

DEPARTMENT OF FINANCIAL SERVICES

Division of Consumer Services

RULE NO.: 69J-7.005
 RULE TITLE: My Safe Florida Home Program, Forms For Use Regarding Grants

PURPOSE AND EFFECT: This rule adopts two forms for use by the My Safe Florida Home program in awarding grants to homeowners. Section 215.5586(2), Florida Statutes provides that homeowners meeting certain criteria may be awarded grants by the Department to upgrade their home against hurricane wind damage. Both low income and non-low income persons may receive grants, but low-income applicants are in part subject to different requirements. This rule adopts two forms by which grants are awarded by the Department to grant applicants. One form is for low-income homeowners, and the other form is for non-low-income homeowners. Each form is a set of three standard documents that are sent together as a package to each homeowner awarded a grant. The three documents that make up each form are: 1) Cover letter awarding the grant; 2) document stating the terms and conditions of the grant; and 3) reimbursement request documents to be used by the homeowner to obtain disbursement of grant funds when the improvements are completed.

SUMMARY: The rule adopts forms for use in awarding grants to homeowners for the My Safe Florida Home Program.

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

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

SPECIFIC AUTHORITY: 215.5586(6) FS.

LAW IMPLEMENTED: 215.5586 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Tuesday, March 18, 2008, 9:30 a.m.

PLACE: 142 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 workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Ellen Simon, (850)413-4270 or Ellen.Simon@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ellen Simon, Assistant General Counsel, Department of Financial Services 200 East Gaines Street, Tallahassee, Florida 32399, (850)413-4270

THE FULL TEXT OF THE PROPOSED RULE IS:

69J-7.005 My Safe Florida Home Program, Forms For Use Regarding Grants.

(1) The following forms are hereby adopted and incorporated by reference, for use in the My Safe Florida Home program under Section 215.5586, Florida Statutes:

(a) DFS-I4-1807, "LMI Grant Award Packet (low income)," (effective:_____).

(b) DFS-I4-1806, "Matching Grant Award Packet (non-low income)," (effective:_____).

(2) These forms may be obtained from the Department of Financial Services by request directed to the following address: My Safe Florida Home Program, Larson Building, 5th Floor, 200 East Gaines Street, Tallahassee, FL 32399-0333.

Specific Authority 215.5586(6) FS. Law implemented 215.5586 FS. History-New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ellen Simon, Assistant General Counsel, Division of Legal Services, Department of Financial Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Chandler, Deputy Chief Financial Officer, Division of Consumer Services, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 21, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 11, 2008

**Section III
 Notices of Changes, Corrections and
 Withdrawals**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Fruit and Vegetables

RULE NOS: 5G-6.007
 RULE TITLES: Annual Food Permit Requirements of Tomato Packers and Repackers
 5G-6.009 Tomato Best Practices Manual

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 50, December 14, 2007 issue of the Florida Administrative Weekly.

The changes are in response to comments made at a public rule hearing held on January 7, 2008, written comments received from the public and department staff, and written comments received from the Joint Administrative Procedures Committee. Changes to Rule 5G-6.007, F.A.C., encompass an addition to the *Specific Authority* and *Law Implemented* cites relative to the Department's authority to set by rule a fee for the application for a food permit that may not exceed \$500. Section 500.12(1)(b), F.S., was added for clarification as follows:

5G-6.007 Annual Food Permit Requirements of Tomato Packers and Repackers.

Specific Authority 500.09(3), 500.12(1)(b)(f), 570.07(6), 570.07(23)
FS. Law Implemented 500.03(1)(n), 500.12(1)(a)(b), 570.48(2)(e),
570.481(1)(a), (b) FS. History—New _____.

A change to Rule 5G-6.009 encompasses an addition to the *Law Implemented* notes relative to the Department's authority to register pesticide products pursuant to the provisions of 487.041, Florida Statutes, as follows:

5G-6.009 Tomato Best Practices Manual.

Specific Authority 500.09(1)(b), (4), 500.12(1)(f), 570.07(6)
570.07(23) FS. Law Implemented 487.041, 500.09(1)(b), (4),
500.12(1)(f) FS. History—New _____.

Section 5G-6.009 of the proposed rule adopts the *Tomato Best Practices Manual* (November 2007) by reference. Changes to this document are as follows:

Part A, Page 5, (1)(c)1.a.: The Code of Federal Regulation (CFR) reference was incorrectly cited as "...CFR Part 131.41(c)". The document has been corrected to cite "...40 CFR Part 131.41(c)".

Part A, Page 6, (1)(c)1.e.: The CFR reference was incorrectly cited as "...prescribed in the U.S. Public Health Service Drinking Water Standards, published in 42 CFR Part 72". The document has been corrected to cite "...40 CFR Part 131.41(c)" only.

Part A, Page 6, (1)(d)1.a.: The document language will be modified for clarification as follows: Sanitation facilities shall be provided for all field workers during planting, harvest or other field activities in accordance with OSHA (29 CFR 1928.110), FDA Title 21 CFR 110. See also Florida Department of Health, Rule 64E-14.016, F.A.C., requirements for field sanitary facilities.

Part A, Page 8, (1)(j)1: The document language will be changed to remove the word "pathogens" and insert the word "organisms" for greater accuracy and clarity.

Part A, Page 8, (1)(k)3.: The document language will be modified as follows: Other records-Requirements for records relating to other state or federal laws may also apply. This change will make language consistent with Part B, Page 13,

(2)(o)3., which does not impose a requirement but informs and cautions that there may be other state of federal laws that may apply.

Part B, Page 9, (2)(b)3.: The document will be modified to delete "(Appendix A)" which is an editorial error in the language.

Part B, Page 10-11, (2)(g)3.: The words "...pursuant to Florida Statutes, Section 487.041 and Rule 5E-2.031, F.A.C." will be inserted in subsections a, b, c and e, following the words "...registered by the Department".

Part B, Page 11, (2)(g)3.d.: The document language will be changed to remove the word "pathogens" and insert the word "organisms" for greater accuracy and clarity.

Part B, Page 11, (2)(g)3.e.: The document language will be changed to remove the word "pathogens" and insert the word "organisms" for greater accuracy and clarity.

Part B, Page 12, (2)(m)1.: For increased accuracy and clarity, the document language will be modified as follows:

Only those chemicals allowed by the U.S. Food and Drug Administration (FDA), as specified in the FDA Food Code and adopted by reference in Department Rule 5K-4.002, F.A.C., shall be used for food contact waxing materials or food additives. Authorized nonfood chemicals registered for use can be found at: http://www.nsf.org/business/nonfood_compounds.

An electronic copy of the *Tomato Best Practices Manual* (November 2007), with all modifications completed as identified above, may be obtained by contacting Lee M. Cornman, Assistant Director, Division of Food Safety, with a request via telephone at (850)488-0295 or via electronic mail at: foodinsp@doacs.state.fl.us.

THE REMAINDER OF THE RULE WILL READ AS PUBLISHED.

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

Southwest Florida Water Management District

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

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 14, April 6, 2007 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-20.006 RULE TITLE: Educational Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 30, July 28, 2006 issue of the Florida Administrative Weekly.

This change was made to address a concern expressed by the Joint Administrative Procedure Committee.

When changed, subsection (2)(a) shall now read as follows:

(2) A non-EAC/ABET accredited engineering degree program (hereinafter “engineering program”) which seeks approval pursuant to Section 471.013(1)(a), Florida Statutes, shall submit the following to the Board:

(a) A completed application form “Request for Evaluation” [FBPE/007 (11-07)] and “Self-Study Report” [FBPE/008 (1-08)] hereby incorporated by reference (which may be obtained from the Board by writing to: Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32304);
 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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Professional Engineers

RULE NO.: 61G15-21.007 RULE TITLE: Re-examination

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 32, No. 32, August 11, 2006 issue of the Florida Administrative Weekly.

The changes below are being made in order to update a change in statutory references:

1. Paragraph one of the rule, which is the rule in its entirety, shall now read as follows:

If an applicant fails three times to pass the examination, the applicant must take additional courses in order to reapply for examination. The applicant must submit to the Board of Professional Engineers transcripts for the enrollment and completion of twelve (12) college credit hours, with grades no lower than a “C” or its equivalent, of college level courses in the applicant's area of deficiency. For applicants to take Part I of the engineer examination, such additional courses shall be undergraduate college courses in higher mathematics, basic sciences or engineering as described in paragraphs

61G15-20.007(1)(a), (b), and (c), F.A.C. For applicants to take Part II of the engineer examination, such additional courses shall be upper level or higher courses in engineering, as defined in paragraph 61G15-20.007(1)(c), F.A.C.

