

(c) For the single source purchases set forth in paragraphs (8)(a) and (b) above, the Lottery shall provide notice of its agency decision by electronic posting in accordance with paragraph (7)(a) above. Such single source purchases shall be excepted from the posting requirements specified in Section 287.057(5)(c), Florida Statutes.

(d) For all other commodities and contractual services that are believed to be available only from a single source, the Lottery shall electronically post a description of the commodities or contractual services sought and the name of the intended single source provider for at least 7 business days and request prospective vendors to provide information regarding their ability to provide the commodities or services sought. If information is received from prospective vendors and the Lottery determines after reviewing the information that the commodities and contractual services are available from only a single source, the Lottery shall provide notice of its agency decision by electronic posting in accordance with paragraph (7)(a) above. If no information is received from prospective vendors, no additional posting will be made.

**(9) Emergency Purchases.**

(a) The Secretary may waive any requirement of this rule and permit emergency purchases of commodities and contractual services where a valid emergency exists.

(b) A valid emergency is defined as a circumstance caused by an unexpected turn of events beyond the control of the Lottery involving the security, integrity or the financial status of the Lottery; or involving public health, welfare, safety, injury or loss.

(c) An emergency purchase shall be made by:

1. Obtaining pricing information from at least two prospective vendors unless the Lottery determines in writing that the time required to obtain pricing information will increase the immediate danger involving the security, integrity or financial status of the Lottery; or involving the public health, safety, or welfare, or injury or loss. In such case, the pricing requirement shall be excepted; and

2. The responsible executive or senior manager providing a written certification under oath stating the conditions and circumstances of the emergency and the basis for the waiver of the procurement requirements of this rule and the selection of the particular source. This certification shall be submitted to the Secretary for approval.

**(10) MyFloridaMarketplace Transaction Fee Exemption.**

The Lottery specifically finds that compliance in certain types of procurements with the 1% Transaction Fee provisions of Rule 60A-1.031, F.A.C. would impair or impede the effective and efficient operation of the Lottery. Therefore, procurements of commodities and services specific to the lottery industry and for which the Florida Lottery is the sole purchaser in the state of Florida are exempt from the 1% Transaction Fee that would otherwise apply under Rule 60A-1.031, F.A.C. Such procurements would include, for example, a lottery gaming

system, instant tickets, and related commodities or services. Acquiring such commodities and services through the state's on-line procurement system would not further the stated goal of leveraging the state's purchasing power. Application of the 1% transaction fee would increase the cost of the contract without providing a corresponding benefit to the state and would reduce the amount of funds transferable to the Educational Enhancement Trust Fund at the end of each fiscal year.

(11) The Lottery may participate in, sponsor or conduct cooperative purchasing arrangements with other governmental entities for the purchase of commodities or contractual services, including construction.

(12) The Lottery may acquire any commodity or contractual service that is available on - state term contract or purchasing agreement without competitive bidding.

(13) The Lottery may, at reasonable times, inspect a vendor's place of business to determine the capability of the vendor to perform any contract awarded by the Lottery.

(14) This emergency rule replaces emergency rule 53ER02-45, Florida Administrative Code.

Specific Authority 24.105(13), 24.109(1) FS. Law Implemented 24.105(13), 24.111, 119.071(1)(b)1.a., 120.57(3)(a), (b), 287.017, 287.057(5)(a), (c), (f), 287.0943 FS. History--New 9-7-07, Replaces 53ER02-45, F.A.C.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: September 7, 2007

**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**

**DEPARTMENT OF EDUCATION**

NOTICE IS HEREBY GIVEN THAT on September 7, 2007, the Department of Education, received a petition for an emergency permanent waiver of Rule 6A-4.0282, F.A.C., from ASHI Holding Co., d/b/a American Safety and Health Institute (ASHI).

A copy of the Petition for Variance or Waiver may be obtained by contacting Jason Hand, Office of General Counsel, Department of Education at (850)245-0442.

**DEPARTMENT OF COMMUNITY AFFAIRS**

NOTICE IS HEREBY GIVEN THAT on August 13, 2007, the Division of Housing and Community Development, received a petition for Waiver from the Broward County Board of Commissioners on behalf of the Town of Davie regarding Emergency Rule 9BER06-2(13)(b). The waiver is requested in order to allow the Petitioner to purchase used mobile homes from FEMA for \$500 each.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

**DEPARTMENT OF LAW ENFORCEMENT**

NOTICE IS HEREBY GIVEN THAT on September 5, 2007, the Criminal Justice Standards and Training Commission has issued an order.

