

PLACE: Alexander Building, 2020 Capital Circle, S.E., 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: LaTonya Bryant-Parker at (850)413-3083 or LaTonya.Bryant-Parker@myfloridacfo.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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: LaTonya Bryant-Parker, Division of Funeral, Cemetery, and Consumer Services, Alexander Building, 2020 Capital Circle, S.E., Tallahassee, FL 32399-0361, (850)413-4083 AND ON THE DIVISION'S WEBSITE ([www.myfloridacfo.com/FuneralCemetery/](http://www.myfloridacfo.com/FuneralCemetery/)) UNDER "ANNOUNCEMENTS."

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Worker's Compensation**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
69L-34.001	Definitions
69L-34.002	Mandatory Carrier Reporting
69L-34.003	Referral of Alleged Health Care Provider Violation
69L-34.004	Timeliness of Referral
69L-34.005	Referral Investigation
69L-34.006	Invalid Referrals

PURPOSE AND EFFECT: The purpose and effect of this proposed rule is to:

1. Clarify that the mandatory reporting of all instances of overutilization to the Division of Workers' Compensation (Division) shall be accomplished by means of the Carrier's compliance with the Division's medical claims information filing requirements in subsections 69L-7.602(5) and (6), Florida Administrative Code (F.A.C.), Florida Workers' Compensation Medical Services Billing, Reporting and Filing Rule; and
2. Introduce a discretionary reporting process by which Carriers may report to the Division, a Health Care Provider's violation of Chapter 440, Florida Statutes (F.S.), and applicable administrative rules.

SUBJECT AREA TO BE ADDRESSED: The process by which a Carrier shall comply with mandatory reporting requirements set forth in Section 440.13(8)(a), F.S., and the procedure by which a carrier may also report to the Division other Health Care Provider violations as specifically defined in this rule.

RULEMAKING AUTHORITY: 440.13(13)(g), 440.591 FS.  
LAW IMPLEMENTED: 440.13(4), (7), (8), (11), (13), (14), (16), 440.192 FS.

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

DATE AND TIME: Wednesday, December 2, 2009, 9:00 a.m.  
PLACE: 104J Hartman Building, 2012 Capital Circle Southeast, 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: Eric Lloyd, (850)413-1689 or Eric.Lloyd@myfloridacfo.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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Eric Lloyd, Office of Medical Services, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4232, (850)413-1689, Eric.Lloyd@myfloridacfo.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

**Section II  
Proposed Rules**

**DEPARTMENT OF STATE**

**Division of Elections**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
1S-2.039	FVRS Voter Registration Procedures

PURPOSE AND EFFECT: The primary purpose of the proposed new rule is to codify procedures and practices affecting voter registration under the Florida Voter Registration System (FVRS) consistent with the requirements of chapter laws 2005-277, 2005-278, 2007-30, and 2008-95, Laws of Florida. The proposed rule also provides requirements for uploading street address indices in order to be able to validate residential street addresses as necessary for registration. These practices and procedures have evolved since FVRS was first implemented in January 2006. These processes ensure that the entry and processing of voter registration information is uniform, that registration records are accurate and current, and that the official list of registered voters contains only eligible registered voters.

SUMMARY: The proposed rule codifies uniform voter registration procedures for the FVRS.

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.

RULEMAKING AUTHORITY: 20.10(3), 97.012(1)-(2) 97.052(1), 98.015(10)-(12), 98.035(5), 98.045(5) FS.

LAW IMPLEMENTED: 97.052, 97.053, 98.015, 98.035, 98.045 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 30, 2009, 2:00 p.m.

PLACE: Florida Department of State, R. A. Gray Building, Room 307, 500 S. Bronough Street, Tallahassee, Florida 32399

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: Eddie Phillips, Executive Assistant, Office of General Counsel, Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250; telephone: (850)245-6536 or ELPhillips@dos.state.fl.us. 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: Maria Matthews, Assistant General Counsel, Office of General Counsel, telephone: (850)245-6536; mimatthews@dos.state.fl.us. or Donald Palmer, Director, Division of Elections, Florida Department of State, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250

THE FULL TEXT OF THE PROPOSED RULES IS:

1S-2.039 FVRS Voter Registration Procedures.

(1) Applicability. These voter registration procedures apply to ensure uniform voter registration processes and maintain current and accurate voter registration records.

(2) Definitions. The terms herein shall have the following meaning:

(a) "BVRS" refers to the Bureau of Voter Registration Services.

(b) "DHSMV" refers to the Florida Department of Highway Safety and Motor Vehicles.

(c) "FVRS" refers to the Florida Voter Registration System that contains the official list of registered voters in the state.

(d) "Personal identifying number" refers to the applicant's or registered voter's Florida driver's license card number, Florida identification card number or the last four digits of his or her social security card number.

(e) "SSA" refers to the Social Security Administration.

(f) "SSN4" refers to the last four digits of an applicant's or registered voter's social security number.

(g) "Supervisor" refers to the Supervisor of Elections.

(h) "Valid application" refers to any application as referenced in Sections 97.052(1) and (5), F.S.

(i) "Voter registration agency" refers to any entity designated by the National Voter Registration Act of 1993 (NVRA), 42 U.S.C. 1973gg-5(a) and (c), or designated in Section 97.021(40), F.S. Such entities include any office that provides public assistance, any office that services persons with disabilities including any center for independent living, any public library, and any armed forces recruitment office.

(j) "Voter registration official" or "registration official" as used interchangeably herein is as defined in Section 97.021(41), F.S.

(3) Existing record search. Before information from an application for new registration is entered into the FVRS, the voter registration official must search FVRS to determine if an active application record or current voter registration record already exists for the applicant in the FVRS.

(a) If an existing record is found and determined to belong to the applicant, the registration official shall update the existing record with the information from the application. If the legal residency might have changed out-of-state in the period between the records' creation and the latest application but the registered voter was never official removed during that period, the application shall be processed as an update to the existing record without removing the registered voter or assigning a new FVRS identification number.

(b) If one or more records are found but are determined not to belong to the applicant, the registration official shall enter the information and apply a duplicate override flag to the record. However, if the records found are voter registration records (with a status of active, inactive or pre-registered) that belong to the same registered voter the earlier record are to be removed as a duplicate. If the voter's record to be removed shows the voter with a residency in another county, the registration official shall suspend the record to the Supervisor of the county of residence in the record and include details of the duplication in the field for application process status remarks.

(c) The FVRS shall contain only one voter registration record (with a status of active, inactive, or pre-registered) for each registered voter.

(4) Data entry.

(a) A voter registration official shall enter into the FVRS information from valid and invalid applications for new registration or registration update subject to paragraph (b).

1. A valid application for new registration is incomplete if it does not contain all the information necessary to establish the applicant's eligibility under Section 97.041, F.S., and to allow for verification of identity under Section 97.053(6), F.S. A registration official shall not complete or fill in a field on an application that is otherwise left blank. If a new registration application is incomplete, the applicant shall be notified in accordance with Section 97.073, F.S., and sent a voter registration application indicating the required missing information. If the applicant completes the second application without including information submitted on the initial valid application, the applications shall be considered as one provided all the required information necessary to establish the applicant's eligibility under Section 97.041, F.S., is included.

2. If an applicant submits an invalid application, the Supervisor of the county of residence shall send a valid application to the applicant to complete.

(b) A voter registration official shall enter information from an application for new registration or registration update as it appears on the application, except as follows:

1. The new applicant's SSN4 shall only be entered into the FVRS even if the applicant provides the full number. The number on the original application shall not be altered.

2. The name on the application shall be inputted as printed or handwritten in the field soliciting the applicant or registered voter's name. If a registration official is unable to determine the name or correct spelling through a comparison of the signature and printed name, the printed shall be entered, and if the information from the application is entered by a voter registration official other than from within the office of the Supervisor of the applicant's county of residence, the application record shall be suspended to the Supervisor with a comment through the FVRS that the record involves a name discrepancy. The Supervisor shall then notify the applicant or registered voter to resolve the matter. If the applicant's name can not be deciphered at all, the information shall not be entered into the FVRS. The application shall be mailed to the Supervisor of the applicant's county of residence for resolution.

(c) Original signature. Any and each application submitted for a new registration or registration update to an existing registration record must include the original signature, or the digital signature transmitted by the DHSMV.

(5) Identification verification. Any valid application for new registration that is submitted other than electronically through DHSMV shall be routed to DHSMV or SSA for verification of the authenticity or nonexistence of the personal identifying number provided on the application. However, no application shall be routed to DHSMV unless the Supervisor first determines that the applicant is eligible in accordance with Section 97.041, F.S.

(a) Personal identifying number provided.

1. If DHSMV or SSA is able to verify the personal identifying number, the applicant's completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS.

2. If DHSMV or SSA is unable to verify the personal identifying number, the application record shall be routed to the BVRS to check for data entry errors using the scanned image of the application in the FVRS, and a comparison of information available from DHSMV. If a data entry error occurred, the BVRS shall correct the application record and resubmit the record to DHSMV OR SSA for verification. If no data entry error occurred, but the BVRS is able to confirm that the number belongs to the applicant, the BVRS shall override the FVRS to complete the registration process. The applicant's completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS. If the BVRS is unable to resolve the verification issue, the BVRS shall flag the record as unverified and suspend the record through the FVRS to the Supervisor of the new applicant's county of residence resolutions as follows:

a. The Supervisor shall then send the applicant written notice stating that:

i. The applicant's personal identifying number as provided on the application could not be verified.

ii. In order to vote a regular ballot in the upcoming election, the applicant must provide beforehand to the Supervisor a copy of his or her Florida driver's license, Florida identification card or social security card in person or mail, fax or e-mail a copy of the card to the office [with the necessary Supervisor's contact information provided]; or

iii. If the applicant does not provide evidence of his or her Florida driver's license, Florida identification card or social security card, before going to the polls, the applicant will be allowed to vote a provisional ballot and has the right to present the evidence until 5 p.m. of the second day after Election Day in order to ensure that the provisional ballot is counted.

iv. That Florida law exempts from public disclosure a person's driver's license number, identification card number and social security number.

b. If the applicant provides evidence of his or her personal identifying number, the Supervisor shall retain a copy of the evidence as part of the applicant's application but shall not be scanned into the FVRS. The Supervisor shall change in the FVRS the source of the applicant's number from "F" (referring to form) to "P" (referring to proof). If the personal identifying number presented to the Supervisor is different from the number and type provided on the application, the new number shall also be recorded and replace the existing number in the FVRS. The personal identifying number on the application shall not be changed. The personal identifying number provided by the applicant is deemed verified and shall be not routed to DHSMV or SSA for verification. The applicant's

completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS.

c. If it is determined after notice to the applicant that the personal identifying number could not be verified that a data entry error occurred, the record shall be corrected and the number resubmitted through the FVRS for verification by DHSMV or SSA, whichever is applicable. If the number is returned as verified, the Supervisor shall notify the applicant if the applicant has not already provided personal proof of a personal identifying number.

(b) No personal identifying number. If an applicant does not provide a personal identifying number and checks or writes "NONE", the applicant's record shall be routed to DHSMV or SSA to determine if a personal identifying exists.

1. If DHSMV or SSA determines that a personal identifying number may exist for such applicant, the application record shall be suspended to the Supervisor of the applicant's county of residence for resolution. The Supervisor shall contact the applicant and provide him or her with an opportunity to confirm or deny the information found. If the applicant provides evidence of a personal identifying number, the Supervisor shall apply the applicable procedures in paragraph (a).

2. If DHSMV or SSA is unable to determine that a personal identifying number exists for such applicant, the record shall be suspended to the Supervisor of the applicant's county of residence. The Supervisor shall override the FVRS and the applicant's completed application shall become the official registration record and the applicant's name shall be listed as an active voter in the FVRS. If the applicant is a special applicant pursuant to Section 97.0535, F.S., who registers by mail and has never previously voted in the state, the applicant's application record shall be flagged accordingly until such time as he or she provides identification required by law.

(c) Blank field. If an applicant does not provide a personal identifying number and does not check or write "None" on the application, the application is incomplete. A registration official shall not complete or fill in the blank field on such application or in the FVRS. The applicant must be notified and provided the opportunity to resubmit a complete application.

(6) Political party affiliation. A new applicant or registered voter who chooses or changes his or her party affiliation shall be registered:

(a) With his or her requested party using the party codes assigned by the Division of Elections for each political party registered in Florida.

(b) Without political party affiliation under the code of "NPA" (no party affiliation) if the person:

1. Marks "No party,"

2. Fails to designate a party affiliation, or

3. Designates a political party that is non-existent, not registered or no longer registered in Florida.

(7) Source code assignment. Each application for new registration or registration update shall be assigned a code in the FVRS that indicates how the application was submitted as follows:

(a) Code 1: Any electronic intake application completed at or paper applications mailed or hand-delivered to a driver's license examiner's office for the Florida Department of Highway Safety and Motor Vehicles or a tax collector's office that issues driver's licenses.

(b) Code 2: Any application that arrives through the postal service or other mail delivery service and that does not otherwise fall into any of the other source codes listed under this paragraph. This includes the federal postcard application.

(c) Code 3: Any application that is completed at or submitted to, and forwarded by a public assistance program as is defined in Section 97.021(29), F.S. (for example, food stamp program, the Medicaid program, the Special Supplemental Food Program for Women, Infants, and Children, and the WAGES program).

(d) Code 4: Any application that is completed at or submitted to, and forwarded by an office that serves persons with disabilities including any office serving students with disabilities at an educational institute, and any center for independent living.

(e) Code 5: Any application that is completed at or submitted to, and forwarded by an armed forces recruitment office.

(f) Code 6: Any application that is completed at or submitted to, and forwarded by a public library.

(g) Code 7: Any application that is completed at or hand-delivered by the applicant or registered voter or someone on his or her behalf to the Supervisor's office.

(h) Code 8: Any application that is submitted by a third-party registration organization such as an advocacy group or political party.

(8) Registration date. The registration date for a new applicant shall be governed by Section 97.053(3) or (4), and shall be entered in the FVRS accordingly.

(9) Special applicants-domestic violence victims. Any application that is received by a Supervisor of Elections, an office that issues driver's licenses, or a voter registration official or voter registration agency knows or has reason to believe that the applicant or registered voter is a victim of domestic violence who is or may be entitled to address confidentiality under the provisions of Sections 741.401-741.465, F.S., must be processed as follows:

(a) If not already authorized or if the original authorization has expired or was withdrawn, the new applicant or registered voter must be directed to the Supervisor for information as to the Florida Attorney General Address Confidentiality Program (ACP). If the applicant or registered voter still seeks address

confidentiality, the Supervisor shall refer the person to the Florida Attorney General's Office for certification in the 4-year program (subject to renewal) in order to be able to register with a substitute mailing address and to vote by absentee ballot.

(b) If the applicant or registered voter has obtained an authorization card as proof of participation in the ACP, the Supervisor shall process the new registration or the registration record update manually. The application shall not be entered or scanned into the FVRS in order ensure that information revealing the personal identifying information and location of the applicant are not disclosed to the public. If it is determined that the applicant is already a registered voter whose record is in the FVRS, the existing registration record in the FVRS shall be cancelled and any update to the record should be processed manually.

(c) The Supervisor shall forward to the Division of Elections' BVRS a copy of the completed and signed application for new registration or for registration record update with the legal address redacted. The documents shall be forwarded in an envelope marked private and confidential and addressed to: Chief, Bureau of Voter Registration Services/ACP, Department of State, Division of Elections, 500 S. Bronough Street, Tallahassee, Florida 32399. The BVRS chief shall retain the documentation in a separate secure data store from other registrations.

(d) The BVRS chief shall verify through the DHSMV or SSA the new applicant's personal identifying number and shall report the results of the verification to the Supervisor of elections of the voter's county of residence.

(e) The BVRS Chief shall conduct monthly checks to determine if the ACP registered voter is matched with data regarding death, an adjudication of mental incapacity or a felony conviction, and if a match is found, to report such match to the respective Supervisor.

(f) The names of participants in the Attorney General's Address Confidentiality Program shall not appear on any registered voter list, absentee ballot list, tape, label or precinct register.

(10) Scanned application image. The voter registration official inputting the information from an application for new registration or for registration record update must scan and index the image of the application into the FVRS no later than three days after inputting the information.

(11) Notices. Once an application for new registration or registration update is processed, the Supervisor shall record in the FVRS the date and type of the following notices:

(a) A notice of disposition as to a new applicant's application pursuant to Section 97.073, F.S.

(b) A notice of nonverification regarding the new applicant's personal identifying number pursuant to Section 97.053(6), or

(c) A voter information card issued pursuant to an update to a name, address of party affiliation pursuant to Section 97.071 or 97.1031, F.S.

(12) Street Address Index Updates.

(a) At least monthly, each county Supervisor shall submit electronically to the Division of Elections as an upload to the statewide voter registration system a list of valid residential street addresses for purposes of verifying the legal addresses of applicants and registered voters in the Supervisor's county. The street address index may be submitted more frequently as street additions or changes occur in the prior month. No monthly update is required if no additions or changes in street addresses have occurred in the prior month.

(b) The street address index update shall be submitted either by:

1. Batch method in which the entire existing index is replaced with an updated index.

2. Change method in which a street address index is updated with individual changes as they occur.

(13) Effective Date. This rule is effective March 1, 2010.

Rulemaking Authority 20.10(3), 97.012(1)-(2), 97.052, 98.015(10)-(12), 98.035(5), 98.045(5) FS. Law Implemented 97.052, 97.053, 98.014, 98.035, 98.045 FS. History—New 3-1-10.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Donald L. Palmer, Director of the Division of Elections

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Secretary of State, Kurt S. Browning

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: October 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAW: February 13, 2009

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.:

1S-2.041

RULE TITLE:

FVRS Address and Records

Maintenance

PURPOSE AND EFFECT: The primary purpose of the proposed rule is to codify current practices and procedures that have arisen out of implementing state law requirements to maintain accurate and current voter registration rolls. These procedures have evolved from law adopted in 2005 (ch. 2005-277 and 2005-278, Laws of Florida), in 2007 (ch. 2007-30, Laws of Florida, and in 2008 (ch. 2008-95, Laws of Florida). The proposed rule provides procedures for processing address change information to ensure that the Florida Voter Registration System maintains only current and accurate addresses of legal residence for registered voters. The proposed rule also provides procedures for processing information received regarding the potential ineligibility of registered voters to ensure that only persons who are eligible are registered and able to vote.

SUMMARY: The proposed rule establishes procedures for maintenance and upkeep of registered voters addresses and for processing potential ineligibility information to remove ineligible voters in the FVRS.

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.

RULEMAKING AUTHORITY: 20.10(3), 97.012(1), 98.015(10)-(12), 98.035(5), 98.045(5), 98.0655, 98.075(1) FS.

LAW IMPLEMENTED: 98.045(2), 98.065, 98.0655, 98.075 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 30, 2009, 2:00 p.m.

PLACE: Room 307, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399-0250

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: Eddie Phillips, Executive Office Assistant, Office of General Counsel, Florida Department of State at: ELPhillips@dos.state.fl.us or (850)245-6536. 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: Maria Matthews, Assistant General Counsel, Florida Department of State, mimatthews@dos.state.fl.us or (850)245-6536, or Donald Palmer, Director, Division of Elections, Florida Department of State at: DLPalmer@dos.state.fl.us or (850)245-6200

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.041 FVRS Address and Records Maintenance.

(1) Applicability. The following procedures apply to maintain current and accurate addresses of legal residence for registered voters and to ensure that the official list of registered voters includes only those persons who are eligible to be registered and to vote.

(2) Definitions.

(a) “Active voter” refers to a registered voter who is not on the inactive voter’s list.

(b) “BVRS” refers to the Bureau of Voter Registration Services.

(c) “FVRS” refers to the Florida Voter Registration System as the statewide voter registration system.

(d) “Inactive voter” refers to a registered voter who is placed on the inactive voter’s list pursuant to Section 98.065(4)(c), F.S.

(e) “Notice of potential ineligibility” refers to the notice under subsection 98.075(7), F.S., that a Supervisor of Elections sends to who has been identified as potentially ineligible.

(f) “Residential address” refers to the address of legal residence for voter registration purposes.

(g) “SSN4” refers to the last four digits of an applicant’s or registered voter’s social security number.

(h) “Supervisor” refers to the Supervisor of Elections.

(i) “Third-party source” or “third-party source address change” refers to address change information received from a source other than the voter indicating that an active voter’s residential address has changed. The applicable categories of third-party sources are: list maintenance activities under Section 98.065(2), F.S., including returned mail from the United States Postal Service (“U.S.P.S.”) and database comparison from National Change of Address Validation (“NCOA”), jury lists or notices received from the Clerks of the Court (“Jury list”), list of address changes from the Department of Highway Safety and Motor Vehicles (“DHSMV list”), or other address information received from any other government agency-related activity that may elicit or generate address change information about an active voter (“Other”).

(j) “Undeliverable” refers to any mailing that the postal service can not deliver and is returned or that is otherwise marked with words to indicate that it was not delivered such as ‘undeliverable,’ ‘return to sender,’ or ‘forwarding order expired.’

(k) “Voter registration official” or “registration official” as used interchangeably herein is defined in Section 97.021(41), F.S.

(3) Address Maintenance Activities. The procedures in this subsection are triggered by address change information initially received from a third-party source and except as otherwise expressly stated, are solely applicable to active voters.

(a) Notices. The following notices shall be used to comply with the address maintenance process in paragraph (b):

1. Address change notice. This notice shall be sent by first-class forwardable mail and include:

a. The title “Address Change Notice.”

b. A statement that asks the voter to verify or correct the residential address change and to return a signed return form.

c. A postage prepaid, preaddressed return form that includes blank spaces for the voter to verify or correct the address change, to provide a mailing address if different from residential address, and to sign his or her name.

d. Contact information for the Supervisor of Elections’ office.

2. Address confirmation request. This notice shall be sent by first class nonforwardable return-if-undeliverable mail and include:

a. The title "Address Confirmation Request".

b. A request to the voter to confirm or correct the voter's name and/or residential address.

c. Blank spaces for the voter to confirm or correct his or her name or residential address residential address, to provide a mailing address if different from the residential address, and to sign his or her name.

d. Contact information for the Supervisor of Elections' office.

3. Address confirmation final notice. This notice shall be sent by first-class forwardable mail and include:

a. The title "Address Confirmation Final Notice."

b. Statements in substantially the following form:

i. Mail to your address of legal residence was recently returned as undeliverable.

ii. If you have not changed your legal residence or you have changed legal residence within or out-of-state, please respond to this notice. If you have moved out-of-state, we will process your returned form as a request to remove your name from the voter registration list. For information on how to register in your new out-of-state jurisdiction, please refer to U.S. Elections Assistance Commission's website at: [www.eac.gov](http://www.eac.gov).

iii. If you do not respond to this notice at all within 30 days, your name will be placed on the inactive voters' list.

c. A postage prepaid, preaddressed return form with blank spaces for the voter to verify or correct his or her residential address, to provide a mailing address if different, and to sign his or her name.

d. Contact information for the Supervisor of Elections' Office.

(b) Process.

1. In-county residential address change. If the third-party source address change information received indicates an active voter's residential address change within the same county, the voter registration official shall enter the change into the FVRS as follows:

a. Same residential and mailing addresses. If the new address validates as a residential address, the registration official shall update FVRS with the new address. The applicable category of third-party source for the address change shall be recorded. An address change notice shall be sent to the newly recorded address. If the new address can not be validated as a residential address, the voter registration official shall take steps to resolve the address invalidation. If the address validation issue is resolved, the registration official shall send an address change notice, or a voter information card if the issue was resolved through contact with the voter. If the address still can not be validated as a residential address but

the address can be validated as a mailing address, the address shall be entered into the mailing address field. An address confirmation request may be sent to the voter.

b. Different residential and mailing addresses. If the new address is validated as a mailing address, the registration official shall update only the mailing address field. An address confirmation request shall be sent to the newly recorded mailing address. If the new address is the same as the existing current residential address, the registration official shall update only the mailing address field. No further notice to the voter is required.

2. Out-of-county residential address change. If the information received indicates an active voter's residential address change to another county, the voter registration official shall enter the change into the FVRS as follows.

a. Same residential and mailing addresses.

i. If the new address validates as a residential address, the registration official shall update the residential address field with the new address, record the category of the third-party source for the address change, and suspend the record through the FVRS to the Supervisor of the voter's new county of residence. The Supervisor for the voter's new county of residence shall send the address change notice to the newly recorded address.

ii. If the new address can not be validated as a residential address, the registration official shall enter the address update, and suspend the record through the FVRS to the Supervisor of the voter's new county of residence to take steps to resolve the address invalidation. If the new address can be validated as a residential address, then the Supervisor for the voter's new county of residence shall send an address change notice to the new address, or a voter information card if the issue was resolved through contact with the voter. If the new address still can not be validated as a residential address, the registration official shall enter the new address in the mailing address field if it is validated as a mailing address and restore the voter's prior recorded residential address. The record shall be suspended back through the FVRS to Supervisor for the voter's prior county of residence who may send an address confirmation request to the voter's newly recorded mailing address.

b. Different residential and mailing addresses. The registration official shall only update the mailing address field with the new address and send an address confirmation request to the newly recorded mailing address.

3. Out-of-state residential address change. If the information received indicates the active voter's residential address change is out-of-state and provides a forwarding out-of-state address, the registration official shall only update the mailing address field. An address confirmation final notice shall be sent to the newly recorded mailing address. If the information received indicates an out-of-state residential address change but provides no forwarding out-of-state

address, an address confirmation final notice shall be sent to the voter's last recorded mailing address for his or her residential address.

4. Nonresidential address change. If at any time, information is received from a source other than from the active voter that indicates that only the mailing address has changed, the mailing address field in the FVRS shall be updated. An address confirmation request may then be sent to the voter to trigger residential address change information. Nothing in this rule precludes a Supervisor from sending an address confirmation request to an address that the Supervisor has found or obtained other than from the voter or from a third-party source as defined herein and that he or she believes is the voter's more current residential address than the one in the FVRS.

(c) Returned forms, undeliverable notices, and inactive list.

1. Voter response.

a. If an active voter responds to an address change notice, address confirmation request, or address confirmation final notice with in-state residential address change, the address change shall be entered. The Supervisor for the voter's county of residence (based on the address change) shall send a voter information card in accordance with Section 97.071, F.S.

b. If an active voter responds to an address change notice, address confirmation request, or address confirmation final notice with an out-of-state residential address change or requests removal from the registration list, the Supervisor shall remove the voter's name from the FVRS and record the reason code in the FVRS to reflect the basis for the removal as either out-of-state residence or voter's request for removal, whichever is applicable.

c. If an active voter responds to an address confirmation request with a name correction (as may be due to a spelling error or other data entry error, the change shall be entered into the FVRS. If the active voter responds with a name change instead of a name correction, the Supervisor shall send the voter a voter registration application to complete in accordance with Section 97.1031, F.S., in order to process the name change.

d. If an active voter does not respond to an address confirmation final notice within 30 days, the Supervisor shall change the voter's status to inactive. No further notice to the voter is required except as provided in paragraph (e).

2. Returned notices.

a. If an address change notice or address confirmation request sent to a newly recorded address is returned as undeliverable, an address confirmation final notice shall be sent to the same address and also to the voter's prior recorded mailing address for his or her legal residence. If the notice to the prior address is returned as undeliverable of there is no

response within 30 days, no further action is required. Otherwise the procedures in subparagraph 1. or 2.b. shall be followed as applicable.

b. If an address confirmation final notice sent to an active voter is returned as undeliverable within 30 days, the Supervisor shall change the voter's status to inactive. No further notice to the voter is required except as provided in paragraph (e).

(d) Pre-registered voters. If a voter registration official receives address change information on a pre-registered voter from a source other than the pre-registered voter, the address shall be updated into the mailing address field, provided it is a validated as a mailing address. Once a pre-registered voter is changed to active status upon reaching 18 years of age for the upcoming election, the Supervisor shall issue a voter information card pursuant to Section 97.071, F.S., to the mailing address of record.

(e) Inactive voters.

1. Restoration. An inactive voter shall be restored to active status only upon voter activity as set forth in Section 98.065(4)(c), F.S. An address change or update by an inactive voter must be made and processed in accordance with Section 97.1031, F.S. Upon receipt of address change information from the inactive voter, the Supervisor shall change the inactive voter's status to active. The Supervisor shall issue a new voter information card in accordance with Section 97.071, F.S. If the inactive voter submits an out-of-state residential address change, the voter's name shall be removed from the FVRS.

2. Removal.

a. If an inactive voter does not vote, request an absentee ballot or update his or her voter registration record by the second federal general election after placement on the inactive voter list, the Supervisor shall remove the name of the inactive voter from the registration list no later than January 15 of the year following that second election. A code shall be assigned that will reflect in the FVRS that the basis for the removal is no activity by the inactive voter by the second federal general election.

b. An inactive voter may not be removed during the 90-day period immediately preceding a federal election except as provided in subsection (5).

(f) Recording and Reporting.

1. The Supervisor shall ensure that the following transactions and the date for each transaction are recorded in the FVRS and reflect the codes and contact types implemented for the FVRS for each voter as applicable: address change information received, address change source, type of address notice sent (i.e., address change notice, address confirmation request and address confirmation final notice), notice returned as undeliverable, notice not returned, notice returned by voter, change in voter status, removal upon voter's request for removal, removal for out-of-state address change, removal upon receipt of information from out-of-state election official



that voter is now registered elsewhere, and removal for inactive voter's inactivity after two federal general elections following placement on the inactive list.

2. The voter registration official shall retain locally documents containing address change information received from sources other than the voter. Such documents shall not be scanned into the FVRS.

3. The Supervisor shall certify twice annually aggregated data relating to address list maintenance activities pursuant to this subsection. The Supervisors shall use the form entitled "Certification of Address List Maintenance Activities" (DS-DE # 117 (eff. / /)). The certification is due no later than July 31 and January 31 of each year to report prior 6-month activities.

(4) Eligibility Records Maintenance Activities. The procedures under this subsection shall apply to remove duplicate registration records for the same voter and to remove an ineligible voter's name from the official list in the FVRS. Statutory reasons of ineligibility include death, felony conviction without civil rights restored, adjudication of mental incapacity as to voting without those rights restored, non United States citizenship, fictitious person, nonlegal age, or listing a residential address that is not the voter's Florida' legal residence. This subsection applies to active and inactive voters except as otherwise expressly provided.

(a) Duplicate records. In accordance with Section 98.075(2), F.S., the Department of State shall periodically identify and notify the Supervisor about duplicate registration records for the same voter that currently exist in the FVRS:

1. Records in the same county. If the voter registration official determines that the duplicate registration records belong to the same voter, the registration official shall update the FVRS to reflect only one active registration record for the voter. The registration official shall assign a code that will reflect in the FVRS the basis for removal as a duplicate registration record.

2. Records in different counties. If the voter registration official determines that the duplicate registration records belong to the same voter, the voter registration official shall notify the other county of residence about the duplicate record. If the registration date on the newer duplicate record is prior to January 1, 2006, the older registration record shall be recorded as removed in the FVRS and the latest record retained as the voter's active registration record. The voter registration official shall assign a code that reflects in the FVRS the basis for the removal of a record as a duplicate registration. If the registration date on the newer duplicate record is on or after January 1, 2006, the older registration record shall be updated with the newer county of residence information in the new record.

3. Records-Invalid match or unconfirmed. If the voter registration official determines the records identified as duplicate do not belong to the same voter or can not be

confirmed as belonging to the same voter, the registration official shall record the determination in the FVRS and assign the code that reflects the duplicate records match as invalid or that the match can not be confirmed.

4. Review. A voter's name may not be removed and re-registered with a new FVRS ID number in order to resolve duplicate registration records even if it appears that a voter might have moved his or her residence out-of-state residence during the period in which the records were created. A Supervisor must ensure that registration records identified as duplicate have been reviewed and a determination recorded in the FVRS no later than two weeks from receipt of the information from the Department of State.

(b) Death records.

1. In accordance with Section 98.075(3), F.S., the Department of State shall identify voters who are deceased based on a comparison of data from the Department of Health and further review by the BVRS. Such electronic match record shall then be forwarded through the FVRS to the Supervisor of the identified deceased voter's last county of residence. Upon receipt of the electronic match record, the Supervisor shall remove the voter's name from the FVRS. The Supervisor shall assign a removal code that reflects in the FVRS the basis for the removal as deceased. No further review of the record or notice to the voter is required. If a Supervisor opts to review further the match record, and determines that either the information is insufficient to support the match record, that the identities in the match record do not match, that the identities in the match record match but the registered voter is actually not dead, or that there is some other reason for not removing the voter's name, the Supervisor shall record the specific determination in the FVRS. Such determination shall be recorded in the FVRS no later than two weeks after notification of the electronic match record through the FVRS.

2. A Supervisor may remove a deceased voter's name without further notice based on receipt of death certificates issued from the Department of Health's local health bureau's or office. The Supervisor shall follow the procedures in subparagraph 1. to record the reason code for removal. The Supervisor shall retain a copy of the death certificate for his or her records.

(c) Felony Conviction and Mental Incapacity Records.

1. In accordance with Sections 98.075(4) and (5), F.S., the Department of State shall identify voters in the FVRS who are potentially ineligible based on a felony conviction without civil rights restored or an adjudication of mental incapacity without voting rights restored. The BVRS shall create an ineligibility case file based on an investigation of information that the match is credible and reliable for each identified voter. Each file shall be provided to the Supervisor of Elections for the voter's county of residence based on the last address of record in the FVRS.

2. Upon receipt of such file from the BVRS or through the FVRS, the Supervisor shall follow the notice and removal procedures in Section 98.075(7), F.S. Once a Supervisor makes his or her final determination as to the identified voter's eligibility or ineligibility, the Supervisor shall record the determination in the FVRS. If the Supervisor determines that the voter is ineligible, the Supervisor shall assign a removal code that reflects in the FVRS the basis for the removal as a felony conviction without civil rights restored or adjudication of mental incapacity as voting rights without such rights restored, whichever is applicable. The Supervisor shall notify the voter regarding the determination of eligibility or ineligibility. The determination must be recorded in the FVRS no later than 120 days of receipt of the match information from the BVRS or through the FVRS. If a determination can not be made within the 120 days, the Supervisor shall record in the FVRS the status of the ineligibility case file as pending.

(d) Other Record Sources for Potential Ineligibility. The Supervisor shall follow the notice and procedures in Section 98.075(7), F.S., when he or she receives any potential ineligibility information from a source other than the BVRS or through the FVRS that a voter is potentially ineligible. If the potential ineligibility is based on a felony conviction or adjudication of mental incapacity, notice shall be provided to BVRS. The notice shall include the voter's name and FVRS identification record number. The BVRS shall determine whether it has already identified or is otherwise processing the same voter as potentially ineligible pursuant to its duties under Section 98.075(4) or (5), F.S. If there is a concurrent or pending file, the BVRS shall cancel as duplicative its match in progress and allow the Supervisor to process his or her own file on the potentially ineligible voter.

(e) Address change information. When residential address change information is received on a voter who is currently being processed as potentially ineligible under Section 98.075(7), F.S., the following procedures must be applied:

1. Inactive voter.

a. If the address change is from a third-party source, no address change entry is required. The Supervisor shall continue to process the potential ineligibility file on the inactive voter in accordance with Section 98.075(7), F.S.

b. If the address change is from the potentially ineligible and inactive voter, the information must be provided in accordance with Section 97.1031, F.S. in order to be processed. The Supervisor shall restore the inactive voter's name to active status pursuant to Section 98.065(4)(c), F.S. Except as provided in subparagraph 3., the address change shall be entered and a new notice of potential ineligibility shall be sent to the voter at that address. The Supervisor shall send the voter a voter information card in accordance with Section 97.071, F.S., if or when he or she deems it appropriate given the status or outcome of the pending potential ineligibility matter.

2. Active voter.

a. Third-party source. Except as provided in subparagraph 3. below, a third-party source address change shall be entered and noticed in accordance with address maintenance procedures in subsection (3) and if:

i. The address change is within the same county, a second notice of potential ineligibility shall be sent to the newly recorded address in the FVRS.

ii. The address change is out-of-county, the Supervisor for the potentially ineligible voter's prior county of residence shall notify the Supervisor for the potentially ineligible voter's new county of residence about the new move-in voter, and share potential ineligibility information or transfer a potential ineligibility file. A copy of the file shall be retained and a copy sent to the Supervisor for the voter's new county of residence. If the pending potential ineligibility file relates to a felony conviction or adjudication of mental incapacity and originated from BVRS, the Supervisor for the voter's prior county of residence shall also notify the BVRS about the transfer of the file. The notification shall include the voter's name, FVRS identification number and the match record identification number. The Supervisor for the new county of residence shall initiate notice and removal process under Section 98.075(7), F.S. by sending notice to the newly recorded address.

iii. If the address change is out-of-state, the information shall be processed as a request to remove and any pending potential ineligibility file matter shall be terminated in the FVRS unless a determination of ineligibility has already been made but not yet recorded. BVRS shall be notified if the terminated pending potential ineligibility file relates to a felony conviction or adjudication of mental incapacity and originated from BVRS. The notification shall include the voter's name, FVRS identification number and the match record identification number. The voter's name shall be removed from FVRS and a removal code assigned that reflects in the FVRS the basis for the removal either as a felony conviction without civil rights restored or adjudication of mental incapacity as voting rights without such rights restored, or an out-of-state address change, whichever is applicable.

b. Voter response. The address change from a potentially ineligible voter must be submitted in accordance with Section 97.1031, F.S., in order to be processed. Except as provided in subparagraph 3. below, the address change shall be entered and a new notice of potential ineligibility sent to the voter at that address.

3. If the address change information under subparagraph 1.b. or 2. is received after the 30-day period has expired for the voter to respond to a delivered or published Notice of Potential Ineligibility or the voter has already responded to a delivered or published Notice of Potential Ineligibility under Section 98.075(7), F.S., the registration official shall update only the mailing address field with the address change information. The Supervisor shall proceed with the potential ineligibility file. Any notice of determination under Section 98.075(7), F.S.,

shall be sent to the voter's address of record and the newly recorded mailing address. The Supervisor shall send the voter a voter information card in accordance with Section 97.071, F.S., if or when he or she deems it appropriate given the status or outcome of the pending potential ineligibility matter.

(f) Recording and Reporting.

1. The Supervisor shall ensure that any determination of eligibility or ineligibility is recorded in the FVRS and the code for removal of any record or voter's name is assigned in a manner that reflects the basis for the removal in the FVRS. The Supervisor shall also ensure that the following transactions and dates for these transactions under Section 98.075(7), F.S., are recorded in the FVRS with the codes and contact types implemented for FVRS: mailed notice of potential ineligibility, mailed notice returned as undeliverable, published notice, voter response to mailed or published notice as either no response, admission of ineligibility, denial of ineligibility with no request for a hearing, denial of ineligibility with a request for a hearing, notice of hearing, hearing conducted, and mailed notice of final determination of eligibility or ineligibility.

2. The Supervisor shall certify twice annually aggregated data relating to eligibility records maintenance activities conducted pursuant to this subsection. The Supervisor shall certify the activities by using the form entitled "Certification of Voter Registration Records Maintenance Activities", Form DS-DE #118 (eff. / / ), which is hereby incorporated by reference. The certification is due no later than July 31 and January 31 of each year to report prior 6-month activities.

(5) Removal of voters for other reasons. Any active, inactive or pre-registered voter may be removed at any time pursuant to Section 98.045(2), F.S., for reasons of ineligibility, upon the voter's own written request to be removed, or upon receipt of information from an election official in another state that the voter is registered in the other state. The Supervisor must ensure that the removal code is recorded in the FVRS to reflect the basis for the removal.

(6) Availability of Forms. All prescribed forms incorporated by reference herein are available by contacting Division of Elections, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6200, or by access to the Division of Elections' website at: <http://election.dos.state.fl.us>.

(7) Effective Date. This rule shall take effect on February 15, 2010.

Rulemaking Authority 20.10(3), 97.012(1), 98.015(10)-(12), 98.035(5), 98.045(5), 98.0655, 98.075(1) FS. Law Implemented 98.035, 98.045(2), 98.065, 98.0655, 98.075 FS. History—New 2-15-10.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Donald L. Palmer, Director, Division of Elections, Florida Department of State

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary of State Kurt S. Browning

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 18, 2009

**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."

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

RULE NOS.:	RULE TITLES:
18-24.001	General and Definitions
18-24.002	Public Purposes and Categories of Projects Qualifying for Funding
18-24.0021	Florida Forever Criteria
18-24.0022	Florida Forever Goals and Numeric Performance Measures
18-24.003	Application Procedures and Requirements
18-24.004	Initial Review of Project Proposals
18-24.005	Full Review of Project Proposals
18-24.006	Council Evaluation and Ranking
18-24.007	Board of Trustees Consideration
18-24.008	Capital Improvement and Restoration Proposals

PURPOSE AND EFFECT: To comply with new statutory requirements, rules applying to criteria, goals and measures for the Florida Forever land acquisition, management and restoration program and the Council's evaluation, selection and ranking of Florida Forever projects shall be developed for consideration of the Board of Trustees.

SUMMARY: Revision of the Florida Forever Program's criteria, goals and performance measures and the Council's procedures for evaluating and ranking Florida Forever projects.

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.

RULEMAKING AUTHORITY: 259.035, 259.105 FS.

LAW IMPLEMENTED: 259.035, 259.105 FS.

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

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 48 hours before the workshop/meeting by contacting: the Office of Environmental Services at (850)245-2784. 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 RULES IS: Greg Brock, Department of Environmental Protection, Division of State Lands, 3900 Commonwealth Blvd., M.S. 140, Tallahassee, Florida 32399-3000; phone: (850)245-2784; E-mail: greg.brock@dep.state.fl.us

#### THE FULL TEXT OF THE PROPOSED RULES IS:

##### 18-24.001 General and Definitions.

(1) This chapter is promulgated to set forth the procedures, standards, and criteria for the evaluation and selection of lands proposed for acquisition, restoration, and other capital improvements with funds from the Florida Forever Trust Fund pursuant to paragraph 259.105(3)(b), F.S., and to set forth the performance measures for all programs funded pursuant to subsection 259.105(3), F.S.

(2) For the purposes of this chapter, the following terms are defined as follows:

(a) through (f) No change.

(g) “Ecosystem management team” as used in paragraph 259.105(9)(h), F.S., means a team of citizens and agency representatives, formed and administered by the Department of Environmental Protection under its watershed or ecosystem management initiative.

(h) “Florida Forever Conservation Needs Assessment” refers to an analysis of the geographic distribution of Florida’s natural resources as required by the Florida Forever Act and developed and continually updated for the Department of Environmental Protection by the Florida Natural Areas Inventory in collaboration with the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, the University of Florida, the water management districts, the Department of State’s Division of Historical Resources, and other agencies and organizations with scientific or technical information on the natural, historical or recreational resources of Florida, incorporated herein by reference.

~~(i)(h)~~ “Florida Forever criteria” means the criteria outlined in subsections 259.105(9) ~~and (10)~~, as amended herein pursuant to Section 259.035(4)(b), F.S.

~~(j)(i)~~ “Florida Forever goals and measures” means the goals and measures outlined in subsection 259.105(4), F.S., as amended herein to reflect the findings of the Florida Forever Advisory Council, pursuant to Section 259.035(4)(b), F.S. 259.0345. Amendments to subsection 259.105(4) adopted in

the 2001 legislative session shall be considered by ARC and the Board in their evaluations under this rule after the effective date of the 2001 amendments.

(j) through (l) renumbered (k) through (m) No change.

~~(n)(m)~~ “Less-than-fee acquisition”, as used in Chapter 259, F.S., and in this chapter, means acquisition of an interest in property that is not a full fee simple interest acquisition of less than fee simple title to real property, such as a conservation easement.

(n) through (q) renumbered (o) through (r) No change.

~~(s)~~ “Resource-based recreation” or “natural resource-based recreation” or “resource-based public recreational and educational opportunities” means compatible outdoor recreation that is dependent on some particular element in the natural or historical environments and which require some natural condition that cannot easily be duplicated by people, as deemed appropriate in land management plans approved by the Council. Visiting historical and archaeological sites is also included because such sites, while not strictly natural resources, suffer the same limitations of being fixed in both quantity and location.

(r) through (s) renumbered (t) and (u) No change.

~~(v)~~ “Tax assessed value” means the county property appraiser’s “just value”, “just valuation”, “actual value” or “value”, all of which are defined as the price at which a property, if offered for sale in the open market, with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent, under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

Rulemaking Specific Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented 259.0345, 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History—New 7-17-01, Amended \_\_\_\_\_.

##### 18-24.002 Public Purposes and Categories of Projects Qualifying for Funding.

(1) Projects proposed to be funded pursuant to paragraph 259.105(3)(b), F.S., must meet at least one of give weight to the criteria outlined under in subsections 259.105(9) and (10) and further described in Rule 18-24.0021, F.A.C., and shall meet at least two of the Florida Forever goals and measures outlined in subsection 259.105(4), F.S., and further described in Rule 18-24.0022, F.A.C., as amended to reflect the findings of the Florida Forever Advisory Council, pursuant to section 259.0345. Amendments to subsection 259.105(4) adopted in the 2001 legislative session shall be considered by ARC and the Board in their evaluations under this rule after the effective date of the 2001 amendments.

(2) No change.

Rulemaking Specific Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented 259.0345, 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History—New 7-17-01, Amended \_\_\_\_\_.

18-24.0021 Florida Forever Criteria.

For acquisition projects, the council shall give weight during project selection and ranking to the following Florida Forever criteria:

(1) The project meets multiple Florida Forever goals described in Rule 18-24.0022, F.A.C.

(2) The project is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources.

(3) The project enhances or facilitates management of properties already under public ownership.

(4) The project has significant archaeological or historic value. The relative significance of the archaeological or historical values for each acquisition project will be determined based on information obtained from the Department of State, Division of Historical Resources.

(5) The project has funding sources that are identified and assured through at least the first 2 years of the project.

(6) The project contributes to the solution of water resource problems on a regional basis. The applicability of the project's contribution to the solution of water resource problems on a regional basis will be evaluated based on information obtained from the water management district within which the project is located.

(7) The project has a significant portion of its land area in imminent danger of development, in imminent danger of losing its significant natural attributes or recreational open space, or in imminent danger of subdivision which would result in multiple ownership and make acquisition of the project costly or less likely to be accomplished. In reviewing the applicant's information and making a determination concerning the imminent danger of development, subdivision, or loss of natural attributes or recreational open space, the council may utilize information provided by the Division of State Lands, the affected local governments, or the Department of Community Affairs.

(8) The project implements an element from a plan developed by an ecosystem management team.

(9) The project is one of the components of the Everglades restoration effort. The project's applicability to the Everglades restoration effort will be based on information obtained from the South Florida Water Management District.

(10) The project may be purchased at 80 percent of appraised value, based on the state's appraised value.

(11) The project may be acquired, in whole or in part, using alternatives to fee simple, including but not limited to, tax incentives, mitigation funds, or other revenues; the purchase of development rights, hunting rights, agricultural or silvicultural rights, or mineral rights; or obtaining conservation easements or flowage easements.

(12) The project is a joint acquisition, either among public agencies, nonprofit organizations, or private entities, or by a public-private partnership.

Rulemaking Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History—New \_\_\_\_\_.

18-24.0022 Florida Forever Goals and Numeric Performance Measures.

(1) The Florida Forever goals and measures described in this rule apply to all programs that receive Florida Forever Trust Funds pursuant to Section 259.105(3), F.S. Some goals and measures are specific to acquiring land, while others are primarily measures for capital improvement expenditures. Some measures are not directly related to Florida Forever program activities per se, but are general ecosystem function measures that may have an indirect connection or a post-acquisition land management or land use component. Some measures are specific to one or more of the programs funded under Florida Forever pursuant to Section 259.105(3), F.S., while the majority of the goals and measures overlaps with several programs.

(2) The council shall employ the following Florida Forever goals and measures when evaluating, selecting and ranking acquisition projects. Numeric values for these measures shall be supplied to the Council pursuant to paragraph 18-24.006(3)(c), F.A.C.:

(a) Enhance the coordination and completion of land acquisition projects, as measured by:

1. The number of acres proposed to be acquired that contribute to the enhancement of essential natural resources (such as retention of biodiversity and water quantity and quality), ecosystem service parcels (such as those that assist in carbon sequestration, flood control and storm surge protection), and connecting linkage corridors, as identified and developed by the best available scientific analysis, and measured under goals paragraphs (2)(b), (c), (d), and (g) of this rule.

2. The number of acres proposed to be protected through the use of alternatives to fee-simple acquisition.

3. The number of Florida Forever acquisition funding partners and partners with other funding sources, including the percent of funding to be derived from partnerships, and the estimated amount of funds to be made available by the funding partners.