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 JUVENILE JUSTICE

Residential Services

RULE NOS.: 63E-7.013 RULE TITLES: Safety and Security
 63E-7.016 Program Administration

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 49, December 7, 2007 issue of the Florida Administrative Weekly.

63E-7.013 Safety and Security.

(1) Physical Security Features. A residential commitment program shall provide physical security features as required pursuant to Chapter 985, F.S., the provider’s contract with the department, if applicable, and the ~~following~~ provisions listed below based on the restrictiveness level of the program; Unless specified otherwise in a provider’s contract with the department, and contingent upon legislative appropriations, the department is responsible for providing the following physical security features in a program operated in a state-owned building.

(a) through (d) No change.

(2) Staffing Ratios. Any low-risk residential commitment program of more than five beds, and any moderate-risk, high-risk, and maximum-risk restrictiveness level program shall provide awake staff supervision 24 hours per day.

(a) No change.

(b) Staff-to-youth ratios in a privately operated residential commitment program shall be provided as specified in the provider’s contract with the department and shall be monitored for compliance by the ~~residential monitor designated by the~~ department.

(c) No change.

(3) through (4) No change.

(5) Safe and Secure Facility. A residential commitment program shall maintain a safe and secure physical plant, grounds and perimeter and shall:

(a) Conduct weekly security audits and safety inspections;

(b) Develop and implement corrective actions warranted as a result of safety and security deficiencies found during any internal or external review, audit, or inspection; and

(c) Verify that deficiencies are corrected as follows and existing systems are improved or new systems are instituted as needed to maintain compliance. In cases where no corrective action can be reasonably implemented without the department's response to a request for use of facility maintenance funds, the provider's request shall constitute initiation of corrective action.

1. Immediate initiation of corrective actions necessary to eliminate any imminent threat to life and safety or any impending security breach; and

2. Initiation of other corrective actions needed within ~~at least~~ 30 days;

(6) No change.

(7) Classification of Youth. A residential commitment program shall establish a classification system that promotes safety and security, as well as effective delivery of treatment services, based on determination of each youth's individual needs and risk factors, that addresses, at a minimum, the following:

(a) Classification factors to ~~minimally~~ include, at a minimum, the following:

1. Physical characteristics, including sex, height, weight, and general physical stature;

2. Age and maturity level;

3. Identified special needs, including mental, developmental or intellectual, and physical disabilities;

4. Seriousness of the current offense, including whether or not the offense was against person or property;

5. Prior delinquent history and background, including gang affiliation, if applicable;

6. Current or past involvement in assaultive or aggressive behavior, sexual misconduct, or demonstration of emotional disturbance; and

7. Identified or suspected risk factors, such as medical, suicide, and escape risks;

(b) Initial classification of each newly admitted youth for the purpose of assigning him or her to a living unit, sleeping room, and youth group or staff advisor;

(c) Reassessment of a youth's needs and risk factors and reclassification, if warranted, prior to considering:

1. An increase in the youth's privileges or freedom of movement;

2. The youth's participation in work projects or other activities that involve tools or instruments that may be used as potential weapons or means of escape; and

3. The youth's participation in any off-campus activity; and

(d) A continually updated, internal alert system that is easily accessible to program staff and keeps them alerted about youth who are security or safety risks, including escape risks, suicide or other mental health risks, medical risks, sexual predator risks, and other assaultive or violent behavior risks.

The program shall design and implement this system to reduce risks by alerting program staff when there is a need for specific follow-up or precautionary measures or more vigilant or increased levels of observation or supervision, and by assisting staff when making treatment, or safety and security decisions. Although a direct care, supervisory, or clinical staff may place a youth on alert status if he or she meets the criteria for inclusion in the program's alert system, only the following may recommend downgrading or discontinuing a youth's alert status:

1. A licensed mental health professional or mental health clinical staff person for suicide risks or other mental health alerts;

2. A medical staff person for medical alerts upon verification that the health condition or situation no longer exists; or

3. The program director, assistant program director, or on-site supervisor for security alerts.

(8) through (9) No change.

(10) Contraband. A residential commitment program shall delineate items and materials considered contraband when found in the possession of youth. The program shall provide youth with the list of contraband items and materials and inform the youth of the consequences if found with contraband. The program shall establish a system to prevent the introduction of contraband and identify contraband items and materials through searches of the physical plant, facility grounds, and its youth.

(a) Before program staff conduct any strip search of a youth and, at a minimum, before staff conduct a youth's initial frisk search, staff shall prepare the youth by explaining the purpose of the search and what it entails, while assuring the youth of his or her safety. Throughout the search, staff shall avoid using unnecessary force and shall treat the youth with dignity and respect to minimize the youth's stress and embarrassment.

(b) Frisk and Strip Searches. Staff conducting a frisk search, which is conducted through the youth's clothing, shall be of the same sex as the youth being searched. A strip search, a visual check of a youth without clothing, shall be conducted in a private area with two staff members present, both of the same sex as the youth being searched. As an alternative when two staff of the same sex are not available, one staff of the same sex as the youth may conduct the strip search while a staff of the opposite sex is positioned to observe the staff person conducting the search, but cannot view the youth. Use of electronic search equipment is authorized to supplement any frisk search authorized in this rule section. The provisions below stipulate the minimum requirements for use of frisk searches and strip searches based on a program's restrictiveness level. However, a program at any level is permitted to conduct frisk or strip searches when authorized by the program director, or in the director's absence, his or her

designee, for purposes of controlling contraband or ensuring safety and security. When a frisk search is required based on the following provisions, yet the program director or designee authorizes a strip search for contraband control or safety and security purposes, the strip search shall be in lieu of the frisk search.

1. Programs at the Low-risk and Moderate-risk Restrictiveness Levels. In accordance with Rule 63E-7.013, F.A.C., a low-risk or moderate-risk program shall conduct a frisk search after a youth's participation in a vocational or work program or activity involving the use of tools or other implements that could be used as weapons or a means of escape. A frisk search shall also be conducted when a youth returns from a home visit. Consistent with Rule 63E-7.004, F.A.C., a low-risk or moderate-risk program shall conduct a strip search of every youth upon admission, except when a youth is admitted from secure detention, in which case a strip search is authorized rather than required.

2. Programs at the High-risk and Maximum-risk Restrictiveness Levels. In accordance with Rule 63E-7.013, F.A.C., a high-risk or maximum-risk program shall conduct a frisk search after a youth's participation in a vocational or work program or activity involving the use of tools or other implements that could be used as weapons or as a means of escape. Consistent with subsection 63E-7.013(11), F.A.C., a high-risk or maximum-risk program shall conduct a frisk search following a youth's involvement in a visitation activity. In the case of non-contact visitation, such as when the visitor and the youth are separated by an impenetrable barrier, the program director shall not authorize a strip search in lieu of a frisk search. A frisk search shall also be conducted when a youth returns from a supervised off-campus activity conducted away from the facility or its grounds. Although unsupervised off-campus activities, including home visits, are not permitted for youth in maximum-risk programs, a high-risk program shall strip search a youth returning from a home visit and shall frisk search a youth returning from any other unsupervised off-campus activity. Consistent with Rule 63E-7.004, F.A.C., a high-risk or maximum-risk program shall conduct a strip search of every youth upon admission, except when a youth is admitted from secure detention, in which case a strip search is authorized rather than required.

