

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Stephen P. Auger, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact: Jean Salmonsens, (850)488-4197. If you are hearing or speech impaired, please use the Florida Dual Party Relay System, 1(800)955-8771 (TDD).

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE ON FLORIDA HOUSING'S WEBSITE: [www.floridahousing.org](http://www.floridahousing.org)

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE TITLE: Application of the Valuation of Life Insurance Policies

RULE NO.: 69O-164.030

PURPOSE AND EFFECT: To provide direction as to the application of Rule 69O-164.020, F.A.C., to various product designs.

SUBJECT AREA TO BE ADDRESSED: The application of Rule 69O-164.020, F.A.C.

SPECIFIC AUTHORITY: 624.308(1), 625.121(5)(j) FS.

LAW IMPLEMENTED: 624.307(1), 625.121(5)(j) FS.

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

TIME AND DATE: 9:30 a.m., July 11, 2005

PLACE: Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Life and Health Financial Oversight, Office of Insurance Regulation, e-mail: [kerry.krantz@fldfs.com](mailto:kerry.krantz@fldfs.com)

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

**Section II  
Proposed Rules**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Forestry**

RULE TITLES:	RULE NOS.:
Definitions	5I-2.003
Open Burning Not Allowed	5I-2.004
Open Burning Allowed	5I-2.006

PURPOSE AND EFFECT: The purpose of the proposed rule is to amend Rules 5I-2.003, 5I-2.004 and 5I-2.006, F.A.C., in order to simplify and clarify the open burning rules and procedures. Additionally the duties, responsibilities, benefits along with the re-certification process of the Florida Prescribed Burn Manager Program are included in this revision.

SUMMARY: The proposed rule deletes definitions that are no longer necessary, and adds some new definitions to further clarify the rule. Defines under what conditions the Division can withhold authorizations when public health and safety are threatened. The proposed rule separates and defines the obligations of individuals (Certified and Un-Certified) requesting authorization to burn from the Division of Forestry. The language of the proposed rule has been simplified to facilitate the understanding of all Floridians. There has been a clearer distinction made in this rule between acreage burns (broadcast) and pile burning.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: There are no anticipated additional costs associated with this change.

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: 570.07(23),(28), 590.125(3)(e) FS.

LAW IMPLEMENTED: 570.07(28), 570.548, 590.02(1)(b), 590.125(2),(3) FS.

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

TIME AND DATE: 9:00 a.m., July 22, 2005

PLACE: Doyle Conner Building, George Eyster IV Auditorium, 3125 Conner Blvd., Tallahassee, FL 32399-1650

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. James D. Brenner, Fire Management Administrator, Florida Division of Forestry, Department of Agriculture and Consumer Services, Room 160, 3125 Conner Blvd., Tallahassee, Florida 32399-1650, (850)488-6480

THE FULL TEXT OF THE PROPOSED RULES IS:

~~RURAL OPEN BURNING~~

5I-2.003 Definitions.

(1) "Agricultural Burning" is the burning of vegetative material originating on site in conjunction with the cultivation of land, and including: gardening or horticulture, fruit growing, raising of vegetables, trees, shrubs, plants, pastures or rangeland.

(2) "Air Curtain Incinerator" is a portable or stationary combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.

(3) "Air Pollution" is the presence in the outdoor atmosphere of any one or more substances or contaminants in quantities which are potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interferes with the enjoyment of life or property, including outdoor recreation, unless specifically exempted ~~excepted~~ by state statute.

~~(4)(6) "Air Pollution Episode" means a day on which generally unhealthy air (an Air Quality Index value of 151 or greater) occurs or is forecast to occur by the Department of Environmental Protection (DEP) temporary prohibition of open burning activities by the Department of Environmental Protection that is based upon a forecast of a stagnant atmospheric meteorological condition not allowing the dispersion of air pollutants.~~

~~(5)(4) "Certified Prescribed Burn Manager" is an individual who successfully completes the certification program of the Division and possesses a valid certification number.~~

~~(6)(5) "Department" is the Department of Agriculture and Consumer Services. Department of Environmental Protection Stagnation Advisory.~~

(7) "Dispersion Index" is a numerical index from 0 to infinity supplied daily by National Weather Service (NWS), that estimates the atmosphere's capacity to distribute particles and gases emitted by a wildland fire of any type. The Dispersion Index has two scales, one for day and one for night. Indices that exceed 40 are generally considered acceptable for burning for the day, and indices that exceed 8 are generally considered acceptable at night.

(8) "Division" is the Florida Division of Forestry.

(9) "Excessive Visible Emissions" are air pollutants emitted in such quantity as to exceed a DEP opacity standard, as determined by a visible emissions observer certified pursuant to Rule 62-297.320, F.A.C., or reduce any observer's view to less than 100 feet.

(10) "Extinguished" means ~~the absence of any visible flames, smoke or emissions~~ that no spreading flame for wildland burning or certified prescribed burning, and no visible flame, smoke or emissions for vegetative land-clearing debris burning, exist.

(11) "Fine Fuel Moisture" is the amount of moisture, usually expressed as a percentage, found in fast drying, dead fuels such as grass, leaves, draped pine needles, and very small diameter (less than 1/4 inch) twigs.

(12) "Flame Length" is the distance between the flame tip and the base of the flame measured generally at the ground surface.

(13) "Land Clearing Debris" is uprooted or cleared vegetation resulting from a land clearing operation including untreated wood, e.g., old fence posts, and does not include yard trash.

~~(14)(13) "Land Clearing Operation" means the uprooting or clearing of vegetation in connection with construction for buildings and rights-of-way, land residential, industrial development, or mineral operations, but does not include yard trash.~~

~~(15)(14) "Mixing Height", as supplied daily by the National Weather Service, is the height above the land surface in feet to which relatively vigorous mixing of the atmosphere occurs.~~

~~(16)(15) "National Weather Service Air Stagnation Advisory" is an advisory issued by the National Weather Service (NOAA) to caution local and regional agencies on meteorological conditions expected to persist for at least 36 hours, which are conducive to poor dispersion.~~

~~(17)(16) "Occupied Building" means any building that serves as a primary residence, meeting place, or place of business that does not have a lengthy cessation of occupancy.~~

~~(18)(17) "Open Burning" means any outdoor fire or open combustion of material which produces visible emissions.~~

~~(19)(18) "Pile Burning" is any burning of silvicultural, agricultural, or land clearing and tree cutting debris burning, originating on site that has been stacked together in a round or linear (windrow) fashion.~~

~~(20)(19) "Prescribed Burning" means the controlled application of fire, in accordance with a written following a prescription for, to vegetative fuels, under specified environmental conditions while, and following appropriate precautionary measures that ensure that the, which causes the fire is to be confined to a predetermined area to and accomplish planned fire or land management objectives.~~

~~(21)(20) "Prescription" is a written plan establishing the necessary that establishes criteria for starting, controlling, and extinguishing completing a prescribed burn.~~

~~(22)(21) "Relative Humidity" is the ratio, expressed as a percentage of the amount of moisture in the air, to the maximum amount of moisture the air is capable of holding under the same conditions.~~

~~(23)~~(22) “Refractory Lined” means any non-metallic ceramic substance that is suitable for use as structural material at high temperatures and is used in Air Curtain Incinerators.

~~(24)~~(23) “Residential Pile Burning Operation Land Clearing” is a pile burning land-clearing operation that is conducted by a landowner or an individual contracted by the landowner for an existing or planned residential dwelling of not more than two family units for the purpose of clearing vegetation on the property for not more than two family units. This does not include the burning of yard trash. The removal and destruction of shade trees due to storm or insect damage and the clearing of vegetation to enhance property value and aesthetics, is included as a residential land-clearing operation.

~~(24)~~“Rural Land Clearing” is any land-clearing conducted in areas other than urban service areas or residential areas, incorporated or unincorporated cities or towns, or in any rural areas as designated by the Department and shall not include any land-clearing operation that is associated with silvicultural or agricultural activities.

~~(25)~~“Rural Land Clearing Debris” is uprooted or cleared vegetation resulting from a land-clearing operation and does not include yard trash.

~~(25)~~(26) “Silviculture” is a forestry operation that phase of forestry dealing with the establishment, development, reproduction, and care of forest flora and fauna.

~~(26)~~(27) “Smoke Sensitive Areas” are areas designated by the Division of Forestry areas within which, for reasons of visibility, health or human welfare, smoke could adversely have an impact public safety e.g., interstates, urban areas, airports, and hospitals.

~~(27)~~(28) “Spreading” is continued lateral movement of the fire into unburned fuels.

~~(28)~~(29) “Sunset” is the official time the sun will set sunset as set forth by the U. S. Naval Observatory (tables are available at National Weather Services offices).

~~(29)~~(30) “Surface Wind Speed” is wind speed in miles per hour measured 20 feet above the average local vegetation. Wind speeds supplied by the National Weather Service are “Surface Wind Speeds”.

~~(30)~~(31) “Transport Wind Speed” is a measure of the average rate, in miles per hour of the horizontal movement of air throughout the mixing layer.

~~(31)~~(32) “Trash” means waste materials resulting from the construction, renovation or demolition of a structure, construction or demolition debris, and other debris such as paper, cardboard, packing material, pharmaceuticals, cloth, glass, street sweepings, vehicle tires and other like matter. The definition does not include land clearing debris, tree cutting debris, or yard trash.

~~(32)~~ “Treated Wood” means wood coated or infused with paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), or other wood preservatives or treatments.

~~(33)~~ “Tree cutting debris” is debris consisting of trees, tree stumps, and tree limbs resulting from a tree removal or tree trimming operation that is conducted by the homeowner or an individual contracted by the homeowner of an existing residential dwelling of not more than two family units. It does not include yard trash.

~~(34)~~ “Untreated Wood” means wood (including lighter pine, tree trunks, limbs and stumps, shrubs, and lumber) which is free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate (CCA), and other wood preservatives or treatments.

~~(35)~~(33) “Windrow” means a long row of vegetative material originating on the site left to dry before burning.

~~(36)~~(34) “Yard Trash” (Yard Waste Chapter 62-256, F.A.C.) means vegetative matter resulting from landscaping and yard maintenance operations and other such routine property cleanup activities. It includes materials such as leaves, tree and shrub trimmings, grass clippings, brush, and palm fronds, trees and tree stumps.

Specific Authority 570.07(23),(28), 590.125(3)(e) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2),(3) FS. History—New 7-1-71, Formerly 17-5, 7-1-75, 5I-2.03, Amended 1-9-91, 8-9-93, 8-16-95, 10-18-99,

5I-2.004 Open Burning Not Allowed.

(1) Listed below are the types of open burning not allowed in Florida:

(a) Any open burning ~~not~~ disallowed by Rule Chapters 5I-2 and 62-256, F.A.C. or Chapters 590 and 403, Florida Statutes.

(b) Open burning of biological waste, hazardous waste, asbestos containing materials, mercury-containing devices, pharmaceuticals, tires, rubber material, Bunker C residual oil, used oil, asphalt, roofing material, tar, treated wood, railroad cross ties, other creosoted lumber, plastics (except for those authorized in subsection 62-256.700(6), F.A.C. and Section 403.707, F.S.), garbage, or trash other than yard trash as provided in subsection 62-256.700(1), F.A.C., except that structures may be burned for the training of fire fighters in accordance with subsection 62-256.700(4), F.A.C.; waste pesticide containers may be burned in accordance with subsection 62-256.700(5), F.A.C.; polyethylene black plastic mulch and untreated wood pallets used in agriculture may be burned in accordance with subsection 62-256.700(7), F.A.C.; and animal carcasses may be burned in accordance with subsection 62-256.700(6), F.A.C and household paper products.

(c) Open burning that reduces visibility at a public airport, unless the airport in question has been contacted and has agreed to control air traffic during burning activities to avoid any possible smoke related problems.

(d) Open burning when an air pollution episode exists or is forecast to occur the Department of Environmental Protection (DEP) determines that ambient air concentrations of total

~~regulated particulate matter or ozone exceeds or potentially may exceed the primary or secondary standards for these pollutants or DEP issues an air quality/stagnation advisory that pertains to the National Ambient Air Quality Standards (NAAQS).~~

(e) Open burning during a National Weather Service Air Stagnation Advisory.