4. For ranking purposes only, the remaining acres and percent completion of each project on the Florida Forever list.

(b) Increase the protection of Florida's biodiversity at the species, natural community, and landscape levels, as measured by:

1. The number of acres proposed to be acquired of significant strategic habitat conservation areas, as identified in the Florida Forever Conservation Needs Assessment.

2. The number of acres proposed to be acquired of highest priority conservation areas for Florida's rarest species, as identified in the Florida Forever Conservation Needs Assessment.

3. The number of acres proposed to be acquired of significant landscapes, landscape linkages, and conservation corridors, giving priority to completing linkages, as identified in the Florida Forever Conservation Needs Assessment.

4. The number of acres proposed to be acquired of underrepresented native ecosystems, as identified in the Florida Forever Conservation Needs Assessment.

5. The number of acres proposed to be acquired that would establish or enhance a landscape-sized protection area of at least 50,000 acres that exhibits a mosaic of predominantly intact or restorable natural communities, as identified in the Florida Forever Conservation Needs Assessment.

6. The number of imperiled species known or reported to occur on the acquisition project.

(c) Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state, as measured by:

1. The number of acres proposed to be acquired that enhance the management feasibility of existing conservation lands, as documented by the affected agency(ies) that manage or own the existing conservation lands.

2. The number of acres proposed to be acquired for restoration, enhancement, and management as identified in plans prepared pursuant to Section 373.199, F.S., the management prospectus for an acquisition project prepared pursuant to Section 259.032(9)(d), F.S., or the Florida Ecological Restoration Inventory, which is maintained by the Department of Environmental Protection's Division of Water Resource Management and available at [www.dep.state.fl.us/water/wetlands/feri](http://www.dep.state.fl.us/water/wetlands/feri) or by writing Florida Wetland Restoration Information Center, 2600 Blair Stone Road, M.S. 3500, Tallahassee, Florida 32399; or by calling (850)245-8336.

3. The number of acres proposed to be acquired that protect natural floodplain functions, as identified in the Florida Forever Conservation Needs Assessment.

4. The number of acres proposed to be acquired that protect surface waters of the state in designated watersheds, as identified in the Florida Forever Conservation Needs Assessment.

5. The number of acres proposed to be acquired to minimize damage from flooding, as identified by the Department of Environmental Protection in coordination with the water management districts.

6. The number of acres proposed to be acquired that protect fragile coastal resources, as identified in the Florida Forever Conservation Needs Assessment. These include those acres that help species and natural communities adapt to climate change.

7. The number of acres of functional wetland systems proposed to be protected, as identified in the Florida Forever Conservation Needs Assessment.

(d) Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state, as measured by:

1. The number of acres proposed to be acquired which provide retention and storage of surface water in naturally occurring storage areas, such as lakes and wetlands, consistent with the maintenance of water resources or water supplies and consistent with district water supply plans, as identified by the water management districts in plans prepared pursuant to Section 373.199, F.S.

2. The number of acres proposed to be acquired for a water resource development project, as identified in plans prepared pursuant to Section 373.199, F.S.

3. The number of acres proposed to be acquired of groundwater recharge areas critical to springs, sinks, aquifers, other natural systems, or water supply, as identified in the Florida Forever Conservation Needs Assessment.

(e) Increase natural resource-based public recreational and educational opportunities, as measured by:

1. The number of acres proposed to be acquired that are proposed to be available for potential natural resource-based public recreation or education, as identified by the Department of Environmental Protection in coordination with other agencies.

2. The miles of trails that are proposed to be made available for public recreation, giving priority to those that provide significant connections including those that will assist in completing the Florida National Scenic Trail, as identified in the Florida Forever Conservation Needs Assessment.

3. For ranking purposes only, the population served within 100 miles of the acquisition project.

(f) Preserve significant archaeological or historic sites, as measured by:

1. The number and relative significance of archaeological sites identified on the acquisition proposal, as reported by the Department of State's, Division of Historical Resources in the Florida Master Site File.

2. The number and relative significance of historic sites identified on the acquisition proposal, as reported by the Department of State's, Division of Historical Resources in the Florida Master Site File.

(g) Increase the amount of agricultural and forest land available for sustainable management of natural and agricultural resources, as measured by:

1. The number of acres proposed to be acquired that are potentially available for sustainable forest management and could provide economic return utilizing multiple-use management, as identified in the Florida Forever Conservation Needs Assessment.

2. The number of acres of forestland proposed to be acquired that will serve to maintain natural groundwater recharge functions, as identified by overlaying data from measures subparagraphs (d)3. and (g)1. above.

3. For ranking purposes only, the number of acres of improved agricultural lands proposed to be protected, as verified by the Department of Agriculture and Consumer Services in coordination with the landowner.

4. For ranking purposes only, the number of acres of unimproved agricultural lands proposed to be protected, as verified by the Department of Agriculture and Consumer Services in coordination with the landowner.

5. The number of development units proposed to be acquired, as verified by the landowner through the approved local government comprehensive plan.

(h) Increase the amount of open space available in urban areas, as measured by:

1. The number of acres proposed to be purchased of open space within urban service areas.

2. The number of linear feet proposed to be acquired to protect working waterfronts, as defined in Section 380.503(18)(a) and (b), F.S.

(3) For capital improvement project proposals the following goals and measures are applicable:

(a) Protect, restore, and maintain the quality and natural functions of land, water and wetland systems of the state, as measured by:

1. The number of acres of publicly owned land identified that are proposed to be restored or enhanced.

2. The proposed percentage completion of targeted capital improvements in surface water improvement and management plans created pursuant to Section 373.453(2), F.S., regional or master stormwater management system plans, or other adopted restoration plans if such project were funded.

3. The number of acres of public conservation lands in which upland invasive, exotic plants are proposed to be treated to bring them under maintenance control.

(b) Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state, as measured by the quantity of water proposed to be made available through Florida Forever expenditures for water resource development.

(c) Increase natural resource-based public recreational and educational opportunities, as measured by the number of new resource-based recreation facilities, by type, proposed to be made available on public land.

(4) The following list includes Florida Forever performance measures that may not directly relate to land acquisition selection or capital improvement expenditures, but are general ecosystem function measures that may have an indirect connection or measures that have a post-acquisition, land management or land use component that was not captured in subsections (2) and (3) above:

(a) Protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state, as measured by:

1. The number of acres of publicly owned land identified as needing restoration, enhancement, and management, acres undergoing restoration or enhancement, acres with restoration activities completed, and acres managed to maintain such restored or enhanced conditions; the number of acres which represent actual or potential imperiled species habitat; the number of acres which are available pursuant to a management plan to restore, enhance, repopulate, and manage imperiled species habitat; and the number of acres of imperiled species habitat managed, restored, enhanced, repopulated, or acquired.

2. The percentage of water segments that fully meet, partially meet, or do not meet their designated uses as reported in the Department of Environmental Protection's State Water Quality Assessment 305(b) Report.

3. The percentage completion of targeted capital improvements in surface water improvement and management plans created under Section 373.453(2), F.S., regional or master stormwater management system plans, or other adopted restoration plans.

4. The percentage of miles of critically eroding beaches contiguous with public lands that are restored or protected from further erosion;

5. The percentage of public lakes and rivers in which invasive, nonnative aquatic plants are under maintenance control, as reported by entities that manage state conservation lands.

6. The number of acres of public conservation lands in which upland invasive, exotic plants are under maintenance control, as reported by entities that manage state conservation lands.

(b) Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state, as measured by the quantity of water made available through the water resource development component of a district water supply plan for which a water management district is responsible.

(c) Increase natural resource-based public recreational and educational opportunities, as measured by the number of new resource-based recreation facilities, by type, made available on public land.

(d) Preserve significant archaeological or historic sites, as measured by the increase in the number and percentage of historic and archaeological properties that are in state ownership.

(e) Increase the amount of agricultural and forest land available for sustainable management of natural and agricultural resources, as measured by:

1. The number of acres of state-owned forestland managed for economic return in accordance with current best management practices, as verified by the Department of

Agriculture and Consumer Services in coordination with land managers, conservation easement monitors, and the landowners.

2. The percentage and number of acres identified for restoration actually restored by reforestation, as verified by the Department of Agriculture and Consumer Services in coordination with land managers, conservation easement monitors, and the landowners.

(f) Increase the amount of open space available in urban areas, as measured by:

1. The percentage of local governments that participate in land acquisition programs and acquire open space in urban service areas as defined in Sections 163.3164(29) and 163.3177(14), F.S.

2. The number of parks and open space projects proposed to be acquired within urban service areas as defined in Sections 163.3164(29) and 163.3177(14), F.S.

(5) For program expenditures to acquire lands or implement capital improvements that achieve one or more of the measures listed above in subsection (2), (3), or (4), each program funded under Section 259.105(3), F.S., shall report its accomplishments to the Department of Environmental Protection's Division of State Lands by January 15 of each year. Recipients of Florida Forever funds shall also report on those measures that are not directly related to Florida Forever expenditures but are applicable to their program component as described in subsection (4).

(6) Statewide, uniform data sets shall be developed for each geographic-based numeric performance measure that is a component of the Florida Forever Conservation Needs Assessment. Each geographic-based data set shall attempt to identify and establish priorities for each performance measure. The Council may conduct one or more public workshops to receive scientific and technical advice on establishing targets for each of the geographic-based performance measures listed in subsection (2) as components of the Florida Forever Conservation Needs Assessment.

Rulemaking Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History—New \_\_\_\_\_.

18-24.003 Application Procedures and Requirements.

(1) through (2) No change.

(3) All acquisition project applications shall include the following:

(a) One original and ~~seventeen~~ ~~twelve~~ legible copies (or originals) of United States Geological Survey (USGS) topographic quadrangle maps, on which the boundaries of the project are clearly delineated.

(b) No change.

(c) ~~Eighteen~~ ~~Thirteen~~ legible copies of Florida Department of Transportation (FDOT) county general highway maps on which the boundaries of the proposed acquisition are clearly delineated.

(d) through (e) No change.

(f) ~~Eighteen~~ ~~Thirteen~~ copies of a written description of the lands being proposed for acquisition, including all of the following:

1. through 5. No change.

6. A clear statement detailing how the project meets criteria and furthers the goals and objectives outlined in Rules 18-24.0021 and 18-24.0022, F.A.C. 18-24.002(1). For projects that are presumed to meet one or more of the following criteria, the applicant shall also provide, as appropriate, additional written information as follows:

a. For criterion subsection 18-24.0021(2), F.A.C., the applicant shall clearly describe the ongoing governmental effort, including a description of the resources that the effort is attempting to restore, protect or develop. The applicant shall also describe the governmental entity or entities involved in the effort and their current and proposed levels of financial support to complete the effort.

b. For criterion subsections 18-24.0021(3), F.A.C., the applicant shall identify the property under public ownership whose management will be enhanced or facilitated, and shall describe specifically how the acquisition project will enhance or facilitate the identified property's management.

c. For criterion subsections 18-24.0021(7), F.A.C., the applicant shall describe the imminent threats to significant natural attributes or recreational open space, and explain how existing, applicable environmental policies and regulations at the local, regional or state level cannot provide for the protection of these resources and related environmental services.

d. For criterion subsections 18-24.0021(10), F.A.C., the applicant shall provide a notarized affidavit, signed by the landowner, indicating the landowner's willingness to sell their property at 80 percent or less of the state's appraised value.

~~e.7-~~ For criterion subsections 18-24.0021(11), F.A.C., the applicant shall provide a description of the specific alternatives to fee simple that are applicable to each ownership within the project and A clear statement of whether the project is proposed for fee simple acquisition or less than fee acquisition, and why. If a less than fee acquisition is proposed, include a brief description of any known activities or property rights proposed to be acquired by the state and those proposed to be retained by the property owner.

f. For criterion subsection 18-24.0021(12), F.A.C., the applicant shall provide written evidence of the specific agencies, organizations or private entities that will contribute to joint acquisition of the project and the commitments made by each agency, organization or private entity to participate in the partnership.



(g) The applicant must provide ~~eighteen~~ thirteen copies of any oversized or color documents presented as part of the application for consideration by the Council.

(4) No change.

~~Rulemaking Specific~~ Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented ~~259.0345~~; 259.035, 259.04, 259.041, 259.045, 259.07, and 259.105 FS. History–New 7-17-01, Amended \_\_\_\_\_.

18-24.004 Initial Review of Project Proposals.

(1) Complete applications shall receive an initial review by the Council starting within 60 days, or at the next regularly scheduled Council meeting, whichever occurs later. Initial review by the Council will consist of:

(a) through (d) No change.

(e) Review of the specific Florida Forever goals and measures met by the acquisition project to ensure compliance with subsection 18-24.002(1), F.A.C. Acquisition projects not complying with subsection 18-24.002(1), F.A.C., shall not be considered further.

(2) through (3) No change.

~~Rulemaking Specific~~ Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented ~~259.0345~~; 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History–New 7-17-01, Amended \_\_\_\_\_.

18-24.005 Full Review of Project Proposals.

No change to rule text.

~~Rulemaking Specific~~ Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented ~~259.0345~~; 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History–New 7-17-01, Amended 4-14-08.

18-24.006 Council Evaluation and Ranking Grouping.

(1) No change.

(2) Following the full review of projects pursuant to section 18-24.005, the Council shall select projects for inclusion on the list. An affirmative vote of at least five council members shall be required to place a project on the list to be presented to the Board. The Council may provide recommendations to the Division of State Lands on which category or categories to place each land acquisition project, or portions thereof.

(3) The Division of State Lands shall categorize the list pursuant to Section 259.105(17), F.S., in preparation for work plan development. The Council shall evaluate the entire list of approved projects and rank them individually in numerical priority order within each category group those for consideration by the Board as follows:

~~(a) Group A: Those acquisition projects proposed for approval, which will receive the highest priority for acquisition. Projects designated for Group A shall be so designated based on those which make the greatest contributions toward achieving the Florida Forever goals and measures, and the Florida Forever criteria. The number of projects designated for Group A shall be limited, as determined by the Council, based on the total estimated funds available for~~

~~acquisition during the acquisition cycle for which the projects are scheduled, and the anticipated success rate of acquiring targeted projects.~~

~~(b) Group B: Those acquisition projects proposed for approval that are considered by the Council to be important, but not of the highest priority, based on the criteria stated in (a).~~

~~(c) Within Group A and Group B there will be three subgroups:~~

~~1. Fee Simple/Large Holdings Subgroup: Those acquisition projects made up predominantly of large ownerships to be acquired in fee simple;~~

~~2. Multi Parcel or Small Holdings Subgroup: Those acquisition projects made up predominantly of small ownerships with individual values not exceeding one million dollars each; or individual acquisitions that are determined by the Council to contribute to achieving the Florida Forever goals, measures and criteria enough to qualify for acquisition, but are valued at less than one million dollars; and~~

~~3. Less Than Fee Acquisition Subgroup: Those acquisition projects where the majority of the project is proposed to be acquired in less than fee, such as conservation easements:~~

~~(a) When assigning priority rankings to projects the Council shall give increased priority to those projects that Within each of the subgroups in Group A and Group B, special consideration shall be given based on each project's ability to meet the provisions of the Florida Forever criteria described in paragraphs 259.105(9)(j) and (l), F.S., as further described in paragraphs (10) and (12) of subsection 18-24.0021, F.A.C., and in subsection 259.105(10), F.S., as described in paragraph (b).~~

~~(b) The council shall also give increased priority to those projects where the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions including:~~

~~1. Protecting habitat on nonmilitary land for any species found on military land that is designated as threatened or endangered, or is a candidate for such designation under the Endangered Species Act or any Florida statute, as determined by Florida Natural Areas Inventory in coordination with Florida Fish and Wildlife Conservation Commission or Department of Agriculture and Consumer Services;~~

~~2. Protecting areas underlying low-level military air corridors or operating areas, as described in official military documents presented by the affected military installations; and~~

~~3. Protecting areas identified as clear zones, accident potential zones, and air installation compatible use buffer zones delineated by our military partners, and for which federal or other funding is available to assist with the project pursuant to subsection 18-24.021(11), F.A.C.~~

~~(c)(4) Priority rankings for each project Project groupings shall be determined by the Council based on the results of the full review detailed in Rule 18-24.005, F.A.C., a comparative analysis of each project's ability to meet the Florida Forever goals and measures and the Florida Forever criteria as~~

identified in Rules 18-24.0021 and 18-24.0022, F.A.C., and additional information as identified in paragraphs (a), (b), and (d). As an initial information source for conducting this comparative analysis, the Department of Environmental Protection shall provide the council a comparative analysis and evaluation of each Florida Forever Project, which shall include rankings for each geographic-based resource type outlined in the subsection 18-24.0022(2), F.A.C., as well as rankings based on an efficient resource analysis using a computer modeling approach to conservation reserve design that involves iterative site selection, which describes those projects offering the greatest return in resource protection given the estimated acreage likely to be acquired by the Florida Forever Program. The Council may conduct a public workshop to receive scientific and technical advice on establishing targets for each of the geographic-based resources being measured and evaluated pursuant to subsection 18-24.0022(6), F.A.C. The Department also shall provide the council with a matrix of the criteria met by each project including the criteria described in paragraph (b), as well as information on the current status of negotiations to acquire property on the Division of State Lands work plan as described in subsection (6). The Council may also consider any other contributing technical analysis of Florida Forever projects submitted by Council members, other organizations or persons in conducting its review of projects for priority ranking.

(d) The Council shall also consider the following when developing its priority list:

1. Projects that are considered priority resources, as described in subsection 18-24.0022(6), F.A.C., for multiple Florida Forever goals shall be given greater consideration than those that are considered priority resources for fewer or only one Florida Forever goal. Projects that meet multiple Florida Forever criteria, as described in Rule 18-24.0021, F.A.C., shall be given greater consideration than those that meet fewer or only one Florida Forever criterion.

2. Projects with the greatest percentage of acreage acquired, as measured by subparagraph 18-24.0022(2)(a)4., F.A.C., shall be given greater consideration than those with a lesser percentage of acreage acquired if the remaining lands to be acquired contribute significantly to the Florida Forever goals and measures.

3. Projects that close a critical gap in a recreational or ecological greenway, or landscape linkage, shall be given greater consideration than those that do not.

4. Projects that provide the greatest opportunities for resource-based recreation as identified in the State Comprehensive Outdoor Recreation Plan, which is prepared by the Department of Environmental Protection's Division of Recreation and Parks for the State of Florida pursuant to Section 375.021, F.S., shall be given greater consideration than those that provide fewer opportunities for resource-based recreation.

5. Lands that help to address the challenges of global climate change by providing opportunities to sequester carbon, provide habitat, protect coastal lands or barrier islands, and otherwise mitigate and help adapt to the effects of sea-level rise, shall be given greater consideration than those that do not.

6. Many factors, other than technical resource data, are important in the project evaluation, selection, and ranking process. For example threat of development or loss of resource values are difficult factors with no clear methodology for comparing projects numerically at this time. Similarly, public support, owner's willingness to sell at a reasonable price, management needs and other important factors takes on many forms that are not readily quantifiable. Additionally, other important information that may not be explicitly captured by the current Florida Forever goals and measures may be presented to the Council in the Project Evaluation Report, prepared pursuant to Rule 18-24.005, F.A.C., or during public hearings held pursuant to paragraphs 18-24.004(1)(c) and 18-24.005(3)(c), F.A.C. The Council shall consider these and other factors identified during the project evaluation and public hearings of the council as additional information when deciding where to rank a project on the priority list.

(4)(5) The estimated value of all projects recommended to the Board by the Council, shall exceed the amount of money available in the Fund for acquisition.

(5)(6) All acquisition projects approved by the Board shall be eligible for funding, with available resources targeted initially toward projects in High Resource Priority Group of the work plan developed pursuant to subsection (6) A. However, the Board may approve the purchase of any project from any group ~~or subgroup~~ in furtherance of the intent expressed in paragraph 259.105(2)(e), F.S.

(6) The Division of State Lands shall prepare a categorized acquisition work plan pursuant to Section 259.105(17), F.S. The work plan shall be submitted to the Council at a public meeting. After receiving public testimony during at least one public meeting or hearing, the Council may require the Division to amend the work plan but, once satisfied, shall adopt the work plan by a majority vote of its members. A copy of the work plan shall be provided to the Board no later than October 1 of each year. The Division of State Lands will use the Council's priority list to develop its work plan. Projects in each of the work plan categories shall be placed in priority groups as follows:

(a) High Priority Group: Those acquisition projects proposed for approval, which will receive the highest priority for acquisition. Projects designated for this group shall be so designated based on the Council's priority ranking. The acreage of projects designated for the High Priority Group within each category shall be limited to the top 33% or less of the acreage of projects within each category on the list, as determined by the Council.

(b) Medium Priority Group: Those acquisition projects proposed for approval that are considered by the Council to be important, but not of the highest priority. The acreage of projects designated for the Medium Priority Group shall be limited to 33% or less of the acreage of projects within each category on the list, as determined by the Council.

(c) Low Priority Group: Those acquisition projects proposed for approval that are considered by the Council to be important, but not as important as those included in the high and medium resource priority groups. The Low Priority Group shall include at least 33% of the acreage of projects within each category on the list, as determined by the Council.

~~(7) Before consideration for acquisition from the Fund, projects remaining on the Conservation and Recreation Lands (CARL) list shall be evaluated by the Council as directed by subsection 259.105(16), F.S. Those projects recommended for approval will then be grouped as described in subsection 18-24.006(3), F.A.C.~~

Rulemaking Specific Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented 259.0345, 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History–New 7-17-01, Amended \_\_\_\_\_.

18-24.007 Board of Trustees Consideration.

No change to rule text.

Rulemaking Specific Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented 259.0345, 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History–New 7-17-01.

18-24.008 Capital Improvement and Restoration Proposals.

(1) No change.

(2) All capital improvement projects, whether restoration or other, which are presented in an application to the Council for funding consideration, must be contemplated included in a prospectus or a land management plan submitted and approved pursuant to Sections 253.034 and 259.032, F.S.

(3) All capital improvement project applications presented to the Council for funding consideration must include all of the following:

(a) through (c) No change.

(d) A description of the landscape changes or management objectives intended to be achieved by the project, and how the project's effects or impacts will be monitored or measured.

~~(e) A detailed description of the physical work to be performed to complete the project.~~

~~(e)(f) A description of any recreational activities that may be enhanced, impeded or curtailed by the project.~~

~~(g) A description of how the project's success will be measured, or a detailed description of how the project's effects will be monitored.~~

~~(f)(h) A detailed breakdown of the costs being requested from the Fund for the project.~~

(4) through (5) No change.

(6) At least three percent, but no more than ten percent, of the funds annually allocated pursuant to paragraph 259.105(3)(b), F.S., shall be spent on capital project expenditures that meet land management planning activities necessary for public access. Funding for all capital improvement projects shall not exceed 10 percent of the total annual allocation to the Fund. The Council may choose, in any annual funding cycle, to recommend for approval less than 10 percent of the total annual allocation to the fund for capital improvement projects.

Rulemaking Specific Authority 259.035(1), (4), 259.105(9), (18) FS. Law Implemented 259.0345, 259.035, 259.04, 259.041, 259.045, 259.07, 259.105 FS. History–New 7-17-01, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Greg Brock, Department of Environmental Protection,  
Division of State Lands, 3900 Commonwealth Blvd., M.S.  
140, Tallahassee, Florida 32399-3000; phone: (850)245-2784;  
E-mail: greg.brock@dep.state.fl.us

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Secretary Michael Sole

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 28, 2009

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-4.002  
RULE TITLE: Medicaid Provider Reimbursement Schedule

PURPOSE AND EFFECT: The amendment to Rule 59G-4.002, F.A.C., incorporates by reference the Florida Medicaid

Provider Reimbursement Schedule, March 2009. The effect of the amendment to Rule 59G-4.002, F.A.C., will permit the Agency to implement revisions to the Florida Medicaid Provider Reimbursement Schedule, March 2009.

SUMMARY: The reimbursement schedule contains the procedure codes and maximum fees that are effective March 2009 for the following providers whose fees are based on a resource-based relative value scale: advanced registered nurse practitioner, birth center, chiropractic, dental, hearing, independent laboratory, licensed midwife, optometric, outpatient hospital laboratory, physician, physician assistant, podiatry, portable x-ray, registered nurse first assistant, and visual.

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.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.906, 409.908 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:

DATE AND TIME: Monday, November 30, 2009, 9:00 a.m. – 10:00 a.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida 32308-5407

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 48 days before the workshop/meeting by contacting: Ouida Mazzoccoli at the Bureau of Medicaid Services, (850)922-7351. 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: Ouida Mazzoccoli, Bureau of Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7351, e-mail: mazzocco@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.002 Medicaid Provider Reimbursement Schedule.

Medicaid providers who provide the following services and their billing agents who submit claims on behalf of an enrolled Medicaid provider must be in compliance with the provisions of the Florida Medicaid Provider Reimbursement Schedule, March 2009 July 2008, which is incorporated by reference: advanced registered nurse practitioner, birth center, chiropractic, dental, hearing, independent laboratory, licensed midwife, optometric, outpatient hospital laboratory, physician, physician assistant, podiatry, portable x-ray, registered nurse first assistant, and visual. The Florida Medicaid Provider Reimbursement Schedule is available from the Medicaid fiscal agent's Web Portal at <http://mymedicaid-florida.com>. Click on Public Information for Providers, then on Provider Support, and then on Fee Schedules. Paper copies of the reimbursement schedule may be obtained by calling the Provider Contact Center at (800)298-7799 and selecting Option 7.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.905, 409.906, 409.908 FS. History—New 8-18-05, Amended 11-30-05, 4-16-06, 10-11-06, 3-27-07, 7-25-07, 9-29-08,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Phil Emenheiser

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 27, 2009

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Division of Hotels and Restaurants

RULE NOS.:

RULE TITLES:

61C-3.001

Sanitation and Safety Requirements

61C-3.002

Consumer Protection Requirements

PURPOSE AND EFFECT: The proposed rule reflects changes made to Chapter 509, F.S., by Laws of Florida Chapters 2008-055 and 2009-195. The proposed rule also provides a general update to ensure accurate and consistent requirements and terms throughout the rule and to improve readability under the plain language initiative.

SUMMARY: The proposed rule addresses changes to Chapter 509, F.S., resulting from Laws of Florida Chapter 2008-055 and 2009-195. The proposed rule also updates specific requirements in the rule for consistency, updates forms incorporated by reference, and provides a general update of the rule language to improve readability and ensure accurate and consistent terms throughout the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 509.032, 509.2112 FS.

LAW IMPLEMENTED: 509.032, 509.2015, 509.211, 509.2112, 509.221 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1011, Telephone: (850)488-1133

THE FULL TEXT OF THE PROPOSED RULES IS:

## 61C-3.001 Sanitation and Safety Requirements.

The following requirements and standards shall be met by all public lodging establishments.

~~(1) Guest Bathrooms—~~

~~(a) Connecting bathrooms shall provide toilets with open front seats. Guest and private bathrooms shall provide toilets. Guest, private, and connecting bathrooms shall provide lavatories and shower enclosures with hot and cold running water under pressure.~~

~~(b) Each transient public lodging establishment shall maintain one public bathroom with a minimum of a toilet, lavatory, and shower enclosure for each sex on every floor for every 15 guests rooming on that floor not having access to private or connecting bathrooms.~~

(2) Bedding, and linens, etc. — Clean mattresses and bed springs, mattress pads, clean pillows and pillowslips, clean bed sheets, and sufficient clean blankets shall be provided for each sleeping accommodation. Mattress pads, bed sheets, and blankets must be sized appropriately to the mattress or bed size to completely cover the sleeping areas of the mattress. Bed linens must be changed and cleaned between each guest or once weekly, whichever occurs first. Towels must be changed and cleaned daily or between guests, whichever occurs first. Individually wrapped soap must also be provided. Bedroom closets shall be kept clean.

~~(1)(3) Glassware, tableware, and utensils —~~

(a) The handling, cleaning, and sanitizing of glassware, tableware, and utensils in public lodging establishments shall be subject to the provisions of Chapter 4, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. As referenced in this chapter of the Food Code, the term “food establishment” shall apply to all public lodging establishments as defined in Chapter 509, F.S.

~~(b) Any public lodging establishment existing prior to 7-1-94 which cannot comply with this provision shall post in a conspicuous place a the division placard or sign which clearly states “NOTICE TO GUESTS: Dishware, glassware, kitchenware and/or utensils have been provided in this room as a guest convenience. These items have been cleaned within this room or unit using ordinary household dishwashing facilities and agents. They have not been sanitized according to Federal and State standards for public food service establishments.”, BPR form 22-045, NOTIFICATION OF EXCEPTION TO SANITIZATION REQUIREMENTS, or its equivalent, incorporated herein by reference and effective 9-25-96, in each guest room where such dishware, glassware, kitchenware or utensils are provided. Copies of this form may be obtained from any division office.~~

(c) Any public lodging establishment initiating new construction or extensive remodeling being extensively remodeled (involving the construction of walls or plumbing

fixtures in any area which would permit compliance with any portion of these requirements), shall fully comply with the above requirements.

~~(2)(4) Kitchen and kitchen equipment — Kitchen appliances and refrigeration equipment shall be kept clean, and free from odors, and in good repair. Refrigerators shall be properly drained. Kitchens shall be ventilated to minimize the occurrence of excessive heat, steam, condensation, vapors, objectionable odors, smoke, and fumes. Kitchens must also have at least 10 foot candles of light, have sufficient and suitable cooking utensils, and have adequate garbage receptacles. A kitchen sink with hot and cold running water under pressure is required.~~

~~(5) Furniture, upholstery, etc. — Furniture, upholstery, draperies, shades, venetian doors, blinds, and other provided furnishings in lobbies, lounges, parlors, and bedrooms shall be kept clean, and be renovated or replaced as needed. All rugs and floor coverings must be kept clean and in good condition, free from holes and rips. Non-perforated metal, plastic, or plastic lined wastebaskets shall be provided for all bedrooms.~~

~~(6) Linen rooms, service sinks, and closets — Linen rooms, service sinks and closets shall be kept clean, neat and orderly. All linens including towels and bed linens must be stored in such a manner as to protect them from contamination or soilage such as dust, dirt, vermin, sewage or toxic materials. All linens must be stored separately from or above all cleaning products, chemicals, pest control products, maintenance equipment and toxics. Linens may not be stored underneath sewer or plumbing lines. Maintenance and cleaning equipment such as brooms, mops, vacuum cleaners and similar tools shall be stored and maintained in a way that does not contaminate bed linens, towels, single service articles, glassware, or other guest room articles.~~

~~(7) Premises — The yards, alleys, driveways, sidewalks, and other exterior portions of the licensed premises shall be kept clean, free of debris, free of objectionable odors, and properly drained, maintained and mowed. All unused and discarded equipment and materials shall be removed from the premises, except when placed in a designated storage area.~~

~~(8) Employee areas — Employee locker rooms, rest rooms or quarters and their furnishings shall be kept clean and in good condition.~~

~~(3)(9) Ice —~~

~~(a) Ice making machines shall utilize water from an approved source pursuant to Chapters 62-550 and 62-555, F.A.C., and shall be constructed, located, installed, operated, and maintained so as to prevent contamination of the ice. Ice obtained from outside the establishment shall be from a source approved under in accordance with the provisions of Chapter 500, F.S. Ice storage bins shall be drained through an air gap according to the provisions of the local building authority having jurisdiction.~~

(b) Canvas containers shall not be used unless provided with a sanitary single-service liner so as to completely protect the ice from contamination. Ice buckets, and other ice containers and scoops, shall be made of a smooth, nonabsorbent, impervious material; shall be and designed to facilitate cleaning; ~~They~~ shall be kept clean; and shall be stored and handled in a sanitary manner. Ice buckets and other ice containers must be cleaned and sanitized between each guest or be provided with a sanitary single-service liner which is changed at least daily. Between uses, ice containers used to transfer ice from ice making machines to ice storage bins shall be stored in a way that protects the ice containers and ice-dispensing utensils from contamination.

(c) Ice for consumer use shall be dispensed only with scoops, tongs or other ice-dispensing utensils or through automatic self-service, ice-dispensing equipment. Ice-dispensing utensils shall be made of a smooth, nonabsorbent, impervious material; shall be designed to facilitate cleaning; and shall be kept clean. Ice-dispensing utensils shall be stored on a clean surface, attached to a nonoxidizing chain or tether, and stored inside the ice bin or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects the utensils from contamination. Ice storage bins shall be drained through an air gap in accordance with the provisions of the plumbing authority having jurisdiction.

(4)(10) Locks – An approved locking device for the purposes of Section 509.211, F.S., is a locking device that meets the requirements of National Fire Protection Association 101 (NFPA 101), Life Safety Code, 2006 edition, as adopted by the Division of State Fire Marshal in Rule 69A-3.012, F.A.C., herein adopted by reference. Public lodging establishments as defined in paragraph 61C-1.002(4)(a), F.A.C., shall have at least one approved locking device which cannot be opened by a non-master guest room key which does not include a “sliding chain” or “hook and eye” type device, on all outside and connecting doors which cannot be opened by a non-master guest room key. An approved locking device does not include a “sliding chain” or “hook and eye” type device.

(5)(11) Balcony Inspection –

(a) through (b) No change.

(c) Certification of inspection shall be submitted on DBPR HR-7020 BPR form 22-030, CERTIFICATE OF BALCONY INSPECTION, incorporated herein by reference and effective 2008 July 1, 9-25-96. Copies of this form are available from the Division of Hotels and Restaurants Internet website www.MyFloridaLicense.com/dbpr/hr; by e-mail to call.center@dbpr.state.fl.us; by phone request to the department at (850)487-1395; or upon written request to the Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1014 may be obtained from any division office.

(d) ~~The certificate shall be received by the division and the applicable local government agency or office shall receive the Certificate of Balcony Inspection from hotels and motels on or before January 1 of every third year and from other public lodging establishments on or before October 1 of every third year.~~

(e) No change.

(f) Upon change of ownership, the operator shall file a new Certificate of Balcony Inspection certificate of balcony inspection shall be filed.

(12) No change.

Rulemaking Specific Authority 509.032, 509.2112 FS. Law Implemented 509.032, 509.211, 509.2112, 509.221 FS. History—Amended 1-20-63, Revised 2-4-71, Amended 9-19-84, Formerly 7C-3.01, Amended 12-31-90, Formerly 7C-3.001, Amended 3-31-94, 9-25-96, 1-18-98, 8-12-08, \_\_\_\_\_.

61C-3.002 Consumer Protection Requirements.

(1) ~~Filing—The rates to be charged for each room in every public lodging establishment shall be filed with the division on BPR form 22-004, ROOM RATE SCHEDULE, incorporated herein by reference and effective 9-25-96, which form shall be provided by the division. Copies of this form may be obtained from any division office. A photocopy of the room rate schedule, stamped with the date it was received by the district, shall be kept available for inspection at all times. Where the number of rooms is 100 or more a supplementary report (such as the housekeeper's report) may be attached to BPR form 22-004 provided that BPR form 22-004 lists the total number of rooms, is signed, and indicates attachment of the supplemental report. Supplemental reports shall also include:~~

(a) ~~Every room number in the establishment and the rates charged for each, while also showing both the single and double rate.~~

(b) ~~The charge for each additional person in room. The charge for the additional persons shall include bedding accommodations.~~

(c) ~~All additional charges such as telephone surcharge, television, air conditioning, kitchenettes, safes, etc.~~

(d) ~~Statement as to whether the rates are daily or weekly.~~

(2) ~~Posting—The rates and additional charges filed with the division shall be posted in a conspicuous place in each guest room or unit on BPR form 22-018, NOTICE TO GUESTS, incorporated herein by reference and effective 9-25-96, or in a form incorporating the language there on. Copies of this form may be obtained from any division office. Such rates shall be the actual maximum rates charged during any given rate period and shall not be a fictitious rate.~~

(3) ~~Advertising.~~

(a) ~~An advertisement or notice, designed to attract public attention or patronage, may not be published or displayed with false or misleading statements about any public lodging establishment. This applies to any type of advertisement~~

including signs, billboards, banners, electronic displays, pamphlets, flyers, coupons, magazines, newspapers or other similar publications and displays.

(b) ~~Signs~~ The actual rates for public lodging establishments rented by the day or week displayed on any static display or electronic sign or signs visible from a public highway or street shall not exceed the maximum rate schedules posted in each guest unit and filed with the division. At a minimum, any sign or signs as described above, displaying any room rate information shall include:

- ~~1. The number of rooms available at each rate;~~
- ~~2. The rate for single occupancy;~~
- ~~3. The extra person charge if, applicable; and~~
- ~~4. The effective dates of such rates, in accordance with Section 509.201, F.S.~~

(c) ~~No more than 1 percent variance in the size and prominence of letters and figures shall be allowed on signs containing room rate information.~~

(4) The division shall consider it an unethical business practice for any establishment to engage in, or knowingly permit anyone on the licensed premises to engage in, any illegal, unfair or deceptive act. Such acts include:

(a) ~~imposition~~ ~~imposition~~ of a charge separate and apart from, or in addition to, the room rate, that is not disclosed in writing to the guest at the time of check-in;

(b) ~~failing~~ ~~The failure~~ to disclose that additional telephone surcharges are being applied which exceed the user-line charges of the local telephone company; ~~or~~ ~~and~~

(c) ~~depriving~~ ~~When~~ an individual or party is ~~deprived~~ of accommodations at a public lodging establishment after having prepaid reservations for said accommodations. To avoid depriving a guest of a prepaid reservation for accommodations at a public lodging establishment the establishment shall:

- ~~1. make~~ ~~Make~~ every effort to find other comparable accommodations; and
- ~~2. refund~~ ~~Refund~~ all monies deposited for such reservation whether deposited with the public lodging establishment, or a travel or booking agent.

(5) ~~Resort condominiums, resort dwellings and nontransient apartments are exempt from subsections (1), (2), and (3) of this rule.~~

Rulemaking Specific Authority 509.032(6) FS. Law Implemented 509.032(1), 509.201(1), (2), 509.2015 FS. History—Amended 4-20-63, Revised 2-4-71, Amended 9-19-84, 6-6-85, Formerly 7C-3.02, Amended 12-31-90, Formerly 7C-3.002, Amended 3-31-94, 9-25-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bill L. Veach, Director, Division of Hotels and Restaurants, Department of Business and Professional Regulation

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles W. Drago, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 2008

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.:	RULE TITLE:
61D-14.0055	Temporary Individual Slot Machine Occupational License

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUMMARY: The proposed rule implements the division's authority to issue a temporary individual slot machine occupational license upon the election of the division.

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

OTHER RULES INCORPORATING THIS RULE: None

EFFECT ON THOSE OTHER RULES: None

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.

RULEMAKING AUTHORITY: 551.103(1), 551.1045, 551.122 FS.

LAW IMPLEMENTED: 551.1045, 551.107 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: December 8, 2009, 2:00 p.m. – 3:30 p.m.

PLACE: Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

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: Mary Polombo at (850)413-0750. 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: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

THE FULL TEXT OF THE PROPOSED RULE IS:

61D-14.0055 Temporary Individual Slot Machine Occupational License.

(1) The division shall issue a temporary individual slot machine occupational license, general or professional, when the following conditions are met within 30 days of receipt of the application:

(a) The applicant has submitted a complete license application:

(b) The applicant has not been convicted of or had adjudication withheld on any disqualifying criminal offense listed in Section 551.107(6), F.S.; and

(c) The division has not issued the applicant's permanent occupational license.

(2) The 30-day requirement of subsection (1) shall be tolled when the division issues a letter notifying the applicant of errors or omissions in the license application pursuant to Section 120.60(1), F.S.

(3) All temporary licenses issued by the division are subject to the same terms and conditions of Chapter 551, F.S., and Chapter 61D-14, F.A.C., as are permanent licenses, and shall be immediately surrendered if the division:

(a) Grants the applicant a permanent license;

(b) Denies the applicant a permanent license; or

(c) Finds the applicant in violation of Chapter 551, F.S., or Chapter 61D-14, F.A.C.

(4) A holder of a temporary individual slot machine occupational license shall cease all activity requiring the possession of a slot machine occupational license if:

(a) The division denies the application; or

(b) The applicant is convicted of a disqualifying criminal offense listed in Section 551.107(6), F.S.

Rulemaking Authority 551.103(1), 551.1045, 551.122 FS. Law Implemented 551.1045, 551.107 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Joe Dillmore, Interim Director, Division of Pari-Mutuel Wagering

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles W, Drago, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 27, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 2, 2008

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Landscape Architecture**

RULE NO.: 61G10-18.001  
RULE TITLE: Continuing Education Credit Requirements

PURPOSE AND EFFECT: The Board proposes to amend the rule to award CE credit for exam writing.

SUMMARY: CE credit will be awarded for exam writing.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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.

RULEMAKING AUTHORITY: 455.2124, 489.306, 481.313 FS.

LAW IMPLEMENTED: 481.313, 553.841 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G10-18.001 Continuing Education Credit Requirements.

Every person licensed pursuant to Chapter 481, Part II, F.S., must obtain at least sixteen (16) continuing education credits per biennium. There shall be no carryover of hours permitted from one licensure renewal biennium to the next.

(1) through (5) No change.

(6) Licensees who participate in the development of Florida exam questions may be awarded up to six (6) hours of continuing education credit, comprised of two (2) hours of laws and rules and 4 hours optional, upon request to the Board.

(7)(6) No change.

Rulemaking Authority 455.2124, 481.306, 481.313 FS. Law Implemented 481.313, 553.841 FS. History--New 9-19-01, Amended 7-3-03, 3-1-05, 11-12-07, 9-6-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Landscape Architecture

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Landscape Architecture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 14, 2009

**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 ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-640.100	Scope, Intent, Purpose, and Applicability
62-640.200	Definitions
62-640.210	General Technical Guidance and Forms
62-640.300	General Requirements
62-640.400	Prohibitions
62-640.500	Nutrient Management Plan (NMP)
62-640.600	Pathogen Reduction and Vector Attraction Reduction
62-640.650	Monitoring, Record Keeping, Reporting, and Notification
62-640.700	Requirements for Land Application of Class AA, A, and B Biosolids
62-640.750	Agricultural Sites
62-640.800	Additional Requirements for Land Application at Reclamation Sites
62-640.850	Distribution and Marketing of – Class AA Biosolids
62-640.860	Other Solids
62-640.880	Additional Requirements Related to Biosolids Treatment Facilities

**PURPOSE AND EFFECT:** Chapter 62-640, F.A.C., is being revised to improve biosolids land application site accountability and management, address growing nutrient concerns, and support public confidence in the beneficial use of biosolids.

**SUMMARY:** The Department is proposing numerous revisions to Chapter 62-640, F.A.C. The primary changes proposed include requiring site permitting for biosolids land application sites, requiring nutrient management plans, and requiring distributed and marketed Class AA biosolids to be fertilizers.

A summary of the proposed rule amendments follows:

- 62-640.100 – The proposed revisions would replace the term “domestic wastewater residuals” with “biosolids,” add encouragement for the highest standards for beneficial use, address the applicability of the regulations to existing facilities and sites, and add references to applicable transportation regulations.
- 62-640.200 – The proposed revisions would delete unnecessary definitions, revise several definitions including those for Class AA, A, and B biosolids, and add the following definitions: “nutrient management plan,” “biosolids treatment facility,” “existing application site,” “fertilizer,” “injection,” “incorporation,” “person,” “pH,” and “site manager.”
- 62-640.210 – The proposed revisions would update existing guidance documents and add additional documents related to biosolids, agriculture, and nutrient management.

- 62-640.300 – The proposed revisions would add site permitting for biosolids land application sites and address related permitting issues, revise storage provisions including a requirement for a facility biosolids storage plan, and delete unnecessary responsibility language.
- 62-640.400 – The proposed revisions would remove unnecessary provisions, clarify other prohibitions, add a provision regarding spilling and tracking of biosolids off-site, and add the Wekiva restrictions for biosolids from Rule 62-600.550, F.A.C.
- 62-640.500 – The proposed revisions would replace the agricultural use plan (AUP) provisions with nutrient management plan (NMP) provisions for biosolids land application sites.
- 62-640.600 – The proposed revisions would eliminate the use of Class A treatment option 40 CFR 503.32(a)(6), clarify the use of option 40 CFR 503.32(a)(5), and move the site restrictions for Class B biosolids to Rule 62-640.700, F.A.C.
- 62-640.650 – The proposed revisions would clarify monitoring requirements, add calcium carbonate equivalency monitoring for alkaline-treated biosolids, require a minimum of quarterly biosolids monitoring for biosolids treatment facilities, make minor adjustments to the quantity ranges used for facility biosolids monitoring frequencies, require the consideration for re-sampling of stored Class AA biosolids, require soil fertility testing, require initial soil background monitoring, set conditions for ground water monitoring, and set conditions for the Specific Oxygen Uptake Rate (SOUR) test. The proposed revisions would also address and clarify record keeping and reporting requirements for facility and site permittees, and revise notification requirements including adding a new notification requirement related to molybdenum loading at a site.
- 62-640.700 – The proposed revisions would clarify basic land application requirements, move the Class AA parameter concentration limits to this section from Rule 62-640.850, F.A.C., add time and setback restrictions for the land application of alkaline-treated biosolids, revise site storage requirements including limiting temporary storage to seven days, revise signage requirements for sites accepting Class B biosolids, clarify cumulative loading provisions, add setback distances from property lines and storage areas, revise ground water table monitoring provisions, and include the site restrictions for Class B sites previously under Rule 62-640.600, F.A.C., with minor additions to the restrictions.
- 62.640.750 – This rule would be repealed.
- 62-640.800 – The proposed revisions would remove redundant requirements.
- 62-640.850 – The proposed revisions would require distributed and marketed Class AA biosolids to be a “fertilizer,” require additional information such as contingency plans to be submitted with the facility permit application,

revise reporting provisions for Class AA distribution and marketing, revise labeling requirements, and revise the notification and reporting requirements for the importation of Class AA biosolids.

- 62-640.860 – Minor clarifications would be the only proposed revisions.
- 62.640.880 – The proposed revisions would allow a biosolids treatment facility to request to accept an industrial sludge, require reliability features for larger biosolids treatment facilities, exempt biosolids treatment facilities from submitting capacity analysis reports, and clarify that biosolids treatment facilities could request to alter facility staffing requirements.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** A SERC has been prepared by the Department and five major entities are identified as likely to be affected by the proposed revisions: (1) domestic wastewater treatment facilities, biosolids management facilities, and septage management facilities, (2) biosolids haulers, (3) owners or operators of biosolids application sites, (4) distributors of Class AA biosolids and (5) the Department. The entities likely to be most affected by the proposed revisions are wastewater treatment plants and biosolids treatment facilities that lime-stabilize and land apply biosolids. The proposed revisions most likely to result in significant effects are site permitting, nutrient management plans, revised monitoring requirements including soil testing, and the setback for land applied alkaline-treated biosolids. Most privately-owned wastewater treatment facilities, biosolids treatment facilities, biosolids haulers, farms, and ranches are likely to be small businesses and could be impacted by the revisions depending on their biosolids activities. Also, small cities and counties owning wastewater treatment facilities could be impacted by the proposed revisions.

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.

**RULEMAKING AUTHORITY:** 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS.

**LAW IMPLEMENTED:** 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS.

**A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** December 1, 2009, 9:00 a.m.

**PLACE:** 3900 Commonwealth Blvd., Conference Room A, Tallahassee, FL

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: Maurice Barker, telephone (850)245-8614. 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 RULES IS:** Maurice Barker, Biosolids Coordinator, Department of Environmental Protection, 2600 Blair Stone Road, MS 3540, Tallahassee, FL 32399-2400, (850)245-8614, maurice.barker@dep.state.fl.us

**THE FULL TEXT OF THE PROPOSED RULES IS:**

#### BIOSOLIDS DOMESTIC WASTEWATER RESIDUALS

62-640.100 Scope, Intent, Purpose, and Applicability.

(1) All domestic wastewater treatment facilities which use biological treatment processes generate biosolids domestic wastewater residuals as a by-product of the treatment process. The Department finds that unregulated use, disposal, or land application of biosolids these residuals poses a threat to the environment and public health.

(a) It is the intent of the Department in this chapter to regulate the management, use, and land application of biosolids residuals so as to ensure protection of the environment and public health.

(b) The Department encourages the highest levels of treatment, quality, and use for biosolids.

(c)(2) The Department further encourages also intends in this chapter to encourage the beneficial use of biosolids in a manner which will foster public acceptance, as well as innovative and alternative uses for biosolids such as bioenergy-related uses residuals.

(2)(3) This chapter establishes minimum requirements for biosolids residuals which are to be applied to land for agricultural purposes, distributed and marketed, or used for land reclamation. Included are biosolids residuals which are composted with yard trash, wood chips, or similar bulking agents and ultimately applied to land or distributed and marketed.