Brian Call requested an emergency waiver of subsection 11B-27.002(4), F.A.C., on August 9, 2007. Petitioner requested that the provisions of subsection 11B-27.002(4), F.A.C., requiring an officer to complete basic recruit training, pass the relevant State Officer Certification Examination, and gain employment within four years of beginning basic recruit training be waived. Notice of receipt of this petition was published in the F.A.W., Vol. 33, No. 34, August 24, 2007. Petitioner alleged facts sufficient to show that the rule affected him differently from other persons subject to the rule and that enforcement of the rule in his case would result in substantial hardship to him and would violate the principles of fairness by denying him continued employment. The Commission granted the requested waiver at a telephonic conference held September 5, 2007.

A copy of the Order may be obtained by contacting: Grace A. Jaye, Assistant General Counsel, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302-1489, or by telephoning (850)410-7676.

**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."

**PUBLIC SERVICE COMMISSION**

NOTICE IS HEREBY GIVEN THAT on September 26, 2006, the Florida Public Service Commission, received a petition for waiver of paragraphs 25-30.033(1)(h), (j), (k), (m), (o), (r), (t), (u), (v), and (w), Florida Administrative Code, by Town and Country Utilities Company, in Docket No. 060602-SU. The petition was approved by the Commission by Order No.

PSC-07-0076-PAA-SU, issued January 29, 2007, and consummated by Order No. PSC-07-0172-CO-SU, issued February 23, 2007. The rule addresses information required for setting initial rates in original water and wastewater certificate proceedings. The petitioner requested that the rule be waived temporarily to permit bifurcation of the certification proceeding. The petition was approved on the basis that the purpose of the underlying statute would be achieved by other means and application of the rule would create substantial hardship. Notice of the petition was published in the F.A.W., on December 8, 2006.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770 or the Commission's homepage at <http://www.floridapsc.com>.

**WATER MANAGEMENT DISTRICTS**

NOTICE IS HEREBY GIVEN THAT on August 30, 2007, the South Florida Water Management District (SFWMD) received a Petition for Variance (Application 070830-20) from The Watson Group, Inc. for a project known as Washington Park Estates, located in Orange County. The petition seeks relief from Section 373.414, F.S., paragraph 40E-4.301(1)(e) or Rule 40E-4.302, F.A.C., pertaining to wet retention/detention area dimensional criteria.

A copy of the petition may be obtained from Beth Colavecchio at (561)682-6905 or e-mail at [bcolavec@sfwmd.gov](mailto:bcolavec@sfwmd.gov). The SFWMD 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, West Palm Beach, FL 33401, Attn: District Clerk.

For additional information, contact: Ed Yaun, Orlando Service Center, 1707 Orlando Central Pkwy., Suite 200, Orlando, FL 32809, (407)858-6100, extension 3824 or e-mail: [eyaun@sfwmd.gov](mailto:eyaun@sfwmd.gov).

**DEPARTMENT OF MANAGEMENT SERVICES**

NOTICE IS HEREBY GIVEN THAT on August 13, 2007, the Department of Management Services, received a petition for Variance from Section 121.085(2), Florida Statutes, from K. Judith Lane, on behalf of Ronald R. Futch. The statute states: "no creditable service which remained unclaimed may be claimed or purchased after a retirement benefit payment has been cashed or deposited." The rule operates to bar participants in the Deferred Retirement Option Program ("DROP") from upgrading prior years of service upon their entry into DROP. The Petitioner request a variance from the statute to allow the Petitioner to upgrade certain years of service in which Petitioner served as an EMT/Ocean Lifeguard under the provisions of the Special Risk Class.

Comments on this Petition should be filed with: Geoffrey M. Christian, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Geoffrey M. Christian, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950 or by calling (850)414-0240.

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NOTICE IS HEREBY GIVEN THAT on August 13, 2007, the Department of Management Services, received a petition for Variance from Section 121.085(2), Florida Statutes, from K. Judith Lane, on behalf of Michael L. Hensler. The statute states: "no creditable service which remained unclaimed may be claimed or purchased after a retirement benefit payment has been cashed or deposited." The rule operates to bar participants in the Deferred Retirement Option Program ("DROP") from upgrading prior years of service upon their entry into DROP. The Petitioner request a variance from the statute to allow the Petitioner to upgrade certain years of service in which Petitioner served as an EMT/Ocean Lifeguard under the provisions of the Special Risk Class.

