Tractor Lake		125.00'	123.25'	121.00'	119.00'
14 30	27				
Trask, Lake		114.90'	113.00'	108.00'	106.00'
S22 T28	R27				
Trout, Lake		100.60'	101.00'	98.00'	95.00'
34 32S	28E				
Twin Lakes		124.10'	123.75'	120.00'	118.00'
S11 T30	R27				
Venus, Lake		126.10'	125.00'	122.00'	120.00'
9 29S	27E				
Wales, Lake		114.10'	112.50'	110.00'	108.00'
S01 T30	R27				
Walker, Lake		143.00'	141.00'	137.00'	135.00'
21 30S	26E				
Warren, Lake		124.60'	123.50'	121.00'	119.00'
S11 T30	R27				
Weader (Weaver), Lake		122.00'	121.75'	119.00'	117.00'
S03 T30	R27				
Winterset, Lake		132.60'	132.00'	129.50'	127.00'
11 29S	26E				
(aa) In Sarasota County					
Within the Manasota Basin					
(bb) In Sumter County Within					
the Green Swamp Basin					
(cc) In Sumter County Within					
the Withlacoochee River					
Basin					
LAKES					
Big Gant Lake		76.50'	76.25'	74.50'	72.50'
S14 T22S	R22E				
Black Lake		56.70'	55.00'	53.00'	51.00'
S23 T18S	R23E				
Cherry Lake		56.70'	55.00'	53.00'	51.00'
S24 T18S	R23E				
Deaton, Lake		65.50'	65.00'	62.00'	60.00'
S14 T19S	R23E				
Miona, Lake		56.70'	55.00'	53.00'	51.00'
S27 T18S	R23E				
Okahumpka, Lake		59.90'	58.75'	56.25'	54.00'
S21 T19S	R23E				
Panasofkee, Lake		42.80'	42.50'	39.50'	38.50'

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421, 373.086 FS. History—New 6-7-78, Amended 1-22-79, 4-27-80, 10-21-80, 12-22-80, 3-23-81, 4-14-81, 6-4-81, 10-15-81, 11-23-81, 1-5-82, 3-11-82, 5-10-82, 7-4-82, 9-2-82, 11-8-82, 1-10-83, 4-3-83, 7-5-83, 9-5-83, 10-16-83, 12-12-83, 5-8-84, 7-8-84, 12-16-84, 2-7-85, 5-13-85, 6-26-85, 11-3-85, 3-5-86, 6-16-86, Formerly 16J-8.678, Amended 9-7-86, 2-12-87, 9-2-87, 2-18-88, 6-27-88, 2-22-89, 3-23-89, 9-26-89, 7-26-90, 10-30-90, 3-3-91, 9-30-91, 10-7-91, 7-26-92, 3-1-93, 5-11-94, 6-6-96, 2-23-97, Amended 8-7-00, 1-8-04.

NAME OF PERSON ORIGINATING PROPOSED RULE: Doug Leeper, Senior Environmental Scientist, Resource Conservation and Development Department, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, Extension 4272

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2004

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 2004 and April 23, 2004

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Community Behavioral Health Services

RULE NO.: 59G-4.050

PURPOSE AND EFFECT: The purpose of this rule amendment is to change the name of the Community Mental Health Services Program to Community Behavioral Health Services Program and incorporate by reference the Florida Medicaid Community Behavioral Health Services Coverage and Limitations Handbook, October 2004. The handbook revisions include modifications to procedure codes mandated by the federal Health Insurance Portability and Accountability Act (HIPAA) and implementation of a recovery model for delivery of behavioral health services. The effect will be to incorporate by reference in the rule the Florida Medicaid Community Behavioral Health Services Coverage and Limitations Handbook, October 2004.

SUMMARY: This rule amendment changes the name of the Community Mental Health Services Program to Community Behavioral Health Services Program and incorporates by reference the Florida Medicaid Community Behavioral Health Services Coverage and Limitations Handbook, October 2004.

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 in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908, 409.9081, 409.913 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., Monday, October 25, 2004

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room E, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michelle Comeaux, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)921-8288

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.050 Community Behavioral ~~Mental~~ Health Services.

(1) No change.

(2) All community behavioral ~~mental~~ health services providers enrolled in the Medicaid program must be in compliance ~~comply~~ with the Florida Medicaid Community Behavioral ~~Mental~~ Health Services Coverage and Limitations Handbook, January 2004 ~~July 2000~~, incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS HCFA-1500 and Child Health Check Up 221, which is incorporated in Rule 59G-4.001 ~~59G-5.050~~, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

(3) The following forms that are included in the Florida Medicaid Community Behavioral Health Coverage and Limitations Handbook are incorporated by reference: Limited Service Authorization, October 2004; Authorization for Comprehensive Behavioral Health Assessment, October 2004; Comprehensive Behavioral Health Assessment Provider Certification, October 2004; Specialized Therapeutic Foster Care Provider Agency Certification, October 2004; Authorization for Specialized Therapeutic Foster Care, October 2004; Authorization for Crisis Intervention, October 2004; Provider Agency Self Certification Form Behavioral Health Overlay Services – Department of Juvenile Justice, October 2004; Provider Agency Certification Form Behavioral Health Overlay Services – Department of Juvenile Justice, October 2004; Certification of Eligibility for Behavioral Health Overlay Services – Department of Juvenile Justice, October 2004; Provider Agency Self-Certification Form Therapeutic Group Home Services, October 2004; Therapeutic Group Care Services Provider Agency Certification, October 2004; Authorization for Therapeutic Group Care Services, October 2004; Certification of Eligibility for Behavioral Health Overlay Services – Child Welfare, October 2004; Provider Agency Self-Certification Form Behavioral Health Overlay Services – Child Welfare, October 2004; Provider Agency Certification Form Behavioral Health Overlay Services – Child Welfare, October 2004.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908, 409.9081, 409.913 FS. History—New 1-27-82, Amended 10-25-84, Formerly 10C-7.525, Amended 1-19-94, Formerly 10C-7.0525, Amended 9-21-98, 11-14-00, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michelle Comeaux  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Alan Levine, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 21, 2004  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums, and Mobile Homes**

RULE TITLES:	RULE NOS.:
Scope, Organization, Procedure, Forms, and Title	61B-80.101
Filing for Recall Dispute Arbitration	61B-80.102
Filing for Election Dispute Arbitration	61B-80.103
Expedited Procedure for Determination of Jurisdiction	61B-80.104
Computation of Time	61B-80.105
Parties; Appearances; Substitution and Withdrawal of Counsel	61B-80.106
Who May Appear; Criteria for Other Qualified Representatives	61B-80.107
Communication with an Arbitrator	61B-80.108
Withdrawal or Dismissal of Petition; Settlement	61B-80.109
Filing; Service of Papers; Signing	61B-80.110
Answer and Defenses	61B-80.111
Defaults and Final Orders on Default	61B-80.112
Motions; Motions for Temporary Injunctive Relief	61B-80.113
Summary Disposition; Simplified Arbitration Procedure; No Disputed Issues of Material Fact	61B-80.114
Discovery	61B-80.115
Conduct of Proceeding by Arbitrator	61B-80.116
Subpoenas and Witnesses; Fees	61B-80.117
Stenographic Record and Transcript	61B-80.118
Conduct of Formal Hearing; Evidence	61B-80.119
Notice of Final Hearing; Scheduling; Venue; Continuances	61B-80.120
Final Orders and Appeals	61B-80.121
Technical Corrections; Rehearing.	61B-80.122
Motions for Attorney’s Fees and Costs	61B-80.123

PURPOSE AND EFFECT: Provides the rules of procedure governing the arbitration of recall and election disputes under Sections 720.303, 720.306 and 720.311, Florida Statutes.

SUMMARY: Mandatory binding arbitration of recall and election disputes in homeowners’ associations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 720.303(10)(d), 720.306(9), 720.311(1), 718.1255(4)(i), 718.112(2)(j)5. FS.

LAW IMPLEMENTED: 720.303(10), 720.306(9), 720.311(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: 10:00 a.m., October 25, 2004

PLACE: Warren Building, Conference Room #B03, 201 W. Bloxham Street, Tallahassee, Florida 32399-1030

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULES IS:

THE ARBITRATION RULES OF PROCEDURE GOVERNING RECALL AND ELECTION DISPUTES IN HOMEOWNERS’ ASSOCIATIONS

61B-80.101 Scope, Organization, Procedure, Forms, and Title.

(1) This chapter shall be entitled “The Arbitration Rules of Procedure Governing Recall and Election Disputes in Homeowners’ Association” and shall govern the arbitration of election disputes and recall disputes arising in a homeowners’ associations governed by Chapter 720, F.S. For purposes of these rules “homeowners” means “members” and “parcel owners” who are voting members of the association as those terms are defined by Section 720.301, F.S. This chapter applies

to all recall and election arbitration proceedings held pursuant to Sections 720.303, 720.306, or 720.311, F.S.; these provisions shall only apply to election and recall disputes that exist on or after October 1, 2004. The provisions of Chapter 61B-45 and Chapter 61B-50, F.A.C., are incorporated herein by reference to the extent those chapters are consistent with these rules. These rules also apply to all arbitration proceedings referred to the division and conducted after mediation pursuant to paragraph 720.311(2)(b), F.S.

(2) All petitions and other papers filed with the division for election or recall arbitration pursuant to Sections 720.303, 720.306, or 720.311, F.S., and these rules, shall be filed at the official headquarters of the Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes, Director's Office, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, except that a petition or other pleading may be filed with the division via telefax at (850)921-5446. All forms referenced in these rules may be obtained online at: <http://www.myflorida.com/dbpr/>.

(3) In order to file a petition for recall arbitration, a petitioner must use DBPR FORM HOA 6000-4, MANDATORY BINDING ARBITRATION FORM PETITION – RECALL DISPUTE, incorporated herein by reference and effective \_\_\_\_\_. In order to file a petition for election arbitration, a petitioner must use DBPR FORM HOA 6000-3, MANDATORY BINDING ARBITRATION FORM PETITION – ELECTION DISPUTE, incorporated by reference and effective \_\_\_\_\_. In order for someone who is not a member of the Florida Bar to represent a party in a proceeding, the person must file a completed DBPR FORM HOA 6000-6, HOA QUALIFIED REPRESENTATIVE APPLICATION, incorporated herein by reference and effective \_\_\_\_\_. An answer to a petition for arbitration for recall or election dispute arbitration must be filed using DBPR FORM HOA 6000-9, HOA ANSWER TO PETITION, incorporated herein by reference and effective \_\_\_\_\_. A request for an expedited determination of whether jurisdiction exists to hear a particular dispute shall be filed on DBPR FORM HOA 6000-7 REQUEST FOR EXPEDITED DETERMINATION OF JURISDICTION, incorporated herein by reference and effective \_\_\_\_\_.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History–New \_\_\_\_\_.

#### 61B-80.102 Filing for Recall Dispute Arbitration.

(1) Where the homeowners attempt to recall one or more directors of a board of a homeowners' association by written agreement, ballot, or vote taken at a meeting, the board of directors shall initiate a recall arbitration by filing a petition for recall arbitration with the division as provided by this rule. Where the homeowners attempt to recall one or more directors of a board at a homeowners meeting or by an agreement in

writing or written ballot, and the board does not certify the recall, the board shall file a petition for arbitration with the division within five full business days after adjournment of the board meeting at which the board determined not to certify the recall. Where the board fails to file a petition for recall arbitration as required by these rules and Chapter 720, F.S., the homeowners seeking to challenge the board's decision not to certify the recall, or not to file for recall arbitration, may file a petition for arbitration pursuant these rules.

(2) Form of Petition. The term "petition" as used in this rule includes any application or other document that expresses a request for arbitration of a recall of one or more board directors. The petition shall comply with the provisions of this rule, and be printed, typewritten or otherwise duplicated in legible form on one side of the paper only with lines double-spaced. A party filing a petition for recall arbitration shall utilize DBPR FORM HOA 6000-4, MANDATORY BINDING ARBITRATION FORM PETITION – RECALL DISPUTE and shall submit the \$200 filing fee with the petition.

(3) All petitions for arbitration of a recall filed by an association or by the homeowners who voted in favor of recall shall be signed by either a member of the Florida Bar, or by a qualified representative who has submitted an application to appear pursuant to Rule 61B-80.106, F.A.C. Each petition shall contain:

(a) The name and address of the association, the number of total voting interests in the association, the number of voting interests voting for recall of each board member sought to be recalled, the number of recall votes rejected by the board as to each candidate subject to the recall, and the total number of seats on the board at the time that the recall is served on the board;

(b) The name or names of the board director or directors who were recalled;

(c) The name and address of the homeowner representative selected, pursuant to subparagraph 61B-81.002(2)(b)3. or paragraph 61B-81.003(1)(f), F.A.C., to receive pleadings, notices, or other papers on behalf of the recalling homeowners;

(d) A statement of whether the recall was by vote at a meeting of the homeowners or by written agreement.

