

these exams. By adopting the newest version of the handbook, this rule improves the Offices' position by ensuring that the procedures used to examine insurers are the current generally accepted accounting practices.

RULEMAKING AUTHORITY: 624.308(1), 624.316(1)(c) FS.
LAW IMPLEMENTED: 624.316(1)(c) 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: June 9, 2009, 9:30 a.m.
PLACE: 143 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Bureau of Life and Health, Office of Insurance Regulation, E-mail kerry.krantz@fldfs.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 Library and Information Services

RULE NO.: 1B-2.011 RULE TITLE: Library Grant Programs

PURPOSE AND EFFECT: The purpose of this amendment is to modify the guidelines, application, and reporting forms for the State Aid to Libraries Grant program. These revisions will implement the changes made to the grant program in Florida Statutes and update the application and reporting process and forms.

SUMMARY: The revisions to the State Aid to Libraries Guidelines and Application packet will bring the guidelines document in line with the statutory revisions made to the program; update the grant forms; and clarify and consolidate components of the guidelines and application packet.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. This rule amendment does not impact 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: 257.14, 257.15, 257.17, 257.171, 257.172, 257.18, 257.195, 257.21, 257.22, 257.23, 257.24, 257.25 FS.

LAW IMPLEMENTED: 257.14, 257.15, 257.17, 257.171, 257.172, 257.18, 257.195, 257.21, 257.22, 257.23, 257.24, 257.25 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: Thursday, July 23, 2009, 2:00 p.m.
PLACE: Room 307, R.A. Gray Building, 500 South Bronough Street, 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: Marian Deeney by mail at: R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399, or by e-mail at mdeeney@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: Marian Deeney by mail at: R. A. Gray Building, 500 South Bronough Street, Tallahassee, FL 32399, or by e-mail at mdeeney@dos.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

1B-2.011 Library Grant Programs.

(1) This rule provides procedures for library grant programs administered by the Division of Library and Information Services (Division). Each program shall be governed by guidelines which contain information on eligibility requirements, application review procedures, evaluation and funding criteria, grant administration procedures, if applicable, and application forms. All grant awards shall be subject to final approval by the Secretary of State.

(2) Applicants for grants shall meet the eligibility and application requirements as set forth in the following guidelines for each grant program:

(a) The State Aid to Libraries Grant Guidelines and Application, effective 4-1-98, amended 11-20-01, amended 12-28-03, amended 2-21-07, amended _____ which contain guidelines and application forms, State Aid to Libraries Grant Application (Form DLIS/SA01), effective 4-1-98, amended 12-28-03, amended _____; State Aid to Libraries Grant Application – Multicounty Library (Form DLIS/SA02), effective 4-1-98, amended 12-28-03, amended _____; Grant Agreement, effective 12-28-03, amended _____; Certification of Credentials – Single Library Administrative Head (Form DLIS/SA03), effective 4-1-98, amended 12-28-03, amended _____; State Aid to Libraries Grant Application – Summary Financial Report (Form DLIS/SA04), effective 4-1-98, amended 12-28-03, amended _____; State Aid to Libraires Required Documents Checklist (Form DLIS/SA05), effective _____.

(b) The Library Construction Grant Guidelines and Application, effective 4-1-98, amended 2-14-99, amended 1-9-03, amended 2-21-07, which contain instructions, grant application (Form DLIS/PLC01), effective 4-1-98, amended 2-14-99, amended 4-4-00, amended 12-18-00, amended 1-9-03; Payment Request #1 (Form DLIS/PLC02) effective 1-9-03; Payment Request #2 (Form DLIS/PLC03), effective 1-9-03; Payment Request #3 (Form DLIS/PLC04), effective 1-9-03; Payment Request #4 (Form DLIS/PLC05), effective 1-9-03; and Closeout Report (Form DLIS/PLC06), effective 1-9-03.

(c) The Library Cooperative Grant Guidelines and Application, effective 4-1-98, amended 1-24-08, which contain instructions and application (Form DLIS/LCG01), effective 4-1-98, amended 4-4-00, amended 1-24-08; Mid-Year Report (Form DLIS/LCG02), effective 1-24-08; Annual Report Form (Form DLIS/LCG03), effective 1-24-08; Annual Statistical Report Form for Multitype Library Cooperatives (Form DLIS/LCG04), effective 4-1-98, amended 4-4-00, amended 1-24-08; Grant Agreement (Form DLIS/LCG05), effective 1-24-08; and the FLIN Manual, effective 1-24-08.

(d) The Library Services and Technology Act Grant Guidelines and Application, effective 4-1-98, amended 2-14-99, amended 11-20-01, which contain instructions and application (Form DLIS/LSTA01), effective 4-1-98, amended 2-14-99, amended 4-4-00, amended 12-18-00, amended 11-20-01; Mid-Year Report (Form DLIS/LSTA02), effective 2-14-99, amended 4-4-00, amended 12-18-00, amended 11-20-01; and Annual Report (Form DLIS/LSTA03), effective 4-4-00, amended 12-18-00, amended 11-20-01.

(e) The Florida Library Literacy Grants Guidelines and Application, effective 4-4-00, amended 11-20-01 which contain instructions and application (Form DLIS/FLL01), effective 4-4-00, amended 11-20-01; Mid-Year Report (Form DLIS/FLL02), effective 4-4-00, amended 11-20-01; and Annual Report (Form DLIS/FLL03), effective 4-4-00, amended 11-20-01.

(f) The Community and Library Technology Access Partnership Grants Guidelines and Application which contain instructions and application (Form DLIS/CLTA01), effective 12-18-00; and Annual Report (Form DLIS/CLTA02), effective 12-18-00.

(g) The Community Libraries in Caring Program Application, effective 11-16-04, which contains instructions and application (Form DLIS/CLIC01), effective 11-16-04; Annual Report (Form DLIS/CLIC02), effective 11-16-04; and Grant Agreement (Form DLIS/CLIC03), effective 11-16-04, revised 2-21-06, amended 2-21-07.

(3) Guidelines and forms in this rule are incorporated by reference and may be obtained from the Director of the Division, Florida Department of State, Division of Library and Information Services, R. A. Gray Building, 500 South Bronough, Tallahassee, Florida 32399-0250.

(4) The Division of Library and Information Services will waive the financial matching requirements on grants for rural communities that have been designated in accordance with Sections 288.0656 and 288.06561, F.S. Eligible communities applying for Library Services and Technology Act grants, Florida Library Literacy Grants, and Library Construction grants must request waiver of matching requirements at the time of grant application.

(5) This section supersedes Chapters 1B-3 and 1B-5, F.A.C.

Rulemaking Specific Authority 257.14, 257.191, 257.192, 257.24, 257.41(2) FS. Law Implemented 240.5186, 257.12, 257.14, 257.15, 257.16, 257.17, 257.171, 257.172, 257.18, 257.19, 257.191, 257.192, 257.195, 257.21, 257.22, 257.23, 257.24, 257.25, 257.40, 257.41, 257.42 FS. History–New 1-25-93, Amended 7-17-96, 4-1-98, 2-14-99, 4-4-00, 12-18-00, 11-20-01, 3-20-02, 1-9-03, 12-28-03, 11-16-04, 2-21-06, 2-21-07, 1-24-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Marian Deeney

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Judith A. Ring

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 3, 2009

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE NO.: 9J-5.026 RULE TITLE: Rural Land Stewardship Area (RSLA)

PURPOSE AND EFFECT: The purpose and effect are to amend the rule to implement current statutory requirements regarding the Rural Land Stewardship Program.

SUMMARY: The proposed amendments to Chapter 9J-5, F.A.C., pertaining to criteria for the review of local government comprehensive plans and plan amendments,

modify the rules to comply with subsection 163.3177(11), F.S. regarding rural land stewardship areas. Specifically, the proposed amendments add Rule 9J-5.026, F.A.C. The purpose of Rule 9J-5.026, F.A.C., is to establish rules for designating a rural land stewardship area. It specifies the substantive compliance requirements for rural land stewardship area plan amendments and explains how the Department will determine the compliance of a rural land stewardship area plan amendment. These rules establish minimum criteria which may be exceeded by local governments.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule amendment will not have an impact on small business. A statement of estimated regulatory costs was prepared. A copy can be obtained from Robert Pennock at the address listed below.

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: 163.3177(9), (11)(h) FS.

LAW IMPLEMENTED: 163.3177(2), (3), (6)(a), (8), (10)(e), (11)(a), (b), (d)1., 2., 4., 5., 6. FS.

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

DATE AND TIME: June 15, 2009, 1:00 p.m.

PLACE: Randall Kelley Training Room, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

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: Sheri Coven, Intergovernmental Affairs Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-1600. 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: Robert Pennock, Strategic Planning Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1735

THE FULL TEXT OF THE PROPOSED RULE IS:

9J-5.026 Rural Land Stewardship Area (RLSA).

(1) Purpose of RLSA. The RLSA is an optional, enhanced rural planning process which counties may elect to use. The purpose of RLSA is to further the statutory principles of rural sustainability through innovative and flexible planning and development strategies and incentives. RLSA encourages

landowners to permanently conserve agricultural lands, and ecosystems, habitats, and natural resources in return for transferable rural land use credits to be used on other suitable RLSA land.

(2) Adoption of a RLSA Plan Amendment. A county, or counties in the case of a multi-county RLSA, may adopt a plan amendment(s) to designate a RLSA after giving notification to and receiving the authorization of the Department. Chapter 9J-11, F.A.C., establishes the specific procedures and requirements for the notification by local government, the Department's authorization, and the adoption of a plan amendment designating a RLSA.

(3) Definitions.

(a) "Designated Receiving Area" means a delineated land area designated by land development regulation within an Eligible Receiving Area to which stewardship credits can be transferred to increase the density or intensity of a parcel.

(b) "Designated Sending Area" means an area within a RLSA that has been designated by land development regulation for conservation or agricultural use and assigned stewardship credits.

(c) "Eligible Receiving Area" means an area designated on the RLSA overlay map to delineate where "Designated Receiving Areas" can be subsequently located.

(d) "Greenbelt" means a border of permanently undeveloped land sufficient in size to effectively preclude the expansion of urban development into the surrounding rural lands and to provide an effective buffer to protect the surrounding rural resources from development impacts.

(e) "Stewardship credits" means transferable rural land use credits assigned to lands within a RLSA. Stewardship credits do not constitute development rights until they are transferred to parcels within Designated Receiving Areas for the sole purpose of implementing innovative planning and development strategies and creative land use planning techniques established for the RLSA.

(f) "Stewardship easement" means a covenant or restrictive easement running with the land which specifies the allowable uses and development restrictions for the portion of a Designated Sending Area from which stewardship credits have been transferred. The stewardship easement must be jointly held by the county and either the Department of Environmental Protection, Department of Agriculture and Consumer Services, a water management district, or a recognized statewide land trust.

(4) Threshold Eligibility Requirements. To be eligible for designation as a RLSA, a proposed RLSA must meet the following eligibility requirements:

(a) A RLSA may encompass land in one county or multiple counties but shall not include land within municipal or established urban growth boundaries as designated in the local comprehensive plan(s);

(b) A RLSA must include a minimum of 10,000 acres of land.

(c) A RLSA must consist of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use.

(5) Mandatory Substantive Requirements. Except as otherwise provided in paragraph (7)(b), a RLSA plan amendment must satisfy the substantive requirements for plan amendments in Chapter 163, Part II, F.S. and Chapter 9J-5, F.A.C., including the additional requirements established by Section 163.3177(11), F.S., and Rule 9J-5.026, F.A.C., for the designation of a RLSA.

(6) Rural Sustainability. A RLSA plan amendment must further the following statutory principles of rural sustainability:

(a) Restoration and maintenance of the economic value of rural land;

(b) Control of urban sprawl;

(c) Identification and protection of ecosystems, habitats, and natural resources;

(d) Promotion of rural economic activity;

(e) Maintenance of the viability of Florida's agricultural economy; and

(f) Protection of the character of rural areas of Florida.

(7) Data and Analysis Requirements. Except as provided in paragraph (7)(b), the data and analysis requirements that apply to all plan amendments also apply to RLSA amendments. This subsection establishes RLSA-specific data and analysis requirements that are in addition to the requirements for all plan amendments. The data and analysis shall address:

(a) Existing Conditions. Data and analysis of existing conditions provides the necessary foundation for developing the RLSA plan amendment consistent with subsection 9J-5.005(2), F.A.C. The data and analysis must cover the RLSA and the surrounding lands within the same county(ies) that may impact or be impacted by the RLSA and shall include the following:

1. Identify current agricultural land uses, activities, and economic conditions and include an existing conditions map of current agricultural areas.

2. Analyze the potential probable or projected future agricultural land uses and the suitability of the land for agricultural uses.

3. Analyze the potential effects of development and spatial fragmentation on agriculture for both existing and allowable land use and future land uses permitted by the RLSA overlay.

4. Analyze the adequacy of suitable land in the RLSA to accommodate development so as to avoid conflict with environmentally sensitive areas, resources, and habitats.

5. Identify and describe the existing, locally specific rural character by analyzing its land use, development patterns, and economic, social, cultural, historic, scenic, landscape, recreational, and environmental elements.

6. Inventory and identify ecosystems, habitats, and natural resources. The inventory shall include ground water recharge areas, watersheds and water supply sources; water bodies designated pursuant to Section 403.067, F.S.; spring protection areas; and the Florida Greenways and Trails System as designated pursuant to Chapter 260, F.S. These natural resources shall be depicted on an existing conditions map.

7. Analyze geographic connections between RLSA resources and larger systems and networks such as water systems, wildlife corridors, greenways, and trails.