(3)(4) No change.

(4)(5) The purpose of Chapter 62-640, F.A.C., is to provide minimum requirements standards for the treatment and management of biosolids residuals and septage to be applied to land, or distributed and marketed,; establish land application criteria,; and define requirements for agricultural operations which have received or will receive biosolids residuals or septage.

(5)(6) Applicability.

(a) Requirements in this chapter shall apply to domestic wastewater treatment facilities and biosolids, residuals management facilities, and septage management facilities that generate, treat, or manage biosolids residuals or septage which are to be applied to agricultural sites or reclamation sites, or which are distributed and marketed.

(b) ~~The R~~requirements in this chapter shall also apply to applicers or distributors of biosolids residuals or biosolids residuals products, and to owners or operators of application agricultural sites or reclamation sites which receive biosolids residuals.

~~(c) Unless specifically provided otherwise in this chapter, requirements in this chapter shall apply to all facilities which generate residuals or apply residuals to agricultural sites or reclamation sites, or which distribute and market residuals or operate an agricultural site or reclamation site, for which complete permit applications were received after December 1, 1997.~~

~~(c)(d) Unless specifically provided otherwise in this chapter, requirements in this chapter shall apply to all septage management facilities that treat more than 10,000 gallons per day monthly average daily flow or more than 20,000 gallons in a single day, and that apply septage to agricultural sites or reclamation sites. The R~~requirements in of this chapter shall also apply to applicers of septage, and to operators or owners of an agricultural site or reclamation site which receive ~~has had~~ septage from facilities permitted under this chapter ~~applied to the land after December 1, 1997.~~

~~(d)(e) Unless specifically provided otherwise in this chapter, requirements in this chapter that apply to biosolids residuals shall also apply to septage from facilities regulated by the Department, and to products derived from such septage, biosolids or residuals, or combinations thereof, and to the products and treated material from biosolids treatment facilities and septage management facilities regulated by the Department.~~

~~(e)(f) Unless specifically provided otherwise in this chapter, requirements in this chapter shall apply to composting facilities, as defined by this chapter, which use yard trash, wood chips, or similar bulking agents, and apply the resulting compost to land or distribute and market the resulting compost after December 1, 1997.~~

~~(f)(g) Facilities which have submitted a complete wastewater permit application or which have received an initial permit before (the effective date of the rule) December 1, 1997, are considered to be existing facilities and shall meet the requirements of this chapter in accordance with paragraphs paragraph (g) and (h) below.~~

~~(g)(h) Unless specifically provided otherwise in this chapter, Existing facilities in Florida shall comply with the these requirements of this chapter at the time of renewal or substantial revision of the wastewater permit, whichever occurs first. Existing facilities may choose to comply with the requirements of this chapter prior to the time specified in this rule by obtaining a permit revision under Chapter 62-620, F.A.C.~~

(h) Regardless of paragraph (g) above, no later than January 1, 2013, all facilities that land apply biosolids shall use permitted application sites.

(i) After an application site is permitted, management and application of biosolids at the site shall be in accordance with the application site permit, which supersedes the site management and application requirements of any existing facility permits.

~~(i) Until such time as the wastewater permit is renewed or a new permit is issued for expansion or substantial modification of the facility, the facility shall comply with the requirements for land application of residuals or septage in the existing permit.~~

(j) Biosolids Residuals or biosolids residuals products which are generated outside of Florida but imported to Florida are subject to the provisions of this chapter beginning (effective date of the rule) December 1, 1997.

#### (6) Other Applicable Rules.

~~(a)(k) The following activities are excluded from the requirements of this chapter:~~

~~1. Regulation of S~~septage management facilities that treat 10,000 gallons per day or less on a monthly average daily flow basis and no more than 20,000 gallons in a single day. ~~These facilities are regulated by the Department of Health in accordance with Chapter 64E-6, F.A.C.~~

~~2. Land application of septage treated by these facilities is also which are regulated by the Department of Health in accordance with Chapter 64E-6, F.A.C.~~

~~(b)3. Disposal of biosolids residuals, septage, and other solids in a solid waste landfill. Disposal of these materials shall be in accordance with Chapter 62-701, F.A.C.~~

~~(c)4. Disposal of biosolids residuals by placement on land for purposes other than soil conditioning or fertilization, such as at a monofill, surface impoundment, waste pile, or dedicated site. Disposal in such cases shall be in accordance with Chapter 62-701, F.A.C.~~

~~(d)5. Incineration of residuals. Incineration of biosolids is regulated under residuals shall meet the requirements of Chapters 62-204, 62-210, 62-212, 62-213, 62-272, 62-273, 62-275, 62-296, and 62-297, F.A.C., and the Resource Conservation and Recovery Act.~~

~~(e)6. Co-composting of biosolids residuals with solid waste other than yard trash, wood chips or similar bulking agents shall be in accordance with Chapter 62-640, F.A.C. Co-composting of biosolids residuals with other solid waste materials shall be in accordance with Chapter 62-709, F.A.C.~~

~~(f)7. Biosolids blended or mixed with other wastes shall meet the requirements of this chapter. Treatment, management, or disposal of industrial sludges or septage, air treatment sludges, and water supply treatment sludges.~~

~~(g)8. Disposal of screenings and grit from the preliminary treatment components of wastewater treatment facilities, solids from sewer line cleaning operations, and solids from lift stations and pump stations. Disposal of these materials shall be in accordance with Chapter 62-701, F.A.C.~~

(h) Transportation of biosolids is regulated by the Florida Department of Transportation in accordance with Chapter 316, F.S., and 49 Code of Federal Regulations (CFR).

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 8-12-90, Formerly 17-640.110, Amended 3-30-98,\_\_\_\_\_.

#### 62-640.200 Definitions.

Terms used in this chapter shall have the meaning specified below. The meaning of any term not defined below may be taken from definitions in other rules of the Department.

(1) No change.

~~(2) “Agricultural Use Plan” means a formal document submitted to the Department which describes the controlled use of residuals as part of a planned agricultural operation.~~

~~(2)(3) “Agricultural site” means a biosolids residuals application site consisting of land on which a food crop, a feed crop, or a fiber crop is grown, forest land, or land on which turf or ornamental plants are grown. This includes range land and land used as pasture.~~

~~(4) “Agronomic rate” means the whole residuals application rate (dry weight basis) designed:~~

~~(a) to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation grown on the land; and~~

~~(b) to minimize the amount of nitrogen in the residuals that passes below the root zone of the crop or vegetation grown on the land to the ground water.~~

~~(3)(5) “Application site” means a property (such as a farm, a ranch or a mining property) where biosolids or septage residuals are applied to land. Application sites are identified as either agricultural sites or reclamation sites.~~

~~(4)(6) “Application zone” means a parcel of land (e.g., a field) within an application site to which biosolids residuals are applied at an application site.~~

~~(5)(7) “Average daily flow (ADF)” means the total volume of wastewater flowing into a wastewater facility during some defined period of time, divided by the number of days in that period of time, expressed in units of million gallons per day (mgd) mgd.~~

~~(6) “Biosolids” means the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility, formerly known as “domestic wastewater residuals” or “residuals.” Not included is the treated effluent or reclaimed water from a domestic wastewater treatment plant. Also not included are solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, other solids as defined in subsection 62-640.200(31), F.A.C., and ash~~

generated during the incineration of biosolids. Biosolids include products and treated material from biosolids treatment facilities and septage management facilities regulated by the Department.

(7) “Biosolids management facility” means a biosolids treatment facility, a septage management facility regulated by the Department, or an application site.

(8) “Biosolids treatment facility” means a facility that treats biosolids from other facilities for the purpose of meeting the requirements of this chapter, before use or land application. Biosolids treatment facilities can also treat domestic septage and combinations of biosolids, domestic septage, food establishment sludges, wastes removed from portable toilets, and wastes removed from holding tanks associated with boats, marinas, and onsite sewage treatment and disposal systems, before use or land application.

(9)(8) “Class A biosolids residuals” means biosolids residuals that meet the Class A pathogen reduction requirements of paragraph 62-640.600(1)(a), F.A.C., the vector attraction reduction requirements of paragraph 62-640.600(2)(a), F.A.C., and the parameter concentrations of paragraph 62-640.700(5)(a), F.A.C.

(10)(9) “Class AA biosolids residuals” means biosolids Class A residuals that meet the Class AA pathogen reduction requirements of paragraph 62-640.600(1)(a), F.A.C., the vector attraction reduction requirements of paragraph 62-640.600(2)(b), F.A.C., and the parameter concentrations of paragraphs 62-640.700(5)(a) and (b), F.A.C. all the requirements of Rule 62-640.850, F.A.C.

(11)(10) “Class B biosolids residuals” means biosolids residuals that meet the Class B pathogen reduction requirements of paragraph 62-640.600(1)(b), F.A.C., the vector attraction reduction requirements of paragraph 62-640.600(2)(a), F.A.C., and the parameter concentrations of paragraph 62-640.700(5)(a), F.A.C.

(12)(11) “Composting facility” means a facility, as defined in subsection 62-640.200(20) 62-640.200(17), F.A.C., that uses composting technology for treatment of biosolids residuals. Processing can may include physical turning, windrowing, aeration, or other mechanical handling of biosolids residuals.

(12) “Conservation Plan” means a formal document, prepared or approved by a local Soil and Water Conservation District Board organized pursuant to Chapter 582, Florida Statutes, which outlines a system of management practices for a specific parcel of property to control soil erosion, reduce sediment loss, protect the water quality and manage nutrient use.

(13) “Delegated local program” means any county, municipality, or combination thereof that has established and administers a pollution control program approved by the Department in compliance with Section 403.182, F.S.

(14)(13) No change.

~~(15)~~(14) “Design capacity” shall be as defined in Chapter 62-600, F.A.C. The design capacity for biosolids treatment residuals management facilities shall be expressed in units of dry tons per day.

~~(16)~~(15) “Distribution and Marketing” is the giveaway or sale of biosolids residuals meeting the criteria of Rule 62-640.850, F.A.C., or a product derived from such biosolids residuals, either packaged or in bulk form, by owners or operators of treatment works or by a person who receives biosolids residuals or biosolids residual products from treatment works.

~~(17)~~(16) No change.

~~(18)~~ “Existing application site” means a site approved for land application or land reclamation in a wastewater facility permit active on (effective date of rule) or included in a complete permit application submitted before (the effective date of the rule).

~~(19)~~(17) “Facility” means a domestic wastewater treatment facility, a biosolids residuals management facility, or a septage management facility.

~~(20)~~(18) No change.

~~(21)~~ “Fertilizer” means a material regulated as a fertilizer under Chapter 576, F.S., and Chapter 5E-1, F.A.C.

(19) through (21) renumber (22) through (24) No change.

~~(25)~~ “Incorporation” means the mixing of biosolids with topsoil by such means as discing, plowing, tilling, or equivalent means to reduce exposure to the biosolids.

~~(26)~~(22) “Industrial sludges” means all sludges that are primarily composed of materials generated through an a manufacturing or other industrial process or from an industrial wastewater activity or facility.

~~(27)~~ “Injection” means the subsurface placement of liquid biosolids to reduce exposure to the biosolids.

~~(28)~~(23) “Liquid biosolids residuals” means any biosolids residuals that are less than 12% solids by weight, or that are determined to contain free liquids as defined by Method 9095 (Paint Filter Liquids Test), as described in “Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods” (EPA Pub. No. SW-846), which is hereby adopted and incorporated here by reference.

~~(29)~~ “Nutrient Management Plan” (NMP) means a site-specific plan, developed in accordance with Rule 62-640.500, F.A.C., establishing the rate at which all biosolids, soil amendments, and sources of nutrients can be applied to the land for crop production while minimizing the amount of pollutants and nutrients discharged to waters of the state.

(24) through (25) renumbered (30) through (31) No change.

~~(32)~~(26) “Permitted capacity” shall be as defined in Chapter 62-600, F.A.C. The permitted capacity for biosolids treatment residuals management facilities shall be expressed in units of dry tons per day.

~~(33)~~ “Person” is as defined in Section 403.031, F.S.

~~(34)~~ “pH” means the logarithm of the reciprocal of the hydrogen ion concentration measured at 25 degrees Centigrade (i.e. Celsius) or measured at another temperature and then converted to an equivalent value at 25 degrees Centigrade.

~~(35)~~(27) “pH of biosolids-soil residuals-soil mixture” means the pH value obtained by taking a core sample of sampling the soil to the depth of six inches or to the depth of biosolids residuals placement. If residuals are surface applied, a core sample shall be collected through the surface to a depth of six inches.

~~(28)~~ “Potable water supply well” means a well used as a source of water for drinking, culinary, or domestic purposes.

~~(36)~~ “Private drinking water supply well” means a well serving a private or multifamily water system as defined in Rule 62-532.200, F.A.C.

~~(37)~~ “Public drinking water supply well” means a well serving a public water system as defined in Rule 62-550.200, F.A.C.

~~(38)~~(29) No change.

~~(39)~~(30) “Reclamation site” means a biosolids residuals application site consisting of drastically disturbed land that is reclaimed using biosolids residuals, such as strip mines and construction sites.

~~(31)~~ “Residuals” or “domestic wastewater residuals” means the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility. Not included is the treated effluent or reclaimed water from a domestic wastewater treatment plant. Also not included are solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, other solids as defined in subsection 62-640.200(24), F.A.C., and ash generated during the incineration of residuals.

~~(32)~~ “Residuals management facility” means a facility, such as a composting or blending facility, that treats residuals from other facilities for the purpose of meeting the requirements of this chapter, before use or land application. Residuals management facilities may also treat domestic septage and combinations of residuals, domestic septage, food establishment sludges, wastes removed from portable toilets, and wastes removed from holding tanks associated with boats, marinas, and onsite sewage treatment and disposal systems, before use or land application.

~~(40)~~(33) “Restricted public access” means that access to a land application site by the general public is both controlled and infrequent. Restricted public access application sites are Such sites will be accessible to persons authorized by the site owner, site manager, or facility permittee, such as farm personnel, wastewater facility operators, and biosolids residuals or septage haulers provided the authorized persons are informed by the site owner, site manager, or facility permittee regarding the nature of the application site. For

informational purposes, the NIOSH manual *Guidance for Controlling Potential Risks to Works Exposed to Class B Biosolids*, paragraph 62-640.210(1)(i), F.A.C., provides guidance regarding potential risks.

~~(41)(34)~~ No change.

~~(42)(35)~~ “Septage management facility” means a stationary facility that treats only domestic septage or combinations of domestic septage, food establishment sludges, wastes removed from portable toilets, and wastes removed from holding tanks associated with boats, marinas, and onsite sewage treatment and disposal systems, before use or land application. Septage management facilities that are regulated by the Department are as described in paragraph 62-640.100(5)(c), F.A.C.

~~(43)~~ “Site manager” means the person who operates or manages the application site to ensure biosolids are applied in accordance with the requirements of this chapter.

~~(44)(36)~~ “Source facility” means a facility that sends biosolids residuals to a biosolids treatment residuals management facility for treatment before use or land application.

(37) through (38) renumbered (45) through (46) No change.

~~(47)(39)~~ “Treatment” means the process of altering the character or physical or chemical condition of waste to prevent pollution of water, air, or soil, to safeguard the public health, or enable the waste to be beneficially used. Treatment includes blending, dewatering, and any process that alters the quality or quantity of the material for the purpose of meeting the requirements of this chapter. Treatment does not include storage of biosolids residuals.

~~(48)(40)~~ “Vector attraction” means the characteristic of biosolids residuals that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

(41) through (43) renumbered (49) through (51) No change.

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 8-12-90, Formerly 17-640.200, Amended 3-30-98,\_\_\_\_\_.

62-640.210 General Technical Guidance and Forms.

(1) Unless specifically referenced elsewhere in this chapter, ~~t~~the following publications are listed for informational purposes as technical guidance to assist facilities, applicators, distributors and marketers, site managers, and site owners in meeting the requirements of this chapter. Publications or portions of publications containing enforceable criteria are specifically referenced elsewhere in this chapter. Information in the publications listed below does not supersede the specific requirements of this chapter. Members of the public may request and obtain copies of the publications listed

below by contacting the appropriate publisher at the address indicated. Copies of the publications are on file with the Florida Secretary of State and the Joint Administrative Procedures Committee of the Florida Legislature. Copies are also on file and available for review during normal business hours in the Department's Tallahassee offices and in the Department's district and branch offices.

(a) U.S. Environmental Protection Agency, 1995, *Process Design Manual for Land Application of Sewage Sludge and Domestic Septage*, EPA Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. [www.epa.gov](http://www.epa.gov).

(b) Title 40, Code of Federal Regulations, Protection of Environment, 1993, Part 503, “Standards for the Use and Disposal of Sewage Sludge,” revised as of April 9, 2007 and effective on April 25, 2007 ~~October 25, 1995.~~ [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

(c) U.S. Environmental Protection Agency, 1989, *POTW Sludge Sampling and Analysis Guidance Document* ~~POTW Sludge Sampling and Analysis Guidance Document~~, EPA Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. [www.epa.gov](http://www.epa.gov).

(d) U.S. Environmental Protection Agency, *Process Design Manual For Sludge Treatment And Disposal* ~~Process Design Manual For Sludge Treatment and Disposal~~, 1979, Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. [www.epa.gov](http://www.epa.gov).

(e) *Recommended Standards for Wastewater Facilities*, 2004, Health Education Service, Inc., P. O. Box 7126, Albany, New York 12224. [www.hes.org](http://www.hes.org). ~~Recommended Standards for Sewage Works, 1990, Great Lakes Upper Mississippi River Board of State Sanitary Engineers (Ten State Standards).~~

(f) U. S. Environmental Protection Agency, *Handbook, Septage Treatment and Disposal*, 1984, Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. [www.epa.gov](http://www.epa.gov).

(g) U. S. Environmental Protection Agency, *Control of Pathogens and Vector Attraction in Sewage Sludge*, 2003 ~~1992~~, Center for Environmental Research Information, Cincinnati, Ohio, 45268. [www.epa.gov](http://www.epa.gov).

(h) U. S. Environmental Protection Agency, 1974. *Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability-MCD-05*. Environmental Quality Instructional Resources Center, The Ohio State University, 1200 Chambers Road, Room 310, Columbus, Ohio 43212. [www.epa.gov](http://www.epa.gov).

(i) U.S. Environmental Protection Agency, 1994, A Plain English Guide to the Part 503 Biosolids Regulations, EPA Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. [www.epa.gov](http://www.epa.gov).

(j) National Institute for Occupational Safety and Health, 2002, Guidance for Controlling Potential Risks to Workers Exposed to Class B Biosolids, NIOSH-Publications Dissemination, 4676 Columbia Parkway, Cincinnati, Ohio 45226-1998. [www.cdc.gov/niosh/homepage.html](http://www.cdc.gov/niosh/homepage.html).

(k) U.S. Environmental Protection Agency, 2000, Guide to Field Storage of Biosolids, EPA Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. [www.epa.gov](http://www.epa.gov).

(l) USDA Natural Resources Conservation Service, 1999, “General Manual, Title 190, Part 402 – Nutrient Management”, USDA-NRCS, Washington, DC. [www.nrcs.usda.gov/technical](http://www.nrcs.usda.gov/technical).

(m) USDA Natural Resources Conservation Service – Florida, 2007, “Field Office Technical Guide – Nutrient Management, Code 590”, USDA-NRCS-FL, Gainesville, Florida. [www.fl.nrcs.usda.gov/technical](http://www.fl.nrcs.usda.gov/technical).

(n) USDA Natural Resources Conservation Service – Florida, 2004, “Field Office Technical Guide – Waste Utilization, Code 633”, USDA-NRCS-FL, Gainesville, Florida. [www.fl.nrcs.usda.gov/technical](http://www.fl.nrcs.usda.gov/technical).

(o) Kidder, G. and R.D. Rhue, 2003, “Soil Testing”, UF/IFAS Circular 239, <http://edis.ifas.ufl.edu/SS156>.

(p) Mylavarapu, R.S. and E.D. Kennelley, 2002, “Extension Soil Testing Laboratory (ESTL) Analytical Procedure and Training Manual”, UF/IFAS Circular 1248, <http://edis.ifas.ufl.edu/SS312>.

(2) Forms. The forms and instructions used by the Department are listed in this rule. The rule numbers are the same as the form numbers. ~~The forms are incorporated by reference in this rule.~~ Copies of these forms and instructions may be obtained by writing to the Bureau of Wastewater Facilities, Mail Station 3535, Department of Environmental Protection, ~~Twin Towers Office Building~~, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. In addition, these forms are available at the Department’s District Offices and from the web site for the Department’s Division of Water Resource Management at [www.dep.state.fl.us/water](http://www.dep.state.fl.us/water) as described in Chapter 62-101, F.A.C. The monitoring information reported on the forms listed below in paragraphs (b) and, (c) ~~and~~ (d) may be submitted in another format if requested by the permittee and if approved by the Department as being compatible with data entry into the Department’s computer system. The Department adopts and incorporates by reference in this section the following forms and instructions:

(a) Treatment Facility Biosolids Agricultural Use Plan, Form 62-640.210(2)(a), effective ~~December 1, 1997~~.

(b) Treatment Facility Residuals Annual Summary, Form 62-640.210(2)(b), effective ~~December 1, 1997~~.

(c) Biosolids Application Site Annual Summary, Form 62-640.210(2)(c), effective ~~December 1, 1997~~. Monthly Residuals Distribution and Marketing Report, Form 62-640.210(2)(e), effective ~~December 1, 1997~~.

(d) Biosolids Site Permit Application, Form 62-640.210(2)(d), effective ~~December 1, 1997~~. Residuals Monitoring Report, Form 62-640.210(2)(d), effective ~~December 1, 1997~~.

(e) Biosolids Application Site Log, Form 62-640.210(e), effective ~~December 1, 1997~~.

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 8-12-90, Formerly 17-640.210, Amended 3-30-98, ~~\_\_\_\_\_~~.

#### 62-640.300 General Permit Requirements.

(1) Facilities that receive or generate biosolids shall have a valid Department permit prior to treatment, land application, distribution and marketing, or disposal of biosolids. Facility permits shall specify the use or disposal of the facility’s biosolids. Biosolids shall be managed in accordance with the facility permit and the requirements of this chapter. Residuals shall be applied to an application site only if the facility generating or treating the residuals has a valid Department permit that includes an approved Agricultural Use Plan for the site.

(2) Treatment Facility Permit for Facilities that Land Apply Biosolids, New, Expanded or Modified Application Sites — Permit Revisions. Except as allowed in subsection 62-640.300(3), F.A.C., the facility’s permit shall be revised under Chapter 62-620, F.A.C., to include a new or revised Agricultural Use Plan prior to application of residuals to new application sites or existing approved sites that are expanded or modified. Approval of new, expanded or modified application sites constitutes a minor permit revision. A facility may submit more than one Agricultural Use Plan with each application for a minor permit revision.

(a) The permit for a facility that provides final treatment of land applied biosolids shall identify each permitted biosolids application site where the facility’s biosolids are to be land applied.

(b) The Treatment Facility Biosolids Plan, Form 62-640.210(2)(a), shall be submitted with the permit application to identify sites where the facility’s biosolids are permitted to be land applied.

(c) To use an alternate permitted application site not identified on the submitted Treatment Facility Biosolids Plan, Form 62-640.210(2)(a), the treatment facility shall notify the Department before beginning biosolids application at the application site and submit the applicable revised portions of the Treatment Facility Biosolids Plan, Form 62-640.210(2)(a), to the Department within 30 days. The revised portion of the Treatment Facility Biosolids Plan, Form 62-640.210(2)(a), shall become part of the treatment facility permit.

~~(3) Biosolids Application Site Permit, New, Expanded or Modified Application Sites — Unusual Circumstances. A permittee who is authorized to land apply residuals may use a new, expanded or modified application site before permit revision if all of the following conditions are met:~~

~~(a) All biosolids application sites shall have a valid Department permit as a biosolids management facility. Alternatively, when an application site is used solely by a single facility, the applicant can choose to have the site permitted through the Department permit for the wastewater treatment facility, a biosolids treatment facility, or a septage management facility. The permittee notifies the Department within 24 hours that the site is being used;~~

~~1. An individually permitted biosolids application site shall be permitted as a biosolids management facility in accordance with the applicable requirements of this chapter, Chapter 62-600, F.A.C., and Chapter 62-620, F.A.C. An individual biosolids application site permit shall cover only one site and shall not include multiple biosolids application sites.~~

~~2. The applicant of a wastewater treatment facility, biosolids treatment facility, or septage management facility permit can choose to include one or more biosolids land application sites used solely by the facility.~~

~~(b) A biosolids application site shall be permitted under one permit. The site meets the site use restrictions of subsection 62-640.600(3), F.A.C., and the criteria for land application of residuals in Rule 62-640.700, F.A.C.;~~

~~(c) Applicants for a permitted biosolids application site shall submit the Biosolids Site Permit Application, Form 62-640.210(2)(d), the applicable fee, and supporting documentation to the appropriate District Office of the Department or delegated local program responsible for the geographic area in which the application site is located.~~

~~1. If permitted individually, the fee shall be the Type III biosolids management facility fee specified in sub-subparagraph 62-4.050(4)(b)2.c., F.A.C.~~

~~2. If permitted in a wastewater treatment facility, biosolids treatment facility, or septage management facility permit, the Biosolids Site Permit Application, Form 62-640.210(2)(d), shall be submitted with the facility's application for a new permit, permit renewal, or substantial modification to the permit. No additional fee will be charged beyond the fee required for the facility's application for a new permit, permit renewal, or substantial modification to the permit. The permittee submits a new or revised Agricultural Use Plan for the site with a permit application in accordance with subsection 62-640.300(2), F.A.C., within 30 days of beginning use of the site;~~

~~(d) The following shall require a minor permit modification:~~

~~1. Expansions or changes to the physical boundaries of the application areas of a permitted application site that encompass areas not addressed in the site permit and NMP; or~~

~~2. Changes to the agricultural operations at the application site, such as a change in crops or management practices, that will result in increased nutrient loading or application rates not addressed in the NMP. A revised NMP shall be submitted with the minor permit revision application. The permittee does not have another approved land application site, another approved disposal method (e.g., landfilling or incineration), or approved storage facilities available for use; and~~

~~(e) New application sites shall be permitted prior to use. Existing application sites shall be permitted prior to applying biosolids from facilities required to use a permitted site in accordance with subsection 62-640.300(2), F.A.C. All existing application sites shall be permitted no later than January 1, 2013. The permittee demonstrates during permit application that application of additional residuals to an existing approved application site would have resulted in violation of Department rules, or was not possible due to circumstances beyond the permittee's control.~~

~~(4) Biosolids Residuals Storage at a Treatment Facility. The preliminary design report for a new facility or expansion of an existing facility shall include provisions for storage of treated or untreated residuals or other solids at the facility. Storage of residuals or other solids at an existing facility shall require prior written notification to the Department if the storage lasts longer than 30 days, or if the storage provisions were not addressed in the facility's preliminary design report.~~

~~(a) The treatment facility permittee shall submit a biosolids storage plan with the facility permit application. The plan shall demonstrate that storage capacity is available to provide retention of biosolids under adverse weather conditions, harvesting conditions, or other conditions which preclude land application or the use or disposal of the facility's biosolids. The demonstration of storage capacity provided by the permittee can take into account alternative options and operational flexibility, such as the use of excess digester capacity.~~

~~(b) Biosolids storage facilities at the treatment facility shall be designed in accordance with sound engineering practice. General technical guidance is provided in the EPA document *Process Design Manual for Sludge Treatment and Disposal*, paragraph 62-640.210(1)(d), F.A.C.; the Health Education Service document *Recommended Standards for Wastewater Facilities*, paragraph 62-640.210(1)(e), F.A.C., and the EPA document *Guide to Field Storage of Biosolids*, paragraph 62-640.210(1)(k), F.A.C.~~

~~(c) Biosolids storage at the land application site shall be in accordance with paragraph 62-640.700(6)(e), F.A.C.~~

~~(5) Responsibility for Treatment and Proper Use.~~



~~(a) The wastewater treatment facility permittee or residuals management facility permittee shall be responsible for proper treatment, management, use, and land application of its residuals. The facility permittee will not be held responsible for violations resulting from land application of residuals if the permittee can demonstrate that it has delivered residuals that meet the parameter concentrations and appropriate treatment requirements of this rule and the applicer (e.g. hauler, contractor, site manager, or site owner) has legally agreed in writing to accept responsibility for proper land application of the residuals. Such an agreement shall state that the applicer agrees, upon delivery of residuals that have been treated as required by Chapter 62-640, F.A.C., that he will accept responsibility for proper land application of the residuals as required by Chapter 62-640, F.A.C., and that the applicer agrees that he is aware of and will comply with requirements for proper land application as described in the facility's permit.~~

~~(b) A source facility permittee shall not be held responsible for treatment, management, use, or land application violations that occur after its residuals have been accepted by a permitted residuals management facility with which the source facility permittee has an agreement in accordance with paragraph 62-640.880(1)(e), F.A.C., for further treatment, management, use or land application.~~

~~Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708, FS. History—New 8-12-90, Formerly 17-640.300, Amended 3-30-98,\_\_\_\_\_.~~

62-640.400 Prohibitions.

(1) Ocean disposal of biosolids residuals, or disposal of biosolids residuals in any water, including direct discharge to ground water, is prohibited.

(2) Land application of biosolids shall not result in a violation of Florida water quality standards. Residuals which do not meet Class A pathogen reduction requirements set forth in paragraph 62-640.600(1)(a), F.A.C., shall not be used on playgrounds, parks, golf courses, lawns, hospital grounds, or other unrestricted public access areas where frequent human contact with the soil is likely to occur and shall not be sold or given away in a distribution and marketing program.

(3) Biosolids Residuals which are hazardous waste under Chapter 62-730, F.A.C., shall not be applied to land.

(4) Biosolids Residuals shall not be discharged into a collection or transmission system without prior consent of the owner of that system.

(5) Biosolids Residuals shall not be disposed, ~~or~~ applied to land, or distributed and marketed except in accordance with the provisions of this chapter.

(6) The treatment, management, transportation, use, ~~or~~ land application, or disposal of biosolids residuals shall not cause a violation of the odor prohibition in subsection 62-296.320(2), F.A.C.

~~(7) Residuals that do not meet the requirements of this chapter for Class AA designation shall not be used for the cultivation of tobacco or leafy vegetables.~~

~~(7)(8) Treatment of liquid biosolids residuals or septage for the purpose of meeting the pathogen reduction or vector attraction reduction requirements set forth in Rule 62-640.600, F.A.C., shall not be conducted in the tank of a hauling vehicle. Treatment of biosolids residuals or septage for the purpose of meeting pathogen reduction or vector attraction reduction requirements shall take place at the permitted facility.~~

~~(8)(9) Biosolids Residuals that do not meet the requirements of Rule 62-640.850, F.A.C., this chapter for distribution and marketing Class AA designation shall not be shipped into Florida unless shipped to a Department permitted biosolids treatment facility or domestic wastewater facility that has legally agreed in writing to accept responsibility for proper treatment, management, use and land application of the biosolids residuals.~~

(9) Class A or Class B biosolids shall not be spilled from or tracked off the treatment facility site or land application site by the hauling vehicle.

(10) Land application of Class A and Class B biosolids is prohibited within the primary and secondary protection zones of the Wekiva Study Area in accordance with Rule 62-600.550, F.A.C. Application of Class AA biosolids that are distributed and marketed in accordance with Rule 62-640.850, F.A.C., is permissible.

~~Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708, FS. History—New 8-12-90, Formerly 17-640.400, Amended 3-30-98,\_\_\_\_\_.~~

(Substantial rewording of Rule 62-640.500 follows. See Florida Administrative Code for present text.)

62-640.500 Nutrient Management Plan (NMP) Agricultural Use Plan.

(1) A site-specific NMP shall be submitted to the Department with the permit application for an agricultural site.

(2) The NMP shall be developed, or revised as necessary, in accordance with nutrient management standards and guidelines such as those from the Natural Resources Conservation Service (NRCS), the University of Florida Institute of Food and Agricultural Sciences (IFAS), or the Florida Department of Agriculture and Consumer Services (FDOACS). NMPs prepared in accordance with the USDA-NRCS-Florida Field Office Technical Guide – Nutrient Management, Code 590, hereby adopted and incorporated by reference, shall be acceptable to the Department.

(3) The NMP shall be prepared and signed by a person certified by the NRCS for nutrient management planning or prepared, signed and sealed by a professional engineer licensed in the State of Florida with expertise in the area of nutrient management planning.

(4) The NMP shall identify each application zone to be used at the site as identified in the Biosolids Site Permit Application, Form 62-640.210(2)(d). Application zones shall be sized to facilitate accurate accounting of nutrient and pollutant loadings and shall be in accordance with Rule 62-640.700, F.A.C., as applicable for the class(es) of biosolids that will be applied to the site.

(5) The NMP shall meet the requirements of this chapter and shall:

(a) Include aerial site photograph(s) or map(s), and a soil survey map of the site;

(b) Include guidance for NMP implementation, site operation, maintenance, and recordkeeping;

(c) Include results of soil, water, plant tissue, and biosolids analyses, as applicable. The soil fertility testing used to develop the NMP shall be less than one year old;

(d) Identify the frequency interval for soil fertility testing. The interval shall be at least once every five years with consideration for more frequent testing if increases in soil phosphorus levels are expected;

(e) Establish specific rates of application and procedures to land apply biosolids and all other nutrient sources to each application zone. The NMP shall address application rates for a projected five-year period, at a minimum. As part of establishing the application rates, the NMP shall include:

1. A specific assessment of the potential for phosphorus movement from each application zone;

2. A listing and quantification of all nutrient sources for each application zone;

3. The availability of the nitrogen in the biosolids being applied, any nitrogen available from biosolids applications in previous years, and any nitrogen available in subsequent years covering the minimum five year period of the NMP;

4. The current and planned plant production sequence or crop rotation for each application zone for the next five years, at a minimum;

5. Realistic annual yield goals for each crop identified for each application zone;

6. The recommended nitrogen and phosphorus application rates (i.e. nutrient demand) for the crops to be grown on each application zone;

7. The calcium carbonate equivalency of any alkaline-treated biosolids and recommended lime application rates for each application zone;

8. The method of land application for each application zone; and

9. The methodology and calculations used to determine the application rates for each application zone.

(6) When considering the availability of nitrogen in biosolids, the following shall be accepted by the Department:

(a) The nitrogen calculation methods found in Chapter 7 of the U.S. Environmental Protection Agency *Process Design Manual for Land Application of Sewage Sludge and Domestic Septage*, which is hereby adopted and incorporated by reference. All calculations and values used in the calculations shall be fully documented and submitted with the NMP. These values shall include a complete nitrogen analysis (i.e. organic nitrogen (Org-N), ammonium (NH<sub>4</sub>-N), and nitrate (NO<sub>3</sub>-N)) for all facilities that will use the site; or

(b) In lieu of using the full calculation method for nitrogen in Chapter 7 of the U.S. Environmental Protection Agency *Process Design Manual for Land Application of Sewage Sludge and Domestic Septage*, once the amount of plant available nitrogen to be supplied by biosolids has been determined (i.e. the crop nitrogen demand has been adjusted to take other sources of nitrogen into account), this amount may be multiplied by a factor of 1.5 (i.e. a 50 percent increase) to determine the amount of total nitrogen that may be supplied by biosolids.

(7) For application sites located in geographic areas that have been identified by statute or rule of the Department as being subject to restrictions on phosphorus loadings (such as the Everglades Protection Area as set forth in Section 373.4592, F.S., the Lake Okeechobee watershed as set forth in Section 373.4595, F.S., Lake Apopka as set forth in Section 373.461, F.S., and the Green Swamp Area as set forth in Section 380.0551, F.S.), the NMP shall:

(a) Base application rates on the phosphorus needs of the crop; and

(b) Address measures that will be used to minimize or prevent water quality impacts that could result from biosolids application areas to surface waters.

(8) For application sites subject to Section 373.4595, F.S., the NMP shall include the demonstration required by Section 373.4595(3)(c)6.a., Section 373.4595(4)(a)2.e., or Section 373.4595(4)(b)2.e., F.S., as applicable.

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 8-12-90, Formerly 17-640.500, Amended 3-30-98, \_\_\_\_\_.

62-640.600 Pathogen Reduction and; Vector Attraction Reduction, and Site Use Restrictions.

All biosolids residuals applied to land or distributed and marketed shall be treated with a treatment process designed to reduce pathogens and achieve vector attraction reduction in accordance with the requirements of this section. All land application sites shall conform to the site use restrictions of this section. The Department hereby adopts and incorporates by reference the pathogen and vector attraction reduction requirements of Title 40 CFR Code of Federal Regulations (CFR) Part 503, subpart D, sections 503.32 and 503.33, revised

as of April 9, 2007, and effective on April 25, 2007 ~~October 25, 1995~~, except for the site restrictions in 40 CFR Section 503.32(b)(5), the septage requirements in 40 CFR section 503.32(c), and the vector attraction reduction requirements in 40 CFR Section 503.33(b)(11) and Section 503.33(b)(12).

(1) Pathogen Reduction Requirements. ~~All residuals applied to the land shall be classified as either Class A or Class B with respect to pathogens.~~

(a) Class AA and Class A Biosolids Residuals. ~~Class AA and Class A biosolids shall meet one of the pathogen reduction requirements described in 40 CFR 503.32(a)(3), (4), (5), (7), and (8). For treatment processes permitted under 40 CFR 503.32(a)(5), a permittee shall not implement the provisions of 40 CFR 503.32(a)(5)(ii)(D) and 503.32(a)(5)(iii)(D) until: Residuals will be classified as Class A if one of the pathogen reduction requirements described in section 503.32(a), is met.~~

1. The permittee demonstrates to the Department, based on monitoring data from the facility, that the documented pathogen treatment process operating parameters reduce enteric viruses and viable helminth ova to levels below the limits specified in 40 CFR 503.32(a)(5); and

2. The permit is revised to specifically allow the permittee to implement 40 CFR 503.32(a)(5)(ii)(D) and 503.32(a)(5)(iii)(D).

(b) Class B Biosolids Residuals. ~~Class B Biosolids shall meet Residuals will be classified as Class B if one of the pathogen reduction requirements described in 40 CFR section 503.32(b), is met.~~

(c) ~~Lime Addition to Septage.~~ Septage management facilities that are regulated by the Department, and that do not treat any amount of biosolids residuals, shall satisfy Class B pathogen reduction requirements if sufficient lime is added to produce a pH of 12 for a minimum of two 2 hours, or a pH of 12.5 for a minimum of 30 minutes. Processes and design shall be in accordance with the guidance for lime stabilization of septage in Chapter 6, Process Design Manual for Sludge Treatment and Disposal, which the Department adopts and incorporates by reference. The pH shall be maintained at or above 11 until ~~the septage is land application applied~~, but shall be less than 12.5 at the time of land application. Materials treated in accordance with this provision shall be managed as Class B biosolids.

(2) Vector Attraction Reduction Requirements.

(a) ~~All Class A and Class B biosolids residuals applied to land shall meet one of the vector attraction reduction requirements in 40 CFR Section 503.33(b)(1) through (10); except Section 503.33(b)(11) and Section 503.33(b)(12).~~

(b) Class AA biosolids shall meet one of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (8).

~~(c)(b) Lime Addition to Septage.~~ Septage management facilities that are regulated by the Department, and that do not treat any amount of biosolids residuals, shall satisfy vector attraction reduction requirements if the Class B pathogen reduction requirements of paragraph 62-640.600(1)(c), F.A.C. are met.

~~(3) Site Use Restrictions.~~

~~(a) Use of Class A residuals is allowed on unrestricted public access areas such as playgrounds, parks, golf courses, lawns, and hospital grounds.~~

~~(b) Class B residuals shall not be used on unrestricted public access areas such as playgrounds, parks, golf courses, lawns, and hospital grounds. Use of Class B residuals is limited to restricted public access areas such as agricultural sites, forests, and roadway shoulders and medians. The public shall be restricted from the application zone for 12 months after the last application of residuals. The following restrictions also apply to the use of Class B residuals:~~

~~1. Plant nursery use of Class B residuals is limited to plants which will not be sold to the public for 12 months after the last application of residuals.~~

~~2. Use of Class B residuals on roadway shoulders and medians is limited to restricted public access roads.~~

~~3. Food crops with harvested parts that touch the residuals/soil mixture and are totally above the land surface shall not be harvested for 14 months after the last application of Class B residuals.~~

~~4. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of Class B residuals when the residuals remain on the land surface for four months or longer before incorporation into the soil.~~

~~5. Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of Class B residuals when the residuals remain on the land surface for less than four months before incorporation into the soil.~~

~~6. Food crops, feed crops, and fiber crops shall not be harvested for 30 days following the last application of Class B residuals.~~

~~7. Animals shall not be grazed on the land for 30 days after application of Class B residuals.~~

~~8. Sod which will be distributed or sold to the public or used on unrestricted public access areas shall not be harvested for 12 months after the last application of Class B residuals.~~

~~9. The minimum setback distance specified in paragraph 62-640.700(4)(d), F.A.C., shall be provided between a land application area where Class B residuals are applied, and a building occupied by the general public.~~

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 8-21-90, Formerly 17-640.600, Amended 3-30-98,\_\_\_\_\_.

62-640.650 Monitoring, Record Keeping, Reporting, and Notification.

(1) The minimum requirements in this chapter for monitoring, record keeping, or reporting by a permittee facility may be increased or reduced by the Department Secretary or the Secretary's designee depending upon site-specific requirements, including the quality or quantity of wastewater or biosolids residuals treated; historical variations in biosolids residuals characteristics; the types of crops grown on the application site; industrial wastewater or sludge contributions to the facility; the use, land application, or disposal of the biosolids; the water quality of surface and ground water and the hydrogeology of the area; wastewater or biosolids treatment processes; the level of treatment of residuals, and the compliance history of the facility or application site.

(2) An increase or reduction in a permittee's facility's monitoring or reporting requirements will require a minor permit revision under Rule 62-620.325, F.A.C. Revisions to decrease increase or reduce permit requirements for monitoring or reporting shall be subject to the public notice requirements of subsection 62-620.325(2), F.A.C.

(3)(4) Monitoring Requirements.

(a) Biosolids Monitoring.

1. Biosolids Residuals sampling and analysis to monitor for the pathogen and vector attraction reduction requirements of Rule 62-640.600, F.A.C., and the parameters in subparagraph 62-640.650(3)(a)3. ~~paragraph 62-640.650(1)(b), F.A.C., shall be conducted by the treatment facility in accordance with Title 40 CFR Code of Federal Regulations (CFR) Part 503, section 503.8, and the POTW Sludge Sampling and Analysis Guidance Document, which the Department adopts and incorporates by reference. In cases where disagreements exist between Title 40 CFR Part 503, section 503.8 and the POTW Sludge Sampling and Analysis Guidance Document, the requirements in Title 40 CFR Part 503, section 503.8 will apply.~~

2. Permit applications for all treatment facilities that land apply or distribute and market biosolids shall identify the monitoring that will be conducted for all microbial and all operational and process parameters necessary to demonstrate compliance with the pathogen reduction and vector attraction reduction requirements of Rule 62-640.600, F.A.C. All operational and process parameters, such as time and temperature, number of windrow turnings, pH readings, etc., shall be monitored on a continual basis as applicable to the treatment process to demonstrate compliance with Rule 62-640.600, F.A.C.

3.(b) All treatment facilities that land apply or distribute and market biosolids shall analyze biosolids residuals for the following parameters, except as provided in paragraph 62-640.880(5)(a), F.A.C.:

Total Nitrogen	% dry weight basis
Total Phosphorus	% dry weight basis
Total Potassium	% dry weight basis
Arsenic	mg/kg dry weight basis
Cadmium	mg/kg dry weight basis
Copper	mg/kg dry weight basis
Lead	mg/kg dry weight basis
Mercury	mg/kg dry weight basis
Molybdenum	mg/kg dry weight basis
Nickel	mg/kg dry weight basis
Selenium	mg/kg dry weight basis
Zinc	mg/kg dry weight basis
pH	standard units
Total Solids	%

Calcium Carbonate Equivalent\* % dry weight basis

\* Only required for biosolids treated by alkaline addition

~~Analysis of additional parameters may be required by the Department, based on changes in the quality of the wastewater or residuals as a result of new discharges to the treatment plant, changes in wastewater treatment processes or process efficiency, changes in the treatment, use, land application, or disposal of the residuals, the presence of toxic substances in the residuals, the water quality of surface and ground waters, and hydrogeology of the area. Analysis of additional parameters will require a minor permit revision under Rule 62-620.325, F.A.C.~~

4.(e) Treatment facilities that land apply or distribute and market biosolids shall monitor microbial parameters and The required frequency of monitoring for the pathogen and vector attraction reduction requirements of Rule 62-640.600, F.A.C., and the parameters listed in subparagraph 62-540.650(3)(a)3. paragraph 62-640.650(1)(b), F.A.C., as follows: shall be specified in each facility's permit.

a. For biosolids residuals that are distributed and marketed under the provisions of Rule 62-640.850, F.A.C., the minimum frequency of monitoring shall be once per month.

b. For biosolids treatment facilities that land apply biosolids, the minimum frequency of monitoring shall be in accordance with sub-subparagraph 62-640.650(3)(a)4.c., F.A.C, but at least quarterly.

c. For all other biosolids that are land applied residuals, the minimum frequency of monitoring shall be in accordance with the following table:

<u>BIOSOLIDS GENERATED</u>	<u>MONITORING FREQUENCY</u>
<u>Residuals Generated*</u>	<u>Monitoring Frequency</u>
<u>(DRY TONS PER YEAR)</u>	
<u>(dry tons per year)</u>	
Greater than zero but less than <u>160 320.</u>	Once per year.

Equal to or greater than <del>160</del> <del>320</del> but less than <del>800</del> <del>1,653</del> .	Once per quarter.
Equal to or greater than <del>800</del> <del>1,653</del> but less than <del>8000</del> <del>16,535</del> .	Once per 60 days.
Equal to or greater than <del>8000</del> <del>16,535</del> .	Once per month.

~~\*The amount of residuals generated shall be based on the permitted capacity of the facility.~~

~~5.(d) Sampling locations, sampling frequency number of samples, and monitoring parameters shall be specified in the treatment facility's permit. All biosolids residuals samples shall be representative of the biosolids residuals used, land applied, or distributed and marketed, and shall be taken after final treatment of the biosolids residuals but before use, land application, or distribution and marketing. If Class AA biosolids are to be stored by the treatment facility permittee for more than 45 days, then the permittee shall address the need to re-sample for fecal coliform or salmonella sp. in the facility biosolids storage plan submitted with the permit application.~~

~~6.(e) Grab samples shall be used to monitor for pathogens and determine determinations of percent volatile solids. Composite samples shall be used to monitor for metals and nutrients.~~

~~7.(f) Residuals shall not be land applied if a single sample result for any parameter exceeds the ceiling concentrations specified in subsection 62-640.700(1), F.A.C. Residuals shall not be distributed and marketed under the provisions of Rule 62-640.850, F.A.C. if the monthly average of sample results for any parameter exceeds one or more of the parameter concentrations in paragraph 62-640.850(3)(a), F.A.C. Monthly averages of parameter concentrations shall be determined by taking the arithmetic mean of all sample results for the month.~~

(b) Soil Monitoring.

1. The site permittee shall ensure soil fertility testing is conducted in accordance with the NMP. Soil testing shall follow the procedures in the IFAS publications "Soil Testing", UF/IFAS Circular 239, identified in paragraph 62-640.210(1)(o), F.A.C., and "Extension Soil Testing Laboratory (ESTL) Analytical Procedure and Training Manual", UF/IFAS Circular 1248, identified in paragraph 62-640.210(1)(p), F.A.C., which are hereby incorporated by reference. Results of soil fertility tests shall be included in the application site records.

2. Representative soil monitoring for parameters in subsection 62-640.700(5), F.A.C., shall be conducted at application sites for each application zone prior to application site permitting, except for sites only permitted for Class AA biosolids. At a minimum, one soil sample shall be taken for each application zone or for every 50 acres of application area, whichever is smaller. Each sample shall be a composite of at

least ten random samples to a depth of six inches and shall be completely mixed to form a minimum one-pound sample. Sampling and analysis shall be in accordance with 40 CFR 503.8(4), which is hereby incorporated by reference. Results of initial soil monitoring shall be reported on the Biosolids Site Permit Application, Form 62-640.210(2)(d).

~~(g) If soil testing is performed at a residuals land application site under paragraph 62-640.500(4)(a), F.A.C., such testing will be performed as specified in the approved Agricultural Use Plan for the site.~~

(c) Ground Water Monitoring.