~~(b) Staff conducting a frisk search, which is conducted through the youth's clothing, shall be of the same sex as the youth being searched. A frisk search shall be conducted when a youth returns from a supervised activity away from the program, after a youth participates in vocational or work program involving the use of tools or other implements that could be used as weapons or as a means of escape, and when otherwise authorized by the program director or his or her designee for the purposes of controlling contraband or ensuring safety and security.~~

~~(c) A strip search, a visual check of a youth without clothing, shall be conducted in a private area with two staff members present, both of the same sex as the youth being searched. As an alternative when two staff of the same sex are not available, one staff of the same sex as the youth may conduct the search while a staff of the opposite sex is positioned to observe the staff person conducting the search, but cannot view the youth.~~

~~1. Low-risk. A program at this restrictiveness level may conduct a strip search of a youth only when authorized by the program director.~~

~~2. Moderate risk, High risk, and Maximum risk Programs. A program at any of these restrictiveness levels shall conduct a strip search of every youth upon admission, except when a youth is admitted from secure detention, in which case a strip search is authorized rather than required. The program shall also conduct a strip search of any youth returning from a home visit. When authorized by the program director, the program may conduct a strip search when a youth is returning from an off-campus activity, following a youth's involvement in visitation activities, or in response to a serious security breach.~~

~~(c)(d) A cavity search that involves the examination of the youth's body cavities, with the exception of visual inspection of ears, nose and mouth, may only be conducted by trained medical personnel in an emergency room setting when authorized by the program director because it is strongly suspected that a youth has concealed contraband in a body cavity.~~

~~(d)(e) With the exception of privileged mail to or from a youth's attorney of record, JPO, clergy, or a state or federally authorized advocate or advocacy group representative, the program shall search youths' incoming and outgoing mail, including correspondence and packages, for contraband and for any information that may threaten the security or safety of the program, including escape plans or gang-related information. During the search of incoming or outgoing mail, the youth receiving or sending the mail shall be present or, if the program conducts mail searches at a central location, a youth representative shall be present to witness the process.~~

~~(e)(f) The program shall confiscate any contraband item or material from a youth, documenting the reason for the confiscation and the manner of disposition. The program shall include a copy of the documentation in the youth's individual management record. If a confiscated item is not illegal, the program director or his or her designee has the discretion to discard the item, return it to its original owner, mail it to the youth's home, or return it to the youth upon his or her release from the program. In all instances involving the confiscation of contraband that is illegal, the program shall submit the item to local law enforcement and file a criminal report.~~

~~(11) Visitation. A residential commitment program shall provide for visitation of youth and, at a minimum, shall address the following:~~

(a) through (c) No change.

(d) Identification of authorized visitors, including the youth's parents or legal guardian, the youth's spouse, the youth's attorney of record, the youth's JPO, clergy, and others with a legitimate reason related to the youth's rehabilitation and treatment at the discretion of the program director or his or her designee, excepting. The program shall not allow visitation by any co-defendant in the youth's current offense, anyone prohibited by court order to have contact with the youth, anyone the youth is unwilling to receive as a visitor, or anyone whose presence or behavior during a prior visitation posed a safety or security threat;

(e) Verification of the identity of visitors by requiring a form of picture identification except in the case of children or siblings of the youth who are accompanied by a parent or legal guardian ~~and authorized by the program director or his or her designee;~~

(f) No change. ~~Documentation of all visitation to include:~~

- ~~1. The visitor's signature, the date, and the times of entry and exit;~~
- ~~2. The name of any visitor denied entry and the date, time, and reason for denial;~~

(g) Measures to prevent the introduction of contraband into the program to include:

1. Written notification to visitors before their entry into the facility that their person and any packages may be subject to search and that possession of illegal contraband could be subject to legal action;

2. Mandatory electronic search of visitors entering high-risk and maximum-risk programs and optional electronic search of visitors entering low-risk and moderate-risk programs;

3. Frisk search of a visitor by a staff person of the same sex when reasonable belief exists that the visitor is attempting to introduce contraband or otherwise compromise the security of the facility ~~probable cause exists to warrant the search;~~

4. Search of packages or other items for youth conducted in the presence of the visitor;

5. Prohibition of visitors bringing their personal possessions into the facility unless the program director or his or her designee makes an exception for a visitor needing a documented prescription medication or an adaptive device due to a disability;

6. Consistent with Rule 63E-7.010, F.A.C., frisk search of a youth in a high-risk or maximum-risk program ~~or, if authorized by the program director or his or her designee, strip search of a youth by staff~~ prior to the youth's exit from the visitation area; and

7. Search of the visitation area by staff after all visits are concluded; and

(h) Termination of the visit if the youth or visitor violates the program rules, is loud or disorderly or visibly angry or upset, engages or attempts to engage in sexual contact or activity, is physically aggressive, or otherwise poses an unsafe situation.

(12) through (13) No change.

(14) Flammable, Poisonous and Toxic Items. A residential commitment program shall maintain strict control of flammable, poisonous, and toxic items and materials. At a minimum, the program shall:

(a) through (c) No change.

(d) Dispose of hazardous items and toxic substances or chemicals in accordance with Occupational Safety and Health Administration (OSHA) Standard 29 CFR 1910.1030 (amended 1-1-2004) standards; and

(e) Maintain Material Safety Data Sheets (MSDS) on site in accordance with as required by OSHA Standard 29 CFR 1910.1030 (amended 1-1-2004).

(15) No change.

(16) Controlled Observation. A moderate-risk, high-risk, or maximum-risk residential commitment program may use controlled observation only when necessary and as a last resort. It is intended as an immediate, short-term, crisis management strategy for use during volatile situations in which one or more youths' sudden or unforeseen onset of behavior imminently and substantially threatens the physical safety of others and compromises security. Controlled observation is not authorized for use as punishment or discipline.

(a) The program is authorized to temporarily place ~~an out-of-control~~ youth in a controlled observation room only in the following situations when non-physical interventions would not be effective:

1. Emergency safety situations where there is imminent risk of the youth physically harming himself or herself, staff, or others; or

2. When the youth is engaged in major property destruction that is likely to compromise the security of the program or jeopardize the youth's safety or the safety of others, when the following three criteria are met:

1. The youth is exhibiting active aggression;

2. Continuation of the youth's acutely aggressive or violent behavior is likely to result in immediate injury or imminent harm to others or substantial damage to property; and

3. The youth is physically out of control, and less restrictive methods of dealing with the youth are ineffective or are unlikely to have the desired effects quickly enough to divert serious injuries, security breaches, or substantial property destruction.

(b) A supervisor with delegated authority ~~or staff person at a higher level~~ shall give prior authorization for each use of controlled observation unless the delay caused by seeking prior

approval would further jeopardize the safety of others and the program's security. In this case, as soon as the youth is placed in the controlled observation room and order is re-established within the program, staff shall obtain authorization for continued placement from a supervisor with delegated authority or staff person at a higher level or the youth shall be removed from the controlled observation room.

(c) No change.

(d) ~~In order to determine if there are any observable injuries that would contraindicate a youth's placement in a controlled observation room, the program shall use the Health Status Checklist to conduct and document a visual check of the youth upon his or her placement. The Health Status Checklist (MHSA 008, August 2006) is incorporated into this rule and is available electronically at http://www.djj.state.fl.us/forms/mental_health_substance_abuse_services_forms_index.html. Prior to placing a youth into a controlled observation room, a staff person of the same sex as the youth or a health care professional shall use the Health Status Checklist to conduct and document a visual check of the youth to determine if there are any observable injuries that would contraindicate placement. The Health Status Checklist (MHSA 008, August 2006) is incorporated into this rule and is available electronically at http://www.djj.state.fl.us/forms/mental_health_substance_abuse_services_forms_index.html. If a physical injury is observed, the youth complains of injury or illness, or the youth experienced a fall, impact, or blow such that injury could reasonably be expected, a health care professional shall be immediately notified for timely assessment and treatment.~~

1. A healthcare professional or a staff person of the same sex as the youth shall conduct the visual check unless a same-sex staff person is unavailable in the vicinity, in which case a staff person of the opposite sex may conduct the visual check.

2. The visual check shall be conducted without the youth disrobing unless there is reason to suspect an injury that is hidden by clothing, in which case, a healthcare professional or a staff person of the same sex shall conduct the visual check.

3. If a physical injury is observed, the youth complains of injury or illness, or the youth experienced a fall, impact, or blow such that injury could reasonably be expected, a health care professional shall be immediately notified for timely assessment and treatment.

(e) Staff shall not place a youth in controlled observation when the youth is demonstrating acute psychological distress behaviors, such as panic, paranoia, hallucinations, and self-harming behaviors, or if the youth is a suicide risk, meaning a youth who demonstrates behaviors that indicate that he or she is thinking about or contemplating suicide or when the youth is identified as a suicide risk in the program's alert system, exhibiting behaviors indicative of a mental health crisis or suicide risk in controlled observation. Additionally, if

a youth in a controlled observation room begins demonstrating acute psychological distress or suicide risk behaviors manifesting behavior that would indicate that he or she is experiencing a mental health crisis or is a suicide risk, the youth shall immediately be removed from the room and follow-up mental health services shall be provided.

~~(f) Any physical restraints shall be removed after a youth is placed in a controlled observation room unless they are necessary to protect the youth from self-injury, in which case staff shall continuously monitor the youth and remove the restraints after 15 minutes of calm behavior.~~

~~(f)(g)~~ A staff person of the same sex shall frisk search the youth and remove any potentially dangerous or injurious items before the youth is left alone in a controlled observation room. Staff shall remove all jewelry, pocket items, hair ties, hairpins, belts, or other clothing or items that the youth could use for self-injury or injury to others; however, the youth shall not be stripped.

