

~~the state plan and would otherwise be receiving institutional level care based on an approved application for such care but for the application of the penalty period meets all other factors of eligibility (including appropriate placement in a Medicaid nursing facility, enrollment in a Medicaid waiver or election of Hospice care) except for the transfer of assets without fair compensation after applying for institutional care services; or (2) the first day of the month in which the individual transfers the asset; or (3) the first day following the end of an existing penalty period. The department shall not round down, or otherwise disregard, any fractional period of ineligibility of the penalty period but will calculate the period down to the day. There is no limit on the period of ineligibility. Once the penalty period is imposed, it will continue although the individual may no longer meet all factors of eligibility and may no longer qualify for Medicaid long-term care benefits.~~

(4) No change.

(5) Other Resource Policies.

(a) No change.

(b) ~~An individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource, as set forth in 1917(g) of the Social Security Act, which is incorporated herein by reference available to the individual to the extent that after (effective date), regardless of whether a refund is actually received, if the individual has the ability to use the entrance fee or the contract indicates the entrance fee may be used for care when the individual's income and assets are insufficient to pay for their care; the individual is eligible for a refund of any remaining entrance fee upon death or termination of the contract; and the entrance fee does not confer an ownership interest in the retirement community.~~

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History--New 10-8-97, Amended 1-27-99, 4-1-03, 9-28-04, 8-10-06(1), 8-10-06(2), 8-10-06(3),_____.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-157.301	Rate Increase Standards
69O-157.302	Facility Only Rates
69O-157.303	Home Health Care Only Rates
69O-157.304	Comprehensive Only Rates

NOTICE OF CORRECTION

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 23, June 8, 2007 issue of the Florida Administrative Weekly. The notice published incorrectly identifies the date scheduled for the hearing, if requested, as June 27, 2007. The correct date is July 11, 2007.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
69O-167.015	Uniform Home Grading Scale to Grade the Ability of a Home to Withstand Wind Loads from Tropical Storms or Hurricanes

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 21, May 25, 2007 issue of the Florida Administrative Weekly. The notice published incorrectly identifies the date scheduled for the hearing, if requested, as June 14, 2007. The correct date is June 27, 2007.

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

Section V Petitions and Dispositions Regarding Rule Variance or Waiver

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN THAT on June 4, 2007, South Florida Water Management District (District) received a petition for waiver from Fred and Pat Morris, Application No. 07-0327-1M for utilization of Works or Lands of the District known as the L-47 Levee Canal, Okeechobee County for a proposed water treatment facility within the east right of way of L-47, located adjacent to 8103 Southeast 99th Trail (Lot 5 &

6 of Pleasant Valley West) Section 15, Township 38 South, Range 36 East. The petition seeks relief from paragraph 40E-6.221(2)(j), Florida Administrative Code, which governs the placement of water treatment- retention/detention facilities within Works or Lands of the District.

A copy of the petition may be obtained from Kathie Ruff at (561)682-6320 or e-mail at kuff@sfwmd.gov. The District will accept comments concerning the petition for 14 days from the date of publication of this notice. To be considered, comments must be received by the end of business on the 14th day at the South Florida Water Management District, 3301 Gun Club Road, MSC 1410, West Palm Beach, FL 33406, Attn: Kathie Ruff, Office of Counsel.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT on April 30, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.0101(1) and 61C-4.010(6), Florida Administrative Code, from Leo and Ana located in Orlando. The above referenced F.A.C. addresses food supplies, food protection, and physical facilities-except as specifically provided in this rule, public food service establishments shall be subject to the provisions of chapter three and chapter six of the FDA Food Code. They are requesting to do open air food service on a Mobile Food Dispensing Vehicle.

This variance request was approved May 25, 2007, and is contingent upon the Petitioner's use of open-air steam table properly covered and air curtain operating properly according to manufacturer's specifications and Section 6-202-15(D)(2), 2001 FDA Food Code, as to expel possible contaminants and vermin. Approval is also contingent upon Petitioner conducting all re-heating for hot holding at approved commissaries to the proper temperature per Section 3-403.11, 2001 FDA Food Code; and potentially hazardous food is held at proper temperatures according to Section 3-501.16, 2001 FDA Food Code.

The Petitioner shall strictly adhere to subsection 61C-4.0161(c), Florida Administrative Code, and report to the commissary at least once daily when operating. All warewashing is to be conducted at the commissary and strict adherence to employee health guidelines as specified in the Section 2-201, 2001 FDA Food Code, are to be followed. Petitioner shall also use a potable water tank and utilize a wastewater holding tank that is at least 15% larger than the potable water holding tank; and sloped to a drain that is 1 inch in inner diameter or greater, equipped with a shut-off valve. Petitioner must receive potable water from an approved source with written documentation provided and sanitize the fresh water and wastewater tanks at least once every 24 hours.

Copies of the variance and operating procedures are to be present on the MFDV at all times of operation and shall be adhered to as approved by the Division. This variance is not transferable under any conditions. All provisos must be complied prior to final approval and licensing. Any violation of the variance is the equivalent of a violation of the Rule and may result in a rescission of the variance, and subject the Petitioner to disciplinary sanctions as enumerated in Section 509.261, Florida Statutes.