(e) If the recall was by vote at a meeting, the petition shall state the date of the meeting of the homeowners and the time the meeting was adjourned; if the recall was by written agreement, the petition shall state the date and time of receipt of the written agreement by the board, and a copy of the written agreement to recall shall be attached to the petition;

(f) The date of the board meeting at which the board determined not to certify the recall, and the time the meeting was called to order and adjourned;

(g) A copy of the minutes of the board meeting at which the board determined not to certify the recall;

(h) Each specific basis upon which the board based its determination not to certify the recall, including the parcel number and specific defect to which each challenge applies. Any specific reason upon which the board bases its decision not to certify the recall that is stated in the petition for recall arbitration, but absent from the board meeting minutes or attachments thereto, shall be ineffective and shall not be considered by the arbitrator. A board director may be recalled with or without cause. The fact that a homeowner may have received misinformation is not a valid basis for rejecting a recall agreement and shall not be considered by the arbitrator.

(i) Any relevant sections of the bylaws, articles of incorporation, the declaration of covenants, and rules, including all amendments thereto, as well as any or other documents that are pertinent to the petition; and

(j) Any other information that the petitioner contends is material.

(4) If, during the pendency of a recall arbitration, the homeowners attempt another recall effort and the board files another petition for arbitration, the newly filed petition shall be consolidated with the pending case.

(5) Upon receipt and review of a petition for arbitration of a recall of one or more board directors, the division shall review the petition to verify that it contains all required information and that the petition states a valid claim for relief. If the petition is accepted, within 10 days of the filing of the petition, the arbitrator shall serve the respondent homeowners or other named respondents by mailing a copy of the petition and an order allowing answer by United States certified mail to the representative of the recalling homeowners identified in the petition or other named respondent.

(6) As provided by subsection 720.303(10), F.S., the board of directors must hold a board meeting within 5 full business days after its receipt of a recall agreement in writing or the written recall ballots, and further, the board must within 5 full business days of the board meeting, file a petition for recall arbitration if the board determines not to accept the recall of one or more board directors. The time periods contained in subsection 720.303(10), F.S., operate in the manner of statutes of limitation and are therefore subject to equitable considerations. However, where the board fails to timely comply with these rules relating to the calling and holding of a meeting on whether to certify a recall, or fails to comply with these rules relating to the filing of a petition for recall arbitration, the board must provide legitimate justification and must demonstrate that its actions or inactions were taken or based in good faith. The board's claims of excusable neglect or the inability to identify defects in the recall effort within the time provided, or other unremarkable excuses will not be considered as proper defenses. The failure of an association to timely file a petition for recall arbitration within the time limits imposed under these rules or Chapter 720, F.S., will result in the certification of the recall and the immediate removal of the

board directors subject to recall; however, the failure of the association to timely call or hold a board meeting or to file a petition for recall arbitration will not validate a written recall that is otherwise void at the outset for failing to obtain a majority of the voting interests or is deemed fatally defective for failing to substantially comply with the provisions of these rules.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.311(1) FS. Law Implemented 720.303(10), 720.311(1) FS. History--New \_\_\_\_\_.

#### 61B-80.103 Filing for Election Dispute Arbitration.

(1) An election arbitration is commenced upon the filing of a petition for mandatory binding arbitration pursuant to Sections 720.306 and 720.311, F.S., and conforming to the requirements of this rule. The term "petition" as used in this rule includes any application or other document that expresses a request for arbitration of an election dispute. The petition shall comply with the provisions of this rule, and be printed, typewritten or otherwise duplicated in legible form on one side of the paper only with lines double-spaced. A party filing a petition for election arbitration shall utilize DBPR FORM HOA 6000-3, MANDATORY BINDING ARBITRATION FORM PETITION – ELECTION DISPUTE and shall include a \$200 filing fee, incorporated in subsection 61B-80.101(3), F.A.C.

(2) Election disputes include a controversy relating to the conduct of a regular, special, or runoff election; the qualification of candidates for the board; the filling of a vacancy caused by any reason other than the recall of one or more directors of the board; and other disputes regarding an association election.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306 (9), 720.311(1) FS. History--New \_\_\_\_\_.

#### 61B-80.104 Expedited Procedure for Determination of Jurisdiction.

(1) Any party who is in doubt as to whether a controversy falls within the jurisdiction of the division may file with the division a request for expedited determination of jurisdiction by filing a completed DBPR FORM HOA 6000-7, REQUEST FOR EXPEDITED DETERMINATION OF JURISDICTION, incorporated in subsection 61B-80.101(3), F.A.C. A request for expedited determination of jurisdiction shall be accompanied by a completed DBPR FORM HOA 6000-3, MANDATORY NON-BINDING ARBITRATION PETITION FORM, incorporated in subsection 61B-80.101(3), F.A.C., which shall include the \$200.00 filing fee provided by Section 720.311, F.S.

(2) If the determination of jurisdiction is subject to reasonable dispute, within 10 days of the assignment of a request for relief pursuant to this rule, the arbitrator shall deliver by United States mail to all other persons involved with the dispute, a copy of the request for expedited determination

of jurisdiction, and shall provide such persons an opportunity to serve a response on the issue of whether the dispute falls within the jurisdiction of the division.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History–New \_\_\_\_\_.

#### 61B-80.105 Computation of Time.

(1) Recall Time Calculation. In computing the five full business days prescribed by subsections 720.303(10)(b)2., 720.303(10)(c)2., and 720.303(10)(d), F.S., and these rules, in which the board is required to duly notice and hold a board meeting and file for recall arbitration with the division, the day that the board is served with notice of the recall and the day of the board meeting shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday as prescribed by Section 110.117, F.S., in which event the period shall run until the end of the next business day. For example, if a recall petition is served on the board on June 1, 2004, a Tuesday, the board must duly notice and hold a board meeting to determine whether to contest the recall not later than Monday, June 7, 2004. Likewise, if the board meeting on whether to certify the recall is held on Monday, June 7, 2004, the board shall file its petition for recall arbitration not later than the close of business on Monday, June 14, 2004.

(2) Additional Time after Service by Mail. Unless otherwise ordered by the arbitrator, during the pendency of a case, when a party is required or permitted by these rules or by order of the arbitrator to do an act within a prescribed period after the service of an order or pleading upon that party, and the order or pleading is served by regular United States mail, five days shall be added to the prescribed period. No additional time shall be added to the prescribed period if service is made by hand, facsimile transmission, or other electronic transmission. This provision does not apply to the filing of the petition for recall arbitration which must be filed by the board within 5 business days of the board meeting on whether to certify the recall. In addition, no additional time is added by operation of this rule for a motion for rehearing that must be filed (e.g., received) by the division within 15 days of entry of a final order. No additional time is added by operation of this rule for the filing of a motion for costs and attorney's fees that must be filed (e.g., received) by the division within 30 days of entry of a final order or final order on motion for rehearing.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History–New \_\_\_\_\_.

#### 61B-80.106 Parties; Appearances; Substitution and Withdrawal of Counsel.

(1) Parties in any proceeding conducted in accordance with Sections 720.303, 720.306, or 720.311, F.S., are petitioners or respondents.

(2) The petitioner in a recall arbitration proceeding may be the association, where the board seeks to challenge a recall effort of the homeowners, or may be the homeowners voting in favor of recall where the association fails to timely file a petition for recall arbitration. Where the association through the board timely files for recall arbitration, the respondents shall be the group of homeowners who voted at a meeting, or who executed a written agreement, to recall one or more directors of the board. Every homeowner who voted in favor of recall and who did not revoke his or her vote prior to service on the board of the recall agreements shall be deemed to be a party in the recall arbitration proceeding. Where the homeowners voting in favor of recall file the petition for recall arbitration, the respondent shall be the association.

(3) Parties in an election dispute shall be involved homeowners and the association.

(4) All parties shall receive copies of all pleadings, motions, notices, orders, and other matters filed in arbitration proceedings in the manner provided by Rule 61B-80.108, F.A.C.

(5) An attorney or qualified representative who has filed a petition or has otherwise become the attorney or representative of record for a party to a proceeding shall be permitted to withdraw from representation only upon the filing of a suitable motion with the arbitrator, which motion shall provide a correct mailing address for the client. Only attorneys licensed to practice law in Florida shall be permitted to appear as counsel of record, except that an attorney licensed out of state may apply to the arbitrator for permission to appear in an individual proceeding. No attorney wherever licensed shall be permitted to appear as a qualified representative which is reserved for lay individuals.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History–New \_\_\_\_\_.

#### 61B-80.107 Who May Appear; Criteria for Other Qualified Representatives.

(1) Any person who appears before any arbitrator has the right, at that person's own expense, to be accompanied, represented and advised by a member of the Florida Bar or by a qualified representative who is not a member of the Florida Bar, but who shall demonstrate his or her familiarity with and understanding of these rules of procedure, and with any relevant portions of Chapter 720, F.S., and the rules promulgated by the division.

(2) If a person wishes to be represented by a qualified non-attorney representative, the arbitrator shall make diligent inquiry of the prospective representative during a non-adversarial proceeding, under oath, to assure that the prospective representative is qualified to appear in the arbitration proceedings and is capable of representing the

rights and interests of the person. In lieu of the above, the arbitrator may consider the prospective representative's sworn affidavit setting forth the representative's qualifications.

(3) If the arbitrator is satisfied that the prospective non-attorney representative has the necessary qualifications to render competent and responsible representation of the homeowner's interest in a manner that will not impair the fairness of the proceedings or the correctness of the action to be taken, the arbitrator shall authorize the prospective non-attorney representative to appear in the pending arbitration.

(4) A representative named in the initial petition or who has filed a notice of appearance shall remain the representative of record and shall receive pleadings and continue in a representative capacity until the representative's withdrawal has been approved in writing by the arbitrator.

(5) Any successor or associated attorney or other non-attorney representative shall file a notice of appearance prior to, or at the time of, the filing of any pleading with, or appearance before, the arbitrator.

(6) Standards of Conduct.

(a) A representative shall exercise due diligence in the filing and argument of any motion or pleading. All motions or pleadings shall be filed and argued in good faith.

(b) The signature of a representative upon any motion or pleading shall constitute a certificate that the representative has read the motion or pleading, that to the best of the representative's knowledge it is supported by good faith grounds and that it has not been presented solely for the purpose of delay.

(c) A representative shall advise the client to observe and to obey the law.

(d) A representative shall not:

1. Engage in conduct involving dishonesty, fraud, deceit or misrepresentation; or engage in conduct that is prejudicial to the administration of the arbitration process;

2. File a pleading, assert a position, conduct a defense, delay an arbitration proceeding or take other action on behalf of the client when such action would serve merely to harass or maliciously injure another;

3. Handle a legal or factual matter which the representative knows or should know that the representative is not competent to handle without associating an attorney or another qualified representative; or handle a legal or factual matter without adequate preparation;

4. State or imply that he or she is able to improperly influence the arbitrator or any agency or public official;

5. Communicate or cause another to communicate with an adverse party regarding matters at issue in the arbitration proceeding where the representative knows that the adverse party is represented by an attorney or other qualified representative;

6. Disregard or advise the client to disregard a rule or statute of an agency or a ruling of an arbitrator made in the course of an arbitration proceeding;

7. Conceal or knowingly fail to disclose that which one is bound to reveal by law;

8. Knowingly use perjured testimony or false evidence, or withhold any evidence that the representative or the client should produce;

9. Knowingly make a false statement of law or fact;

10. Advise or cause a person to secrete himself or herself for the purpose of making the person unavailable as a witness therein; pay, offer to pay or acquiesce in the payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the case; counsel or advise a witness to provide other than honest testimony.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

61B-80.108 Communication with an Arbitrator.

(1) While a case is pending and within 15 days of entry of a final order, no party or other person directly or indirectly interested in an arbitration proceeding nor anyone authorized to act on behalf of a party or other interested person shall communicate verbally or in writing in the absence of all parties with an arbitrator or with the Department of Business and Professional Regulation concerning the merits of the arbitration proceeding, threaten an arbitrator, or offer an arbitrator any reward with respect to the conduct or outcome of a proceeding. No party or other interested person shall attempt to telephone or otherwise contact the arbitrator unless all parties are joined in the telephone call or otherwise included in the communication.

(2) An arbitrator who has received a communication prohibited by this rule, or who has received a threat or offer of reward by any person with respect to the conduct or outcome of a proceeding, shall place upon the record all written communications received, all written responses to such communications and a memorandum stating the substance of all oral communications received and all oral responses made, simultaneously serving all parties.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

61B-80.109 Withdrawal or Dismissal of Petition; Settlement.

(1) A petitioner may withdraw or dismiss the petition in writing at any time prior to the entry of a final order. Such withdrawal or dismissal shall be without prejudice to re-filing the petition at a later date. Upon the filing of a dismissal or withdrawal, the arbitrator shall enter an order closing the case file. The filing of a dismissal or withdrawal shall not preclude an award of prevailing party costs and attorney's fees. Where a petitioner voluntarily dismisses the petition, such dismissal



shall not relieve the petitioner of the requirement of mandatory binding arbitration for resolution of the dispute; the dispute shall not be filed in the courts but may be re-filed for binding arbitration at a later date.