8. Analyze the potential threats to natural resources, including urbanization, economic, biological, and spatial fragmentation and whether the RLSA may help to minimize such threats.

9. Identify and evaluate relevant local, state, and federal programs and special land use designations such as publicly owned conservation lands, mitigation banks, and environmental restoration efforts, including the Comprehensive Everglades Restoration Plan (CERP), that may impact or be impacted by, or benefit from, the RLSA.

10. Analyze landscape and development conditions, such as the overall pattern of rural land uses and land covers, parcel size and ownership patterns, recent historical trends regarding subdivision of land and transition to residential uses, roadways, and other infrastructure that may affect development and rural sustainability in the RLSA.

(b) Population Projections and Analysis of Land Use Need. Population projections and analysis of land use need shall be prepared in accordance with Rule 9J-5.006, F.A.C., with the following modifications: The amount and extent of allowable development in the RLSA must be based on the 25-year or greater projected population of the RLSA; the anticipated effect of the proposed RLSA receiving areas, including any committed catalyst projects, infrastructure improvements, or other projects that would attract and support development; the furtherance of the statutory principles of rural sustainability; and the goals, objectives, and policies of the RLSA plan amendment.

(c) Land Values Analysis for Stewardship Credit System. Conduct a land values analysis for use in assigning stewardship credits and for determining the most suitable locations for Eligible and Designated Receiving Areas. The analysis shall include the following:

1. All forms of rural resources including agricultural, environmental, local and regional ecosystems, wildlife habitat, water resources, recreational, tourism, scenic, cultural, and other rural amenities;

2. The landscape ecology, including landscape linkages and wildlife corridors; specially designated areas such as natural reservations as defined in subsection 9J-5.003(78), F.A.C., and the Florida Greenways and Trails System, including the Florida National Scenic Trail identified in Chapter 260, F.S.; and buffer zones to mitigate incompatibilities and enhance environmental and other values;

3. All existing permanent protection measures, including land use restrictions and conservation programs and an evaluation of whether these measures reduce or increase the need for additional protection through the RLSA planning process;

4. Land development and other conversion threats whereby rural resources under threat require more incentives via stewardship credits and less threatened resources require lesser incentives. This includes the future threat of low-density sprawl on lands within and surrounding Eligible Receiving Areas; and

5. Site specific natural resource evaluation criteria substantially similar to those used to establish statewide geographic information systems by the Florida Natural Areas Inventory, Florida Fish and Wildlife Conservation Commission, Florida Department of Environmental Protection, and Water Management Districts; and available agricultural data from the Florida Department of Agriculture and Consumer Services, and the United States Department of Agriculture.

6. Values shall be assigned to all of the land in the RLSA. The highest values shall be assigned to the most environmentally valuable land, and to open space and agricultural land where the retention of such lands is a priority. The assignment of values shall be submitted with the RLSA plan amendment as part of the supporting data and analysis.

(8) Stewardship Credit System Criteria. The stewardship credit system must be based on the land values analysis and structured to achieve the purpose of the RLSA planning process. The designating RLSA plan amendment shall either incorporate or require adoption by separate ordinance of a stewardship credit methodology that complies with the following criteria:

(a) Each credit shall represent a defined number of residential units or a defined amount of non-residential square footage. The credit transferee may decide whether to use the credit for a residential or non-residential use in accordance with the land use standards established for the Designated Receiving Area.

(b) The maximum number of credits for the entire RLSA shall be established and shall equal the maximum amount of development allowed in the RLSA.

(c) Credits shall be assigned to each acre of land based on the land values analysis required by paragraph (7)(c).

(d) Credits for a Designated Sending Area shall be assigned at the time the sending area is designated. However, any change in the characteristics of the land that affects the land values analysis shall require a corresponding change in the assignment of credits prior to the transfer of credits.

(e) Credits may be transferred from a Designated Sending Area directly to a parcel within a Designated Receiving Area in order to increase density or intensity of land use or, at the option of the landowner and county, to a credit bank managed by the county or to a third party. Banked or third party credits are reserved for future transfer to a Designated Receiving Area.

(f) At the time credits are transferred to a Designated Receiving Area, credit bank, or third party, a stewardship easement or restrictive covenant must be imposed on the Designated Sending Area or portion thereof from which all credits have been transferred. The easement shall be recorded in the public records of the county to permanently prohibit development and to provide for conservation of ecosystems, habitats and natural resources, and to permanently limit land uses on agricultural lands to agricultural activities, including agricultural-related development as provided in subparagraph (9)(a)10., and agricultural uses that are compatible with conservation uses.

(g) The local government may require that the easement or restrictive covenant provide for the management and monitoring of the resources to be protected and enforcement mechanisms to ensure compliance with the terms, conditions and restrictions established in the easement or covenant.

(h) To encourage the restoration, management, and maintenance of conservation lands through stewardship easements, credit bonuses may be allowed as determined by the RLSA plan amendment. This bonus amount shall be included in the maximum number of credits established for the entire RLSA and shall not increase the total amount of credits and development allowed in the entire RLSA.

(i) To encourage the early establishment of stewardship easements, credits that are transferred to a credit bank or third party for future use may be increased by a bonus amount as determined by the RLSA plan amendment. This bonus amount shall be included in the maximum number of credits established for the entire RLSA and shall not increase the total amount of credits and development allowed in the entire RLSA.

(9) Goals, Objectives, Policies, and Map. The RLSA plan amendment shall contain goals, objectives, policies, and a RLSA overlay map(s) that set forth the innovative planning and development strategies to be applied in the RLSA. The goals, objectives, and policies and overlay map(s) shall be based upon relevant and appropriate data and analysis, shall be internally consistent with the other elements of the local comprehensive plan, and shall further the principles of rural sustainability.

(a) The goals, objectives, and policies shall include the following:

1. The planning period, maximum amount of development, and maximum amount of land that can be developed in the RLSA. The maximum amount of allowable residential and non-residential development and the maximum amount of land that can be developed shall be based on the analysis required by paragraph (7)(b).

2. The total amount of development and the amount of land that can be developed shall be compatible with and protect the rural resources and the overall rural character of the RLSA and surrounding lands within the same counties in which the RLSA is located that may impact or be impacted by the RLSA, including agricultural activities, and ecosystems, habitats, and natural resources.

3. Identification of the innovative planning and development strategies to be used within the RLSA, and a process for implementing the strategies, including the adoption of implementing plan amendments, land development regulations, and the issuance of development orders. The process shall include provision for the Department's review of a proposed land development regulation to designate a receiving area for consistency with the RLSA plan amendment.

4. The incentives that may be provided to RLSA landowners to implement the RLSA in addition to the stewardship credit system.

5. The criteria to be used in establishing the methodology for the creation, conveyance, assignment, transfer, use, and recording of stewardship credits, including the criteria in paragraph (8). The methodology for the stewardship credit system shall either be incorporated into the initial, designating RLSA plan amendment or adopted by separate ordinance. All development utilizing the transfer of stewardship credits shall be located in Designated Receiving Areas.

6. A requirement that Eligible Receiving Areas shall be located on land that is suitable for development and have the lowest land values based on the land values analysis conducted pursuant to paragraph (7)(c).

7. The criteria and process for establishing Designated Sending Areas, and Designated Receiving Areas in Eligible Receiving Areas. This shall include minimum standards for the filing and review of applications for the designation of sending and receiving areas.

8. Criteria to ensure that the number, size, location, shape, pattern, and distribution of Designated Receiving Areas, individually and collectively, are consistent with and further the principles of rural sustainability.

9. A ministerial process for depicting Designated Receiving Areas and Designated Sending Areas on the future land use map(s) after they have been designated by land development regulations. The ministerial action shall not be deemed a plan amendment and shall not require a compliance review pursuant to Section 163.3184, F.S.

10. Provision for agricultural-related uses, including farmworker housing, businesses, and industries, that will support, maintain, and sustain the rural and agricultural economies. These uses may be located in Designated Receiving Areas, and in other RLSA lands if permitted by the underlying land use category or any applicable stewardship easement and if sited on lands suitable for such uses. Land uses permitted by an underlying land use category are not presumed to be agricultural-related uses for land from which stewardship credits have been transferred.

11. Provision for adequate available workforce housing, including low, very-low and moderate income housing for the development in the Designated Receiving Areas and for persons working in agriculture and other rural industries in the RLSA.

12. Compatibility standards and techniques, including greenbelts, buffers, setbacks, and density and intensity gradations, to ensure separation between urban and rural uses and to provide adequate protection of ecosystems, habitats, and natural resources, and agricultural lands.

13. Measures for the protection, restoration and maintenance of ecosystems, habitats, and natural resources through stewardship easements and other means.

14. Criteria for rural road corridors and rural design principles to be used in connecting Designated Receiving Areas with the rest of the RLSA.

15. Standards for the establishment of receiving area service boundaries for each Designated Receiving Area which provide for a separation between it and other land uses in the RLSA through limitations on the extension of services. Service areas shall provide for the cost-efficient delivery of public facilities and services.

16. Provisions regarding the further development of existing rural settlements such as cross-roads communities and partially built subdivisions, including consideration of those areas as most suitable for Designated Receiving Areas.

17. Description of the types and forms of development allowed in Designated Receiving Areas and standards for the size, location, mix of uses, density and intensity of uses, and design of each type or form of allowable development. The standards shall include a compact, functional mix of land uses; timing and phasing requirements necessary to achieve a functional mix; energy efficient land use patterns; the internal capture of vehicle trips; and minimization of vehicle miles traveled and greenhouse gas emissions.

18. Policies for new towns which comply with the following:

a. As required by subsection 9J-5.003(80) and paragraph 9J-5.006(5)(1), F.A.C., a new town shall be designated on the future land use map. A new town shall be located within a Designated Receiving Area. The plan amendment designating a new town shall include a master development plan that

establishes the size of the new town, the amount, location, type, density and intensity of development, and the design standards to be utilized in the new town.

b. Any increase in the density or intensity of land use required to achieve the proposed new town may occur only through the use of stewardship credits assigned or transferred to the Designated Receiving Area either prior to or subsequent to the designation of the new town on the future land use map.

c. New towns shall be surrounded by greenbelts, except for any connecting rural road corridors and to the extent that new towns are adjacent to existing or planned urban development or incorporated areas.

d. A future land use map amendment to designate a new town shall be internally consistent with the RLSA provisions of the comprehensive plan.

e. A future land use map amendment to designate a new town shall be accompanied by an amendment to the capital improvements element to incorporate a financially feasible five-year capital improvements schedule for the public facilities necessary to serve the new town and an amendment to the transportation or traffic circulation element to designate any new rural road corridors required to connect the new town with the rest of the RLSA.

19. Provisions to ensure that any use of the underlying densities and intensities of land uses assigned to parcels of land by the county comprehensive plan prior to designation of the RLSA furthers the principles of rural sustainability.

20. A process that encourages visioning and public participation in the planning, design, and development of the RLSA to ensure that the RLSA innovative planning and development strategies are properly implemented.

21. A process for monitoring and periodic evaluation of the RLSA plan amendment and its implementation, including an evaluation and updating of the land values analysis.

(b) The RLSA overlay map(s) shall be adopted as part of the future land use map series. The overlay map(s) shall cover all of the lands in the RLSA. Based on the land values analysis, the overlay map(s) shall depict the Eligible Receiving Areas, and the ecosystems, habitats, natural resources, open space and agricultural lands to be protected.

Rulemaking Authority 163.3177(9), (11)(h) FS. Law Implemented 163.3177(2), (3), (6)(a), (8), (10)(e), (11)(a), (b), (d)1., 2., 4., 5., 6. FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert Pennock, Strategic Planning Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1735

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009

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

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Community Planning

RULE NO.:

RULE TITLE:

9J-11.023

Procedure for the Designation of a Rural Land Stewardship Area

PURPOSE AND EFFECT: The purpose and effect are to implement current statutory requirements for requests to authorize the designation of a Rural Land Stewardship Area and for amendments to local comprehensive plans that establish or amend a Rural Land Stewardship Area.

SUMMARY: The proposed amendments to Chapter 9J-11, F.A.C., pertaining to the procedure for the submittal and review of local government comprehensive plans and amendments, modify the rules to comply with Section 163.3177(11), F.S., regarding rural land stewardship areas. The proposed amendments add procedures concerning the notification of intent to designate rural land stewardship areas and the Department’s authorization to the local government to proceed with the plan amendment. Specifically, the proposed amendments add Rule 9J-11.023, F.A.C., which establishes the required procedures for the designation of a rural land stewardship area.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule amendment will not have an impact on small business. A statement of estimated regulatory costs was prepared. A copy can be obtained from Robert Pennock at the address listed below.

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: 163.3177(9), 163.3177(11)(h) FS.

LAW IMPLEMENTED: 163.3177(11)(d) FS.

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

DATE AND TIME: June 15, 2009, 1:00 p.m.

PLACE: Randall Kelley Training Room, Third Floor, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

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: Sheri Coven, Intergovernmental Affairs Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)922-1600. 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: Robert Pennock, Strategic Planning Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1735

THE FULL TEXT OF THE PROPOSED RULE IS:

9J-11.023 Procedure for the Designation of a Rural Land Stewardship Area.

(1) Purpose and Intent. This section establishes the required procedure for the designation of a rural land stewardship area (RLSA) pursuant to Section 163.3177(11)(d), F.S.

(2) Pre-Notification Actions.