~~(g)(h)~~ Staff shall discuss with the youth the reasons for his or her placement in controlled observation; and the expected behavior for removal from placement ~~and, if applicable, the expected behavior for removal of restraints.~~ Later, when the youth's behavior has de-escalated and is conducive to constructive interaction, staff shall attempt to process with the youth what happened and explore alternative behaviors.

~~(h)(i)~~ To ensure the youth's safety while in the controlled observation room, staff shall conduct safety checks at least every fifteen minutes and shall observe the youth's behavior. However, continuous sight and sound supervision, defined as staff's provision of continuous, uninterrupted visual and sound monitoring of the youth, shall be provided when the youth is demonstrating physical behaviors that pose a in restraints or is physically out of control to the extent that he or she is at high risk of self-injury. Staff shall document all safety checks and observations on the Controlled Observation Safety Checks form.

~~(i)(j)~~ The program director or a supervisor with delegated authority shall approve a youth's release from controlled observation when it is determined that, based on the youth's verbal and physical behaviors, he or she is no longer an imminent threat of harm to self or others. This approval shall be based on a determination that the youth is no longer threatening harm to others, exhibits calm behavior, and expresses a willingness to positively rejoin the program.

1. The time limit for placement of a youth in the controlled observation room is two hours unless the program director or his or her designee grants an extension because release of the youth would imminently threaten his or her safety or the safety of others. No extension shall exceed two six hours except when a youth is sleeping between the hours of 10:00 p.m. and 6:00 a.m. when the approving authority could not reasonably

~~determine the youth's readiness for release, and~~ The total placement time for a youth in controlled observation, including all extensions, shall not exceed 24 hours.

2. When a youth is released from controlled observation, staff shall determine whether an in-house alert is warranted and, if so, take action as required pursuant to paragraph 63E-7.013(7)(d), F.A.C.

~~(j)(4)~~ The program director or assistant program director shall review the Controlled Observation Report within 14 days of the youth's release from controlled observation to determine if the placement was warranted and handled according to the provisions of this rule section. Any corrective actions deemed necessary to prevent potential misuse of controlled observation shall be immediately implemented.

~~(k)(4)~~ The program shall ensure completion of the Controlled Observation Report for each use of controlled observation, with the exception of the Extension of Controlled Observation section when a youth's placement is limited to the two-hour time period. Additionally, for each use of controlled observation, the program shall ensure completion of the Health Status Checklist and the Controlled Observation Safety Checks form. The program shall maintain these forms in an administrative file, as well as in the youth's individual management record.

(17) Escapes. For purposes of this rule, the definition of escape is consistent with Section 985.721, F.S.

(a) When a youth escapes from the facility or escapes from supervised activities away from the facility or while in transit to and from such activities, the program shall report the incident by telephone to law enforcement and the department's Central Communications Center immediately or within a timeframe not to exceed two hours of becoming aware of the escape. Additionally, the program shall telefax the completed Notification of Escape form to the following persons or entities as soon as practicable or within a timeframe not to exceed four hours:

1. Local law enforcement agency having jurisdiction over the locale where the program is sited;

2. through 7. No change.

(b) through (g) No change.

(18) Transportation. When transporting a youth, a residential commitment program shall maintain custody and control while ensuring the safety of youth, staff and the community.

(a) No change.

(b) When transporting youth, a high-risk or maximum-risk program shall provide secure transportation. A low-risk or moderate-risk program shall provide secure transportation for any youth who has been assessed and determined to be a security risk or risk to self and others and has demonstrated that he or she cannot be transported by less restrictive methods. The program shall comply with the following when securely transporting youth:

1. The use of mechanical restraints is required and shall be provided pursuant to Chapter 63H-1, F.A.C.

2. In addition to the requirements specified in paragraph section 63E-7.013(18)(a), F.A.C., of this rule chapter, the program shall comply with the following provisions when providing secure transportation:

a. The vehicle shall have rear doors that cannot be opened from the inside.

b. The vehicle shall be equipped with a safety screen separating the front seat or driver's compartment from the back seat or rear passengers' compartment, or a staff person shall occupy the back seat or rear passengers' compartment with the youth.

c. The program shall provide the minimum ratio of one staff for every five youth required for off-campus activities. However, if five or less youth are being transported, the program shall provide a minimum of two staff, with one being the same sex as the youth being transported.

(c) No change.

(19) A residential commitment program shall comply with the following provisions on youth's eligibility and participation in off-campus activities, defined as activities conducted away from the facility grounds:

(a) through (d) No change.

(e) Pursuant to subparagraph section 63E-7.012(2)(a)2., F.A.C., of this rule chapter, the program shall notify the victim or his or her designee, unless these notification rights have been waived, when allowing a youth committed for specified offenses to participate in a temporary release.

(f) The program shall prohibit any youth from participating in trips or functions requiring travel out of the state of Florida unless approved in writing by the department's residential regional director and Assistant Secretary for Residential and Correctional Facilities. Approval shall be granted or denied based on the youth's eligibility to engage in off-campus activities pursuant to paragraphs 63E-7.013(19)(a)-(b), F.A.C., and the purpose, objectives, travel plans and supervision arrangements pursuant to paragraphs 63E-7.013(19)(c)-(d), F.A.C.

(20) Disaster and Continuity of Operations Planning. A residential commitment program shall develop a disaster plan and a continuity of operations plan (COOP) that are coordinated or one comprehensive plan that incorporates both. The plans shall provide for the continuation of basic care and custody of youth in the event of an emergency or disaster, while ensuring safety of staff, youth and the public. The program shall conduct practice events or drills and shall be prepared for immediate implementation or mobilization of the plans whenever an emergency or disaster situation necessitates.

(a) No change.

(b) The program's COOP shall:

1. Provide for the continuity of care and custody of its youth and the protection of the public in the event of an emergency that prevents occupancy of the program's primary facility or structure;

2. ~~Be c~~Compatible with the COOP for the department's residential region;

3. ~~Be r~~Readily available to staff;

4. ~~Be r~~Reviewed and updated annually;

5. ~~Be s~~Submitted to the department's residential regional director, if requested; and

6. ~~Be a~~Approved by the Division of Emergency Management, Department of Community Affairs.

(21) Internet Access. A residential commitment program shall ensure that youth only have access to the Internet for the purposes of obtaining educational material. While youth are on-line, program staff shall continually monitor the computer screens to ensure that youth are accessing only the approved material.

(a) Youth shall be prohibited from accessing material considered harmful to minors which includes any picture, image, graphic image file, or other visual depiction that, taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion:-

~~1. Appeals to a prurient interest in nudity, sex, or excretion;~~

~~2. Depicts, describes, or represents in an offensive way an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or lewd exhibition of the genitals; and~~

~~3. Lacks serious literary, artistic, political, or scientific value.~~

(b) No change.

(22) Water Safety.

(a) No change.

(b) The program shall provide sufficient supervision to continuously account for youth and ensure their safety.

1. The program shall ensure a sufficient number of lifeguards for maximum safety, and lifeguards shall be certified consistent with American Red Cross or other nationally accepted standards for the type of water in which the activity is taking place.

a. If the water-related activity takes place in a pool, at least one staff person certified as a lifeguard shall be present.

b. If the water-related activity takes place in open water, at least one staff person certified in waterfront lifeguarding shall be present.

c. Shoreline and offshore activities do not require lifeguards present; however, the program shall provide supervision by staff trained in emergency procedures. Staffing shall be sufficient to continually account for youths' whereabouts and maintain safety.

d. Scuba diving activities shall be conducted by a scuba diving instructor certified by the National Association of Underwater Instructors (NAUI) or the Professional Association of Diving Instructors (PADI). Snorkeling or skin diving activities shall be conducted by a scuba diving instructor or a snorkeling or skin diving instructor certified by NAUI or PADI.

2. The program shall provide additional staff supervision to ensure youths' safety. If the activity is conducted away from the program or its grounds, a minimum ratio of one staff for every five youth is required.

3. The program shall conduct methods necessary to maintain an accounting of youth, including conducting head-counts at regular intervals.

~~(e) Scuba diving or snorkeling activities shall be conducted consistent with standards and procedures established or approved by nationally recognized organizations such as the Recreational Scuba Training Council, the National Association of Underwater Instructors, or the Professional Association of Diving Instructors.~~

Specific Authority ~~985.64, 985.601(3)(a), 985.441(1)(b), 985.03(44)~~ FS. Law Implemented ~~985.601(3)(a), 985.441(1)(b), 985.03(44)~~ FS. History—New _____.

63E-7.016 Program Administration.

(1) through (3) No change.