(f) Open burning which reduces visibility on public roadways to less than one thousand feet (1000) unless the regulating authorities have agreed given their permission to control traffic, or have delegated the authority to control traffic.

(g) Burning in smoke sensitive areas between one hour before sunset and 9:00 a.m. the next day.

(h) All open burning when the Division of Forestry determines that the fire poses a threat to public health, safety, and property protection.

(i) Open burning when the Division of Forestry determines that atmospheric or meteorological conditions indicate improper dispersion of smoke that threaten public health, safety, or general welfare, or which would obscure visibility of vehicular or air traffic, or violates the condition of the authorization, or burning prescription.

(j) Open Burning where the radiant/convective heat from the burning has the potential to damage structures in proximity to the burn.

(2) Open burning authorizations will be denied to any burner who repeatedly violates Florida law or agency rules. This denial remains in effect until the concern that caused the denial has been mitigated in consultation with the Division of Forestry District/Center Mmanager field unit.

~~(3) Open burning whenever atmospheric or meteorological conditions indicate improper dispersion of smoke that threaten public health, safety, or general welfare, or which would obscure visibility of vehicular or air traffic, or violates the condition of the authorization, or burning prescription.~~

Specific Authority 570.07(23),(28) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2), (3) FS. History--New 7-1-71, Formerly 17-5, 7-1-75, 5I-2.04, Amended 9-8-93, 8-16-95, 10-18-99, \_\_\_\_\_.

#### 5I-2.006 Open Burning Allowed.

(1) Open Burning in General. Authorization must be obtained from the Florida Division of Forestry for burns relating to agriculture, silviculture and pile burning rural land clearing on the same day the burn is to take place or after 4:00 p.m. of the previous day. The Division of Forestry may set special requirements for authorizations in order to protect public health and safety, including but not limited to on site inspections, restricting wind direction, limiting the burning period, requiring specific personnel and control equipment on site. Any authorized burn that goes out of compliance, but has not escaped the authorized area will be allowed a maximum of two hours to be brought into compliance by the person

responsible. In the event that the Division determines that there is a threat to life, public safety or property, immediate suppression action will be taken by the Division of Forestry.

(a) Daytime Non-Certified Daytime Authorizations will be issued for the burning to be conducted from 8:00 a.m. CT and 9:00 a.m. ET and the fire must discontinue spreading one hour before sunset ~~except for Certified Prescribed Burn Managers.~~

(b) Nighttime Non-Certified Nighttime Authorizations will be issued with a Dispersion Index of 8 or above ~~(except for Certified Prescribed Burn Managers)~~ for the burning to be conducted between one hour before sunset and 8:00 a.m. CT or 9:00 a.m. ET the following morning. Ignition of these fires is authorized up to midnight CT or ET (specific to the time zone where the fire is located), however the fire can continue to spread until 8:00 a.m. CT or 9:00 a.m. ET the following day. If additional time is required a new daytime authorization ~~(daytime)~~ must be obtained from the Division.

(2) Open Burning for Certified Prescribed Burn Managers (CPBM). (All burning conducted under this section is related to broadcast burning for the purposes of: must relate to Silviculture, Wildlife Management, Ecological Maintenance and Restoration, and Range and Pasture Management. ~~Burning in accordance with this section entitles the burner to the protection offered in Section 590.125(3)(c), Florida Statutes.)~~ Open burning authorizations under this section require the Certified Prescribed Burn Manager's certification number be presented at the time of the request, and that a Certified Prescribed Burn Manager be on site for the entire burn.

(a) Prescription. A prescription for the burn must be completed prior to any ignition and it must be on site and available for inspection by a Department representative. The burn must proceed in accordance with the prescription parameters. The prescription will contain, as a minimum, (unless agreed to in writing locally between the burner and the District or Center Manager of the Division of Forestry) the following:

1. Stand or Site Description;
2. Map of the area to be burned;
3. Number of personnel and equipment types to be used on the prescribed burn;
4. Desired weather factors, including but not limited to surface wind speed and direction, transport wind speed and direction, minimum mixing height, minimum relative humidity, maximum temperature, and the minimum fine fuel moisture;
5. Desired fire behavior factors, such as type of burn technique, flame length, and rate of spread;
6. The time and date the prescription was prepared;
7. The authorization date and the time period of the authorization;
8. An evaluation and approval of the anticipated impact of the proposed burn on related smoke sensitive areas;

9. The signature and number of the Certified Prescribed Burn Manager.

(b) Open Burning Hours

1. Daytime CPBM Authorizations will be issued for the burning to be conducted from 8:00 a.m. CT and 9:00 a.m. ET and the fire must discontinue spreading one hour after sunset.

2. Nighttime CPBM Authorizations will be issued with a Dispersion Index of 6 or above for the burning to be conducted between one hour before sunset and 8:00 a.m. CT and 9:00 a.m. ET the following day. Ignition of these fires is authorized up to midnight, however the fire can continue to spread until 8:00 a.m. CT and 9:00 a.m. ET the following day. If additional time is required a new authorization (daytime) must be obtained from the Division. The Division may issue authorizations at other times, in designated areas, when the Division has determined that atmospheric conditions in the vicinity of the burn will allow good diffusion and dispersement of ~~air pollutants~~ emissions, and the resulting smoke from the burn will not adversely impact ~~critical~~ smoke sensitive areas, e.g., highways, hospitals and airports.

(c) Burn Manager Certification Process. Certification to become a Certified Prescribed Burn Manager is accomplished by:

1. Satisfactory completion of the Division of Forestry's Prescribed Fire Correspondence Course and direct experience in three prescribed burns prior to taking the course or;

2. Satisfactory completion of the Division of Forestry's Prescribed Fire Classroom version of the Correspondence Course and a minimum of managing three prescribed burns prior to taking the course or;

~~3.2.~~ Satisfactory completion of the Florida Inter-Agency Basic Prescribed Fire Course and direct experience in three prescribed burns following successful completion of the classroom training. The burns conducted during the training do not count as part of this three burn requirement.

4. Applicants must submit a completed prescription for a proposed certifying burn to their local Florida Division of Forestry office prior to the burn for review and approval, and have the burn described in that prescription reviewed by the Division of Forestry during the burn operation. The local Division of Forestry District Manager (or their designee) will recommend DOF Prescribed Burn Manager certification upon satisfactory completion of both the prescription and required number of burns.

~~5.3.~~ In order to continue to hold the Division of Forestry Prescribed Burn Manager Certification the burner must comply with paragraph 5I-2.006(2)(d), F.A.C., or Division Certification will terminate five years from the date of issue.

(d) Certification Renewal. A Certified Prescribed Burn Manager must satisfy the following requirements in order to retain certification.

1. Participation in a minimum of eight hours of Division of Forestry approved training every five years relating to the subject of prescribed fire, or participation in a Division of Forestry recognized Fire Council Meeting, North/Central Prescribed Fire Council or South Florida Fire Council Meeting and

2. The Certified Prescribed Burn Manager has submitted their certification number for two completed prescribed burns in the preceding five (5) years, or

3. Participation in five (5) burns and have this documented and verified in writing to the Forest Protection Bureau's Prescribed Fire Manager of the Division of Forestry by a current Certified Prescribed Burn Manager, or

4. Retaking either the Prescribed Fire Correspondence Course or the Inter-Agency Basic Prescribed Fire Course.

(e) Decertification. The Commissioner of Agriculture will revoke any Certified Prescribed Burn Manager's certification if they demonstrate that their practices and procedures repeatedly violated Florida law or agency rules or is a threat to public health, safety, or property. Recommendations for decertification by the Division of Forestry to the Commissioner of Agriculture will be based on the Certified Burner Violations – Point Assessment Table located at: [http://www.fl-dof.com/wildfire/wf\\_pdfs/CBMpoints.pdf](http://www.fl-dof.com/wildfire/wf_pdfs/CBMpoints.pdf).

(3) Pile Burning. Piles or windrows shall not be ignited before 8:00 a.m. CT or 9:00 a.m. ET and have no visible flame one hour before sunset or anytime thereafter, except in smoke sensitive areas where the piles must be extinguished with no visible emissions one hour before sunset. The size and number of piles shall be dictated by the materials to be burned and the time available for burning. All pile burning must adhere to the following: Pile/Windrow Burning.

(a) The moisture content and composition of the materials to be burned shall be favorable to good burning which will minimize emissions. The amount of dirt in the piles or rows shall be minimized to enhance combustion and reduce emissions, and General. Piles or windrows shall not have visible flame one hour before sunset or anytime thereafter, except in smoke sensitive areas where the piles must be completely extinguished one hour before sunset. The size and number of piles shall be dictated by the materials to be burned and the time available for burning.

~~1. The moisture content and composition of the materials to be burned shall be favorable to good burning which will minimize air pollution. The amount of dirt in the piles or rows shall be minimized to enhance combustion and reduce emissions.~~

~~2. The pile burning must be set back one hundred (100) feet from any paved public highway and the prevailing winds will direct the smoke away from any occupied buildings or roads.~~

(b) The pile or windrow burning must be set back one hundred (100) feet from any paved public roadway and the prevailing winds will direct the smoke away from any occupied buildings (other than the landowners) or roads. Pile burning for paved public road maintenance and widening is exempt from the 100 foot set back as long as the visibility on the roadway is not reduced to less than 1,000 feet, and Agriculture and Silvicultural Pile/windrow burning must be set back three hundred (300) feet from any occupied building except the landowner's buildings.

(c) The pile burning is attended at all times, and Rural Land Clearing. Open burning of wooden material or vegetation generated by a land clearing operation is allowed provided that all of the following conditions are met:

1. The open burning meets one of the following setback requirements:

a. Residential Land Clearing must be set back three hundred (300) feet or more away from any occupied building for residential land clearing, and clearing for residential enhancement of property value and aesthetics, or

b. Non Residential with Air Curtain must be setback three hundred (300) feet or more from any occupied building if an air curtain incinerator is used, or

e. Non Residential without Air Curtain must be setback one thousand (1000) feet or more away from any occupied building if air curtain incinerator is not used and the operation is not residential land clearing, or

d. Exception to Setbacks — An exception to the setbacks in sub-subparagraph 5I-2.006(3)(c)1.a., b., and e., F.A.C., will be granted if the affected parties agree in writing to allow the burn to take place.

2. The use of Air Curtain Incinerators is allowed for the combustion of land clearing debris. No Department of Environmental Protection permits are required for air curtain incinerators that are designed and used as portable units and that will operate on any one site for less than six months in any year. Prior authorization to use a portable Air Curtain Incinerator must be obtained from the Division of Forestry. Operation of portable Air Curtain Incinerators shall be authorized provided that the following conditions are met:

a. Pit width, length, and side walls shall be properly maintained so that the combustion of the waste within the pit will be maintained at an adequate temperature and with sufficient air re-circulation to provide enough residence time and mixing for complete combustion and control of emissions. Pit width shall not exceed twelve (12) feet, and vertical side walls shall be maintained.

b. No waste will be burned above the level of the air curtain in the pit.

e. Excessive visible emissions are not allowed except for a period of up to 30 minutes during start ups and shutdowns.

3. Air Curtain Incinerators that are intended to be stationary units, i.e., continuously operate at one site for more than six months, or operate at any Department of Environmental Protection (DEP) permitted land fill, must comply with the requirements of subsection 62-296.401(6), F.A.C., in effect on July 7, 1995, Florida Administrative Code.

4. Exceptions to the setback requirements from occupied buildings shall be granted by the Division of Forestry when the applicant obtains a signed written statement from every affected resident within the setback area that waives their objections to the open burning associated with the land clearing operation and presents the statement to the Division of Forestry 48 hours in advance of the burning.

(d) The pile burning must meet one of the following setback requirements: Any open burning that is allowed by this chapter is restricted to the site where the material was generated and such material shall not be transported to another property to be open burned, unless the rural land clearing debris has been generated by the person, or their agent, who owns the property where it was generated and to where it is transported, or operates an Air Curtain Incinerator provided that the following conditions are met:

1. Residential, and Agricultural/Silvicultural pile burning must be set back three hundred (300) feet or more away from any occupied building other than that of the landowner and 50 feet from any wildlands, brush or combustible structure. It will be transported to property that is owned or leased by the person who generated the land clearing debris, and will not exceed 6 months from the date of the initial authorization and

2. Non-Residential pile burning without an Air Curtain Incinerator must be setback one thousand (1000) feet or more away from any occupied building and 100 feet from any wildlands, brush or combustible structure. Meets a setback distance of three hundred (300) feet from occupied buildings for Air Curtain Incinerators with vertical refractory lined walls and with forced under draft air, or

3. Meets a setback distance of one thousand (1000) feet from occupied buildings for all other Air Curtain Incinerators or

4. Meets a setback distance of one thousand (1000) feet from occupied buildings for land clearing debris burned without an Air Curtain Incinerator.