(a) Prior to giving official notification of intent to designate a RLSA to the Department, the county(ies) shall conduct at least one noticed public workshop to discuss and evaluate the appropriateness of establishing a RLSA. The county(ies) shall invite the Department of Community Affairs, Department of Agricultural and Consumer Services, Department of Environmental Protection, Department of Transportation, Florida Fish and Wildlife Conservation Commission, affected regional planning council(s), and affected water management district(s) (collectively referred to as the "RLSA Interagency Technical Advisory Team") to participate in the workshop. Potentially affected landowners and other interested parties shall be given notice and invited to participate in the workshop. The workshop shall address: the statutory process for designating a RLSA; the planning issues that are likely to arise; and the technical assistance that will be available from state and regional agencies if the county(ies) proceed(s) to designate a RLSA. The county(ies) shall provide opportunities for broad public participation in the RLSA process, which may include a series of public meetings or workshops.

(b) The county(ies), in coordination with the affected landowners, shall host a site visit of the RLSA for the RLSA Interagency Technical Advisory Team in conjunction with the workshop or after the notification of intent to designate pursuant to paragraph (4)(b).

(3) Notification of Intent to Designate. The county(ies) must inform the Department in writing of its (their) intent to designate a RLSA prior to transmitting any plan amendments to designate a RLSA. The official notification of intent shall be based on locally specific facts and analysis, shall demonstrate how the RLSA meets the minimum threshold eligibility requirements pursuant to subsection 9J-5.026(4), F.A.C., and shall address and explain the extent to which the RLSA will:

(a) Enhance rural land values;

(b) Control urban sprawl;

(c) Provide necessary open space for agriculture and protection of the natural environment;

(d) Promote rural economic activity; and

(e) Maintain rural character and the economic viability of agriculture.

The notification should avoid conclusory statements, generalities, and repetition of statutory language unsupported by a discussion of relevant local facts.

(4) Review of Notification of Intent to Designate.

(a) The Department will provide members of the RLSA Interagency Technical Advisory Team with a copy of the notification of intent to designate within five days after receipt of the notification.

(b) If a site visit was not made prior to the notification of intent to designate, the Department will contact the county(ies) within ten days after receipt of the notification of intent to arrange a site visit of the proposed RLSA and surrounding lands. The county(ies) shall ensure proper coordination with the affected landowners. The Department will coordinate the scheduling of the site visit with the members of the RLSA Interagency Technical Advisory Team and request their participation in the site visit.

(c) Members of the RLSA Interagency Technical Advisory Team shall be asked to provide to the Department oral and/or written comments on the proposed RLSA within 30 days of the receipt of the notification of intent to designate or the site visit, if it occurs after the notification. The Department may also request meetings with the members of the RLSA Interagency Technical Advisory Team to discuss and evaluate the notification and site visit. The Department may also request a conference with the county's(ies') staff(s) to discuss issues and questions that have arisen as a result of the site visit, comments from members of the Interagency Technical Advisory Team and other stakeholders, and the Department's evaluation of the RLSA proposal.

(d) Not later than 60 days following the receipt of the notification of intent to designate or the site visit, whichever is later, the Department shall issue a written notification to the county(ies).

(e) The Department's notification shall authorize the county(ies) to proceed with a plan amendment to designate the RLSA or inform the county(ies) of the Department's decision not to authorize. The decision shall be based on the information contained in or gained from the notification, site visit, other agency comments, and other information received. The Department shall authorize the county(ies) to proceed if it determines that the proposed RLSA meets the threshold eligibility requirements of subsection 9J-5.026(4), F.A.C. and that there is a reasonable likelihood that the RLSA will further the principles of rural sustainability. If the Department decides to authorize the county(ies) to proceed with a plan amendment to designate a RLSA, the notification will set forth the facts on which the authorization is based, and may include recommendations to the county(ies) regarding the RLSA. The notification will not guarantee that a comprehensive plan

amendment(s) to designate a RLSA will be found in compliance by the Department. It will only constitute the Department's authorization to designate a RLSA if the necessary comprehensive plan amendment(s) are adopted and found in compliance pursuant to Section 163.3184, F.S. If the Department decides not to authorize the county(ies) to proceed with a plan amendment to designate a RLSA, the agency's notification will explain the reasons for the decision.

(5) Amendment to the Comprehensive Plan: If authorized to proceed, the county(ies) may prepare and process a plan amendment(s) that will be reviewed by the Department pursuant to Section 163.3184, F.S. The county(ies) may, in preparing the plan amendment(s), establish a local visioning process to facilitate the development of a RLSA plan amendment. The Department encourages the county(ies) to seek and utilize technical assistance from the members of the RLSA Interagency Technical Advisory Team in preparing a RLSA plan amendment.

Rulemaking Authority 163.3177(9), 163.3177(11)(h) FS. Law Implemented 163.3177(11)(d) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Robert Pennock, Strategic Planning Coordinator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1735

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas G. Pelham, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009

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

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.004	Sales Tax Brackets
12A-1.038	Consumer's Certificate of Exemption; Exemption Certificates
12A-1.039	Sales for Resale
12A-1.060	Registration
12A-1.061	Rentals, Leases, and Licenses to Use Transient Accommodations
12A-1.0911	Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors
12A-1.097	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to these sections of Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), is to: (1) update information on how to obtain sales tax and discretionary surtax rate tables; (2) clarify that sales tax dealers may obtain a transaction resale authorization number to document tax-exempt sales prior to or at the time of sale; (3) update the information required to

register multiple transient accommodations; (4) clarify instructions to forms used by taxpayers to obtain the enterprise zone jobs credit, to utilize the special estimation of taxes available to boat, motor vehicle, or aircraft dealers, and to verify customers that are authorized to purchase for resale; and (5) remove provisions regarding the revocation of a direct pay permit that are governed by the rules of the Administration Commission (Chapter 28-106, F.A.C.).

SUMMARY: The proposed amendments to Rule 12A-1.004, F.A.C. (Sales Tax Brackets), update the information on how to obtain copies of tax rate tables from the Department.

The proposed amendments to Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates), and Rule 12A-1.039, F.A.C. (Sales for Resale), clarify that a transaction authorization number used by dealers to document tax-exempt sales or sales made for the purposes of resale may be obtained prior to or at the time of sale.

The proposed amendments to subsection (3), Registration of Transient Accommodations, of Rule 12A-1.060, F.A.C. (Registration), and subsection (7), Registration, of Rule 12A-1.061, F.A.C. (Rentals, Leases, and Licenses to Use Transient Accommodations), add the requirement for the taxpayer to provide a federal identification number, social security number, or taxpayer identification number; and provide that the Department uses the social security numbers as unique identifiers for the administration of Florida's taxes, and that they are held confidential by the Department.

The proposed amendments to Rule 12A-1.0911, F.A.C. (Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors), remove unnecessary provisions regarding the revocation of a sales and use direct pay permit. Administrative rules regarding the revocation of a license, which includes a direct pay permit, have been established by the Administration Commission in Rule Chapter 28-106, F.A.C. All agencies must comply with these rules.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms): (1) adopt, by reference, changes to forms used by the Department in the administration of sales and use tax for the enterprise zone jobs credit, the special estimation of taxes for boat, motor vehicle, or aircraft dealers, and the verification of customers authorized to purchase for resale; and (2) remove forms previously used for the reporting of sales tax collected by tax collectors and for the reporting regarding interest earned on the investment of funds by county officers that are now reported and remitted by electronic means to the Department. Specifically, Form DR-15ZC (Application for Florida Enterprise Zone Jobs Credit for Sales Tax) and the instructions on Form DR-15ZCN are being revised to simplify the application and the instructions and provide necessary technical changes.

Form DR-300400 (Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes), used by the Department in the administration of the estimated sales tax

provisions of Section 212.11(1)(d), F.S., is revised to reorganize and simplify the instructions for boat, motor vehicle, and aircraft dealers to submit an application to report estimated tax under that statutory provision. No procedural changes are being implemented with these revisions.

Form DR-600013 (Request for Verification that Customers are Authorized to Purchase for Resale) is revised to provide that a diskette or compact disk (CD) containing specified records must be submitted to verify which customers of a business are authorized to purchase for resale. The Department is no longer able to receive information for verification purposes on cartridge tapes. Revisions are also made to clarify the instructions regarding the verification process.

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: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., (11), 212.17(6), 212.18(2), (3), 212.183, 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.053(10), 212.054, 212.055, 212.0596(1), (2), 212.0598, 212.06, 212.0601, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (2), (4), (5), 212.12(1), (2), (5), (6), (7), (9), (11), (12), (13), 212.13, 212.14(4), (5), 212.16(1), (2), 212.17, 212.18(2), (3), 212.183, 212.21(2), 213.053(10), 213.235, 213.29, 213.37, 213.756, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS.

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

DATE AND TIME: June 29, 2009, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.004 Sales Tax Brackets.

The Department has prepared, for public use, sales tax schedules and rate tables cards to provide the sales tax effective brackets for counties that do not impose a discretionary sales surtax and for counties that impose one or more discretionary sales surtax. Copies are available, without cost, by one or more of the following methods: 1) downloading the appropriate Sales Tax Rate Table Bracket Cards from the Department's Internet site at www.myflorida.com/dor/taxes; or, 2) ~~faxing a forms request to the Distribution Center at (850)922-2208; or, 3)~~ calling the Department at (800)352-3671, Monday through Friday, 8 a.m. to 7 p.m., Eastern Time; or, 3) visiting any local Department of Revenue Service Center Distribution Center at (850)488-8422; or, 4) writing the Florida Department of Revenue, Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 5) visiting any local Department of Revenue Service Center to personally obtain a copy. Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331 or (850)922-1115.

Rulemaking Specific Authority 212.12(11), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (3), (6), 212.031(1)(c), (d), 212.04(1), 212.05(1), 212.08(3), 212.12(9), (11) FS. History—Revised 10-7-68, 6-16-72, Amended 9-24-81, 7-20-82, Formerly 12A-1.04, Amended 12-13-88, 8-10-92, 3-17-93, 12-13-94, 6-19-01, 11-1-05,_____.

12A-1.038 Consumer's Certificate of Exemption; Exemption Certificates.

(1) through (2) No change.

(3) SALES MADE TO EXEMPT ENTITIES OTHER THAN GOVERNMENTAL UNITS.

(a) through (f) No change.

(g)1. TRANSACTION AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR A SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the exempt entity's valid Consumer's Certificate of Exemption for each sale, the selling dealer may obtain a Transaction Authorization Number or a Vendor Authorization Number from the Department when making a tax-exempt sale to the exempt entity or its authorized representative.

2. The selling dealer may obtain a transaction authorization number prior to or at the point-of-sale by using the Department's on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department's automated nationwide toll-free verification

system at 1(877)357-3725. When using the Department’s on-line Certificate Verification System, the dealer may key up to five Florida Consumer’s Certificate of Exemption numbers into the system. When using the Department’s automated nationwide toll-free verification system, the selling dealer is prompted to key in a single Florida Consumer’s Certificate of Exemption number. Either verification system will issue a 13-digit transaction authorization number or alert the selling dealer that the purchaser does not have a valid Florida Consumer’s Certificate of Exemption. Selling dealers using the automated telephone verification system who do not have a touch-tone telephone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Department’s TDD at 1(800)367-8331 or (850)922-1115.

3. through 4. No change.

(h) No change.

(4) through (6) No change.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(4), (14)(c), 212.05(1)(j), 212.06(1)(c), (16), 212.0601, 212.07(1), 212.08(5)(m), (6), (7), 212.085, 212.18(2), (3), 212.21(2) FS. History–Revised 10-7-68, 6-16-72, Amended 9-28-78, 7-20-82, 4-29-85, Formerly 12A-1.38, Amended 8-10-92, 3-17-93, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 7-31-03, 6-28-04, 11-6-07,_____.

12A-1.039 Sales for Resale.

(1) through (2) No change.

(3) Except as provided in subsection (4), a dealer making a sale for resale is required to document the exempt sale by CHOOSING ONE of the following three methods:

(a) No change.

(b) TRANSACTION RESALE AUTHORIZATION NUMBER ISSUED PRIOR TO OR AT THE POINT-OF-SALE – VALID FOR SINGLE TRANSACTION ONLY. In lieu of obtaining a copy of the purchaser’s Annual Resale Certificate for each tax-exempt sale made for the purposes of resale, the selling dealer may obtain a Transaction Resale Authorization Number or a Vendor Resale Authorization Number from the Department.

1. A “transaction resale authorization number” must be obtained by the selling dealer prior to or at the point-of-sale by using the Department’s on-line Certificate Verification System at www.myflorida.com/dor/eservices or by calling the Department’s automated nationwide toll-free telephone verification system at 1(877)357-3725.

2. When using the Department’s on-line Certificate Verification System, the dealer may key up to five purchaser’s sales tax certificate of registration numbers into the system. When using the Department’s automated nationwide toll-free verification system, the selling dealer is prompted to key in a single purchaser’s sales tax certificate of registration number. The system will either issue a 13-digit transaction resale authorization number or alert the selling dealer that the

purchaser does not have a valid resale certificate. Selling dealers using the automated telephone verification system who do not have a touch-tone phone will be connected to a live operator during the hours of 8:00 a.m. to 7:00 p.m. (Eastern Time), Monday through Friday. Persons with hearing or speech impairments may call the Department’s TDD at 1(800)367-8331 or (850)922-1115.

3. through 5. No change.

(c) No change.

(4) through (8) No change.

Rulemaking Specific Authority 212.07(1)(b), 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 95.091(3), 212.02(14), 212.05(1)(b), (i), 212.07(1), 212.085, 212.13(5)(c), (d), 212.17(6), 212.18(2), (3), 212.21(2), 213.053(10) FS. History–Revised 10-7-68, 1-7-70, 6-16-72, 9-26-77, Amended 7-20-82, 4-12-84, Formerly 12A-1.39, Amended 1-2-89, 9-14-93, 12-13-94, 10-2-01, 6-12-03, 11-6-07,_____.