(4) A residential commitment program director shall ensure provisions for staffing that, at a minimum, address the following:

(a) through (g) No change.

(h) A code of conduct for staff that clearly communicates expectations for ethical and professional behavior, including the expectation for staff to interact with youth in a manner that promotes their emotional and physical safety.;

(5) A residential commitment program shall establish a system for fiscal management and control, ~~and, in the case of any contracted program, shall obtain at least one independent financial audit annually;~~

(6) through (9) No change.

(10) A residential program shall be reviewed, audited, or investigated as follows:

(a) The department shall conduct performance reviews of each residential commitment program at least annually. These reviews shall determine the program's compliance with the provisions of this rule chapter and, if applicable, the terms and conditions of the provider's contract with the department. Prior to a contracted provider opening a new program or assuming operation of an existing program, the department may conduct a pre-operational review to assess the program's readiness to commence operations. The program shall develop and implement an outcome-based corrective action plan to address deficiencies identified during a pre-operational review. After the program commences operations and as follow-up to the

~~pre-operational review, the department may conduct a post-operational review that may result in additional corrective actions:~~

~~(b) Based on the program's identified risk factors, the department's designated regional residential monitor shall conduct monthly, quarterly, or semi-annual reviews to determine if the program is providing services as specified in this rule chapter, other applicable rules and statutes, and the provider's contract with the department. The program shall develop and implement an outcome-based corrective action plan to address major deficiencies identified by the residential monitor during any such review. For purposes of this rule chapter, a major deficiency is defined as a deficiency that indicates the interruption of service delivery or the receipt of public funds for program services not delivered.~~

~~(b)(e) Pursuant to Section 985.632, F.S., the department shall conduct quality assurance reviews of residential commitment programs. Standards and indicators used for this purpose shall be based on provisions of this rule chapter. The program shall implement an outcome-based corrective action plan that addresses major deficiencies identified during any quality assurance review.~~

~~(c)(d) The program shall cooperate with any review or investigation coordinated or conducted by the department's Office of the Inspector General pursuant to Section 20.055, F.S.~~

~~(d)(e) In cases where federal funds are involved, audits may be conducted according to federal requirements.~~

~~(11) through (13) No change.~~

~~(14) A residential commitment program shall maintain confidentiality and not release any information to the general public about any youth. The program shall not allow the media to visit, interview youth or have access to youth records unless the Secretary or his or her designee grants approval. When seeking approval for a media request, the program director or designee shall immediately contact the department's regional residential director or designee who shall process the request within the department and provide feedback to the program director or designee as soon thereafter as is practicable.~~

~~(14)(15) A residential commitment program director shall immediately contact the department's regional residential director or designee to report the death of any youth residing in the program. The program director shall provide information as needed to enable the department to notify the youth's parents or legal guardian.~~

Specific Authority ~~985.64, 985.601(3)(a)~~ FS. Law Implemented 985.601(3)(a) FS. History—New _____.

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: 64B3-5.007
 RULE TITLE: Director; Limitations and Qualifications

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 33, No. 51, December 21, 2007 issue of the Florida Administrative Weekly.

The correction has been made to the Notice of Change published in the February 8, 2008 issue of the Florida Administrative Weekly in Vol. 34, No. 6. Subsection (1) should have read as follows: "All applicants for a Director license must have the qualifications for a High Complexity Laboratory Director, listed in 42 CFR 493.1443 as published on October 1, 2007."

THE PERSON TO BE CONTACTED REGARDING THE CORRECTION IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-4.002
 RULE TITLE: Possession of Gun While Using a Light Prohibited

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

68A-4.002 Possession of Gun While Using a Light Prohibited.

(1) Except while engaging in activities provided for in Rules 68A-9.010, 68A-23.002, 68A-24.002, 68A-25.003, 68A-25.032, and 68A-25.042, F.A.C., the displaying or use of a light at night in a place where wildlife or freshwater fish might be found and in a manner capable of disclosing the presence of wildlife or freshwater fish, together with the possession of a gun by one or more persons then and there in the presence of each other is prohibited.

(2) The possession of a gun by one or more persons then and there in the presence of each other while displaying or using a light at night shall constitute prima facie evidence of possession by such persons for the purpose of taking wildlife or freshwater fish in violation of this section.

(3) Notwithstanding the provisions above, a person in possession of a valid Concealed Weapon or Firearm License may possess concealed handguns under the provisions of Section 790.06, F.S., unless preempted pursuant to state or federal law. This shall not be construed to allow the use of handguns as a legal method of take unless specifically provided for in rule.

Specific Authority Art. IV, Sec. 9, Fla. Const., 372.021 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 372.664, 372.99(2) FS. History—New 8-1-79, Amended 6-21-82, Formerly 39-4.02, 39-4.002, Amended _____.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-9.004
 RULE TITLE: Permits for Hunting or Other Recreational Use on Wildlife Management Areas

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

68A-9.004 Permits for Hunting or Other Recreational Use on Wildlife Management Areas.

(1) In addition to other licenses, permits and stamps required by law, stamp requirements for hunting, camping, fishing, or other recreational uses on lands owned, leased or managed by the Commission or the State of Florida for the use and benefit of the Commission shall be as provided by Section 372.57(8)(i)1., F.S.

(a) No change.

(b) The cost of recreational user permits as required for hunting on the following privately owned wildlife management areas as provided by Section 372.57(8)(i)1., F.S., shall be:

- 1. No change.
- 2. No change.
- ~~3. Blue Water Creek – \$200~~
- ~~3.4. No change.~~
- ~~4.5. Twelve Mile Swamp – \$525 \$425~~
- ~~5.6. No change.~~
- ~~6.7. Relay – \$425 \$275~~
- ~~7.8. Ft. McCoy – \$350 \$200~~
- ~~8.9. No change.~~
- ~~9.10. Grove Park – \$475 \$325~~

(c) The total number of permits available for each of the following privately owned wildlife management areas established pursuant to Section 372.57(8)(i)1., F.S., shall be:

- 1. Nassau WMA – 350
- 2. San Pedro Bay WMA – 310
- ~~3. Blue Water Creek – 400~~
- ~~3.4. Flint Rock – 450~~
- ~~4.5. Twelve Mile Swamp – 200~~
- ~~5.6. Robert Brent – 100~~
- ~~6.7. Relay – 300~~
- ~~7.8. Ft. McCoy – 150~~
- ~~8.9. Gulf Hammock – 450~~
- ~~9.10. Grove Park – 200~~

(d) through (f) No change.

(2) No change.

PROPOSED EFFECTIVE DATE: April 1, 2008.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented 372.121, 372.57, 375.313 FS. History—New 8-1-79, Amended 6-4-81, 6-21-82, Formerly 39-9.04, Amended 6-2-86, 11-1-89, 7-16-98, 5-13-99, Formerly 39-9.004, Amended 7-1-00, 5-29-01, 7-22-01, 6-2-02, 7-28-02, 5-1-03, 7-7-03, 10-12-03, 5-12-04, 7-15-04, 6-1-05, 4-1-08.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-9.008
 RULE TITLE: Permits for Physically Disabled

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34 No. 1, January 4, 2008 issue of the Florida Administrative Weekly has been withdrawn.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-9.010
 RULE TITLE: Taking Nuisance Wildlife

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

68A-9.010 Taking Nuisance Wildlife.

Any person owning property may take nuisance wildlife or they may authorize another person to take nuisance wildlife on their behalf except those species listed in subsection (1) below on their property by any method except those methods listed in subsection (2) below. Persons responsible for government owned property are considered “landowners” for the purpose of this rule. The executive director or a designee may authorize the take of additional species of wildlife or additional methods of take for justifiable purposes by permit issued pursuant to Rule 68A-9.002, F.A.C.

(1) Wildlife that may not be taken as nuisance wildlife:

(a) Species listed in Chapter 68A-27, F.A.C.

(b) The following mammals:

1. Black bear.

2. Deer.

3. Bats – Except that bats may be taken either when:

a. That take is incidental to the use of an exclusion device, a device which allows escape from and blocks re-entry into a roost site located within a structure (including chemical repellants), at any time from August 15 to April 15 or

b. That take is incidental to permanent repairs which prohibit the egress of bats from a roost site located within a structure provided an exclusion device as described in sub-subparagraph a. above is used for a minimum of four consecutive days/nights for which the low temperature is forecasted by the U.S. National Weather Service to remain above 50F prior to repairs and during the time-period specified.

(c) The following birds:

1. All birds listed in 50 C.F.R. §10.13 as protected by the Migratory Bird Treaty Act unless the take is authorized by the U. S. Fish and Wildlife Service by a permit or depredation order.