1. A ground water monitoring program shall be established by the site permittee, and approved by the Department for land application sites when the application rate in the NMP exceeds more than 400 lbs/acre/year of plant available nitrogen.

2. The ground water monitoring program shall be established in accordance with Rule 62-520.600, F.A.C., and submitted with the site permit application.

3. When a ground water monitoring program is required for a biosolids application site with multiple application zones, one or more of the zones shall be selected by the site permittee and approved by the Department as the model zone(s) for monitoring of the ground water. The model zone(s) shall be representative of each zone's hydrogeological characteristics, soil characteristics, vegetative cover, biosolids application method, and the characteristics of the biosolids to be applied.

4. A characterization of ground water quality shall be conducted for nitrate (as N), total nitrogen, total phosphorus, pH, fecal coliform, the metals listed in paragraph 62-640.650(3)(a), F.A.C. For new sites, this characterization shall be conducted prior to the application of biosolids. For existing sites, this characterization shall be conducted within 30 days of the date of permit issuance for the site by the Department.

5. Each groundwater monitoring well shall be sampled quarterly for nitrate (as N), total nitrogen, total phosphorus, pH, and fecal coliform.

~~(d)(h) Any laboratory tests required by this chapter shall be performed by a laboratory certified in accordance with paragraph 62-620.610(18)(d), F.A.C. by the Department of Health under Chapter 64E-1, F.A.C., to perform the test. Sample collection required by this chapter shall be performed in accordance with paragraph 62-620.610(18)(e), F.A.C. The Specific Oxygen Uptake Rate (SOUR) test, as required by 40 CFR 503.33(b)(4), shall be conducted within 15 minutes of sample collection and shall be performed by a certified laboratory or under the direction of an operator certified in accordance with Chapter 62-602, F.A.C.~~

~~(4)(2) Record Keeping Requirements.~~

(a) Treatment facility permittees shall keep records of the quantities of biosolids generated, received from source facilities, treated, landfilled, incinerated, transferred to another facility, land applied, or distributed and marketed. These records shall be kept for a minimum of five years. Records of application zones and application rates must be maintained by the permittee and must be available for inspection within seven days of request by the Department, or the delegated Local Program, except as provided in paragraph 62-640.650(2)(b), F.A.C. Information reported in the Annual Summary shall reflect the application zones identified in the approved Agricultural Use Plan. The permittee must maintain the records in subparagraphs 62-640.650(2)(a)1. through 5., F.A.C., in perpetuity, and maintain the records in subparagraphs 62-640.650(2)(a)6. through 11., F.A.C., for five years:

1. Date of application of the residuals;
2. Location of the application site as specified on Form 62-640.210(2)(a);
3. Identification of each application zone used by the permittee at the application site and the acreage of each zone;
4. Amount of residuals applied or delivered to each application zone;
5. Cumulative loading for each application zone, in accordance with subsection 62-640.700(3), F.A.C.;
6. The names of all other wastewater facilities using each of the application zones identified in subparagraph 62-640.650(2)(a)3., F.A.C.;
7. Method of incorporation of residuals (if any);
8. Measured pH of the residuals soil mixture at the time the residuals are applied, tested at least annually as required by subsection 62-640.700(5), F.A.C.;
9. Unsaturated depth of soil above the water table level at the time of application, as determined in accordance with paragraph 62-640.700(6)(a), F.A.C.;
10. Concentration of parameters in the residuals as required by paragraph 62-640.650(1)(b), F.A.C., and date of last analysis; and
11. The results of any soil testing that is done under paragraph 62-640.500(4)(a), F.A.C.

(b) Treatment facility permittees shall keep records of all biosolids monitoring required by paragraph 62-640.650(3)(a), F.A.C., for a minimum of five years. Distribution and marketing of Class AA residuals is exempt from the record keeping requirements of this subsection.

(c) Treatment facility permittees shall retain the Biosolids Application Site Annual Summaries received in accordance with paragraph 62-640.650(5)(e), F.A.C., indefinitely.

(d) Treatment facility permittees that land apply biosolids and site permittees receiving biosolids shall maintain hauling records to track the transport of biosolids between the treatment facility and the application site. The hauling records for each party shall contain the following information:

TREATMENT FACILITY PERMITTEE

1. Date and Time Shipped and Shipment ID
2. Amount of Biosolids Shipped
3. Concentration of Parameters in subparagraph 62-640.650(3)(a)3., F.A.C., and the Date of Analysis

4. Class of Biosolids Shipped
5. Name and ID Number of Permitted Application Site Where Biosolids are Shipped
6. Signature of Certified Operator at the Treatment Facility or Designee
7. Signature of Hauler and Name of Hauling Firm

(e) The hauling records shall be kept by both the treatment facility permittee and the site permittee for a minimum of five years and shall be made available for inspection upon request by the Department.

(f) A copy of the treatment facility hauling records required by paragraph 62-640.650(4)(d), F.A.C., shall be provided upon delivery of the biosolids to the site manager.

(g) For each shipment of biosolids received, the site manager shall provide a receipt to the treatment facility within 30 calendar days of delivery of the biosolids. The receipt shall include information required to be maintained by the site permittee in accordance with paragraph 62-640.650(4)(d), F.A.C.

(h) The treatment facility shall maintain each receipt required by paragraph 62-640.650(4)(g), F.A.C., for a minimum of five years.

(i) The treatment facility permittee shall report to the appropriate District Office of the Department within 24 hours of discovery of any discrepancy in delivery of biosolids leaving the treatment facility and arriving at the permitted application site.

(j) Logs and records detailing biosolids applications to each application zone at an application site shall be maintained by the site permittee indefinitely and shall be available for inspection within seven days of request by the Department or the Delegated Local Program. At a minimum, the logs and records for the most recent six months of application shall be available for inspection at the land application site (i.e. maintained onsite). The logs and records shall include:

1. A copy of the approved NMP;
2. The cumulative loading for each zone in accordance with subsection 62-640.700(7), F.A.C.;

SITE PERMITTEE

1. Date and Time Received and Shipment ID
2. Name and ID Number of Treatment Facility from which Biosolids are Received
3. Signature of Hauler
4. Signature of Site Manager at the Application Site or Designee

3. For each application zone, maintain Biosolids Site Log, Form 62-640.210(2)(e), F.A.C.;

4. The results of all soil monitoring and ground water monitoring conducted in accordance with paragraphs 62-640.650(3)(b) and (c), F.A.C.; and

5. Any records necessary for demonstrating compliance with the NMP such as crop planting records, harvesting dates, harvested yields, applications of other sources of nutrients, or other records identified in the NMP.

~~(5)(3)~~ Reporting Requirements.

(a) Treatment facility permittees shall report the following information on the facility's monthly Discharge Monitoring Report required by subsection 62-620.610(18), F.A.C.

1. The total quantities of biosolids received from source facilities, landfilled, incinerated, transferred to another facility, land applied, or distributed and marketed for the reporting period.

2. The results of all monitoring conducted by permitted facilities under subparagraph 62-640.650(3)(a)3., F.A.C., subsection 62-640.650(1), F.A.C., shall be submitted to the Department with the facility's Discharge Monitoring Report under Chapter 62-601, F.A.C., or Residuals Monitoring Report under paragraph 62-640.650(3)(d), F.A.C., as applicable. The analytical results from each sampling event shall be submitted with the report for the month in which the sampling event occurs.

3. For facilities distributing and marketing biosolids in Florida, the information required in subsection 62-640.850(4), F.A.C.

(b) Distribution and Marketing Reporting. Any person who delivers biosolids to Florida for distribution and marketing shall submit a monthly Discharge Monitoring Report that includes the information required in subsection 62-640.850(4), F.A.C., on the appropriate form provided by the Department.

~~(c)(b)~~ Treatment Facility Annual Summary. Permittees of wastewater treatment facilities or biosolids treatment facilities permitted for land application The permittee using an application site (or sites) shall submit a summary of the shipment records required by paragraph 62-640.650(4)(d) and subsection 62-640.880(4), F.A.C., as applicable, residuals application activity at the sites to the appropriate District Office of the Department, or to the delegated local program, on an annual basis. The summary must be submitted on Department Form 62-640.210(2)(b). If more than one facility applies residuals to the same application zones, the summary must include a subtotal of each facility's contribution of residuals to the application zones. The summary shall include all biosolids shipped residuals applied during the period January 1 through December 31. The summary for each year shall be submitted to the Department by February 19 of the following year. The summary must include all of the following:

1. The total amounts of residuals, nitrogen, phosphorus, potassium and heavy metals applied to each application zone.

2. The total quantity of other solids, if any, applied to each application zone under the provisions of Rule 62-640.860, F.A.C.

3. The total cumulative loading for the parameters specified in paragraph 62-640.700(3)(b), F.A.C., applied to each application zone. Cumulative loading shall be determined as described in subsection 62-640.700(3), F.A.C., and shall be calculated for all residuals applications at a site beginning with the earlier of:

a. The date of the first application of residuals at the site subject to regulation by Chapter 62-640, F.A.C.; or

b. The date of the first application of residuals at the site subject to regulation by Title 40 Code of Federal Regulations Part 503.

4. A summary of hauling records information for residuals management facilities, as described in Rule 62-640.880, F.A.C.

~~(c)~~ Distribution and Marketing Reports. Any facility which produces Class AA residuals in Florida and any person who delivers Class AA residuals to Florida must submit a Monthly Residuals Distribution and Marketing Report to the Department in accordance with subsection 62-640.850(4), F.A.C.

(d) Biosolids Application Site Annual Summary. The site permittee shall submit a summary of land application activity to the appropriate District Office of the Department, or to the delegated local program, on an annual basis. The summary shall be submitted on Department Form 62-640.210(2)(c). The summary for each year, covering the period from January 1 through December 31, shall be submitted to the Department by February 19 of the following year. The summary shall include all of the following, as applicable:

1. The total quantities of biosolids, other solids, nitrogen, phosphorus, potassium, and heavy metals applied to each application zone identified in the site's NMP. Reporting of heavy metals applied is not required for sites where only Class AA biosolids are applied.

2. Except for sites where only Class AA biosolids are applied, the total cumulative loading for the parameters specified in paragraph 62-640.700(7)(b), F.A.C., applied to each application zone identified in the site's NMP. Cumulative loading shall be determined as described in subsection 62-640.700(7), F.A.C., and shall be calculated for all biosolids applications at a site beginning with the earlier of:

a. The date of the first application of biosolids at the site subject to regulation by Chapter 62-640, F.A.C.; or

b. The date of the first application of biosolids at the application site subject to regulation by 40 CFR 503.

3. A summary of the total quantities of biosolids applied from each treatment facility using the application site.

4. The results of any ground water monitoring required by paragraph 62-640.650(3)(c), F.A.C.

5. A copy of any revised sections of the NMP made in accordance with Rule 62-640.500, F.A.C.

~~(d) Residuals Monitoring Reports. Residuals management facility and septage management facility permittees who are not required to submit a Discharge Monitoring Report shall report the results of monitoring performed under subsection 62-640.650(1), F.A.C., to the Department in a Residuals Monitoring Report on Department Form 62-640.210(2)(d). For residuals management facilities, the report shall include a summary of all hauling records information that is maintained under subsection 62-640.880(4), F.A.C., for the period of report. The report shall be due on the 28th day of the month that follows the month in which the monitoring was performed.~~

~~(e) The site permittee shall send copies of the Biosolids Application Site Annual Summary required by paragraph 62-640.650(5)(d), F.A.C., to each treatment facility permittee from which biosolids have been received at the time the Biosolids Application Site Annual Summary is submitted to the Department. Copies of analytical laboratory reports must be submitted with all monitoring results that are reported to the Department.~~

~~(6)(4) Notification Requirements. Notifications required by paragraphs 62-640.650(6)(a) through (i) 62-640.650(4)(a), (b) and (e), F.A.C., shall be provided orally to the appropriate District Office of the Department. A written submittal shall also be provided to the District Office within seven calendar days of the time when a person subject to this chapter the permittee becomes aware of the circumstances. The written submittal must include the time and date of the oral notification, and the name of the person to whom the oral notification was made.~~

(a) If an alternate application site is used under the provisions of subsection 62-640.300(3), F.A.C., the treatment facility permittee using the alternate site must notify the Department within 24 hours ~~before~~ of beginning biosolids ~~residuals~~ application at the alternate site.

(b) Surface or ground water quality violations that are discovered as a result of testing ~~as described in paragraph 62-640.700(2)(b), F.A.C.~~, shall be reported to the Department within 24 hours of discovery.

(c) Any discrepancy that occurs in the inventory of biosolids ~~residuals~~ leaving a source wastewater treatment facility and arriving at a biosolids treatment ~~residuals management~~ facility must be reported to the Department and to the source facility by the biosolids treatment ~~residuals management~~ facility permittee within 24 hours of discovery under paragraph 62-640.880(4)(c), F.A.C.

(d) Any person intending to import Class AA biosolids ~~residuals~~ from outside Florida ~~the state~~ for distribution and marketing or land application must notify the Department's Domestic Wastewater Section in Tallahassee, in writing, at least 30 days before beginning importation, in accordance with subsection 62-640.850(6), F.A.C.

(e) Biosolids treatment ~~Residuals management~~ facility permittees must notify the Department and all affected parties in writing at least 60 days before ceasing operation, in accordance with paragraph 62-640.880(2)(j), F.A.C.

(f) Treatment facility permittees shall notify the Department, the site manager, and site permittee within 24 hours of discovery of sending biosolids that did not meet the requirements of Rule 62-640.600, F.A.C., or subsection 62-640.700(5), F.A.C., to a land application site.

(g) Treatment facility permittees and those persons who deliver Class AA biosolids for distribution and marketing in Florida shall notify the Department and all persons to whom they delivered or distributed and marketed the Class AA biosolids, within 24 hours of discovery of distributing and marketing biosolids that did not meet the requirements of paragraph 62-640.600(1)(a), F.A.C., subsection 62-640.600(2), F.A.C., or paragraphs 62-640.700(5)(a), or (b), F.A.C.

(h) Site permittees shall notify the Department and facilities sending biosolids to the site in writing at least 60 days before ceasing operation of a permitted biosolids land application site.

(i) Permittees of sites where Class A or Class B biosolids are applied shall notify the site land owners and owners of animals that graze on the permitted site in writing within 30 days of discovering that the cumulative loading of molybdenum to the site has reached or exceeded 35.7 lbs per acre. Owners of grazing animals shall be specifically informed about the potential for molybdenosis to occur in the animals. A copy of the notification letter shall be provided to the Department.

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 3-30-98, Amended \_\_\_\_\_.

62-640.700 Requirements ~~Criteria~~ for Land Application of Class AA, A, and B Biosolids ~~Residuals~~.

(1) Except as provided in paragraph 62-640.100(5)(g), F.A.C., biosolids shall only be applied to land application sites that are permitted by the Department in accordance with Rule 62-640.300, F.A.C., and have a valid NMP.

(2) All biosolids applied to land application sites shall meet the requirements of Class AA, Class A, or Class B biosolids as defined in subsections 62-640.200(9), (10), and (11), F.A.C.

(3) Biosolids applied at agricultural sites shall be applied at rates established in accordance with the NMP.

(4) Biosolids applied at land reclamation sites shall also meet the additional requirements of Rule 62-640.800, F.A.C., and be applied at rates established in the approved Biosolids Site Permit Application, Form 62-640.210(2)(d), for the site.

~~(5)(4) Parameter Concentrations~~ General Criteria.



(a) Biosolids Residuals may be applied to a land application site only if all parameter concentrations of all the parameters listed in paragraph 62-640.650(1)(b), F.A.C., do not exceed the following ceiling concentrations in any sample, and the biosolids residuals meet the pathogen and vector attraction reduction requirements set forth in Rule 62-640.600, F.A.C., for the intended site use.

**CEILING CONCENTRATIONS**

(mg/kg dry weight basis)

Parameter	<u>Single Sample Concentration</u>
Arsenic	75
Cadmium	85
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

(b) In addition to meeting the single sample requirements of paragraph 62-640.700(5)(a), F.A.C., Class A biosolids may be classified as Class AA biosolids only if the monthly average parameter concentrations do not exceed the following criteria:

**CLASS AA PARAMETER CONCENTRATIONS**

(mg/kg dry weight basis)

Parameter	<u>Monthly Average Concentration</u>
<u>Arsenic</u>	<u>41</u>
<u>Cadmium</u>	<u>39</u>
<u>Copper</u>	<u>1500</u>
<u>Lead</u>	<u>300</u>
<u>Mercury</u>	<u>17</u>
<u>Nickel</u>	<u>420</u>
<u>Selenium</u>	<u>100</u>
<u>Zinc</u>	<u>2800</u>

(c) If the biosolids must be blended with other materials to meet the Class AA criteria of paragraph 62-640.700(5)(b), F.A.C., the blending shall be conducted by a Department permitted domestic wastewater treatment facility or biosolids treatment facility before the biosolids are distributed or marketed. The blending methodology shall be specified in the facility's permit.

(6)(2) General Application Site Requirements.

(a) Site use restrictions including setback distances, crop harvesting, grazing, and public access shall conform to the requirements of Rule 62-640.600, F.A.C., for the class of pathogen reduction provided.

~~(b) Florida water quality standards shall not be violated in waters as a result of land application of residuals. Monitoring of surface and ground waters shall be required if the Department determines that, because of the physical and hydrogeological characteristics of the site, monitoring is necessary to protect the designated uses of water bodies. If violations occur, land application of residuals shall be suspended immediately, and the violations shall be reported to the Department within twenty-four hours of discovery.~~

~~(a)(e) Biosolids Residuals shall be applied with appropriate techniques and equipment to assure uniform application over the application zone.~~

~~(b) Beginning within one year of (the effective date of the rule), Class A and Class B biosolids treated by alkaline addition shall be applied by the best management practice of incorporation or injection unless the application area is located at a distance greater than one-quarter mile from the application site property line. This distance may be decreased if the affected adjacent property owner provides written consent.~~

~~(c) Class A and Class B biosolids treated by alkaline addition shall be land applied within 24 hours of delivery to the site.~~

~~(d) The spraying of liquid domestic wastewater biosolids from an application vehicle residuals shall be conducted so that the formation of aerosols is minimized. Unless specifically stated in the wastewater permit or site permit, spray guns shall not be used.~~

~~(e) Biosolids shall not be stored, stockpiled, or staged at a land application site for more than seven days unless approved by the Department pursuant to subparagraph 2. below.~~

1. All biosolids storage, stockpiling, or staging at land application sites shall:

a. Meet the applicable setback requirements for biosolids application sites in subsection 62-640.700(8), F.A.C.;

b. Not cause or contribute to runoff of biosolids, objectionable odors, or vector attraction; and

c. For Class B biosolids, include fencing or other appropriate features to discourage the entry of animals and unauthorized persons.

2. The Department shall approve storage periods for longer than seven days if the following conditions are met:

a. The storage area and facilities are identified in the NMP and site permit application;

b. The applicable storage requirements of subparagraph 62-640.700(6)(e)1., F.A.C., are met;

c. All of the biosolids stored at the application site, up to the capacity of the onsite storage facilities, can be land applied without resulting in an exceedance of cumulative loading limits or the application rates established in the NMP;

d. The storage facilities are adequate for the rate of biosolids generated by permitted treatment facilities sending biosolids to the application site; and

e. A longer storage period is needed because of agricultural operations or climatic factors at the application site.

3. In no case shall storage of biosolids exceed two years.

4. EPA's *Guide to Field Storage of Biosolids*, paragraph 62-640.210(1)(k), F.A.C., provides guidance to assist permittees in the field storage, stockpiling, and staging of biosolids.

~~(e) Residuals storage facilities at land application sites shall be subject to applicable setback requirements for residuals application sites in this section. Residuals shall be stored in a manner that will not cause runoff or seepage from stored residuals, objectionable odors, or vector attraction. Storage areas must be fenced or otherwise provided with appropriate features to discourage the entry of animals and unauthorized persons. At the time of land application, the stored residuals must meet the general criteria of subsection 62-640.700(1), F.A.C., for parameter concentrations, pathogen and vector attraction reduction, and the cumulative application limits of subsection 62-640.700(3), F.A.C. Residuals storage facilities at land application sites may be used only for temporary storage of stabilized residuals for no more than 30 days during periods of inclement weather or to accommodate agricultural operations, unless a longer storage period is specified in the approved agricultural use plan for the site. The Department shall approve a longer storage period, not to exceed two years, if the agricultural use plan demonstrates that:~~

~~1. The storage facilities at the site are adequate for the rates of residuals generation by permitted wastewater facilities sending residuals to the site;~~

~~2. All of the residuals stored at the site, up to the capacity of the on-site storage facilities, can be land applied without resulting in an exceedence of cumulative loading limits or agronomic rates; and~~

~~3. A longer storage period is needed because of agricultural operations or climatic factors at the site.~~

(f) ~~Class B biosolids Residuals~~ application sites shall be posted with appropriate advisory signs in English and Spanish which identify identifying the nature of the project area and comply with the following requirements.

1. Signs shall be posted at all entrances to land application sites in such a position as to be clearly noticeable. The words "Class B Biosolids Site" (in Spanish "Sitio con Biosólidos"), "Public Access Prohibited" (in Spanish "Prohibido el Acceso al Público"), and the name and contact information of the site manager shall appear prominently on the signs.

2. For unfenced application sites, additional signs shall be posted at the corners and at a maximum of 500 feet intervals along the boundaries of the application site or zones, and in such a position as to be clearly noticeable from outside the

boundary line of the application site. The words "Public Access Prohibited" (in Spanish "Prohibido el Acceso al Público") shall appear prominently on the signs.

3. Letters on the signs for all required statements shall not be less than two inches in height. Signs shall be maintained and legible.

~~(7)(3)~~ Cumulative Application Limits.

(a) ~~For Class A and Class B biosolids~~ ~~(The total cumulative loading of each parameter identified in paragraph 62-640.700(7)(b) 62-640.700(3)(b), F.A.C., which is applied to each application zone on an application site shall be determined and provided to the Department in the annual summary submitted on Department Form 62-640.210(2)(c) 62-640.210(2)(b). The beginning date for cumulative loading determination shall be as described in subparagraph 62-640.650(5)(d)2. 62-640.650(3)(b)3., F.A.C. The total cumulative loading shall be reported in pounds per acre (1 acre = 0.4047 hectare).~~

(b) The application of Class A and Class B biosolids residuals to application zones which accept biosolids residuals that meet the ceiling concentration limits in subsection 62-640.700(5) 62-640.700(1), F.A.C., ~~but do not meet the requirements of paragraph 62-640.850(3)(a), F.A.C.,~~ shall be restricted by the following cumulative application limits:

CUMULATIVE APPLICATION LIMITS  
(pounds per acre)

Arsenic	36.6
Cadmium	34.8
Copper	1340
Lead	268
Mercury	15.2
<u>Molybdenum</u>	<u>Report only</u>
Nickel	375
Selenium	89.3
Zinc	2500

~~(e) Except as provided in paragraph 62-640.700(3)(d), F.A.C., application zones which only receive residuals that meet the parameter concentration limits in paragraph 62-640.850(3)(a), F.A.C., are not subject to the cumulative application limits in paragraph 62-640.700(3)(b), F.A.C.~~

~~(d) Beginning with the first application of residuals that do not meet the parameter concentration limits in subsection 62-640.850(3), F.A.C., to an application zone, the zone shall be subject to the cumulative application limits in paragraph 62-640.700(3)(b), F.A.C., and all applications of residuals, except Class AA, shall be used to determine the cumulative loading of parameters applied to the zone.~~

(c)(e) If one or more zone(s) at an application site changes ownership or becomes part of a different application site, the cumulative loading determination for the affected zone(s) shall account for the prior applications of biosolids residuals.

(d)(f) If biosolids residuals that are subject to the cumulative loading limitations of subsection 62-640.700(7) 62-640.700(3), F.A.C., have been applied to an application zone, and the cumulative loading amount of one or more pollutants is not known, no further applications of biosolids ~~shall residuals may~~ be made to that application zone. To continue use of the zone, the permittee shall establish cumulative loadings below the application limits in paragraph 62-640.700(7)(b), F.A.C., by calculation methods and analysis or by conducting soil testing in accordance with subparagraph 62-640.650(3)(b)2., F.A.C.

~~(8)(4) Setback Distances. The setback distances in this section shall apply to all new or expanded land application sites used by facilities for which the Department received complete wastewater permit applications after December 1, 1997, but the setback distances shall only apply to the new or expanded portion(s) of the land application sites. The permittee of a facility using an existing land application site may request, during permit renewal, that the setback distance requirements in this rule be applied to the existing site or portion of the site. The Department shall grant such requests provided no violations of water quality standards have occurred as a result of residuals application to the site.~~

(a) The following setback distances specified in paragraphs 62-640.700(4)(a) through (e), F.A.C., shall apply to land application sites that accept either Class A or Class B biosolids residuals. The setback distances specified in paragraph 62-640.700(4)(d), F.A.C., shall only apply to land application sites that accept Class B residuals.

~~1. The biosolids residuals are injected or incorporated into the soil, or~~

1.(a) The biosolids residuals land application zone shall not be located closer than 1000 feet to any Class I water body, Outstanding Florida Water or Outstanding National Resource Water, or 200 feet from any other surface water of the state as defined in Section 403.031, F.S. This setback does not apply to waters owned entirely by one person other than the state, nor to canals or bodies of water used for irrigation or drainage, which are located completely within the application site and will not discharge from the application site. The setback area shall be vegetated. The 200 foot setback distance from surface waters may be reduced to 100 feet if one of the following conditions is met:

2. A conservation plan is provided with the Agricultural Use Plan which demonstrates that stormwater runoff generated by the 10-year recurrence interval, 1-hour duration storm event will be prevented from entering or leaving the land application zone. Berms shall be placed around the site for the purpose of preventing stormwater runoff if necessary. Recovery time of the system should be specified in the conservation plan with a

maximum stormwater retention time of 72 hours as required by subsection 62-25.025(4), F.A.C. Back slope protection as well as other safety features shall be included.

2.(b) The biosolids residuals land application zone shall not be located closer than 300 feet from any private drinking potable water supply well or 500 feet from any public drinking potable water supply well.

~~3.(e) No change.~~

4. Biosolids shall not be stored or stockpiled at a land application site within 1320 feet of a building occupied by the general public. This distance may be decreased if the owner of the building provides written consent.

(b) The following additional setback distances shall apply to land application sites that accept Class B biosolids.

1.(d) Class B biosolids residuals shall not be applied within 300 feet of a building occupied by the general public. This distance may be reduced to 100 feet if biosolids residuals are injected into the soil or if written permission is obtained from the building owner.

2. Class B biosolids shall not be applied within 75 feet from property lines, unless applied to the medians or roadway shoulders of restricted public access roads.

~~(9)(5) Soil Requirements. The pH of the biosolids residuals soil mixture shall be 5.0 or greater at the time Class A or Class B biosolids residuals are applied. At a minimum, soil pH testing shall be done annually.~~

~~(10)(6) Ground Water Requirements.~~

(a) A minimum unsaturated soil depth of two feet is required between the depth of biosolids placement and above the water table level is required at the time the Class A or Class B biosolids residuals are applied to the soil. The permittee can indicate the seasonal high ground water level for the application site may be indicated in the Biosolids Site Permit Application, Form 62-640.210(2)(d), Agricultural Use Plan by use of soil survey maps. If the seasonal high ground water level is within two feet of the depth of biosolids placement or cannot be determined at the time of permitting surface or cannot be determined using soil survey maps, the water table level shall be determined in one or more representative location(s) in the application zone before each application of biosolids residuals, by observing the standing water level in a three-foot-deep hole dug at least one hour before application, or by other means, e.g., measuring the water level in a water-table monitoring well or a piezometer.

~~(b) The minimum setback requirement of paragraph 62-640.700(4)(e), F.A.C., shall be provided between land application areas and any visible evidence of natural or man-made conduits that could allow direct contamination of ground water.~~

(11)(7) Runoff Prevention Requirements.

(a) Biosolids Residuals shall not be applied at an application zone during rain events that cause ponding or sheet flow, when ponding exists, during rains that cause runoff from the site or when surface soils are saturated.

(b) Topographic grades of the land application zone must be eight percent or less. If application site slopes exceed ~~two~~ three percent in one or more application zones, biosolids shall be injected or incorporated, or documentation shall a conservation plan must be provided with the NMP demonstrating Agricultural Use Plan which demonstrates that suitable soil infiltration rates and stormwater control measures exist at the application site to retain runoff generated by a 10-year recurrence interval 1-hour duration storm event. Berms shall be placed for this purpose if necessary.

(c) Biosolids shall not be land applied on soils that are frequently flooded (i.e. the soil has a flooding frequency class of "frequent" as defined by NRCS in Section 618.27 of the *National Soil Survey Handbook*, hereby adopted and incorporated by reference, and given in soil surveys). A flooding frequency class of "frequent" or "frequently flooded" means flooding is likely to occur often under usual weather conditions; more than a 50 percent chance of flooding in any year or more than 50 times in 100 years, but less than a 50 percent chance of flooding in all months in any year.

(12) Additional Application Site Restrictions for Class B Biosolids. The following restrictions shall apply to the use of Class B biosolids:

(a) Class B biosolids shall only be applied to restricted public access areas. The public shall be restricted from the application zone for 12 months after the last application of biosolids.

(b) Plant nursery use of Class B biosolids is limited to plants which will not be sold to the public for 12 months after the last application of biosolids.

(c) Use of Class B biosolids on roadway shoulders and medians is limited to restricted public access roads.

(d) Food crops, feed crops, and fiber crops shall not be harvested for 30 days following the last application of Class B biosolids.

(e) Food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface shall not be harvested for 14 months after the last application of Class B biosolids.

(f) Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of Class B biosolids when the biosolids remain on the land surface for four months or longer before incorporation into the soil.

(g) Food crops with harvested parts below the surface of the land shall not be harvested for 38 months after application of Class B biosolids when the biosolids remain on the land surface for less than four months before incorporation into the soil.

(h) Animals shall not be grazed on land on which Class B biosolids have been applied for 30 days after the last application of Class B biosolids. Animals found grazing prior to the end of the 30-day restriction shall be reported by the site

manager to the Florida Department of Agriculture and Consumer Services (FDOACS), Bureau of Animal Disease Control, within two weeks of discovery.

(i) Sod or soil which will be distributed or sold to the public or used on unrestricted public access areas shall not be harvested or removed from land on which Class B biosolids have been applied for 12 months after the last application of Class B biosolids.

(j) If ownership of a land application site changes prior to the expiration of a time period restriction established by paragraphs 62-640.700(12)(a)-(i), F.A.C., the existing owner shall disclose to the prospective owner the existence of the restriction(s) prior to transferring ownership.

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 8-12-90, Formerly 17-640.700, Amended 3-30-98, \_\_\_\_\_.

#### 62-640.750 Agricultural Sites.

Rulemaking Specific Authority 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707 FS. History—New 3-30-98, Repealed \_\_\_\_\_.

#### 62-640.800 Additional Requirements for Land Application at Reclamation Sites.

~~(1) Residuals which meet the pathogen and vector attraction reduction requirements of subsections 62-640.600(1) and (2), F.A.C., may be applied to land reclamation sites if the site use restrictions of subsection 62-640.600(3), F.A.C., the criteria for land application of residuals of Rule 62-640.700, F.A.C., and the requirements of this section are met.~~

~~(1)(2) The m~~Maximum total allowable application quantity of biosolids for land reclamation projects shall be limited to 50 dry tons/acre with such one-time reclamation project to be accomplished within a one-year period on any acre of a land reclamation site. When composted biosolids or biosolids residuals or residuals blended with other soil amendment materials are used, only the biosolids residuals portion of the blended product shall count toward the 50 dry tons/acre limitation.

~~(2)(3) Except for Class AA biosolids A residuals~~ the applied material shall be incorporated into the soil within the same day as application.

~~(3)(4) Seed, or turf-forming grass or other vegetative cover approved by the Department,~~ shall be planted as soon as possible but in no case later than three months after the application of biosolids residuals.

~~(5) Florida water quality standards shall not be violated as a result of land application of residuals, under paragraph 62-640.700(2)(b), F.A.C.~~

~~(6) Slopes must be eight percent or less before and after application.~~

(7) through (8) renumbered (4) through (5) No change.

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History–New 8-12-90, Formerly 17-640.800, Amended 3-30-98.

62-640.850 Distribution and Marketing of – Class AA Biosolids Residuals.

The distribution and marketing of biosolids or biosolids Residuals or residuals products shall meet be designated as Class AA if the requirements of this section and this chapter, but are not required to meet subsections 62-640.300(2) and (3); Rule 62-640.500; paragraphs 62-640.650(3)(b) through (d); paragraphs 62-640.650(4)(c) through (j); paragraphs 62-640.650(5)(c) through (e); paragraphs 62-640.650(6)(a), (b), (f), and (g); subsections 62-640.700(1) through (4); subsections 62-640.700(6) through (12); and Rule 62-640.800, F.A.C. are met, and the residuals are distributed and marketed.

(1) Distributed and marketed biosolids or biosolids Residuals or residuals products shall meet the requirements for Class AA biosolids as defined in subsection 62-640.200(10), F.A.C. A pathogen reduction standards of subsection 62-640.600(1), F.A.C.

(2) Distributed and marketed biosolids or biosolids Residuals or residuals products shall be distributed and marketed as a fertilizer in accordance with Chapter 576, F.S., and Chapter 5E-1, F.A.C., or distributed and marketed to a person or entity that will sell or give-away the biosolids or biosolids products as a fertilizer or as a component of a fertilizer subject to Chapter 576, F.S., and Chapter 5E-1, F.A.C. meet one of the vector attraction reduction requirements in Title 40 Code of Federal Regulations Part 503, Section 503.33(b)(1) through (b)(8).

(3) Any treatment facility which produces biosolids in Florida that will be distributed and marketed or any person who delivers biosolids to Florida to be distributed and marketed shall submit the information listed in paragraph 62-640.850(3)(b), F.A.C., to the Department.

(a) The information shall be submitted as follows:

1. Florida facilities shall submit the information with the treatment facility permit application. The information shall be updated and re-submitted with each permit renewal application.

2. Persons shipping biosolids into Florida for distribution and marketing shall submit the information with the notification required by subsection 62-640.850(6), F.A.C. The information shall be updated and re-submitted every five years.

(b) The information shall include:

1. The Florida fertilizer license number assigned in accordance with Florida’s Commercial Fertilizer Law, Chapter 576, F.S., and Chapter 5E-1, F.A.C., under which the biosolids or biosolids products will be distributed and marketed;

2. The quantity and characteristics of the biosolids or biosolids products to be distributed and marketed annually;

3. A description of the planned distribution and marketing operations, methods, and procedures;

4. Procedures for transportation, storage, and application for the biosolids or biosolids products by the facility or person shipping biosolids into Florida for distribution and marketing;

5. The label or information sheet to be provided at the time of distribution and marketing of the biosolids in accordance with subsection 62-640.850(5), F.A.C., Chapter 576, F.S., and Chapter 5E-1, F.A.C. as applicable;

6. Management procedures for ensuring biosolids meet Class AA requirements prior to distribution and marketing, including procedures for notifying persons who received biosolids that failed to meet Class AA requirements; and

7. Contingency plans if the biosolids or biosolids products are not distributed or marketed as planned.

(3) Residuals or residuals products shall be analyzed in accordance with subsection 62-640.650(1), F.A.C., on a monthly basis, and the results shall be submitted to the Department in accordance with subsection 62-640.850(4), F.A.C.

(a) The residuals or final residuals products shall have monthly average parameter concentrations not exceeding the following criteria:

CLASS AA PARAMETER CONCENTRATIONS\*

(mg/kg dry weight basis)

<u>Parameter</u>	<u>Monthly Average</u>
<u>Arsenic</u>	<u>41</u>
<u>Cadmium</u>	<u>39</u>
<u>Copper</u>	<u>1500</u>
<u>Lead</u>	<u>300</u>
<u>Mercury</u>	<u>17</u>
<u>Nickel</u>	<u>420</u>
<u>Selenium</u>	<u>100</u>
<u>Zinc</u>	<u>2800</u>

\*The ceiling concentrations in Rule 62-640.700(1), F.A.C., also apply.

(b) If the residuals must be blended with other materials to meet the criteria of paragraph 62-640.850(3)(a), F.A.C., the blending shall be conducted by a Department permitted domestic wastewater treatment facility or residuals management facility before the residuals are distributed or marketed. The blending methodology shall be specified in the facility’s permit.

(4) Any treatment facility distributing and marketing biosolids which produces Class AA residuals in Florida or and any person who delivers biosolids Class AA residuals to Florida shall submit a monthly Discharge Monitoring Report with the following information Monthly Residuals Distribution and Marketing Report to the Domestic Wastewater Section of the Department, Twin Towers Office Building, 2600 Blair

Stone Road, Mail Station 3540, Tallahassee, Florida, 32399-2400. The report shall be submitted on Form 62-640.210(2)(e), by the 28th day of the month following the reporting month, and shall include the following:

(a) The total quantity of biosolids residuals (dry tons) distributed and marketed in Florida. Treatment facility permittees in Florida also shall report the total quantity of biosolids (dry tons) distributed and marketed outside of Florida delivered to or applied in each county;

(b) The name and address of the treatment facility or person that produced the biosolids Class AA residuals; and

(c) The brand name, if any, and the product type of the residuals or residuals product;

(d) The Department of Agriculture and Consumer Services (DACS) fertilizer licensee number, if applicable. For information about fertilizer registration, contact the Bureau of Compliance Monitoring, DACS, Tallahassee, Florida 32399-1650; and

(e) The results of monitoring performed in accordance with subparagraph 62-640.650(3)(a)3., F.A.C. For facilities located outside the state of Florida, a biosolids residuals analysis report(s) report from a laboratory certified in accordance with paragraph 62-620.610(18)(d), F.A.C. by the Department of Health under Chapter 64E-1, F.A.C., to perform the analyses being reported, for each month the biosolids residuals were distributed and marketed in Florida, shall be included with the Discharge Monitoring Report. The report shall include the results of monitoring performed in accordance with subsection 62-640.650(1), F.A.C.

(5) In addition to any fertilizer labeling requirements of Chapter 576, F.S., and Chapter 5E-1, F.A.C., the following information must be made available to the users by the manufacturer by product labels or other means:

(a) The name and address of the treatment facility or person that produced the biosolids Class AA residuals;

(b) A statement that the biosolids or biosolids residuals or residuals product meets the criteria of subsection 62-640.700(5) 62-640.850(3), F.A.C.;

(c) Recommendations on proper storage of the biosolids or biosolids product prior to use and a recommendation that biosolids residuals be applied at a rate that does not exceed crop or plant nutrient needs, the agronomic rate; and

(d) The following residuals analysis information (dry weight basis):

Total Nitrogen (%)

Total Phosphorous (%)

Total Potassium (%)

(6) Any person who intends to begin shipping biosolids Class AA residuals into Florida the state for distribution and marketing shall notify the Department Domestic Wastewater Section of the Department's Tallahassee office in writing of their intent to distribute and market the biosolids residuals in Florida and provide reasonable assurance that the biosolids

meet the requirements for Class AA biosolids the state. The notification notice shall be sent to the Domestic Wastewater Section, Mail Station 3540, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, FL 32399-2400. The notification notice shall be submitted at least 30 days prior to initiating shipment of the biosolids residuals into Florida the state. Any persons currently shipping biosolids into Florida for distribution and marketing shall have 90 days after (the effective date of the rule) to provide the notification. The notification notice shall include:

(a) The name of the treatment facility producing the biosolids; Class AA residuals;

(b) A copy of the treatment facility permit from the state permitting authority where the facility is located;

(c) The treatment facility address and telephone number;

(d) The name of the person or entity shipping the biosolids into Florida;

(e) The name of the principal executive officer or authorized agent for the entity shipping the biosolids into Florida;

(f) The contact information for the person or entity shipping the biosolids into Florida;

(g) A description of how the biosolids Class AA residuals meet the requirements of Rule 62-640.850, F.A.C., and documentation demonstrating the biosolids meet the pathogen reduction and vector attraction reduction requirements;

(h) A copy of the latest analysis report from a laboratory certified in accordance with paragraph 62-620.610(18)(d), F.A.C.; by the state of Florida;

(i) A copy of the most recent treatment facility annual report submitted to EPA in accordance with 40 CFR 503.18, hereby adopted and incorporated by reference;

(j) The approximate date of the first shipment into Florida; the state, the counties to which the residuals will be shipped;

(k) The brand name and product type of the biosolids; and residuals, and the DACS fertilizer licensee number, if applicable;

(l) The information listed in subsection 62-640.850(3), F.A.C.

(7) By February 19 of each year, any person shipping biosolids to Florida for distribution and marketing shall submit a copy of the applicable EPA facility annual biosolids report required by 40 CFR 503.18, to the Department's Domestic Wastewater Section, MS#3540, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Rulemaking Specific Authority 373.4595, 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 373.4595, 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 8-12-90, Formerly 17-640.850, Amended 3-30-98, \_\_\_\_\_.

62-640.860 Other Solids.

(1) General Criteria. The disposal or use of other solids as defined in subsection ~~62-640.200(30)~~ ~~62-640.200(24)~~, F.A.C., shall be authorized in a Department treatment facility permit and addressed in the ~~NMP Agricultural Use Plan~~ for the permitted application site.

(2) No change.

(a) through (b) No change.

(c) The other solids shall meet the pathogen and vector attraction reduction requirements, ~~and the site use restrictions~~ of Rule 62-640.600, F.A.C. The Department shall review and approve the design and operational parameters of the treatment method used to reduce pathogens and vector attraction during application for a wastewater permit.

(d) The land application of other solids shall meet all of the criteria provided in Rule 62-640.700, F.A.C., for land application of biosolids residuals.

(e) The application rate of other solids to land shall be consistent with the NMP, ~~justified by the permittee in the permit application. The permittee shall demonstrate that the application rate is beneficial to the land. The application rate shall not be determined exclusively by the nitrogen content of the other solids, except that the application rate shall not exceed the agronomic needs of the site vegetation.~~

(3) Other solids which are combined with biosolids residuals prior to final treatment of the biosolids residuals are subject to all of the requirements of this ~~c~~Chapter that apply to biosolids residuals.

Rulemaking Specific Authority 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History—New 3-30-98, Amended \_\_\_\_\_.

62-640.880 Additional Requirements Related to Biosolids Treatment Residuals Management Facilities.

The requirements of this section shall apply to any facility that treats biosolids residuals from other facilities prior to use, ~~or~~ land application, or disposal. These requirements also apply to septage management facilities that treat domestic septage and combinations of food establishment sludges, wastes removed from portable toilets, and wastes removed from holding tanks associated with boats, marina pumpout, or other onsite systems prior to use, ~~or~~ land application, or disposal.

(1) General Criteria.

(a) The biosolids treatment residuals management facility permittee shall be responsible for proper treatment, management, use, ~~and~~ land application, and disposal of the biosolids residuals it accepts from a source facility, according to the requirements of this ~~c~~Chapter.

1. The biosolids applied to land or distributed and marketed residuals shall meet the pathogen reduction and-vector attraction reduction, ~~and site use~~ requirements of Rule 62-640.600, F.A.C.

2. The biosolids treatment residuals management facility shall meet the monitoring, record keeping, reporting and notification requirements of Rule 62-640.650, F.A.C., and the additional requirements of this section.

3. The biosolids residuals shall be applied to land or distributed and marketed in accordance with the applicable requirements of Rules 62-640.700, ~~62-640.750~~, 62-640.800, 62-640.850, F.A.C., and the additional requirements of this section.

(b) The source facility permittee shall not be held responsible for treatment, management, use, ~~or~~ land application, or disposal violations that occur after its biosolids residuals have been accepted by a permitted biosolids treatment residuals management facility with which the source facility permittee has an agreement in accordance with paragraph 62-640.880(1)(c), F.A.C., for further treatment, management, use, ~~or~~ land application, or disposal.

(c) The source facility and the biosolids treatment residuals management facility shall enter into a written agreement addressing the quality and quantity of the biosolids residuals accepted by the biosolids treatment residuals management facility. The agreement shall include a statement, signed by the biosolids treatment residuals management facility permittee, as to the availability of sufficient permitted capacity to receive the biosolids residuals from the source facility, and indicating that the biosolids treatment residuals management facility will continue to operate in compliance with the requirements of its permit. The agreement shall also address responsibility during transport of biosolids residuals between the facilities. The biosolids treatment residuals management facility permittee shall submit a copy of this agreement to the appropriate District Office of the Department, or to the delegated Local Program, at least 30 days before transporting biosolids residuals from the source facility to the biosolids treatment residuals management facility.

(2) Permitting.

(a) Fees. For the purpose of determining applicable permit fees, the biosolids treatment residuals management facility shall be classified as Type I, II, or III based on the design capacity established by the permittee as follows:

TYPE Type	DESIGN CAPACITY	DESIGN CAPACITY
	Design Capacity (DRY TONS PER YEAR) (dry tons per year)	Design Capacity (DRY TONS PER DAY) (dry tons per day)
I	>1653	>4.5

II	320 – 1653	0.88 - 4.5
III	<320	<0.88

(b) All applications for biosolids treatment residuals management facility permits shall be submitted on Department Form 62-620.910(2), Application Form 2A, Permit for Domestic Wastewater Treatment and Reuse or Disposal Facility.

(c) Under the requirements of this chapter and the applicable requirements of Chapter 62-600, F.A.C., and Chapter 62-620, F.A.C., the biosolids treatment residuals management facility shall be permitted to treat either biosolids residuals or combinations of biosolids residuals, domestic septage, food establishment sludges, wastes removed from portable toilets, and wastes removed from holding tanks associated with boats, marina pumpout, and other onsite systems. A biosolids treatment facility shall not accept industrial sludges unless specific approval is granted in the biosolids treatment facility permit. A separate approval shall be obtained for each source of industrial sludge that will be accepted by the biosolids treatment facility. Approval shall be granted only if it is determined that the industrial sludge will not interfere with the beneficial use of the biosolids treated by the biosolids treatment facility. This determination shall be based on an evaluation of all parameters in the industrial sludge.

(d) A domestic wastewater treatment facility that intends to accept biosolids residuals from other facilities and that already holds a valid wastewater permit shall not be required to obtain a separate permit as a biosolids treatment residuals management facility, but shall obtain a permit revision based on the requirements of this section.

(e) An applicant for a wastewater permit for a new biosolids treatment residuals management facility or substantial modifications to an existing facility shall submit a preliminary design report or other information as specified for domestic wastewater facilities in Rule 62-620.412, F.A.C., for review by the Department as part of the application for permit. As appropriate, the preliminary design report shall include the following:

1. No change.
2. The design capacity, which shall address the contribution of all materials that will be treated at the facility (i.e., biosolids residuals, domestic septage, food establishment sludge, wastes removed from portable toilets, and wastes removed from holding tanks associated with boats, marina pumpout, and other onsite systems);
3. through 6. No change.
7. No change.
- a. through c. No change.

d. All treatment process parameters to be monitored.

- d. through g. renumbered e. through h. No change.

~~i. h.~~ Onsite storage of treated and untreated biosolids residuals, storage of chemicals, and alternate disposal methods; 8. through 10. No change.

(f) All biosolids treatment facilities permitted as Type I or Type II biosolids management facilities shall provide reliability features, such as redundancy of equipment, to provide for the continued and timely treatment of all biosolids the facility has the responsibility to treat.

~~(g)(f)~~ No change.

(h)(g) Biosolids treatment facilities shall be exempt from the capacity analysis report requirement of Rule 62-600.405, F.A.C. Capacity analysis reports shall be submitted by the permittee in accordance with Rule 62-600.405, F.A.C., when the three month average daily loading exceeds 50 percent of the permitted capacity. If the report documents that the capacity of the facility will not be equaled or exceeded for the next ten years, an updated report shall be due only every five years.

~~(i)(h)~~ An operation and maintenance manual shall be prepared for all biosolids treatment residuals management facilities, in accordance with Rule 62-600.720, F.A.C., and Chapter 62-620, F.A.C. In addition to the requirements specified in Chapters 62-620 and 62-600, F.A.C., the operation and maintenance manual shall provide the operator with procedures for:

1. through 2. No change.
3. Measures to avoid mixing incoming untreated biosolids residuals with treated biosolids residuals;
4. No change.
5. Storage of biosolids residuals and other materials at the site.

~~(j)(i)~~ Staffing. The level of operator staffing at a biosolids treatment residuals management facility shall be as follows:

	<u>TYPE I* Type I*</u>	<u>TYPE II* Type II*</u>	<u>TYPE III* Type III*</u>
A/AA**	Class A Operator 8 hours/day 5 days/week	Class B Operator 4 hours/day 5 days/week	Class B Operator 2 hours/day 5 days/week
B**	Class A Operator 2 hours/day 5 days/week	Class B Operator 1 hour/day 5 days/week	Class C Operator 1 hour/day 3 days/week
B***	Class A Operator 1 hour/day 5 days/week	Class B Operator 1 hour/day 3 days/week	Class C Operator 1 hour/week

\* Classification of Type of facility as determined by paragraph 62-640.880(2)(a), F.A.C.