12A-1.060 Registration.

(1) through (2) No change.

(3) REGISTRATION OF TRANSIENT ACCOMMODATIONS.

(a) through (d) No change.

(e)1. To collectively register transient accommodations that are located in a single county, the agent, representative, or management company holding a dealer’s certificate of registration may file an Application for Collective Registration for Rental of Living or Sleeping Accommodations (Form DR-1C). A separate Form DR-1C is required for each county.

2. The agent or management company must provide the following information for each property, other than a time-share unit, which is to be collectively registered:

a. Property owner’s name;

b. Property owner’s federal identification number, social security number, or individual taxpayer identification number (if applicable);

c. Property owner’s mailing address;

d. Location address of each property; and

e. An indication of whether the property is located within a city’s limits.

3. through 5. No change.

6. Social security numbers are used by the Department as unique identifiers for the administration of Florida’s taxes. Social security numbers obtained for tax administration purposes are confidential under Sections 213.053 and 119.071, F.S., and are not subject to disclosure as public records.

(4) through (6) No change.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.03(1), (2), 212.04(4), 212.0596(1), (2), 212.06(2), 212.12(2), (5), (6), 212.14(4), 212.16(1), (2), 212.18(3) FS. History–Revised 10-7-68, 1-7-70, 6-16-72, Amended 3-21-77, 5-10-77, 10-18-78, Formerly 12A-1.60, Amended 6-10-87, 1-2-89, 11-12-90, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 4-2-00, 6-19-01, 10-2-01(1), 10-2-01(1), 8-1-02, 4-17-03, 6-12-03, 6-4-08,_____.

12A-1.061 Rentals, Leases, and Licenses to Use Transient Accommodations.

(1) through (6) No change.

(7) REGISTRATION.

(a) No change.

(b)1. Transient accommodations, including timeshare units, that are rented, leased, let, or for which a license to use has been granted to others for periods six months or less may be collectively registered by an agent, representative, or management company under the provisions of subsection (3) of Rule 12A-1.060 ~~paragraph 12A-1.060(1)(e), F.A.C. (See Rule 12A-1.060, F.A.C.)~~

2. No change.

3. The following is a suggested format of the written agreement executed after July 1, 1994, between an agent, representative, or management company and the owner of any transient accommodations that are offered for rent, lease, let, or for which a license to use is granted to others for periods of six months or less:

I, _____ (Name of Property or Timeshare Period Owner), hereby authorize _____ (Name of Agent, Representative, or Management Company) to act as my representative to rent, lease, let, or grant a license to others to use my described property (properties) or timeshare period (timeshare periods) located at _____ (use additional paper if necessary) and to charge, collect, and remit sales tax levied under Chapter 212, F.S., to the Department of Revenue. I acknowledge that, by renting, leasing, letting, or offering a license to others to use any transient accommodations, as defined in subsection (2) of Rule 12A-1.061(2), F.A.C., I am exercising a taxable privilege under Chapter 212, F.S., and as such acknowledge that I am ultimately liable for any sales tax due the State of Florida on such rentals, leases, lets, or licenses to use. I fully understand that should the State be unable to collect any taxes, penalties, and interest due from the rental, lease, let, or license to use my property, a warrant for such uncollected amount will be issued and will become a lien against my property until satisfied.

(Signature of Property Owner/Lessor)

(Signature of Agent, Representative, or Management Company).

4. No change.

5. The agent, representative, or management company must notify the Department of Revenue when it receives affirmative, written notice that it ceases to manage any transient accommodation for which it has collectively registered under the provisions of subsection (3) of Rule 12A-1.060 ~~paragraph 12A-1.060(1)(e), F.A.C.~~ The agent, representative, or management company may contact any taxpayer service center or Central Registration at

(850)488-9750. A written notification that includes the sales tax registration number of the property or timeshare unit; the name, address, and federal identification number, social security number, or individual taxpayer identification number (if applicable) of the property owner; and the name, location address, federal identification number, social security number, or individual taxpayer identification number (if applicable), and sales tax registration number of the agent, representative, or management company may be provided to the Department at the following address:

Florida Department of Revenue
Central Registration
P. O. Box 6480
Tallahassee, Florida 32314-6480.

6. Social security numbers are used by the Department as unique identifiers for the administration of Florida's taxes. Social security numbers obtained for tax administration purposes are confidential under Sections 213.053 and 119.071, F.S., and not subject to disclosure as public records.

(8) through (19) No change.

Rulemaking Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 92.525(1)(b), 212.02(2), (10)(a)-(g), (16), 212.03(1), (2), (3), (4), (5), (7), 212.031, 212.04(4), 212.08(6), (7)(i), (m), 212.11(1), (2), 212.12(7), (9), (12), 212.13(2), 212.18(2), (3), 213.37, 213.756 FS. History-Revised 10-7-68, 1-7-70, Amended 1-17-71, Revised 6-16-72, Amended 7-19-72, 4-19-74, 12-11-74, 5-27-75, 10-18-78, 4-11-80, 7-20-82, 1-29-83, 6-11-85, Formerly 12A-1.61, Amended 10-16-89, 3-17-94, 1-2-95, 3-20-96, 11-30-97, 7-1-99, 3-4-01(4), 3-4-01(2), (5), (14), 10-2-01, 8-1-02,_____.

12A-1.0911 Self-Accrual Authorization; Direct Remittance on Behalf of Independent Distributors.

(1) No change.

(2)(a) through (g) No change.

(h) Holders of Sales and Use Tax Direct Pay Permits must notify the Department within 30 days of any change of circumstances that may affect the dealer's qualification to hold the permit. ~~The permit will be revoked if the Department determines that the holder of a direct pay permit no longer meets the requirements set forth in this rule.~~

(i) No change.

(3) No change.

Rulemaking Specific Authority 212.17(6), 212.18(2), (3), 212.183, 213.06(1) FS. Law Implemented 212.05(1)(e)3., 4., 212.0598, 212.06(11), 212.08(4)(a)2., (8), (9), 212.12(13), 212.18(3), 212.183 FS. History-New 4-7-92, Amended 5-19-93, 9-14-93, 11-16-93, 9-30-99, 10-2-01, 6-12-03,_____.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

Form Number	Title	Effective Date
(a) through (b)	No change.	
(2) through (6)(i)	No change.	
(j) DR-15ZC	Application for Florida Enterprise Zone Jobs Credit for Sales Tax Effective June 7, 2006 (R. <u>06/08</u> 06/06)	___ <u>04/07</u>
(k) DR-15ZCN	Instructions for Completing the Sales and Use Tax Return, Form DR-15, when taking the Enterprise Zone Jobs Tax Credit under the New Law (R. <u>06/08</u> 06/06)	___ <u>04/07</u>
(l) through (m)	No change.	
(7) through (12)	No change.	
(13) DR-36	County Officers' Interest Report (R. 12/89)	08/92
(14) DR-38	Tax Collector's Report — 6% Sales Tax and/or Surtax (R. 06/02)	04/03
(15) through (23)	renumbered (13) through (21) No change.	
(22) (24) DR-300400	Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes (R. <u>02/08</u> 06/99)	___ <u>09/04</u>
(23) (25) DR-600013	Request for Verification that Customers are Authorized to Purchase for Resale (R. <u>06/08</u> 06/07)	___ <u>01/08</u>

Rulemaking Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(4), (5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07, 1-1-08, 4-1-08, 6-4-08, 1-27-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on December 19, 2008 (Vol. 34, No. 51, pp. 6565-6566), regarding the proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax). This notice advised the public that, if requested, a rule development workshop would be conducted on January 15, 2009. No request was received by the Department. No person appeared to ask questions or make comment regarding these proposed amendments.

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: 12B-8.001
RULE TITLE: Premium Tax; Rate and Computation
PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation), is to: (1) update provisions to include self-insurance funds that are subject to the insurance premium tax; (2) provide for salary tax credit exceptions; (3) incorporate information on the Florida Life and Health Insurance Guaranty Association Assessment; (4) incorporate references to Section 624.5092, F.S., and (5) provide technical corrections to update references and to remove obsolete provisions.

SUMMARY: The proposed amendments to Rule 12B-8.001, F.A.C. (Premium Tax; Rate and Computation): (1) include technical corrections, including updating statute references, expiration dates, and references, and removing obsolete language regarding the annuity exemption in effect prior to July 1, 1990; (2) include corporation not for profit self-insurance funds under Section 624.4625, F.S., and Public Housing Authorities Self-Insurance Funds under Section 624.46226, F.S., as entities whose premiums, contributions, and assessments are subject to a 1.6 percent tax; (3) clarify that dividends used to purchase paid-up additions are not an additional gross receipt; (4) incorporate information on the Florida Life and Health Insurance Guaranty Association Assessment, including payments due as a result of Florida Life and Health Insurance Guaranty Association refunds of prior assessments that were used in the computation of credits by an insurer, and the acceleration of Florida Life and Health Insurance Guaranty Association credits when an insurer surrenders its certificate of authority and ceases doing business in Florida; (5) reference Section 624.50921, F.S., for the

insurance premium tax credits for assessments paid under Chapter 440, F.S., and the corporate income tax paid under Chapter 220, F.S.; and (6) provide general information on the salary tax credit exceptions.

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: 213.06(1), 220.183(6), 288.99(11), 624.5105(6) FS.

LAW IMPLEMENTED: 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12, 213.05, 213.235, 220.183(3), 288.99(11), 624.4621, 624.46226, 624.4625, 624.475, 624.509, 624.5092, 624.50921, 624.510, 624.5105, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS.

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

DATE AND TIME: June 29, 2009, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE FULL TEXT OF THE PROPOSED RULE IS:

12B-8.001 Premium Tax; Rate and Computation.

(1) A tax is imposed on insurance premiums or assessments, including membership fees, finance charges, and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements, and on annuity premiums or considerations, received during the preceding calendar year. Such tax is imposed no matter whether the insurer possesses a valid Florida certificate of authority (COA), if the issuing or collecting insurer would have been required to obtain a certificate of authority COA prior to issuing these policies and contracts or collecting premiums on them. The administration, auditing, collection, and enforcement of the

insurance premium taxes and assessments are vested in the Department of Revenue, with the exception of taxes under Chapters 175 and 185, F.S., where the Department's only functions are function is collection and maintenance of a database. "Policies and premiums" respectively mean and include those policies or other contracts or agreements effecting and evidencing insurance, and premiums and other considerations for such policies as described and contemplated by the provisions of Sections 624.509 and 624.510, F.S.; or any other sections subject to the provisions of Section 624.509, F.S. Per-policy fees charged under Section 626.7451(11), F.S., by licensed managing general agents fall under the definition of "premiums" as defined in Section 627.403, F.S., and are subject to premium tax as set forth in Section 624.509, F.S.

(a) A tax at the rate of 1.75 percent of the gross amount of receipts for insurance premiums and assessments shall be applied to the following types of policies:

1. through 6. No change.

7. Insurance issued by a captive or industrial captive insurer under Part ~~V~~ ~~IV~~, Chapter 628, F.S.

8. through 9. No change.

(b) Annuity policies or contracts. A tax at the rate of 1 percent shall be applied on the gross receipts on annuity policies or contracts paid by holders thereof in Florida.

1. The premium tax authorized by this section shall not be imposed upon receipts of annuity premiums or considerations paid by holders in this state if the tax savings derived are credited to annuity holders ~~the holders of this state until July 1, 1990. After July 1, 1990, the premium tax authorized by this section shall not be imposed upon receipts of annuity premiums or considerations paid by holders in this state if the tax savings are credited to.~~

2. through 3. No change.

(c) No change.

(d) A tax at the rate of 1.6 percent of the gross premiums, contributions, or assessments received by the following shall be applied:

1. through 2. No change.

3. Corporation Not for Profit Self-Insurance Funds under Section 624.4625, F.S.

4. Public Housing Authorities Self-Insurance Funds under Section 624.46226, F.S.

(e) Dividends payable under insurance policies that, at the option of the holders of such policies, are applied to purchase paid-up additions, are not additional gross receipts of the insurer for purposes of the insurance premium tax contained in Section 624.509, F.S.

(2) Installments of tax. An estimated tax shall be filed on April 15, June 15, and October 15 of each year, which shows the estimated amount of tax due for the preceding quarter, except the June 15 installment shall be for the period ending June 30; payment of that estimated amount shall be made at the time the report is filed. No credit for any of the allowable

credits may be made against the insurer's premium tax until the annual premium tax return is filed. Taxpayers may not credit any estimated tax payments against their estimated premium tax. Any estimated payment credits not taken when available cannot be carried forward or carried back. On or before March 1 in each year, an annual return shall be filed showing, by quarters, the gross amount of receipts taxable for the preceding year and the installment payments made during the year. A final payment of tax due for that year shall be made at the time the taxpayer files its his annual return. A 10 percent penalty shall be imposed on any underpayment or late payment due and payable with the annual return. Installments of tax are applicable to taxes imposed by Sections 175.101, 185.08, 252.372, 624.4621, 624.475, 624.509, 624.510, 624.515, 627.357, 628.6015, 629.5011, and 636.066, F.S.