(2) The petitioner or the parties may request dismissal of the case based on settlement of the dispute. The settlement of a dispute shall not preclude a later award of prevailing party costs and attorney's fees.

(3) Withdrawal of a petition for arbitration of a recall shall be with prejudice; that is, the recall petition can never be re-filed with reference to that recall effort. If the board withdraws the petition, unless otherwise provided in the final order, the recall shall be deemed certified and the board members recalled. The board member or members recalled shall turn over all association records in his or their possession within five full business days after the withdrawal is filed (i.e., received by the division).

(4) Where a respondent undertakes corrective action that ends the dispute between the parties, the respondent shall immediately so notify the arbitrator.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

#### 61B-80.110 Filing; Service of Papers; Signing.

(1) Filing. Unless specifically ordered by the arbitrator or provided for by these rules, every pleading or other paper filed in the proceedings, except an initial petition for arbitration, shall also be served on each party.

#### (2) Method and Proof of Service.

(a) When service is to be made upon a party represented by an attorney or by a qualified representative, service shall be made upon the attorney or representative unless service upon the party is ordered by the arbitrator. Service shall be made by delivering or mailing, by United States mail postage prepaid, a copy of the document to the attorney, representative, or party at that person's last known address.

(b) In a recall arbitration proceeding, when the homeowners have not designated a homeowner representative to represent their interests or when the homeowner representative cannot be ascertained, the arbitrator shall require that the association post a copy of the petition for recall arbitration, the order allowing answer, or other pleading or order on the association property in the same location as it posts notices of meetings in accordance with subparagraph 720.303(2)(c)1., F.S.

(c) Certificate of Service. When any attorney, representative, or unrepresented party signs a certificate of service such as the following, the certificate of service shall be taken as evidence of service in compliance with these rules:

"I certify that a copy hereof has been furnished to (here insert name or names and address or addresses) by United States (U.S.) mail this \_\_\_ day of \_\_\_, 20\_\_\_."

#### Signature

(3) Number of Copies. Only the original of all pleadings shall be filed with the arbitrator; no copies shall be filed. However, the initial petition for recall or election arbitration shall be accompanied by one (1) copy for the respondents.

(4) "Filing" shall mean actual receipt by the division during normal business hours or by the arbitrator during the course of a hearing. Pleadings including the initial petition or other communications may be filed by regular hard copy or facsimile, and if filed by facsimile, a hard copy of the pleading or other communication need not be filed with the arbitrator; however, the party using facsimile filing bears the burden of ensuring that the pleading or other correspondence has actually been filed with the arbitrator. If a document is filed via facsimile, the facsimile confirmation sheet shall be evidence of the date on which the division received the document. A facsimile copy is filed within the meaning of this rule when the facsimile copy of the document is received by the division. No pleadings shall be faxed that exceed 30 pages in length including attachments. When a party files a facsimile document with the arbitrator, the party shall also provide a facsimile copy to the other party if the fax number is available. If a party desires to receive orders via e-mail, the party must provide its e-mail address to the arbitrator assigned to the case.

(5) Any pleading or other document received after 5:00 p.m. shall be deemed to be filed as of 8:00 a.m. on the next regular business day.

(6) All pleadings and motions filed shall contain the following:

(a) The style of the proceeding involved;

(b) The case number, if any;

(c) The name of the party on whose behalf the pleading or motion is filed;

(d) The name, address, and telephone number of the person filing the pleading or motion;

(e) The signature of the person filing the pleading or motion; and

(f) A certificate of service attesting that copies have been furnished to other parties as required by subsection (2)(c) of this rule.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

61B-80.111 Answer and Defenses.

(1) After a petition for arbitration is filed and assigned to an arbitrator, the respondent will be mailed a copy of the petition by the arbitrator, and will be given an opportunity to answer the petition. Unless a shorter time is ordered by the arbitrator in cases where the health, safety, or welfare of the resident(s) of a community is alleged to be endangered, a respondent in an election dispute shall file the answer with the arbitrator, and shall mail a copy to the petitioner, within 20 days after receipt of the petition. In a recall dispute, the respondent shall have 10 days in which to file an answer. The answer shall include all defenses and objections, and shall be filed on DBPR FORM HOA 6000-9, ANSWER TO PETITION, incorporated in Rule 61B-80.101, F.A.C. The answer shall not include a request for relief (counterclaim) against the petitioner. Any claim or request for relief must be filed as a new petition following the procedure provided in subsection 61B-80.101(3), F.A.C.

(2) The service of any motion under these rules does not alter the period of time in which to file an answer, except that service of a motion in opposition to the petition in an election dispute postpones the time for filing of the answer until 20 days after the arbitrator's ruling on the motion. The following defenses shall be made by motion in opposition to the petition:

- (a) Lack of jurisdiction over the subject matter.
- (b) Lack of jurisdiction over the person.
- (c) Insufficiency of process.
- (d) Insufficiency of service of process.
- (e) Failure to state a cause of action, and
- (f) Failure to join indispensable parties.

In the case of election arbitration proceedings, a motion making any of these defenses shall be made before the filing of the answer. The grounds on which any of the enumerated defenses are based and the substantial matters of law intended to be argued shall be stated specifically and with particularity in the responsive pleading or motion. Any ground not stated in the motion shall be deemed to be waived except any ground showing that the division lacks jurisdiction of the subject matter may be made at any time. In a recall proceeding, these enumerated defenses shall not be raised by motion but shall be included in the answer.

(3) Every defense in law or fact to a claim for relief in a petition shall be asserted in the answer. Unless otherwise determined by the arbitrator, any ground or defense not stated in the answer shall be deemed to be waived except any ground showing that the arbitrator lacks jurisdiction of the subject matter. Each defense shall be separately stated and shall include an identification of all facts upon which the defense is based.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

61B-80.112 Defaults and Final Orders on Default.

(1) When a party fails to file or serve any responsive document in the action or has failed to follow these rules or a lawful order of the arbitrator, the arbitrator shall enter a default against the party where the failure is deemed willful, intentional, or a result of neglect. No service need be made on parties against whom a default has been entered, except that pleadings asserting new or additional claims against them shall be served in the manner provided for service of the original petition for arbitration.

(2) Final orders on default may be entered at any time after the entry of a default. The arbitrator shall require affidavits as necessary to determine damages. The arbitrator may, within a reasonable time following entry of the final order on default, not to exceed one year, set aside a final order on default for reasons of excusable neglect, mistake, surprise, or inadvertence.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

61B-80.113 Motions; Motions for Temporary Injunctive Relief.

(1) During the course of a pending arbitration proceeding, a request to the arbitrator for an order granting some relief or request shall be made by written motion, unless made during a hearing. The motion shall state in detail the grounds for the relief requested and shall set forth the relief or order sought. The arbitrator shall conduct such proceedings and render such orders as are deemed necessary to dispose of issues raised by motion. Other parties may, within 7 days of service of a written motion or other time as provided by the arbitrator, file a written response in opposition to the motion.

(2) A party may, either with the original petition for arbitration, or any time before entry of a final order, file a motion for emergency relief or temporary injunction, which motion or accompanying argument shall demonstrate a clear legal right to the relief requested, that irreparable harm or injury exists or will result, that no adequate remedy at law exists, and that the relief or injunction would not be adverse to the public interest. An evidentiary hearing on a motion for emergency relief shall be scheduled and held as soon as possible after the filing of the motion and supporting petition for arbitration. The hearing will be held upon due notice after the petition for arbitration and motion are served on the opposing party and may be held prior to the filing of the answer.

(3) No temporary injunction shall be entered unless a bond is given by the movant in an amount the arbitrator upon testimony taken deems sufficient, conditioned for the payment of costs and damages sustained by the adverse party if the adverse party is wrongfully enjoined.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

**61B-80.114 Summary Disposition: Simplified Arbitration Procedure: No Disputed Issues of Material Fact.**

(1) Any dispute that does not involve a disputed issue of material fact shall be arbitrated as provided in this rule. Where there are no disputed issues of material fact, no formal evidentiary hearing shall be conducted. The arbitrator shall decide the dispute based solely upon the pleadings and evidence filed by the parties.

(2) At any time after the filing of the petition, if the parties do not dispute the important facts in a case, the arbitrator shall summarily enter a final order denying relief requested in the petition if the arbitrator finds that no preliminary basis for relief has been demonstrated in the petition.

(3) At any time after the filing of the petition, if the parties do not dispute the important facts, the arbitrator shall summarily enter a final order awarding relief and failing to certify the recall if the arbitrator finds that no meritorious defense exists or if substantial compliance with the requirements of the rules and statutes relating to recall has not been demonstrated, and the petition is otherwise appropriate for relief.

(4) Any party may move for summary final order whenever there are no disputed issues of material fact. The motion shall be accompanied by supporting affidavits if necessary. All other parties may, within 7 days of service of the motion, file a response in opposition, with or without supporting affidavits.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

**61B-80.115 Discovery.**

(1) The discovery process shall be used sparingly and only for the discovery of those things that are necessary for the proper disposition of the petition. Parties may obtain discovery only upon the prior approval of the arbitrator. A motion to conduct discovery shall describe with specificity the subject matter of the discovery and the method(s) by which discovery will be sought. The arbitrator may issue appropriate orders to effectuate the purposes of discovery and to prevent delay.

(2) Where discovery is permitted by order of the arbitrator, the parties may obtain discovery through the means and in the manner provided in rules 1.280 through 1.390, Florida Rules of Civil Procedure. However, a homeowner desiring to obtain copies of official association records for use in the proceeding shall utilize the owner's right of access to the official records as provided by Section 720.303, F.S., in lieu of formal discovery.

(3) A party may seek enforcement of an order directing discovery by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the order resides.

(4) At any time after the filing of the petition for arbitration, the arbitrator may enter an order requiring the parties or either party to submit supplemental information, evidence or affidavits in support of, supplementing, explaining, or refuting any legal or factual assertion contained in a petition, answer, affirmative defense, or motion or other pleading.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

**61B-80.116 Conduct of Proceeding by Arbitrator.**

(1) The failure or refusal of a respondent to comply with a provision of these rules or any lawful order of the arbitrator shall result in the striking of the answer including any defenses or pending claims where such failure is deemed willful, intentional, or a result of neglect.

(2) The failure or refusal of a petitioner to comply with any lawful order of the arbitrator or with a provision of these rules shall result in a dismissal of the petition where such failure is deemed willful, intentional, or a result of neglect.

(3) In order to expedite the case, the arbitrator may, without the agreement of the parties, conduct any proceeding permitted under these rules, including a motion hearing or final hearing, by telephone conference.

(4) At any time after a petition for arbitration has been filed with the division, the arbitrator may direct the parties to confer for the purpose of clarifying and simplifying issues, discussing the possibility of settlement, examining documents and other exhibits, exchanging names and addresses of witnesses, resolving other procedural matters, and entering into a prehearing stipulation.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

**61B-80.117 Subpoenas and Witnesses: Fees.**

(1) A subpoena requiring the attendance of witnesses or the production of documents, whether for purposes of discovery or for purposes of a final hearing, may be served by any person authorized by law to serve process or by any person who is not a party and who is of majority age, as provided in rule 1.410, Florida Rules of Civil Procedure, or as that rule may subsequently be renumbered. Proof of such service shall be made by affidavit of the person making service if not served by an officer authorized by law to do so.

(2) All witnesses, other than public employees subpoenaed to appear in their official capacity, appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as set forth in Section 92.142, F.S., or as that statute may subsequently be renumbered. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement; and, in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(3) Any party or any person upon whom a subpoena is served or to whom a subpoena is directed may file a motion to quash or for protective order.

(4) Subpoenas shall be issued from the arbitrator in blank except for the case style, the case number, the name, address and telephone number of the attorney or party requesting issuance of the subpoena and the signature of the arbitrator assigned. Subpoenas shall be completed and served by the party requesting issuance of the subpoenas.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

#### 61B-80.118 Stenographic Record and Transcript.

(1) Any party wishing to obtain a stenographic record shall make such arrangements directly with the court reporter for such services and shall notify the other parties of such arrangements in advance of the hearing. The requesting party or parties shall bear all the costs of obtaining such a record.

(2) Any party may have a stenographic record and transcript made of the final hearing at the party's own expense. The record transcript may be used in subsequent legal proceedings subject to the applicable rules of evidence.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

#### 61B-80.119 Conduct of Formal Hearing; Evidence.

(1) Hearings shall be open to the public. However, the arbitrator shall exclude any observer, witness or party who is disruptive to the conduct of the hearing.

(2) Each party shall have the right to present evidence, cross-examine the other party's witnesses, enter objections, and to rebut the evidence presented against the party.

(3) The arbitrator is authorized to administer oaths. Oral testimony shall be taken only upon oath or affirmation.