(e) Exception to Setbacks — An exception to the setbacks in subparagraphs 5I-2.006(3)(d)1. and 2., F.A.C., will be granted if all of the affected parties agree in writing to allow the burn to take place.

(4) Tree Cutting Debris Burning. Open burning to dispose of tree cutting debris shall be conducted using a DEP permitted air curtain incinerator operated in compliance with the provisions of Rule 62-296.401, F.A.C., and any other terms of the unit's air permit. Open burning to dispose of tree cutting debris without use of a permitted air curtain incinerator is allowed provided:

(a) The tree cutting debris was generated on residential premises of not more than two family units and;

(b) The open burning is restricted to the site where the tree cutting debris was generated and;

(c) The open burning is conducted in accordance with all provisions applicable to pile burning as set forth by the Division of Forestry at subparagraphs 5I-2.006(3)(a),(b),(c), (d)1. and (e), F.A.C.; and

(d) The open burning is not prohibited by any local, county, or municipal rule or ordinance, or the open burning is conducted in accordance with any such rule or ordinance to the extent that such rule or ordinance is stricter than the provisions of this subsection.

(5) Air Curtain Incinerator Burning. The use of an Air Curtain Incinerator is allowed for the combustion of land clearing debris, provided the incinerator has a DEP air permit or has been specifically exempted from air permitting by the DEP pursuant to Rule 62-210.300, F.A.C. If an air curtain incinerator has been exempted from air permitting by the DEP, prior authorization to use the incinerator must be obtained from the Division of Forestry. Operation of an exempt air curtain incinerator shall be authorized provided that open burning would otherwise be allowed under this chapter and the following conditions are met:

(a) Only kerosene, diesel fuel, drip torch fuel, clean dry wood or lightered pine, virgin oil, natural gas or liquefied petroleum gas may be used to start the fire in the incinerator. The use of used oil, chemicals, gasoline, or tires to start the fire is prohibited.

(b) An air curtain incinerator must be located at least 300 feet from any occupied building and 50 feet from any wildlands, brush, combustible structure, or paved public roadway.

(c) Incinerators equipped with refractory-lined walls, shall begin charging no earlier than sunrise and must end no later than one hour after sunset.

(d) Incinerators not equipped with refractory lined walls shall begin charging no earlier than 8:00 a.m. CT or 9:00 a.m. E.T. and must end no later than one hour after sunset.

(e) Regardless of the air curtain incinerator type, after charging ceases, air flow shall be maintained until all material within the air curtain incinerator has been reduced to coals, and flames are no longer visible. A log shall be maintained on site, and available upon request, that documents daily beginning and ending times of charging.

(f) If the air curtain incinerator employs an earthen trench, the pit walls (width and length), shall be vertical, and maintained so that the combustion of the waste within the pit will be maintained at an adequate temperature and with sufficient air re-circulation to provide enough residence time and mixing for proper combustion and control of emissions. Pit width shall not exceed twelve (12) feet.

(g) The waste material shall not be loaded into the air curtain incinerator such that it protrudes above the level of the air curtain in the pit.

(h) Ash shall not be allowed to build up in the pit of the air curtain incinerator to higher than 1/3 the pit depth or to the point where the ash begins to impede combustion, whichever occurs first.

(i) Excessive visible emissions are not allowed except for a period of up to 30 minutes during start ups.

(j) The air curtain incinerator shall be attended at all times while materials are being burned or flames are visible within the incinerator.

(k) The burning will not exceed 6 months on the same site from the date of the initial authorization from the Division of Forestry, unless the Division is notified of an exemption by DEP in accordance with Rule 62-4.040, F.A.C.

(l) Exceptions to the setback requirements from occupied buildings shall be granted by the Division of Forestry when the applicant obtains a signed written statement from every affected resident within the setback area that waives their objections to the open burning associated with the land clearing operation and presents the statement to the Division of Forestry 48 hours in advance of the burning.

(m) If the owner or operator of the air curtain incinerator, by lease or other means, grants authority to operate the incinerator to a person not in the employ of the owner, the owner shall provide such person with a copy of this rule section's requirements.

(6) Off Site Burning. Any open burning of land clearing debris that is allowed by this chapter is restricted to the site where the material was generated and such material shall not be transported to another property to be burned, unless the land clearing debris has been generated by the person, or their agent, who owns or leases the property where it was generated and to where it is transported, and operates an air curtain incinerator in compliance with all applicable paragraphs of subsection 5I-2.006(5), F.A.C.

(7) Recreational Open Burning. Nothing in this chapter shall be construed to prohibit the legal open burning of vegetative debris and untreated wood in a campfire, outdoor fireplace, or other contained outdoor heating or cooking device, or on cold days for warming of outdoor workers. Furthermore, nothing in this chapter shall be construed to prohibit the open burning of vegetative debris or untreated wood in a recreational or ceremonial bonfire, as long as the fire is attended at all times and is completely extinguished with no visible emissions if the area is to be left unattended. The person or persons responsible for the recreational fire shall ensure compliance with any applicable open burning rules adopted by the Division of Forestry of the Florida Department of Agriculture and Consumer Services.

(8)(4) Open Burning Exceptions. The Director of the Division of Forestry is authorized to grant exceptions in furtherance of public health, safety and welfare, to the open burning rules within Chapter 5I-2, F.A.C., in the event of an emergency that would require the destruction of vegetative debris or animal carcasses in the most expeditious means possible. Examples would include the burning of vegetative matter or animal carcasses resulting from an insect or disease infestation, or ~~the debris~~ resulting from storm damage, e.g., hurricanes or tornados.

Specific Authority 570.07(23),(28), 590.125(3)(e) FS. Law Implemented 570.07(28), 570.548, 590.02(1)(b), 590.125(2),(3) FS. History—New 7-1-71, Formerly 17-5, 7-1-75, Formerly 5I-2.06, Amended 1-9-91, 9-8-93, 8-16-95, 10-18-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. James D. Brenner, Fire Management Administrator, Division of Forestry, Department of Agriculture and Consumer Services, 3125 Conner Blvd., Tallahassee, Florida 32399-1650, (850)488-6480, e-mail: brennej@doacs.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Jim Karels, Assistant Director, Division of Forestry, Department of Agriculture and Consumer Services, 3125 Conner Blvd., Tallahassee, Florida 32399-1650, (850)414-9967, e-mail: karelsj@doacs.state.fl.us

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 4, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2004

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Aquaculture**

RULE CHAPTER TITLE: Aquaculture Best Management Practices

RULE CHAPTER NO.: 5L-3

RULE TITLE: Aquaculture Best Management Practices Manual

RULE NO.: 5L-3.004

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Chapter 5L-3, F.A.C., to reference an updated aquaculture best management practice manual, dated January, 2005.

SUMMARY: The proposed rule establishes the procedures to follow and best management practices to implement by aquaculture producers in order to obtain an aquaculture certificate of registration from the Florida Department of Agriculture and Consumer Services. The amended reference manual has been rearranged and edited to clarify requirements and create a more understandable manual. Specifically, there are new requirements for aquaculture related construction, a new section on aquaculture dock construction and use, a new section on shellfish culture in open water and new provisions for aquatic animal welfare.

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

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

SPECIFIC AUTHORITY: 570.07(23), 597.004(2)(b) FS.

LAW IMPLEMENTED: 597.002, 597.003, 597.004 FS.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO: Kal Knickerbocker, Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governor’s Square Boulevard, 5th Floor, Tallahassee, FL 32301.

IF REQUESTED IN WRITING 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, July 18, 2005

PLACE: Division of Aquaculture, 1203 Governor’s Square Boulevard, 5th Floor Conference Room, Tallahassee, Florida 32301

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel Management, (850)921-6262, at least seven days before the meeting.

The proposed rule and reference manual are available by contacting Kal Knickerbocker at the address and telephone number shown below or can be obtained on the Division of Aquaculture’s website at [www.FloridaAquaculture.com](http://www.FloridaAquaculture.com).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kal Knickerbocker, Department of Agriculture and Consumer Services, Division of Aquaculture, 1203 Governor’s Square Boulevard, 5th Floor, Tallahassee, Florida 32301, (850)488-4033

THE FULL TEXT OF THE PROPOSED RULE IS:

5L-3.004 Aquaculture Best Management Practices Manual.

(1) The Best Management Practices manual used by the Department under Chapter 5L-3, F.A.C. is adopted and incorporated by reference in this section. The manual is listed below by subject title and date. Copies of the manual may be obtained by contacting the Department or from the Division of Aquaculture’s website at [www.FloridaAquaculture.com](http://www.FloridaAquaculture.com).

(2) Aquaculture Best Management Practices Manual, January, 2005 ~~October, 2002~~.

Specific Authority 570.07(23), 597.004(2)(b), 791.07 FS. Law Implemented 597.003, 597.004 FS. History—New 10-4-00, Amended 12-29-02, 6-8-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kal Knickerbocker



NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sherman Wilhelm, Director, Division of Aquaculture
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 6, 2005
DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 9, 2004 and April 29, 2005

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Emergency Management

RULE CHAPTER TITLE: Base Funding for County Emergency Management Agencies, Emergency Management Competitive Grant Program and Municipal Competitive Grant Program Rule
RULE CHAPTER NO.: 9G-19

RULE TITLES: Definitions, Limitations, Base Grant Distribution Formula, Competitive Awards Eligibility, Procedures for Awarding Competitive Grants, Selection Criteria for Competitive Grants, Disbursement
RULE NOS.: 9G-19.002, 9G-19.003, 9G-19.005, 9G-19.007, 9G-19.008, 9G-19.009, 9G-19.010

PURPOSE, EFFECT AND SUMMARY: Implementation of the proper revisions and changes that are important to identify and clarify rule language in areas of concern from past Base Grant and Competitive Grant programs. These revisions and changes will simplify existing language that will make the grant process easier for all parties involved.
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: 252.35, 252.373 FS.

LAW IMPLEMENTED: 216.052, 252.35, 252.38, 252.373, 252.83 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., July 18, 2005
PLACE: Department of Community Affairs, Director's Conference Room, Room 120L, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing because of disability or physical impairment should contact the Administrative Secretary, Division of Emergency Management, Bureau of Compliance Planning, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399, (850)413-9821, Suncom 293-9821, at least seven days before the date of the

hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Paula Churchwell, Planning Manager, Finance and Logistics Section, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100, (850)413-9942, Suncom 293-9942

THE FULL TEXT OF THE PROPOSED RULES IS:

- 9G-19.002 Definitions.
(1) through (28) No change.
(29) "Rural Economic Development Initiative (REDI) reduction or waiver" for purposes of the competitive grant programs only, means the reduction or waiver as identified in a Notice of Fund Availability published in the Florida Administrative Weekly, of financial match requirements pursuant to Section 288.0656(2)(b), Florida Statutes.

Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History--New 1-12-94, Amended 6-21-95, 11-13-96, 11-10-97, 10-11-98, 10-11-00, 10-22-02,\_\_\_\_\_.

- 9G-19.003 Limitations.
(1) No change.
(2) The amount of funds available pursuant to this rule chapter may be adjusted proportionally when necessary to meet any matching requirements imposed as a condition of receiving federal disaster relief assistance or planning funds. In the event the need arises to proportionally adjust the funds available pursuant to this rule chapter, the Division Department shall provide notice, as soon as practicable, to all affected entities, of the need to implement the proportional adjustment. Thereafter, each affected entity shall cease expenditures of funds as necessary to meet the proportional adjustment. If authorized by the Legislature, and in the event that funds are available from receipts to the Trust Fund, the Division Department shall provide funds, up to the amount reduced by the previous proportional adjustment, to those entities whose funding was decreased by a previous proportional adjustment.

Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.83 FS. History--New 1-12-94, Amended 11-13-96,\_\_\_\_\_.

- 9G-19.005 Base Grant Distribution Formula.
(1) No change.
(2) Funds shall be allocated to implement and administer county emergency management programs including administration, training, and operations, 40.8 percent of the Trust Fund, or that amount designated pursuant to Section 3(1)(a), Chapter 93-128, Laws of Florida or by other Legislative appropriation, as available for distribution, shall be initially allocated for base grants to County Emergency Management Agencies. If adequate funds are available as

determined by the Division, every county shall receive funds at least sufficient to fund a dedicated, full-time emergency preparedness officer position. All allocations shall be subject to any pertinent Legislative appropriation.

(3) through (5) No change.

(6) All base grant allocations shall be made contingent upon the County's commitment to, and accomplishment of, a scope of work identified by the Division each year. Said commitment shall be embodied in a written grant agreement executed between the County and the Department Division. The agreement shall provide for reimbursement of costs up to the fixed amount of the award. Failure to agree to, execute or comply with the terms of the grant agreement shall constitute noncompliance.

Specific Authority 252.35, 252.373 FS. Law Implemented 216.052, 252.35, 252.373, 252.83 FS. History—New 1-12-94, Amended 6-21-95, \_\_\_\_\_.

#### 9G-19.007 Competitive Awards Eligibility.

(1) through (2) No change.

(3) Funds shall be allocated for grants to implement projects that will further state and local emergency management objectives. 7.2 percent of the amount designated as available for distribution in the Trust Fund, as designated in Section 3(1)(a), Chapter 93-128, Laws of Florida or by other Legislative appropriation. These funds shall be identified for awards to Municipal Emergency Management Programs under the Municipal Competitive Grant Program: and 20 percent of the amount designated as available for distribution in the Trust Fund, as designated in Section 3(1)(a), Chapter 93-128, Laws of Florida, or by other Legislative appropriation, shall be identified for awards to state, regional and local governments and nonprofit organizations under the Emergency Management Competitive Grant Program. All allocations shall be subject to Legislative appropriations.

(4) Under the Municipal Competitive Grant Program, each Municipal Emergency Management Program may apply for one competitive grant ~~not to exceed \$50,000. The maximum award amount will be established annually by the Division in a Notice of Fund Availability and published in the Florida Administrative Weekly.~~ Joint applications by two or more municipalities shall be permitted, however the total award for any municipality application shall be limited to the amount established annually by the Division in a Notice of Fund Availability and published in the Florida Administrative Weekly \$50,000.00. Under the Emergency Management Competitive Grant Program, eligible applicants may submit multiple applications, however, no single application shall seek or receive an award in excess of the amount established annually by the Division in a Notice of Fund Availability and published in the Florida Administrative Weekly \$300,000. All eligible applicants, with the exception of counties ~~and state agencies,~~ shall be limited to no more than three (3) application submissions in an application cycle.

(5) No change.

~~(6) Those municipal grant funds available in subsection 9G 19.007(3), F.A.C., not allocated under subsection 9G 19.007(4), F.A.C., will be reallocated by the Division in accordance with the provisions of subsections 9G 19.006(1), (2), and (3), F.A.C.~~

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

Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, 10-14-98, 10-11-00, 10-22-02, \_\_\_\_\_.

#### 9G-19.008 Procedures for Awarding Competitive Grants.

(1) No change.

(2) Applications for a competitive award shall may include a statement from the County Emergency Management Agency describing the extent to which the project is consistent with the county's Comprehensive Emergency Management Plan. A copy of the applicant's letter requesting this statement must be included in the application. If such a consistency statement is desired, the applicant shall supply a description of the project to the applicable County Emergency Management Agency(ies) at the time of the request for a consistency statement, at least thirty (30) days prior to the deadline for submitting the application. If the applicable Emergency Management Agency(ies) will make a consistency determination determines that of that the project, and also address other issues that may be relevant to the project, such as duplication of an existing capability is consistent, no further explanation is required. When If the applicable Emergency Management Agency(ies) determines that the project is consistent or inconsistent, or is unable to make a consistency determination for any reason, it (they) shall provide a written explanation of the inconsistency or its inability to respond to the Division Department. If a county fails to respond to an applicant's timely submitted request for such a statement, as evidenced by inclusion of a dated copy of the project description letter in the application, the application shall be considered consistent with the applicable Comprehensive Emergency Management Plan. In the event that the county fails to respond, the application shall describe the steps, including pertinent dates, by which the county consistency review was requested. The county's consistency determination shall be considered by the review committee, provided it is received at least thirty (30) days before the deadline for transmitting preliminary scores and resulting rankings. Failure to supply the project description to the County Emergency Management Agency at least thirty (30) days prior to the deadline for submitting application may shall result in no award of points for consistency with local government plans and objectives.

(3) The Department hereby adopts by reference the Emergency Management, Preparedness, and Assistance Trust Fund Competitive Grant Program Application Packet, Form No. 008, \_\_\_\_\_ July 2003 version, which provides forms,

instructions, and other information necessary for submission of an application for Competitive Grant funds submitted pursuant to Rule 9G-19.008, F.A.C.

(4) Application packets may be obtained from the website as identified in the Application Packet or from the Department of Community Affairs, Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, Attention: EMPATF Program. Requests should specify the Competitive Grant Program Application Packet.

(5) All applications shall conform to the following requirements, and shall be reviewed for technical conformity in accordance with the following procedures:

(a) All applications shall adhere to the format specified in the Application Packet, Form No. 008, \_\_\_\_\_ ~~July 2003~~ version.

(b) No change.

(c) Any applicant may receive a preliminary technical review of its application by submitting the application not later than twenty-one (21) days before the published application deadline. Preliminary technical review shall be limited to signature authority, technical conformity to the instructions in the Application Packet, and other technical requirements. No application will be scored or otherwise evaluated for content during preliminary technical review. The Division will inform the applicant of any technical deficiencies in the application by telephone, e-mail or facsimile ~~teletypewriter~~ not later than ten (10) days in advance of the published application deadline to give the applicant an opportunity to rectify ~~ure~~ them before the deadline.

(d) No change.

(e) The Division shall inform the applicant by telephone, e-mail or facsimile ~~teletypewriter~~ not later than five (5) days after the date of the published application deadline if it intends to reject the application for failure to provide evidence of signature authority with the application, for technical noncompliance with the instructions in the Application Packet, or for noncompliance with other technical requirements. Notwithstanding any provision to the contrary elsewhere in this rule chapter, the applicant shall then have up to fifteen (15) days from the date of the published application deadline or to the close of the next business day thereafter to supplement its application with adequate written evidence of signature authority or rectify ~~ure~~ any other technical deficiencies.

(6) No change.

(7) Applications submitted shall be executed by the chief elected official or the chairman of the governing board unless this authority has been delegated to the chief executive officer or other government official, who shall then endorse the application. Evidence of the delegation of authority shall be supplied with the application. If the governmental entity does not have a governing board or chief elected official, then the application shall be executed by the chief administrative officer and evidence of his or her authority to bind the

governmental entity shall be supplied with the application. If the Applicant is not a governmental entity, then the application shall be executed by the governing board, or, if there is no governing board, then the application shall be executed by the chief executive officer. If the application is transmitted ~~electronically~~ on-line, it shall be transmitted not later than three (3) days before the published application deadline. A hard copy of the title page containing the original authorized signature must be submitted by mail, and must be received by the Division by the published application deadline date.

(8) Applications shall be rejected if:

(a) through (d) No change.

(e) The application is not received before 4:00 p.m., Eastern Local Time, on the noticed application deadline date; or

(f) The Applicant has been notified that it is not in compliance with the terms and conditions of any open contractual agreement from any funding administered by the Department Division.

(g) No change.

Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, 11-10-97, 10-14-98, 10-11-00, 10-22-02, 11-27-03, \_\_\_\_\_.

#### 9G-19.009 Selection Criteria for Competitive Grants.

(1) The review committee shall review all applications that are received by the noticed application deadline and that comply with the application procedures and requirements set forth in this rule. Applications that are either not received by the noticed application deadline or that do not comply with the application procedures and requirements set forth in this rule shall be rejected. Received means delivery by hand, certified mail, electronically transmitted (disk or on-line) or courier to the location designated in the Notice of Fund Availability no later than 4:00 p.m., Eastern Local Time, on the final day of the application period. Facsimile transmissions shall not be accepted.

(2) Applications shall be scored by the review committee independently and the scores shall be totaled and averaged. Thereafter, the committee shall evaluate the scores and arrive at preliminary scores and resulting rankings. Preliminary scores and resulting rankings shall be prepared within each category based upon the total number of points earned with the overall highest number of points determining priority for funding. The review committee shall, within 75 days of the application deadline date, post preliminary scores and resulting rankings on the Division of Emergency Management website www.floridadisaster.org, ~~along with any administrative proceeding rights~~. Upon determination, final scores and resulting rankings will be posted on the Division of Emergency Management website, www.floridadisaster.org. Funds shall be offered to the Applicant with the overall highest score, then to the Applicant with the next overall highest score, and so on, until all funds have been offered and accepted, or all eligible

applications have been funded, or insufficient funds remain to fund an eligible project. The ~~Division~~ ~~Department~~ may offer to fund all or part of the project or all or part of the amount requested in an application. Applicants shall be given 21 days to accept or reject a proposed award. Written notice of acceptance shall be delivered to the Division offices designated in the notice of award along with a complete proposal, revised budget, timeline and a list of project items. In the event that an Applicant fails to accept or reject a proposed award offered for the Emergency Management Competitive Grant Program or the Municipal Competitive Grant Program within the specified time, then the funds offered shall revert to the Trust Fund. ~~In the event that an Applicant fails to accept or reject a proposed award offered for the Municipal Competitive Grant Program within the specified time, then the funds shall be reallocated in accordance with the provisions of subsections 9G-19.006(1)-(3), F.A.C.~~

(3) through (8) No change.

Specific Authority 252.35, 252.373 FS. Law Implemented 252.35, 252.373, 252.38 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, 10-11-98, 10-11-00, 10-22-02, 11-27-03, \_\_\_\_\_.

9G-19.010 Disbursement.

(1) through (4) No change.

(5) All recipients of trust funds shall cause a financial audit to be performed in accordance with Section 216.349, Florida Statutes. A report of the audit will be forwarded to the ~~Department~~ ~~Division~~ within 60 days of its completion.

(6) through (9) No change.

(10) The Division shall prescribe the type of information, timing and format in which project information shall be reported in the grant agreement. In the event that the ~~Division~~ ~~Department~~ determines that additional reports are necessary in order to demonstrate compliance with this rule chapter or the terms of the grant agreement, then the grant recipient shall supply said reports. Failure to meet the requirements related to reporting shall constitute noncompliance.

(11) No change.

Specific Authority 252.35, 252.373 FS. Law Implemented 216.052, 252.35, 252.373, 252.83 FS. History—New 1-12-94, Amended 6-21-95, 11-13-96, 11-27-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Paula Churchwell, Planning Manager, Finance and Logistics Section, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100, (850)413-9942, Suncom 293-9942

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Suzanne Adams, Community Program Administrator, Finance and Logistics Section, Division of Emergency Management

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 13, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 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.”

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Water Shortage Plan	40B-21
RULE TITLES:	RULE NOS.:
Purpose and Policy	40B-21.001
Elements of the Plan	40B-21.031
Definitions	40B-21.051
Monitoring Conditions	40B-21.211
Evaluating Hydrologic Conditions	40B-21.221
Declaring a Water Shortage	40B-21.231
Water Shortage Response	40B-21.251
Implementing a Water Shortage Declaration	40B-21.275
Variances	40B-21.291
Compliance	40B-21.421
General	40B-21.511
Source Classifications	40B-21.531
Use Classifications	40B-21.541
Method of Withdrawal Classifications	40B-21.571
General	40B-21.601
Water Shortage Advisory	40B-21.621
Water Shortage	40B-21.631
Water Shortage Emergency	40B-21.641

PURPOSE AND EFFECT: The purpose of the rule development is to codify a water shortage plan for the Suwannee River Water Management District as required by Section 373.246, F.S. The effect will be to protect water resources from significant harm during drought conditions through an equitable distribution of water use restrictions.