(a) The installment of the estimated premium tax due shall not be less than 90 percent of the amount finally shown to be due in any quarter, as evidenced by the annual report, without deductions for any credits. Effective January 1, 1993, the 90 percent shall be based on the actual tax paid for that year, as evidenced by the annual return, after allowable credits. The 90 percent will be determined by computing the gross tax due for each quarter, direct premiums written times the tax rate, less 25 percent of the allowable credits as evidenced by line 2 of the first page of the annual return filed for that year times 90 percent. However, the taxpayer has the option of paying, in each installment, 27 percent of the amount of annual tax reported, after allowable credits, on his return for the previous year without penalty or interest applying. If a return was not filed for the previous year, the installments must meet the 90 percent requirement. If the tax is not paid in this manner, a 10 percent penalty shall be imposed on each underpayment or late payment of tax due and payable for that quarter. If the installment is based on 27 percent of the amount of the annual tax reported on the return for the preceding year and the installment payment is remitted to the Department after the due date, the installment shall be based on the 90 percent requirement instead of the 27 percent method. Any underpayment or delinquent payment shall be subject to a penalty of 10 percent, and interest ~~at the rate of 12 percent per year~~ from the due date until paid. ~~The Department of Revenue, by written request as outlined in Rule Chapter 12-13, F.A.C., may eliminate or compromise penalties or interest.~~

(b) through (c) No change.

(3) Credits Against the Tax.

(a) 1. through 2. No change.

3. If a taxpayer is required to amend its corporate income tax liability under Chapter 220, F.S., the taxpayer shall amend its corresponding insurance premium tax return for the tax year in which it claimed, or was entitled to claim the credit provided in Section 624.509(4), F.S., for the corporate income tax paid

for that tax year. The taxpayer shall file an amended insurance premium tax return and pay additional tax due, if any, or claim a refund, if any, as provided in Section 624.50921, F.S.

(b) Salaries. Fifteen percent of the amount paid after June 30, 1988, in salaries by the insurer to employees located or based in Florida may be credited against the net tax imposed by Section 624.509, F.S.

1. No change.

2. Employees are those covered under Chapter 443, F.S., Unemployment Compensation, by the insurer taking the credit, a service representative ~~as defined in Section 626.081, F.S.~~, a supervising or managing general agent ~~as defined in Section 626.091, F.S.~~, and an adjuster or claims investigator, ~~as defined in Section 626.015~~ ~~626.101~~, F.S.

3. through 6. No change.

7. Salary Tax Credit Exceptions.

a. Subparagraph 624.509(5)(b)4., F.S., allows an affiliated group of corporations that created a service company within its affiliated group on July 30, 2002, to allocate the salary of each service company employee covered by contracts with affiliated group members to the companies for which the employees perform services. If the service company was not created within the affiliated group on the specific date, July 30, 2002, this alternative tax credit calculation cannot be used.

b. Subparagraph 624.509(5)(a)2., F.S., allowed insurers and their affiliated groups to make an irrevocable election on or before August 1, 2005, to make an alternative salary tax credit calculation based in part upon the 2002 amount of salary tax credit correctly computed under the law. If the insurer and its affiliated group did not make a timely election (on or before August 1, 2005) to use this alternative method, this alternative salary tax credit cannot be used.

c. Unless funding is specifically provided by the Legislature for a specific tax year, the alternative salary tax credit calculation in subparagraph 624.509(5)(b)5., F.S., is not valid.

d. Effective July 1, 2006, paragraph 624.509(6)(b), F.S., provides that, to the extent that the salary tax credit is limited by the 65 percent limitation, the excess of the salary tax credit that was available and exceeded the 65 percent limitation may be transferred to any insurer that is a member of that insurer's affiliated group if such excess salary tax credit is related to salaries and wages of employees whose place of employment is located within an enterprise zone created pursuant to Chapter 290, F.S. The amount of such excess salary tax credit transferred to all affiliates can not exceed 25 percent of such excess salary tax credit. An affiliated group of corporations that participates in a concurrent common paymaster arrangement as defined in Section 443.1216, F.S., is not eligible to use this provision. Any such transferred credits are subject to the same provisions and limitations set forth in Part IV, Chapter 624, F.S.

(c) Assessments Credited Against the Tax.

1.a. Payments made by an insurance carrier, group self-insurer, or commercial self-insurance fund, for assessments made pursuant to Section 440.51, F.S., shall be allowed as a deduction against the amount of any other tax levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of said insurance carrier, self-insurer, or commercial self-insurance fund.

b. If an insurance carrier, group self-insurer, or commercial self-insurance fund receives a refund of a previously paid assessment under Chapter 440, F.S., for which it claimed a credit on a previously filed insurance premium tax return, the insurance carrier, group self-insurer, or commercial self-insurance fund shall file an amended insurance premium tax return and pay the additional tax, if any, for the year in which the credit was originally claimed pursuant to Section 624.50921, F.S.

2.a. Effective with the tax return filed for the 1997 taxable year, insurers who have paid an assessment to the Florida Life and Health Insurance Guaranty Association (~~Association FLHGA~~) may claim a credit for part of such assessment as provided for in the Florida Statutes. Any credits not taken or utilized when available cannot be carried forward.

b.(I) When the Association refunds money to an insurer from a previous assessment that was paid by the insurer, and the insurer had claimed credit or partial credit against its insurance premium tax or corporate income tax for that previous payment to the Association, the insurer is required to pay part of that refund to the Department of Revenue pursuant to Section 631.72, F.S.

(II) Example. ABC Insurance Company paid a \$300,000 Class B assessment to the Association in 1998. On its 1999 – 2004 insurance premium tax returns, ABC claimed credits of \$15,000 (\$300,000 X .05) each year for its 1998 payment to the Association. The total credit taken by ABC, based on the 1998 Association assessment, was \$90,000 (\$15,000 per year for 6 years). In 2005, the Association issued ABC a refund of \$30,000 from the 1998 assessment. In accordance with subsection 631.72(3), F.S., a \$9,000 payment is due to the Department of Revenue in 2005 from that refund (\$30,000 X .05 X 6 years). The \$9,000 that is due to the Department of Revenue in 2005 is a repayment of the credits that the insurer had already claimed in tax years 1999 through 2004 against its insurance premium tax or corporate income tax for the \$30,000 that was refunded by the Association. For tax years 2005 and thereafter, ABC should only use a payment of \$270,000 to the Association for its 1998 assessment when computing its credit for payments to the Association.

c.(I) When an insurer surrenders its certificate of authority and ceases doing business in Florida, all uncredited Association assessments for the current tax year and future tax years may be credited against the insurer's final insurance

premium tax return or final corporate income tax return pursuant to Section 631.72, F.S. Florida Life and Health Insurance Guaranty Association credits do not transfer from an insurer that is merged or acquired out of existence to a surviving insurer.

(II) Example. XYZ Insurance Company paid a \$100,000 Class B assessment to the Association in 2004, which results in a credit of \$5,000 per year for 2005 through 2024. On its 2005 insurance premium tax return, XYZ Insurance Company only claimed a \$3,000 credit for its payment to the Association in 2004 because it had very little direct written premium during calendar year 2005. In 2006, XYZ Insurance Company surrendered its certificate of authority to the Florida Office of Insurance Regulation. On its 2006 final insurance premium tax return or its final corporate income tax return, XYZ Insurance Company may claim a credit of \$5,000 for the 2004 payment to the Association and an accelerated credit of \$90,000 (total credit of \$95,000 for the 2004 payment to the Association).

(d) Community Contribution Tax Credit.

1. through 4. No change.

5. Expiration. With the exception of the carryovers allowed in Section 624.5105(1)(3)(e), F.S., the provisions of Section 624.5105, F.S., paragraph (3)(d) will expire and be void on June 30, 2015 2005.

(e) No change.

(4) through (9) No change.

~~Rulemaking Specific~~ Authority 213.06(1), 220.183(6), 288.99(11), 624.5105(6) FS. Law Implemented 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12, 213.05, 213.235, 220.183(3), 288.99(11), 624.4621, 624.46226, 624.4625, 624.475, 624.509, 624.5092, 624.50921, 624.510, 624.5105, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2) FS. History—New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01, 8-1-02, 6-20-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development was published in the Florida Administrative

Weekly on November 21, 2008 (Vol. 34, No. 47, pp. 6078-6079). Written comments were received and a change was made to the proposed text

DEPARTMENT OF REVENUE

Corporate, Estate and Intangible Tax

RULE NOS.:	RULE TITLES:
12C-1.0222	Returns; Extensions of Time; Payments of Tentative Tax
12C-1.032	Payments of Tentative Tax

PURPOSE AND EFFECT: The Internal Revenue Service recently reduced the extension period for filing a Florida partnership return from six months to five months. (Bulletin IR-2008-084, June 30, 2008). The purpose of the proposed substantial rewording of Rule 12C-1.0222, F.A.C. (Returns; Extensions of Time; Payments of Tentative Tax), is to change the extension period for filing a Florida partnership return to five months. Changes are also necessary to include the requirements for filing corporate income tax returns with the Department electronically and to simplify all provisions on how to obtain an extension of time to file a Florida corporate income tax return or a Florida partnership return. The purpose of the proposed repeal of Rule 12C-1.032, F.A.C. (Payment of Tentative Tax), is to remove provisions regarding the requirement to pay tentative tax that will be included in the proposed substantial rewording of Rule 12C-1.0222, F.A.C.

SUMMARY: The proposed substantial rewording of Rule 12C-1.0222, F.A.C.: (1) changes the title to “Returns; Extensions of Time; Payments of Tentative Tax,” to reflect the revised provisions of the rule; (2) provides when a return submitted to the Department by electronic means or by a paper return is timely filed; (3) provides that an extension of time will be valid until 15 days after the expiration of the federal extension or until six months after the due date, whichever occurs earlier; (4) provides that a taxpayer who has not obtained a federal extension of time to file a return may obtain an extension of time to file a Florida return by establishing good cause as to why the return cannot be filed by the original due date; (5) requires that taxpayers who request an extension of time to file a return must submit Form F-7004 (Florida Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return) with the amount of tentative tax due to the Department; (6) provides the extended return due dates for the Florida corporate income tax return and for the Florida partnership return; and (7) provides when the request for an extension of time to file will be invalidated for failure to pay the tentative tax due.

The proposed repeal of Rule 12C-1.032, F.A.C. (Payment of Tentative Tax), removes provisions regarding when a tentative tax return will be considered timely filed with the Department that are incorporated into the proposed substantial rewording of Rule 12C-1.0222, F.A.C.

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: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 220.222, 220.32, 220.801 FS.

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

DATE AND TIME: June 29, 2009, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial Rewording of Rule 12C-1.0222 follows. See Florida Administrative Code for present text.)

12C-1.0222 Returns; ~~Filing Requirements;~~ Extensions of Time; Payments of Tentative Tax.

(1) Returns.

(a) A return submitted to the Department by electronic means, as provided in Rule Chapter 12-24, F.A.C., is considered to be timely filed if the submission of the electronic return is initiated, and a confirmation from the Department is received, before 5:00 p.m., Eastern Time, on or before the due date (including any extensions) prescribed by law. Taxpayers who meet the requirements of subsection (3) of Rule 12-24.003, F.A.C., must submit returns by electronic means. A hard-copy (paper) return is considered to be timely filed if postmarked on or before the due date (including any extensions) prescribed by law. If the due date falls on a Saturday, Sunday, or legal holiday, a return will be considered timely if a confirmation for an electronic return is received by the Department on or before 5:00 p.m., Eastern Time, or a hard-copy (paper) return is postmarked, on the next succeeding day that is not a Saturday, Sunday, or legal holiday. For this purpose, a legal holiday will mean a holiday that is observed

by federal or state agencies as this term is defined in Chapter 683, F.S., and Section 7503 of the Internal Revenue Code of 1986, as amended.

(b)1. Example: Corporation A's Florida corporate return was due Thursday, November 1. The envelope in which the return was mailed was postmarked November 1; therefore, the return is considered to have been filed on time.

2. Example: Corporation B's Florida corporate return was due Saturday, September 1. Monday, September 3, was Labor Day. The envelope in which the return was mailed was postmarked Tuesday, September 4. The return is considered timely filed because it was postmarked the next succeeding day which was not a Saturday, Sunday, or legal holiday.

(2) Requests for Extensions of Time to File Return.

(a) An extension of the due date of any required return will be effective until 15 days after the expiration of the federal extension or until six (6) months after the due date of the return, whichever occurs earlier. The aggregate amount of time of extensions for a return cannot exceed 6 months. If an automatic extension is not permitted because a federal extension has not been requested or is not allowed, the application for extension of time to file a return must contain sufficient facts to establish good cause why the return cannot be filed on or before the original due date. The Department will apply the definition that has been developed through federal case law and Internal Revenue Service Announcements in determining "good cause" for granting extensions of time for filing Florida corporate income tax returns. An extension of time for filing a return does not operate as an extension of time for payment of the tax or any part thereof.

(b) A corporation or a partnership that has been granted an automatic extension of time for filing its federal corporate income tax return or its federal partnership return by the Internal Revenue Service, or that establishes good cause, will be granted an extension of time to file its Florida return when the following requirements are met:

1. Form F-7004, Florida Tentative Income/Franchise and Emergency Excise Tax Return and Application for Extension of Time to File Return, signed by a person duly authorized by the taxpayer to sign a request for extension, is filed with the Department on or before the due date prescribed for filing the return. See Rule 12C-1.0221, F.A.C., for persons authorized to request an extension of time to file. For affiliated groups, the parent company qualified to file a Florida consolidated income tax return must file Form F-7004. An extension granted to the parent company of an affiliated group applies to the parent company's consolidated return. If any corporate partner requires an extension of time to file its separate Florida corporate income tax return, a separate Form F-7004 must be filed by the corporate partner with the Department.

2. The amount estimated to be the balance of its proper tax due for the taxable year after giving effect to payments and credits on its declaration of estimated income tax is paid to the Department.