\*\* These letters correspond to the Class of pathogen reduction that is achieved by the biosolids treatment residuals management facility in accordance with subsection 62-640.600(1), F.A.C.

\*\*\* This category is for Class B liquid alkaline stabilization only.

1. No change.



2. Operator staffing requirements for facilities addressed in paragraph 62-640.880(2)(d), F.A.C., shall be established as the more stringent of either the requirements in Chapter 62-699, F.A.C., or the requirements in paragraph 62-640.880(2)(j) ~~62-640.880(2)(i)~~, F.A.C.

3. In addition to the above staffing requirements, other personnel that are trained in the treatment process and equipment being used, working under the direction of a certified operator, shall be present at the biosolids treatment residuals management facility during loading and unloading operations and during other operating hours as recommended in the preliminary design report.

4. If justified by the complexity of the treatment process, the Department shall require a higher classification, more frequent visits, or more hours per day. Requests to alter or decrease staffing requirements shall be made Upon written approval from the Department, however, a facility, through a minor permit revision under Rule 62-620.325, F.A.C., and shall be may decrease its staffing requirement based upon site-specific requirements, facility operation, risk to public health and the environment, and the presence of other trained personnel.

~~(k)(j)~~ The biosolids treatment residuals management facility permittee shall be responsible for making the facilities safe in terms of public health and safety at all times, and shall notify the Department and all affected parties, in writing, at least 60 days before ceasing operation in accordance with subsection 62-620.610(15), F.A.C.

(3) Treatment Facility Biosolids Plan Agricultural Use Plans.

(a) For land application ~~t~~the biosolids treatment residuals management facility shall submit a Treatment Facility Biosolids Plan, Form 62-640.210(2)(a) ~~an Agricultural Use Plan(s)~~ with its wastewater permit application under subsection 62-640.300(2) ~~Rule 62-640.500~~, F.A.C.

(b) A source facility shall not be required to submit a Treatment Facility Biosolids Plan an Agricultural Use Plan for the land application of biosolids residuals that are transported to a biosolids treatment residuals management facility which is permitted under this ~~c~~Chapter.

(4) Hauling Records.

(a) The biosolids treatment residuals management facility and the source facility transporting the biosolids residuals shall maintain hauling records to track the transport of biosolids residuals between facilities. The hauling records for each party shall contain the following information:

SOURCE FACILITY

Source Facility

1. Date and Time Shipped
2. Amount of Biosolids Residuals Shipped
3. Degree of Treatment (if applicable)

BIOSOLIDS TREATMENT FACILITY

Residuals Management Facility

1. Date and Time Received
2. Amount of Biosolids Residuals Received
3. Name and ID Number of Source Facility

4. Name and ID Number of Biosolids Treatment Residuals Management Facility
5. Signature of Responsible Party at Source Facility
6. Signature of Hauler and Name of Hauling Firm

4. Signature of Hauler
5. Signature of Responsible party at Biosolids Treatment Residuals Management Facility

(b) The hauling records shall be kept by both facility permittees for five years and shall be made available for inspection upon request by the Department. A copy of the hauling records information maintained by the source facility shall be provided upon delivery of the biosolids residuals to the biosolids treatment residuals management facility.

(c) The biosolids treatment residuals management facility permittee shall report to the Department within 24 hours of discovery any discrepancy in the quantity of biosolids residuals leaving the source facility and arriving at the biosolids treatment residuals management facility.

(5) Monitoring.

(a) The Department shall not require the source facility to sample and analyze the biosolids residuals in accordance with subsection 62-640.650(3) ~~62-640.650(1)~~, F.A.C., unless:

1. Final treatment is performed by the source facility before transport to the biosolids treatment residuals management facility; and

2. The quality of the biosolids residuals is not changed at the biosolids treatment residuals management facility.

This provision shall not prevent the source facility from performing sampling and analysis separate from the source facility's Department permit if such sampling and analysis is mutually agreed to by the source facility and the biosolids treatment residuals management facility.

(b) Sampling and analysis shall be conducted by the biosolids treatment residuals management facility in accordance with subsection 62-640.650(3) ~~62-640.650(1)~~, F.A.C., and shall be performed after final treatment, but before use or land application. The minimum monitoring frequency shall be determined under subparagraph 62-640.650(3)(a)4. ~~paragraph 62-640.650(1)(e)~~, F.A.C. The Department shall may increase or reduce the monitoring frequency in accordance with Rule 62-640.650, F.A.C. based on industrial wastewater contribution to a source facility, or the operating and compliance history of the residuals management facility or the source facility, or to establish a history of residuals quality. An increase in monitoring requirements will require a minor permit revision under Rule 62-620.325, F.A.C.

(6) Septage Management Facilities.

(a) Septage management facilities that treat more than 10,000 gallons per day monthly average daily flow or equivalent, or more than 20,000 gallons or equivalent on any one day, shall meet all the requirements of Rule 62-640.880, F.A.C., except that septage management facilities are exempt

from the inter-facility agreement requirements of paragraph 62-640.880(1)(c), F.A.C., and the hauling records requirements of subsection 62-640.880(4), F.A.C.

(b) If a permittee intends to use a septage management facility to treat biosolids residuals, the facility must be permitted as a biosolids treatment residuals management facility in accordance with the requirements of this section.

Rulemaking Specific Authority 403.051, 403.061, 403.062, 403.087, 403.088, 403.704, 403.707 FS. Law Implemented 403.021, 403.051, 403.061, 403.087, 403.088, 403.0881, 403.702, 403.704, 403.707, 403.708 FS. History–New 3-30-98, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Janet G. Llewellyn

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 11, 2002

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-709.201	Definitions
62-709.300	General Provisions
62-709.305	Exemptions
62-709.320	General Provisions for Registrations
62-709.330	Specific Criteria for Registration of Yard Trash Processing Facilities
62-709.350	Specific Criteria for Registration of Facilities Composting Vegetative Wastes, Animal Byproducts or Manure, or Blending Manure
62-709.460	Special Permitting Criteria for Solid Waste Organics Recycling Pilot Projects
62-709.500	Design Criteria for Permitted Facilities
62-709.510	Operation Criteria for Permitted Facilities
62-709.530	Testing, Recording and Reporting Requirements
62-709.550	Classification of Compost
62-709.600	Criteria for the Use of Compost
62-709.901	Forms

PURPOSE AND EFFECT: The Department is proposing to amend Chapter 62-709, Florida Administrative Code (F.A.C.), which contains regulations for processing yard trash and for composting solid waste. This rule was last amended October 22, 2000 to allow for registrations rather than individual solid waste permits for processing of yard trash, and there were technical changes that needed to be made. In addition, the organics recycling industry requested the Department expand

the variety of feedstocks that a facility can process while still qualifying for a registration due to the success of the yard trash processing facility registration provision in encouraging/promoting recycling of yard trash. There is also a need to provide a less burdensome process to the permitting process for short-term, size-restricted pilot and research project focused on recycling organic solid wastes.

SUMMARY: Rule 62-709.201, F.A.C., Definitions – Some definitions were relocated into this rule from other parts of this chapter. Some definitions that were included in Rule 62-701.200, F.A.C., have been reinserted into this chapter to make it easier for the regulated community. New definitions have been added, including animal byproducts, beneficial use, maturity, motorized firefighting equipment, pre-consumer vegetative waste, size-reduced, and vegetative waste.

Rule 62-709.300, F.A.C., General Provisions – The closure requirements were moved to this section and expanded to include a requirement for notification to the Department of the closing date, as well as prohibiting receipt of waste after the established closing date, and specifying residual material removal within a month after ceasing to receiving solid waste. The exemption for industrial byproducts has been inserted to be consistent with recent changes in the statutes. The disinfection criteria mentioned in the definition of compost has been inserted to clarify what methods are acceptable to demonstrate that disinfection has been achieved. Temperature monitoring was inserted to make it clear that it applies to registered or permitted composting facilities. Applicable permit fees are now listed in this rule rather than in Chapter 62-701, F.A.C. The fees for registrations have not changed, but a fee was added for the organics recycling pilot project permits.

Rule 62-709.305, F.A.C., Exemptions – The exemptions for backyard composting and normal farming operations were moved from Rule 62-709.300, F.A.C. The exemption for normal farming was expanded to include clarification regarding when this exemption applies, and expanded it to include exempting manure management operations covered under Department concentrated animal feeding operation rules. It is clarified that the Department does not regulate beneficial use of processed yard trash. Guidelines for determining when land application of unprocessed yard trash, manure or vegetative waste is considered beneficial use are added.

Rule 62-709.320, F.A.C., General Provisions for Registrations – This rule has been expanded to include facilities composting vegetative waste, animal byproducts or manure with or without yard trash, and manure blending operations. The requirement for an interior lane width of 15 feet has been removed and replaced with a new provision requiring that none of the processed or unprocessed material shall be mechanically compacted. It requires that any putrescible waste be processed into the composting material or removed within 48 hours. Closure requirement clarifies that all residuals, solid waste and recyclable materials must be removed and properly managed in

order to comply with the existing solid waste management requirements in Chapter 62-701, F.A.C. There are also a number of procedural and clerical changes.

Rule 62-709.330, F.A.C., Specific Criteria for Registration of Yard Trash Processing Facilities – This requirement directs yard trash processing facilities to comply with the general registration provisions in Rule 62-709.320, F.A.C, and specific requirements of this rule. The specific requirements that a facility processing only yard trash must meet in order to qualify for registration were relocated from Rule 62-709.320, F.A.C., because Rule 62-709.320, F.A.C., was expanded to address more than just yard trash processing facilities.

Rule 62-709.350, F.A.C., Specific Criteria for Registration of Facilities Composting Vegetative Wastes, Animal Byproducts or Manure, or Blending Manure – This requirement directs a facility processing vegetative wastes, animal byproducts or manure to comply with the general registration provisions in Rule 62-709.320, F.A.C, and specific requirements of this rule. This rule also sets forth specific requirements that the carbon-to-nitrogen ratio must be greater than 20, and limits the pile height to 12 feet. All materials received must be removed within 18 months unless otherwise authorized. While the composted or manure blended material must be disinfected, this section relieves facilities composting only pre-consumer vegetative waste from demonstrating that disinfection has been achieved. This rule specifies options for vector attraction reduction controls.

Rule 62-709.460, F.A.C., Special Permitting Criteria for Solid Waste Organics Recycling Pilot Projects – This rule creates a simplified permit for small, short-term organics recycling projects that would not already qualify for a registration under this Chapter, including research projects for composting of solid waste, or an organics recycling project that is not limited to composting. Permits are limited to 18 months with one extension for an additional 18 months, and project feedstock is limited to no more than 10,000 cubic yards. The prohibitions specified in subsection 62-709.300(7), F.A.C., apply, except for relaxing the prohibitions regarding setback distances to potable water wells (i.e., 250 feet versus 500 feet) and to water bodies (i.e., 100 feet versus 200 feet). Applicants receiving permits for these projects would still need to address site access, and controls for dust, litter, odors and vectors, fire protection and control. It requires certain unauthorized materials be immediately containerized and removed if discovered. Closure requirement clarifies that all residuals, solid waste and recyclable materials must be removed and properly managed in order to comply with the existing solid waste management requirements in Chapter 62-701, F.A.C. The permit application form to be used and the content of that application is specified, including contact information, documentation regarding land ownership, project description, materials processed, methods used to control odors, vectors and stormwater, and how the solid waste will be disinfected and

the method used to demonstrate disinfection has been achieved, operating parameters used to manage the process (including temperature monitoring), and closure procedures that will be used. It specifies operational options for vector attraction reduction controls. Record keeping and reporting requirements are also specified.

Rules 62-709.500, F.A.C., Design Criteria for Permitted Facilities, and 62-709.510 Operation Criteria for Permitted Facilities – The rule title was changed to make it clear that these two rules apply only to facilities requiring an individual permit under this chapter.

Rule 62-709.530, F.A.C., Testing, Recording and Reporting Requirements – The requirement to test for three parameters (total nitrogen, total phosphorus and total potassium) has been removed from the rule because they were no longer needed for evaluating compost. The list of pathogens required to demonstrate that materials have been disinfected has been expanded to be consistent with subsection 62-709.300(8), F.A.C. It excludes compost made from vegetative wastes or animal byproducts, in addition to yard trash or manure, from foreign matter and metals testing. The annual report form that a permitted facility must submit has been incorporated into Rule 62-709.901, F.A.C.

Rule 62-709.550, F.A.C., Classification of Compost – This rule has been updated to reflect the reduced requirements for registered facilities processing manure, vegetative waste and animal byproducts.

Rule 62-709.901, F.A.C., Forms – This rule lists the forms applicable to this chapter.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The Department has determined that these proposed amendments will not impact small businesses, small cities, or small counties. Therefore, no Statement of Estimated Regulatory Costs 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.

**RULEMAKING AUTHORITY:** 120.53, 403.061, 403.704, 403.7043 FS.

**LAW IMPLEMENTED:** 120.53, 403.7043, 403.707 FS.

**A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** December 1, 2009, 9:00 a.m.

**PLACE:** Department of Environmental Protection, 3900 Commonwealth Blvd., Conference Room A, 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: Francine Joyal. 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: Francine Joyal, Department of Environmental Protection, 2600 Blair Stone Road, MS 4565, Tallahassee, Florida 32399-2400, telephone (850)245-8747 or email: Francine.Joyal@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-709.201 Definitions.

The definitions in Rule 62-701.200, F.A.C., apply to this chapter unless the context clearly indicates otherwise. For purposes of this chapter, the following words, phrases or terms shall have the following meaning:

(1) “Animal byproducts” means source-separated organic solid waste that is animal in origin, such as meat, fat, dairy, or eggs, and is generated by commercial, institutional, agricultural, or industrial operations. This term includes waste generated by prison facilities, grocery stores, manufacturing or packaging plants, butcher shops, restaurants and abattoirs. This term also includes packaging that has come into contact with animal byproducts. These wastes will be viewed as putrescible waste in this chapter.

(2) “Beneficial use” means, for the purposes of this Chapter, that readily-degradable organics are placed on or in the soils to provide a viable benefit, such as, reducing erosion and water loss, regulating soil temperature, preventing the growth of weeds, or serving as a soil amendment upon decomposition. Placement of materials for purposes of disposal is not considered to be a beneficial use.

(3) “Backyard composting” means the composting of organic solid waste, such as grass clippings, leaves or food waste, generated by a homeowner or tenant of a single or multi-family residential unit or an apartment complex unit, where composting occurs at that dwelling unit.

(4) “Clean wood” means wood, including lumber, tree and shrub trunks, branches, and limbs, that is free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, chromated copper arsenate, other wood preservatives or treatments.

(5) “Compost” means solid waste which has undergone biological decomposition of organic matter, has been disinfected using composting or similar technologies, and has been stabilized to a degree that is potentially beneficial to plant growth and that is used or sold for use as a soil amendment, artificial top soil, growing medium amendment or other similar uses.

(6) “Composting” means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and that stabilizes the organic fraction into a material which can easily and safely be stored, handled and used in an environmentally acceptable manner.

The presence of anaerobic zones within the composting material will not cause the process to be classified as other than composting.

(7) “Composting facility” means a solid waste management facility where solid waste is processed using composting technology. Processing may include physical turning, windrowing, aeration or other mechanical handling of organic matter.

(8) “Curing area” means an area where organic material that has undergone the rapid initial stage of composting is further stabilized into a humus-like material.

(9) “Disinfection” means the selective destruction of pathogens indicated by a reduction in indicator organism(s) as specified in paragraph 62-709.300(8)(a), F.A.C.

(10) “Foreign matter” means the inorganic and organic constituents in a solid waste stream that are not readily decomposed and that may be present in the compost. Foreign matter is metals, glass, plastics, rubber, bones, and leather, but does not include sand, grit, rocks or other similar materials.

(11) “Land reclamation” means the restoration of productivity to lands made barren through processes such as erosion, mining or land clearing.

(12) “Manure” means a solid waste composed of excreta of animals, and residual materials that have been used for bedding, sanitary or feeding purposes for such animals. For purposes of this chapter, manure does not include such material generated and managed by normal farming operations, but does include “paunch manure,” which is the undigested stomach content of cattle.

(13) “Maturity” means the degree of stability that has been achieved.

(14) “Mesophilic stage” means a biological stage in the composting process characterized by active bacteria which favor a moderate temperature range of 20-45 degrees Celsius. It occurs later in a composting process after the thermophilic stage and is associated with a moderate rate of decomposition.

(15) “Motorized firefighting equipment” means equipment that can be used to control and extinguish fires such as fire trucks, front end loaders, and bull dozers.

(16) “Pre-consumer vegetative waste” means source-separated vegetative solid waste from commercial, institutional, industrial or agricultural operations that is not considered yard trash, and has not come in contact with animal products or byproducts or with the end user. This term includes material generated by grocery stores, packing houses, and canning operations, as well as products that have been removed from their packaging, such as out-of-date juice, vegetables, condiments, and bread. This term also includes associated packaging that is vegetative in origin such as paper or corn-starch based products, but does not include packaging that has come in contact with other materials such as meat. Plate scrapings are specifically excluded from this definition. These wastes are putrescible waste as defined in this chapter.

(17) “Putrescible waste” means solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for birds. The term does not include uncontaminated yard trash or clean wood.

(18) “Recycling” means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

(19) “Size-reduced” means the material has been processed so that it will pass through a 6-inch sieve or has been cut for firewood in no greater than 24 inch lengths.

(20) “Stabilized” means that biological and chemical decomposition of the wastes has ceased or diminished to a level so that such decomposition no longer poses a pollution, health, or safety hazard. The term means that the compost has at least passed through the thermophilic stage, and that biological decomposition of the solid waste has occurred to a sufficient degree that will allow beneficial use.

(21) “Thermophilic stage” means a biological stage in the composting process characterized by active bacteria which favor a high temperature range of 45-75 degrees Celsius. It occurs early in a composting process before the mesophilic stage and is associated with a high rate of decomposition.

(22) “Vector” means a carrier organism that is capable of transmitting a pathogen from one organism to another.

(23) “Vegetative waste” means source-separated organic solid waste that is vegetative in origin, and is generated by commercial, institutional, agricultural or industrial operations that is not considered yard trash. This term includes waste generated by grocery stores, prisons, restaurants, packing houses, and canning operations, as well as products that have been removed from their packaging, such as out-of-date juice, vegetables, condiments, and bread. This term also includes packaging that is vegetative in origin such as paper or corn-starch based products. These wastes are putrescible waste as defined in this chapter. Where the term is not used in conjunction with the term pre-consumer, it included vegetative waste that may have come in contact with the end user.

(24) “Yard trash” means vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps, and associated rocks and soils. For purposes of this chapter, it also includes clean wood.

(25) “Yard trash processing facility” means a yard trash transfer station or a facility at which yard trash is processed into a size-reduced, usable material or is composted, but does not include a facility used for the disposal of yard trash.

Rulemaking Authority 403.704, 403.7043 FS. Law Implemented 403.7043 FS. History—New \_\_\_\_\_.

62-709.300 General Provisions.

(1) General provisions relating to solid waste management may be found in Chapter 62-701, F.A.C., including statements of intent, definitions, prohibitions, general permitting requirements, alternate procedures, ~~and variances, and forms.~~ Except where the context indicates otherwise, these general provisions apply to this chapter.

(2) No solid waste management facility whose purpose is or includes the production of compost shall be constructed, operated, expanded or modified without an appropriate or currently valid permit or registration issued by the Department unless specifically exempted by Chapter 403, F.S., Chapter 62-701, F.A.C., or this chapter.

(3) Except for permits issued in accordance with Rule 62-709.460, F.A.C., the following applies:

(a) Application for a permit, shall be pursuant to the requirements specified in Rule 62-701.320 subsections 62-701.320(5), (6), paragraphs (7)(a) (g) and (8), F.A.C., except that Form 62-709.901(1) 62-701.900(10) shall be used, Application for a Permit to Construct/Operate a Solid Waste Management Facility for the Production of Compost, effective date XXX, hereby adopted and incorporated by reference. Copies of this form are available from a local District Office or by writing to the Department of Environmental Protection, Solid Waste Section, MS 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department web page at [http://www.dep.state.fl.us/waste/quick\\_topics/forms/pages/62-709.htm](http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-709.htm).

~~(b)(4)~~ No change.

(c) Term of permit. The time period for permits shall be no longer than five years from the date of issuance by the Department.

(4) Closure requirements.

(a) The owner or operator shall notify the appropriate Department District Office in writing forty-five (45) days prior to ceasing operations, and shall specify a closing date. No waste shall be received by the facility after the closing date.

(b) All residuals, solid waste, and recyclable materials shall be removed from the site and recycled, or disposed of pursuant to the requirements of Chapter 62-701, F.A.C., within one month from the date the facility ceases to receive solid waste. Any remaining compost shall be used in accordance with the requirements of this chapter or disposed of pursuant to the requirements of Chapter 62-701, F.A.C.

(5) Nothing in this chapter is intended to relieve any person from compliance with the storm water rules found in Chapters 62-25 and 62-330, F.A.C., or with any other local, state or federal requirements.

(6) The following activities or facilities are not regulated under this chapter:

~~(a)(5)~~ Simple exposure of solid waste with little to no mechanical handling that results in natural decay; this is considered disposal and is regulated under subject to the requirements of Chapter 62-701, F.A.C.

~~(b)(6)~~ Composting of solid waste ~~Solid waste which is composted as a volume reduction measure prior to intended disposal; this is considered waste processing and is not regulated by this rule, but is regulated under Chapter 62-701, F.A.C.~~

~~(7)~~ Compost produced outside of the State of Florida which is used or sold for use within the state shall comply with the requirements specified in Rules 62-709.530, 62-709.550 and 62-709.600, F.A.C.

~~(c)(8)~~ Composting facilities that process domestic wastewater residuals with yard trash; these are not regulated under this chapter, but are regulated under Chapter 62-640, F.A.C.

~~(9)~~ Composting facilities that process domestic wastewater residuals with other solid wastes are regulated under this chapter. However, nothing in this chapter shall relieve such facilities from complying with other applicable federal or state rules or regulations regarding domestic wastewater residuals management.

~~(d)~~ Facilities where industrial byproducts are segregated and managed, provided that the operation is either exempt from permitting under Section 403.7045, F.S., or is regulated under another Department permit or certification.

~~(10)~~ The following activities are not regulated by this rule provided no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:

~~(a)~~ Backyard composting and the resulting compost.

~~(b)~~ Normal farming operations. For purposes of this rule, composting of only yard trash, or manure by persons on their own property for their own use on that property as part of agronomic, horticultural or silvicultural operations will also be considered as normal farming operations. Any compost which is sold for use by persons other than the generator shall meet the requirements of Rules 62-709.530 through .600, F.A.C.

~~(7)~~ Prohibitions.

~~(a)(11)~~ No person shall cause or allow the discharge of air pollutants that which cause objectionable odor in violation of Chapter 62-296, F.A.C.

~~(b)(12)~~ The prohibitions of Rule subsection 62-701.300(2), F.A.C., as well as the siting restriction of subsection 62-701.320(13) 62-701.320(12), F.A.C., apply to facilities regulated under this chapter the siting of composting facilities.

~~(c)(13)~~ No solid waste processed in accordance with this chapter compost made from solid waste shall be placed used as fill material in any natural or artificial body of water or

wetland, unless authorized under a permit from the Department or a water management district, or in an open sinkhole, or a dewatered pit.

~~(14)~~ Any compost made from solid waste which cannot be used pursuant to the requirements of this rule shall be reprocessed or disposed of pursuant to the requirements of Chapter 62-701, F.A.C.

~~(d)(15)~~ No treated or untreated biomedical waste, as regulated by Chapter 64E-16, F.A.C., shall be accepted at organics processing or recycling composting facilities.

~~(e)(16)~~ Used oil, hazardous waste and asbestos-containing waste shall not be processed into recyclable organic materials compost except for small quantities normally found in household waste.

~~(8)~~ Compost.

~~(a)~~ Any compost produced from solid waste, excluding compost made with only yard trash or pre-consumer vegetative waste, must be disinfected. One of the following options must be used to demonstrate that disinfection has been achieved (the test frequencies for these options are contained in paragraphs 62-709.530(1)(b) and (c), F.A.C.):

1. Option 1 – at the time composted solid waste has completed the disinfection process:

a. Either the density of fecal coliform is less than 1000 Most Probable Number per gram total solids, or the density of *Salmonella* sp. bacteria is less than three Most Probable Number per four grams of total solids; and

b. One of the following process controls is achieved:

i. Maintain 55 degrees Celsius or higher for three consecutive days in a mechanical composter or in an aerated, insulated static pile; or

ii. Maintain 55 degrees Celsius or higher for 15 consecutive days in a windrow with at least five turnings of the windrow.

2. Option 2 – at the time material is ready to be used, or the pathogen reduction process has been completed:

a. Either the density of fecal coliform is less than 1000 Most Probable Number per gram total solids, or the density of *Salmonella* sp. bacteria is less than three Most Probable Number per four grams of total solids; and

b. The density of enteric viruses are less than one Plaque-forming Unit per four grams of total solids; and

c. The density of viable helminth ova is less than one per four grams of total solids.

(b) Temperature monitoring shall be at a depth of two feet into the pile. The temperature readings and the length of the composting period shall be recorded. These records shall be kept for at least three years and shall be made available for inspection by Department personnel.

(c) Any compost that cannot be used pursuant to the requirements of this chapter shall be reprocessed or disposed of pursuant to the requirements of Chapter 62-701, F.A.C.

(9) Permit fees for organic solid waste recycling facilities. Notwithstanding the provisions of paragraph 62-4.050(4)(j) and Rule 62-701.315, F.A.C., the following fees shall apply to permit applications associated with this chapter. The provisions of paragraphs 62-4.050(4)(o) through (v), F.A.C., continue to apply to such permits or applications. Fees for permit transfers and alternate procedures are established in Rule 62-701.315, F.A.C., and fees for permit modifications are established in subsection 62-701.320(4), F.A.C.

- (a) Construction permits.
  - 1. Manure or yard trash composting facility      \$ 2,000
  - 2. Solid waste composting facility              \$ 5,000
- (b) Operation permits.
  - 1. Manure or yard trash composting facility      \$ 1,000
  - 2. Solid waste composting facility              \$ 3,000
- (c) Transfer of permit.                              \$ 50
- (d) Registrations for yard trash processing facilities                              \$ 35
- (e) Registration for composting of yard trash, vegetative wastes, animal byproducts or manure or blending facilities                              \$ 35
- (g) Permit for a solid waste organics recycling pilot projects                              \$ 250
- (h) Request for an alternate procedure to provisions in this rule                              \$ 500

Rulemaking Specific Authority 403.061, 403.704, 403.7043 FS. Law Implemented 403.7043, 403.707 FS. History—11-21-89, Formerly 17-709.300, Amended 12-17-96, 10-22-00,\_\_\_\_\_.

62-709.305 Exemptions.

The following activities do not require a permit or registration under this chapter provided no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders.

- (1) Backyard composting and the resulting compost.
- (2) Normal farming operations. For purposes of this chapter, the following will be considered normal farming:
  - (a) Composting of wastes generated on the farm, as part of agronomic, horticultural or silvicultural operations, for use on the farm, as part of agronomic, horticultural or silvicultural operations;
  - (b) Composting of wastes generated on the farm, as part of agronomic, horticultural or silvicultural operations, for sale or use off the farm; although no permit is required, the generator must meet the requirements of Rules 62-709.530 through .600, F.A.C., for any compost that is sold for use by persons other than the generator;
  - (c) Composting of yard trash, manure, or vegetative wastes generated from off the farm, for use on the farm, as part of agronomic, horticultural or silvicultural operations;

(d) Composting of yard trash, manure, or vegetative wastes generated from off the farm, for sale or use off the farm; although no permit is required, the generator must meet the requirements of Rules 62-709.530 through .600, F.A.C., for any compost that is sold for use by persons other than the generator. For this exemption to apply, the yard trash, manure, or vegetative wastes brought to the farm must be necessary to optimize composting of the yard trash or manure generated on the farm, as part of agronomic, horticultural or silvicultural operations (e.g., bringing in yard trash as a source of carbon and pile structure) to optimize composting of manure generated on the farm). Yard trash, vegetative wastes, or manure which is brought to the farm solely to increase the amount of compost produced is not considered to be part of the agronomic, horticultural or silvicultural operations at the farm and is not covered by this exemption, except as provided for in subparagraph (e) below; and

(e) Manure management operations that are regulated under Chapter 62-670, F.A.C., as concentrated animal feeding operations (CAFO) or animal feeding operations (AFO). If the facility is permitted, this includes manure received from off-site as well as generated on-site when the facility permit addresses these waste streams.

(3) Composting of solid waste generated on-site or off-site, when there is no more than 100 cubic yards on site at any one time of solid waste to be composted or undergoing the composting process and finished compost being stored for use.

(4) Land application of processed yard trash for beneficial use is not considered disposal, and is not regulated under department solid waste regulations, providing the yard trash has been size-reduced so that it will pass through a 6-inch sieve.

(5) Land application of unprocessed yard trash or other use of yard trash, manure, or vegetative waste, if it is beneficial use that is not expected to pose a significant threat to public health or the environment. The following information could be submitted to the Department's District office to help provide assurance that this activity is beneficial use:

(a) A description of the property, including street mailing address, property identification number used by the county property appraiser's office, where on the property the land application will occur, and topography on which the material will be deposited. A map showing the location of the property and identifying water bodies, wetlands and wells to be avoided is also required. The property description must indicate any water bodies or wetlands to be avoided. The Department retains the authority to inspect this operation to assure that the waste is being properly managed.

(b) Documentation that the person either owns the land where the material will be deposited, or has legal authorization from the property owner to deposit the material there in the manner proposed.

(c) An explanation of the proposed project and why the person believes it qualifies for this exemption. The explanation should include a description of the benefit obtained from the project, any specifications or requirements for the incoming material, a description of any processing that will take place on-site before the material is used, and the amount of material required to complete the project. This should include the total amount and a per-acre application rate. The total amount and per-acre application rate shall be in tons or cubic yards. An estimated bulk density in pounds per cubic yards shall also be provided.

(d) An operation plan describing how the material will be received onto the site, how site access will be controlled, what equipment will be used to process or spread it, and how the material will be stored prior to use.

(e) A contingency plan explaining the procedures for dealing with emergencies such as a fire, natural disaster or equipment failure, or receipt of any unacceptable material.

(f) A description of how any vegetative waste or unstabilized manure will be processed within 48 hours.

(g) A demonstration that the proposed project is not expected to create any significant threat to public health or the environment.

Rulemaking Authority 403.061, 403.704, 403.7043 FS. Law Implemented 403.7043, 403.707 FS. History—New \_\_\_\_\_.

#### 62-709.320 General Provisions for Registrations Yard Trash Processing Facilities.

##### (1) Applicability.

(a) Owners or operators of yard trash processing facilities, facilities composting vegetative waste, animal byproducts or manure with or without yard trash, and manure blending operations that meet the criteria of this rule and Rules 62-709.330, or .350 shall register annually with the Department in accordance with subsection 62-709.320(3) 62-709.320(5), F.A.C., in lieu of obtaining a permit under subsection 62-709.300(2), F.A.C. However, if these criteria are not met then a solid waste management facility permit is required:

##### 1. No change.

2. In accordance with subsection 62-709.300(3) Chapter 62-709, F.A.C., for composting or processing recycling operations, or Rule 62-709.460, F.A.C., for qualifying pilot projects. In this case, the provisions for composting facilities in this chapter shall apply to the recycling operations, including permitting, design and operating criteria, testing, recording and reporting.

(b) Owners or operators of solid waste yard trash processing facilities that meet the criteria of this rule and either Rule 62-709.330 or .350, F.A.C., are not subject to the requirements of Rules 62-709.500, 62-709.510 and

62-709.530, F.A.C., unless otherwise specified in this chapter. However, they are subject to the requirements in Rules 62-709.300, 62-709.550, and 62-709.600, F.A.C.

~~(c) Owners or operators of existing yard trash processing facilities shall register in accordance with subsection (5) of this rule by April 22, 2001, and comply with the remaining provisions of this rule by October 22, 2001. However, if a yard trash processing facility is already authorized under another Department solid waste management facility permit, then facility registration under this rule is not required as long as that permit remains valid. However, an annual report must still be submitted.~~

(d) Registrations issued under this chapter are considered to be the equivalent of operation permits for purposes of any notice requirements of Chapter 403, F.S., or Rule 62-110.106, F.A.C.

~~(2) Definitions. The following terms as used in this rule, unless the context indicates otherwise, shall have the following meaning:~~

~~(a) "Clean wood" means wood, including lumber, tree and shrub trunks, branches, and limbs, which is free of paint, glue, filler, pentachlorophenol, creosote, tar, asphalt, other wood preservatives or treatments.~~

~~(b) "Yard trash" has the meaning given in Rule 62-701.200, F.A.C., and solely for purposes of this rule, it includes clean wood.~~

~~(c) "Yard trash processing facility" means a yard trash transfer station or a yard trash recycling facility, but does not include a facility used for the disposal of yard trash.~~

~~(d) "Yard trash recycling facility" means a facility at which yard trash is mulched, composted, or otherwise processed into useable materials, but does not include a facility used for the disposal of yard trash.~~

~~(e) "Yard trash transfer station" means a facility at which yard trash is stored or held for transport to a processing or disposal facility or for use at another site. It does not include green boxes, compactor units, permanent dumpsters, or other containers from which such wastes are transported to a landfill or other solid waste management facility.~~

~~(3) Prohibitions. Owners or operators of yard trash processing facilities shall comply with the prohibitions specified in paragraphs 62-701.300(1), (2)(a), (d), (e), (f), (h), and (3), F.A.C. In addition, the following apply to yard trash processing facilities, although it is the intent of the Department to repeal these paragraphs if and when Rule 62-701.300, F.A.C., is amended to address yard trash processing facilities.~~

~~(a) No yard trash or processed yard trash shall be placed within 100 feet of any existing or approved off site potable water well unless this activity takes place at a facility for which a complete registration was filed or which was originally registered before the potable water well was in existence. This prohibition shall apply to lateral expansion of the registered facility.~~



(b) ~~No yard trash or processed yard trash shall be placed within 200 feet of any existing or approved potable water well serving a community water system as defined in subsection 62-550.200(9), F.A.C., unless this activity takes place at a facility for which a complete registration was filed or which was originally registered before the potable water well was in existence. This prohibition shall apply to lateral expansion of the registered facility.~~

(c) ~~No yard trash or processed yard trash shall be placed within 50 feet of any natural or artificial body of water. For purposes of this paragraph, a "body of water" includes wetlands within the jurisdiction of the Department, but does not include impoundments or conveyances that are part of a permitted stormwater management system, or water bodies contained completely within the property boundaries of the facility that do not discharge from the site to surface waters.~~

~~(2)(4)~~ Design and operating requirements.

(a) ~~The facility shall have the operational features and equipment necessary to maintain a clean and orderly operation. Unless otherwise specified in Rules 62-709.330 or .350, F.A.C., these provisions shall include, including:~~

1. No change.
2. Dust and litter control methods; and
3. No change.

b. None of the processed or unprocessed material shall be mechanically compacted ~~There shall be interior lanes at least 15 feet wide; and~~

c. None of the ~~No part of the area that is occupied by processed or unprocessed material shall be more than 50 feet from access by motorized firefighting ~~fire fighting~~ equipment.~~

(b) ~~The facility shall be operated in a manner to control disease vectors.~~

(c) The facility shall be operated in a manner, and to control objectionable odors in accordance with subsection 62-296.320(2), F.A.C.

(d) Any drains and leachate or condensate conveyances that have been installed shall be kept clean so that flow is not impeded.

(e)(e) Solid waste received at a registered facility must be processed timely as follows:

1. Any yard trash, including clean wood, received at the facility shall be sized reduced processed or removed within 6 months, or within the period required to receive 3,000 tons or 12,000 cubic yards, whichever which ever is greatest. To be considered processed, material must pass a 6-inch sieve. However, logs with a diameter of 6 inches or greater may be stored for up to 12 months before they are size-reduced processed or removed, provided the logs are separated and stored apart from other materials on site.

2. Any putrescible waste such as vegetative wastes, animal byproducts or manure received at a facility shall be processed and incorporated into the composting material, or removed from the facility, within 48 hours of receipt.

(d) ~~Processed material shall be removed from the facility within 18 months. However, if a yard trash processing facility is authorized under another Department solid waste management facility permit, then the department shall authorize on-site storage of processed material for longer than 18 months if the owner or operator demonstrates that there is a quantifiable use for such material for cover, erosion control, closure, or other similar activities at that permitted facility.~~

(f)(e) If Only yard trash, and bags used to collect yard trash, shall be accepted at the facility. Any other material shall be containerized, with all putrescible material removed within 48 hours. Further, if any of the following materials are discovered, they shall be immediately containerized and removed from the facility: treated or untreated biomedical waste; hazardous waste; or any materials containing a polychlorinated biphenyl (PCB) concentration of 50 parts per million or greater.

(g) When a registered facility ceases operation, all residuals, solid waste, and recyclable materials shall be removed from the site and recycled, or disposed of pursuant to the requirements of Chapter 62-701, F.A.C. Any remaining processed material shall be used in accordance with the requirements of this rule or disposed of pursuant to the requirements of Chapter 62-701, F.A.C.

(3)(5) Registration. Owners or operators of solid waste yard trash processing facilities, that qualify for registration, shall register with the Department before beginning operation, unless they are operating under a solid waste management facility permit as specified in or in accordance with paragraph (1)(c) of this rule.

(a) Registration shall be submitted on Form 62-709.901(3), Application for Registration and Annual Report for a Yard Trash Transfer Station or Solid Waste Organics Recycling Facility, effective date XXX, hereby adopted and incorporated by reference. Copies of this form are available from a local District Office or by writing to the Department of Environmental Protection, Solid Waste Section, MS 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department web page at [http://www.dep.state.fl.us/waste/quick\\_topics/forms/pages/62-709.htm](http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-709.htm) 62-709.320(7)(a).

(b) The registrant shall provide the facility name, physical address where the facility is located, mailing address, street mailing address, contact name, email address and telephone number, and affirm that facility design and operations comply with the requirements of this rule and Rule 62-709.330 or .350, F.A.C. The registrant shall also provide documentation that the

registrant either owns the land or has legal authorization from the landowner to operate a solid waste organics recycling yard trash processing facility on that site.

(c) Renewal applications for registrations pursuant to Rules 62-709.330, or .350, F.A.C., shall be submitted annually by July April 1.

(d) The application for registration shall include the annual report required in subsection (4)(6) of this rule. Owners and operators of solid waste organics recycling yard trash processing facilities that are submitting their first registration applications and have not begun operating during the applicable calendar year before beginning operations are not subject to this requirement of this paragraph.

~~(e) The processing fee for registration is \$35. The fee shall be submitted with the registration application in accordance with the provisions of Rule 62-4.050, F.A.C.~~

~~(4)(6) Record keeping and reporting.~~

(a) Monthly records of incoming and outgoing materials shall be kept on site or at another location as indicated on the registration form for at least three years. The values may be in cubic yards or tonnage, but the same unit of measurement shall be used to record both incoming and outgoing materials. An annual report, based on the preceding calendar year, shall summarize the monthly records and shall be submitted by July 1 to the Department using Form 62-709.901(3), Application for Registration and Annual Report for a Yard Trash Transfer Station or Solid Waste Organics Recycling Facility, effective date XXX, hereby adopted and incorporated by reference. Copies of this form are available from a local District Office or by writing to the Department of Environmental Protection, Solid Waste Section, MS 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department web page at [http://www.dep.state.fl.us/waste/quick\\_topics/forms/pages/62-709.htm](http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-709.htm) 62-709.320(7)(b) with the application for registration. The initial annual report for existing facilities shall also include a current site inventory of materials.

(b) If temperature monitoring will be used to demonstrate that disinfection has been achieved or that vector attraction has been achieved, then these records shall be kept for at least three years. These records shall be made available upon request.

(7) Forms. The forms used by the Department in this rule are adopted and incorporated by reference in this subsection. The form is listed by rule number, which is also the form number, and with the subject, title and effective date. Copies of forms may be obtained from a local District Office or by writing to the Florida Department of Environmental Protection, Solid Waste Section, Mail Station 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(a) Form 62-709.320(7)(a): Application for Registration of a Yard Trash Processing Facility, effective 10-22-00.

(b) Form 62-709.320(7)(b): Annual Report for a Yard Trash Processing Facility, effective 10-22-00.

Rulemaking Specific Authority 403.061, 403.704, 403.7043 FS. Law Implemented 403.7043, 403.707 FS. History—New 10-22-00, Amended \_\_\_\_\_.

62-709.330 Specific Criteria for Registration of Yard Trash Processing Facilities.

(1) A facility accepting only yard trash shall meet the criteria in this rule in addition to the provisions of Rule 62-709.320, F.A.C.

(2) Processed material shall be removed from the facility within 18 months. However, if a yard processing facility is authorized under another Department solid waste management facility permit, then the department shall authorize on-site storage of processed material for longer than 18 months if the owner or operator demonstrates that there is a quantifiable use for such material for cover, erosion control, closure, or other similar activities at that permitted facility.

(3) Only yard trash, and bags used to collect yard trash, shall be accepted at the yard trash processing facility. Any other material shall be containerized.

Rulemaking Authority 403.061, 403.704, 403.7043 FS. Law Implemented 403.7043, 403.707 FS. History—New \_\_\_\_\_.

62-709.350 Specific Criteria for Registration of Facilities Composting Vegetative Wastes, Animal Byproducts or Manure, or Blending Manure.

(1) A facility accepting and composting only vegetative wastes, animal byproducts or manure, with or without yard trash, or a facility accepting only manure and blending it with yard trash or soil, shall meet the criteria of this rule in addition to the provisions of Rule 62-709.320, F.A.C.

(2) The carbon:nitrogen ratio of the blended feedstocks shall be greater than 20.

(3) Vegetative waste, animal byproducts or manure shall not be stored or processed in piles that exceed 12 feet in height.

(4) Yard trash processing facilities that also compost or blend and are registered in accordance with this section are not required to obtain a separate registration for the yard trash processing operation.

(5) All material accepted by the facility shall be removed within 18 months. However, if a facility is authorized under another Department solid waste management facility permit, then the department shall authorize on-site storage of compost or blended manure for longer than 18 months if the owner or operator demonstrates that there is a quantifiable use for such material for cover, erosion control, closure, or other similar activities at that permitted facility.

(6) The compost produced, or the manure blended with yard trash or soil, must be disinfected using one of the options in subsection 62-709.300(8)(a), F.A.C. However, demonstration that disinfection has been achieved is not required if the compost was made from pre-consumer vegetative waste, with or without yard trash.

(7) Operation features of a composting or manure blending facility for vector attraction reduction controls shall include one of the following:

(a) The material shall be composted for at least 14 days, during which time the temperature of the material being composted shall not be lower than 40 degrees Celsius and the average temperature of the material being composted shall be higher than 45 degrees Celsius; or

(b) The specific oxygen uptake rate (SOUR) for material being composted or blended shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

Rulemaking Authority 403.061, 403.704, 403.7043 FS. Law Implemented 403.7043, 403.707 FS. History--New \_\_\_\_\_.

62-709.460 Special Permitting Criteria for Solid Waste Organics Recycling Pilot Projects.

(1) Applicability.

(a) A person wishing to conduct a solid waste organics recycling pilot project shall operate only under a permit issued in accordance with this rule. Pilot projects may include a research project that does not qualify for the permit provision in Section 403.70715, F.S., or an organics recycling project that is not limited to composting. Pilot projects that qualify for this permit are those that:

1. Do not qualify for registration under this chapter;

2. Will initially operate for no more than 18 months, with the option to extend the project for an additional 18 months; and

3. Will accept no more than 10,000 cubic yards of project feedstock.

(b) If a facility is already authorized under another Department permit that addresses the project, then a permit under this rule is not required as long as that permit remains valid.

(c) Pilot projects that meet the criteria of this rule are not subject to the requirements of Rules 62-709.500, 62-709.510 and 62-709.530, F.A.C., unless otherwise specified in this rule. However, such projects are subject to the requirements in Rules 62-709.300, 62-709.550, and 62-709.600, F.A.C.

(2) The prohibitions in subsection 62-709.300(7), F.A.C., apply to solid waste organics recycling pilot projects. However, because these projects use smaller quantities of feedstock for a minimal duration, the following setbacks apply in lieu of the setbacks in subsection 62-709.300(7), F.A.C.:

(a) No material or processed material shall be placed within 250 feet of any existing or approved off-site potable water well.

(b) No material or processed material shall be placed within 100 feet of any natural or artificial body of water. For purposes of this paragraph, a "body of water" includes wetlands within the jurisdiction of the Department, but does not include impoundments or conveyances that are part of a

permitted stormwater management system, or water bodies contained completely within the property boundaries of the facility that do not discharge from the site to surface waters.

(3) Design and operating requirements.

(a) The facility shall have the operational features and equipment necessary to maintain a clean and orderly operation including:

1. An effective barrier to prevent unauthorized entry and dumping into the facility site;

2. Dust and litter control methods; and

3. Fire protection and control provisions to deal with accidental burning of solid waste.

a. There shall be an all-weather access road, at least 20 feet wide, all around the perimeter of the site.

b. None of the processed or unprocessed material shall be more than 50 feet from access by motorized firefighting equipment.

(b) The facility shall be operated in a manner to control vectors.

(c) The facility shall be operated in a manner to control objectionable odors in accordance with subsection 62-296.320(2), F.A.C.

(d) Any drains and leachate or condensate conveyances that have been installed shall be kept clean so that flow is not impeded.

(e) If any of the following materials are discovered, they shall be immediately containerized and removed from the facility: treated or untreated biomedical waste; hazardous waste; or any materials containing a polychlorinated biphenyl (PCB) concentration of 50 parts per million or greater.

(f) When a solid waste organics recycling pilot project ceases operation, all residuals, solid waste, and recyclable materials shall be removed from the site and recycled or disposed of pursuant to the requirements of Chapter 62-701, F.A.C. Any remaining processed material shall be used in accordance with the requirements of this chapter or disposed of pursuant to the requirements of Chapter 62-701, F.A.C.

(4) A permit application for a pilot project shall be submitted on Form 62-709.901(4), Permit Application for a Solid Waste Organics Recycling Pilot Project, effective [eff date], hereby adopted and incorporated by reference. Copies of this form are available from a local District Office or by writing to the Department of Environmental Protection, Solid Waste Section, MS 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department web page at [http://www.dep.state.fl.us/waste/quick\\_topics/forms/pages/62-709.htm](http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-709.htm). The application shall include the following:

(a) The facility name, physical address where the facility is located, mailing address, street mailing address, contact name and telephone number, contact email address, and affirmation that facility design and operations comply with the requirements of this rule;

(b) Documentation that the registrant either owns the land or has legal authorization from the landowner to operate a pilot project on that site;

(c) A description of what the project is designed to do;

(d) The materials that will be processed;

(e) The length of time needed to complete the project;

(f) The methods to be used to control odor and vectors;

(g) The methods to be used to disinfect the solid waste processed, and the option specified in paragraph 62-709.300(7)(a), F.A.C., that will be used to demonstrate that disinfection has been achieved;

(h) A description of how stormwater will be controlled;

(i) The operating parameters to be followed for managing the process, such as temperature monitoring;

(j) A description of how the facility will be closed; and

(k) For a renewal application, a progress report as specified in subsection (6) of this section.

(5) Operation features of the facility for vector attraction reduction controls shall include one of the following:

(a) If this is a composting project, then the material shall be composted for at least 14 days, during which time the temperature of the wastes shall not be lower than 40 degrees Celsius and the average temperature of the waste shall be higher than 45 degrees Celsius; or

(b) The specific oxygen uptake rate (SOUR) for wastes being processed shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20 degrees Celsius.

(6) A progress report shall be submitted within 9 months of permit issuance, and at the time a permit renewal application is submitted. The report shall include:

(a) A description of the issues that arose during the project and how they were resolved;

(b) A summary and copies of any test results;

(c) For progress reports submitted as part of a permit renewal application, a summary of the monthly records required in subsection (9) of this section; and

(d) A current site inventory of materials.

(7) Renewal applications to operate the pilot project for up to an additional 18 months shall be submitted at least ninety (90) days before the permit expires.