2. Bobwhite quail.

3. Wild turkey.

(2) Methods that may not be used to take nuisance wildlife:

(a) Gun and light, except as provided in paragraph (4)(b) below.

(b) Steel traps.

(c) Poison, other than those pesticides that are registered by the Florida Department of Agriculture and Consumer Services without additional authorizations and are only used in a manner consistent with the product labeling.

(d) Bat exclusion devices or any other intentional use of a device or material at a roost site which may prevent or inhibit the free ingress and/or egress of bats from April 16 through August 14.

(e) Any method prohibited pursuant to Section 828.12, F.S.

(3) Transportation and release of nuisance wildlife.

(a) Live captured nuisance wildlife transported under authority of this section may be done only for the purpose of euthanizing the nuisance wildlife, provided any euthanasia shall be humane as defined by the American Association of Zoo Veterinarians. Euthanasia of those species listed in subsection 68A-6.0022(2), F.A.C., is not required.

(b) Live captured nuisance wildlife may be released on the property of the landowner provided the release site and capture site are located on one contiguous piece of property.

(4) Take of nuisance wildlife on airport property.

(a) Wildlife listed in Chapter 68A-27, F.A.C., that pose an imminent jeopardy to aircraft safety and human life, may be harassed by persistent, non-injurious disturbance without physical capture or direct handling to disperse wildlife by airport operators or their agents on airport property in order to prevent collisions between aircraft and wildlife.

(b) Airport personnel may take deer or wild turkey on airport property if their presence poses a potential threat to aircraft safety and human life. Deer may be taken by the use of a gun and light at night. Carcasses of deer or wild turkey taken under this rule shall be buried, incinerated on-site or donated to

a charitable, non-profit institution or agency. No deer or wild turkey carcasses taken under this rule shall be retained for use by airport personnel.

PROPOSED EFFECTIVE DATE: July 1, 2008.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-1-08.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.:

RULE TITLE:

68A-15.061

Specific Regulations for Wildlife
Management Areas – Southwest
Region

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

The only change made to the proposed amendments to this rule is to subsection (1). The remainder of the proposed rule amendments, to subsections (2) through (15), will be adopted as proposed. Subsection (1) will read as follows:

68A-15.061 Specific Regulations for Wildlife
Management Areas – Southwest Region.

(1) Green Swamp Wildlife Management Area.

(a) Open season:

1. General gun – November ~~8~~ ~~10~~ through January ~~4~~ ~~6~~.

2. Archery – September ~~20~~ ~~22~~ through October ~~19~~ ~~21~~,
Fridays, Saturdays and Sundays only.

3. Small game – January ~~10~~ ~~12~~ through February ~~8~~ ~~10~~,
Saturdays and Sundays only.

4. Spring turkey – March ~~21~~ ~~15~~ through April ~~26~~ ~~20~~.

5. Fishing and frogging – Permitted during periods in which hunting is allowed; and Saturdays and Sundays from May ~~2~~ ~~3~~ to June ~~14~~ ~~15~~. Fishing and frogging is permitted at all other times provided that access is by foot only.

(b) Legal to take: All legal game, ~~hog~~, fish, frogs and furbearers. ~~No bag or size limit on hogs.~~

(c) Camping: Allowed by permit only and only within the designated campsites at the Rock Ridge Road and 471 campgrounds. Camping is allowed ~~Permitted only at both campgrounds designated campsites~~ during archery, general gun and spring turkey seasons. Camping is allowed ~~Permitted~~ only at the Rock Ridge Road campground ~~campsite~~ during the ~~designated~~ fishing and frogging season and only at the ~~designated~~ campground ~~campsite~~ during the ~~designated~~ small game season. Camping permits are non-transferable. Camping along the Green Swamp Hiking Trail (Florida Trail) is prohibited except by written permission from the Southwest Florida Water Management District. Kitchen stoves, refrigerators and freezers, unless contained in mobile campers are prohibited.

Lumber, sheet metal or other building materials is prohibited. The alteration, defacing, moving or tampering in any way with official markings of campsites is prohibited. The use or operation of electrical generators powered by an internal combustion engine is prohibited within the campgrounds beginning each night at 10 p.m. until 4 a.m. A legible copy of the camping permit or the permittee's name and permit number must be visibly affixed to camping shelters. Camping equipment must be removed by 8 p.m. on the last date listed on the camping permit.

(d) General regulations:

1. through 2. No change.

3. No deer or wild hog shall be quartered or otherwise dismembered until checked at a designated check station and tagged.

4. through 7. No change.

8. Camps shall be removed by 8:00 p.m., April 20 and June 15 from the Rock Ridge campground and by April 20 from the 471 campground.

9. through 10. renumbered 8. through 9. No change.

10. Until July 1, 2010, the possession or consumption of intoxicating beverages is prohibited.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-15.062
 RULE TITLE: Specific Regulations for Wildlife Management Areas – North Central Region

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Changes have been made to proposed new subsections (38), (39), and (42). No changes were made to the proposed amendments to the remaining subsections of the rule and they will be adopted as proposed. Subsections (38), (39), and (42) will read as follows:

68A-15.062 Specific Regulations for Wildlife Management Areas – North Central Region.

(38) Belmore Wildlife Management Area.

(a) Open season:

1. Archery – September 20-22, 26-28 and October 3-5.

2. Muzzleloading gun – October 24-26.

3. Family hunt – November 8-9.

4. General gun – November 13-16 and 19-23.

5. Small game – November 28 through January 4 (Fridays, Saturdays and Sundays only).

6. Trapping – Prohibited.

7. Spring turkey – March 21-23, 27-29 and April 3-5.

8. Fishing and frogging – Throughout the year.

(b) Legal to take: All legal game, fish, frogs and furbearers. During the archery season the bag limit for deer shall be one antlered or one antlerless deer per person per permit. During the family hunt the bag limit for deer shall be one antlered and one antlerless deer per permit. During the muzzleloading gun and general gun seasons the bag limit for deer shall be one antlered deer per person per permit per season. Taking antlered deer not having at least one antler with three or more points, each point one inch or more in length, is prohibited. During the spring turkey season the bag limit for wild turkey shall be one gobbler or bearded turkey per person per permit.

(c) Camping: Prohibited.

(d) General regulations:

1. Vehicles may be operated only on named or numbered roads.

2. Tracked vehicles, airboats, unlicensed motorcycles and all-terrain vehicles are prohibited.

3. Taking wildlife with dogs is prohibited, except with bird dogs during the small game season.

4. Horses and bicycles are allowed only on named or numbered roads, or designated trails.

5. Public access is prohibited from 1.5 hours after sunset until 1.5 hours before sunrise.

6. All persons shall enter and exit the area only at designated entrances.

7. The use of centerfire rifles for taking wild turkey during the spring turkey season is prohibited.

(39) Four Creeks Wildlife Management Area.

(a) Open season:

1. Archery – September 20-22, 26-28 and October 3-5.

2. Muzzleloading gun – October 24-26.

3. Family hunt – November 8-9.

4. General gun – November 13-16 and 19-23.

5. Small game – November 28 through January 4 (Fridays, Saturdays and Sundays only).

6. Trapping – Prohibited.

7. Spring turkey – March 21-23, 27-29 and April 3-5.

8. Waterfowl and coot – During seasons established by Rule 68A-13.003, F.A.C.

9. Fishing and frogging – Throughout the year.

(b) Legal to take: All legal game, fish, frogs and furbearers. During the archery season the bag limit for deer shall be one antlered or one antlerless deer per person per permit. During the family hunt the bag limit for deer shall be one antlered and one antlerless deer per permit. During the muzzleloading gun and general gun seasons the bag limit for deer shall be one antlered deer per person per permit per season. Taking antlered deer not having at least one antler with three or more points, each point one inch or more in length, is

prohibited. During the spring turkey season the bag limit for turkey shall be one gobbler or bearded turkey per person per permit.

(c) Camping: Prohibited.

(d) General regulations:

1. Vehicles may be operated only on named or numbered roads.

2. Tracked vehicles, airboats, unlicensed and unregistered motorcycles, and all-terrain vehicles are prohibited.

3. Taking wildlife with dogs is prohibited, except with bird dogs during the small game season and waterfowl retrievers during seasons established by Rule 68A-13.003, F.A.C.

4. Horses and bicycles are allowed only on named or numbered roads, or designated trails.

5. Public access is prohibited from 1.5 hours after sunset until 1.5 hours before sunrise.

6. All persons shall enter and exit the area only at designated entrances or via the Nassau River or Boggy Mills or Thomas Creeks.