(3) Extended Return Due Dates.

(a) Upon the timely filing of Form F-7004, properly prepared and including payment of any tax determined to be due, an extension will be allowed.

(b) An extension of the due date of any required return is effective until 15 days after the expiration of the federal extension, or until six (6) months after the due date prescribed by law, whichever occurs first. The aggregate amount of time of extensions for a return cannot exceed six (6) months. No further extensions are allowed.

1. The automatic federal extension period for a federal corporate income tax return is six (6) months. For a corporation whose fiscal year ends December 31, a required Florida corporate income tax return is due April 1 of the following year. When a taxpayer is granted an extension of time to file its federal corporate income tax return, the extended due date for the federal return is September 15. When the requirements of this rule are met and the corporation is granted an extension of time to file its Florida corporate income tax return, the extended due date for the Florida return is October 1.

2. The automatic federal extension of time to file a federal partnership return is five (5) months. When a taxpayer is granted an extension of time to file its Florida partnership return (Form F-1065), the due date is 15 days after the federal return due date. For example, a partnership whose fiscal year ends on December 31, will be granted an extension of time from May 1 to October 1 to file its Florida partnership return when all the requirements for an extension of the due date of a return provided in this rule are met.

(c)1. Failure to make payment with an application when one is required will void the request for extension of time to file. The taxpayer will be subject to the penalty provided in Section 220.801, F.S., for failure to file a timely return. Interest will be assessed on any tax due from the due date of the return to the date of payment.

2. An extension of time will be invalidated when the:

a. Tentative tax due is not paid with the application for extension (Form F-7004); or

b. The tax is underpaid by the greater of \$2,000 or thirty percent (30%) of the tax due on the return when filed.

Rulemaking Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.222, 220.32, 220.801 FS. History—New 10-20-73, Amended 10-8-74, 4-21-75, 3-5-80, 12-18-83, Formerly 12C-1.222, Amended 12-21-88, 12-19-89, 4-8-92, 3-18-96, 3-13-00, 3-15-04,

12C-1.032 Payments of Tentative Tax.

~~Tentative returns shall be filed in connection with any extension of time for filing a return. Tentative returns shall be deemed timely filed only if received by the Department of Revenue on or before the due date prescribed by law; provided, however, that a return mailed to the Department and actually received after its due date shall be deemed timely filed if it bears a United States post office postmark dated on or before said due date.~~

Rulemaking Specific Authority 213.06(1), 220.51 FS. Law Implemented 220.32 FS. History—New 10-20-72, Formerly 12C-1.32, Amended 12-21-88, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor Charlie Crist and members of the Florida Cabinet, Attorney General Bill McCollum, Chief Financial Officer Alex Sink, and Agriculture Commissioner Charles H. Bronson, as agency head of the Department of Revenue

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: A Notice of Proposed Rule Development Workshop was published in the Florida Administrative Weekly on December 24, 2008 (Vol. 34, No. 52, p. 6754), regarding the proposed substantial rewording of Rule 12C-1.0222, F.A.C. (Returns; Extensions of Time; Payments of Tentative Tax), and the proposed repeal of Rule 12C-1.032, F.A.C. (Payment of Tentative Tax). This notice advised the public that, if requested, a rule development workshop would be conducted on January 15, 2009. No request was received by the Department. No person appeared to ask questions or make comments regarding these proposed amendments.

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."

AGENCY FOR HEALTH CARE ADMINISTRATION

Hospital and Nursing Home Reporting Systems and Other Provisions Relating to Hospitals

RULE NO.: 59E-7.012
RULE TITLE: Inpatient Data Reporting Instructions

PURPOSE AND EFFECT: The purpose of amending Rule 59E-7.012, F.A.C., is to specify the electronic data reporting per Section 408.061(1)(a), F.S.

SUMMARY: The Agency has filed a Notice of Withdrawal for the repeal of Rule 59E-7.012, F.A.C. and is proposing amendment of Rule 59E-7.012, F.A.C., to outline electronic data reporting in accordance with Section 408.061(1)(a), F.S.

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: 408.08(1)(e), 408.15(8) FS.

LAW IMPLEMENTED: 408.061, 408.062, 408.063, 408.08(1)(2) 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: Patrick Kennedy at (850)922-5531

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 59E-7.012 follows. See Florida Administrative Code for present text.)

59E-7.012 Inpatient Data Reporting Instructions and Audit Procedures.

Beginning with the inpatient data report for the 1st quarter of the year 2010, reporting facilities shall submit a zipped inpatient discharge data file by Internet according to the specifications in paragraphs (1) through (3).

(1) The Internet address for the receipt of inpatient data is <https://ahcaxnet.fdhc.state.fl.us/patientdata>.

(2) Data submitted to the Internet address shall be electronically transmitted with the zipped inpatient data in a XML file using the Inpatient Data XML Schema available at: <http://ahca.myflorida.com/xmlschemas/inppoa22.xsd>. The Inpatient Data XML Schema is incorporated by reference.

(3) The data in the XML file shall contain the data elements, codes and standards required in Rules 59E-7.027, 59E-7.028, and 59E-7.030, F.A.C.

Proposed Effective Date is January 1, 2010.

Rulemaking Specific Authority 408.08(1)(e), 408.15(8) FS. Law Implemented 408.061, 408.062, 408.063, 408.08(1), (2) FS. History—New 12-15-96, Amended 1-4-00, 7-11-01, 7-12-05, 5-22-07, 1-1-10.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patrick Kennedy, Administrator. Florida Center for Health Information and Policy Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida 32308

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Holly Benson, Secretary, Agency for Health Care Administration
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 5, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-21.004
 RULE TITLE: Continuing Education Program of Learning Approval

PURPOSE AND EFFECT: The Board proposes to repeal the rule.

SUMMARY: The rule will be repealed.

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: 481.215(5), 481.2055 FS.

LAW IMPLEMENTED: 481.215(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-21.004 Continuing Education Program of Learning Approval.

~~The programs of learning approval for continuing education are covered in depth by the Board's publication "Interior Design Continuing Education Handbook" (1996) which is hereby incorporated by reference.~~

Rulemaking Specific Authority 481.215(5), 481.2055 FS. Law Implemented 481.215(5) FS. History--New 11-29-90, Amended 3-1-93, 7-7-93, Formerly 21B-21.004, Amended 9-14-93, 6-22-95, 10-8-96, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design

RULE NO.: 61G1-22.002
 RULE TITLE: Schedule for Award of Interior Design Professional Experience

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to update the requirements for interior design professional experience.

SUMMARY: The requirements for professional experience for an interior designer will be updated.

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.

SPECIFIC AUTHORITY: 481.2055, 481.209(2) FS.

LAW IMPLEMENTED: 481.209(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-22.002 Schedule for Award of Interior Design Professional Experience.

(1) Applicants must obtain the diversified interior design ~~Continuous full-time~~ experience required by Section 481.209(2), F.S., with a registered interior designer (any state) or registered architect (any state) performing interior design services, unlicensed interior designer (outside of Florida) who has passed the NCIDQ (National Council for Interior Design Qualification) or the AID (American Institute of Designers) examination, or unlicensed interior designer (outside of Florida) who would have met the six-year experience grandfather requirement of Section 21, Chapter 88-383, Laws of Florida, ~~prior to graduation for a period of at least three months, but less than one year, shall be awarded 50% of the actual total work time toward the two or more years practice experience requirement.~~

(2) Experience for a period of at least three months but less than one year, obtained prior to graduation, shall be awarded 50% of the total work time toward the experience requirement. ~~Continuous full-time~~ Eexperience for a period prior to graduation of one year or more, obtained prior to graduation, shall be awarded 75% of the total work time toward the experience practice requirement.

(3) Experience ~~obtained~~ acquired after graduation shall be awarded 100% of the ~~total actual~~ work time, toward the ~~practice~~ experience requirement. One year of experience shall be deemed to be 1,760 hours, two years of experience shall be deemed to be 3,520 hours, three years of experience shall be deemed to be 5,280 hours, and four years of experience shall be deemed to be 7,040 hours.

~~(4) An applicant should begin his experience file with the Board at the time of the applicant's graduation and report to the Board as to the ongoing experience record at no less than 6 month intervals. The Board will verify all experience reports received, and make available to the applicant their continuing evaluation of the work experience.~~

~~(4)(5)~~ An applicant's experience record shall be based upon written statements as to employment from the employer or supervisors of the applicant. Statements from the employer or supervisor shall set forth the quality and character of the applicant's duties and responsibilities. The applicant shall also submit other information which would further explain or describe the quality and character/nature of the experience. Should the Board find the information submitted by the applicant to be insufficient or incomplete, the Board may require the applicant to supply such additional evidence which is reasonably required to evaluate the applicant's record.

Rulemaking Specific Authority 481.2055, 481.209(2) FS. Law Implemented 481.209(2) FS. History--New 5-20-91, Formerly 21B-22.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Architecture and Interior Design
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Architecture and Interior Design
RULE NO.: 61G1-22.003
RULE TITLE: Education Requirements for Interior Designers

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to update the education requirements for interior designers.

SUMMARY: The education requirements for interior designers will be updated.

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: 481.203(8), 481.209(2), 481.2055 FS.

LAW IMPLEMENTED: 481.203(8), 481.209(2), 481.2055 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-22.003 Education Requirements for Interior Designers.

In order for schools to have time to implement curricula for Board approval under Section 481.209(2), F.S., the Board hereby sets forth the criteria of an acceptable curricula:

(1) Evaluation of curriculum and standards of board approved degree programs required in Section 481.209(2), F.S., shall be based upon an overview of programs in interior design within the United States including those accredited by the Council for Interior Design Accreditation (CIDA), formerly known as the Foundation for Interior Design Education Research (FIDER), and an evaluation of such programs, schools, and colleges in light of the definition of interior design found in Section 481.203(8), F.S.

(2) An applicant must meet the requirements of ~~have completed~~ Section 481.209(2)(c), F.S., or must have obtained a degree from a board approved program of study according to the diversity of programs as required in Section 481.209(2), F.S. Board approved educational standards are based on the Professional Standards established by the CIDA. Course work involving practical applications such as studio, technical and graphic skills shall be completed in residence or delivered through alternate methods such as distance education which must demonstrate that all Professional Standards have been met to insure that education is equivalent to that delivered in residence. The Professional Standards, effective July 1, 2009, are hereby incorporated by reference and can be obtained at <http://www.accredit-id.org/profstandards.php>. ~~the academic studies of history and theory and the practicable studies of basic and creative design, interior design, technical knowledge, communication skills and the profession. Practicable studies shall be completed in residence and supported by appropriate portfolio performance demonstrating developmental abilities in problem solving, application of skills, principles or concepts to difficult, complex situations as promoted by the National~~

Council for Interior Design Qualifications (NCIDQ). Board approved programs shall conform to one of the following models:

(a) The First-Professional Degree program of study available at a 3 year professional certificate or degree program, a 4 or 5 year professional degree program or a first-professional master's degree program in interior design, which meets the requirements of Section 481.209(2)(a), (b), (c), F.S., based on an accumulation of not less than 120 semester, or equivalent, credit hours including a minimum of 30 semester, or equivalent, credit hours of diverse university-level liberal arts, sciences and humanities obtained at an institution which has been recognized by the appropriate regional or national institutional accrediting body. The first-professional degree program curriculum shall conform to the following pattern with a minimum of 60 semester, or equivalent, credit hours in first-professional degree, or related coursework. Where applicable, those programs requiring in excess of these requirements shall, after fulfilling the minimum requirements, determine the type of additional studies to promote their individualized mission.

~~1. Basic and Creative Arts: study of two and three dimensional design fundamentals; minimum of 6 semester, or equivalent, credit hours.~~

~~2. Theory: study of the elements and principles of design, color theory, human environment, proxemics, behavior, design theories and spatial composition; minimum of 3 semester, or equivalent, credit hours.~~

~~3. Interior Design: study of special populations such as the physically challenged, mentally challenged, elderly, children, low income and special purposes such as historic preservation and adaptive re use; the design process to include programming, conceptualization, problem solving and evaluation, space planning, furniture layout and selection and design attributes of materials, lighting, furniture, fixtures, equipment, textiles and color; the design of space relative to human factors such as anthropometrics and ergonomics; minimum of 15 semester, or equivalent, credit hours.~~

~~4. Technical Knowledge: study of structure and construction, building systems, HVAC, lighting, electrical, computer technology, plumbing, acoustics, energy conservation, passive and/or active solar energy, ecology and sustainable design as related to the interior environment; the detailed design of furniture, cabinetry and interiors and materials such as surfaces and structural materials, soft goods and textiles, laws, building codes, ordinances, life safety and fire; minimum of 9 semester, or equivalent, credit hours.~~

~~5. Communication; Skills: study of computer systems such as word processing, CAD and other technical and graphics systems; presentation skills such as sketching, delineation, rendering, models, photography, and written and oral communication skills, graphics, signage, lettering, drafting and working drawings; minimum of 9 semester, or equivalent, credit hours.~~

~~6. Profession: study of the interior design profession, organizations, ethics and related professions, business practices, specifications, industry, product safety standards, estimating and business and project management; minimum of 3 semester, or equivalent, credit hours.~~

~~7. History: study of interiors, furniture accessories; minimum of 6 semester, or equivalent, credit hours.~~

~~8. Electives: to include any of the foregoing categories of related studies in interior design: theory and methods of research related to experimental, survey, literature search and observation; diverse liberal studies; minimum of 9 semester, or equivalent, credit hours.~~

(b) The 2 year degree program which meets the requirements of Section 481.209(2)(d), F.S., shall include exists where the program offers the common body of knowledge of interior design education through course work as detailed in student achievements to follow. Requirements consist of an accumulation of not less than 60 semester, or equivalent, credit hours including a minimum of 15 semester, or equivalent, credit hours of diverse post-secondary level liberal arts, sciences and humanities obtained at an institution which has been recognized by the appropriate regional or national accrediting body. The 2 year degree program shall conform to consist of the following pattern with a minimum of 45 semester, or equivalent, credit hours in interior design, or related course work. Where applicable, those programs requiring in excess of these requirements shall, after fulfilling the minimum requirements, determine the type of additional studies to promote their individualized mission.