(8) A final report shall be submitted within 60 days after permit expiration. The report shall include:

(a) A description of how the project goals were met or, if not met, how close the project was to meeting those goals and why they were not met;

(b) A description of the conclusions that were reached and any cost benefit analyses that were performed;

(c) A summary and copies of any test results;

(d) A summary of the monthly records required in subsection (9) of this section; and

(e) A current site inventory of materials.

(9) Record keeping and reporting.

(a) Monthly records of incoming and outgoing materials shall be kept on site or at another location as indicated on the permit application form for at least the duration of the project, or until all material has been removed from the facility site, whichever is greatest. The values may be in cubic yards or tonnage, but the same unit of measurement shall be used to record both incoming and outgoing material. The recorded information shall be summarized and submitted to the Department with any permit renewal application and at project completion.

(b) Records shall be kept for any temperature monitoring performed and for any demonstration that disinfection has been achieved for at least the duration of the project, or until all material has been removed from the facility site, whichever is greatest. These records shall be made available to the Department upon request, and shall be summarized in the progress and final reports.

Rulemaking Authority 403.061, 403.704, 0403.7043 FS. Law Implemented 403.7043, 403.707 FS. History—New \_\_\_\_\_.

62-709.500 Design Criteria for Permitted Facilities.

(1) through (7) No change.

Rulemaking Specific Authority 403.061, 403.704, 403.7043 FS. Laws Implemented 403.7043, 403.707 FS. History—New 11-21-89, Formerly 17-709.500, Amended 10-22-00.

62-709.510 Operation Criteria for Permitted Facilities.

(1) through (4) No change.

Rulemaking Specific Authority 403.061, 403.704, 403.7043, FS. Laws Implemented 403.7043, FS. History—New 11-21-89, Formerly 17-709.510, Amended 10-22-00.

62-709.530 Testing, Recording and Reporting Requirements.

(1) The compost product shall be sampled and analyzed as follows.

(a) A composite sample of the compost produced at each composting facility shall be analyzed at intervals of every 20,000 tons of compost produced or every three months, whichever comes first, for percent moisture, percent reduction in organic matter, percent organic matter, and pH.±

Parameter	Unit	Method
Moisture	%	EPA 160.3
Total Nitrogen	% dry weight	EPA 351 and 353
Total Phosphorus	% dry weight	EPA 365
Total Potassium	% dry weight	EPA 3050/7610
Reduction in Organic Matter	%	EPA 160.4
Organic Matter	%	EPA 160.4
pH	standard units	EPA 9045

(b) In addition to paragraph (a) above, when demonstration that a material has been disinfected is required in accordance with paragraph 62-709.300(8)(a), the material

shall be analyzed for one of the following at intervals of every 20,000 tons of material produced or every three months, whichever comes first:

1. Fecal Coliform, most probable number per gram of total solids (dry weight basis); or

2. *Salmonella* sp. Bacteria, most probable number per four grams of total solids (dry weight basis).

(c) In addition to (b) above, when the provisions of subparagraph 62-709.300(8)(a)2., F.A.C., will be used, the material shall be analyzed for the following at intervals of every 20,000 tons of material produced or every three months, whichever comes first:

1. Enteric viruses, plaque-forming unit per four grams of total solids (dry weight basis); and

2. Helminth ova, ova per four grams of total solids (dry weight basis).

(d) Compost produced by persons for their own use, where the compost is made from yard trash, vegetative wastes or manure, is not required to be sampled and analyzed as specified in paragraphs (a) through (c) above.

(e) In addition to (a) through (c) above, compost made from solid waste, other than only yard trash, vegetative wastes, animal byproducts, or manure shall be analyzed at intervals of every 20,000 tons of compost produced or every three months, whichever comes first, for:

1. Percent foreign matter; and

2. Total cadmium, copper, lead, nickel, and zinc, all in mg/kg dry weight.

Parameter	Unit	Method
Foreign Matter	%	see (f) below
Cadmium	mg/kg dry weight	EPA 3050/7130
Copper	mg/kg dry weight	EPA 3050/7210
Lead	mg/kg dry weight	EPA 3050/7420
Nickel	mg/kg dry weight	EPA 3050/7520
Zinc	mg/kg dry weight	EPA 3050/7950
Fecal Coliform	most probable number (MPN) per gram of volatile suspended solids (VSS)SM 908	

(f) No change.

(g) All sampling and analysis activities shall be performed in accordance with Chapter 62-160, F.A.C. Sample collection, preservation, and analysis shall assure valid and representative results pursuant to a Department approved quality assurance plan. Composite samples shall consist of at least three individual samples of equal volume taken from separate areas along the side of the pile of the compost produced. Each sampling point shall be at a depth of two feet into the pile from the outside surface of the pile. U.S. Environmental Protection Agency (EPA) Methods 160.3, 160.4, 351, 353 and 365 are contained in Methods for

Chemical Analysis of Water and Waste, 1979; EPA Methods 160.3, 160.4, 351, 353 and 365 are contained in Methods for Chemical Analysis of Water and Waste, 1979; EPA Methods 3050, 7130, 7210, 7420, 7520, 7610, 7950 and 9045 are contained in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (EPA SW 846), 3rd Edition, September 1986, updated December 1987; Standard Method (SM) 908 is contained in Standard Methods for the Examination of Water and Wastewater, 16th Edition, 1985. Sampling shall be performed in accordance with guidance contained in Chapter 9 of EPA SW 846 and Section 4.0 of Engineering Support Branch Standard Operating Procedures and Quality Assurance Manual, EPA Region IV, April 1, 1986. Analytical results shall be submitted to the appropriate District office within 30 days of sample collection.

(h) Foreign matter content shall be determined by passing a dried, weighed sample of the compost product through a one-quarter inch or six millimeter screen. EPA Method 160.3 shall be used to dry the sample. The material remaining on the screen shall be visually inspected, and the foreign matter that can be clearly identified shall be separated and weighed. The weight of the separated foreign matter divided by the weight of the total sample multiplied by 100 shall be the % dry weight of the foreign matter content.

(i) The organic matter is determined by measuring the volatile solids content using EPA method 160.4.

(j) No change.

(2) No change.

(3) Owners and operators of facilities producing compost made from solid waste shall submit to the Department an annual report by June 1. The report shall be submitted on Form 62-709.901(2), Annual Report for a Solid Waste Management Facility Producing Compost Made from Solid Waste, effective date XXX, hereby adopted and incorporated by reference. Copies of this form are available from a local District Office or by writing to the Department of Environmental Protection, Solid Waste Section, MS 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400 or from the Department web page at [http://www.dep.state.fl.us/waste/quick\\_topics/forms/pages/62-709.htm](http://www.dep.state.fl.us/waste/quick_topics/forms/pages/62-709.htm). The report 62-701.900(11), and shall include:

(a) through (f) No change.

Rulemaking Specific Authority 403.061, 403.704, 403.7043 FS. Law Implemented 403.7043 FS. History—New 11-21-89, Formerly 17-709.530, Amended 10-22-00, \_\_\_\_\_.

62-709.550 Classification of Compost.

(1) Compost shall be classified based on the type of waste processed, product maturity, the amount of foreign matter in the product, the particle size and organic matter content of the product, and the concentration of heavy metals as specified in the following sections. The following characteristics shall be used:

- (a) Type of waste processed.
  - 1. No change.
  - 2. Manure, or yard trash or vegetative waste with manure.
  - 3. Solid waste, other than only yard trash, vegetative waste, or manure. This includes composts made from the addition of any animal byproducts.
- (b) through (e) No change.
- (2) Compost shall be classified as follows.
  - (a) No change.
  - (b) Type YM is compost made from only vegetative waste, animal byproducts or manure, with or without ~~or~~ yard trash, ~~with manure~~ which is mature or semi-mature and is fine, medium or coarse. For such compost, a foreign matter content of less than 2% and a metal concentration equivalent to code 1 is assumed.
  - (c) Type A is compost made from solid waste, other than only yard trash, vegetative waste, animal byproducts or ~~and~~ manure, which is mature and is fine. The foreign matter content shall be less than or equal to 2% and the metal concentration shall fall under code 1. Further, it shall contain no foreign matter, such as glass or metal shards, of a size and shape that can cause injury.
  - (d) Type B is compost made from solid waste, other than only yard trash, vegetative waste, animal byproducts or manure, which is mature or semi-mature and is fine or medium. The foreign matter content shall be less than or equal to 4%, and the metal concentration shall fall under codes 1 or 2. Further, it shall contain no foreign matter, such as glass or metal shards, of a size and shape that can cause injury.
  - (e) Type C is compost made from solid waste, other than only yard trash, vegetative waste, animal byproducts or manure, which is mature or semi-mature and is fine, medium or coarse. The foreign matter content shall be less than or equal to 10% and the metal concentration shall fall under codes 1, 2 or 3.
  - (f) Type D is compost made from solid waste, or from only yard trash, vegetative waste, animal byproducts or manure, which is fresh and is fine, medium or coarse. It shall have a foreign matter content of less than or equal to 10% and the metal concentration shall fall under codes 1, 2 or 3. Foreign matter content and metal concentration is assumed for fresh compost made from only yard trash, vegetative waste, animal byproducts or manure.
  - (g) Type E is compost made from solid waste, other than only yard trash, vegetative waste, animal byproducts or manure, which has a metal concentration that falls under code 4.
- (3) Compost maturity shall be determined as follows.
  - (a) No change.

Rulemaking Specific Authority 403.061, 403.704, 403.7043 FS. Law Implemented 403.7043 FS. History–New 11-21-89, Formerly 17-709.550, Amended \_\_\_\_\_.

62-709.901 Forms.

The forms used by the Department in this rule are adopted and incorporated by reference in this subsection. The form is listed by rule number, which is also the form number, and with the subject, title and effective date. Copies of forms may be obtained from a local District Office or by writing to the Florida Department of Environmental Protection, Solid Waste Section, Mail Station 4565, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(1) Application for a Permit to Construct/Operate a Solid Waste Management Facility for the Production of Compost, effective \_\_\_\_\_.

(2) Annual Report for a Solid Waste Management Facility Producing Compost Made from Solid Waste, effective \_\_\_\_\_.

(3) Application for Registration and Annual Report for a Yard Trash Transfer Station or Solid Waste Organics Recycling Facility, effective \_\_\_\_\_.

(4) Permit Application for a Solid Waste Organics Recycling Pilot Project, effective \_\_\_\_\_.

Rulemaking Authority 120.53(1), 403.704 FS. Law Implemented 120.53(1), 403.7043 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jean Yon, Director, Division of Waste Management  
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole, Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 18, 2009

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 Division of Beaches and Shores**

RULE NO.: 62B-26.016  
 RULE TITLE: Description of the Gulf County Coastal Construction Control Line

PURPOSE AND EFFECT: To amend Rule 62B-26.016, F.A.C., reestablishing the Coastal Construction Control Line for Gulf County, to more accurately define that portion of the beach dune system which is subject to severe fluctuations based upon the 100-year storm surge and storm waves, and thus define the area within which special siting and design considerations are required to ensure protection of the beach dune system, proposed or existing structures, adjacent properties, and to ensure the preservation of public beach access.

SUMMARY: The legal description of the location of the Coastal Construction Control Line in Gulf County.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. A SERC has been prepared by the agency. The estimated annual net cost to the Department for administration of the coastal construction

control line program for the affected properties in Gulf County was calculated as \$18,539. One-time costs for rule promulgation; including staffing, professional fees, travel, and notices, inclusive, are estimated to be approximately \$332,727. The proposed Gulf County Coastal Construction Control Line (CCCL) has moved landward from the existing CCCL on 241 properties. However, only 24 properties are considered adversely affected by a landward relocation of the CCCL. Developers of the properties will incur higher construction and regulatory costs and will benefit only as a member of the general public or if they intend to live in the constructed units. Owners of developed property will directly benefit through a lessened chance of damage to property and a lower probability of damage from adjacent properties. The general public will not bear direct costs and will receive certain benefits, including preservation of the beach dune system, less damage due to storm waves, and lower costs for disaster relief. This rule has no economic impact on those properties seaward of the existing Gulf County CCCL, as established in 1986.

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.

RULEMAKING AUTHORITY: 161.053(21) FS.

LAW IMPLEMENTED: 161.053(2) FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, December 3, 2009, 6:00 p.m.

PLACE: Centennial Bldg., 2201 Centennial Dr., Port St. Joe, 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 48 hours before the workshop/meeting by contacting: Rosaline Beckham, Department of Environmental Protection, Bureau of Beaches and Coastal Systems, Mail Station #300, 3900 Commonwealth Boulevard, Tallahassee, FL 32399-3000, (850)488-7815, or by e-mail at: rosaline.beckham@dep.state.fl.us. 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: Rosaline Beckham, contact information above

THE FULL TEXT OF THE PROPOSED RULE IS:

62B-26.016 Description of the Gulf County Coastal Construction Control Line.

(1) There is hereby established, pursuant to Section 161.053, Florida Statutes, the revised Gulf County Coastal Construction Control Line. The legal description of said line is attached hereto.

(2) No change.

(3) After this rule becomes effective, a permit, under Section 161.053, Florida Statutes, and Chapter 62B-33, to alter, excavate or construct on property seaward of the established control line is required from the Department of Environmental Protection.

Rulemaking Specific Authority 161.053(21) 370.021(4) FS. Law Implemented 161.053 FS. History-New 2-25-86, Formerly 16B-26.016, Amended \_\_\_\_\_.

METES AND BOUNDS DESCRIPTION COASTAL  
CONSTRUCTION CONTROL LINE GULF COUNTY,  
FLORIDA

(Substantial rewording of Rule 62B-26.016 follows. See Florida Administrative Code for present text.)

Description of the coastal construction control line (CCCL) is established in compliance with Section 161.053 of the Florida statutes, said CCCL lying along the Saint Joseph Bay and the Gulf of Mexico coast from Bay County and Gulf County line, southerly and easterly to its terminus at the intersection with the Gulf County and Franklin County line.

Said CCCL is related to a series of "permanent reference monuments" (P.R.M.) designated and hereinafter referred to as "46-76-A04", "46-76-A01", "51-83-B01 RM1", "51-83-B02 RM1", "51-83-B04 RM2", "51-83-B08", "51-83-B09", "51-83-B20", "51-83-B21", "51-83-B23 AZ MK", "51-83-B25", "51-83-B26", "51-83-B28", "51-83-B30", "51-02-C02G", "C-339-1977", "51-83-B34-2", "51-83-B35C", "51-83-B36", "51-93-B39 AZ MK", "G-339-1977", "51-83-B39 through "51-83-B41", "51-83-B43", "51-07-B44 RM1-2". For monuments established by the Department of Environmental Protection, State of Florida, or referred to by station name for monuments established by National Geodetic Survey (N.G.S.) said P.R.M. are established on the north zone of the State of Florida Plane Coordinate System. All stations in this description are based on N.G.S. Ref. Frame: NAD 83 (COR96) (epoch:2002.0000). The bearing base for this description is grid north, determined by Global Position System (G.P.S.) observation made at all P.R.M.

Commence at "46-76-A04"; thence S 46 Deg. 27 Min. 33 Sec. E a distance of 3704.60 feet to the point of beginning; thence N 42 Deg. 20 Min. 15 Sec. W to the point of intersection with the Gulf County and Bay County line, said line being the westerly terminus of the CCCL for Gulf County; thence S 42 Deg. 20 Min. 15 Sec. E to the point of beginning; said point being S 46 Deg. 27 Min. 33 Sec. E a distance 3704.60 feet from 46-76-A04.

Thence S 42 Deg. 20 Min. 14 Sec. E a distance of 1000.00 feet to a point; thence S 42 Deg. 20 Min. 15 Sec. E a distance of 1029.05 feet to a point; thence S 41 Deg. 23 Min. 41 Sec. E a distance of 1019.57 feet to a point; thence S 41 Deg. 30 Min. 41 Sec. E a distance of 1019.98 feet to a point; thence S 40

Deg. 22 Min. 56 Sec. E a distance of 1005.59 feet to a point; thence S 38 Deg. 30 Min. 42 Sec. E a distance of 986.46 feet to a point; said point being N 39 Deg. 37 Min. 48 Sec. E a distance of 117.49 feet from "46-76-A01".

Thence S 39 Deg. 44 Min. 38 Sec. E a distance of 1080.80 feet to a point; thence S 39 Deg. 41 Min. 05 Sec. E a distance of 955.35 feet to a point; thence S 41 Deg. 07 Min. 59 Sec. E a distance of 998.10 feet to a point; said point being N 46 Deg. 23 Min. 34 Sec. E a distance of 70.32 feet from "51-83-B01 RM1".

Thence S 38 Deg. 00 Min. 33 Sec. E a distance of 1003.24 feet to a point; thence S 38 Deg. 52 Min. 46 Sec. E a distance of 973.71 feet to a point; thence S 36 Deg. 40 Min. 33 Sec. E a distance of 999.93 feet to a point; said point being N 08 Deg. 51 Min. 28 Sec. W a distance of 163.63 feet from "51-83-B02 RM1".

Thence S 33 Deg. 14 Min. 00 Sec. E a distance of 1009.74 feet to a point; thence S 32 Deg. 34 Min. 03 Sec. E a distance of 994.27 feet to a point; thence S 31 Deg. 05 Min. 44 Sec. E a distance of 1038.66 feet to a point; thence S 27 Deg. 34 Min. 55 Sec. E a distance of 1023.87 feet to a point; thence S 27 Deg. 44 Min. 49 Sec. E a distance of 990.95 feet to a point; thence S 27 Deg. 37 Min. 33 Sec. E a distance of 476.72 feet to a point; thence S 88 Deg. 28 Min. 18 Sec. E a distance of 138.30 feet to a point; thence S 27 Deg. 32 Min. 07 Sec. E a distance of 353.13 feet to a point; thence S 15 Deg. 35 Min. 08 Sec. W a distance of 165.91 feet to a point; thence S 25 Deg. 53 Min. 57 Sec. E a distance of 1027.72 feet to a point; said point being S 22 Deg. 56 Min. 25 Sec. E a distance of 286.33 feet from "51-83-B04 RM2".

Thence S 25 Deg. 27 Min. 48 Sec. E a distance of 661.58 feet to a point; thence S 89 Deg. 53 Min. 35 Sec. E a distance of 165.00 feet to a point; thence S 26 Deg. 01 Min. 09 Sec. E a distance of 210.26 feet to a point; thence S 24 Deg. 39 Min. 34 Sec. E a distance of 237.33 feet to a point; thence S 34 Deg. 30 Min. 48 Sec. W a distance of 164.14 feet to a point; thence S 26 Deg. 11 Min. 30 Sec. E a distance of 732.68 feet to a point; thence S 25 Deg. 15 Min. 31 Sec. E a distance of 981.95 feet to a point; thence S 24 Deg. 25 Min. 42 Sec. E a distance of 994.06 feet to a point; thence S 23 Deg. 55 Min. 49 Sec. E a distance of 994.01 feet to a point; thence S 17 Deg. 26 Min. 39 Sec. E a distance of 998.95 feet to a point; thence S 17 Deg. 42 Min. 09 Sec. E a distance of 999.87 feet to a point; thence S 19 Deg. 16 Min. 22 Sec. E a distance of 986.09 feet to a point; thence S 16 Deg. 37 Min. 42 Sec. E a distance of 1011.36 feet to a point; thence S 19 Deg. 34 Min. 30 Sec. E a distance of 1008.72 feet to a point; thence S 27 Deg. 01 Min. 20 Sec. E a distance of 1004.91 feet to a point; said point being N 30 Deg. 22 Min. 48 Sec. E a distance of 247.67 feet from "51-83-B08".  
Thence S 31 Deg. 34 Min. 09 Sec. E a distance of 1036.29 feet to a point; thence S 64 Deg. 59 Min. 58 Sec. W to the point of intersection with the mean high water line of the northeasterly bank of Saint Joseph Bay; said point being the southwesterly

terminus of the CCCL along Saint Joseph Bay; thence N 64 Deg. 59 Min. 58 Sec. E to the aforementioned point; thence N 31 Deg. 34 Min. 09 Sec. W a distance of 1036.29 feet to a point; said point being N 30 Deg. 22 Min. 48 Sec. E a distance of 247.67 feet from "51-83-B08".

Recommence at "51-83-B09", thence N 10 Deg. 31 Min. 47 Sec. E a distance of 229.71 feet to a point on the CCCL; thence S 40 Deg. 00 Min. 01 Sec. E to the point of intersection with the mean high water line of the southeasterly bank of Cape San Blas; thence N 40 Deg. 00 Min. 01 Sec. W to the aforementioned point; said point being N 10 Deg. 31 Min. 47 Sec. E a distance of 229.71 feet from "51-83-B09".

Thence S 54 Deg. 40 Min. 06 Sec. W a distance of 1581.22 feet to a point; thence S 52 Deg. 12 Min. 28 Sec. W a distance of 907.33 feet to a point; thence S 24 Deg. 33 Min. 29 Sec. W a distance of 703.79 feet to a point; thence S 53 Deg. 24 Min. 19 Sec. W a distance of 534.87 feet to a point; thence S 53 Deg. 13 Min. 21 Sec. W a distance of 984.80 feet to a point; thence S 61 Deg. 20 Min. 18 Sec. W a distance of 989.00 feet to a point; thence S 35 Deg. 27 Min. 12 Sec. W a distance of 1039.30 feet to a point; thence S 33 Deg. 16 Min. 13 Sec. W a distance of 1044.47 feet to a point; thence S 27 Deg. 00 Min. 01 Sec. W a distance of 889.32 feet to a point; thence S 18 Deg. 19 Min. 46 Sec. W a distance of 1089.53 feet to a point; thence S 13 Deg. 19 Min. 34 Sec. W a distance of 1058.18 feet to a point; thence S 13 Deg. 45 Min. 55 Sec. W a distance of 978.67 feet to a point; thence S 11 Deg. 16 Min. 33 Sec. W a distance of 1070.45 feet to a point; thence S 11 Deg. 43 Min. 07 Sec. W a distance of 986.57 feet to a point; thence S 03 Deg. 30 Min. 50 Sec. W a distance of 987.53 feet to a point; thence S 08 Deg. 49 Min. 46 Sec. W a distance of 1067.62 feet to a point; thence S 09 Deg. 00 Min. 02 Sec. W a distance of 1070.69 feet to a point; thence S 02 Deg. 44 Min. 38 Sec. W a distance of 940.09 feet to a point; thence S 02 Deg. 44 Min. 14 Sec. W a distance of 1026.18 feet to a point; thence S 02 Deg. 56 Min. 29 Sec. E a distance of 1021.15 feet to a point; thence S 02 Deg. 52 Min. 44 Sec. E a distance of 1032.09 feet to a point; thence S 06 Deg. 27 Min. 26 Sec. E a distance of 1027.97 feet to a point; thence S 04 Deg. 08 Min. 18 Sec. E a distance of 993.71 feet to a point; thence S 05 Deg. 36 Min. 04 Sec. E a distance of 1053.65 feet to a point; thence S 05 Deg. 45 Min. 59 Sec. E a distance of 988.96 feet to a point; thence S 06 Deg. 26 Min. 20 Sec. E a distance of 1037.10 feet to a point; thence S 08 Deg. 14 Min. 09 Sec. E a distance of 1071.69 feet to a point; thence S 07 Deg. 36 Min. 06 Sec. E a distance of 956.43 feet to a point; thence S 10 Deg. 18 Min. 08 Sec. E a distance of 1029.74 feet to a point; thence S 10 Deg. 19 Min. 12 Sec. E a distance of 1056.51 feet to a point; thence S 10 Deg. 06 Min. 50 Sec. E a distance of 978.05 feet to a point; thence S 09 Deg. 53 Min. 18 Sec. E a distance of 1059.30 feet to a point; thence S 10 Deg. 46 Min. 01 Sec. E a distance of 1092.25 feet to a point; thence S 16 Deg. 09 Min. 07 Sec. E a distance of 1024.55 feet to a point; thence S 16 Deg. 28 Min. 48 Sec. E a distance of 1080.05 feet to a point; thence S 01



Deg. 22 Min. 11 Sec. W a distance of 1073.36 feet to a point; thence S 07 Deg. 37 Min. 13 Sec. E a distance of 1043.97 feet to a point; thence S 13 Deg. 08 Min. 43 Sec. E a distance of 1078.10 feet to a point; thence S 13 Deg. 18 Min. 26 Sec. E a distance of 1093.98 feet to a point; thence S 13 Deg. 17 Min. 15 Sec. E a distance of 1046.13 feet to a point; said point being N 10 Deg. 48 Min. 59 Sec. E a distance of 112.85 feet from "51-83-B20".

Thence S 11 Deg. 57 Min. 26 Sec. E a distance of 1072.42 feet to a point; thence S 15 Deg. 18 Min. 46 Sec. E a distance of 1067.16 feet to a point; thence S 14 Deg. 52 Min. 29 Sec. E a distance of 1055.19 feet to a point; said point being S 79 Deg. 11 Min. 09 Sec. W a distance of 175.19 feet from "51-83-B21".  
Thence S 14 Deg. 42 Min. 16 Sec. E a distance of 1046.86 feet to a point; thence S 14 Deg. 20 Min. 53 Sec. E a distance of 1059.77 feet to a point; thence S 15 Deg. 52 Min. 03 Sec. E a distance of 1033.91 feet to a point; thence S 14 Deg. 50 Min. 17 Sec. E a distance of 1058.63 feet to a point; thence S 12 Deg. 26 Min. 44 Sec. E a distance of 600.01 feet to a point; said point being S 72 Deg. 43 Min. 31 Sec. W a distance of 1267.32 feet from "51-83-B23 AZ MK".

Thence S 12 Deg. 26 Min. 41 Sec. E a distance of 451.44 feet to a point; thence S 11 Deg. 55 Min. 05 Sec. E a distance of 1030.69 feet to a point; thence S 17 Deg. 46 Min. 44 Sec. E a distance of 1044.20 feet to a point; thence S 19 Deg. 26 Min. 02 Sec. E a distance of 1054.92 feet to a point; thence S 19 Deg. 26 Min. 31 Sec. E a distance of 788.27 feet to a point; thence S 19 Deg. 15 Min. 17 Sec. E a distance of 1195.46 feet to a point; thence S 18 Deg. 16 Min. 13 Sec. E a distance of 998.30 feet to a point; thence S 18 Deg. 43 Min. 09 Sec. E a distance of 700.00 feet to a point; thence S 18 Deg. 43 Min. 09 Sec. E a distance of 353.51 feet to a point; said point being S 43 Deg. 31 Min. 47 Sec. W a distance of 431.03 feet from "51-83-B25".  
Thence S 21 Deg. 34 Min. 02 Sec. E a distance of 1002.42 feet to a point; thence S 21 Deg. 28 Min. 18 Sec. E a distance of 1034.28 feet to a point; thence S 19 Deg. 04 Min. 28 Sec. E a distance of 1028.91 feet to a point; thence S 22 Deg. 02 Min. 51 Sec. E a distance of 1034.05 feet to a point; said point being N 79 Deg. 43 Min. 01 Sec. W a distance of 610.35 feet from "51-83-B26".

Thence S 21 Deg. 55 Min. 42 Sec. E a distance of 1018.99 feet to a point; thence S 21 Deg. 22 Min. 57 Sec. E a distance of 1023.82 feet to a point; thence S 21 Deg. 28 Min. 44 Sec. E a distance of 994.50 feet to a point; thence S 22 Deg. 08 Min. 47 Sec. E a distance of 1019.65 feet to a point; thence S 22 Deg. 10 Min. 56 Sec. E a distance of 1064.66 feet to a point; thence S 22 Deg. 39 Min. 03 Sec. E a distance of 1044.81 feet to a point; thence S 22 Deg. 24 Min. 37 Sec. E a distance of 988.25 feet to a point; said point being S 28 Deg. 14 Min. 41 Sec. W a distance of 666.05 feet from "51-83-B28".

Thence S 27 Deg. 53 Min. 39 Sec. E a distance of 996.17 feet to a point; thence S 25 Deg. 52 Min. 23 Sec. E a distance of 1010.77 feet to a point; thence S 26 Deg. 18 Min. 08 Sec. E a

distance of 925.35 feet to a point; thence S 27 Deg. 31 Min. 15 Sec. E a distance of 1018.45 feet to a point; thence S 20 Deg. 30 Min. 52 Sec. E a distance of 937.70 feet to a point; thence S 42 Deg. 09 Min. 28 Sec. E a distance of 1028.52 feet to a point; thence S 42 Deg. 00 Min. 26 Sec. E a distance of 1150.05 feet to a point; said point being S 37 Deg. 14 Min. 48 Sec. E a distance of 396.36 feet from "51-83-B30".

Thence S 35 Deg. 10 Min. 12 Sec. E a distance of 1020.98 feet to a point; thence S 35 Deg. 25 Min. 39 Sec. E a distance of 1033.50 feet to a point; thence S 35 Deg. 34 Min. 53 Sec. E a distance of 1024.06 feet to a point; said point being S 88 Deg. 18 Min. 16 Sec. E a distance of 727.84 feet from "51-02-C02G".

Thence S 58 Deg. 47 Min. 23 Sec. E a distance of 1266.61 feet to a point; thence S 40 Deg. 38 Min. 40 Sec. E a distance of 3740.79 feet to a point; thence N 24 Deg. 29 Min. 02 Sec. E a distance of 1186.25 feet to a point; thence N 41 Deg. 40 Min. 55 Sec. E a distance of 1167.30 feet to a point; thence N 57 Deg. 34 Min. 11 Sec. E a distance of 909.41 feet to a point; said point being S 57 Deg. 47 Min. 46 Sec. E a distance of 893.26 feet from "C-339-1977".

Thence N 59 Deg. 17 Min. 34 Sec. E a distance of 1034.58 feet to a point; thence N 59 Deg. 08 Min. 27 Sec. E a distance of 1048.60 feet to a point; thence N 67 Deg. 01 Min. 55 Sec. E a distance of 998.69 feet to a point; thence N 66 Deg. 51 Min. 51 Sec. E a distance of 1037.81 feet to a point; thence N 71 Deg. 48 Min. 28 Sec. E a distance of 1125.10 feet to a point; thence N 71 Deg. 43 Min. 07 Sec. E a distance of 939.46 feet to a point; thence N 74 Deg. 20 Min. 14 Sec. E a distance of 996.93 feet to a point; said point being S 43 Deg. 25 Min. 22 Sec. E a distance of 984.90 feet from "51-83-B34-2".

Thence N 77 Deg. 33 Min. 57 Sec. E a distance of 1098.25 feet to a point; thence N 77 Deg. 38 Min. 33 Sec. E a distance of 1068.63 feet to a point; thence N 81 Deg. 25 Min. 41 Sec. E a distance of 1010.52 feet to a point; thence N 81 Deg. 49 Min. 55 Sec. E a distance of 450.00 feet to a point; thence N 81 Deg. 49 Min. 52 Sec. E a distance of 617.52 feet to a point; thence N 83 Deg. 38 Min. 14 Sec. E a distance of 1017.17 feet to a point; thence N 83 Deg. 56 Min. 22 Sec. E a distance of 1028.55 feet to a point; said point being S 40 Deg. 10 Min. 50 Sec. E a distance of 233.90 feet from "51-83-B35C".

Thence N 85 Deg. 55 Min. 41 Sec. E a distance of 993.02 feet to a point; said point being S 00 Deg. 56 Min. 36 Sec. E a distance of 386.79 feet from "51-83-B36".

Thence N 84 Deg. 57 Min. 16 Sec. E a distance of 1057.61 feet to a point; thence N 89 Deg. 59 Min. 58 Sec. E a distance of 986.01 feet to a point; thence S 88 Deg. 49 Min. 10 Sec. E a distance of 1018.73 feet to a point; thence S 88 Deg. 35 Min. 54 Sec. E a distance of 500.01 feet to a point; thence S 88 Deg. 35 Min. 54 Sec. E a distance of 460.29 feet to a point; thence S 88 Deg. 23 Min. 15 Sec. E a distance of 1047.93 feet to a point;

thence S 88 Deg. 08 Min. 18 Sec. E a distance of 1061.57 feet to a point; said point being N 28 Deg. 59 Min. 16 Sec. E a distance of 206.93 feet from "51-93-B39 AZ MK".

Thence S 86 Deg. 15 Min. 18 Sec. E a distance of 400.00 feet to a point; said point being S 23 Deg. 03 Min. 56 Sec. E a distance of 161.29 feet from "G-339-1977".

Thence S 86 Deg. 15 Min. 17 Sec. E a distance of 549.04 feet to a point; thence S 85 Deg. 20 Min. 46 Sec. E a distance of 1105.89 feet to a point; thence S 81 Deg. 51 Min. 37 Sec. E a distance of 986.73 feet to a point; thence S 82 Deg. 39 Min. 40 Sec. E a distance of 1037.50 feet to a point; said point being N 54 Deg. 42 Min. 48 Sec. E a distance of 357.50 feet from "51-93-B39".

Thence S 80 Deg. 44 Min. 04 Sec. E a distance of 912.92 feet to a point; thence S 79 Deg. 14 Min. 56 Sec. E a distance of 1108.44 feet to a point; thence S 77 Deg. 21 Min. 49 Sec. E a distance of 1038.74 feet to a point; thence S 78 Deg. 51 Min. 59 Sec. E a distance of 983.03 feet to a point; said point being N 31 Deg. 01 Min. 58 Sec. W a distance of 79.59 feet from "51-93-B40".

Thence S 76 Deg. 18 Min. 12 Sec. E a distance of 1062.18 feet to a point; thence S 74 Deg. 13 Min. 50 Sec. E a distance of 1130.85 feet to a point; thence S 73 Deg. 38 Min. 52 Sec. E a distance of 1011.67 feet to a point; said point being S 58 Deg. 27 Min. 22 Sec. E a distance of 224.00 feet from "51-93-B41".

Thence S 70 Deg. 15 Min. 22 Sec. E a distance of 1055.87 feet to a point; thence S 86 Deg. 17 Min. 30 Sec. E a distance of 994.44 feet to a point; thence N 87 Deg. 37 Min. 51 Sec. E a distance of 822.79 feet to a point; thence N 82 Deg. 51 Min. 30 Sec. E a distance of 1046.39 feet to a point; thence N 86 Deg. 14 Min. 09 Sec. E a distance of 797.72 feet to a point; thence N 72 Deg. 03 Min. 16 Sec. E a distance of 978.11 feet to a point; thence N 52 Deg. 02 Min. 04 Sec. E a distance of 919.25 feet to a point; thence N 52 Deg. 31 Min. 43 Sec. E a distance of 895.95 feet to a point; said point being S 75 Deg. 09 Min. 27 Sec. E a distance of 162.11 feet from "51-93-B43".

Thence N 52 Deg. 38 Min. 32 Sec. E a distance of 781.57 feet to a point; said point being N 08 Deg. 52 Min. 08 Sec. E a distance of 462.32 feet from "51-07-B44 RM1-2".

Thence N 52 Deg. 38 Min. 32 Sec. E to the point of intersection with the mean high water line of the southwesterly bank of Indian Pass; said point being the northeasterly terminus of the CCCL for Gulf County; thence S 52 Deg. 38 Min. 33 Sec. W to the aforementioned point; said point being N 08 Deg. 52 Min. 08 Sec. E a distance of 462.32 feet from "51-07-B44 RM1-2".

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mimi Drew

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 20, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 9, 2007

## DEPARTMENT OF HEALTH

### Division of Medical Quality Assurance

RULE NOS.:	RULE TITLES:
64B-4.005	Pain Management Clinic Inspection Fee
64B-4.006	Pain Management Clinic Registration Requirements, Fees

PURPOSE AND EFFECT: To promulgate new rules related to the registration and inspection of pain management clinics.

SUMMARY: Rule 64B-4.005, F.A.C., sets an inspection fee of \$1,500 regardless of the number of physicians located in the clinic and Rule 64B-4.006, F.A.C., specifies who must register a clinic. The medical director must ensure that participating physicians have read a pain standards rule and the registration fee is \$145 plus a \$5 unlicensed activity fee.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will have an impact on small business. It is estimated that approximately 320 pain clinics will register and require an annual inspection. The basis for the department's charge of \$1,500 per inspection is based on a 2 person inspection team including payment of about \$125 per hour to a licensed physician and a lower hourly rate to a department employee trained with regard to pharmacy dispensing laws and rules. The purpose of the fees is to collect no more than the actual costs incurred by the department for registering and inspecting the facilities. A 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.

RULEMAKING AUTHORITY: 456.004, 458.309, 459.005 FS.

LAW IMPLEMENTED: 458.309(4), 459.005(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry McPherson, Executive Director, 4052 Bald Cypress Way, Bin C03, Tallahassee, Florida 32399-3253.

THE FULL TEXT OF THE PROPOSED RULES IS:

64B-4.005 Pain Management Clinic Inspection Fee.

An inspection fee of \$1,500 shall be paid annually for each location required to be inspected, pursuant to Rule 64B8-9.0132 or 64B15-14.0052, F.A.C. Each location will be assessed the above referenced fee at the time of inspection regardless of the number of physicians who share this location.

Rulemaking Authority 456.004, 458.309, 459.005 FS. Law Implemented 458.309(4), 459.005(3) FS. History--New \_\_\_\_\_.

64B-4.006 Pain Management Clinic Registration Requirements, Fees.

(1) Registration Requirements.

(a) Every practice location prescribing or dispensing Schedule II-IV controlled substances as defined in Sections 458.309(4) and (5) and 459.005(3) and (4), F.S., must register and maintain a valid registration with the Department. To register with the Department, the medical director of a health care clinic licensed pursuant to Chapter 400, F.S., or if the clinic is not licensed pursuant to Chapter 395 or 400, F.S., the clinic's responsible physician who has an active, full, and unencumbered license issued pursuant to Chapter 458 or 459, F.S., must submit Application for Pain Management Clinic Registration, Form #DH-MQA 1219, effective 10/09, incorporated herein by reference. This form can be obtained from the Department of Health, Division of Medical Quality Assurance, at: 4052 Bald Cypress Way, Bin C01, Tallahassee, FL 32399 or on the Board of Medicine or Board of Osteopathic Medicine website, which can be accessed at: [www.doh.state.fl.us/mqa](http://www.doh.state.fl.us/mqa).

(b) The medical director or the designated physician registering the clinic is required to agree to having read Rule 64B8-9.013, F.A.C., Standards for the Use of Controlled Substances for the Treatment of Pain, or Rule 64B15-14.009, F.A.C., Standards for Office Based Opioid Addiction Treatment, and that all physicians practicing in the clinic have been or will be provided with a copy of the rule prior to prescribing or dispensing controlled substance pain medications in the clinic.

(2) Fees.

(a) The registration fee shall be \$145.00.

(b) An additional five dollar (\$5.00) fee shall be added to the cost of registration to cover unlicensed activity, as required by Section 456.065(3), F.S.

Rulemaking Authority 456.004, 458.309, 459.005 FS. Law Implemented 458.309(4), 459.005(3) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Larry McPherson

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ana M. Viamonte Ros, M.D. M.P.H.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 11, 2009

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.:

RULE TITLE:

64B3-5.007

Director; Limitations and Qualifications

PURPOSE AND EFFECT: The Board proposes the rule amendment to add a certification to serology/immunology specialty.

SUMMARY: A certification will be added to serology/immunology specialty.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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.

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 381.0034(3), 483.800, 483.809, 483.823(1), 483.824 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-5.007 Director; Limitations and Qualifications.

(1) No change.

(2) In addition, at least one of the following requirements must be met for specific areas of licensure. In some cases, there are multiple options for meeting the requirements.

Specialty	Option	Education	Training/Experience	Certification
All Specialties	1	Licensed physician (does not require a separate laboratory director license)		Certification in Clinical Pathology by the ABP or AOBP
	2	Licensed physician (does not require a separate laboratory director license)		Certification in the pertinent laboratory specialty by ABIM, AOBIM, ABMM, ABCC, ABNM, AOBNM, ABMG, ABB, ABMLI, ABHI
	3	Licensed physician (does not require a separate laboratory director license)	Four years of pertinent clinical laboratory experience (post-graduate), with two years experience in the specialty to be directed	
Histology, Cytology		Licensed physician (does not require a separate laboratory director license)		Certification in Anatomical Pathology or Cytopathology by ABP or AOBP. For dermatopathology only, certification in Dermatopathology by the ABD or AOBP
Oral Pathology Laboratories		Licensed physician or dentist (does not require a separate laboratory director license)		Certification in Anatomical Pathology by ABOP, ABP, or AOBP
Microbiology		Doctoral Degree in a chemical, biological, or clinical laboratory science		Certification in Clinical Microbiology by ABMM, HCLD(ABB) with certification in Microbiology, or CLDir (NCA) as Generalist or with certification in Microbiology
Hematology		Doctoral Degree in a chemical, biological, or clinical laboratory science		HCLD(ABB) in Hematology or CLDir(NCA) as Generalist with certification in Hematology.
Cytogenetics		Doctoral Degree in a chemical, biological, or clinical laboratory science		Certification in Clinical Cytogenetics by ABMG
Serology /Immunology		Doctoral Degree in a chemical, biological, or clinical laboratory science		Certification in Clinical Immunology by ABMLI, HCLD(ABB) with certification in Immunology, <del>or</del> CLDir(NCA) as Generalist, <u>or Diplomate of ABHI</u>
Clinical Chemistry		Doctoral Degree in a chemical, biological, or clinical laboratory science		Certification in Clinical Chemistry by ABCC, HCLD(ABB) with certification in Chemistry, CLDir(NCA) as Generalist or with certification in Chemistry, or certification in Clinical Chemistry or Toxicological Chemistry by NRCC.

Andrology		Doctoral Degree in a chemical, biological, or clinical laboratory science	HCLD(ABB) with certification in Andrology
Embryology		Doctoral Degree in a chemical, biological, or clinical laboratory science	ELD(ABB) or HCLD(ABB) with certification in Embryology.
Histocompatibility		Doctoral Degree in a chemical, biological, or clinical laboratory science	Diplomate of the ABHI or HCLD(ABB) with certification in Immunology.
Molecular Pathology		Doctoral Degree in a chemical, biological, or clinical laboratory science	Certification in Molecular Pathology by ABCC, certification in Molecular Genetics by ABMG, or HCLD(ABB) with certification in Molecular Diagnostics

Rulemaking Authority 483.805(4) FS. Law Implemented 381.0034(3), 483.800, 483.809, 483.823(1), 483.824 FS. History—New 6-6-85, Formerly 10D-41.67, Amended 3-11-90, Formerly 10D-41.067, Amended 7-1-97, Formerly 59O-5.007, Amended 5-26-98, 3-2-99, 3-24-02, 10-14-02, 4-20-04, 2-23-06, 3-17-08, 6-17-09,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Laboratory Personnel  
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 14, 2009  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: 64B3-10.005  
RULE TITLE: Scope of Practice Relative to Specialty of Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to change the scope of the specialty of histocompatibility.

SUMMARY: The amended rule will change the scope of the specialty of histocompatibility.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs was prepared. The Board determined the proposed rule will not have an impact on small business.

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.

RULEMAKING AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.813, 483.823, 483.825 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-10.005 Scope of Practice Relative to Specialty of Licensure.

The following rules are not intended to prevent collection and storage of specimens or the performance of manual pretesting procedures by persons who are exempt by statute or statutorily authorized within their scope of practice. Clinical laboratory personnel qualified as a physician director, a licensed director, supervisor, technologist or technician in the specialty or specialties indicated can perform testing identified as being within the specialty. Tests which are not yet classified shall be assigned by the Board upon review.

(1) through (14) No change.

(15) The purpose of the specialty of histocompatibility is to insure the best possible results of the determination of tissue compatibility, prevent transmitted infections, and to investigate and evaluate post-transplant problems. The specialty encompasses blood typing, HLA typing, HLA antibody screening, disease markers, Cluster Designation specific to tissue compatibility, flow cytometry, crossmatching, HLA

antibody identification, lymphocyte immunophenotyping, immunosuppressive drug assays, allogenic, isogeneic and autologous bone marrow processing and storage, mixed lymphocyte culture, stem cell culture, cell mediated assays, and assays for the presence of cytokines. This specialty would also encompass all testing within the scope of serology/immunology, microbiology, hematology and immunoematology that pertain strictly to the processing of organ, tissue and bone marrow donors, and pre- and post-transplant patients. Clinical laboratory personnel who are licensed in the specialties of histocompatibility, serology/immunology and immunoematology may perform all testing as being within the scope of the specialty of histocompatibility.

(16) through (19) No change.

Rulemaking Specific Authority 483.805(4) FS. Law Implemented 483.813, 483.823, 483.825 FS. History–New 2-7-95, Amended 3-28-95, 7-12-95, 12-4-95, Formerly 590-10.005, Amended 3-19-98, 1-28-99, 11-24-99, 2-15-01, 2-20-02, 10-30-02, 4-27-04, 2-23-06, 11-25-08,\_\_\_\_\_.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 20, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

## DEPARTMENT OF HEALTH

### Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

RULE NO.: RULE TITLE:

64B4-31.010 Course Content

PURPOSE AND EFFECT: The Board proposes the rule promulgation in order to describe the content of the required coursework.

SUMMARY: A description of coursework content shall be added.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rules will not have an impact on small business.

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.

RULEMAKING AUTHORITY: 491.005(6) FS.

LAW IMPLEMENTED: 491.005(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 64B4-31.010 Course Content.

The course requirements set forth in Section 491.005(4), Florida Statutes, shall contain the following content:

(1) Counseling Theories and Practice: Counseling and personality theories including both individual and systems perspectives as well as coverage of relevant research and factors considered in applications of these theories.

(2) Human Growth and Development: Theories of individual and family development and transitions across the life span (including theories of learning and personality development) and strategies for facilitating development over the life span.

(3) Diagnosis and Treatment of Psychopathology: General principles of etiology, diagnosis, treatment, and prevention of mental and emotional disorders and dysfunctional behavior, and general principles and practices for the promotion of optimal mental health.

(4) Human Sexuality: Research and theories of human sexual development (including research and theories of normal and abnormal sexual functioning) and general principles and practices for the treatment of sexual dysfunctions and the promotion of optimal sexual health.

(5) Group Theories and Practice: Principles of group dynamics, group counseling, and group leadership including group process components, developmental stage theories, and group member roles and behavior.

(6) Individual Evaluation and Assessment: Strategies for selecting, administering, interpreting, and using valid and reliable individual and group assessment and evaluation instruments and techniques in counseling and psychotherapy.

(7) Career and Lifestyle Assessment: Principles and practices of career lifestyle counseling (including career and lifestyle assessment instruments and techniques, career development theories, and career decision-making models) and career information dissemination (including computer based career development applications and strategies).

(8) Research and Program Evaluation: Principles, practices, and applications of basic types of research methods (including qualitative and quantitative research designs), needs assessment, and program evaluation, and ethical and legal considerations in research.

(9) Social and Cultural Foundations: Multicultural and pluralistic trends including characteristics and concerns of diverse groups based on such factors as age, race, religious

preference, physical disability, sexual orientation, ethnicity and culture, family patterns, gender, socioeconomic status, and intellectual ability.

(10) Counseling in Community Settings: Principles, theories, and practices of community needs assessment and community intervention, including the design and utilization of programs and facilities for inpatient, outpatient, partial treatment, and aftercare, and the utilization of the health and human services public and private networks in local communities.

(11) Substance Abuse: Research and theories of substance use and abuse, and principles and practices for the treatment of substance abuse and dependency and the promotion of responsible behavior.

(12) Legal, Ethical, and Professional Standards Issues: Goals, objectives, and practices of professional counseling organizations, codes of ethics, legal considerations, standards of preparation, certifications, and licensing, and the role identity and professional obligations of mental health counselors.

Rulemaking Authority 491.005(6) FS. Law Implemented 491.005(4) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 24, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 18, 2009

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Agency for Persons with Disabilities**

RULE NOS.:	RULE TITLES:
65G-4.001	Definitions for Behavior Analysis Certification and Services Rules
65G-4.0011	Recognized Certification Organizations for Behavior Analysts and Assistant Behavior Analysts
65G-4.003	Certification as a Behavior Analyst
65G-4.004	Certification as an Associate Behavior Analyst
65G-4.005	Renewal of Behavior Analysis Certification
65G-4.006	Approved Continuing Education
65G-4.007	Behavior Analysis Certification Fees

65G-4.008	Behavior Analysis Services Oversight System Organization
65G-4.009	Design, Implementation and Monitoring of Behavior Analysis Services
65G-4.010	Behavior Analysis Services Approval
65G-4.012	Determination of Mental Retardation: Intelligence Tests to be Administered

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to clarify existing language, to ensure effective program administration and reflect changes in provider practice.