7. The archery area will be open for taking wildlife only during the archery season and only with a bow.

8. The use of centerfire rifles for taking wild turkey during the spring turkey season is prohibited.

(42) Thomas Creek Wildlife Management Area – Kings Road Unit.

(a) Open season:

1. Archery – September 20-22, September 29 through October 1, and October 6-8.

2. Muzzleloading gun – October 24-26.

3. Family hunt – November 8-9.

4. General gun – November 14-16 and 19-21.

5. Small game – November 28 through December 3, 8-10, 19-21, 26-28 and January 5-7.

6. Trapping – Prohibited.

7. Spring turkey – March 21-23, March 30 through April 1 and April 6-8.

8. Fishing and frogging – Throughout the year.

(b) Legal to take: All legal game, fish, frogs and furbearers. The bag limit for deer shall be one antlered or one antlerless deer per person per permit during the archery season, one antlered deer per person during the family hunt and one antlered deer per person per permit per season during the muzzleloading gun and general gun seasons. During the spring turkey season the bag limit for wild turkey shall be one gobbler or bearded turkey per person per permit.

(c) Camping is prohibited.

(d) General regulations:

1. All persons shall enter and exit the area only at designated entrances.

2. Taking deer or wild hog with dogs is prohibited.

3. Motorized vehicles are prohibited.

4. The possession or use of dogs, other than bird dogs or dogs with a shoulder height of fifteen inches or less is prohibited, except as provided by paragraph 68A-15.004(7)(c) or (d), F.A.C.

5. Fires are prohibited.

6. During periods open to hunting, other than the small game season, public access is restricted to individuals with valid quota permits.

7. Bicycles shall be restricted to named or numbered roads and designated trails.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.:
68A-15.063

RULE TITLE:
Specific Regulations for Wildlife Management Areas – Northwest Region

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

The only change made to this proposed rule amendment is to strike through the entirety of subsection (9), relating to Blue Water Creek Wildlife Management Area. The remaining subsections are unchanged and those following stricken subsection (9), subsections (10) through (28), are renumbered as subsections (9) through (27).

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.:
68A-15.065

RULE TITLE:
Specific Regulations for Wildlife Management Areas – Northeast Region

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Changes have been made to subsections (1) and (6) of the rule as proposed. The remaining proposed amendments to subsections (2) through (5) and (7) through (34) have not been changed. Subsections (1) and (6) of Rule 68A-15.065 will read as follows:

68A-15.065 Specific Regulations for Wildlife Management Areas – Northeast Region.

(1) Bull Creek Wildlife Management Area.

(a) Open season:

1. General gun – November ~~8~~ through January ~~4~~ ~~6~~.

- 2. Small game – January ~~5~~ 7 through March ~~1~~ 2.
- 3. Spring turkey – March ~~21~~ 15 through April ~~26~~ 20.
- 4. Archery – September ~~20~~ 22 through October ~~19~~ 21. An archery/muzzleloading gun A special quota permit will be required for the September ~~20-21~~ 22-23 hunt.
- 5. Muzzleloading gun – October ~~24-26~~ 26-28.
- 6. No change.
 - (b) Legal to take: All legal game, ~~wild hogs~~, fish, frogs and furbearers (except bobcat and otter). Any deer except spotted fawns may be taken during the archery season. During the muzzleloading gun and general gun seasons, antlerless deer may be taken by permit only. Taking of antlered deer not having at least one antler with three or more points, one inch or more in length, is prohibited. Taking wild hog is prohibited during small game season. There shall be no bag or size limit restrictions on wild hogs.
 - (c) Camping: ~~Allowed~~ Permitted only at designated campgrounds during periods in which hunting is allowed and throughout the year at designated campsites on the Florida National Scenic Trail provided that access to area is via the Trail. Camping equipment may be taken onto the area after 8 a.m. seven days prior to the opening of archery season and shall be removed from the area before 6 p.m. seven days following the end of the spring turkey season. Camping shall be allowed from 8 a.m. one day prior to each season through 6 p.m. one day following each season. Only tents, trailers or self-propelled camping vehicles may be used for camping.
 - (d) General regulations:
 - 1. Persons hunting on the Crabgrass Creek portion of the area shall have a daily permit issued from the check station in their possession (except during the small game season) and shall enter and exit at the designated entrance point on Crabgrass Road.
 - 2. through 3. No change.
 - 4. No deer or wild hog shall be quartered or otherwise dismembered in the hunt area.
 - 5. through 6. No change.
 - 7. The use of centerfire rifles for taking wild turkey during the spring turkey season is prohibited. The possession of centerfire rifles is prohibited during spring turkey season.
 - 8. No change.
- (6) Three Lakes Wildlife Management Area.
 - (a) Open season:
 - 1. General gun – November ~~8~~ 10 through January ~~4~~ 6.
 - 2. Small game – January ~~5~~ 7 through March ~~1~~ 2.
 - 3. Spring turkey – March ~~21~~ 15 through April ~~26~~ 20.
 - 4. Archery – September ~~20~~ 22 through October ~~19~~ 21.
 - 5. No change.
 - 6. Muzzleloading gun – October ~~24-26~~ 26-28.
 - 7. General gun for mobility impaired – October 31 through November 2 ~~November 2-4~~.

- 8. General gun-dog – December ~~4-7~~ 6-9, ~~20-23~~ and ~~25-28~~ 27-30 in that area between the Florida Turnpike and U.S. 441 only.
- 9. No change.
 - (b) Legal to take: All legal game, fish, alligators as specified in Rule 68A-25.042, F.A.C., frogs and furbearers. The take of wild hog is prohibited during small game season and general-gun dog season. Hogs may be taken only during the archery, muzzleloading gun, general gun for the mobility-impaired, and the general gun seasons with no size or bag limit. Taking of hogs during the general gun dog seasons shall be prohibited.
 - (c) Camping: Permitted only at designated hunter campsites during the periods in which hunting is allowed and at designated campsites on the Florida Trail throughout the year. Camping equipment may be taken onto the area after 8:00 a.m. seven days prior to the opening of archery season and shall be removed from the area before 6:00 p.m. seven days following the end of the spring turkey season. Camping shall be allowed from 8 a.m. one day prior to each season through 6:00 p.m. one day following each season.
 - (d) General regulations:
 - 1. through 6. No change.
 - 7. No deer or wild hog shall be quartered or otherwise dismembered until it has been checked and tagged at a check station.
 - 8. through 9. No change.
 - 10. The use of centerfire rifles for taking wild turkey during the spring turkey season is prohibited. The possession of centerfire rifles is prohibited during the spring turkey season.
 - 11. through 13. No change.
 - (e) No change.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.:	RULE TITLE:
68A-20.005	Specific Fish Management Area Regulations

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly. Proposed amendments to Rule 68A-20.005, F.A.C., have been changed to include a PROPOSED EFFECTIVE DATE of July 1, 2008. No other changes were made to the rule amendments as proposed.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-23.002
 RULE TITLE: General Methods of Taking
 Freshwater Fish

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Proposed amendments to Rule 68A-23.002, F.A.C., have been changed to include a PROPOSED EFFECTIVE DATE of July 1, 2008. No other changes were made to the rule amendments as proposed.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-23.003
 RULE TITLE: Commercial Fishing Devices;
 Provision for Use in Certain Waters

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Proposed amendments to Rule 68A-23.003, F.A.C., have been changed to include a PROPOSED EFFECTIVE DATE of July 1, 2008. No other changes were made to the rule amendments as proposed.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-23.004
 RULE TITLE: Lawful Methods for Using Trotlines
 and Bush Hooks or Set Lines

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Proposed amendments to Rule 68A-23.004, F.A.C., have been changed to include a PROPOSED EFFECTIVE DATE of July 1, 2008. No other changes were made to the rule amendments as proposed.

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-23.005
 RULE TITLE: Bag Limits, Length Limits, Open
 Season: Freshwater Fish

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Proposed amendments to Rule 68A-23.005, F.A.C., have been changed to include a PROPOSED EFFECTIVE DATE of July 1, 2008. No other changes were made to the rule amendments as proposed.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NOS.: 68B-14.0036
 RULE TITLES: Recreational Bag Limits: Snapper,
 Grouper, Hogfish, Black Sea Bass,
 Red Porgy, Amberjacks, Tilefish,
 Exception, Wholesale/Retail
 Purchase Exemption
 68B-14.005 Regulation and Prohibition of
 Certain Harvesting Gear:
 Allowable Gear, Incidental
 Bycatch, Violation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly.