(c) The Interior Design degree programs specified in paragraphs (a) and (b), above, must insure that, within the framework of required credit hours, it provides studies applicable to the Professional Standards established by the CIDA listed below:

1. Global Context for Design: understanding of concepts, principles, and theories of sustainability as they pertain to building methods, materials, systems, and occupants; understand globalization and the implication of conducting the practice of design within a world market, how design needs may vary for different socio-economic populations, exposure to contemporary issues affecting interior design, exposure to a variety of business, organizational and familial structures and opportunities for developing knowledge of other cultures.
~~Basic Design: study of two and three dimensional design fundamentals and color; minimum of 3 semester, or equivalent, credit hours.~~

2. Human Behavior: understand social and cultural norms, application of theories of human behavior, application of appropriate ergonomic and anthropometric data and application of universal design concepts. Theory: study of color theory and the human environment related to proxemics and behavior, elements and principles of design; design theories and spatial composition; minimum of 3 semester, or equivalent, credit hours.

3. Design Process: ability to identify and define aspects of a design problem relevant to (goals, objectives and performance criteria), gather appropriate and necessary information and research findings to solve problems (evidence based design), evaluate, select, and apply information and research findings to design, synthesize information and generate multiple concepts and/or multiple design responses to programmatic requirements, and demonstrate creative thinking and originality through presentation of a variety of ideas, approaches, and concepts, opportunities to solve simple to complex design problems, exposure to a range of design research and problem solving methods, opportunities for innovation and creative thinking, and opportunities to develop critical thinking skills. Interior Design: study of lighting, space planning, furniture arrangements, furnishings and materials selection, finish materials and color, special populations such as the physically challenged, mentally challenged, elderly, children, low income and special purposes such as historic preservation and adaptive re-use; minimum of 12 semester, or equivalent, credit hours.

4. Collaboration: awareness of team work structures and dynamics, the nature and value of integrated design practices, collaboration, consensus building, leadership, and team work, and interaction with multi-disciplines representing a variety of points of view and perspectives. Technical Knowledge: study of structure and construction, building systems, HVAC, lighting, electrical, plumbing, acoustics, energy conservation, ecology and the environment, cabinetry, and interiors and materials such as surfaces and structural materials, soft goods, and textiles, laws, building codes, ordinances, life safety and fire; minimum of 9 semester, or equivalent, credit hours.

5. Communication: application of a variety of communication techniques and technologies appropriate to a range of purposes and audiences, express ideas clearly in oral and written communication, use sketches as a design and communication tool, produce competent presentation drawings across a wide range of appropriate media, produce competent contract documents including coordinated drawings, schedules, and specifications appropriate to project size and scope and sufficiently extensive to show how design solutions and interior construction are related, integrate oral and visual material to present ideas clearly. Visual Communications: study of sketching, rendering, drafting, presentation boards, CAD and word processing; minimum of 6 semester, or equivalent, credit hours.

6. Professionalism and Business Practices: understand the contributions of interior design to contemporary society, various types of design practices, the elements of business practice (business development, financial management, strategic planning, and various forms of collaboration and integration of disciplines), the elements of project management, project communication, and project delivery methods, professional ethics, exposure to various market

sectors and client types, legal recognition for the profession, professional organizations, life-long learning, and public and community service. Business Practice: study of specifications, the interior design profession and organizations, business organizations and operations, sales, estimating, installations, schedules and documentation; minimum of 3 semester, or equivalent, credit hours.

7. History: understand the social, political, and physical influences affecting historical changes in the design of the built environment. Ability to identify movements and periods in interior design and furniture, movements and traditions in architecture, stylistic movements and periods of art, and ability to use historical precedents that inform design solutions study of interiors and furnishings; minimum of 6 semester, or equivalent, credit hours.

8. Space and Form: application of the elements, principles and theories of design to two-dimensional and three-dimensional design solutions, analysis and discussion of spatial definition and organization. Electives: to include any of the foregoing categories, theories, methods of research related to experimental, survey, literature search and observation; minimum of 3 semester, or equivalent, credit hours.

9. Color and Light: understanding of color principles, theories and systems, the interaction of light and color and the impact they have on one another and interior environments, application of color with regard to its multiple purposes, and application of color effectively in all aspects of visual communication (presentations, models, etc.).

10. Furniture, Fixtures, Equipment, and Finish Materials: awareness of a broad range of materials and products, typical fabrication and installation methods, and maintenance requirements, apply appropriate materials and products on the basis of their properties and performance criteria, including environmental attributes and life cycle cost, layout and specification of furniture, fixtures and equipment.

11. Environmental Systems and Controls: understanding the principles of natural and electrical lighting design, competent selection and application of luminaries and light sources, and understanding the principles of acoustical design, appropriate strategies for acoustical control, thermal systems and their impact on design solutions, the principles of indoor air quality, and selection and application of products and systems and how they impact indoor air quality.

12. Interior Construction and Building Systems: understanding structural systems and methods, non-structural systems including ceilings, flooring and interior walls, distribution systems including power, mechanical, HVAC, data/voice telecommunications, plumbing, energy, security, building control systems, the interface of furniture with distribution and construction systems, vertical circulation systems, and ability to read and interpret construction drawings and documents.

13. Regulations: awareness of sustainability guidelines, industry-specific regulations, understanding of laws, codes, standards and guidelines that impact fire and life safety including, compartmentalization: fire separation and smoke containment, movement: access to the means of egress including stairwells, corridors, exit-ways, detection: active devices that alert occupants including smoke/heat detectors and alarm systems, suppression: devices used to extinguish flames including sprinklers, standpipes, fire hose cabinets, extinguishers, etc., application of federal, state/provincial, and local codes, standards, accessibility guidelines.

(3) No change.

(4) In order to meet acceptable standards of accreditation the institution offering the course of study in interior design from which the applicant receives his degree or which he attends must be adequate as regards educational requirements in the following areas:

- (a) Auspices, control and organization of the institution and of the interior design program;
- (b) Educational programs and degrees conferred;
- (c) Maturity and stability of the institution and the individual educational programs;
- (d) Basis of and requirements for admissions for students;
- (e) Number of students enrolled in the applicable college or division as a whole and to the individual educational programs;
- (f) Teaching loads and faculty salaries;
- (g) Physical facilities and adequacy of the educational plant devoted to interior design as justified by the resources available;
- (h) Finances and investments, expenditures and sources of income of the institution;
- (i) Curricular content of the program as sanctioned by the CIDA Foundation for Interior Design Education Research (FIDER) or as found to be substantially equivalent by the Board;
- (j) Provisions for keeping the program current.

(5) In order to verify an applicant’s curriculum and interior design program the Board may require information from the applicant’s institution(s) as to the areas mentioned in subsection 61G1-22.003(4), F.A.C. Institutions will be required to verify to the Board, in writing, every two years, that the current program of studies offered meets the minimum requirements of the applicable program(s) of studies as listed in Rule 61G1-22.003, F.A.C. ~~Passage by the applicant of the NCIDQ (the National Council for Interior Design Qualification) Examination will be used by the Board in evaluating whether an applicant’s institution(s) meets applicable educational standards.~~

Rulemaking Specific Authority 481.203(8), 481.209(2), 481.2055 FS. Law Implemented 481.203(8), 481.209(2), 481.2055 FS. History—New 12-4-90, Amended 7-14-93, Formerly 21B-22.003, Amended 8-9-99, 7-30-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Architecture and Interior Design
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 19, 2008

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:
62-346.010	Policy and Purpose
62-346.020	General Provisions
62-346.030	Definitions
62-346.040	Formal Determinations of the Landward Extent of Wetlands and Other Surface Waters
62-346.050	Permits Required
62-346.051	Exemptions from Permitting
62-346.055	No-notice General Permits
62-346.060	Conceptual Approval Permits
62-346.070	Procedures to Prepare Applications and Notices for Permits, Water Quality Certification, Coastal Zone Consistency Concurrence, and to Request Verification of Qualification for an Exemption
62-346.071	Fees
62-346.075	Additional Requirements and Procedures for Concurrent Review of Related Applications
62-346.080	Submittal of Applications and Notices for Permits and Petitions for Formal Determinations to Department and NFWFMD Offices
62-346.090	Processing of Notices and Applications
62-346.091	Documents Incorporated by Reference
62-346.095	Operation, Maintenance, and Inspections
62-346.100	Modification of Permits
62-346.110	Duration of Permits
62-346.120	Permit Extensions
62-346.130	Transfer of Ownership or Permit
62-346.140	Suspension and Revocation

62-346.150	Relinquishment and Abandonment
62-346.301	Conditions for Issuance of Individual (Including Conceptual Approval) and Standard Stormwater Permits
62-346.302	Additional Conditions for Issuance of an Individual (Including Conceptual Approval) Permit
62-346.381	General and Special Limiting Conditions
62-346.451	Emergency Authorizations and Actions
62-346.900	Environmental Resource Permit Forms

PURPOSE AND EFFECT: Chapter 62-346, F.A.C., has been amended to implement Phase 2 of the Environmental Resource Permit (ERP) rules within the Northwest Florida Water Management District (NFWFMD, also referred to as the “Panhandle”). These amendments add environmental criteria, including regulation of dredging and filling in, on, or over connected and isolated wetlands and other surface waters to the Phase 1 rules governing stormwater management systems, which became effective on October 1, 2007. As required by Section 373.4145, F.S., the permitting thresholds and requirements are designed to: (1) improve the management and storage of surface waters with minimal impact on property interests in consideration of the rural nature, current development trends, and abundant natural resources within the Panhandle; (2) enable the Department to pursue streamlining of this rule with the federal wetland permitting program; and (3) implement other streamlining measures to the maximum extent possible, such as electronic permitting, field permitting, and informal wetland determinations. The rule also incorporates the provisions specified in Section 373.4145(3), F.S., and “grandfathering” provisions for activities that will continue to be governed under Chapters 62-25 and 62-312, F.A.C. When the Phase 2 rules go into effect, a separate wetland resource permit under Chapter 62-312, F.A.C., which regulates dredging and filling in surface waters of the state, will no longer be required, except for those activities as provided in Section 373.4145(5), F.S.

This rule includes amendments to Applicant’s Handbook Volumes I and II. Volume I contains procedures and general criteria used in Chapter 62-346, F.A.C., and has been amended to include new environmental criteria. Volume II, which addresses the design and performance standards for stormwater management systems, has been amended to address issues that were identified during implementation of the Phase 1 rules. This rulemaking also includes amendments to the “Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection.”

SUMMARY: The revisions to Chapter 62-346, F.A.C., including the Applicant’s Handbook Volumes I and II generally: (1) remove language restricting the rule to stormwater management system regulation, as required by Phase I; (2) add “environmental” provisions adopted by the Suwannee River, St. Johns River, Southwest Florida, and South Florida Water Management Districts in 1995 to implement the requirements of Section 373.414, F.S., throughout the rest of the state; and (3) update and correct language based on experience learned and comments received from staff and the public since the Phase 1 rules were first implemented. The format and number system used in the rules and the incorporation of the Applicant’s Handbook is the same as is used by the water management districts outside of the Panhandle.

Rules 62-346.010 and .020, F.A.C., are modified to make minor technical revisions. The most significant change is the addition of subsection 62-346.020(5), F.A.C., reflecting the linkage of the regulatory and proprietary programs in accordance with the provisions of Sections 253.77 and 373.427, F.S.

Rule 62-346.030, F.A.C., is amended to: (1) add a definition of “direct discharge;” (2) add definitions related to dredging and filling in wetlands and other surface waters; and (3) update, correct, and clarify terms that were previously defined in the Phase 1 rules.

Rule 62-346.050, F.A.C., is modified to establish thresholds in subsection (1) for certain minor activities, below which a permit will not be required. These activities were previously established as exemptions in subsection 62-346.051(3), F.A.C., in the Phase 1 rules. This change is consistent with the way other water management district rules address minor activities meeting certain limitations and conditions. Subsection (2) is amended to include language that also was moved from the exemption in subsection 62-346.051(3), F.A.C.

The exemption in subsection 62-346.051(3), F.A.C., is deleted for the reasons discussed above. The exemption for private docks in paragraph (5)(a) is amended to limit the number of exempt docks that can be built on a single parcel of land, using the same language that exists in the dock exemptions in Section 403.813(1)(b), F.S., and in the existing dredge and fill and ERP rules of the Department and water management districts; this limitation was inadvertently overlooked during adoption of the Phase 1 rules. The exemption for seawall and riprap restoration in paragraph (14)(b) is amended to allow restoration when a seawall or riprap has been rendered non-functional by a discrete storm event. The exemption for electrical distribution substations in paragraph (16)(g) is amended to allow stormwater treatment alternatives to swales and to prevent direct discharges to Outstanding Florida Waters. A new exemption for modification or reconstruction of an existing, previously unpermitted conveyance system by a

governmental agency is added in subsection (18), reflecting a similar exemption currently in paragraph 62-25.030(2)(c), F.A.C.