(4) Unless otherwise ordered by the arbitrator, the petitioner shall present its evidence and witnesses. Thereafter, the respondent may present its evidence and witnesses.

#### (5) Evidence.

(a) An arbitration proceeding is less formal than a court proceeding. The arbitrator shall admit any relevant evidence if it is the kind of evidence on which reasonable, prudent persons rely in the conduct of their affairs. Reliable, relevant evidence may be presented by the parties. Facts are to be proven through the testimony of witnesses under oath at the final hearing and through documents admitted into evidence at the request of a party. Hearsay evidence (i.e., statements not made at the final hearing under oath, used to establish the truth of the matter asserted) may be used to supplement or explain other evidence, but is not sufficient to support a finding, unless the hearsay evidence would be admissible in a court of law. The rules of

privilege shall be effective to the same extent that they are recognized in civil actions. Irrelevant and unduly repetitious evidence shall not be admitted into evidence.

(b) All exhibits shall be identified as petitioner's exhibits, respondent's exhibits, or as joint exhibits. The exhibits shall be marked in the order that they are received and made a part of the record.

(c) Documentary evidence may be received in the form of a photocopy.

(6) The arbitrator shall afford the parties an opportunity to submit proposed findings of fact, conclusions of law, and proposed orders, or legal briefs or memoranda on the issues, within a time designated by the arbitrator after the final hearing.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

#### 61B-80.120 Notice of Final Hearing; Scheduling; Venue; Continuances.

(1) The arbitrator shall set the time and place for all final hearings. The arbitrator shall serve written notice of the final hearing by regular mail on all parties of record.

(2) All hearings shall be held in the state of Florida. Whenever possible, hearings shall be held in the area of residence of the parties and witnesses or at the place most convenient to all parties as determined by the arbitrator.

(3) In the arbitrator's discretion, a duly schedule hearing may be delayed or continued for good cause shown. Requests for a continuance shall be made in writing. Except in cases of emergency, requests for continuance must be made at least 10 days prior to the date noticed for the final hearing.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

#### 61B-80.121 Final Orders and Appeals.

(1) Unless waived, a final order shall be entered within 30 days after any final hearing, receipt by the arbitrator of the hearing transcript if one is timely filed, or receipt of any post-hearing memoranda, whichever is applicable. The final order shall be in writing and shall include a statement of whether or not the recall was certified. Failure to render a decision within such time period shall not invalidate the decision.

(2) The final order shall be mailed to the parties, if unrepresented, or to their counsel or other qualified representative of record by regular U.S. mail. The final order shall include a certificate of service that shall show the date of mailing of the final order to the parties.

(3) In reaching a decision, the arbitrator may take official notice of and find as true without proof, any fact which may be judicially noticed by the courts of this state, including any arbitration final order or any final order of the division involving a similar or related issue.

(4) A final order or nonfinal order is effective upon its issuance and mailing unless otherwise provided in the order or unless a stay of the order has been applied for and granted by the arbitrator. A final order certifying the recall of one or more board members takes effect upon the mailing of the final order. As of the moment of mailing, those board members found to be recalled cease to be authorized board members and shall not exercise the authority of the association.

(5) The final order of the arbitrator is binding on the parties and may not be appealed. The final order of the arbitrator does not constitute final agency action and is not appealable to the district courts of appeal in the manner provided by Section 120.68, Florida Statutes. In any subsequent judicial proceeding, for example, where a party sues in court to enforce the final order, the department, the division, and the arbitrator are not necessary or proper parties and shall not be named as parties.

(6) The arbitrator in the final order may grant mandatory or prohibitory relief, declaratory relief, or any other remedy or relief that is just and equitable. No final order shall include a civil penalty assessed against a party. Relief may include certification of an election or recall, decertification of an election or recall, a requirement that a new election be held, certification of a candidate for election, decertification of a candidate, requiring a board to fill a vacancy or hold an election to fill a vacancy, requiring a director to return association records to the board, and cease acting as a board member, or other relief as may be appropriate in a given case.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

#### 61B-80.122 Technical Corrections; Rehearing.

(1) Any party may file a motion for rehearing or a motion to correct any clerical mistake or error arising from oversight or omission in any final order entered by an arbitrator within 15 days of the date on which the order was entered. "Clerical corrections" shall be generally defined as computational corrections, correction of clerical mistake or typographical error or other minor corrections of error arising from oversight or omission; or an evident miscalculation of figures or an evident mistake in the description of any thing, person, or property referred to in the order; or an award by the arbitrator upon a matter not submitted. A motion for rehearing shall state with particularity the points of law or fact that the arbitrator has overlooked or misapprehended but shall not re-argue the merits of the final order. Any response shall be filed within 10 days of service of the motion.

(2) The arbitrator may on his or her own motion initiate entry of a corrected order as described by subsection (1) above within 60 days of the entry of the final order. A timely filed motion for rehearing tolls the time in which a party must file to recover its costs and attorney's fees, until after disposition of the motion for rehearing or reconsideration.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

#### 61B-80.123 Motions for Attorney's Fees and Costs.

(1) The prevailing party in a proceeding brought pursuant to Section 720.311, F.S., is entitled to an award of reasonable costs and attorney's fees. A prevailing party is a party that obtained a benefit from the proceeding and includes a party where the opposing party has voluntarily provided the relief requested in the petition, in which case it is deemed that the relief was provided in response to the filing of the petition.

(2) Any party seeking an award of costs and attorney's fees must request the award in writing prior to the rendition of the final order, failing which no motion for costs and attorney's fees will be granted.

(3) A party prevailing in an arbitration proceeding must file a motion requesting an award of costs and attorney's fees within 30 days following entry of a final order, or final order on rehearing entered in response to a timely filed motion for rehearing. The motion is considered filed when it is actually received by the division.

(4) The motion must specify the hourly rate claimed and must include an affidavit of the attorney who performed the work that states the number of years the attorney has practiced law, must indicate each activity for which compensation is sought, and must state the time spent on each activity. In a case involving multiple issues or counts, the affidavit shall present time activity broken down by issue or count.

(5) If an award of costs is sought, the party seeking recovery of costs shall attach receipts or other documentation to provide evidence of the costs incurred. Costs will be awarded consistent with Florida case law and the Statewide Uniform Guidelines for Taxation of Costs in Civil Actions. The cost of personal service by an authorized process server is only a recoverable cost if such personal service is either authorized or required by the arbitrator. The cost of attending a hearing by a court reporter is a recoverable cost; the cost of preparing a transcript of the hearing is only a recoverable cost if the transcript or a portion thereof, is filed with the arbitrator prior to rendition of the final order.

Specific Authority 718.1255(4)(i), 718.112(2)(j)5., 720.303(10)(d), 720.306(9), 720.311(1) FS. Law Implemented 720.303(10), 720.306(9), 720.311(1) FS. History—New \_\_\_\_\_.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2004  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums, and Mobile Homes**

RULE TITLES:	RULE NOS.:
Right to Recall and Replace a Board Director; Developers; Other Members; Class Voting	61B-81.001
Recall of One or More Directors of a Board at a Homeowner Meeting; Board Certification; Filling Vacancies	61B-81.002
Recall by Written Agreement of the Voting Interests; Board Certification; Filling Vacancies	61B-81.003

PURPOSE AND EFFECT: Addresses certain procedural and substantive issues regarding recall by written agreement and recall at a meeting in a homeowners' association pursuant to Sections 720.303(10), 720.306(9) and 720.311(1), Florida Statutes.

SUMMARY: Mandatory binding arbitration of recall disputes in homeowners' associations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 718.112(2)(j)5., 720.303(10)(d), 720.311(1) FS.

LAW IMPLEMENTED: 720.301, 720.303(10), 720.307, 720.3075(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: 10:00 a.m., October 25, 2004

PLACE: Warren Building Conference Room #B03, 201 W. Bloxham Street, Tallahassee, Florida 32399-1030

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting Sharon A. Elzie, Senior Management Analyst II at (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULES IS:

SUBSTANTIVE RULES FOR RECALLS IN HOMEOWNERS ASSOCIATIONS

61B-81.001 Right to Recall and Replace a Board Director; Developers; Other Members; Class Voting.

(1) For purposes of these rules, "homeowner" is the "member" or "parcel owner" who has the "voting interest" as those terms are defined by Section 720.301, F.S.

(2) Developer Representatives. When both a developer and other homeowners are entitled to representation on a board of directors pursuant to Section 720.307, F.S., the following provisions apply to recall and replacement of directors elected or appointed by a developer:

(a) Only parcels owned by the developer shall be counted to establish a quorum for a meeting to recall and replace a director who was elected or appointed by that developer.

(b) The percentage of voting interests required to recall a director who was elected or appointed by a developer is a majority of the total parcels owned by that developer.

(c) A director who is elected or appointed by a developer may be recalled only by that developer.

(d) Only the developer may vote to fill a vacancy on the board previously occupied by a director elected or appointed by that developer.

(3) Homeowner Representatives. When both a developer and other homeowners are entitled to representation on a board of administration pursuant to Section 720.307, F.S., the following provisions apply to recall and replacement of directors elected or appointed by homeowners other than a developer:

(a) Only parcels owned by homeowners other than a developer shall be counted to establish a quorum at a meeting to recall and replace a director elected by homeowners other than a developer.

(b) The percentage of voting interests required to recall a director elected by homeowners other than a developer is a majority of the total parcels owned by homeowners other than a developer.

(c) A director who is elected by homeowners other than a developer may be recalled only by homeowners other than a developer.

(d) Only homeowners other than a developer may vote to fill a vacancy on the board previously occupied by a director elected by homeowners other than a developer.

(4) Class Voting. When the governing documents provide that a specific class of homeowners is entitled to elect a director or directors to the board, the class of homeowners electing such director or directors to the board shall constitute all the voting interests that may recall or remove such director or directors.

Specific Authority 718.112(2)(i)5, 720.303(10)(d), 720.311(1) FS. Law Implemented 720.301, 720.303(10), 720.307, 720.3075(1) FS. History—New

61B-81.002 Recall of One or More Directors of a Board at a Homeowner Meeting; Board Certification; Filling Vacancies.

(1) Calling a Recall Meeting. If the governing documents specifically allow recall at a homeowners meeting, 10 percent of the voting interests may call a meeting of the homeowners to recall one or more directors of the board by the voting interests giving the notice specified in paragraphs (2)(a) and (b) below.

(2) Noticing a Recall Meeting.

(a) Signature List. Prior to noticing a homeowners' meeting to recall one or more directors of the board, a list shall be circulated for the purpose of obtaining signatures of not less than 10 percent of the voting interests. The signature list shall:

1. State that the purpose for obtaining signatures is to call a meeting of the homeowners to recall one or more directors of the board;

2. State that replacement directors shall be elected at the meeting if a majority or more of the existing directors are successfully recalled at the meeting; and

3. Contain lines for the voting interest to fill in his or her parcel number, signature and date of signature.

(b) Recall Meeting Notice. The recall meeting notice shall:

1. State that the purpose of the members' meeting is to recall one or more directors of the board and, if a majority or more of the board is subject to recall, the notice shall also state that an election to replace recalled directors will be conducted at the meeting;

2. List by name each director sought to be recalled at the meeting, even if all directors are sought to be recalled;

3. Specify a person, other than a director subject to recall at the meeting, who shall determine whether a quorum is present, call the meeting to order, preside, and proceed as provided in paragraph (3)(b) of this rule;

4. List at least as many eligible persons who are willing to be candidates for replacement directors as there are directors sought to be recalled, in those cases where a majority or more of the board is sought to be recalled. Candidates for replacement directors shall not be listed when a minority of the

board is sought to be recalled, as the remaining directors may appoint replacements. In addition, the notice must state that nominations for replacement directors may be taken from the floor at the meeting;

5. Have attached to it a copy of the signature list referred to in paragraph (2)(a) above;

6. Be mailed or delivered to all homeowners as required in the governing documents for a meeting of the homeowners; and

7. Be delivered to the board at least 10 days prior to the recall meeting. The notice shall become an official record of the association upon actual receipt by the board.

(3) Recall Meeting; Electing Replacements.

(a) Date for Recall Meeting. A recall meeting shall be held not less than 10 days nor more than 20 days from the date when the notice of the recall meeting is mailed or delivered.

(b) Conducting the Recall Meeting. After determining that a quorum exists (proxies may be used to establish a quorum) and the meeting is called to order, the voting interests shall proceed, as follows:

1. A representative to receive pleadings (e.g., copies of a petition for recall arbitration; motions), notices, or other papers on behalf of the recalling homeowners in the event the board disputes the recall, shall be elected or designated by the presiding officer.

2. A person to record the minutes of the recall meeting, who shall not be a board director subject to recall at that meeting, shall be elected or designated by the presiding officer.

3. The requirements of this subsection do not prohibit the voting interests from electing one person to perform one or more of these functions.