NOTICE IS HEREBY GIVEN THAT on May 8, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.0101(1) and 61C-4.010(6), Florida Administrative Code, from RC Catering located in Orlando. The above referenced F.A.C. addresses food supplies, food protection, and physical facilities-except as specifically provided in this rule, public food service establishments shall be subject to the provisions of chapter three and chapter six of the FDA Food Code. They are requesting to do open air food service on a Mobile Food Dispensing Vehicle.

This variance request was denied May 25, 2007, because the Petitioner failed to provide complete operating procedures. The operating procedures provided failed to adequately address re-heating, minimum and maximum temperatures that food will be held, and training programs used for employee and manager certification. Granting this variance in its current format would create an undesirable precedent, upon which all MFDVs could claim a variance. Granting this variance would be inconsistent with the principles of public safety and sanitation articulated in Section 509.032(e)(1), F.S., for public food service establishments enforced by this Division. Petitioner has not provided any further information. Based on the foregoing, the Division concludes that the Petitioner's request for variance fails to meet the burden of demonstrating that required safety and sanitation safeguards have otherwise been met. To obtain a copy of the denied variance you may contact David.Fountain@dbpr.state.fl.us.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

NOTICE IS HEREBY GIVEN THAT on April 23, 2007, the Board of Acupuncture has issued an order on the Petition for Waiver filed by Cathy Lyn Goldstein.

The Notice of Petition for Waiver was published in Vol. 33, No. 15, of the March 30, 2007, F.A.W. The Board of Acupuncture considered the petition at its meeting held on

April 23, 2007, via teleconference. The Board's order, filed on May 9, 2007, grants the petition for waiver of subsection 64B1-4.001(1), F.A.C.

A copy of the Order may be obtained by contacting Pam King, Executive Director, Board of Acupuncture at (850)245-4161.

NOTICE IS HEREBY GIVEN THAT on April 23, 2007, the Board of Acupuncture has issued an order on the Petition for Waiver or Variance filed by Paul John Reinhardt.

The Notice of Petition for Waiver or Variance was published in Vol. 32, No. 44, of the November 3, 2006, F.A.W. The Board of Acupuncture considered the petition at its meeting held on April 23, 2007, via teleconference. The Board's order, filed on May 9, 2007, denies the Variance or Waiver request in subsections 64B1-3.010(1), (4), 64B1-4.001(1), Florida Administrative Code. A waiver is granted in part to subsection 64B1-3.010(3), Florida Administrative Code, only as to the requirement the Petitioner demonstrate completion of the CCAOM clean needle course, but a waiver is denied as to the remainder of subsection 64B1-3.010(3), F.A.C.

For a copy of the petition, contact Pam King, Executive Director, Board of Acupuncture at (850)245-4161.

Section VI

Notices of Meetings, Workshops and Public Hearings

DEPARTMENT OF STATE

The **Southeast Florida Preservation Advisory Board** announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, June 28, 2007, 11:00 a.m.

PLACE: Punta Gorda Woman's Club, 115 Sullivan Street, Punta Gorda, Florida 33950-3624

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting.

A copy of the agenda may be obtained by writing to: Southeast Florida Regional Preservation Office, Florida Division of Historical Resources, FDOS, 71 N. W. Federal Hwy., Boca Raton, Florida 33432.

Should any person wish to appeal any decision made with respect to the above referenced meeting, s/he may need to ensure verbatim recording of the proceedings in order to provide a record for judicial review.

Pursuant to Section 286.26, Florida Statutes, any handicapped person wishing to attend this meeting should contact the agency at least 48 hours prior to the meeting in order to request any special assistance at (561)416-2115.

The **Florida Historical Commission** announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, July 20, 2007, 9:00 a.m. – 1:00 p.m.

PLACE: Residence Inn Tallahassee Universities at the Capitol, 600 West Gaines Street, Tallahassee, Florida 32304-4308

GENERAL SUBJECT MATTER TO BE CONSIDERED: Review of National Register Nomination Proposals.

A copy of the agenda may be obtained by contacting: Survey and Registration Section, Bureau of Historic Preservation, Division of Historical Resources, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (800)847-7278, Fax (850)245-6437.

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 1 day before the workshop/meeting by contacting: Survey and Registration Section, Bureau of Historic Preservation, Division of Historical Resources, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (800)847-7278, Fax (850)245-6437. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, (800)955-8771 (TDD) or (800)955-8770 (Voice).

For more information, you may contact: Survey and Registration Section, Bureau of Historic Preservation, Division of Historical Resources by mail at 500 South Bronough Street, Tallahassee, Florida 32399-0250, (800)847-7278, Fax (850)245-6437.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The **Office of Agricultural Water Policy** announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, June 28, 2007, 3:00 p.m. – 5:00 p.m.

PLACE: Suwannee River Water Management District, 9225 C.R. 49, Live Oak, FL 32060

GENERAL SUBJECT MATTER TO BE CONSIDERED: General meeting to review, and discuss current Suwannee River partnership projects and programs.

A copy of the agenda may be obtained by contacting Darrell Smith at (386)363-1001.

For more information, you may contact Darrell Smith at (386)363-1001.