SUMMARY: The proposed rule will establish a water shortage plan for the Suwannee River Water Management District as required by Section 373.246, F.S. The water shortage plan details how the District declares and implements a water shortage in order to protect water resources from harm during drought conditions. The water shortage plan includes a system for classifying water sources, uses, and withdrawal methods, includes procedures for declaring a water shortage, provides specific restrictions for water uses for each class of water use, and provides enforcement and variance procedures.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113 FS.

LAW IMPLEMENTED: 373.119, 373.129, 373.136, 373.175, 373.246, 373.603, 373.609 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or 1(800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULES IS:

40B-21.001 Purpose and Policy.

(1) Chapter 373, Florida Statutes (F.S.), provides for the conservation, protection, management, and control of the waters of the state by the water management districts. Section 373.246, F.S., specifies that each water management district shall formulate a plan for implementation during periods of water shortage. As a part of this plan, the Governing Board shall adopt a system of classification according to the source of water supply, method of extraction, withdrawal, or diversion, and use of water. A governing board of a water management district, by order, may declare that a water shortage exists within all or part of the District when insufficient water is available to meet the requirements of the users, or when conditions are such as to require a temporary reduction in total use within the area to protect the water resources from serious harm. Upon such declaration, temporary reductions in total use and restrictions on one or more classes of permits issued pursuant to Chapter 40B-2, Florida Administrative Code (F.A.C.), may be required in order to protect the water resources from serious harm and to restore them to their previous condition.

(2) The procedures in this plan comprise the Suwannee River Water Management District's (District) water shortage plan required under subsection 373.246(1), F.S. The purposes of the plan are to protect the water resources of the District from serious harm; to assure equitable distribution of available water resources among all water users during times of shortage (consistent with the goals of minimizing adverse economic, social, and health related impacts); to provide advance knowledge of the means by which water apportionments and reductions will be made during times of shortage; and to promote greater security for water users.

(3) This chapter and any implementation of it during a water shortage or water shortage emergency, shall not divest the Governing Board and Executive Director of the authority to declare a water shortage or water shortage emergency pursuant to Section 373.175, F.S.

(4) These procedures apply to all consumptive users, including those exempted from Chapter 40B-2, F.A.C., permitting requirements.

(5) It is the policy of the Governing Board that:

(a) Consumptive users and the general public will be supplied frequent and accurate information regarding the status of water resources, methods of water conservation, and means for efficient consumptive use.

(b) This plan will only be implemented in times of water shortage as determined by comparing current hydrologic monitoring data, historical trends, and anticipated demand by users.

(c) Artificial water shortages will not be created by the over-allocation of available supplies in the administration and implementation of Chapter 40B-2, F.A.C., Permitting of Consumptive Uses of Water.

(d) The specific means and methods for consumptive use reduction that are found in Part V of this chapter will recognize the relative efficiency of similarly classified users.

(e) The specific means and methods for consumptive use reduction that are found in Part V of this chapter will represent a guideline for specific restrictions to be imposed on users who transfer water across basin boundaries-interbasin transfers. However, additional or more stringent restrictions may be applied at the discretion of the Governing Board to users who make interbasin transfers.

(f) During times of declared water shortage, the cooperation of local government officials, local law enforcement officials, and the public will be actively encouraged.

(g) The District will seek the cooperation and assistance of state, county, and municipal governmental officials, law enforcement officials, and police officers in the enforcement of the water shortage plan or any water shortage order issued pursuant thereto.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History--New \_\_\_\_\_.

40B-21.031 Elements of the Plan.

(1) Part I. General – Part I states the purpose and policy of the District in developing and adopting the water shortage plan. The elements of the plan are described, and definitions for key terms used within the plan are provided.

(2) Part II. Declaring and Implementing a Water Shortage. Part II describes the procedures the District will use for declaring a water shortage. In addition, Part II provides procedures for implementing a water shortage declaration and variance criteria and procedures.

(3) Part III. Compliance. Part III describes the District's overall program of monitoring surface and ground waters, climatic conditions, and water demand during a shortage. This part establishes a monitoring program to determine the impact of a water shortage on the water resources of the District and

the effectiveness of a declaration of water shortage or water shortage emergency. In addition, this part describes how the District, in conjunction with local law enforcement officials, will ensure compliance with the provisions of a declared water shortage or water shortage emergency. This part describes the District's enforcement jurisdiction and enforcement procedures for violations of the water shortage plan and any order issued pursuant to it. This part describes the District's policy of seeking the cooperation and assistance of local government officials and of assisting such officials in ensuring compliance with the water shortage plan.

(4) Part IV. The Classification System. Part IV classifies each user according to the source of water supply, type of water use, and method of withdrawal. The classification system is used in conjunction with Parts II, III, and V to determine the water use restrictions with which users should comply.

(5) Part V. Specific Means and Methods for Water Use Reduction. Part V presents consumptive use reduction methods and means for a water shortage by water use class. Various combinations of these reduction methods and means will be employed by the District to achieve the target reduction in user demands during a water shortage. The ultimate combination of reduction methods and means chosen will be described within the water shortage order(s) published by the District as described in Part II.D.

Specific Authority 373.044, 373.113 FS. Law Implemented: 373.175, 373.246 FS. History—New \_\_\_\_\_.

#### 40B-21.051 Definitions.

##### When used in this Chapter:

(1) "Water shortage" means that situation within all or part of the District when insufficient water is available to meet the existing reasonable-beneficial needs of water users and to protect water resources from serious harm. A water shortage may be the result of a drought or the result of human influences on water resources.

(2) "Water shortage emergency" means a situation when the powers which can be exercised under a water shortage declaration are not sufficient to adequately protect the public health, safety, or welfare, the health of animals, fish, or aquatic life.

(3) "User" means any person or entity which directly or indirectly takes water from the water resource, including but not limited to uses from private or public utility systems, uses under consumptive use permits issued pursuant to Chapter 40B-2, F.A.C., or uses from individual wells or pumps for domestic or individual home use.

(4) "Water resource" means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, and any related natural systems. However, it does not refer to treated wastewater effluent or seawater.

(5) "Source class" means the specified water resource from which a user is obtaining water either directly or indirectly. Source classes within the District are identified in Rule 40B-21.531, F.A.C.

(6) "Use class" means the category describing the purpose for which the user is using water. Use classes within the District are specified in Rule 40B-21.541, F.A.C.

(7) "Method of withdrawal class" means the type of facility or means of extraction or diversion of water employed by the user. Method of withdrawal classes within the District are specified in Rule 40B-21.571, F.A.C.

(8) "Plan" means the water shortage plan authorized in Section 373.246, F.S. and contained in this chapter.

(9) "Overhead irrigation" means the use of equipment and devices which deliver water under pressure, through the air, above the level of the plant being irrigated.

(10) "Low-volume hand watering" means the low volume irrigation of plants or crops with one hose, fitted with a self-canceling or automatic shutoff nozzle, attended by one person.

(11) "Low-volume mobile equipment washing" means the washing of mobile equipment with a bucket and sponge or a hose with a self-canceling or automatic shutoff nozzle or both.

(12) "Low-volume pressure cleaning" means pressure cleaning by means of equipment which is specifically designed to reduce the inflow volume as accepted by industry standards.

(13) "Mobile equipment" means any public, private, or commercial automobile, truck, trailer, railroad car, camper, boat, or any other type of similar equipment. The term shall not include sanitation and sludge vehicles or food vending and transporting vehicles.

(14) "Even numbered address" means the house address or rural route ending in the numbers 0, 2, 4, 6, 8, or the letters A-M. Post office box numbers are not included.

(15) "Odd numbered address" means the house address or rural route ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z. Post office box numbers are not included.

(16) "Even numbered days" means the days whose dates end in the numbers 0, 2, 4, 6, or 8. For purposes of this chapter, the date shall be determined by the day during which irrigation begins.

(17) "Odd numbered days" means the days whose dates end in the numbers 1, 3, 5, 7, or 9. For purposes of this chapter, the date shall be determined by the day during which irrigation begins.

(18) "Consumptive Use Permit" means a permit issued pursuant to Chapter 40B-2, F.A.C., authorizing the withdrawal and use of water.

(19) "Irrigation System Efficiency Ratio (SER)" shall mean the ratio of the water withdrawn to the water requirement of the plant(s) irrigated and shall be determined by comparing volume of water which needs to be pumped for delivery by a particular irrigation system to the net irrigation requirement of

a crop. For example, if a particular irrigation system requires 1.2 inches of water in order to apply 1 inch to a crop, the SER is 1.2:1 or simply 1.2. Generally, the excess water is lost to system leakage, evaporation, and wind drift.

(20) “Low Pressure/Low Volume Irrigation System” shall mean any irrigation system with a SER of 1.2 or less and will typically include trickle, drip, micro jet, and low pressure (less than 30 pounds per square inch [psi]) overhead irrigation systems.

(21) “High Pressure/High Volume Irrigation System” shall mean any sprinkler-type irrigation system with an SER greater than 1.2 and will typically include higher pressure (greater than 30 psi) pivots, traveling or walking systems, or in-ground, overhead sprinkler systems.

(22) “Seawater” shall mean any ground or surface water with an average total chloride concentration equal to or greater than 15,000 milligrams per liter.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

40B-21.211 Monitoring Conditions.

(1) Purpose – This part of the plan generally describes the data collection and analyses the District may undertake in anticipation of and during a declared water shortage or water shortage emergency. Monitoring data may be used to determine:

- (a) Whether a water shortage or water shortage emergency should be declared;
- (b) Whether the restrictions in effect are sufficient to protect the water resources within the affected area in light of anticipated climate conditions; and
- (c) Whether the restrictions in effect are being adequately complied with by consumptive users.

(2) Data Sources – Data may be obtained from any source available, including, but not limited to:

- (a) The District, including information on permitted quantities, relevant pumping and meter records, general hydrological, meteorological, and biological information, and all other relevant information;
- (b) The U.S. Geological Survey, the Natural Resources Conservation Service, the Florida Bureau of Geology, the Florida Department of Environmental Protection, regional planning councils, and other local, state, or federal agencies; and
- (c) Any other source available.

(3) Resource Monitoring – The District may collect and analyze data concerning any aspect of the water resource. Data which may be collected include, but are not limited to:

- (a) Levels in surface and ground waters, including potentiometric heads in confined and unconfined aquifers;
- (b) Flows of rivers, streams, and springs;
- (c) Water quality of surface and ground waters;

(d) Demand of natural systems, including but not limited to losses from evapotranspiration and seepage;

- (e) Rainfall;
- (f) Drought indices or weather forecasts;
- (g) Impacts on fish and wildlife; and
- (h) Other data required to evaluate the status of the water resources of the District.

(4) Demand Monitoring – The District may collect and analyze data concerning any aspect of user demand upon the water resources. Data which may be collected include, but are not limited to:

- (a) Demands of permitted users;
- (b) Demands of users not subject to permitting, but subject to the provisions of the water shortage plan;
- (c) Demands of users whose supply of water is established by federal law; and
- (d) Other data required to evaluate demands on the water resources of the District.

(5) The District shall prepare a monthly hydrologic conditions report summarizing the data gathered pursuant to this plan.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

40B-21.221 Evaluating Hydrologic Conditions.

(1) The District shall monitor the condition of the water resources in the District as provided in Rule 40B-21.211, F.A.C.

(2) Current data shall be compared to historical data to determine whether serious harm to the water resources can be expected.

(3) Evaluations under this rule shall consider established minimum flows and levels and associated rules regarding implementation of water shortage provisions contained in Chapter 40B-8, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

40B-21.231 Declaring a Water Shortage.

(1) If the District determines there is a possibility that insufficient water will be available within a source class to meet the estimated present user demands from that source and to protect the water resource from serious harm, the Governing Board may declare a water shortage for the affected source class. The Governing Board may declare that a water shortage exists within all or parts of the District. The restricted area may include all or part of a county, municipality, surfacewater basin or utility service area which impacts a source class for which a water shortage is declared. When the affected source extends beyond the District’s boundaries, the District shall coordinate water shortage declarations with the appropriate water management district(s).

(2) A water shortage may also be declared for those source classes not presently experiencing a water shortage if usage from such sources can be reasonably expected to impact the present and anticipated available water supply in those source classes currently experiencing a shortage.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New \_\_\_\_\_.