Comments on this Petition should be filed with: Geoffrey M. Christian, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Geoffrey M. Christian, Assistant General Counsel, Department of Management Services, 4050 Esplanade Way, Suite 160, Tallahassee, Florida 32399-0950 or by calling (850)414-0240.

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#### **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

NOTICE IS HEREBY GIVEN THAT on August 7, 2007, the Division of Hotels and Restaurants received a Petition for a Routine Variance for subsection 61C-4.010(7), Florida Administrative Code, from Jennifer's Cafeteria located in North Miami Beach. The above referenced F.A.C. states ...each public food service establishment shall maintain a minimum of one public bathroom for each sex, properly designated..... The proposed establishment has one bathroom facility for patrons and they are requesting a variance to have a seating capacity of twenty-seven (27).

A copy of the Petition may be obtained by contacting David.Fountain@dbpr.state.fl.us. The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

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NOTICE IS HEREBY GIVEN THAT on August 13, 2007, the Division of Hotels and Restaurants received a Petition for a Routine Variance for subsections 61C-4.010(1) and 61C-4.010(6), Florida Administrative Code, from El Tejadito 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.

A copy of the Petition may be obtained by contacting David.Fountain@dbpr.state.fl.us. The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

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NOTICE IS HEREBY GIVEN THAT on August 16, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.010(7), Florida Administrative Code, from Peg's located in Gulfport. The above referenced F.A.C. states...each public food service establishment shall maintain a minimum of one public bathroom for each sex, properly designated.....The proposed establishment has two unisex bathrooms for patrons and they are requesting a variance to have a seating capacity of seventy-four (74) and two bathrooms with a unisex designation.

This variance request was approved August 31, 2007, and is contingent upon the Petitioner ensuring the two unisex public bathrooms are functional, has hot and cold running water at all times, provided with soap and an approved method to dry hands, and kept in a clean and sanitary manner. 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.

To obtain a copy of the approved variance you may contact David.Fountain@dbpr.state.fl.us.

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NOTICE IS HEREBY GIVEN THAT on August 17, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsection 61C-4.010(7), Florida Administrative Code, from Chubby's Hot Dog and Sub located in Maitland. The above referenced F.A.C. states...each public food service establishment shall maintain a minimum of one public bathroom for each sex, properly designated....The proposed establishment has one bathroom facility for patrons and they are requesting a variance to have a seating capacity of twenty-six (26).

This variance request was approved August 31, 2007, and is contingent upon the Petitioner ensuring the public bathroom is functional, has hot and cold running water at all times, provided with soap and an approved method to dry hands, and kept in a clean and sanitary manner. Seating shall not exceed (26) which includes inside and outside seating. 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.

To obtain a copy of the approved variance you may contact David.Fountain@dbpr.state.fl.us.

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NOTICE IS HEREBY GIVEN THAT on August 24, 2007, the Division of Hotels and Restaurants received a Petition for a Routine Variance for subsection 61C-4.010(7), Florida Administrative Code, from Dairy Queen located in Miami. The above referenced F.A.C. states that all bathrooms shall be of easy and convenient access to both patrons and employees...They are requesting a variance to share bathroom facilities with an adjacent establishment.

A copy of the Petition may be obtained by contacting David.Fountain@dbpr.state.fl.us. The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

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NOTICE IS HEREBY GIVEN THAT on August 24, 2007, the Division of Hotels and Restaurants received a Petition for an Emergency Variance for subsections 61C-4.0101(1) and 61C-4.010(6), Florida Administrative Code, from Luis and Elena Lunch Truck 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.

A copy of the Petition may be obtained by contacting David.Fountain@dbpr.state.fl.us. The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received on or before 5:00 p.m.

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NOTICE IS HEREBY GIVEN THAT on August 29, 2007, the Board of Accountancy, received a petition for Nelson Sabbagh, seeking a variance or waiver of subsection 61H1-33.001(1), Florida Administrative Code, which requires that each licensee complete on-line or mail completed answers to the examination on Chapters 455 and 473 F.S., and related administrative rules with a passing score of at least 80, on or before December 31, prior to the licensee's biennial renewal period.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607, or by telephone at (352)333-2505. Comments on this petition should be filed with the Board of Accountancy within 14 days of publication of this notice.

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#### **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."