(c) Recall Meeting Minutes. The minutes of the recall meeting shall:

1. Record the date and time the recall meeting was called to order and adjourned;

2. Record the name or names of the person or persons chosen as the presiding officer, the recorder of the official minutes and the unit owner representative's name and address;

3. Record the vote count taken on each director of the board sought to be recalled;

4. State whether the recall was effective as to each director sought to be recalled;

5. Record the vote count taken on each candidate to replace the board directors subject to recall and, if applicable, the specific seat each replacement board director was elected to, in those cases where a majority or more of the existing board was subject to recall; and

6. Be delivered to the board and, upon such delivery to the board, become an official record of the association.

(d) Separate Recall Vote. The voting interests shall vote to recall each board director separately.

(e) Filling Vacancies. When the voting interests have recalled one or more board directors at a homeowners' meeting, the following provisions apply regarding the filling of vacancies on the board:

1. If less than a majority of the existing board is recalled at the meeting, no election of replacement board directors shall be conducted at the homeowners' meeting as the existing board may, in its discretion, fill these vacancies, subject to the provisions of Section 720.307, F.S., by the affirmative vote of the remaining board directors. In the alternative, if less than a majority of the existing board is recalled at the homeowners meeting, the board may call and conduct an election to fill a vacancy or vacancies;

2. If a majority or more of the existing board is recalled at the meeting, an election shall be conducted at the recall meeting to fill vacancies on the board occurring as a result of recall. The voting interests may vote to elect replacement board directors in an amount equal to the number of recalled directors.

(f) Taking office. When a majority or more of the board is recalled at a homeowners' meeting, replacement directors shall take office:

1. Upon the expiration of five full business days after adjournment of the homeowners' recall meeting, if the board fails to hold its board meeting to determine whether to certify the recall within five full business days of the adjournment of the homeowners' recall meeting; or,

2. Upon the expiration of five full business days after adjournment of the board meeting to determine whether to certify the recall, if the board fails to certify the recall and fails to file a petition for arbitration; or,

3. Upon certification of the recall by the board; or,

4. Upon certification of the recall by the arbitrator, in accordance with subparagraph (5)(b)4. of this rule, if the board files a petition for recall arbitration.

(g) After adjournment of the meeting to recall one or more members of the board of administration:

1. Any rescission of an individual homeowner's vote or any additional homeowners' votes received in regard to the recall shall be ineffective.

2. Where the board determines not to certify the recall of a director and that director resigns, any appointment to fill the resulting vacancy shall be temporary pending the arbitration decision.

(4) Substantial compliance with the provisions of subsections (1), (2) and (3) of this rule shall be required for the effective recall of one or more directors of the board.

(5) Board Meeting Concerning a Recall at Meeting of the Homeowners; Filling Vacancies. The board shall properly notice the board meeting at which it will determine whether to certify the recall of one or more directors at a homeowners' meeting. It shall be presumed that recall of one or more directors at a homeowners' meeting shall not, in and of itself,

constitute grounds for an emergency meeting of the board if the board has been provided notice of the recall meeting as provided in subparagraph (2)(b)7. of this rule.

(a) Certified Recall. If the recall of one or more directors by vote at a homeowners' meeting is certified by the board, the recall shall be effective upon certification, and the following provisions apply:

1. Each recalled director shall return to the board all association records in his or her possession within five full business days after adjournment of the board meeting at which the recall was certified.

2. If less than a majority of the existing board is recalled in a certified recall, a vacancy or vacancies on the board may be filled by the affirmative vote of a majority of the remaining board members, subject to the provisions of Section 720.307, F.S., regardless of whether the authority to fill vacancies in this manner is provided in the governing documents. No recalled director shall be appointed by the board to fill any vacancy on the board. A director appointed pursuant to this rule shall fill the vacancy for the unexpired term of the seat being filled. If the board determines not to fill vacancies by vote of the remaining directors or if it is unable to fill vacancies in this manner (e.g., if there is a tie vote on the proposed replacement director; if a quorum is not obtained, or otherwise), the board may, in its discretion, call and hold an election in the manner provided by Section 720.306(9), F.S., in which case any person elected shall fill the entire remaining term.

3. If a majority or more of the board is recalled in a certified recall, those replacement directors elected at the recall meeting shall take office upon adjournment of the board meeting at which it was determined to certify the recall. A director who is elected to fill a vacancy caused by recall shall fill the vacancy for the unexpired term of the seat being filled.

(b) Non-certification of Recall by the Board. If the board votes for any reason not to certify the recall of one or more directors at a meeting of the homeowners, the following provisions apply:

1. The board shall, subject to the provisions of these rules file a petition for arbitration with the division (i.e., be received by the division) within five full business days after adjournment of the board meeting at which the board determined not to certify the recall of one or more directors.

2. Any director sought to be recalled shall, unless he or she resigns, continues to serve on the board until a final order regarding the validity of the recall is mailed by the arbitrator.

3. If the arbitrator certifies the recall of less than a majority of the board, the remaining directors may fill the vacancy or vacancies as provided in subparagraph (5)(a)2. of this rule.

4. If the arbitrator certifies the recall of a majority or more of the board, the term of office of those replacement directors elected at the recall meeting shall become effective upon mailing of the final order of arbitration. The term of office of



replacement directors elected at the recall meeting shall expire in accordance with the provisions of subparagraph (5)(a)3. of this rule.

(6) Failure to Duly Notice and Hold the Board Meeting. If the board fails to duly notice and hold a meeting to determine whether to certify the recall within five full business days of the adjournment of the homeowners' recall meeting, the following shall apply:

(a) The recall under these circumstances shall be deemed effective immediately upon expiration of the last day of five full business days after adjournment of the homeowners' recall meeting.

(b) If a majority of the board is recalled, replacement directors elected at the homeowners' meeting shall take office immediately upon expiration of the last day of five full business days after adjournment of the homeowners' recall meeting, in the manner specified in this rule.

Specific Authority 718.112(2)(i)5, 720.303(10)(d), 720.311(1) FS. Law Implemented 720.303(10), 720.307, 720.3075(1) FS. History--New

#### 61B-81.003 Recall by Written Agreement of the Voting Interests; Board Certification; Filling Vacancies.

(1) Form of Written Agreement. All written agreements used for the purpose of recalling one or more directors shall:

(a) List by name each director sought to be recalled;

(b) Provide spaces by the name of each director sought to be recalled so that the person executing the agreement may indicate whether that individual director should be recalled or retained;

(c) List, in the form of a ballot, at least as many eligible persons who are willing to be candidates for replacement directors as there are directors subject to recall, in those cases where a majority or more of the board is sought to be recalled. Candidates for replacement directors shall not be listed when a minority of the board is sought to be recalled, as the remaining board may appoint replacements. A space shall be provided by the name of each candidate so that the person executing the agreement may vote for as many replacement candidates as there are directors sought to be recalled. A space shall be provided and designated for write-in votes. The failure to comply with the requirements of this subsection shall not effect the validity of the recall of a director or directors;

(d) Provide a space for the person signing the written agreement to state his or her name, identify his parcel by number or street address and indicate the date the written agreement is signed;

(e) Provide a signature line for the person executing the written agreement to affirm that he or she is authorized in the manner required by the governing documents to cast the vote for that parcel;

(f) Designate a representative who shall open the written agreements, tally the votes, serve copies on the board and, in the event the board does not certify the recall by written

agreement and files a petition for arbitration, receive pleadings (e.g., copies of a petition for recall arbitration; motions), notices, or other papers on behalf of the persons executing the written agreement;

(g) The written agreement or a copy shall be served on the board by certified mail or by personal service. Service on the board after 5:00 p.m. on a business day or on a Saturday, Sunday or legal holiday, as prescribed by Section 110.117, F.S., shall be deemed effective as of the next business day that is not a Saturday, Sunday, or legal holiday. Service of the written agreement on an officer, association manager, board director or the association's registered agent will be deemed effective service on the association. Service upon an attorney who has represented the association in other legal matters will not be effective on the association unless that attorney is a director, the association's registered agent, or has otherwise been retained by the association to represent it in the recall proceeding. Personal service shall be effected in accordance with the procedures set out in Chapter 48, F.S., and the procedures for service of subpoenas as set out in rule 1.410(c), Florida Rules of Civil Procedure; and

(h) Become an official record of the association upon service upon the board.

(i) Written recall ballots in a recall by written agreement may be reused in one subsequent recall effort. A written recall ballot expires 120 days after it is signed by a homeowner. Written recall ballots become void with respect to the director sought to be recalled where that director is elected during a regularly scheduled election.

(j) Written recall ballots may be executed by an individual holding a power of attorney or limited or general proxy given by the homeowner(s) of record.

(k) Any rescission or revocation of a homeowner's written recall ballot or agreement must be done in writing and must be delivered to the board prior to the board being served the written recall agreements.

(2) Substantial compliance with the provisions of subsection (1) of this rule shall be required for an effective recall of a director or directors.

(3) Board Meeting Concerning a Recall by Written Agreement; Filling Vacancies. The board shall hold a duly noticed meeting of the board to determine whether to certify (to validate or accept) the recall by written agreement within five full business days after service of the written agreement upon the board. It shall be presumed that service of a written agreement to recall one or more directors shall not, in and of itself, constitute grounds for an emergency meeting of the board to determine whether to certify the recall.

(a) Certified Recall. If the board votes to certify the written agreement to recall, the recall shall be effective upon certification, and the following provisions apply:

1. Each recalled director shall return to the board all association records in his or her possession within five full business days after adjournment of the board meeting at which the recall was certified.

2. If less than a majority of the existing board is recalled in a certified recall, a vacancy or vacancies on the board may be filled by the affirmative vote of a majority of the remaining directors, subject to the provisions of Section 720.307, F.S., relating to developer control of the association and regardless of whether the authority to fill vacancies in this manner is provided in the governing documents. No recalled director shall be appointed by the board to fill any vacancy on the board. A director appointed pursuant to this rule shall fill the vacancy for the unexpired term of the seat being filled. If the board determines not to fill vacancies by vote of the remaining directors or if it is unable to fill vacancies in this manner (e.g., if there is a tie vote on the proposed replacement director; if a quorum is not obtained, or otherwise) the board may, in its discretion, call and hold an election in the manner provided by Section 720.306(9), F.S., in which case any person elected shall fill the entire remaining term.

3. If a majority or more of the board is recalled in a certified recall, those replacement directors elected by the written agreement pursuant to the procedure referenced in paragraph (1)(c) of this rule shall take office upon adjournment of the board meeting at which it was determined to certify the recall. A director who is elected to fill a vacancy caused by recall shall fill the vacancy for the unexpired term of the seat being filled.

(b) Non-certification of Recall by the Board. If the board votes not to certify the written agreement to recall for any reason, the following provisions apply:

1. The board shall, consistent with the provisions of Chapter 61B-80, F.A.C., file a petition for arbitration with the division (i.e., be received by the division) within five full business days after adjournment of the board meeting at which the board determined not to certify the written agreement to recall.

2. Any director sought to be recalled shall, unless he or she resigns, continue to serve on the board until a final order regarding the validity of the recall is mailed by the arbitrator.

3. If the arbitrator certifies the recall of less than a majority of the board, the remaining directors may fill the vacancy or vacancies as provided in subparagraph (3)(a)2. of this rule.

4. If the arbitrator certifies the recall of a majority or more of the board, the term of office of those replacement board members elected by written agreement of the voting interests shall become effective upon mailing of the final order of arbitration. The term of office of those replacement directors elected by written agreement of the voting interests shall expire in accordance with the provisions of subparagraph (3)(a)3. of this rule.

5. A majority of the total voting interests entitled to vote in favor of recall is sufficient to recall a director, regardless of any provision to the contrary in the governing documents.

6. The failure of the association to enforce a voting certificate requirement in past association elections and homeowner votes shall preclude the association from rejecting a written recall ballot or agreement for failing to comply with a voting certificate requirement.

(4) Board Meeting Minutes. The minutes of the board meeting at which the board determines whether to certify the recall are an official record of the association and shall record the following information:

(a) A majority of the total voting interests entitled to vote in favor of recall is sufficient to recall a director, regardless of any provision to the contrary in the governing documents.

(b) The failure of the association to enforce a voting certificate requirement in past association elections and homeowner votes shall preclude the association from rejecting a written recall ballot or agreement for failing to comply with a voting certificate requirement.

(c) The date and time the board meeting is called to order and adjourned;

(d) Whether the recall is certified by the board;

(e) The manner in which any vacancy on the board occurring as a result of recall will be filled, if the recall is certified; and

(f) If the recall was not certified, the specific reasons it was not certified.

(5) After service of a written agreement on the board:

(a) Any written rescission of an individual homeowner vote or any additional homeowner votes received in regard to the recall shall be ineffective.

(b) Where the board determines not to certify the recall of a director and that director resigns, any appointment to fill the resulting vacancy shall be temporary pending the arbitration decision.