#### 40B-21.251 Water Shortage Response.

(1) This plan establishes the means and methods to achieve the reduction in overall demand estimated to be necessary to protect water resources from serious harm. The specific reduction means and methods are intended to reduce demand during times of water shortages by increasing reduction methods and means on consumptive use as a function of the severity of the water shortage. For a water shortage, reduction methods and means are specified which, alone or in combination, are intended to achieve this reduction.

(2) If the District determines that, within any area of the District, the provisions of a water shortage are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, the Executive Director, with the concurrence of the Governing Board, may declare a Water Shortage Emergency.

(3) The District Governing Board may impose water shortage restrictions other than those specified in this plan and may establish demand reduction goals for such restrictions. A combination of the restrictions specified in Part III of this Chapter and any other restrictions deemed appropriate and necessary by the Governing Board may be imposed for any water shortage.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New \_\_\_\_\_.

#### 40B-21.275 Implementing a Water Shortage Declaration.

(1) In implementing water use restrictions, the factors the District shall consider include:

(a) The source of the water supply experiencing the shortage;

(b) The relative impact of the various categories of consumptive users on the water body for which the shortage is declared;

(c) The availability and practicality of alternative sources;

(d) The relative economic impacts that the restrictions are likely to have on each category of user. To the degree practical, the Governing Board shall impose water use restrictions in a manner that distributes the burden of the restrictions equitably among consumptive users, relative to their impact on the sources experiencing the shortage;

(e) The potential for serious harm to natural systems;

(f) Water shortage plans of local governments;

(g) The appropriate geographic scope of the restrictions;

(h) The effectiveness of the restriction imposed in terms of reducing consumptive use and protecting the relevant water supply source; and

(i) The impact of the consumptive use reduction methods and means on the public health, safety and welfare.

(2) Declaration of a water shortage and notification thereof shall be conducted in accordance with Section 373.246, F.S.

(3) When a water shortage is declared, the District will publish notice of the declaration in a prominent place within newspapers of general circulation in the areas affected. Such notice shall be published each day for the first week of the shortage and once a week thereafter until the declaration is rescinded. In addition, the District shall make every reasonable effort to inform the general public of the reduction methods and means in effect and the source classes which are affected. Particular attention shall be given to presenting this information in a form which is easily understood and applied by the citizens of the affected areas.

(4) The District shall notify each affected permittee within the affected source class of any change in permit conditions, any permit suspension or any other restriction on consumptive use. Notice shall be by regular mail.

(5) At least one public hearing shall be scheduled, which will be noticed according to the provisions in subsection (2). The public and consumptive use permit holders shall be afforded an opportunity to participate during water shortage public hearing(s) and present testimony on water shortage effects and the impacts of the proposed reduction methods and means. Substantive evidence submitted by the public at or prior to the hearing shall be made a part of the record at the hearing.

(6) Additional public hearings may be announced by the Board during a declared water shortage, and reasonable additional notice will be provided.

(7) The District shall notify local elected officials of any water shortage declaration and subsequent restrictions. Notice shall be by the best practicable means under the circumstances. In addition, local law enforcement officials shall be notified as soon as possible of any water shortage declaration or change in reduction methods and means affecting their areas of responsibility.

(8) A declaration of water shortage or any provision or restriction imposed under the water shortage plan may be modified or rescinded by the Board.

(9) An order declaring a water shortage or emergency orders shall become effective on the day after any notice required in subsection (3) is published. An order declaring a water shortage shall remain in effect until modified or rescinded by the Governing Board.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New \_\_\_\_\_.



40B-21.291 Variances.

Any petition for variance to any requirement of this Chapter shall be in accordance with procedures and requirements of Chapter 28-104, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

40B-21.421 Compliance.

(1) It is the policy of the District to seek the cooperation and assistance of state, county, and municipal government officials, law enforcement officials, and police officers in the enforcement of this Chapter and any water shortage order issued pursuant thereto.

(2) Counties and municipalities throughout the jurisdiction of the District are authorized and encouraged to adopt ordinances which provide for local enforcement of the provisions of this plan, or any order adopted pursuant thereto. Some cities and counties have long-standing ordinances which can be implemented by resolution of the governing body during a declared water shortage, while others have “preferred” local ordinances which are readopted as necessary and repealed upon conclusion of a water shortage. Upon request of the District’s Governing Board, each local government should be prepared to adopt or implement an ordinance in fulfillment of its composite duties as city and county officials to assist the Governing Board in the enforcement of its Water Shortage Orders (Section 373.609, F.S.).

(3) Water utilities are encouraged to take reasonable efforts to inform their customers regarding the water shortage situation, including the dissemination of pertinent water conservation information where feasible. Water utilities are also encouraged to cooperate with the District in monitoring user compliance with restrictions. This may involve increased reporting of pumping or metered connections.

(4) In order to ensure compliance with the provisions of any water shortage order issued pursuant to this plan, the District will use any of the enforcement remedies available pursuant to Chapter 120 or 373, F.S., or Title 40B, F.A.C.

(5) Compliance action may be initiated by the District as provided in Section 373.603, F.S., against violators of a water shortage order issued pursuant to this plan.

(6) The Executive Director may assign District personnel for the purpose of initiating compliance action pursuant to Section 373.603, F.S.

(7) The Executive Director may take appropriate action pursuant to Sections 373.119, 373.175(4), 373.246(7), and 120.69, F.S., and to seek compliance with the provisions of this Plan or any order issued pursuant thereto, or to alleviate any emergency conditions which might occur.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.119, 373.129, 373.136, 373.603, 373.609, 373.175, 373.246 FS. History–New \_\_\_\_\_.

40B-21.511 General.

This part of the Chapter establishes the basis for distinguishing among different users of the water resource according to major classes. Under this system, each consumptive user may be classified according to source, use, and method of withdrawal. Each of these classes is described herein.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

40B-21.531 Source Classifications.

(1) Each consumptive user may be classified according to one or more of the following sources of water:

(a) Surfacewater sources:

1. Name of specific surfacewater source

2. Basin

3. Sub-basin

(b) Groundwater Sources

1. Floridan aquifer

2. Secondary artesian aquifer

3. Water table aquifer

(2) The Governing Board may further define source classifications as it deems appropriate and necessary.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

40B-21.541 Use Classifications.

(1) Each consumptive user may be classified according to one or more of the following use classes and subclasses of water:

(a) Indoor uses, which include water used for indoor personal and household needs, and similar needs at businesses;

(b) Essential uses of water for fire fighting purposes, health and medical purposes, and to satisfy federal, state, or local public health and safety requirements;

(c) Agricultural uses, such as production of vegetable and other crops, citrus and fruit trees, nursery plants, pasture, sod, aquaculture, soil flooding, and freeze protection. This classification includes the following subclasses:

1. Low pressure/low volume irrigation systems.

2. High pressure/high volume irrigation systems.

3. Flood/seepage irrigation systems.

4. Low volume hand watering.

5. Soil flooding.

6. Freeze protection.

7. Livestock care.

8. Aquaculture.

(d) Commercial and industrial uses in which water is integral to the production of goods and services, including power generation. This classification includes the following subclasses:

1. Phosphate mining and beneficiation, including all primary and ancillary uses of water in the mining, beneficiation, and transport of phosphate ore and associated products.

2. Chemical products processing or manufacturing, including all primary and ancillary uses of water in the manufacturing of phosphate chemicals, fertilizers, chlorine, lead, zinc, and other chemicals.

3. Limestone, sand, gravel, or other minerals mining, including all primary and ancillary uses of water in the mining, processing, and transport of limestone, sand, gravel, or other mineral products.

4. Cement, concrete, and concrete products manufacturing, including all primary and ancillary uses of water integral to the manufacturing of cement, concrete, and concrete products.

5. Perishable foods processing, including the use of water for the processing of such perishable foods as citrus, strawberries, and tomatoes.

6. Perishable foods packing, including the use of water in the packing of perishable foods.

7. Bottled water and other beverage products, including the use of water for direct bottling or the production of beer, wine, soft drinks, or other beverages.

8. Power generation, including the use of water for steam generation and the use of water for cooling and for replenishment of cooling reservoirs.

9. Other industrial and commercial uses. Includes all such activities not elsewhere sub-classified.

(e) Water utility use, which may include both water used for potable supply and water used for maintaining and operating the supply system;

(f) Landscape irrigation, which is the outdoor irrigation of grass, trees and other plants in places such as residences, businesses, golf courses, parks, recreational areas, cemeteries, and public buildings; and

(g) Miscellaneous uses such as aesthetic ponds, fountains and water features, environmental restoration or enhancement, cooling and air conditioning, and navigation.

(2) The listing of the classifications above does not establish any priority ranking between classes.

(3) The District may expand upon or further subdivide the use classifications in paragraphs (a) through (g) above for purposes of issuing restrictions on specific uses.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

#### 40B-21.571 Method of Withdrawal Classifications.

Each consumptive user may be identified by one or more of the following method of withdrawal classes:

(1) Surface waters:

(a) Pump;

(b) Gravity flow.

(2) Ground waters:

(a) Artesian well;

(b) Pumped well.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

#### 40B-21.601 General.

(1) Upon declaration of a water shortage or water shortage emergency, the specific restrictions presented within this part can be implemented to achieve the desired overall reductions in user demand. The target reduction ultimately chosen during a water shortage will be dependent upon the severity of the particular shortage. The restrictions specified within this plan may be modified by the Governing Board to achieve the target reduction ultimately determined to be necessary. The appropriate combination of restrictions shall be decided by the Governing Board upon recommendation of District staff. The combination of restrictions shall be included in the notice(s) of the shortage, as specified above in Rule 40B-21.275, F.A.C.

(2) Restrictions are presented for each use class and various subclasses. It shall be the responsibility of each consumptive user to keep informed as to the restrictions in effect.

(3) In addition to the restrictions specified in this part, all wasteful and unnecessary consumptive use is prohibited regardless of the severity of water shortage. This subsection is not intended to prohibit legal uses of water whether permitted or exempted by rule or statute. Such wasteful and unnecessary consumptive use shall include, but not be limited to:

(a) Allowing water to be dispersed without any practical purpose to the user, regardless of the type of consumptive use;

(b) Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of consumptive use;

(c) Allowing water to be dispersed to accomplish a purpose for which consumptive use is unnecessary or which can be easily accomplished through alternative methods without consumptive use; and

(d) Allowing water to be dispersed for purely aesthetic or ornamental uses.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History–New \_\_\_\_\_.

#### 40B-21.621 Water Shortage Advisory.

A Water Shortage Advisory refers to a notice from the District that hydrologic conditions are abnormally low, or low for the season, and that further reductions in supply or increased use may result in the declaration of a water shortage and water use restrictions. Although no mandatory restrictions are included in a Water Shortage Advisory, all users are encouraged to initiate conservation and eliminate wasteful or inefficient consumptive use. Consumptive users planning to implement long-range conservation measures are encouraged to speed implementation to the greatest extent practical.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New \_\_\_\_\_.

#### 40B-21.631 Water Shortage.

The Governing Board may, upon recommendation by District staff, choose a combination of these and any other appropriate and necessary restrictions to achieve the required reduction in overall demand.

(1) Indoor uses shall reduce use by employing water conservation measures and by installing water conserving devices.

(2) Essential uses may voluntarily reduce water use by limiting flushing and other system cleaning activities to a level required to maintain the health, safety, and welfare of the public.

(3) Agricultural uses shall be restricted as follows:

(a) Treated wastewater irrigation shall not be restricted.

(b) Low pressure/low volume irrigation systems shall not be restricted except in accordance with subsection 40B-21.601(1), F.A.C.

(c) Overhead irrigation by high pressure/high volume systems shall be prohibited between the hours of 10:00 a.m. to 4:00 p.m. Systems that have been certified by an independent irrigation laboratory within the past two years prior to the effective date of a water shortage order to be as efficient as practicable shall not be restricted, except in accordance with subsection 40B-21.601(1), F.A.C.

(d) Flood/seepage irrigation systems shall be operated in a manner that will capture all runoff that is practicable for reuse.

(e) Low-volume hand watering shall not be restricted.

(f) Livestock consumptive use shall be voluntarily reduced.

(g) Consumptive use for freeze protection shall be restricted to situations in which official weather forecasting services predict temperatures likely to cause permanent damage to crops.