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#### **DEPARTMENT OF HEALTH**

NOTICE IS HEREBY GIVEN that on September 7, 2007, the Board of Psychology, received a petition for Delight C.A. Thompson, Ph.D., seeking a variance or waiver of subparagraph 64B19-11.005(2)(c)3., F.A.C., which requires that all applicants for licensure complete post doctoral experience which includes an average of at least two hours of clinical supervision each week.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Susan Love, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255, or telephone (850)245-4373, ext. 3480. Comments on this petition should be filed with the Board of Psychology/MQA within 14 days of publication of this notice.

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NOTICE IS HEREBY GIVEN THAT on August 20, 2007, the Department of Health, Bureau of Emergency Medical Services, received a petition for Waiver or Variance from Gabriel G. Sanchez, MD, FAEP.

Applicable Rule: Paragraph 64E-2.004(3)(c), Medical Direction, Florida Administrative Code.

Nature of Rule: Requires a medical director shall be board certified and active in a broad-based clinical medical specialty with demonstrated experience in prehospital care and hold an ACLS certificate or equivalent as determined in Rule 64E-2.032, F.A.C. Prehospital care experience shall be documented by the provider.

Date and Place of Notice: Notice was published on September 21, 2007 in the F.A.W.

All comments must be received in writing by October 5, 2007 to Lisa M. Walker, Government Analyst II, Bureau of EMS.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lisa M. Walker, Government Analyst II, Bureau of EMS, 4052 Bald Cypress Way, Bin C-18, Tallahassee, FL 32399-1738.

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NOTICE IS HEREBY GIVEN THAT on September 4, 2007, the Department of Health, received a petition for Variance from paragraph 64E-16.007(4)(c), Florida Administrative Code, from Carl Malmberg, on behalf of MedServe, Inc. That rule prescribes the use of specific organisms to be used to provide microbiological evidence of the disinfection capabilities of an alternative treatment system for biomedical waste. The Petitioner requests a variance from the rule to allow the Petitioner to vary from the rule requirement for use of specific organisms to provide microbiological evidence of the disinfection capabilities of an alternative treatment system for biomedical waste as prescribed in paragraph 64E-16.007(4)(c), Florida Administrative Code. MedServe, Inc. proposes to follow the State and Territorial Association on Alternative Treatment Technologies guidance report (STAATT II, 1998) with regards to use of specific organisms to provide microbiological evidence of the disinfection capabilities of an alternative treatment system for biomedical waste. Comments on this Petition should be filed with the Agency Clerk, Department of Health, Office of the General Counsel, 4052 Bald Cypress Way, Bin A02, Tallahassee, Florida 32399-1703, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Gina Vallone-Hood, Bureau of Community Environmental Health, 4052 Bald Cypress Way, Bin A08, Tallahassee, Florida 32399-1710 or by calling (850)245-4277, extension 4273.

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#### **DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

NOTICE IS HEREBY GIVEN THAT on July 27, 2007, the Department of Children and Family Services, received a petition for subsection 65C-15.017(2), F.A.C. from Eyvolle Pamphile, assigned Case No. 07-011W. The rule requires licensed child-placing agency staff who provide casework supervision to have a master's or bachelor's degree in social

work or a related area of study from an accredited college or university and a minimum of two or four years, respectively, of experience in human services or child welfare programs.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Family Services, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on September 6, 2007, the The Department of Children and Family Services has issued an order.

The Department of Children and Family Services granted a request for Waiver of subsection 65C-14-055(4), F.A.C., to Youth Crisis Center; Brenda Plant; Annette Bair and the basis for decision is that petitioners demonstrated knowledge, skills and abilities, that the rule is intended to ensure covered staff possess.

A copy of the Order may be obtained by contacting: Agency Clerk, Department of Children and Family Services, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on September 7, 2007, the Department of Children and Family Services, received a petition for Waiver of subsection 65C-15.017(2), F.A.C. The petition was received by Victoria Gonzalez, assigned Case No. 07-015W. Subsection 65C-15.017(2), F.A.C. states an Agency staff responsible for supervision shall have a master's or bachelor's degree in social work or a related area of study from an accredited college or university and at least two years of experience in human services or child welfare programs.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Family Services, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on September 10, 2007, the Department of Children and Family Services, received a petition for Emergency Waiver of subsection 65C-14.055(3), F.A.C., from Sabriena Williams and Interface Youth Program, assigned Case No. 07-016W. Subsection 65C-14.055(3), F.A.C., requires staff who perform direct counseling to children and their families shall have a master's degree in social work, counseling, or related area of study from a college or university, and at least 2 years of experience in social work, counseling or related area of experience.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Family Services, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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