(6) Taking Office. When a majority or more of the board is recalled by written agreement, replacement directors shall take office:

(a) Upon the expiration of five full business days after service of the written agreement on the board, if the board fails to hold its board meeting to determine whether to certify the recall within five full business days after service of the written agreement;

(b) Upon the expiration of five full business days after adjournment of the board meeting to determine whether to certify the recall, if the board fails to certify the recall and fails to file a petition for arbitration;

(c) Upon certification of the recall by the board; or

(d) Upon certification of the recall by the arbitrator, in accordance with subparagraph (3)(b)4. of this rule, if the board files a petition for recall arbitration.

(7) Failure to Duly Notice and Hold a Board Meeting. If the board fails to duly notice and hold the board meeting to determine whether to certify the recall within five full business days of service of the written agreement, the following shall apply:

(a) The recall shall be deemed under these circumstances effective immediately upon expiration of the last day of the five full business days after service of the written agreement on the board.

(b) If a majority of the board is recalled, replacement directors elected by the written agreement shall take office upon expiration of five full business days after service of the written agreement on the board in the manner specified in this rule.

(c) If the entire board is recalled, each recalled director shall immediately return to the replacement board all association records in his or her possession. If less than the entire board is recalled, each recalled director shall immediately return to the board all association records in his or her possession.

Specific Authority 718.112(2)(i)5, 720.303(10)(d), 720.311(1) FS. Law Implemented 720.303(10), 720.307, 720.3075(1) FS. History—New

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums, and Mobile Homes**

RULE TITLES:	RULE NOS.:
Scope; Nature of Remedy; Forms	61B-82.001
Filing Petition for Mediation	61B-82.002
Answer	61B-82.003
Assignment of Mediator; Billing	61B-82.004
Parties	61B-82.005
Disputes Eligible for Mediation; Relief Requested	61B-82.006
Subsequent Proceedings; Conclusion of Mediation Proceeding	61B-82.007

PURPOSE AND EFFECT: Provides the procedural rules to be used in the mandatory mediation program of homeowners' association disputes governed by Section 720.311(1),(2), Florida Statutes.

SUMMARY: Mandatory mediation of homeowners' association disputes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 720.311(1) FS.

LAW IMPLEMENTED: 720.311(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. IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD.

TIME AND DATE: 10:00 a.m., October 25, 2004

PLACE: Warren Building Conference Room #B03, 201 W. Bloxham Street, Tallahassee, Florida 32399-1030

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULES IS:

THE RULES OF MEDIATION PROCEDURE IN HOMEOWNERS' ASSOCIATIONS

61B-82.001 Scope; Nature of Remedy; Forms.

(1) This chapter shall be entitled "The Rules of Mediation Procedure in Homeowners' Associations" and shall govern the mediation of disputes between a homeowners' association and a homeowner or homeowners pursuant to Section 720.311(2), F.S. In addition to these rules, mediation shall be conducted in accordance with Florida Rules of Civil Procedure 1.700-1.750. Only disputes arising or existing on or after October 1, 2004 and not filed in the courts by October 1, 2004, are subject to mediation under Section 720.311(2), F.S.

(2) The mediation program described by Section 720.311(2), F.S., is a mandatory mediation program. Before a dispute within the jurisdiction of the mediation program may be filed in the courts, the dispute must be filed for mediation with the division. If an action has incorrectly been filed in court without first being filed for mediation, the court may dismiss or abate the court case as appropriate pending mediation of the dispute. There is no requirement that a court action be instituted at the conclusion of a mediation proceeding.

(3) All forms referenced in these rules may be obtained by writing to the Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes, Director's Office, 1940 North Monroe Street, Tallahassee, Florida 32399-1030. All forms referenced in these rules may be obtained on-line at: <http://www.myflorida.com/dbpr/>.

(4) All forms and pleadings filed with the division in connection with a mediation proceeding should be mailed to the Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes, Director's Office, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, except that a petition or other pleading may be filed with the division via telefax at (850)921-5446.

(5) In order to file a petition for mediation, a petitioner must use DBPR FORM HOA 6000-5, PETITION FOR MEDIATION IN HOMEOWNERS' ASSOCIATIONS, incorporated herein by reference and effective \_\_\_\_\_. In order to file an answer to the petition for mediation, a respondent must use DBPR FORM HOA 6000-9, ANSWER TO PETITION, incorporated by reference and effective \_\_\_\_\_. In order for someone who is not a member of the Florida Bar to represent a party in a proceeding, the person must file a completed DBPR FORM HOA 6000-6 QUALIFIED REPRESENTATIVE APPLICATION, incorporated herein by reference and effective \_\_\_\_\_.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History--New \_\_\_\_\_.

61B-82.002 Filing Petition for Mediation.

(1) In order to file a petition for mediation with the division under subsection 720.311(2), F.S., a homeowner or a homeowners' association must file a completed DBPR FORM HOA 6000-5, PETITION FOR MEDIATION IN HOMEOWNERS' ASSOCIATION, and shall include a \$200 filing fee. The petition for mediation shall be filed with the division, and must include an additional copy of the petition for each respondent named in the petition. No petition for mediation will be acted upon by the division prior to October 1, 2004.

(2) All petitions for mediation shall be signed by the party filing the petition for mediation, by a member of the Florida Bar, or where a party seeks to have representation by a person

who is not a member of the Florida Bar, by a qualified representative who has submitted an application to appear on DBPR FORM HOA 6000-6, QUALIFIED REPRESENTATIVE APPLICATION.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History--New \_\_\_\_\_.

61B-82.003 Answer.

(1) After a petition for mediation is filed, the division will mail a copy of the petition to the respondent by certified mail along with a copy of the petition for mediation and an order requiring answer. The answer shall be filed with the division, with a copy directed to the other party, within 14 days after the respondent receives the order requiring answer. The answer shall be submitted on DBPR FORM HOA 6000-9, ANSWER TO PETITION.

(2) A motion to dismiss shall not be filed in lieu of the answer but may be filed along with the answer. The answer shall include all defenses to the dispute set forth in the petition for mediation, including lack of subject matter jurisdiction or other defense.

(3) The requirement that a respondent file an answer is intended to facilitate the mediation effort so that the petitioner and the mediator are aware of factual and legal defenses to the dispute set forth in the petition for mediation. If a respondent fails to timely file an answer, sanctions shall be imposed by the mediator or by the division on the respondent for failure to participate in the mediation process. Sanctions shall include an award of the mediation costs and fees to the petitioner. The petitioner under such circumstances may apply to a court for an order compelling the filing of an answer and for enforcement of any sanctions imposed by the division.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History--New \_\_\_\_\_.

61B-82.004 Assignment of Mediator; Billing.

(1) After an answer has been filed, the division shall refer the dispute either to an in-house mediator or to a private mediator who has been certified by the division in the operation of community associations. The mediator shall coordinate the scheduling and conduct of the mediation session.

(2) Billing. If a private mediator is used, the mediator shall bill the parties directly who shall share the expenses and fees of the mediator equally, unless the parties agree to a different arrangement. The division is not responsible for collecting fees not paid to a private mediator and will not seek enforcement or collection of the private mediator's fees. If a division mediator is used, the parties will share the expenses and fees of the mediator equally unless otherwise agreed to, and the division will bill the parties following the conduct of the mediation session.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History--New \_\_\_\_\_.

61B-82.005 Parties.

(1) Parties in mediation proceedings conducted pursuant to subsection 720.311(2), F.S., shall be homeowners' associations and homeowners that are involved in a dispute, and may include tenants where the division has jurisdiction over the subject matter of the dispute and where the involved homeowner is also made a party. Parties may also include voting members of voluntary community associations as provided by paragraph 720.311(2)(d), F.S. For purposes of these rules "homeowners" means "members" and "parcel owners" who are voting members of the association as those terms are defined by Section 720.301, F.S. The division only has jurisdiction over disputes involving homeowners' association and a homeowner or homeowners. Disputes involving third persons such as disappointed purchasers, or tenants rejected by the association as prospective tenants, are not subject to mediation under Section 720.311, F.S.

(2) Once a person is served and joined as a party in a mediation proceeding, that party is entitled to receive copies of all pleadings and written communication filed with the division by other parties.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History—New \_\_\_\_\_.

61B-82.006 Disputes Eligible for Mediation; Relief Requested.

(1) Disputes which are required to be mediated prior to being filed in the courts include disputes regarding amendments to the governing documents, including amendments to the association's bylaws, articles of incorporation, or rules or regulations, and any declaration of covenants and restrictions applicable to the property operated by the association.

(2) Disputes subject to mediation also include disputes regarding meetings of the board and committee meetings, membership meetings not including election disputes, disputes regarding the failure to maintain or provide access to official records, and disputes regarding the use of or changes to the common areas or parcels. Other covenant enforcement disputes that are subject to the requirement of mediation include pet restrictions, parking and vehicle disputes, nuisance disputes, disputes regarding common area or parcel use restrictions, and disputes concerning fines, fees, and other charges levied by an association where the fine, fee, or other charge, if unpaid, cannot become a lien on the parcel.

(3) Relief Requested. Where a petitioner seeks damages, the dispute shall be considered subject to the mediation program if the subject matter of the dispute falls within those disputes identified within this rule and so long as additional relief other than an award of damages is requested, for example, where the petitioner also requests enforcement of the governing documents.

(4) Tenant or Occupant Disputes. Where an association seeks the eviction or other removal of a tenant or other occupant who is not a homeowner, the dispute is not subject to mediation. Where a tenant or non-owner occupant is alleged to be creating a nuisance or is otherwise failing to comply with the governing documents, and where eviction is not requested, the dispute is subject to mediation under these rules. For example, where an association alleges that a tenant was not approved as required by the documents, did not pay the processing fee, or engages in nuisance activities, and where the petition does not request eviction, the dispute must be mediated.

(5) Disputes that are not subject to mediation under Section 720.311, F.S., and which cannot be filed with the division for mediation include election disputes, recall disputes, cases where a homeowner or association seeks to evict a tenant or other occupant, foreclosure actions filed by a homeowners' association, disputes primarily involving warranty rights, disputes alleging a breach of fiduciary duty, disputes between associations, or disputes primarily involving title to parcels or to the common areas including disputes regarding the sale of a parcel or the purchase or sale of common areas.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History—New \_\_\_\_\_.

61B-82.007 Subsequent Proceedings; Conclusion of Mediation Proceeding.

(1) Once a mediation session has been concluded, the mediator assigned to the case shall declare a partial impasse, a total impasse, or a total settlement, as appropriate. Where a case is settled, a written settlement agreement may be enforced in the courts in accordance with Florida Rule of Civil Procedure 1.730. Where a total or partial impasse has been declared, the parties may either agree to pursue the remainder of the dispute in court, or may jointly agree to attend binding or nonbinding arbitration with the division. If the parties do not all agree to attend binding or nonbinding arbitration, but agree to arbitration, the arbitration proceeding will be nonbinding. If the parties do not all agree to any form of arbitration, the dispute shall not be arbitrated but may be filed in court by either party.

(2) The division, the department, the mediator assigned to the case or other department employees shall not be named as parties in any court action seeking to resolve or adjudicate the dispute subject to the mediation proceeding.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History—New \_\_\_\_\_.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2004  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums, and Mobile Homes**

RULE TITLES:	RULE NOS.:
Scope, Organization, Procedure, Forms	61B-83.001
Filing Application for Certification;	
Verification Requirements	61B-83.002
Qualifications of Mediator or Arbitrators	
Certification Applicants	61B-83.003
Certification and Training Programs	61B-83.004

PURPOSE AND EFFECT: Provides procedures for Division certification of mediators and arbitrators pursuant to Section 720.311(2), Florida Statutes, in the area of homeowners' association disputes.

SUMMARY: Certification of mediators and arbitrators for use in the resolution of homeowners' association disputes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 720.311(1) FS.

LAW IMPLEMENTED: 720.311(2)(c) 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: 10:00 a.m., October 25, 2004

PLACE: Warren Building Conference Room #B03, 201 W. Bloxham Street, Tallahassee, Florida 32399-1030

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING TO: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting: Sharon A. Elzie,

Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850)488-1631

THE FULL TEXT OF THE PROPOSED RULES IS:

CERTIFICATION OF COMMUNITY ASSOCIATION MEDIATORS AND ARBITRATORS

61B-83.001 Scope, Organization, Procedure, Forms.

(1) This chapter governs the certification by the division of community association mediators and arbitrators pursuant to paragraph 720.311(2)(c), F.S.

(2) All applications and supporting documentation filed with the division by a candidate seeking certification by the division as a community association mediator or arbitrator shall be filed at the official headquarters of the Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes, Director's Office, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, except that an application or other written communication may be filed with the division via telefax at (850)921-5446. All forms referenced in these rules may be obtained on-line at: <http://www.myflorida.com/dbpr/>.

(3) In order to file an application to become certified by the division as a community association mediator, an individual must use DBPR FORM HOA 6000-2, APPLICATION FOR MEDIATOR CERTIFICATION, incorporated herein by reference and effective \_\_\_\_\_ . In order to file an application to become certified by the division as a community association arbitrator, an individual must use DBPR FORM HOA 6000-1, APPLICATION FOR ARBITRATOR CERTIFICATION, incorporated herein by reference and effective \_\_\_\_\_. There is no filing or processing fee charged for the application.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2)(c) FS. History—New \_\_\_\_\_.