(h) Soil flooding for pest control or soil preservation shall be prohibited. Soil flooding to permit harvesting of sod shall be prohibited.

(i) Aquaculture consumptive use shall be voluntarily reduced.

(j) All irrigation systems shall be operated in a manner that will efficiently use the water withdrawn.

(k) All agricultural enterprises should reduce or suspend those activities which stimulate the need for increased irrigation, as feasible and appropriate.

(l) No unnecessary off-site discharge from irrigation shall be allowed.

(m) Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.

(n) For those agricultural enterprises that have best management practices approved by the Department of Agriculture and Consumer Services, irrigation for purposes of watering-in of insecticides, fungicides, herbicides, and fertilizers shall not be restricted. Such watering-in shall be limited to the minimum necessary and shall be accomplished during the hours allowed for normal irrigation.

(4) Commercial and industrial uses.

(a) Phosphate mining and beneficiation operations:

1. Recycled water within the mine site shall be used as much as possible to reduce freshwater withdrawals.

2. Water within noncontiguous mine cuts and other impoundments shall be used to the greatest extent practicable to augment the mine's circulation system.

3. Off-site discharges of water shall be reduced or eliminated to the greatest extent possible.

4. Cleaning requiring consumptive use shall be reduced to the minimum required to protect the efficiency of the operation, prevent damage to equipment, or maintain the health and safety of workers.

5. Reduce or suspend the washing of vehicles except for health and safety needs.

6. Nonessential uses, plant cleaning, water-cooled air conditioning, and lawn irrigation shall be reduced or eliminated to the greatest extent possible. Restriction of other uses within the mine site may also apply.

(b) Chemical products processing or manufacturing facilities:

1. The use of fresh water shall be reduced to the greatest extent possible.

2. Off-site discharge shall be reduced or eliminated to the greatest extent possible.

3. Recycled water shall be used to replace fresh water to the greatest extent possible.

4. Nonessential uses, plant cleaning, water-cooled air conditioning, and lawn irrigation shall be reduced or eliminated to the greatest extent possible. Restriction of other uses may also apply.

(c) Limestone, sand, gravel, or other minerals mining operations:

1. On-site impounded surface waters shall be used to replace fresh water withdrawals to the greatest extent possible.

2. Reduce spraying for dust control in quarry area except for health and safety standards.

3. Reduce general housekeeping that requires the use of water to the greatest extent possible.

4. Off-site discharge shall be reduced or eliminated wherever possible.

(d) Cement, concrete, and concrete products manufacturing facilities:

1. Reuse runoff to the greatest extent possible.

2. Reduce spray drift to the greatest extent possible and increase the efficiency of spray application to the greatest extent possible.

3. Reduce the unnecessary water content of products shipped to the greatest extent possible.

(e) Perishable foods processing operations:

1. Off-site discharge shall be reduced or eliminated wherever feasible.

2. Water losses from released steam shall be minimized to the greatest extent possible.

3. Effluent shall be recycled to the greatest extent possible.

(f) Perishable foods packing operations:

1. Restrict washing of fruit and plant area to minimum level necessary for health and safety standards.

2. Equipment washing apparatus with automatic shut-off devices should be used to the greatest extent possible.

(g) Bottled water and other beverage products operations:

1. Restrict equipment washing operations to the minimum level necessary for health and safety standards.

2. Implement routine process inspections to find and reduce water waste to the greatest extent possible.

(h) Power generation:

1. Maximize production from generating facilities which are least dependent upon withdrawals from the source experiencing the shortage, and minimize production from generating facilities which are most dependent upon withdrawals from the source experiencing the shortage, to the greatest extent practicable.

2. Non-essential uses of water, plant cleaning, water-cooled air conditioning, and lawn irrigation shall be reduced or eliminated to the greatest extent possible. Restrictions of other uses may apply.

3. Power companies should encourage customers to reduce power consumption to the greatest extent possible, so that they may reduce power generation and in turn, reduce water consumption.

(i) Other industrial and commercial uses:

1. Reduce use by employing water conserving measures and by installing water conserving devices.

2. Replace use of fresh water with reclaimed or recycled water wherever appropriate and feasible.

3. Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.

4. Additional restrictions may apply.

(5) Water utility uses.

(a) To the greatest extent possible, utilities shall institute conservation measures such as improving and accelerating leak detection surveys and repair programs, installing and calibrating meters, and stabilizing and equalizing system pressures.

(b) New water line flushing and disinfection shall be limited to minimum requirements.

(6) Landscape irrigation uses.

(a) Lawns and landscaping:

1. Established lawns and landscaping.

a. Treated wastewater irrigation shall not be restricted.

b. The irrigation of established lawns and landscaping is prohibited, except between the hours of 9:00 p.m. and 7:00 a.m.

c. The use of water as described in b. above shall be further restricted as follows:

i. Established lawns and landscaping at locations with street addresses ending in an even number, or in the letters A-L, may water only on even numbered days.

ii. Established lawns and landscaping at locations with street addresses ending in an odd number, or in the letters M-Z, or with no addresses, may water only on odd numbered days.

d. Low-volume hand watering, as described in Part I, shall not be restricted.

e. Irrigation for purposes of watering-in of insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted; such watering-in shall be limited to the minimum necessary and should be accomplished during the hours allowed for normal irrigation.

f. The operation of irrigation systems for cleaning and maintenance purposes shall not be restricted, except to be limited to the minimum necessary to maintain efficient operation of the system. Each irrigation zone may be tested a maximum of once per week.

2. New lawns and landscaping.

a. Treated wastewater irrigation shall not be restricted.

b. Irrigation of new lawns and landscaping shall not be restricted; however, irrigation should be limited to non-daylight hours to the greatest extent possible and limited to the minimum amount required for the establishment of the lawn.

c. Irrigation for purposes of watering-in of insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted; such watering-in shall be limited to the minimum necessary and should be accomplished during the hours allowed for normal irrigation.

d. The operation of irrigation systems for cleaning and maintenance purposes shall not be restricted, except to be limited to the minimum necessary to maintain efficient operation of the system. Each irrigation zone maybe tested a maximum of once per week.

(b) Golf courses.

1. Treated wastewater irrigation shall not be restricted.

2. Irrigation of greens and tees shall be reduced to the greatest extent possible and shall be accomplished during non-daylight hours.

3. Irrigation of fairways, roughs, and non-play areas on the front nine holes of the course shall be prohibited, except between the hours of 9:00 p.m. to 7:00 a.m. on even numbered days.

4. Irrigation of fairways, roughs, and non-play areas on the back nine holes of the course shall be prohibited, except between the hours of 9:00 p.m. to 7:00 a.m. on odd numbered days.

5. Reduce or suspend to the greatest extent possible those horticultural practices which stimulate the need for increased irrigation.

6. Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.

7. The operation of irrigation systems for cleaning and maintenance purposes shall not be restricted, except to be limited to the minimum necessary to maintain efficient operation of the system. Each irrigation zone may be tested a maximum of once per week.

8. Irrigation for purposes of watering-in of insecticides, fungicides, herbicides, and fertilizer where such watering-in is required by the manufacturer or by federal, state or local law, shall not be restricted; such watering-in shall be limited to the minimum necessary and should be accomplished during the hours allowed for normal irrigation.

(c) Cemeteries.

1. Irrigation of cemeteries shall be prohibited, except between the hours of 9:00 p.m. and 7:00 a.m.

2. Irrigation of cemeteries shall be further restricted as follows:

a. One half of the cemetery property may be irrigated on Monday, Wednesday and Friday.

b. The remaining one half of the cemetery property may be irrigated on Tuesday, Thursday and Saturday.

(7) Miscellaneous uses.

(a) Recreation area use of water shall be reduced to the greatest extent possible.

(b) Washing or cleaning streets, driveways, sidewalks, or other impervious areas with water shall be prohibited except to meet federal, state, or local health or safety standards.

(c) Mobile equipment washing shall be accomplished using only low-volume methods (excluding commercial car washes).

(d) Outside pressure cleaning shall be restricted to only low-volume methods.

(e) Augmentation shall be limited to the minimum necessary to maintain and preserve the long-term integrity of the surfacewater body and associated habitat for fish and wildlife. Where minimum levels have been established by the District, no augmentation shall occur when water levels are above the applicable minimum water level.

(f) The use of water for cooling and air conditioning shall be restricted to that amount of water necessary to maintain a minimum temperature of 78 degrees Fahrenheit. Discharge of water from cooling and air conditioning systems shall be to pervious surfaces and shall not be accomplished through irrigation systems, where feasible and appropriate.

(g) Aesthetic uses.

1. Outside aesthetic uses of water shall be prohibited.

2. Inside aesthetic uses of water shall be prohibited.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.175, 373.246 FS. History—New

40B-21.641 Water Shortage Emergency.

(1) If the District determines that, within any area of the District, the provisions of a Water Shortage are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, the Executive Director, with the concurrence of the Governing Board at the next regularly-scheduled meeting, may declare a Water Shortage Emergency. The Executive Director may, without prior notice, issue orders reciting the existence of such an emergency pursuant to the provisions of Chapter 120, F.S.

(a) Such orders shall identify all methods and means for consumptive use reduction deemed necessary by the Executive Director, with the concurrence of the Governing Board at the next regularly-scheduled meeting, to meet the emergency.

(b) All users to whom an emergency order is directed shall comply immediately, but may petition the Governing Board for a hearing as set forth in Section 373.119, F.S.

(2) The District shall inform all users to whom an emergency order is directed of the existence of such order and all associated methods and means for consumptive use reduction by the best practicable means available under the circumstance. Particular attention shall be given to presenting this information in a form which is easily understood and applied by the citizens of the affected areas.

(3) The District shall notify local elected officials of any water shortage emergency declaration and remedial action required. Notice shall be by the best practicable means under the circumstances. In addition, local law enforcement officials shall be notified as soon as possible of any water shortage emergency declaration or change of consumptive use reduction methods and means affecting their areas of responsibility.

(4) A combination of consumptive use reduction means and methods, both voluntary and mandatory, may be implemented by the District. Other means and methods that are deemed necessary to successfully accomplish the necessary consumptive use reductions may also be required. These means and methods will be targeted at those uses in which demand reduction is essential and where the probability of further water savings is high.

(5) Declaration of a water shortage emergency shall be conducted in accordance with Sections 373.246 and 373.119, F.S.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.119, 373.175, 373.246 FS. History—New \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2004

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Building Code Administrators and Inspectors**

RULE TITLE: Approval of Courses  
RULE NO.: 61G19-9.004

PURPOSE AND EFFECT: The Board proposes the rule amendment to accept continuing education courses that have been approved by companion boards.

SUMMARY: The proposed rule amendment adds continuing education courses that have been approved by the Construction Industry Licensing Board, the Electrical Contractors' Licensing Board, and the Board of Architecture and Interior Design.

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: 468.606, 468.627 FS.

LAW IMPLEMENTED: 468.627 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Building Code Administrators and Inspectors, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-9.004 Approval of Courses.

(1) through (10) No change.

(11) The Board, subject to review, approves those continuing education courses approved by the Construction Industry Licensing Board; the Electrical Contractors' Licensing Board; and the Board of Architecture and Interior Design.

(12) through (13) No change.

Specific Authority 468.606, 468.627 FS. Law Implemented 468.627 FS. History—New 5-23-94, Amended 5-21-95, 10-1-97, 8-17-99, 4-23-01, 1-2-02, 12-10-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Building Code Administrators and Inspectors

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Building Code Administrators and Inspectors

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 24, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 20, 2005

**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 Clinical Laboratory Personnel**

RULE TITLE: Mandatory HIV/AIDS Education for Renewal  
RULE NO.: 64B3-11.006

PURPOSE AND EFFECT: The Board proposes to repeal this rule to consolidate this rule with Rule 64B3-11.005, F.A.C., and eliminate redundant language.

SUMMARY: The rule is being repealed.

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: 483.821 FS.

LAW IMPLEMENTED: 456.033, 483.821 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: Paul Martin, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-11.006 Mandatory HIV/AIDS Education for Renewal.