Proposed amendments for Rules 68B-14.0035, 68B-14.00355, and 68B-14.0045, F.A.C., have not been changed and will be adopted as proposed. Proposed amendment of Rule 68B-14.0038, F.A.C., is being withdrawn by separate notice in this issue of the F.A.W. Proposed amendments for Rules 68B-14.0036 and 68B-14.005, F.A.C., have been changed and will now read as follows:

68B-14.0036 Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjacks, Tilefish, Exception, Wholesale/Retail Purchase Exemption.

(1) Snapper.

(a) through (b) No change.

(c) Red snapper. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters of the Atlantic Ocean, nor possess while in or on state waters of the Atlantic Ocean, more than 2 red snapper per day, nor shall a recreational harvester harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of

the Gulf of Mexico, more than 2 4 red snapper per day. On any vessel licensed to carry customers wherein a fee is paid, either directly or indirectly, for the purpose of taking or attempting to take marine fish in the Gulf of Mexico, the applicable bag and possession limit specified in this rule shall not extend to the operator of such vessel or any person employed as a crewman of such vessel. Such bag and possession limit shall be counted for purposes of the aggregate snapper bag and possession limit prescribed in paragraph (a).

- (d) through (f) No change.
- (2) through (9) No change.

PROPOSED EFFECTIVE DATE: April 1, 2008.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-31-98, Amended 3-1-99, Formerly 46-14.0036, Amended 10-22-99, 1-1-00, 3-6-00, 3-1-01, 1-1-03, 1-3-05, 9-16-05, 1-1-06, 7-1-06, 7-1-07, 4-1-08.

68B-14.005 Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation.

- (1) through (2) No change.

(3) Required gear in the Gulf reef fish fishery. Beginning June 1, 2008, for a person on board a vessel harvesting any of the species listed in subsection 68B-14.001(2), F.A.C., the vessel must possess on board and such person must use the gear specified in subsections 1., 2., and 3.

1. Non-stainless steel circle hooks. Non-stainless steel circle hooks are required to be used on hook and line gear when fishing with natural baits. "Circle hook" means a fishing hook designed and manufactured so that the point is not offset and is turned perpendicularly back to the shank to form a general circular or oval shape.

2. Dehooking devices. At least one dehooking device is required and must be used to remove hooks embedded in Gulf reef fish with minimum damage. The dehooking device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking device must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the Gulf reef fish fishery.

3. Venting tool. At least one venting tool is required and must be used to deflate the swimbladders of Gulf reef fish to release the fish with minimum damage. This tool must be a sharpened, hollow instrument, such as a hypodermic syringe with the plunger removed, or a 16-gauge needle fixed to a hollow wooden dowel. A tool such as a knife or an ice-pick may not be used. The venting tool must be inserted into the fish at a 45-degree angle approximately 1 to 2 inches (2.54 to 5.08 centimeters) from the base of the pectoral fin. The tool must be inserted just deep enough to release the gases, so that the fish may be released with minimum damage.

~~(4)~~⁽³⁾ Violation. Possession of any of the species specified in subsection 68B-14.001(2), F.A.C., beyond the bycatch allowance in paragraph (2)(a), aboard a vessel fishing in state waters, while also in possession of unauthorized gear, constitutes a violation of subsections (1) and (2).

PROPOSED EFFECTIVE DATE: April 1, 2008.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-11-86, Amended 2-1-90, 3-1-94, 10-4-95, 7-15-96, 1-1-98, 12-31-98, 6-1-99, Formerly 46-14.005, Amended 1-1-03, 3-1-05, 7-17-05, 7-1-07, 4-1-08.

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-14.0038
 RULE TITLE: Recreational Red Snapper Season
 NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 1, January 4, 2008 issue of the Florida Administrative Weekly has been withdrawn.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.: 69O-204.101
 RULE TITLE: Disclosures to Viator of Disbursement
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 48, November 30, 2007 issue of the Florida Administrative Weekly.

The changed rule will read as follows:

69O-204.101 Disclosures to Viator of Disbursement.

(1) Prior to or concurrently with a viator’s execution of a viatical settlement contract, the viatical settlement provider shall provide to the viator, in duplicate, a disclosure statement in legible written form disclosing:

(a) The name of each viatical settlement broker who receives or is to receive compensation and the amount of each broker’s compensation related to that transaction. For the purpose of this rule, compensation includes anything of value paid or given by or at the direction of a viatical settlement provider or person acquiring an interest in one or more life insurance policies to a viatical settlement broker in connection with the viatical settlement contract; and

(b) A complete reconciliation of the gross offer or bid by the viatical settlement provider to the net amount of proceeds or value to be received by the viator related to that transaction. For the purpose of this rule, gross offer or bid shall mean the total amount or value offered by the viatical settlement provider for the purchase of an interest in one or more life

insurance policies, inclusive of commissions, compensation, or other proceeds or value being deducted from the gross offer or bid.

(2) The disclosure statement shall be signed and dated by the viator prior to or concurrently with the viator’s execution of a viatical settlement contract with the duplicate copy of the disclosure statement to be retained by the viator.

(3) If a viatical settlement contract has been entered into and the contract is subsequently amended or if there is any change in the viatical settlement provider’s gross offer or bid amount or change in the net amount of proceeds or value to be received by the viator or change in the information provided in the disclosure statement to the viator the viatical settlement provider shall provide, in duplicate, an amended disclosure statement to the viator, containing the information in paragraphs (1)(a) and (b). The amended disclosure statement shall be signed and dated by the viator with the duplicate copy of the amended disclosure statement to be retained by the viator. The viatical settlement provider shall obtain the signed and dated amended disclosure statement.

(4) Prior to a viatical settlement provider’s execution of a viatical settlement contract, the viatical settlement provider must have obtained the signed and dated disclosure statement and any amended disclosure statement required by this rule. In transactions where no broker is used the viatical settlement provider must have obtained the signed and dated disclosure statement from the viator.

(5) The documentation required in this rule shall be maintained by the viatical settlement provider pursuant to the provisions set forth in Subsection 626.9922(2), Florida Statutes, and shall be available to the office at any time for copying and inspection upon reasonable notice to the viatical settlement provider.

Specific Authority 624.308(1), 626.9925 FS. Law Implemented 626.9923, 626.9924, 626.9925 FS. History—New _____.

- 12DER08-04 Additional Homestead Exemption Pursuant to Section 196.031(1)(b), F.S.; 2008 Tax Year
- 12DER08-05 Submission of Compatible Electronic Format Computer Materials to the Department; Superseding Rule 12D-8.013, F.A.C. (2007) and Form DR-590
- 12DER08-06 Assessment Increase Limitation Applicability Contained in SB 4D; Application Required by Section 193.1556, F.S., Is Not Required Until March 1, 2009

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Chapter 2007-339, Laws of Florida, authorizes the Department of Revenue to adopt emergency rules that remain in effect for 18 months and that may be renewed. This act further provides that all conditions imposed by Chapter 120, Florida Statutes, are deemed to be met.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the Department of Revenue to adopt emergency rules that implement the provisions of Chapter 2007-339, Laws of Florida. The law provides that these emergency rules remain in effect for a period of 18 months and that they may be renewed. The Department of Revenue has taken several actions to inform interested parties about the forms, procedures, and emergency rules that are being developed to implement this new law, and to give these parties an opportunity to review and comment. These interested parties include Property Appraisers and the professional associations that represent them, counties, municipalities, and independent districts and their associations. The actions that the Department has taken include: requesting the assistance of other state agencies and professional associations in ascertaining if the information in the relevant sections of Chapter 2007-339, Laws of Florida, had been understood; posting information, forms, and procedures associated with implementation of this act on a special website the Department recently created for issues associated with recent legislative changes to the laws governing property tax; emailing and/or mailing copies of the draft forms to interested parties with requests for comment; and conducting a public workshop on January 22, 2008 to receive comments on the Department’s proposed procedures and drafts forms that are the basis of these emergency rules.

SUMMARY: Emergency Rule 12DER08-01 (Scope of Rules 12DER08-01 through 12DER08-06) explains that the procedures contained in Emergency Rules 12DER08-01 through 12DER08-06 supersede any other existing rules of the Department that deal with the same or similar issues. Emergency Rule 12DER08-02 (Transfer of Assessment Limitation Difference; “Portability;” Sworn Statement

Section IV Emergency Rules

DEPARTMENT OF REVENUE

Property Tax Administration Program

RULE NOS.:	RULE TITLES:
12DER08-01	Scope of Rules 12DER08-01 Through 12DER08-06
12DER08-02	Transfer of Assessment Limitation Difference; “Portability;” Sworn Statement Required
12DER08-03	Tangible Personal Property Exemption