SUMMARY: The purpose of the proposed rulemaking is to clarify and amend certain provisions regarding the provision of behavior analysis services provided under Rule 65G-4.001, 65G-4.008, 65G-4.009, 65G-4.010, and 65G-4.012, F.A.C., create new Rules 65G-4.0011 and 65G-4.0012. This amendment includes the repeal of Rules 65G-4.003, 65G-4.004, 65G-4.005, 65G-4.006 and 65G-4.007, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Statement of Regulatory Cost was prepared. The Agency determined the proposed rule will not have an impact on small business.

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.

RULEMAKING AUTHORITY: 393.063, 393.125, 393.13(4)(g)3., 393.17, 393.501, 916.106 FS.

LAW IMPLEMENTED: 393.0651, 393.066, 393.067, 393.068, 393.125, 393.13, 393.17(2) FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: November 20, 2009, 1:30 p.m. EST

PLACE: Agency for Persons with Disabilities, 4030 Esplanade Way, Conference Room 301, Tallahassee, Florida 32399-0950

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 7 days before the workshop/meeting by contacting: Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399-0950. 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 RULES IS: Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399-0950

THE FULL TEXT OF THE PROPOSED RULES IS:

BEHAVIORAL SERVICES: PRACTICE AND PROCEDURE  
SERVICE DELIVERY PRACTICE AND PROCEDURE

65G-4.001 Definitions for Behavior Analysis Certification and Services Rules.

(1) Behavior analysis – refers to the use of scientific methods to change socially meaningful behavior. This process entails gathering information to analyze or describe the link between behavior and environment. It includes assessment of the environment and consequences that are maintaining the behavior targeted for change. It also encompasses changing the situations in the environment that trigger problem behavior and arranging situations that will provide the opportunity for desirable behaviors to occur. Behavior Analysis interventions teach skills to replace the behavior targeted for change and arrange delivery of consequences for desirable and undesirable behavior. A behavior analytic intervention also includes strategies and approaches to maintain the gains of the intervention over time and in varied settings. Behavior change interventions are based on the principles and laws of behavior. Behavior analytic interventions require monitoring or evaluation for effectiveness through direct observation and quantification of the behavior targeted for change. Caregivers and family members are actively involved in the behavior analysis process and are taught how to implement specific techniques or changes in the environment. The design, implementation and evaluation of systematic environmental modifications for the purposes of producing socially significant improvements in and understanding of human behavior based on the principles of behavior identified through the experimental analysis of behavior. It includes the identification of functional relationships between behavior and environment. It uses direct observation and measurement of behavior and environment. Contextual factors, establishing operations, antecedent stimuli, positive reinforcers and other consequences are used, based on identified functional relationships between behavior and environment, in order to produce practical behavior change. Behavior analysis does not rely on cognitive therapies and expressly excludes psychological testing, neuropsychology, psychotherapy, sex therapy, psychoanalysis, hypnotherapy and long term counseling as treatment modalities.

(2) Behavior analysis services – The use of behavior analysis to assist a person or persons to learn new behavior, to increase existing behavior, to reduce existing behavior, and to emit behavior under precise environmental conditions. The term “behavior analysis services” includes the terms “behavioral programming,” “behavioral supports,” “behavior modification programs,” “behavior intervention plans,” “behavior plans” and “behavioral programs,” as well as any interventions designed to ameliorate dangerous behavior as described in paragraphs 65G-4.010(2)(a) through (h), F.A.C.,

below, through the teaching of appropriate replacement responses such as communication training, direct instruction or discrete trials training.

(3) Certification Body – A nonprofit corporation whose standards for certification of behavior analysts and assistant behavior analysts adheres to the national standards of boards that determine professional credentials to meet the needs of behavior analysts, state governments and consumers of behavior analysis services. The certification procedure of the nonprofit corporation must undergo regular psychometric review and validation pursuant to a job analysis survey of the profession and standards established by content experts in the field.

(4)(3) Consultation – Monthly contacts between an assistant behavior analyst applicant for certification and a consulting certified behavior analyst or a person with the education and experience required for certification as a behavior analyst, during which the behavior analysis services provided by the assistant behavior analyst applicant are evaluated. At the time consultation is provided, the consulting behavior analyst shall not be the assistant behavior analyst’s applicant’s subordinate or employee. The consulting behavior analyst shall not be considered an employee of the assistant behavior analyst applicant if the only compensation received by the consulting behavior analyst consists of payment for consultation. Monthly contacts may include the assistant behavior analyst’s applicant’s presentation of behavior analysis services designed by the assistant behavior analyst applicant, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C.

(4) Supervision – Face-to-face meetings for at least two hours every two weeks or two hours per 40 hours of the applicant’s contact with clients, between the applicant and a certified behavior analyst or a person with the education and experience required for certification as a behavior analyst, during which the supervising behavior analyst directs and evaluates the behavior analysis services provided by the applicant. The supervising behavior analyst shall not be, at the time supervision is provided, the applicant’s subordinate or employee. The supervising behavior analyst shall not be considered an employee of the applicant if the only compensation received by the supervising behavior analyst consists of payment for supervision. The applicant’s presentation of behavior analysis services designed and implemented by the applicant, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C., may be substituted for up to 25 percent of the total supervision time needed to be eligible to take the behavior analyst certification examination.

(5) Provider – An enrolled professional authorized to provide behavior analysis services. Only individuals who are board certified behavior analysts or persons licensed in accordance with Chapter 490 or 491, F.S. on active status, and demonstrating supervision as required, may be providers of



behavior analysis services. Only those providers holding a certificate on active status from a recognized certification organization for behavior analysis shall use the title, "certified behavior analyst." Individuals performing behavior analysis services shall limit their practice to areas of documented expertise and in accordance with their education, training, and certification or licensure, unless otherwise demonstrating evidence of supervision by an individual meeting the requisite education, training, and certification.

(6) Regular psychometric review and validation – A certification process which complies with recognized national standards in the testing and certification industry to ensure the certification examinations are fair, valid and reliable and in conformance with recognized standards such as those of the International Organization for Standardization (ISO) or the National Commission for Certifying Agencies (NCCA).

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.023, 65B-4.023, Amended \_\_\_\_\_.

65G-4.0011 Recognized Certification Organizations for Behavior Analysts and Assistant Behavior Analysts.

Pursuant to Rule 65G-4.001, F.A.C., and as required by Section 393.17(2), F.S. recognizes the certification for behavior analysts awarded by the following organizations:

Behavior Analyst Certification Board, Inc.  
1705 Metropolitan Blvd., Ste. 102  
Tallahassee, FL 32308

Rulemaking Authority 393.17(2), Law Implemented 393.17(2) History–New \_\_\_\_\_.

65G-4.003 Certification as a Behavior Analyst.

(1) Applicants for certification as a behavior analyst who meet the eligibility requirements specified in paragraph (a), [(b) or (c)] and (d), below, and pay the certification fees prescribed by the Agency are eligible to take the behavior analyst examination administered by the Agency:

(a) Possession of a minimum of a master's degree from an institution of higher education fully accredited by a regional accrediting body; an institution that is accredited as a member in good standing of the Association of Universities and Colleges of Canada; an institution of higher education located outside the United States or Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of training equivalent to the standards of training of those institutions in the United States.

(b) Completion of graduate level instruction in the content areas and for the number of hours specified in subparagraphs 1.-5., below. Experience from one of the categories specified in paragraph (c) below shall be substituted for this requirement. One semester credit is equivalent to 15 hours of instruction and one quarter hour of credit is equivalent to 10 hours of instruction.

1. Basic behavior analytic principles—45 hours.
2. The application of behavior analytic principles and methods in applied settings—45 hours.
3. Single-subject research methods—20 hours.
4. Any other behavior analysis content area—70 hours.
5. Ethical and professional standards issues relevant to the practice of behavior analysis—10 hours.

(c) Experience in one of the following categories may be substituted for the required graduate level instruction. Experience substituted for course work under this rule shall not be used to meet the requirements specified in paragraph (d), below.

1. Completion of at least a one-year, full-time appointment in a tenure tract position on a college or university faculty during which the applicant taught classes on basic principles of behavior, single-subject methodology, applications of basic principles of behavior in applied settings and ethical issues and conducted and published research in behavior analysis.

2. Completion of no less than 35 hours of employment per week, for at least 24 months within a 30 month period, with consultation in an educational, health or human services setting during which the applicant was responsible for the following:

a. The design, implementation and monitoring of behavior analysis services.

b. Oversight of behavior analysis services designed, implemented and monitored by others.

c. Instruction of classes or college or university courses in basic principles of behavior and applications of basic principles in applied settings.

d. The applicant shall document that the services provided were applied, behavioral, analytic, technological, conceptually systematic, and effective relative to the definitions of these terms found in "Some Current Dimensions of Applied Behavior Analysis" by D. M. Baer, M. M. Wolf, and T. R. Risley and available in the *Journal of Applied Behavior Analysis*, Volume 1, 1968. Such documentation shall include a portfolio of the behavioral assessments, plans of service based on these assessments, data displays related to these plans, and service plan monitoring reports produced during the term of employment applied to this experience requirement. The applicant shall also submit a description of the organizational and personnel management systems used at the place of employment.

e. Teaching experience shall be documented by the submission of a letter, signed by the applicant, certifying the dates, locations and content of classes and courses taught by the applicant.

(d) Completion of the experience requirements specified in either subparagraph 1. or 2., below, in an educational, health or human services setting.

1. Completion of no less than 20 hours of employment per week, for 6 months, with supervision; followed by the completion of no less than 35 hours of employment per week,

for 6 months, with consultation. The applicant's primary duties during both employment periods must have been the design, implementation and monitoring of behavior analysis services and overseeing the implementation of behavior analysis services implemented by others. The employment with supervision requirement may be satisfied by completion of a practicum or field experience, with supervision, that included the design, implementation and monitoring of behavior analysis services, as part of a university or college degree program. Possession of a doctorate degree from an institution that meets the requirements specified in paragraph (a), above, with a dissertation that had behavior analysis as its central focus shall be substituted for the required hours of employment with consultation.

2. Completion of no less than 35 hours of employment per week for 18 months within a 21 month period, with consultation. The applicant's primary duties during the employment period must have been the design, implementation and monitoring of behavior analysis services and overseeing the implementation of behavior analysis services by others. Possession of a doctorate degree from an institution that meets the requirements specified in paragraph (a), above, with a dissertation that had behavior analysis as its central focus shall be substituted for 6 months of the required 18 months of employment.

(2) Applicants for examination for certification as a behavior analyst shall submit to the Agency a completed application form entitled "Application for Certification as a Behavior Analyst," which is incorporated by reference, and pay the certification fees prescribed by the Agency no less than 45 days in advance of the date of the examination for which they are applying.

(3) Applicants who pass the behavior analyst examination and pay the certification fees shall be certified as behavior analysts. Only persons who are certified pursuant to this rule shall use the title of "certified behavior analyst."

(4) Notwithstanding the above provisions, persons certified as behavior analysts prior to the effective date of this rule will retain their certification.

(a) These persons may continue to approve the implementation of behavior analysis services that includes one or more of the following restricted behavior analysis procedures, regardless of the behavior or behaviors being addressed:

1. Time out from reinforcement of 20 minutes or less.
2. Contingent removal or restriction of potential reinforcers.
3. Contingent effort of 10 minutes or less.
4. Contingent manual restraint of five (5) minutes or less.

(b) However, these persons may not approve the implementation of other restricted procedures unless they apply to the Agency to have their implementation approval privileges expanded to those established in Rule 65G 4.010,

F.A.C., by submitting to the Agency a completed application form entitled "Expansion of Approval Privileges," incorporated by reference. Expansion of privileges requires that the applicant meet the education and experience requirements established above for eligibility to take the behavior analyst examination. Application for expansion of privileges may be submitted at any time after the effective date of these rules.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.024, 65B-4.024, Repealed \_\_\_\_\_.

65G-4.004 Certification as an Associate Behavior Analyst.

(1) Applicants for certification as an associate behavior analyst who meet the requirements specified in paragraphs (a)-(c), below, and pay the certification fees prescribed by the Agency are eligible to take the associate behavior analyst examination administered by the Agency:

(b) Completion of 90 hours of classroom instruction covering, at a minimum, basic principles of behavior analysis, the application of these basic principles, and ethical issues related to the delivery of behavior analysis services. Instruction shall be obtained through one of the following methods:(a) Possession of a minimum of a bachelor's degree from an institution that meets the requirements specified in Rule 65G 4.003, F.A.C.

1. College or university courses in behavior analysis, that are taken from an institution that meets the requirements specified in Rule 65G 4.003, F.A.C. No more than three courses may be combined to meet the 90 hour requirement. One semester credit is equivalent to 15 hours of instruction and one quarter hour of credit is equivalent to 10 hours of instruction.

2. Non-college or university classes approved for this purpose by the Agency in accordance with Rule 65G 4.004, F.A.C.

3. A combination of college or university courses and approved classes.

4. However, credit shall be given only once for a course or class.

(c) Employment in one of the following categories in an educational, health or human services setting:

1. Completion, with consultation, of no less than 35 hours of employment per week, that included the design, implementation and monitoring of behavior analysis services, for 12 months within a 15 month period.

2. Completion, with supervision, of no less than 20 hours of employment per week, during which the applicant's primary duties were the design, implementation and monitoring of behavior analysis services, for six consecutive months. However, the employment requirement may be satisfied by completion of a practicum or field experience, with

supervision, that included the design, implementation and monitoring of behavior analysis services, as part of a university or college degree program.

(2) Applicants for examination for certification as an associate behavior analyst shall submit a completed application form entitled "Application for Certification as an Associate Behavior Analyst," which is incorporated by reference, and pay the certification fees prescribed by the Agency no less than 45 days in advance of the date of the examination for which they are applying.

(3) Applicants who pass the associate behavior analyst examination and pay the certification fees shall be certified as associate behavior analysts. Only persons who are certified pursuant to this rule shall use the title of "certified associate behavior analyst."

(4) Approved Classes — Application for class approval shall be made by submitting a completed application form, entitled "Approval of Behavior Analysis Classes," incorporated by reference, 45 days in advance of the teaching of the class. Classes that meet the following criteria shall be approved by the Agency for a maximum of two years beginning on the approval date:

(a) The content of the class covers only behavior analysis and ethical issues related to the practice of behavior analysis.

(b) There are written learning objectives for the class.

(c) Student progress on each content area is evaluated during the class.

(d) The class is taught by a certified behavior analyst. The certified behavior analyst may be assisted by a certified associate behavior analyst.

Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.025, 65B-4.025, Repealed \_\_\_\_\_.

#### 65G-4.005 Renewal of Behavior Analysis Certification.

(1) Certification in behavior analysis shall be renewed every two years from the date of certification under these rules, if the applicant for renewal meets the following requirements:

(a) Completion of 16 hours of continuing education for renewal of certification as an associate behavior analyst and 24 hours of continuing education for renewal of certification as a behavior analyst within the applicant's two year certification period. However, to be accepted, one hour of continuing education must be no less than 50 minutes of instruction in one hour.

(b) Submittal of a completed renewal application form, entitled "Behavior Analysis Certification Renewal," incorporated by reference, and payment of the certification renewal fee prescribed by the Agency at least 45 days in advance of the expiration of the applicant's two year certification period.

(2) The following shall be accepted toward fulfillment of the continuing education requirements:

(a) Completion of college or university courses, the content of which is entirely behavior analytic, taken from an institution that meets the requirements specified in Rule 65G-4.003, F.A.C.

(b) Completion of programs approved by the Agency under Rule 65G-4.007, F.A.C.

(c) Completion of programs not approved by the Agency provided such programs relate directly to the practice of behavior analysis or other topics pertinent to developmental disabilities.

(d) Attendance at local review committee meetings, established in Rule 65G-4.008, F.A.C., provided that the work of the applicant is discussed at the meeting with a focus on graphic displays of data.

(e) The combined total number of hours of continuing education from the categories defined in paragraphs (c) and (d), above, shall not exceed 25 percent of the total required hours of continuing education.

(f) Presentation or moderation by the applicant of approved continuing education programs on a one-time basis for each program. A maximum of 25 percent of the total required hours of continuing education may come from this category.

(g) Authorship or co-authorship of a research or review article on the application of behavior analysis that is published, during the two year certification period to which credit is to be applied, in a journal that requires that authors meet the American Psychological Association's ethical guidelines for authorship. A publication shall count towards a maximum of 25 percent of the total required hours of continuing education.

(3) Prior to the end of the two year certification period, an associate behavior analyst or behavior analyst may request in writing that the Agency place his or her certification on inactive status for a maximum period of four years. At the time of the request, the certificate holder shall pay the fee prescribed by the Agency for placing certification on inactive status. While certification is on inactive status, the person shall not exercise any privileges associated with certification.

(4) Inactive certification may be reactivated if the applicant:

(a) Submits the reactivation form entitled "Reactivation of Certification," which is incorporated by reference, and pays the certification renewal fee prescribed by the Agency. The applicant's two year certification period will begin on the date the Agency reactivates the applicant's certification.

(b) Completes the number of hours of continuing education required for the period beginning with the last renewal of certification and ending with the date of reactivation of certification.

(5) Once an inactive certificate expires, in order to be recertified, the person must meet the eligibility and examination requirements and pay the certification fees prescribed by these rules.

~~Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.026, 65B-4.026, Repealed \_\_\_\_\_.~~

#### 65G-4.006 Approved Continuing Education.

~~An individual or agency may apply to the Agency to have a course, class, seminar, workshop or institute approved for continuing education by submitting a completed application, entitled “Application for Continuing Education (CE) Program Approval,” incorporated by reference. An approved continuing education program shall:~~

- ~~(1) Cover behavior analysis practice, theory or methods.~~
- ~~(2) Have stated learning objectives.~~
- ~~(3) Be for the purposes of furthering and maintaining the skills or knowledge of behavior analysis.~~
- ~~(4) Be of sufficient duration to accomplish the stated learning objectives.~~
- ~~(5) Be instructed by a person who meets the following criteria:~~
  - ~~(a) Is a certified behavior analyst or is a certified associate behavior analyst under the direction of a certified behavior analyst and~~
  - ~~(b) Has received training in the subject taught in the program or~~
  - ~~(c) Has experience of not less than one year of practical application or research in the subject taught in the program.~~

~~Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.13, 393.17 FS. History–New 9-23-96, Formerly 10F-4.027, 65B-4.028, Repealed \_\_\_\_\_.~~

#### 65G-4.007 Behavior Analysis Certification Fees.

~~The following fees are prescribed by the Agency for associate behavior analyst and behavior analyst certification and certification renewal:~~

- ~~(1) The certification fee for an associate behavior analyst is \$125.00.~~
- ~~(2) The certification fee for a behavior analyst is \$175.00.~~
- ~~(3) The certification renewal fee for associate behavior analysts is \$75.00.~~
- ~~(4) The certification renewal fee for behavior analysts is \$100.00.~~
- ~~(5) The fee for placing a certificate on inactive status shall be \$50.00 for both categories of certification.~~

~~Rulemaking Specific Authority 393.13(4)(g)3., 393.17 FS. Law Implemented 393.17 FS. History–New 9-23-96, Formerly 10F-4.028, 65B-4.027, Amended \_\_\_\_\_.~~

#### 65G-4.008 Behavior Analysis Services Oversight System Organization.

~~(1) The Agency will establish and maintain a behavioral services program including a senior clinician, or Agency Senior Behavior Analyst (ASBA) to assume direction for standards of behavioral practice, develop and manage systems~~

~~of quality, utilization and cost containment for statewide behavioral practice. The ASBA holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the ASBA must be a certified behavior analyst with at least the education and experience established by the designated certification board as eligibility requirements for taking the board’s behavior analyst examination. The behavioral services program will also include the support of at least one master’s level board certified behavior analyst. The ASBA will direct:~~

#### ~~(a) Standards of practice.~~

~~1. Area Behavior Analysts will be recruited, appointed, given clinical supervision and direction and annually evaluated in conjunction with their functional supervisor in the area to which they are assigned.~~

#### ~~2. Committees.~~

~~a. The Local Review Committees working in conjunction with the ASBA will establish guidelines for committee function, charter and membership.~~

~~b. The Peer Review Committee working in conjunction with the ASBA will establish a committee charter and membership, as well as annual projects including, at minimum, review of behavioral practices in at least one Developmental Disability Center, at least one state operated forensic facility, at least one area community residential behavioral provider, at least one Local Review Committee, and other services as identified by the Agency.~~

~~3. Standards for Behavior Analysis Provider Practices will be established in conjunction with Area Behavior Analysts to assure that common requirements are implemented statewide, including but not limited to designating individuals as local service providers, assigning referrals, standards for time frames and process for behavioral program reviews and approvals, standards for behavioral assessment content and behavioral program content, standards for graphic display of data, documentation and billing.~~

~~4. Residential Behavioral Provider Standards will be established to determine eligibility requirements, and a common process created for Area approval and designation for providers of behavioral residential services, consistent with programs provided by the Agency.~~

~~5. Quality management and utilization standards for behavior analysis services and behavioral residential habilitation will be coordinated and implemented in coordination with:~~

#### ~~a. Agency Quality Management;~~

#### ~~b. Contracted Quality Management;~~

#### ~~c. Area Licensing Coordinators;~~

- d. LRC and PRC Committees;
- e. Prior Service Authorization agency, and
- f. Agency for Health Care Administration.

~~(2)(4)~~ A statewide peer review committee (PRC) and local review committees (LRCs) shall be appointed by the Agency to provide oversight of behavior analysis services.

~~(a) The Agency will establish the composition, function and procedures to be followed by the committees. Each committee shall operate in accordance with by laws written by the committee and approved by the Agency prior to their implementation by the committee.~~

(b) Each committee shall be chaired by a person who holds a doctorate from an accredited university program with behavior analysis as a primary focus, is a board certified behavior analyst, has completed a dissertation that had behavior analysis as its central focus and has at least one year of experience in the provision of behavior analysis services for persons with developmental disabilities. However, if no one with these qualifications is available, then the chairperson must be a certified behavior analyst with at least the education and experience requirements for taking the board's behavior analyst examination.

(c) Local review committees may establish subcommittees within a division of the area office or institution or, upon mutual agreement between an area office and a provider, within a program or programs operated by the provider, and operate under the rules governing local review committees. The LRC shall remain responsible for the decisions of the subcommittees.

1. A sufficient number of LRCs shall be established to allow for the timely review of behavior analysis services as required by law and rule. Subcommittees shall operate under the rules governing local review committees, however, the local review committees shall remain responsible for the decisions of the subcommittee.

2. Each LRC will be chaired by an individual meeting the qualifications above who is either an employee of the Agency or under contract to provide this service. Under no circumstances may the chair participate in the LRC review of his or her own services or related services. Each subcommittee that oversees behavior analysis services of a single provider of a statewide program must be approved by the Agency in advance of the committee making decisions authorized by these rules.

(2) The PRC statewide committee shall conduct on-site reviews of behavior analysis services including the operations of local review committees; provide training and technical assistance related to client and systemic behavior analysis services issues; ~~monitor the development of the behavior analysis certification examinations to ensure that they are consistent with practice and testing standards;~~ and provide recommendations regarding laws and regulations that affect behavior analysis services.

(3) Each area office, and each developmental disabilities center ~~institution~~, hereafter referred to as "facility." a ~~institution~~ shall have a local review committee that shall oversee behavior analysis services provided to clients in their area or facility institution as specified in paragraphs (a)-(c), below:

(a) The committee shall review all behavior analysis services and use of reactive strategies in the area or facility to ensure that these services are designed and approved in accordance with Florida Statutes and Agency rules.

~~(b)4-~~ The person who designed the services or their designee shall be present during the initial committee review. A person with primary responsibility for the ongoing implementation and monitoring of the services shall be present at all future meetings at which the services are reviewed by the committee.

~~2- Any person can bring a behavior analysis services plan before the committee for its review.~~

~~(c)4-~~ The committee shall monitor behavior analysis services ~~reviewed by the committee~~ in accordance with a monitoring schedule plan developed and approved by the committee to ensure that behavior analysis services are in compliance with Florida Statutes and the Agency rules. Approval of services includes the determination by the LRC chairperson that the individual designing and implementing the behavior analysis services is in compliance with subsection 65G-4.002(5), F.A.C., above, or is appropriately supervised.

~~(d)4-~~ If use of reactive strategies and behavior analysis services are not found not to be in accordance with Florida law, the committee shall request that the Agency notify the provider of the services, in writing and orally at the time of review and in writing within ten days of review in the language of the provider and in English, of each area of non-compliance.

1. Absent emergency circumstances that threaten public health, safety or welfare, the provider shall have 20 days within which to demonstrate compliance or present to the committee in writing evidence showing that the services being provided are in compliance with Florida Statutes and the Agency rules. The provider may present whatever evidence the provider deems appropriate to demonstrate that the provider is in compliance with Florida Statutes and the Agency rules.

2. If, however, the committee determines that the provider is not in compliance with Florida Statutes or the Agency rules, the committee shall report all facts and circumstances to the Agency in writing within five days of the provider's response and request a final decision be made by the department.

3. Within twenty days of such report, the Agency shall notify the committee, in writing, and the provider, in writing and orally in the language of the provider and in English, of its decision. In the event the Agency finds the provider is not in compliance with Florida Statutes or the Agency rules, the Agency shall take appropriate action against the provider up to and including withdrawal of status as an authorized provider.

notification of the designated certification or licensing board, and revoke the provider's behavior analysis certification require that the services being provided be discontinued and notify the provider of the provider's rights in accordance with Chapter 120, F.S.

4. Following a committee report set forth above, the Agency may require additional supervision of the provider's services. The requirement for additional supervision may be a prerequisite for allowing the provider to continue to serve as an authorized behavior analysis services provider. Such required supervision may include the following conditions:

a. Face-to-face meetings for up to two hours every two weeks or two hours per 40 hours of the provider's contact with clients. These meetings shall be between the provider and a board certified behavior analyst, during which the supervising behavior analyst directs and evaluates the behavior analysis services provided by the provider.

b. The supervising behavior analyst shall not be, at the time supervision is provided, the provider's subordinate or employee. The supervising behavior analyst shall not be considered an employee of the provider if the only compensation received by the supervising behavior analyst consists of payment for supervision.

c. The provider's presentation of behavior analysis services designed and implemented by the provider, with a focus on graphic displays of data, at local review committee meetings, established in Rule 65G-4.008, F.A.C., may be substituted for up to 25 percent of the total supervision time required.

Rulemaking Specific Authority 393.125, 393.13(4)(g)3., 393.17 FS. Law Implemented 393.066, 393.067, 393.125, 393.13, 393.17 FS. History--New 9-23-96, Formerly 10F-4.029, 65B-4.029, Amended \_\_\_\_\_.

65G-4.009 Design, Implementation and Monitoring of Behavior Analysis Services.

(1) Providers of behavior analysis services shall provide services only as certified and as provided by law.

(2) All aspects of behavior analysis services shall be integrated by the provider with other relevant services and supports being provided to the client.

(3) The selection of behavior analysis procedures and decisions by the provider to make environmental changes that obviate the need for the use of behavior change procedures shall be based upon information obtained through valid assessment ~~descriptive analysis or systematic environmental manipulations~~ designed to identify functional relationships between the behavior or behaviors targeted for change and the environment. Consistent with established Agency operating procedure, the assessment will contain at minimum:

(a) Operational definitions of all behavior targeted for change

(b) Conditions under which the behavior is most likely to occur

(c) Measures of current level of behavior targeted for change.

(d) Any other relevant personal, social, medical or historical information that may impact on behavior targeted for change

(e) Putative functional relationships between targeted behavior and environment

(f) Recommendations for procedures to decrease maladaptive behavior and increase relevant appropriate alternative behavior.

(4) Behavior analysis services designed by the provider to decrease behavior shall

include procedures for increasing functional replacement behavior, or acquisition of adaptive skills to serve as a functional alternative to the behaviors targeted for change.

(5) Behavior analysis procedures that are the least intrusive to the client and the most likely to be effective shall be used by the provider.

(6) Medical treatment to address purely medical etiologies or physical or occupational therapies to address behaviors that is related ~~are due~~ to physical limitations shall be provided concurrent with, or prior to, the implementation of behavior analysis services by the provider.

(7) Behavior analysis services shall not be provided continuously without appropriate considerations of Maintenance and generalization of behavior change in relevant settings or a designation of criteria for termination of the interventions or services shall be addressed by the provider whenever behavior analysis services are provided.

(8) The provider shall ensure that persons responsible for implementing, monitoring and providing behavior analysis services receive performance-based training that prepares them to properly implement the behavior analysis procedures involved, within the circumstances under which the services will be provided.

(9) The provider shall ensure that continuous measurement and documentation of behaviors targeted for change and of intermediate and ultimate outcomes of behavior analysis services occur during the entire period during which the services are in effect. Graphic displays of data on behaviors targeted for change shall be kept and up-dated by the provider at least weekly. Graphic displays of data will use time cycles appropriate for the frequency and topography of target behavior and allow for assessment of current effects as well as longitudinal analysis.

(10) The LRC ~~local review committee~~ shall approve the provider's behavior analysis services monitoring plan and specify the requirements for reporting of findings and data to the committee for behavior analysis services approved by the committee.

(a) Consistent with established Agency operating procedure, the behavior analysis services plan Monitoring shall include:

- ~~1. Documentation of when and by whom monitoring was done.~~
- ~~2. Examination and interpretation of data.~~
- ~~3. Direct observations in the setting(s) where the plan is implemented, including the observation of the implementation of procedures or simulated implementation.~~
- ~~4. Discussions with and observations of individuals who implement the behavior analysis procedures involved.~~
- ~~5. Determination that the services are in accordance with Florida Statutes and the Agency rules.~~
1. Identifying and relevant demographic information for the individual affected by the plan.
2. The name, signature and certification or licensure information of the individual who developed, supervises or approves the implementation of the procedures described in the plan.
3. Objective statements of goals relative to behavior reduction and/or acquisition resulting in program termination.
4. Rationale for proposed interventions, consistent with assessment results.
5. Medical, social and historical information including previous treatment programs relevant to the current problems being addressed.
6. How behavioral services will be integrated with other relevant services.
7. Identification of behaviors targeted for reduction.
8. Identification of behaviors targeted for acquisition or as replacement.
9. Intervention procedures for behaviors targeted for reduction and acquisition.
10. Data collection methods for behaviors targeted for reduction and acquisition.
11. Description of performance-based training for persons implementing procedures.
12. Techniques for maintaining and generalizing behavioral improvements.
13. Plan for reduction and fading of behavioral services.
14. When applicable, rationale for, description of training, the routine or duties, monitoring and fading of ancillary support staff.
15. Methods and schedule of monitoring for programmatic fidelity.
16. Signatures of informed participants as may be required by law and individuals authorized to approve the procedures.

(b) Modifications to the behavior analysis service plan which includes procedures listed in Rule 65G-4.010, F.A.C., approved by the LRC committee shall be documented and submitted by the provider to the committee within one week after the changes are made. A summary of the effects of and

modifications to behavior analysis services plan shall be developed written by the provider at least annually. This summary may be a graphical display of data collected over the year with appropriate annotation of program modifications.

Rulemaking Specific Authority 393.13(4) FS. Law Implemented 393.0651, 393.066, 393.067, 393.068, 393.13, 393.17 FS. History—New 9-23-96, Formerly 10F-4.030, 65B-4.030, Amended \_\_\_\_\_.

65G-4.010 Behavior Analysis Services Approval.

The local review committee must review:

(1) Behavior analysis services that include behavior analysis procedures that are designed to decrease the probability of the occurrence of a behavior by presenting, attenuating or removing a stimulus following each occurrence of the behavior to be reduced, behavioral contingencies designed to increase the probability of a behavior by removing or attenuating a stimulus following each occurrence of the behavior to be increased, and the use of satiation and deprivation procedures, hereafter referred to as restricted procedures, and shall require the approval of one of the following practitioners prior to implementation:

(a) A board certified behavior analyst as defined in subsection 65G-4.0011(5), F.A.C. who meets the education and experience requirements established in these rules for taking the behavior analyst certification examination.

(b) A person licensed pursuant to Chapter 490 or 491, F.S.

~~(2) Approval by a certified behavior analyst who meets the education and experience requirements specified in these rules for taking the behavior analyst certification examination or a person licensed pursuant to Chapter 490 or 491, F.S., shall also be required prior to implementation for b~~Behavior analysis services ~~that are~~ designed to address those actions of the individual which, without behavioral, physical, or chemical intervention can be expected to result in (a) through (h) below will be provided or supervised by a Certified Behavior Analyst as defined in paragraph 65G-4.003(1)(b), F.A.C., or a person licensed pursuant to Chapter 490 or 491, F.S.:

(a) Have resulted in self-inflicted, detectable, external or internal damage requiring medical attention or are expected to increase in frequency, duration, or intensity resulting in self-inflicted, external or internal damage requiring medical attention.

(b) Have occurred or are expected to occur with sufficient frequency, duration or magnitude that a life-threatening situation might result, including excessive eating or drinking, vomiting, ruminating, eating non-nutritive substances, refusing to eat, holding one's breath, or swallowing excessive amounts of air.

(c) Have resulted in external or internal damage to other persons that requires medical attention or are expected to increase in frequency, duration or intensity resulting in external or internal damage to other persons that requires medical attention.

(d) Have resulted or are expected to result in major property damage or destruction.

(e) Have resulted or are expected to result in arrest and confinement by law enforcement personnel.

(f) Have resulted in the need for behavioral services in a Behavior Focused or Intensive Behavioral Residential Habilitation program.

(g) Have resulted in the need for additional staffing or Behavior Assistant Services.

(h) Have resulted in the repeated use of reactive strategies without a formal approved plan.

(3) Behavioral programs or manuals implemented as group contingencies or behavior change systems, including behavioral program manuals, level systems and token economies, require local review committee review and approval.

(4)(3) A written plan describing behavior analysis services approved for implementation pursuant to these rules shall be submitted ~~sent~~ to the local review committee within five working days following implementation. Behavior analysis service plans shall be consistent with the requirements of subsection 65G-4.009(10), F.A.C.

Rulemaking Specific Authority 393.13(4)(g)3. FS. Law Implemented 393.066, 393.067(14), 393.068, 393.13, 393.17 FS. History--New 9-23-96, Formerly 10F-4.031, 65B-4.030, Amended \_\_\_\_\_.

65G-4.012 Determination of Mental Retardation: Intelligence Tests to be Administered.

(1) For the purposes of Chapters 393 and 916, F.S., the Stanford-Binet Intelligence Scale or the Wechsler ~~Adult & Infant~~ Intelligence Scales, administered by or under the direct supervision of a psychologist or school psychologist licensed under Chapter 490, F.S., shall be used to determine mental retardation and the level of intellectual functioning.

(2) Notwithstanding subsection (1), if, given the condition of the individual to be tested, the Stanford-Binet Intelligence Scale or the Wechsler ~~Adult & Infant~~ Intelligence Scales are not valid and reliable as determined by the person authorized to administer such tests as specified in subsection (1), an alternative test or evaluation procedure, administered and interpreted in conformance with instructions provided by the producer of the tests or evaluation materials, may be used. The results of the testing or evaluation must include reference to published validity and reliability data for the specified test or evaluation procedure.

Rulemaking Specific Authority 393.063(38), 916.106, 393.501(1) FS. Law Implemented 393.063(38), 916.106 FS. History--New 6-13-06, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Coleman, PhD., Senior Behavior Analyst, Agency for Persons with Disabilities, Residential and Clinical Support, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 332399-0950

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jim DeBeaugrine, Director, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, (850)488-4257

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 23, 2009

**FISH AND WILDLIFE CONSERVATION COMMISSION**

RULE NO.: 68-1.003

RULE TITLE: Florida Fish and Wildlife Conservation Commission Grants Program

PURPOSE AND EFFECT: The purposes of this rulemaking are to remove an obsolete form, to decrease the length of time that funds are encumbered but cannot be used while grantees apply for permits, and add requirements for federal funding. The effects of the proposed rule amendments are: to delete a form that is presently required of applicants for the Derelict Vessel Removal Grant Program, to require applicants to be fully permitted before grants are awarded for construction under the Florida Boating Improvement Grant Program, and conform this grant program to federal requirements when federal funding is used.

SUMMARY: The Derelict Vessel Removal Grant Program requires a form to be submitted from the Fish and Wildlife Conservation Commission, Division of Law Enforcement. Because all law enforcement officers can now remove or cause the removal of derelict vessels, this requirement is being deleted and a provision is being added to allow local law enforcement to submit their own agencies' forms.

The Program Guidelines for the Florida Boating Improvement Program is being changed to reflect a requirement that grants for construction projects must have all permits issued prior to the grant award. FWC will notify all grant applicants of the proposed grant award date. A provision that the Commission reserves the right to use federal funds through the Sport Fish Restoration Act in order to make the best use of available resources is also being added and Web site addresses are being corrected.

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.

RULEMAKING AUTHORITY: 206.606, 327.04, 327.47, 379.106 FS.

LAW IMPLEMENTED: 206.606, 327.47, 328.72, 379.106 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tim Woody, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Section, 620 S. Meridian Street, Tallahassee, FL 32399, telephone (850)410-0656, ext. 17173, email tim.woody@myfwc.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

68-1.003 Florida Fish and Wildlife Conservation Commission Grants Program.

(1) through (6) No change.

(7) Derelict Vessel Removal Grant Program grants shall meet all requirements set forth in this section.

(a) No change.

(b) Only derelict vessels as defined in Section 823.11(1), F.S., shall be eligible for removal with grant funds. Derelict vessels to be removed with grant funds must be designated and marked by a law enforcement officer as specified in Section 327.70, F.S.

1. Such designation and marking shall be considered made when a written offense report, incident report, or similar report is submitted by a law enforcement officer and a copy of the report received by the Fish and Wildlife Conservation Commission, Division of Law Enforcement at 620 South Meridian Street, Tallahassee, FL 32399. Photographs of the vessel displaying the completed sticker and the DV number as described below must be included in or attached to the report completes form number FWCDLE\_048, Derelict or Abandoned Vessel Report, dated March 2008, incorporated herein by reference. This form may be obtained by contacting the Fish and Wildlife Conservation Commission, Division of Law Enforcement.

2. A law enforcement officer must affix the notice specified in Section 705.103(2), F.S. The vessel must be marked as derelict with the letters "DV," the two-digit year, and law enforcement agency's offense, incident, case, report, or other identifying number. The marking of the vessel will be done in such a way that it can be easily identified by other boaters or a removal contractor. If the condition of the vessel makes it impossible to affix the required notice and display the "DV" number (example: the vessel is entirely submerged or completely broken up), the notice and "DV" number shall be displayed on a sign or buoy attached to the vessel.

(c) No change.

(d) In the event monies are appropriated by the Legislature for the funding of the Derelict Vessel Removal Grant Program for a given fiscal year, the Division shall announce the availability of funding in the Florida Administrative Weekly and on the Web site at [http://myfwc.com/RECREATION/boat\\_index.htm](http://myfwc.com/RECREATION/boat_index.htm) ~~http://myfwc.com/boating/grants/derelict.htm~~. A grant applicant shall provide a completed grant application to the Division no more than 60 days from the date the announcement is published. This application shall be submitted on the form FWC/DV-APP (July 2008), entitled "Application for Derelict Vessel Removal Grant," July 2008, incorporated herein by reference, and may be obtained by contacting: Fish and Wildlife Conservation Commission, Division of Law Enforcement, 620 S. Meridian Street, 1M, Tallahassee, Florida 32399-1600. No other form will be accepted.

(e) through (h) No change.

(8) No change.

(9) Florida Boating Improvement Program grants shall meet all additional program requirements set forth in the Florida Boating Improvement Program Guidelines (~~dated Jan. 2010 2008~~), which are hereby incorporated by reference. The following forms are hereby adopted and incorporated by reference: FWC/FBIP-A, Florida Boating Improvement Program Grant Application for Recreational Channel Markers and Other Uniform Waterway Markers, 01/10 07/08; FWC/FBIP-B, Florida Boating Improvement Program Grant Application for Boating Access Facilities, 01/10 07/08; FWC/FBIP-C, Florida Boating Improvement Program Grant Application for Derelict Vessel Removal, 01/10 07/08; FWC/FBIP-D, Florida Boating Improvement Program Boater Education Grant Application, 01/10 07/08; FWC/FBIP-E, Florida Boating Improvement Program Grant Application for Economic Initiatives and Other Local Boating Related Projects, 01/10 07/08. The guidelines and forms are available at [http://myfwc.com/RECREATION/boat\\_grant\\_index.htm](http://myfwc.com/RECREATION/boat_grant_index.htm) or from the Commission at 620 S. Meridian Street, 1M, Tallahassee, Florida 32399-1600 or ~~www.myfwc.com/boating/grants/fbip.htm~~.

(10) through (12) No change.

~~Rulemaking Specific~~ Authority 206.606, 327.04, 327.47, 379.106 FS. Law Implemented 206.606, 327.47, 328.72, 379.106 FS. History—New 4-4-04, Amended 3-15-05, Formerly 68A-2.015, Amended 5-22-07, 7-6-08, 1-18-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patricia Harrell, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways Section

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission sitting as agency head

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE NO.: 68A-9.005  
 RULE TITLE: Falconry

**PURPOSE AND EFFECT:** The purpose of this proposed rule is to prohibit the take of peregrine falcons for falconry unless it is authorized by permit from the FWC and is consistent with the U.S. Fish and Wildlife Service (USFWS) Final Environmental Assessment and Management Plan for Peregrine Falcons. The effect is to limit the number of peregrine falcons that can be taken for use in falconry to that determined by the USFWS to be consistent with effective conservation of the species and the annual allocation of birds made available to the State of Florida.

**SUMMARY:** The proposed rule establishes a prohibition on taking peregrine falcons for falconry unless that take is specifically permitted by the FWC and is consistent with the USFWS Final Environmental Assessment and Management Plan for Peregrine Falcons. The rule also provides for a permitting process to take peregrine falcons for falconry that gives priority to Florida residents and limits the number of applications that may be submitted annually by each applicant.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has determined that this rule will \_\_\_or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.

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.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution.

**LAW IMPLEMENTED:** Article IV, Section 9, Florida Constitution.

**A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:**

**DATES AND TIME:** During the Commission’s regular meeting December 9-10, 2009, 8:30 a.m. – 5:00 p.m., each day  
**PLACE:** John Boy Auditorium, 1200 South W.C. Owen Ave., Clewiston, FL 33440

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: The ADA Coordinator at (850)488-6411. 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:** Jim Antista, General Counsel, Legal Office, Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399-1600

**THE FULL TEXT OF THE PROPOSED RULE IS:**

- 68A-9.005 Falconry.
- (1) through (8) No change.
- (9) Capturing raptors; restrictions:
  - (a) through (e) No change.

(f) The take of peregrine falcons is prohibited except as authorized by permit from the executive director and consistent with the U.S. Fish and Wildlife Service Final Environmental Assessment and Management Plan for Peregrine Falcons, dated August 2008 (incorporated herein by reference). The Commission shall randomly select applications and issue permits annually. Priority for receiving a permit shall be given to Florida residents. Only one application may be submitted per applicant.

**PROPOSED EFFECTIVE DATE:** As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 6-21-82, 7-1-84, Formerly 39-9.05, Amended 4-14-92, 7-1-94, Formerly 39-9.005, Amended \_\_\_\_\_.

**BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.**

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Mr. Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Florida Fish and Wildlife Conservation Commission

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** September 9, 2009

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** December, 5, 2008

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Freshwater Fish and Wildlife**

RULE NO.: 68A-13.003  
RULE TITLE: Hunting Regulations for Ducks, Geese, and Coots

PURPOSE AND EFFECT: The purpose of the proposed rule change is to establish bag limits for taking ducks in conformance with federal regulations. Rule wording would be changed to increase the bag limit for canvasbacks to one and scaup to two.

SUMMARY: The rule amends migratory bird hunting regulations to establish duck, goose, and coot season dates and bag limits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will \_\_\_ or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.

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.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution; 375.313, 379.2223 FS.

A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:

DATES AND TIME: During the regular meeting of the Commission, December 9-10, 2009, 8:30 a.m. – 5:00 p.m., each day

PLACE: John Boy Auditorium, 1200 South W.C. Owen Ave, Clewiston, FL 33440

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: The ADA Coordinator at (850)488-6411. 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: Diane Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-13.003 Hunting Regulations for Ducks, Geese, and Coots.

The Commission has approved the following regulations and bag limits for taking ducks, geese, and coots:

- (1) Duck, light goose, and coot season:
  - (a) through (e) No change.
  - (f) Limits: The possession limit for ducks and coots shall be two days' bag limit. There shall be no possession limit for light geese. Light geese include only snow (including blue) and Ross' geese.

1. Ducks: The daily bag limit for ducks is six, including no more than four mallards, of which only two can be females, ~~one scaup except it shall be two scaup during the last twenty consecutive days of the open season and the Youth Waterfowl Hunt~~, four scoters, three wood ducks, two redheads, one pintail, one canvasback, one black duck, one Florida duck (mottled duck), and one fulvous whistling-duck. In addition to the daily bag limit for ducks, the daily bag limit for mergansers is five, only two of which may be hooded mergansers.

- 2. through 3. No change.
- (2) General restrictions:
  - (a) The taking of ~~canvasbacks~~, harlequin ducks, brant or geese other than light geese as specified in subsection (1) and Canada geese as specified in subsection (4) is prohibited.
  - (b) No change.
  - (3) through (5) No change.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 8-1-79, Amended 10-23-79, 8-19-80, 9-29-81, 8-30-82, 7-27-83, 8-13-84, 8-13-85, 10-1-85, Formerly 39-13.03, Amended 8-5-86, 8-24-87, 8-18-88, 12-12-88, 8-17-89, 10-30-89, 8-9-90, 10-31-90, 8-22-91, 10-31-91, 8-23-92, 10-22-92, 9-2-93, 10-28-93, 11-6-94, 10-23-95, 10-20-96, 8-7-97, 10-28-97, 11-12-98, 6-23-99, Formerly 39-13.003, Amended 11-7-00, 5-13-02, 5-1-03, 7-1-04, 7-1-05, 2-1-06, 7-1-06, 1-9-07, 1-8-08, 7-1-08, 1-6-09,\_\_\_\_\_.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane Eggeman, Director, Division of Hunting and Game Management, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2009  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 5, 2008

## FISH AND WILDLIFE CONSERVATION COMMISSION

### Freshwater Fish and Wildlife

RULE NO.: 68A-15.064  
 RULE TITLE: Specific Regulations for Wildlife Management Areas – South Region

**PURPOSE AND EFFECT:** The purpose of the proposed rule change is to allow licensed hunters to take Reptiles of Concern pursuant to subsection 68A-6.007(1), F.A.C., and incidental to lawful hunting activities on selected Wildlife Management Areas (WMAs) in the South Region. All Reptiles of Concern taken shall be reported and shall not be transported alive from the area. The effect of the proposed rule changes will be to enable the agency to better manage fish and wildlife resources on WMAs.

**SUMMARY:** The proposed rule change would allow licensed hunters to take Reptiles of Concern pursuant to subsection 68A-6.007(1), F.A.C., and incidental to lawful hunting activities on Holey Land, Everglades and Francis S. Taylor, Rotenberger and Big Cypress Wildlife Management Areas in the South Region. All Reptiles of Concern taken shall be reported and shall not be transported alive from the area.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has determined that this rule will \_\_\_or will not \_\_\_X\_\_\_ have an impact on small business. A SERC has \_\_\_ or has not \_\_\_X\_\_\_ been prepared by the agency.

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.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution; 375.313 FS.

**LAW IMPLEMENTED:** Article IV, Section 9, Florida Constitution; 375.313, 379.2223 FS.

**A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:**

**DATES AND TIME:** During the regular meeting of the Commission, December 9-10, 2009, 8:30 a.m. – 5:00 p.m., each day.

**PLACE:** John Boy Auditorium, 1200 South W.C. Owen Ave., Clewiston, FL 33440

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: The ADA Coordinator, at (850)488-6411. 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:** Mike Brooks, Section Leader, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

**THE FULL TEXT OF THE PROPOSED RULE IS:**

68A-15.064 Specific Regulations for Wildlife Management Areas – South Region.

- (1) No change.
- (2) Holey Land Wildlife Management Area.
- (a) through (c) No change.
- (d) General regulations:

1. through 14. No change.

15. Reptiles of Concern as listed in paragraphs 68A-6.007(1)(a)-(f), F.A.C., may be taken during established seasons for the taking of game animals or alligators and only by persons properly licensed and permitted to take game animals or alligators.

16. Guns are a prohibited method of take for Reptiles of Concern, except when the use of guns to take game or alligators is authorized.

17. Reptiles of Concern shall not be removed from the areas alive.

18. Persons that take any reptile of concern shall report the take within 36 hours, and shall provide all data requested.

(e) No change.

(3) Everglades and Francis S. Taylor Wildlife Management Area.

(a) through (c) No change.

(d) General regulations:

1. through 21. No change.