Specific Authority 483.821 FS. Law Implemented 456.033, 483.821 FS. History—New 5-3-95, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2005

**DEPARTMENT OF HEALTH**

**Electrolysis Council**

RULE TITLE: Citations RULE NO.: 64B8-55.002

PURPOSE AND EFFECT: The purpose of this rule is to update the disciplinary procedures, violations, and fees for first and second violation offenses for electrology citations violations in laser or light based hair removal.

SUMMARY: This rule sets out the citations violations with regard to disciplinary matters and for first and second offenses. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.077(1),(2) FS.

LAW IMPLEMENTED: 456.072(3)(b), 456.077(1),(2), 478.51, 478.52 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

64B8-55.002 Citations.

(1) through (2) No change.

(3) ~~The citation may be served upon the licensee by hand delivery or certified mail at the licensee's last known home address.~~ If service by certified mail fails because the licensee has relocated without leaving a forwarding address, then the Department shall endeavor to give the subject actual or constructive notice of the pending disciplinary action as permitted by law.

(4) All citations include a requirement that the subject correct the violation, if remediable, within a specified period of time not to exceed 60 days, and impose whatever obligations necessary to remedy the offense.

(5)(4) The description of the violation used in this rule, is not intended to be all inclusive, and should not be considered definitive. Reference to the statutory provision cited is required to identify the precise conduct which constitutes a violation. The Board designates the following as electrology citation violations:

(a) through (s) No change.

(t) The Board designates the following as electrology citations violations in laser or light based hair removal. Failure to have:

1. Written designation of laser safety officer – First time violation \$150, Subsequent violations \$300.

2. Appropriate sign on door of laser room – First time violation \$150, Second time violation \$300.

3. Cold water and ice – First time violation \$150, Second time violation \$300.

4. Lock on door of laser room – First time violation \$150, Second time violation \$300.

5. Fire extinguisher in vicinity of laser room – First time violation \$150, Second time violation \$300.

6. Written protocols that are signed, dated, and maintained in a readily available location on the premises where the electrologist practices – First time violation \$200, Second time violation \$400.

7. Copy of protocols filed with the Department of Health – First time violation \$200, Second time violation \$400.

8. Professional liability coverage that includes coverage for incidents arising from laser usage in an amount not less than \$100,000 – First time violation \$250, Second time violation \$500.

9. At least one piece of properly registered laser equipment located within the electrology facility – First time violation \$300, Second time violation \$600.

10. Protective eyewear for all persons in laser room during operation of laser – First time violation \$300, Second time violation \$600.

11. Proof of certification of 30 hours of continuing education in laser hair removal for all electrologists using laser equipment in the facility – First time violation \$500, Second time violation \$1000.

12. Proof of certification as Certified Medical Electrologist for all persons who use laser equipment in the facility, who are not exempt and are licensed electrologists – First time violation \$500, Second time violation \$1000.

~~(6)(5)~~ In addition to the penalties established in this rule, the Department ~~shall may~~ recover the costs of investigation, ~~in accordance with in accordance with its rules. When the Department intends to assess the costs of investigation,~~ The the penalty specified in the citation shall be the sum of the penalty established by this rule plus the Department’s cost of investigation.

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

Specific Authority 456.077(1),(2) FS. Law Implemented 456.072(3)(b), 456.077(1),(2), 478.51, 478.52 FS. History–New 11-16-93, Formerly 61F6-80.002, Amended 1-2-95, Formerly 59R-55.002, Amended 11-13-97, 10-12-98, 2-11-01, 2-20-02, 11-12-02, 7-16-03,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Electrolysis Council

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrolysis Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 2, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 1, 2004

**DEPARTMENT OF HEALTH**

**Optical Establishments**

RULE TITLE: Optical Establishment Inspection

RULE NO.: 64B29-1.002

PURPOSE AND EFFECT: The Department of Health proposes to amend the rule addressing matters pertaining to optical establishment inspections.

SUMMARY: The rule is amended to include osteopathic physician prescriptions as those that must be kept for two years.

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

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

SPECIFIC AUTHORITY: 484.007, 484.014, 484.015 FS.

LAW IMPLEMENTED: 484.007, 484.014, 484.015 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Department of Health, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B29-1.002 Optical Establishment Inspection.

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

1. Whether prescriptions written by an allopathic or osteopathic a physician or by an optometrist, for any lenses, spectacles, eyeglasses, contact lens or other optical devices are kept on file for a period of two years; and

2. No change.

(d) through (f) No change.

Specific Authority 484.007, 484.014, 484.015 FS. Law Implemented 484.007, 484.014, 484.015 FS. History–New 5-27-03, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sue Foster

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Amy Jones

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 17, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 22, 2005

**DEPARTMENT OF HEALTH**

**Division of Family Health Services**

RULE TITLES:	RULE NOS.:
Definitions	64F-3.001
County Health Department Responsibility	64F-3.002
Healthy Start Care Coordination System	64F-3.004
Care Coordination Services	64F-3.005
Enhanced Services	64F-3.006

PURPOSE AND EFFECT: The purpose of these revisions is to reflect program changes that expand Healthy Start program eligibility to women up to 3 years postpartum, children up to age 3, and to reflect changes regarding the handling of forms within the department. The effect on the public is increased eligibility of high risk women and children.

SUMMARY: The changes increase participant eligibility to a child less than 36 months of age, previously postnatal services were only available to infants less than 12 months of age. The changes also allow for participant eligibility to women up to 3 years postpartum, previous services were only available to women up to 2 months postpartum. Changes also refine the definition of a Healthy Start woman or mother, change where forms are sent by the county health department, and provide clarification regarding qualifications for provision psychosocial and smoking cessation services.



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

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

SPECIFIC AUTHORITY: 383.011, 120.535 FS.

LAW IMPLEMENTED: 383.011, 120.535 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: Bob Peck, Department of Health, 4052 Bald Cypress Way, Bin #A13, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-3.001 Definitions.

For the purposes of this rule chapter, the following definitions will apply:

(1) through (6) No change

(7) “Healthy Start ~~child infant~~” means ~~an child infant~~, less than ~~three years of age (0-36 months) twelve months of age~~, at increased risk for impairment in health, intellect, or functional ability due to environmental, medical, nutritional, behavioral, or developmental risk factors as determined by the department’s risk screening instrument as defined in Chapter 64C-7, F.A.C., or by risk assessments conducted subsequent to the initial screen and whose parent or family agrees to participate in Healthy Start care coordination or enhanced services.

(8) “Healthy Start participant” and “participant” mean a Healthy Start pregnant (antepartum) or postpartum woman or a Healthy Start ~~child infant~~ as defined in this section.

(9) “Healthy Start ~~postpartum~~ woman” and “Healthy Start mother” mean a woman in the antepartum or postpartum period who has increased risk of poor birth outcome due to environmental, medical, nutritional, behavioral or developmental risk factors ~~was a participant in Healthy Start care coordination during pregnancy~~ or a woman in the postpartum period who has delivered ~~an Healthy Start~~ infant and agreed to participate in Healthy Start care coordination or enhanced services.

(10) through (15) No change.

Specific Authority 383.011(2) FS. Law Implemented 383.011(1)(e) FS. History–New 3-29-92, Amended 3-30-94, 5-8-96, Formerly 10D-114.002, Amended \_\_\_\_\_.

64F-3.002 County Health Department Responsibility. The County Health Department (CHD) is responsible for:

(1) through (3) No change.

(4) Monitoring screening instruments for completeness and obtaining corrections as needed before the screening data are entered into the statewide prenatal and infant confidential registry sending to the Office of Vital Statistics.

(5) Sending the screening forms to the county health department in the county of residence ~~Office of Vital Statistics.~~

(6) through (7) No change.

Specific Authority 120.535, 383.011(1)(e)1.,(2) FS. Law Implemented 383.011 FS. History–New 3-30-94, Formerly 10D-114.007, Amended \_\_\_\_\_.

64F-3.004 Healthy Start Care Coordination System.

The Healthy Start care coordination system will assure:

(1) Funding is available to support the CHD ~~Vital Statistics~~ screening infrastructure specified in subsections 64F-3.002(1) through 64F-3.002(6), F.A.C.

(2) through (3) No change.

(4) The provider of care coordination services will:

(a) Receive and review screening reports from the State Health Office ~~and the Office of Vital Statistics~~ and reconcile discrepancies in screening data.

(b) Provide ongoing quality control for data related to Healthy Start screening and care coordination as specified by the department.

(5) through (9) No change.

(10) Development or review of local written procedures in collaboration with CMS Early Steps DEI or Neonatal Intensive Care Units (NICU) staff addressing care coordination of participants admitted to CMS Early Steps DEI or NICU.

(11) No change.

Specific Authority 383.011(2) FS. Law Implemented 383.011(1)(e) FS. History–New 3-30-94, Amended 5-8-96, Formerly 10D-114.009, Amended \_\_\_\_\_.

64F-3.005 Care Coordination Services.

(1) Initial contact after screening.

(a) Initial contact after screening is provided to all pregnant women and families of infants receiving positive Healthy Start screens who consent to be contacted and all ~~pregnant~~ women and families of children under age 3 infants who have been referred to the care coordination provider by a professional, themselves, or their families for Healthy Start care coordination services.

(b) In the event the participant is unable to access health care services or is in need of further care coordination services, a face-to-face assessment of service needs is provided.

(2) through (3) No change.

(4) Care coordination closure.

(a) Healthy Start care coordination services include initial contact after Healthy Start risk screening, assessment of service needs, and care coordination. Care coordination closure occurs anytime during the course of Healthy Start care coordination service delivery when one of the following situations applies:

1. The participant or family of the ~~child~~ infant requests to discontinue participation.
2. The family and health care provider or health-related professional agree there is no longer a need for services.
3. The participant transfers to another provider of care coordination.
4. ~~Three years have elapsed since the Healthy Start woman's most recent delivery. The maternity participant has received postpartum health and family planning services.~~
5. The Healthy Start ~~child~~ infant participant reaches three ~~one~~ year of age.
6. The participant cannot be located and three documented attempts have been made to locate.

(b) Care coordination closure activities include the following.

1. Notification of the participant's primary service providers of the date and reason for closure.
2. Completion of referrals to other service providers if continuing or additional services are needed and desired.
3. Transition to another care coordination provider with release of information and record transfer.
4. Documentation of all attempts to locate participants who have been lost to follow-up.
5. Care coordination closure within five working days in the department's management information system.
6. Documentation of an explanation of care coordination closure in the participant's record.

Specific Authority 383.011(2) FS. Law Implemented 383.011(1)(e) FS. History—New 3-30-94, Amended 5-8-96, Formerly 10D-114.010, Amended

64F-3.006 Enhanced Services.

Enhanced services are those services that improve the outcome of pregnancies, the health and well-being of mother and families, and optimize the health and development of children. Enhanced services include client and participant identification, childbirth education, parenting education and support, nutritional counseling, psychosocial counseling, smoking cessation counseling, breastfeeding education and support, home visiting to provide care coordination and other enhanced services, and other services which improve health and developmental outcomes and access to care. Enhanced services

are part of the care coordination system and can be provided individually or in group settings, in the home, neighborhood, school, workplace, or clinic, wherever the concerns, priorities, and needs of the participant and family can best be met. All client and service reporting requirements for enhanced services must be documented on the department's management information system.

(1) through (4) No change.

(5) Psychosocial counseling shall be provided by professionals with one of the following credentials:

- (a) Social Worker with a master's degree or a Ph.D. from an accredited School of Social Work.
- (b) Registered Nurse with specialized education, training, and experience in psychosocial counseling.
- (c) Professionals with a license in Marriage and Family Therapy, Mental Health Counseling, or Clinical Social Work.
- (d) Counselor with a Master of Science or Master of Arts degree in counseling.
- (e) Psychologist with a Master of Science, Master of Arts or Doctorate.

(6) Smoking cessation counseling shall be provided by individuals who have received ~~particular~~, specialized training in using a prenatal smoking cessation curriculum approved by the coalition, to provide smoking cessation information, education and support. Smoking cessation counseling and services are provided by a Healthy Start care coordinator or a contracted provider through a contract, or under the supervision of a Healthy Start care coordinator, health care provider, or other health-related professional.

(7) through (8) No change.

Specific Authority 383.011(2) FS. Law Implemented 383.011(1)(e) FS. History—New 3-30-94, Amended 5-8-96, Formerly 10D-114.011, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Bob Peck

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Annette Phelps

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 13, 2005