61B-83.002 Filing Application for Certification; Verification Requirements.

(1) Any individual who meets the minimum requirements for certification as a community association mediator as set forth in paragraph 720.311(2)(c), F.S., and who desires to be certified as a mediator in the operation of community associations by the division shall file a completed DBPR FORM HOA 6000-2, APPLICATION FOR MEDIATOR CERTIFICATION.

(2) Any individual who meets the minimum requirements for certification as a community association arbitrator as set forth in paragraph 720.311(2)(c), F.S., and who desires to be

certified as an arbitrator in the operation of community associations by the division shall file a completed DBPR FORM HOA 6000-1, APPLCIATION FOR ARBITRATOR CERTIFICATION.

(3)(a) An applicant who applies for certification as a community association mediator or arbitrator shall provide, along with the completed application, supporting materials demonstrating compliance with the training and experience requirements contained in subsection 720.311(2)(c), Florida Statutes.

(b) Proof or verification of 20 hours of training in mediation or arbitration shall consist of a certificate of completion from a training program in mediation or arbitration techniques, as appropriate, a notarized statement from an instructor or entity providing the training which verifies completion of 20 hours of training in mediation or arbitration techniques, or other verifiable evidence of completion of the training requirement.

(c) Proof or verification of having mediated or arbitrated at least 10 disputes shall consist of providing the case styles and case numbers of at least 10 disputes that the applicant has mediated or arbitrated along with an identification of counsel of record in each dispute, or an affidavit from the applicant attesting to having mediated or arbitrated at least 10 disputes accompanied by the case styles and case numbers of at least 5 disputes mediated or arbitrated along with an identification of counsel of record in each such dispute.

(4) Based upon the application and documentation submitted by the applicant, the division will determine if the applicant meets the requirements to be included on the list of certified community association mediators or arbitrators maintained by the division. If any person who has been certified by the division as a community association mediator or arbitrator is no longer eligible for certification or has failed to keep their mediation certification current with the Florida Supreme Court or has failed to meet the requirements of Rule 61B-83.004, F.A.C., and these rules as amended, the division upon notice shall remove that person from the list of certified mediators or arbitrators.

Specific Authority 720.311(1) FS. Law Implemented 718.1255(4), 720.311(2)(c) FS. History—New \_\_\_\_\_.

61B-83.003 Qualifications of Mediator or Arbitrators Certification Applicants.

(1) In order to be eligible for certification as a community association mediator, an applicant need not be an attorney licensed to practice law in the state of Florida, but must be certified by the Florida Supreme Court to mediate county or circuit court disputes.

(2) In order to be eligible for certification as a community association arbitrator, an applicant must be an attorney licensed by the Florida Bar to practice law in the state of Florida.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2)(c) FS. History—New \_\_\_\_\_.

61B-83.004 Certification and Training Programs.

(1) Subject to paragraph (2) below, an applicant who has demonstrated compliance with the minimum training and experience requirements provided in paragraph 720.311(2)(c), F.S., and these rules will be certified upon proper application filed with the division.

(2) Under subsection 720.311(3) and paragraph 720.311(2)(c), F.S., the division will be developing a certification and training program for private mediators and arbitrators. Continuing certification as a community association mediator or arbitrator is subject to an individual completing such additional training requirements as may be required by law or by these rules.

Specific Authority 720.311(1) FS. Law Implemented 720.311(2)(c) FS. History—New \_\_\_\_\_.

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2004

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Requirement for Physician Office Registration; Inspection or Accreditation

RULE NO.: 64B8-9.0091

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify requirements for office surgery registrations.

SUMMARY: The proposed rule amendments make clarifications to the rule with regard to the Department's authority for office surgery registrations.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 458.309(1),(3) FS.  
LAW IMPLEMENTED: 456.069, 456.072(1)(cc), 458.309(3) 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0091 Requirement for Physician Office Registration; Inspection or Accreditation.

(1) Registration.

(a) Every Florida licensed physician who holds an active Florida license and performs Level II surgical procedures in Florida with a maximum planned duration of more than five (5) minutes ~~or longer~~ or any Level III office surgery, as fully defined in Rule 64B8-9.009, F.A.C., shall register with the Department of Health Board of Medicine. It is the physician's responsibility to ensure that every office in which he or she performs Levels II or III surgical procedures as described above is registered, regardless of whether other physicians are practicing in the same office or whether the office is non-physician owned.

(b) In order to register an office for surgical procedures, the physician must comply with the Department's Rule 64B-4.003, F.A.C., and provide documentation to support compliance with Rule 64B8-9.009, F.A.C., provide to the Board of Medicine, his or her name, mailing address, Florida license number, and a list of each office where the covered surgical procedures are going to be performed by the physician. The list shall also include each office name, address, telephone number, and level of surgery being performed at that location by the physician; and if more than one physician is practicing at that location, a list of all physicians and levels of surgery being performed must be provided. The list shall also include the name of each physician assistant, ARNP and CRNA involved in the office surgery or anesthesia; copies of any protocols necessary for the supervision of any ARNP or CRNA; and any transfer agreements with local hospitals. In addition, the physician shall submit a statement of compliance with Rule 64B8-9.009, F.A.C., "Standard of Care for Office Surgery", and, if applicable, Section 456.0375, F.S., "Registration of certain clinics; requirements; discipline; exemption," when registering with the Department.

(c) The physician must immediately notify the Department Board Office, in writing, of any changes to the registration information.

(d) The registration shall be posted in the office.

(2) through (3) No change.

Specific Authority 458.309(1),(3) FS. Law Implemented 456.069, 456.072(1)(cc), 458.309(3) FS. History--New 5-15-00, Amended 9-18-01, 8-5-03, 9-1-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Surgical Care Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2004

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Approval of Physician Office

RULE NO.: 64B8-9.0092

PURPOSE AND EFFECT: The proposed rule amendment removes the Florida Academy of Cosmetic Surgery, Inc., from the list of accrediting entities.

SUMMARY: The proposed rule amendment clarifies the list of accrediting entities.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 458.309(3) FS.

LAW IMPLEMENTED: 458.309(3) 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: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.0092 Approval of Physician Office Accrediting Organizations.

(1) through (6) No change.

(7) ~~Board approved accrediting agency or organizations include Florida Academy of Cosmetic Surgery, Inc.~~

Specific Authority 458.309(3) FS. Law Implemented 458.309(3) FS. History--New 3-9-00, Amended 3-25-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Surgical Care Committee, Board of Medicine

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



DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 2004  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2004

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE CHAPTER TITLE: Standards for the Certification of Environmental Health Professionals  
 RULE CHAPTER NO.: 64E-18

RULE TITLES:	RULE NOS.:
Definitions	64E-18.002
Requirements for Certification	64E-18.003
Issuance of Certificates and Renewals	64E-18.004
Notifications of Changes	64E-18.005
Standards of Practice	64E-18.007
Disciplinary Guidelines	64E-18.008
Grandfathering	64E-18.0091
Fees	64E-18.010

PURPOSE AND EFFECT: The proposed changes create areas which have been omitted and bring current or enhance other areas, eliminate unneeded sections and strengthen weak areas as identified by the regulatory community and regulatory officials.

SUMMARY: New definitions have been added and existing definitions have been modified to be current. The educational portion of the initial requirements for certification has been made more easily understandable. In addition to adding two academic disciplines, which assist individuals to comply with the education requirements, the other academic disciplines have been expanded by reference to define which academic disciplines qualify and which do not qualify. Requirements for existing precertification coursework have been reduced from 30 hours to a minimum of 24 hours. Added requirements for precertification coursework are added to the Food Protection program. An inactive status has been added to eliminate hardship when persons do not apply for renewal by the exact expiration date. The standards of practice disciplinary guidelines have been clarified and added to where an omission previously occurred. Future grandfathering has been eliminated because the rule has been in effect for 10 years and none are expected in the future. Lastly the fee structure has been revised to be more easily understandable and to come closer to helping the program pay for itself.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There are no additional regulatory costs associated with this rule update.

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

SPECIFIC AUTHORITY: 381.0010 FS.  
 LAW IMPLEMENTED: 381.0101 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: 2:00 p.m., November 2, 2004  
 PLACE: 4042 Bald Cypress Way, Conference Room 301, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: David B. Wolfe, Environmental Health Program Consultant, Bureau of Community Environmental Health, 4052 Bald Cypress Way, Bin #A08, Tallahassee, FL 32399-1710, (850)245-4277 (An electronic copy of the proposed rule can be obtained without cost by contacting David B. Wolfe, at the above address.)

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-18.002 Definitions.

(1) Accredited – means a degree granting institution recognized as meeting acceptable levels of quality and performance by the American Council on Education.

~~(2)~~(1) Administrative position – a position responsible for planning, organizing, evaluating, or directing the work of field personnel, supervisory personnel, or other administrative environmental health professionals.

~~(3)~~(2) Environmental Health Services – also referred to as services. These are activities, or the supervision thereof, which are a routine part of environmental health work, such as inspections, evaluations, preparation of reports, analysis of data, interpretation of data and laboratory reports, consultations with other health professionals or the public regarding results of evaluations and sampling efforts, and the recommending of prescribed courses of action to alleviate unsanitary or hazardous conditions. These services are provided based on a knowledge and understanding of technical and scientific environmental health principles.

~~(4)~~(3) Field position – a position primarily responsible for performing evaluations and inspections, collecting samples, conducting field tests of equipment, participating in enforcement activities, and providing public information on environmental program activities. Examples of work conducted by an individual working in a field position assigned to a primary program area of food protection would be performing assessments of sanitary conditions in a food operation, or collecting and analyzing information from persons involved in a foodborne illness investigation. An example of a person performing field work in a primary

program area of onsite sewage treatment and disposal would be evaluating the siting and construction of an onsite sewage treatment and disposal system for compliance with minimum state standards.

~~(5)~~(4) Florida Environmental Health Association – a not for profit professional association located at 3539 Apalachee Parkway #215, Tallahassee, FL 32311 Post Office Box 271823, Tampa, Florida 33688-1823 which provides training, testing, and educational services for environmental health professionals working in Florida.

~~(6)~~(5) Food protection program work – activity associated with the evaluation of facilities and techniques used by individuals and companies providing foods to the public. Included would be the educational activities directed toward informing food managers and food workers in the proper application of sanitary techniques or the investigation of foodborne disease reports.

~~(7)~~(6) Supervisor position – this position is responsible for supervision of field personnel, some of whom may or may not yet be certified in a primary area of environmental health practice.

~~(8)~~(7) National Environmental Health Association – a not for profit professional association located at 720 South Colorado Boulevard, Suite 970, Denver, Colorado 80222 which provides training, testing, and educational services for environmental health professionals working in the United States.

~~(9)~~(8) Onsite sewage treatment and disposal system program work – activities associated with the evaluation and site location of any domestic wastewater treatment and disposal systems under the regulatory authority of the Florida Department of Health. Included in this activity would be site location and evaluation activities associated with the treatment and disposal of septage residuals created during the wastewater treatment process, and the regulation of contractors performing system construction, maintenance, and septage residuals disposal services.

~~(10)~~(9) Registered Environmental Health Specialist – a person who has displayed knowledge of a primary area of environmental health and has been certified as knowledgeable by either the Florida Environmental Health Association or the National Environmental Health Association.

~~(11)~~(10) Repeat Violation – any violation on which disciplinary action is being taken where the same individual has previously had disciplinary action taken against him or her and has received a penalty other than a letter of warning in a prior case. This definition applies regardless of the chronological relationship of the violations and regardless of whether the violations are of the same or different subsections of this rule.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0101(2),(5),(8) FS. History–New 9-21-94, Amended 8-20-96, Formerly 10D-123.002, Amended 3-2-98, \_\_\_\_\_.

64E-18.003 Requirements for Certification.

(1) No change.

(2) A person seeking certification in any primary program area shall apply to the department on DH Form 4100, Application for Environmental Health Professional Certification, November ~~2004~~ 1997, incorporated by reference in this rule. An application fee shall be submitted for the first primary environmental health program in which the applicant seeks certification.

(3) A person shall be eligible for certification if they meet the following requirements:

(a) Applicants beginning work in a primary area of environmental health on or after September 21, 1994 must have a bachelor’s degree from an accredited college or university with major coursework in environmental health, environmental science, or a physical or biological science. Final authority on disciplines qualifying as a physical or biological science are listed under “Academic Disciplines and Corresponding Ma-jors” in the Appendix of the October 1995 edition of Determining Eligibility for State Employment, Department of Management Services, State of Florida, incorporated by reference in this rule. Major course work is no less than 30 semester hours or 40 quarter hours of class work ~~in any of the following areas:~~

- ~~1. Chemistry~~
- ~~2. Biology~~
- ~~3. Physics or physical science~~
- ~~4. Health Science~~
- ~~5. Earth Science~~
- ~~6. Environmental Science~~
- ~~7. Epidemiology or biostatistics~~

8. Other areas of study which are germane to the practice of environmental or public health, though not necessarily based on the application of scientific methods. Examples of these would be public health law, environmental law, ~~or~~ health planning, soil science, food science, or epidemiology and would be determined by the Bureau of Community Environmental Health.