22. Reptiles of Concern as listed in paragraphs 68A-6.007(1)(a)-(f), F.A.C., may be taken during established seasons for the taking of game animals or alligators and only by persons properly licensed and permitted to take game animals or alligators.

23. Guns are a prohibited method of take for Reptiles of Concern, except when the use of guns to take game or alligators is authorized.

24. Reptiles of Concern shall not be removed from the areas alive.

25. Persons that take any reptile of concern shall report the take within 36 hours, and shall provide all data requested.

(e) No change.

(4) Rotenberger Wildlife Management Area.

(a) through (c) No change.

(d) General regulations:

1. through 14. No change.

15. Reptiles of Concern as listed in paragraphs 68A-6.007(1)(a)-(f), F.A.C., may be taken during established seasons for the taking of game animals or alligators and only by persons properly licensed and permitted to take game animals or alligators.

16. Guns are a prohibited method of take for Reptiles of Concern, except when the use of guns to take game or alligators is authorized.

17. Reptiles of Concern shall not be removed from the areas alive.

18. Persons that take any reptile of concern shall report the take within 36 hours, and shall provide all data requested.

(5) Big Cypress Wildlife Management Area.

(a) through (c) No change.

(d) General regulations:

1. through 15. No change.

16. Reptiles of Concern as listed in paragraphs 68A-6.007(1)(a)-(f), F.A.C., may be taken during established seasons for the taking of game animals or alligators and only by persons properly licensed and permitted to take game animals or alligators.

17. Guns are a prohibited method of take for Reptiles of Concern, except when the use of guns to take game or alligators is authorized.

18. Reptiles of Concern shall not be removed from the areas alive.

19. Persons that take any reptile of concern shall report the take within 36 hours, and shall provide all data requested.

(6) through (11) No change.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption by the Commission.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const., 379.2223, 375.313 FS. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.2223, 375.313 FS. History—New 6-21-82, Amended 7-1-83, 7-27-83, 9-27-83, 7-5-84, 7-1-85, 5-7-86, 8-5-86, 5-10-87, 8-24-87, 5-1-88, 6-7-88, 7-1-89, 7-1-90, 9-1-90, 7-1-91, 7-1-92, 7-1-93, 7-1-94, 7-1-95, 8-15-95, 7-1-96, 9-15-96, 10-20-96, 6-1-97, 8-7-97, 7-1-98, 7-2-98, 7-1-99, Formerly 39-15.064, Amended 11-17-99, 7-1-00, 7-1-01, 6-2-02, 2-27-03, 5-1-03, 7-1-04, 7-1-05, 7-1-06, 7-1-07, 7-1-08, 7-1-09, 7-20-09,\_\_\_\_\_.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tim Breault, Director, Division of Habitat and Species Conservation, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 5, 2008

**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  
Recreational Grouper Seasons  
Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits

68B-14.0039  
68B-14.0045

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the Commission’s Reef Fish Rule to become consistent with federal reef fish regulations in the South Atlantic. NOAA Fisheries Service has published rules that reduce commercial and recreational fishing for all shallow-water grouper, in order to protect gag, red, and black grouper. A stock assessment completed in 2007 showed that gag grouper are undergoing overfishing, and past stock assessments have shown that red and black grouper are undergoing overfishing. The permanent federal regulations for shallow-water grouper became effective on July 29, 2009, and include all shallow-water grouper species in order to reduce discard mortality of gag, red, and black grouper. The Commission is considering changes to state regulations that would 1) decrease the Atlantic recreational aggregate grouper bag limit from five to three fish per person per day, 2) reduce the recreational bag limit for gag and black grouper in the Atlantic from two fish combined to one fish combined, 3) prohibit the captain and crew of for-hire vessels from retaining any species in the aggregate grouper bag limit, 4) implement an Atlantic recreational season closure for all shallow-water grouper from January 1 through April 30 and 5) amend the Atlantic commercial season closure to include all shallow-water grouper and to expand to January 1 through April 30.

The effect of these rule amendments is that federal and state regulations can be applied more consistently to all fishing activity in the Atlantic Ocean. The overall effect is to more consistently apply regulations to minimize confusion for the public and aid in enforcement of both state and federal fishery regulations. By adopting these regulations the State of Florida will also be contributing to the South Atlantic effort to reduce

fishing pressure on gag, red, and black grouper and allow populations of this species and others to expand. This should help ensure a larger sustainable harvest for the future.

**SUMMARY:** Rule 68B-14.0036, F.A.C. (Recreational Bag Limits: Snapper, Grouper, Hogfish, Black Sea Bass, Red Porgy, Amberjack, Exception, Wholesale/Retail Purchase Exemption) would be amended to decrease the Atlantic recreational aggregate grouper bag limit from five to three fish per person per day, reduce the recreational bag limit for gag and black grouper in the Atlantic from two fish combined to one fish combined, and prohibit the captain and crew of for-hire vessels from retaining any species in the aggregate grouper bag limit. In Rule 68B-14.0039, F.A.C. (Recreational Grouper Season) an Atlantic recreational season closure for all shallow-water grouper from January 1 through April 30 would be established. Rule 68B-14.0045, F.A.C. (Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits), would amend the Atlantic commercial season closure from March 1 through April 30 to January 1 through April 30 and expands the list of included species from gag and black to all shallow-water grouper.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has determined that this rule will \_\_\_ or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.

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.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution.

**LAW IMPLEMENTED:** Article IV, Section 9, Florida Constitution.

**A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:**

**DATES AND TIME:** During the regular meeting of the Commission, December 9-10, 2009, 8:30 a.m. – 5:00 p.m., each day

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**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) No change.

(2) Grouper.

(a) Aggregate bag limit. Except as provided elsewhere in this rule, no recreational harvester shall harvest in or from state waters, nor possess while in or on state waters, more than a total of 4 grouper per day in the Gulf of Mexico excluding waters of Monroe County in any combination of species, or more than a total of 35 grouper per day in the Atlantic Ocean and all waters of Monroe County, in any combination of species. 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 Atlantic Ocean and all waters of Monroe County, the applicable grouper bag and possession limit specified in this rule shall not extend to the operator of such vessel or any person employed as a crew person of such vessel.

(b) Red Grouper. Except as provided elsewhere in this rule, in all state waters of the Gulf of Mexico, except in all waters of Monroe County, within the aggregate bag and possession limit established in paragraph (a), no more than 2 fish may be red grouper. No recreational harvester may harvest in or from state waters of the Gulf of Mexico, except in all waters of Monroe County, nor possess while in or on the waters of the Gulf of Mexico, except in all waters of Monroe County, more than 2 red grouper.

(c) Gag and black grouper.

1. Except as provided elsewhere in this rule, in all state waters of the Atlantic Ocean and all state waters of Monroe County, within the aggregate bag and possession limit established in paragraph (a), no more than 1 ~~2~~ fish may be a gag or a black grouper, ~~either individually or in combination~~. No recreational harvester may harvest in or from state waters of the Atlantic Ocean or in or from state waters of Monroe County, nor possess while in or on the waters of the Atlantic Ocean or in or on state waters of Monroe County, more than 1 ~~2~~ such fish.

2. Except as provided elsewhere in this rule, in all state waters of the Gulf of Mexico, except in all waters of Monroe County, within the aggregate bag and possession limit established in paragraph (a), no more than 2 fish may be gag grouper. No recreational harvester may harvest in or from state waters of the Gulf of Mexico, nor possess while in or on the waters of the Gulf of Mexico, except in all waters of Monroe County, more than 2 gag grouper.

(d) Gag, red and black grouper. In all state waters of the Gulf of Mexico, except in all waters of Monroe County, the daily bag and possession limit for captains and crew on for-hire vessels is zero.

- (e) through (g) No change.
- (3) through (9) No change.

Rulemaking 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, 1-6-09, 8-27-09,\_\_\_\_\_.

68B-14.0039 Recreational Grouper ~~Seasons~~ Season.

(1) In all state waters of the Gulf of Mexico, except in all waters of Monroe County, the closed season for the recreational harvest and possession of gag grouper, red grouper, black grouper, yellowfin grouper, yellowmouth grouper, rock hind, red hind or scamp shall be from February 1 through March 31, each year.

(2) In all state waters of the Atlantic Ocean, including all waters of Monroe County, the closed season for the recreational harvest and possession of gag grouper, black grouper, red grouper, yellowfin grouper, yellowmouth grouper, rock hind, red hind, scamp, coney, graysby, and tiger grouper shall be from January 1 through April 30 each year.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 1-6-09, Amended 8-27-09, \_\_\_\_\_.

68B-14.0045 Commercial Harvest Requirements; Licenses, Season Closures, Bag and Trip Limits.

- (1) No change.
- (2) Season Closures.
- (a) through (d) No change.

(e) During the months of January, February, March, and April each year, the harvest, possession, or landing for commercial purposes, in quantities greater than the recreational bag limits specified in Rule 68B-14.0036, F.A.C., and the purchase, sale, or exchange, of gag grouper, ~~or~~ black grouper, red grouper, yellowfin grouper, yellowmouth grouper, rock hind, red hind, scamp, coney, graysby, and tiger grouper harvested from state waters of the Atlantic Ocean and from all state waters of Monroe County, is prohibited.

- (f) through (h) No change.
- (3) No change.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-90, Amended 12-31-92, 10-18-93, 3-1-94, 6-15-95, 1-1-96, 11-27-96, 12-31-98, 3-1-99, Formerly 46-14.0045, Amended 1-1-00, 3-6-00, 1-1-01, 3-1-01, 6-1-01, 1-1-03, 7-15-04, 5-20-05, 9-16-05, 3-10-06, 7-1-07, 4-1-08, 8-27-09,\_\_\_\_\_.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT

CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2009

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NO.:	RULE TITLE:
68B-14.005	Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation

PURPOSE AND EFFECT: The purpose of this rule amendment is to modify the Commission’s Reef Fish Gear Rule to become consistent with federal reef fish gear regulations in the South Atlantic. NOAA Fisheries Service has published rules that include a requirement to use dehooking tools when releasing fish in federal South Atlantic waters. This provision went into effect July 29, 2009 and was designed to lower discard mortality of snapper-grouper species. Dehooking tools are widely used by commercial and recreational fishers and are a proven way of reducing handling and associated mortality of fish that are returned to the water. The Commission is considering changes to state regulations that would require a dehooking tool to be aboard commercial and recreational vessels and to be used as needed when releasing reef fish in the Atlantic Ocean.

The following rule amendment would change state regulations to be consistent with federal regulations: require a dehooking tool to be aboard commercial and recreational vessels and to be used as needed to remove hooks from fish in the Atlantic Ocean when fishing for reef fish.

The effect of this rule amendment is that federal and state regulations regarding reef fish gear would be applied more consistently to all reef fish fishing activity in the Atlantic Ocean. The overall effect is to more consistently apply regulations to minimize confusion for the public and aid in enforcement of both state and federal fishery regulations. By

adopting these regulations the State of Florida will also be taking steps to reduce discard mortality of reef fish which should help to ensure a larger sustainable harvest for the future. SUMMARY: 68B-14.005, F.A.C. (Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation) would be amended to require a dehooking tool to be aboard commercial and recreational vessels and to be used as needed when releasing reef fish in the Atlantic Ocean. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will \_\_\_or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.

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.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:

DATES AND TIME: During the regular meeting of the Commission, December 9-10, 2009, 8:30 a.m. – 5:00 p.m., each day.

PLACE: John Boy Auditorium, 1200 South W.C. Owen Avenue, Clewiston, FL 33440

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: The ADA Coordinator at (850)488-6411. 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: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

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 paragraphs (a), (b), and (c) ~~subparagraphs 1-, 2-, and 3.~~

(a) through (c) No change.

(4) Required gear in the Atlantic Ocean reef fish fishery. 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 paragraph (a).

(a) Dehooking devices. At least one dehooking device is required and must be used as needed to remove hooks embedded in Atlantic 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 Atlantic reef fish fishery.

~~(5)~~(4) 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: As soon as possible after adoption.

Rulemaking 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, 3-12-08, 4-1-08,\_\_\_\_\_.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2009

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NOS.: 68B-31.004

RULE TITLES:

Trawl Gear Specifications; Turtle Excluder Devices Required; Exceptions; Definitions



68B-31.0045 Trawl Gear Specifications: Bycatch Reduction Devices

**PURPOSE AND EFFECT:** The purpose of these rule amendments is to modify the Commission's Shrimp Rule 1) to clarify federal requirements for Turtle Excluder Devices (TEDs) in state waters and 2) to adopt mostly consistent regulations in state waters with recently amended regulations regarding Bycatch Reduction Devices (BRDs) in federal waters. TEDs are required by the National Marine Fisheries Service (NMFS) in all waters of the South Atlantic and the Gulf of Mexico, including state waters of Florida. These federal regulations apply in state waters because they are protecting endangered and threatened species. Even though TEDs are required in state waters by NMFS they are included in Chapter 68B-31, F.A.C., for clarity and ease of compliance. Florida's requirement for TEDs was last updated in 1999. Since that time, federal regulations regarding TEDs have changed and these changes are not reflected in current state regulations. The Commission is considering changes to state regulations that would remove the list of TEDs from Chapter 68B-31, F.A.C., and would update the reference that refers to the Code of Federal Regulations regarding TED requirements. The National Marine Fisheries Service recently changed the list of allowable BRDs for use in the South Atlantic and the Gulf of Mexico. These changes were made to include new BRD designs in the list of allowable BRDs and to remove designs that were not reducing bycatch of finfish in shrimp trawls by 30%. The Commission is considering changes to state regulations that would allow all currently certified federal BRDs in state waters, remove language regarding the Extended Funnel BRD which would eliminate its use in state waters, and restrict the use of the Florida Finfish Excluder to inshore and nearshore waters.

The effect of these rule amendments is that federal regulations regarding TEDs will be clearer and compliance should be easier for the commercial fishery because state rules will match federal rules and that federal and state regulations can be applied more consistently to all fishing activity in the South Atlantic Ocean and Gulf of Mexico regarding BRDs. The overall effect is to more consistently apply regulations to minimize confusion for the public and aid in enforcement of both state and federal fishery regulations. By adopting these regulations the State of Florida will also be contributing to the South Atlantic effort to reduce fishing pressure on species that interact with the shrimp trawl industry and will help populations of these species expand. This should help ensure a shrimp fishery with less finfish bycatch and turtle mortalities.

**SUMMARY:** Rule 68B-31.004, F.A.C. (Trawl Gear Specifications: Turtle Excluder Devices Required; Exceptions; Definitions) would be amended to remove the list of TEDs from rule and refer to the list in the U.S. Code of Federal Regulations for allowable TEDs. This section would also be amended to correct the reference to TEDs in the Code of

Federal Regulations. Rule 68B-31.0045, F.A.C. (Otter Trawl Gear Specifications: Bycatch Reduction Devices) would be amended to state all federally-certified BRDs would meet the state requirements for a BRD. Additionally, language regarding the Florida Finfish Excluder would be modified to state that it would only meet the state BRD requirements in inshore and nearshore waters and the language regarding the Extended Funnel BRD would be removed so that it is no longer allowed in state waters.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** The agency has determined that this rule will \_\_\_or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.

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.

**RULEMAKING AUTHORITY:** Article IV, Section 9, Florida Constitution.

**LAW IMPLEMENTED:** Article IV, Section 9, Florida Constitution.

**A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:**

**DATES AND TIME:** During the regular meeting of the Commission, December 9-10, 2009, 8:30 a.m. – 5:00 p.m., each day

**PLACE:** John Boy Auditorium, 1200 South W.C. Owen Avenue, Clewiston, FL 33440

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: The ADA Coordinator at (850)488-6411. 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 RULES IS:** Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

**THE FULL TEXT OF THE PROPOSED RULES IS:**

68B-31.004 Trawl Gear Specifications: Turtle Excluder Devices Required; Exceptions; Definitions.

(1) through (3) No change.

(4) For purposes of this rule:

(a) No change.

(b) "Qualified turtle excluder device" or "TED" means:

~~1. Any one of six devices approved and described by the National Marine Fisheries Service in 50 C.F.R. Section 227.72(e)(4)(ii)(A)-(F), Oct. 1, 1987 (as amended by Vol. 52~~

Fed. Reg. No. 192, p. 37154, Oct. 5, 1987, and by Vol. 53 Fed. Reg. No. 170, p. 33821, Sept. 1, 1988). The devices are commonly known as the NMFS TED, Cameron TED, Matagorda TED, Georgia TED, Morrison TED, and Parrish TED.

2. Any additional device currently certified and approved by the National Marine Fisheries Service as demonstrating a turtle exclusion rate of at least 97% pursuant to 50 C.F.R. § 223.207 Section 227.72(e)(4)(iii), Oct. 1, 1987.

(c) through (d) No change.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-11-90, Amended 1-1-92, 3-16-93, 1-1-96, 3-1-99, Formerly 46-31.004, Amended \_\_\_\_\_.

68B-31.0045 ~~Other~~ Trawl Gear Specifications: Bycatch Reduction Devices.

(1) Where required on a regional basis by rule of this chapter, no person shall operate or fish any ~~other~~ trawl, or possess any ~~other~~ trawl that is rigged for fishing aboard any vessel, which trawl does not have a bycatch reduction device (BRD) installed therein meeting the requirements of this rule.

(2) No person shall rig or alter the ~~bycatch reduction device (BRD)~~ installed in any trawl in any manner so as to render the BRD nonfunctioning or ineffective in excluding species other than shrimp from the trawl.

(3) One of the following types of BRDs must be used to comply with the requirements of this subsection: A BRD shall be deemed to meet the requirements of this subsection if it is one of two types specified herein:

(a) BRDs currently certified or currently provisionally certified by the National Marine Fisheries Service as defined in 50 C.F.R. § 622 Appendix D and pursuant to 50 C.F.R. § 622.41 (g).

(b)(a) The Florida Finfish Excluder meets the BRD requirements of this subsection only when fishing in nearshore or inshore Florida waters. The Florida Finfish Excluder—This device shall consist of at least one rigid exit opening frame made of no smaller than 1/4-inch steel or aluminum rod sewn into each trawl. Each exit opening frame shall be at least 12 inches in length and have an apex of three bars pointing forward to orient the exit opening in the direction of the mouth of the trawl. The opening thus created shall be in the shape of a parallelogram or oval and no smaller than 36 square inches in area and 5 inches across the opening in the shortest dimension. The opening formed by each frame shall be no further forward in the cod end than 70% of the distance between the draw string (tie-off rings) and the beginning of the tail bag

(excluding any extension). The frame shall be installed on the top side of the cod end, no more than 15 meshes to the side of the centerline.

(b) ~~Extended Funnel BRD—This device consists of a funnel of small mesh netting within a cylinder of large mesh netting, held open by at least one semi-rigid hoop, which trawl section is located behind the turtle excluder device (TED). One side of the funnel is extended vertically to provide a passage for shrimp to the cod end and create an area of reduced waterflow to allow for fish escapement through the larger mesh outer netting. This BRD shall meet the following specifications:~~

1. ~~The small mesh funnel and large mesh section shall be positioned within an extension section constructed of no smaller than 1 5/8 inch stretched mesh nylon netting, no less than 120 meshes in circumference. The portion of the extension in front of the large mesh section shall be no less than 6 1/2 meshes long, and the section behind the large mesh section shall be no shorter than 23 meshes in length.~~

2. ~~The small mesh funnel shall be constructed of no less than 1 3/8 inch stretched mesh netting. This component shall have a circumference of no less than 120 meshes at the leading edge and no less than 104 meshes at the trailing edge. The short side of the funnel shall be at least 36 inches long, while approximately 1/2 of the opposite side of the funnel shall extend at least 22 inches further toward the trailing edge of the funnel. The leading edge of the funnel shall be attached no less than 3 meshes forward of the large mesh leading edge. At least 7 meshes of the short side of the funnel shall be attached to the back section of extension webbing on the top and bottom at least 8 meshes back from the trailing edge of the large mesh section.~~

3. ~~The larger mesh outer section shall consist of no smaller than 8 inch stretched mesh netting cut on the bar. The section shall have a circumference no smaller than 19 meshes and a length of at least 3 meshes.~~

4. ~~The leading edge of the large mesh section shall be attached to one semi-rigid hoop with a minimum diameter of 24 inches constructed of plastic-coated trawl cable. It shall be installed at least 5 meshes behind the trailing edge of the large mesh section. If a soft TED is used, a second hoop of identical construction shall be installed at the leading edge of the funnel.~~

(c) ~~It is the intention of the Fish and Wildlife Conservation Commission that additional Bycatch Reduction Devices certified as allowable by the National Marine Fisheries Service will be added by amendment to this subsection pursuant to the procedures afforded by Section 120.54(6), Florida Statutes.~~

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-3-96, Amended 8-17-98, Formerly 46-31.0045, Amended \_\_\_\_\_.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2009

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE NOS.:	RULE TITLES:
68B-44.002	Definitions
68B-44.003	Bag Limit Applicable to State Waters; Gear Restriction
68B-44.004	Landing in Whole Condition; Transit Through State Waters
68B-44.005	Commercial Harvest of Sharks: Federal Permit Required
68B-44.006	Commercial Season; Season Closure; Prohibition of Sale
68B-44.007	Size Limit Applicable to State Waters
68B-44.008	Prohibited Species; Prohibition of Harvest, Landing, and Sale

PURPOSE AND EFFECT: The purpose of these rule amendments is to modify the Commission’s Sharks and Rays Rule to comply with the newly created Atlantic States Marine Fisheries Commission’s (ASMFC) Interstate Fishery Management Plan for Atlantic Coastal Sharks (Plan). The ASMFC created this Plan because coordinated state management is a vital step towards establishing healthy, self-sustaining populations of Atlantic coastal sharks. The Plan lays out management measures that Florida is required to adopt unless Florida enacts alternative measures that are approved by the ASMFC as conservation equivalency measures.

The Commission is considering changes to state regulations that would: 1) add sandbar, silky and Caribbean sharpnose sharks to the prohibited species list, 2) prohibit all shark harvesters from removing the heads of sharks while at sea, 3) create a minimum size limit of 54 inches fork length for all allowable shark species except the Atlantic sharpnose,

blacknose, bonnethead, finetooth, smooth dogfish, and blacktip sharks, creating a size limit for 14 species of sharks in Florida waters, 4) allow only hook and line gear for the harvest of sharks, and 5) update and clarify language throughout the rule, update references to the Code of Federal Regulations, and change the start date of the commercial fishing year.

The effect of these rule amendments is that the management of Atlantic coastal sharks will be coordinated along the eastern seaboard which is a vital step towards establishing healthy, self-sustaining populations of these species. By adopting these regulations the State of Florida will be contributing to the effort to reduce fishing pressure on Atlantic coastal sharks and allow these populations to expand. This should help ensure a larger sustainable harvest for the future.

SUMMARY: Rule 68B-44.002, F.A.C. (Definitions) would be amended by reorganizing and renumbering the shark groups, the smooth dogfish genus *Mustelus* would be added to the list of species covered under Chapter 68B-44, F.A.C., changing the definition of finning to clarify that a shark fin may be cut as long as it is still naturally attached to the shark, adding a definition of fork length and “harvest for commercial purposes” and removing the definition of spearing. Rule 68B-44.003, F.A.C. (Bag Limit Applicable to State Waters, Gear Restriction) would be amended to make hook and line the only allowable gear to harvest sharks in Florida state waters and to not allow snatching or multiple hooks with natural bait. The spearing section would also be removed from Rule 68B-44.003, F.A.C. Rule 68B-44.004, F.A.C. (Practice of Finning Prohibited; Removal of Fins from Sharks Harvested in State Waters Prohibited; Compliance with Federal Requirements; Filleting Prohibited) would be amended to clarify and strengthen the finning rule by stating the tail may not be removed; however, the base of the tail may be sliced to bleed the shark to help preserve the meat. This rule section would also be amended to prohibit the removal of heads at sea, remove additional unnecessary language, and ensure sharks legally caught in adjacent federal waters are allowed to be landed in Florida. Rule 68B-44.005, F.A.C. (Commercial Harvest of Sharks: Federal Permit Required) would be amended to include language stating all commercial shark landings must be sold to a federally-licensed wholesale dealer and update the reference to the federal code regarding commercial shark permits. Rule 68B-44.006, F.A.C. (Commercial Season; Season Closure; Prohibition of Sale) would be amended to change the commercial fishing season from July 1 through June 30 to January 1 through December 31. Additionally, this section would be amended to include language to automatically close the shark fishery when the ASMFC directs states to close the fishery in state waters and would clarify that the pelagic sharks group is included in current commercial season closure language. Rule 68B-44.007, F.A.C. (Size Limit Applicable to State Waters) would be created to implement a 54 inch minimum fork length for all allowable shark species except Atlantic sharpnose shark,

blacknose shark, bonnethead shark, finetooth shark, smooth dogfish, and blacktip shark, resulting in a size limit for 14 shark species in Florida waters. Rule 68B-44.008, F.A.C. (Protected Species; Prohibition of Harvest, Landing, and Sale) would be amended to include sandbar, silky, and Caribbean sharpnose sharks on the list of prohibited sharks and rays and reorganize the list of prohibited species in alphabetical order.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will \_\_\_ or will not X have an impact on small business. A SERC has \_\_\_ or has not X been prepared by the agency.

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.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

A HEARING WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:

DATES AND TIME: During the regular meeting of the Commission, December 9-10, 2009, 8:30 a.m. – 5:00 p.m., each day

PLACE: John Boy Auditorium, 1200 South W.C. Owen Avenue, Clewiston, FL 33440

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: The ADA Coordinator at (850)488-6411. 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 RULES IS: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULES IS:

68B-44.002 Definitions.

As used in this rule chapter:

(1) “Finned” means one or more fins are no longer naturally attached to the body of the shark. A shark with fins naturally attached, either wholly or partially, is not considered finned.

(2) “Fork Length” means the length of a fish as measured from the most forward point of the head to the rear center edge of the tail.

(3)(1) “Harvest” means the catching or taking of a marine organism by any means whatsoever, followed by a reduction of such organism to possession. Marine organisms that are caught but immediately returned to the water free, alive, and unharmed are not harvested.

(4)(2) “Harvest for commercial purposes” means the taking or ~~harvesting~~ harvest of a marine organism for purposes of sale, barter, trade or exchange or with intent to sell, barter, trade or exchange.

(3) ~~“Finning” means removing the fins of a shark and returning the remainder of the shark to the water.~~

(5)(4) “Land,” when used in connection with the harvest of marine organisms, means the physical act of bringing the harvested organism ashore.

(6)(5) “Ray” means any species of the Order Rajiformes, or any part thereof.

(7)(6) “Shark” means any of the following species or any part thereof (excluding fins unattached as authorized in this chapter):

(a) Large coastal species:

1. Blacktip shark – *Carcharhinus limbatus*. ~~Great hammerhead – *Sphyrna mokarran*.~~

2. Bull shark – *Carcharhinus leucas*. ~~Scalloped hammerhead – *Sphyrna lewini*.~~

3. Great hammerhead – *Sphyrna mokarran*. ~~Smooth hammerhead – *Sphyrna zygaena*.~~

4. Lemon shark – *Negaprion brevirostris*. ~~White shark – *Carcharodon carcharias*.~~

5. Nurse shark – *Ginglymostoma cirratum*. ~~Nurse shark – *Ginglymostoma cirratum*.~~

6. Scalloped hammerhead – *Sphyrna lewini*. ~~Bignose shark – *Carcharhinus altimus*.~~

7. Smooth hammerhead – *Sphyrna zygaena*. ~~Blacktip shark – *Carcharhinus limbatus*.~~

8. Spinner shark – *Carcharhinus brevipinna*. ~~Bull shark – *Carcharhinus leucas*.~~

9. Tiger shark – *Galeocerdo cuvier*. ~~Caribbean reef shark – *Carcharhinus perezii*.~~

10. ~~Dusky shark – *Carcharhinus obscurus*.~~

11. ~~Galapagos shark – *Carcharhinus galapagensis*.~~

12. ~~Lemon shark – *Negaprion brevirostris*.~~

13. ~~Narrowtooth shark – *Carcharhinus brachyurus*.~~

14. ~~Night shark – *Carcharhinus signatus*.~~

15. ~~Sandbar shark – *Carcharhinus plumbeus*.~~

16. ~~Silky shark – *Carcharhinus falciformis*.~~

17. ~~Spinner shark – *Carcharhinus brevipinna*.~~

18. ~~Tiger shark – *Galeocerdo cuvier*.~~

19. ~~Bigeye sand tiger – *Odontaspis noronhai*.~~

20. ~~Sand tiger shark – *Odontaspis taurus*.~~

(b) Small coastal species:

1. Atlantic sharpnose shark – *Rhizoprionodon terraenovae*. Atlantic angel shark – *Squatina dumerili*.
  2. Blacknose shark – *Carcharhinus acronotus*. Bonnethead – *Sphyrna tiburo*.
  3. Bonnethead – *Sphyrna tiburo*. Atlantic sharpnose shark – *Rhizoprionodon terraenovae*.
  4. Finetooth shark – *Carcharhinus isodon*. Blacknose shark – *Carcharhinus acronotus*.
  5. Caribbean sharpnose shark – *Rhizoprionodon porosus*.
  6. Finetooth shark – *Carcharhinus isodon*.
  7. Smalltail shark – *Carcharhinus porosus*.
- (c) Pelagic species:
1. Blue shark – *Prionace glauca*. Bigeye sixgill shark – *Hexanchus vitulus*.
  2. Oceanic whitetip shark – *Carcharhinus longimanus*. Sevengill shark – *Heptranchias perlo*.
  3. Porbeagle shark – *Lamna nasus*. Sixgill shark – *Hexanchus griseus*.
  4. Shortfin mako – *Isurus oxyrinchus*. Longfin mako – *Isurus paucus*.
  5. Thresher shark – *Alopias vulpinus*. Porbeagle shark – *Lamna nasus*.
  6. Shortfin mako – *Isurus oxyrinchus*.
  7. Blue shark – *Prionace glauca*.
  8. Oceanic whitetip shark – *Carcharhinus longimanus*.
  9. Bigeye thresher – *Alopias superciliosus*.
  10. Thresher shark – *Alopias vulpinus*.

(d) Smooth Dogfish – any species of the Genus *Mustelus*.

(7) “Spearing” means the catching or taking of a fish by bow hunting, gigging, spearfishing, or by any device used to capture a fish by piercing the body. Spearing does not include the catching or taking of a fish by a hook with hook and line gear, or by snagging (snatch hooking).

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 1-1-98, Formerly 46-44.002, Amended \_\_\_\_\_.

68B-44.003 Bag Limit Applicable to State Waters;; Gear Restriction.

(1) No change.

(2) The harvest or attempted harvest of any shark in or from state waters is prohibited except by use of hook and line gear. The harvest or attempted harvest of any shark in or from state waters by spearing is prohibited.

(3) The harvest of any shark, within the waters of the state, by or with the use of any multiple hook in conjunction with live or dead natural bait is prohibited.

(4) Snagging (snatch hooking) of shark in or from state waters is prohibited.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 1-1-98, Formerly 46-44.003, Amended \_\_\_\_\_.

(Substantial rewording of Rule 68B-44.004. See Florida Administrative Code for present text.)

68B-44.004 Landing in Whole Condition; Transit Through State Waters Practice of Finning Prohibited; Removal of Fins from Sharks Harvested in State Waters Prohibited; Compliance with Federal Requirements; Filleting Prohibited.

(1) All sharks harvested from State of Florida waters shall be landed in a whole condition. Except as provided for in subsection (2), the possession, while in or on the waters of the state, on any public or private fishing pier, or on a bridge or catwalk attached to a bridge from which fishing is allowed, of any shark that has had the head removed, been divided, filleted, ground, skinned, finned, or had the caudal (tail) fin removed is prohibited. Mere evisceration or “gutting” of such fish or slicing the base of the caudal fin to bleed the carcass as long as the caudal fin remains attached before landing is not prohibited.

(2) The landing requirements contained in this section, possession and bag limit restrictions contained in Rule 68B-44.003, F.A.C., and the prohibited species contained in Rule 68B-44.008, F.A.C., shall not apply to lawful commercial harvest in federal waters when such harvest is transported directly through state waters with gear appropriately stowed. Transit shall be direct, continuous and expeditious from the place where lawful harvest occurred to the place where the vessel is regularly docked, moored, or otherwise stored or to the place of the licensed wholesale dealer where the catch is to be sold. For the purpose of this section appropriately stowed means a longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck. Hooks cannot be baited. All buoys must be disconnected from the gear; however buoys may remain on deck. A rod and reel must be stowed securely. Terminal gear (i.e., hooks, leaders, sinkers, flashers, or baits) must be disconnected and stowed separately from the fishing apparatus. Sinkers must be disconnected from the down rigger and stowed separately. Gillnets must be rolled, folded, or otherwise properly and securely stowed in sealed containers or compartments so as to make their immediate use as fishing implements impracticable.

(1) No person shall engage in the practice of finning.

(2) No person shall remove any fin of any shark harvested in state waters while in or on such waters or prior to the shark being landed.

~~(3) Persons returning from federal Exclusive Economic Zone (EEZ) waters adjacent to state waters with sharks or shark fins harvested there shall not stop in state waters to fish and shall land any shark or shark fins in the proportion specified in 50 C.F.R. §635.30(e).~~

~~(4) No person shall fillet any shark while in or on state waters. The possession while in or on state waters of any shark that has been sliced, divided, filleted, ground, skinned, scaled, or deboned, is prohibited. Mere evisceration or "gutting" of such fish, mere removal of gills or the removal of the heads and tails, is not prohibited.~~

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 2-14-94, 1-1-98, Formerly 46-44.004, Amended 10-15-07,

68B-44.005 Commercial Harvest of Sharks: Federal Permit Required.

(1) No person shall harvest sharks in or from the waters of the state for commercial purposes or sell any shark harvested from such waters unless such person is in possession of a valid federal annual vessel permit for sharks issued pursuant to 50 C.F.R. § 635.4 678.4 or written authorization of such harvest or sale from the Regional Director of the National Marine Fisheries Service pursuant to 50 C.F.R. § 635.32 678.27.

(2) A harvester required to hold the federal annual vessel permit for sharks pursuant to subsection (1) may only sell to a holder of a valid federal Atlantic shark dealer permit pursuant to 50 C.F.R. § 635.4.

(3) No wholesale dealer, as defined in Section 379.362(1), F.S., shall purchase sharks, or any part thereof, unless such dealer is in possession of a valid federal Atlantic shark dealer permit. No wholesale dealer shall purchase sharks, or any part thereof without confirming that the seller possesses a valid Florida saltwater products license and the federal licenses and permits specified in subsection (1). This subsection applies only when a shark, or any part thereof is sold, exchanged, bartered, distributed, or landed for the first time.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 2-14-94, Formerly 46-44.005, Amended \_\_\_\_\_.

68B-44.006 Commercial Season; Season Closure; Prohibition of Sale.

(1) All persons harvesting sharks for commercial purposes shall have a season that begins on January July 1 of each year and continues through December 31 June 30 of the following year, unless closed earlier pursuant to subsection (2).

(2)(a) If at any time the harvest of any species of large or small coastal sharks, or pelagic sharks for commercial purposes in waters of the federal Exclusive Economic Zone (EEZ) adjacent to Florida waters is closed, corresponding state waters shall be closed to commercial harvest of the species affected by the federal closure, from the date of such closure until federal waters are reopened to the commercial harvest of such species.

(b) If at any time the harvest of any species of large or small coastal sharks, pelagic sharks, or smooth dogfish are closed in state waters of the Atlantic Ocean for commercial purposes by the Atlantic States Marine Fisheries Commission, Florida State waters of the Atlantic Ocean from the Florida-Georgia border to the border between Miami-Dade and Monroe Counties shall be closed from the date of such closure until the Atlantic States Marine Fisheries Commission reopens the fishery to the commercial harvest. For purposes of this section the border between Miami-Dade and Monroe Counties is defined as a line beginning on the east coast of Florida at the mainland at 25°20.4' N. lat. proceeding due east.

(c)(b) During the period of any state waters closure pursuant to paragraph (a) or (b), the harvest, possession, or landing for commercial purposes, or the sale, purchase, or exchange, of any species to which the closure applies, is prohibited. These prohibitions shall not apply to trade in shark carcasses or fins that were harvested, offloaded, and purchased, sold, or exchanged prior to the closure. The burden shall be upon any person possessing such shark carcasses or fins to establish the chain of possession from the initial transaction after harvest by appropriate receipt(s), bill(s) of sale, or bill(s) of lading. Failure to maintain such documentation or failure to promptly produce such documentation at the request of any duly authorized law enforcement officer shall constitute a violation of this rule.

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 4-8-92, Amended 2-14-94, 1-1-98, Formerly 46-44.006, Amended 7-1-03,

68B-44.007 Size Limit Applicable to State Waters.

No person shall harvest in or from the waters of the State of Florida at any time, or unnecessarily destroy, any shark of fork length less than 54 inches, with the exception of:

- (1) Atlantic sharpnose shark – *Rhizoprionodon terraenovae*.
- (2) Blacknose shark – *Carcharhinus acronotus*.
- (3) Blacktip shark – *Carcharhinus limbatus*.
- (4) Bonnethead – *Sphyrna tiburo*.
- (5) Finetooth shark – *Carcharhinus isodon*.
- (6) Smooth Dogfish – any species of the Genus *Mustelus*.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New \_\_\_\_\_.

68B-44.008 Prohibited Species; Prohibition of Harvest, Landing, and Sale.

No person shall harvest, possess, land, purchase, sell, or exchange any or any part of these species:

- (1) Atlantic angel shark (*Squatina dumeril*).
- (2) Basking shark (*Cetorhinus maximus*).
- (3) Bigeye sand tiger (*Odontaspis noronhai*).
- (4) Bigeye sixgill shark (*Hexanchus nakamurai*).
- (5) Bigeye thresher (*Alopias superciliosus*).
- (6) Bignose shark (*Carcharhinus altimus*).
- (7) Caribbean reef shark (*Carcharhinus perezii*).
- (8) Caribbean sharpnose shark (*Rhizoprionodon porosus*).
- (9) Dusky shark (*Carcharhinus obscurus*).
- (10) Galapagos shark (*Carcharhinus galapagensis*).
- (11) Longfin mako (*Isurus paucus*).
- (12) Narrowtooth shark (*Carcharhinus brachyurus*).
- (13) Night shark (*Carcharhinus signatus*).
- (14) Sandbar shark (*Carcharhinus plumbeus*).
- (15) Sand tiger (*Carcharias taurus*).
- (16) Sevengill shark (*Heptranchias perlo*).
- (17) Silky shark (*Carcharhinus falciformis*).
- (18) Sixgill shark (*Hexanchus griseus*).
- (19) Smalltail shark (*Carcharhinus porosus*).
- (20) Whale shark (*Rhincodon typus*).
- (21) White shark (*Carcharodon carcharias*).
- (22) Largetooth sawfish (*Pristis pristis*).
- (23) Smalltooth sawfish (*Pristis pectinata*).
- (24) Spiny dogfish (*Squalus acanthias*).
- (25) Manta ray (species of the genus *Manta* and *Mobula*).
- (26) Spotted eagle ray (*Aetobatus narinari*).

~~any smalltooth sawfish (*Pristis pectinata*), largetooth sawfish (*Pristis pristis*), basking shark (*Cetorhinus maximus*), whale shark (*Rhincodon typus*), white shark (*Carcharodon carcharias*), sand tiger shark (*Carcharias taurus*), bigeye sand tiger (*Odontaspis noronhai*), Atlantic angel shark (*Squatina dumeril*), bigeye sixgill shark (*Hexanchus nakamurai*), bigeye thresher shark (*Alopias superciliosus*), bignose shark (*Carcharhinus altimus*), Caribbean reef shark (*Carcharhinus perezii*), dusky shark (*Carcharhinus obscurus*), Galapagos shark (*Carcharhinus galapagensis*), longfin mako shark (*Isurus paucus*), narrowtooth shark (*Carcharhinus brachyurus*), night shark (*Carcharhinus signatus*), sevengill shark (*Heptranchias perlo*), sixgill shark (*Hexanchus griseus*), and smalltail shark (*Carcharhinus porosus*), spiny dogfish (*Squalus acanthias*), manta ray (species of the genus *Manta* and *Mobula*), or spotted eagle ray (*Aetobatus narinari*), or any part of any of these species.~~

PROPOSED EFFECTIVE DATE: As soon as possible after adoption.

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 4-8-92, Amended 1-1-98, Formerly 46-44.008, Amended 7-1-03, 3-9-06, \_\_\_\_\_.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE FAW.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 6, 2009

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Worker’s Compensation**

RULE NO.:	RULE TITLE:
69L-7.501	Florida Workers’ Compensation Reimbursement Manual for Hospitals

PURPOSE AND EFFECT: The purpose and effect of the proposed rule development is to amend the rule to adopt by reference the 2009 Edition of the Florida Workers’ Compensation Reimbursement Manual for Hospitals, replacing the 2006 Edition of the Florida Workers’ Compensation Reimbursement Manual for Hospitals in the existing rule. The 2009 Edition of the Florida Workers’ Compensation Reimbursement Manual for Hospitals will incorporate Medicare’s Hospital Outpatient Prospective Payment System payment methodology for reimbursing hospitals for outpatient bills, with payment adjustment factors of 1.74 times the Medicare allowed amount for scheduled surgeries and 3.95 times the Medicare allowed amount for other specified compensable charges, as approved by the Three Member Panel at its November 20, 2008 meeting. The 2009 Edition of the Florida Workers’ Compensation Reimbursement Manual for Hospitals also incorporates a definition for the Medicare Hospital Outpatient Prospective Payment System, recognizes the Integrated Outpatient Code Editor and the National Correct Coding Initiative (NCCI) edits and their updates from the

Centers for Medicare and Medicaid Services (CMS) in the Medicare Hospital Outpatient Prospective Payment System, and makes technical changes to include a new manual format, an expanded table of contents and a listing of chapters by topic. SUMMARY: Rule amendment to change the Florida Workers' Compensation Manual for Hospitals to incorporate Medicare's Hospital Outpatient Prospective Payment System for reimbursing hospitals for outpatient bills, with payment adjustment factors of 1.74 times the Medicare allowed amount for scheduled surgeries and 3.95 times the Medicare amount for other specified compensable charges. Additional changes to the manual include recognition of the Integrated Outpatient Code Editor and the National Correct Coding Initiative edits and their updates from the Centers for Medicare and Medicaid Services in the Medicare Hospital Outpatient Prospective Payment System, and technical formatting changes to the manual.

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.

RULEMAKING AUTHORITY: 440.13(12),(14), 440.591 FS.

LAW IMPLEMENTED: 440.13(7), (12), (14) 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: Wednesday, December 2, 2009, 1:30 p.m.

PLACE: 104J Hartman Bldg., 2012 Capital Circle Southeast, 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: Samuel Willis III, (850)413-1898. 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: Samuel Willis, III, Operations Management Consultant II, Office of Medical Services, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4232, (850)413-1898

THE FULL TEXT OF THE PROPOSED RULE IS:

69L-7.501 Florida Workers' Compensation Reimbursement Manual for Hospitals.

(1) The Florida Workers' Compensation Reimbursement Manual for Hospitals, 2009 2006 Edition, (effective: \_\_\_\_\_) is adopted by reference as part of this rule. The Hospital Manual contains the Maximum Reimbursement Allowances (MRAs) determined by the Three Member Panel, pursuant to Section 440.13(12), F.S., and establishes policy, procedures, principles and standards for implementing statutory provisions regarding reimbursement for medically necessary services and supplies provided to injured workers in a hospital setting. The policy, procedures, principles and standards in the Manual are in addition to the requirements established by the Florida Workers' Compensation Medical Services Billing, Filing and Reporting Rule, Rule 69L-7.602, F.A.C. The Reimbursement Manual for Hospitals is available for inspection during normal business hours at the Florida Department of Financial Services, Document Processing Section, 200 East Gaines Street, Tallahassee, Florida 32399-0311, or may be obtained free of charge by print or download from the Department's website at <http://www.myfloridacfofdffs.com/wc/publications.html>.

(2) The Florida Workers' Compensation Health Care Provider Reimbursement Manual [HCP RM], 2008 2006, incorporated by reference into Rule 69L-7.020, F.A.C.; and the Workers' Compensation Medical Services Billing, Filing and Reporting Rule, Rule 69L-7.602, F.A.C., are recognized for use in conjunction with the Florida Workers' Compensation Reimbursement Manual for Hospitals, 2009 Edition ~~also incorporated by reference into this rule~~. Both rules and the HCP RM are available for inspection during normal business hours at the Florida Department of Financial Services, Document Processing Section, 200 East Gaines Street, Tallahassee, Florida 32399-0311, or via the Department's web site at <http://www.myfloridacfofdffs.com/wc/publications/html>.

Rulemaking Specific Authority 440.13(12), (14), 440.591 FS. Law Implemented 440.13(7), (12), (14) FS. History—New 6-9-87, Amended 6-1-92, 10-27-99, 7-3-01, Formerly 38F-7.501, 4L-7.501, Amended 12-4-03, 1-1-04, 7-4-04, 10-1-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Samuel Willis, III, Operations Management Consultant II, Office of Medical Services, Division of Workers' Compensation, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 26, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 12, 2009



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

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

**RULE NOS.:**

**RULE TITLES:**

5F-2.001	Standards
5F-2.002	Disposition of Below Standard Gasoline, Kerosene, Diesel Fuel Oils No. 1-D and 2-D, and Fuel Oils No. 1 and No. 2, and Alternative Fuels
5F-2.003	Registration and Identification
5F-2.005	Inaccurate Measuring Devices
5F-2.006	Inspection Identification Stickers
5F-2.014	Adoption of the General Code and the Codes of Liquid-Measuring Devices, Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices, Hydrocarbon Gas Vapor-Measuring Devices, Vehicle-Tank Meters, and Vehicle Tanks Used as Measures of National Institute of Standards and Technology Handbook 44 and Meter Sealing Requirements.
5F-2.016	Guidelines for Imposing Administrative Penalties

**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. 35, No. 35, September 4, 2009 issue of the Florida Administrative Weekly.

5F-2.001 Standards.

(1) No change.

(a) Standards. All gasoline shall conform to the chemical and physical standards for gasoline as set forth in ASTM International Designation D ~~4814-09b~~ ~~4814-09a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel," with the following exceptions, providing that the base gasoline used under the exceptions conforms to the chemical and physical standards for gasoline as set forth in ASTM International Designation D ~~4814-09b~~ ~~4814-09a~~:

1. Vapor Pressure Class Requirements: Gasoline containing one (1) through ten (10) percent ethanol by volume shall be allowed a 1.0 psi increase to the applicable vapor pressure class maximum from September 16 through May 31 (not applicable for gasoline/ethanol blend tankage at refineries, importers, pipelines, and terminals for the month of May).

From June 1 (May 1 for gasoline/ethanol blend tankage at refineries, importers, pipelines, and terminals) through September 15, gasoline blends containing ethanol shall conform to the vapor pressure class requirements and are entitled to the permissible increases provided by the Environmental Protection Agency (EPA) and outlined in ASTM International Designation D ~~4814-09b~~ ~~4814-09a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel."

2. through 3. No change.

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by ASTM International Designation D ~~4814-09b~~ ~~4814-09a~~, "Standard Specification for Automotive Spark-Ignition Engine Fuel."

(c) through (e) No change.

(2) through (3) No change.

(a) Standards. All diesel fuel oils No. 1-D and No. 2-D shall conform to the chemical and physical standards for diesel fuel oils No. 1-D and No. 2-D as set forth in ASTM International Designation D ~~975-09b~~ ~~975-09a~~, "Standard Specification for Diesel Fuel Oils."

(b) Analysis. For purposes of inspection and testing, laboratory analyses shall be conducted using the methods recognized by ASTM International Designation D ~~975-09b~~ ~~975-09a~~, "Standard Specification for Diesel Fuel Oils."

(4) No change.

(5) Alternative Fuels.

(a) through (b) No change.

(c) No change.

1. No change.

a. Standards. All E85 Fuel Ethanol shall conform to the chemical and physical standards for E85 Fuel Ethanol as set forth in the ASTM International Designation D ~~5798-09b~~, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" and shall conform to the end-point distillation temperature requirements for gasoline, as defined in subsection 5F-2.001(1), F.A.C. ~~with the following exceptions:~~

~~(i) E85 Fuel Ethanol of Class 1 Type shall have a minimum vapor pressure limit of 4.5 psi. This provision shall expire on November 30, 2010.~~

~~(ii) E85 Fuel Ethanol of Class 2 Type shall have a minimum vapor pressure limit of 5.0 psi. This provision shall expire on April 30, 2011.~~

b. No change.

2. No change.

(d) Fuels, other than alcohol, derived from biological materials:

1. through 2. No change.