(b) All applicants must submit the necessary exhibits and fees as described in subsection (4) below.

(4) Completed applications for certification must be received by the department’s Bureau of Community Environmental Health Programs at least 60 days prior to examination. In order to be complete, the application must have all spaces correctly completed, be signed by the applicant, include a money order or sufficiently funded check in the correct amount as specified in paragraph 64E-18.010(1)(a), F.A.C., and if employed on or after September 21, 1994, shall include official copies of transcripts from the colleges or universities from which the applicant graduated.

(5) Within ~~45~~ 30 days of receipt of the completed application by the department, the applicant shall be notified as to whether he or she meets the general requirements of this rule and is eligible for certification.

(a) If eligible for certification, the department shall notify the applicant of the schedule for classes and program examinations.

(b) If an applicant is determined to be ineligible for certification, the department shall provide the applicant with a letter of denial, giving the reasons for the determination.

(6) Applicants seeking certification in the Onsite Sewage Treatment and Disposal System Program must:

(a) successfully complete a minimum of 24 ~~30~~ hours of department approved pre-certification course work. At a minimum this course work shall include training and testing on soil classification, system design and theory, system material and construction standards, and regulatory requirements, and;

(b) successfully pass the ~~an~~ examinations administered by the department. Minimum passing score shall be a 70 percent correct response to all questions comprising the exam.

(7) Applicants seeking certification in the Food Protection Program must:

(a) successfully complete a minimum of 24 hours of department approved pre-certification course work. At a minimum this course work shall include training and testing on food microbiology, foodborne illness investigations, and basic hazard analysis and critical control points (HACCP) and;

(b) successfully pass the precertification coursework and certification ~~an~~ examinations administered or approved by the department. Minimum passing score shall be a 70 percent correct response to all questions comprising the exam unless the approved course provider requires a higher score.

(8) through (15) No change.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0101 FS. History—New 9-21-94, Amended 8-20-96, Formerly 10D-123.003, Amended 3-2-98, \_\_\_\_\_.

#### 64E-18.004 Issuance of Certificates and Renewals.

(1) Upon receipt of the required fees, the department shall issue a certificate to each applicant who meets the requirements of Section 381.0101(5), F.S., and Rule 64E-18.003, F.A.C.

(2) All certificates expire on September 30th of odd numbered years.

(3) Certificates shall be renewed only after information has been provided to the department that the environmental health professional has successfully completed, within the previous 24-month period, 24 contact hours of continuing education relating to public health and environmental health principles for each program area in which they maintain certification. Contact hours will be prorated on a semi-annual basis. Such information shall be accompanied by necessary

renewal fees and a completed DH Form 4101, Application for Renewal of Environmental Health Professional Certification, November ~~2004~~ 1997, incorporated by reference in this rule.

(4) An application for renewal must be postmarked on or before the close of business on September 30th of the expiration year of the certificate. If that date falls on a weekend or holiday, the date of expiration shall be the first working day after the expiration date on the certificate. If a certificate holder does not file a renewal application prior to the expiration date of the certificate, the certificate will revert to an inactive status ~~expire~~. A certificate can remain inactive no longer than 3 months at which time if not renewed it will expire. Environmental health professionals shall not provide services in a primary environmental health program with a revoked, suspended, inactive, or expired certificate.

(5) Those persons seeking certification under Section 381.0101(5)(a)2., F.S., must apply on DH Form 4100, Application for Environmental Health Professional Certification. The application must be completed in full and submitted to the department. Applications are available through the county health departments or online at <http://www.doh.state.fl.us> ~~the Bureau of Environmental Health Programs~~.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0101 FS. History—New 9-21-94, Amended 8-20-96, Formerly 10D-123.004, Amended 3-2-98, \_\_\_\_\_.

#### 64E-18.005 Notifications of Changes.

A certificate holder shall notify the department within 60 days of any change in name or address from that which appears on their current application ~~certificate~~.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0101(5) FS. History—New 9-21-94, Formerly 10D-123.005, Amended \_\_\_\_\_.

#### 64E-18.007 Standards of Practice.

(1) It shall be the responsibility of persons certified under this rule to see that work for which they are responsible and work which has been performed by them or under their supervision is carried out in conformance with the requirements of Chapters 500, 386, or 381, F.S., and Chapters 64E-6 or 64E-11, F.A.C., and all applicable policies and procedures.

(2) The following actions by a person included under this rule shall be deemed unethical and subject to penalties as set forth in Rule 64E-18.008, F.A.C.:

(a) Knowingly authorizing or approving the construction, installation, repair, use, or operation of a facility, structure, or device which does not meet environmental health or sanitary standards set forth in Chapters 500, 386, or 381, F.S., or Chapters 64E-6 or 64E-11, F.A.C., as they are applicable to the facility, the structure, or the device.

(b) Falsifying or providing written or verbal reports of inspections and evaluations which do not reflect the conditions observed or violations found at a site or within a facility.

(c) Allowing the continued existence of a sanitary nuisance without initiating efforts to obtain corrections.

(d) Directing a coworker or subordinate to violate rules and standards relating to the provision of environmental health services as set forth in Chapters 500, 386, or 381, F.S., or Chapters 64E-6 or 64E-11, F.A.C.

(e) Providing services in a primary environmental health program without prior certification ~~obtaining a certificate~~ from the department.

(f) Providing services with an expired or inactive certificate.

(g) Aiding or abetting evasion of Chapter 381, Chapter 489 Part III, Chapter 386, Chapter 500, F.S., or Chapter 64E-6 or Chapter 64E-11, F.A.C., promulgated thereunder.

(h) Obtaining certification through fraud, misrepresentation, or concealment of material facts.

(i) Gross negligence, incompetence, or misconduct which:

1. Causes no monetary or other harm to an individual or the public, or physical harm to any person.

2. Causes monetary or other harm to an individual or the public, or physical harm to any person.

(j) Use of improper procedures or methodology to perform work, or a violation of (1) above.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0101(3),(4),(5),(8) FS. History—New 9-21-94, Amended 8-20-96, Formerly 10D-123.007, Amended 3-2-98, \_\_\_\_\_.

64E-18.008 Disciplinary Guidelines.

(1) The following guidelines shall be used in disciplinary cases, absent aggravating or mitigating circumstances and subject to other provisions of this rule. Where aggravating circumstances are present, the department shall be allowed to use the penalty for a repeat violation. Where mitigating circumstances are present, the department shall be allowed to use the penalty for first violation plus a fine not to exceed \$500.

(a) Knowingly authorizing or approving the construction, modification, installation, repair, use, or operation of a facility, structure, or device which does not meet health and sanitary standards as set forth in Chapters 500, 386, or 381, F.S., or Chapters 64E-6 or 64E-11, F.A.C., as they are applicable to the facility, the structure, or the device. First violation, letter of warning; second violation, \$250 fine; repeat violation, 90 day suspension.

(b) Falsifying or providing written or verbal reports of inspections ~~or~~ and evaluations which do not reflect the actual conditions observed or violations found at a site or within a facility. First violation, letter of warning; second violation, \$250 fine; repeat violation, 30 day suspension.

(c) Allowing the continued existence of a sanitary nuisance without initiating efforts to obtain corrections. First violation, letter of warning; second violation, \$250 fine; repeat violation, 30 day suspension.

(d) Directing a subordinate or coworker to violate rules and standards of the department relative to the provision of environmental health services as set forth in Chapters 500, 386, or 381, F.S., or Chapters 64E-6 or 64E-11, F.A.C. First violation, letter of warning; second violation, \$250 fine; repeat violation, \$500 fine and 90 day suspension.

(e) Providing primary environmental health services without obtaining prior certification from the department, offering to provide primary environmental health services without maintaining a current certification. First violation, letter of warning; second violation, \$250 fine; repeat violation, \$500 fine.

(f) Providing primary environmental health services with an expired or inactive certificate. First violation, letter of warning; second violation, \$250 fine; repeat violation, \$500 fine.

(g) Aiding or abetting evasion of Chapter 381, Chapter 386, Chapter 489 Part III, Chapter 500 F.S., Chapter 64E-6 or 64E-11, F.A.C., promulgated thereunder. First violation, letter of warning; second violation, \$250 fine; repeat violation, \$500 fine and 90 day suspension.

(h) Obtaining a certificate through fraud, misrepresentation, or concealment of material facts. Revocation.

(i) Gross negligence, incompetence, or misconduct which:

1. Causes no monetary or other harm to an individual or the public, or physical harm to any person. First violation, letter of warning; second violation, \$250 fine; repeat violation, 30 day suspension.

2. Causes monetary or other harm to an individual or the public, or physical harm to any person. First violation, letter of warning; second violation, \$250 fine; repeat violation, 30 day suspension.

(j) Use of improper procedures or methodology for perform work, or a violation of (1) above. First violation, letter of warning; second violation, \$250 fine; repeat violation, \$250 fine and 30 day suspension.

(2) Circumstances which will be considered for the purposes of mitigation or aggravation of a penalty shall include the following:

(a) Monetary or other damage to the public or an individual, in any way associated with the violation, which damage the certified professional has not relieved, as of the time the penalty is to be assessed.

(b) The severity of the offense as recommended by the Environmental Health Professional Advisory Board and approved by the Division of Environmental Health.

(c) The danger to the public.

(d) The number of repetitions of the offense.

(e) The number of complaints filed against the individual.

(f) The length of time the environmental health professional has practiced.

(g) The actual damage, physical or otherwise, to the individual or the public.

(h) Any efforts at rehabilitation.

(3) Where several of the above violations shall occur in one or several cases being considered together, the penalties shall normally be cumulative and consecutive.

(4) Probation shall be allowed to ~~may also~~ be assessed, by the Division of Environmental Health, in any case where it is in the interests of the public, to require the individual to serve a probationary period. Failure to comply with the terms and conditions of the probation shall be prima facie evidence of misconduct.

(5) The department shall require that persons who have been placed on probation take an exam administered by the department. Minimum passing score shall be 70 percent correct response to all questions comprising the exam. One retake within two working days shall be allowed. The examination must be passed before probation can be ended.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0012, 381.0061(1), 381.0101(3),(4),(5),(8) FS. History—New 9-21-94, Amended 8-20-96, Formerly 10D-123.008, Amended 3-2-98, \_\_\_\_\_.

64E-18.0091 Grandfathering.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0101(7) FS. History—New 3-2-98, Repealed \_\_\_\_\_.

64E-18.010 Fees.

(1) The following schedule of fees is hereby established. The fees listed below are required to accompany applications for certification, initial certificate issuance, application for certificate renewal, and application to renew an inactive certificate:

(a) Application for certification including transcript review if applicable, initial examination and certificate issuance. \$50 25

(b) ~~Initial certification. \$25~~

(c) ~~Additional program certifications. \$10~~

(b)(d) Renewal of certification per program per biennial period. \$25

(c) Late fee for renewal per program per biennial period. \$25

(2) The fee listed in paragraph (1)(b) is waived if the individual is certified by examination within 6 months of the renewal date is for the biennial period, and shall be pro-rated to a half period fee if certification is initially granted during the second year of the biennial period.

Specific Authority 381.0011, 381.0101(4),(5) FS. Law Implemented 381.0101(7) FS. History—New 9-21-94, Amended 8-20-96, Formerly 10D-123.011, Amended 3-2-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
David B. Wolfe

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Padraic Juarez

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 1, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 2004

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

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.: 1S-2.015  
RULE TITLE: Minimum Security Procedures for Voting Systems

**NOTICE OF CORRECTION**

A Notice of Change on the above-referenced rule was published in the Florida Administrative Weekly, Page 3775, Vol. 30, No. 37, September 10, 2004. The Notice of Change contained two technical errors. The public hearing held was July 13, 2004, in lieu of June 18, 2004. In addition, reference to Section 120.535, Florida Statutes, as specific authority should be deleted since that section was repealed in 1996. In addition, the Election Parameter Statement found in subsection (5)(f)5. did not reflect the changes made based on comments received from JAPC.

The excerpted provision should read as follows:

5. If the election definition is created by an individual who is not an employee of the supervisor of elections, then the parameters shall include a statement signed by the person who created the election definition. The statement shall be in substantially the following form:

ELECTION PARAMETER STATEMENT

Pursuant to Section 837.06, Florida Statutes, whoever knowingly makes false statement in writing with the intent to mislead a public servant in the performance of his or her official duty, shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, or Section 775.083, Florida Statutes.

The election coding for \_\_\_\_\_ County was assembled according to specified procedures using (name of system and Florida certification number). Furthermore, included with the election materials is a duplicate copy of the administrative database used to define the election, a copy of the voting