Paragraph 62-346.060(1)(a), F.A.C., is amended to reflect that future reliance on a conceptual approval permit is dependent on that permit remaining consistent with any Total Maximum Daily Load or Basin Management Action Plan approved under the provisions of Section 403.067(7), F.S., and Chapter 62-304, F.A.C.

Subsection 62-346.070(2), F.A.C., is amended to update the procedures for verifying qualification for an exemption, including adoption of a new Form 62-346.900(11), "Request for Verification of an Exemption." Subsection (3) is added to ensure that applications are received only from entities that have sufficient title interest in the property subject of an application. Subsections (5) and (6) are added to provide that a permit under Chapter 62-346, F.A.C., also constitutes issue or waiver of a water quality certification under Section 401 of the Clean Water Act, and concurrence that the activity is consistent with the relevant statutory authorities under Florida's federally approved Coastal Zone Management Program. In accordance with Section 403.9328(5), F.S., subsection (9) is added to reflect that a separate permit for trimming or altering mangroves is not required for activities permitted under Chapter 62-346, F.A.C.

Rule 62-346.071, F.A.C., is amended to include new fees for dredge and fill activities in the fee schedule that was adopted in the Phase 1 rule. The fees for those activities are the same as the fees for the equivalent ERP activities already adopted in paragraph 62-4.050(4)(h), F.A.C., and also have been amended to reflect the minimum fees and the Consumer Price Index adjustments to fees required by Section 373.109, F.S.

The new Rule 62-346.075, F.A.C., provides procedures for the concurrent review of an ERP individual permit located on state-owned submerged lands as authorized by Sections 253.77 and 373.427, F.S. The procedures are identical to those already adopted in Rule 62-312.065, F.A.C., for dredge and fill activities in the Panhandle and Rule 62-343.075, F.A.C., for ERP activities in the rest of the state.

New paragraphs 62-346.090(1)(g) and (2)(l), F.A.C., require distribution of noticed general and individual permits for activities in wetlands and other surface waters to the U.S. Army Corps of Engineers and specific state agencies with statutory authorities under the State's Coastal Zone Management Program. Paragraph 62-346.090(1)(e), F.A.C., is amended to inform applicants that they will be notified if an application for an ERP qualifies for an exemption. Paragraph (2)(c) is amended to provide that an applicant may declare an application to be complete at any time, as provided in Section 373.4141, F.S. Paragraph (2)(d) is amended to reflect that the Department will not refund any tendered application fee upon a determination that an activity is exempt from permitting,

because this refund, as required by Section 120.60, F.S., has been superseded by the provisions of Section 373.109, F.S., effective July 1, 2008.

Subsection 62-346.091(1), F.A.C., is amended to update documents that are incorporated by reference for use in implementing Chapter 62-346, F.A.C. Applicant's Handbook Volume I includes significant new text to implement the Phase 2 rules, including adoption of Appendix E, F, and G. Applicant's Handbook Volume II is revised to incorporate "lessons learned" since the Phase 1 rules were implemented, as discussed below. The "Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection" is revised to provide the NFWFMD with new responsibilities for reviewing and taking agency action on Phase 2 applications, namely to increase NFWFMD's review of activities located in wetlands and other surface waters from 0.5 acre to up to 5 acres. Subsection (d) is revised to omit a number of provisions from Chapter 6 of the Florida Development Manual that are now out of date and conflict with more specific requirements contained in Chapter 62-346, F.A.C., and the Applicant's Handbook. Chapter 5 of the Florida Development Manual is added because it contains helpful information on calculating runoff volume using the rational method, the use of which is added following receipt of public comments. The new State of Florida Erosion and Sediment Control Designer and Reviewer Manual is added in paragraph (f).

Subsection 62-346.095(1), F.A.C., re-titled "Operation, Maintenance, and Inspections," is amended to reflect that multi-ownership of a system may be appropriate in some cases. Paragraph (1)(b) is amended to address the unique circumstances of mining operations. Subsection (2) is amended to add simplified provisions for converting systems serving individual, private single-family dwelling units from the construction to the operation and maintenance phase, and to clarify that conversion to the operation and maintenance phase for all permittees will not require payment of a fee. Subsection (3) is amended to provide that the conversion to the operating phase for any phase or independent portion of a larger system cannot occur until after construction of all roads, as well as stormwater conveyance, treatment and attenuation systems for that phase have been completed. Subsection (6) is amended to provide that systems for individual, private single-family dwelling units are not subject to an automatic three-year inspection following conversion to the operation phase, and to clarify that any permit is subject to special permit conditions to provide specific inspection requirements depending on the nature of the system.

Paragraph 62-346.100(1)(a), F.A.C., is amended to delete language that incorrectly implied that noticed general permits were subject to modification. Paragraph (1)(d) is amended to clarify changes that will qualify as minor permit modifications.

Subsection (3) is amended to require compliance with the additional conditions for issuance in Rule 62-346.302, F.A.C., when applicable, as a requirement for qualifying for a permit modification.

Rule 62-346.150, F.A.C., is added to provide requirements for relinquishing and abandoning a system as authorized by Section 373.426, F.S.

Subsection 62-346.301(1), F.A.C., is amended to expand the scope of the conditions that will apply to issuance of all surface water management systems. New paragraph (d) provides that a permitted system must not adversely affect the value of functions provided by wetlands and other surface waters to fish and wildlife and listed species; this comports with the ERP rules in the rest of the state. The presumption provisions in Subsection (3) are deleted, and subsection (4) is added because the scope of qualifying for issuance of a Phase 2 permit is broader than was the case under the Phase 1 rules.

New Rule 62-346.302, F.A.C., incorporates the additional conditions for issuance of an ERP, identical to the ERP rules in the rest of the state. Specifically, paragraph (a) provides the public interest balancing test factors in Section 373.414(1)(a), F.S., that will be applied to activities located in wetlands and other surface waters. Paragraph (b) requires consideration of the cumulative impacts on wetlands and other surface waters for all activities, as required by Section 373.414(8), F.S. Paragraph (c) provides criteria for protecting waters that are used for shellfish harvesting, as required by Sections 403.061(29) and 373.414(9), F.S. Paragraph (d) incorporates provisions for protecting estuaries and lagoons from the harmful effects of vertical seawalls, as required by Sections 373.414(5) and 373.414(9), F.S. Subsection (2) requires a consideration of an applicant's past history of violating wetland resource and Part IV, Chapter 373, F.S., rules in the same manner as those violations are considered in the ERP rules in the rest of the state.

Paragraph 62-346.381(1)(b), F.A.C., is amended to require placement of a sign during construction, which will aid in compliance inspections. Paragraph (d) is updated to reflect current erosion and sedimentation methodology and references. Paragraph (g) is amended to clarify as-built certification requirements, including providing simplified procedures associated with construction of private single-family dwelling units. The requirement for on-site observation by a registered professional is stricken in response to comments. Specific requirements of the certification are stricken in favor of more general language, which was also included in the as-built certification Form 62-346.900(4). Paragraph (k) is amended to reflect that entities with the power of eminent domain or contracts to purchase must demonstrate proof of ownership before construction, and paragraph (n) is amended to require transfer of a lease to the current landowner or new lessee prior to or on the date of expiration of a lease; these changes are intended to reduce potential trespass and compliance conflicts.

Most of the forms in Rule 62-346.900, F.A.C., are amended to reference surface water management systems instead of stormwater management systems. The application form in subsection 62-346.900(1), F.A.C., is amended to: (1) incorporate informational requirements necessary to evaluate activities in, on, over, or that may affect wetlands and other surface waters; (2) update and correct language; (3) add provisions to facilitate application review; and (4) standardize the form with the ERP application used in the rest of the state, which also serves as a joint application with the U.S. Army Corps of Engineers. A new Form (5) is added to provide a streamlined process for an individual, private single-family dwelling unit to inform the Department of completion and request inspection of the system. New Form (11) provides a standardized format for a party to request verification of an exemption. Copies of the forms are contained in Appendix C within Applicant's Handbook Volume I.

Applicant's Handbook Volume I, re-titled "General and Environmental," is updated to reflect the changes described to Chapter 62-346, F.A.C. In addition, several new sections are added: (1) section 3.6, which discusses procedures for relinquishment and abandonment of systems; (2) criteria for storage and conveyance are removed from Applicant's Handbook Volume II and moved to a new section 8.4.5; (3) criteria on low flow and base flow were removed from Applicant's Handbook Volume II and moved to new sections 8.4.6 through 8.4.6.2; (4) sections 8.5 through 8.5.2, explaining the Additional Conditions for Issuance provisions from Rule 62-346.302, F.A.C.; (5) section 8.4.7, providing guidance on design and performance standards for dams; and (6) all of section 10, which provides a discussion, taken from the Applicant's Handbooks and Basis of Review from the four water management districts outside of the Panhandle, on the environmental criteria used in assessing activity impacts to wetlands and surface waters. Appendix A is amended to revise the Operating Agreement between the Department and the NFWFMD, most notably increasing the District's responsibility for permitting, compliance, and enforcement from no more than 0.5 acre of dredge and fill activity for transportation impacts (ingress, egress, and interior roadways, bridges, and culvert crossings, but excluding individual residential driveways), to five or fewer acres of wetland or other surface water impact for any activity. The ERP Application Form, 62-346.900(1), is expanded in Appendix C to include additional information needed for it to serve as a joint application with the U.S. Army Corps of Engineers (in accordance with the Department/WMD/USACE Operating Agreement last amended November 30, 1998), and to authorize activities on state-owned submerged lands; these changes are generally consistent with the ERP application form used throughout the rest of the state. A new notice of completion of construction form 62-346.900(5) is added to simplify the process for converting construction permits for individual, private single-family dwelling units to an operation

and maintenance phase. Also added is a new form 62-346.900(11), for all persons to request verification of an exemption. New checklists are included in Appendix D for homeowners and property owner associations to use for purposes of demonstrating that they have adequate legal and financial responsibility to operate and maintain a permitted system. A new Appendix E provides standardized financial responsibility documents required for mitigation activities. A new Appendix F provides guidance for evaluating activities involving borrow pits, including discussion on when or whether an ERP permit is required to continue mining in a borrow pit that was in existence prior to the effective date of the Phase 2 rules. Finally, a new Appendix G provides procedures for evaluating when modifications to stormwater treatment systems previously regulated under Chapter 62-25, F.A.C., would require a permit under Part IV of Chapter 373, F.S.

Applicant's Handbook Volume II contains numerous amendments needed to address questions and issues that have been identified since the Phase 1 rules were adopted on October 1, 2007. As in Applicant's Handbook Volume I, some of the edits are to improve clarity and content, and to make technical corrections and updates. Other, more significant edits include: (1) new language in section 3.3(a) deleting National Resource Conservation Service Type II rainfall distribution requirements and make the use of the Type III distribution available throughout the Panhandle; (2) striking the use of the F.D.O.T. Drainage Manual Appendix B as a tool for estimating rainfall intensity and volume in section 3.3.4; (3) addition of language in section 4.5.1 which provides that the addition of impervious surfaces to existing systems, and projects that discharge to tide, will not be required to meet streambank protection criteria; (4) a new section 4.5.2 that provides guidance and criteria for estimating peak runoff rates using the modified rational formula; (5) a new section 4.10 clarifying that dry retention ponds, detention ponds with filtration, dry detention with underdrains, and wet detention ponds are considered impervious when performing hydrologic runoff calculations; (6) a new section 4.11 adding special criteria for rural subdivisions that generally contain large lots with very little impervious area; (7) a new section 4.12 providing a detailed explanation of the water quality volume calculation as it relates to the amount of runoff that must be retained; (8) new language in section 8.6 providing criteria for applicants who do not want to install a littoral zone around the perimeter of a proposed wet detention pond system; (9) new language in section 8.9 providing that control elevations (normal pool stage for wet detention ponds) shall be set at or above the normal ground water elevation; (10) deletion of language in section 11.2 that implied that Vegetated Natural Buffers (VNBs) could only be used in conjunction with another "primary" treatment system that complied with the BMP section of the Handbook; (11) deletion of inaccurate runoff coefficient values from Table 14-1; (12) corrections to the design example for wet detention

systems in section 14.4; (13) a new section 17.4 providing criteria for mines and other excavations that may occur within limestone and Karst geology; and, (14) a new Appendix B, providing limitations and operation and maintenance guidance for "detention with filtration" systems and the checklist for design parameters for these systems.

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 SERC addresses both "phases" of ERP implementation in the panhandle, including the management and storage of surface waters (MSSW) and the dredging and filling of wetlands. The SERC estimates that approximately 1,100 permit applicants will be affected by the new permit program annually, including approximately 341 small business applicants and 94 small governmental entity applicants. The general public will benefit through more stringent stormwater controls, improvements to water quality and enhanced wetlands management.

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: 161.055, 253.03(7), 253.77, 258.43, 373.026(7), 373.026, 373.043, 373.044, 373.046, 373.109, 373.113, 373.118, 373.413, 373.414(9), 373.414, 373.4145, 373.416, 373.418, 373.421(2), 373.421, 373.426, 373.427, 373.439, 380.06, 403.0877, 403.805(1) FS.

LAW IMPLEMENTED: 120.569(2), 120.60, 120.60(2), 120.60(6), 161.041, 161.055, 218.075, 253.03, 253.77, 258.42, 258.43, 373.019, 373.026, 373.026(7), 373.042, 373.0421, 373.043, 373.046, 373.109, 373.117, 373.118, 373.119, 373.403, 373.406, 373.409, 373.413, 373.4132, 343.414, 373.4141, 373.4142, 373.4145, 373.416, 373.416(2), 373.418, 373.419, 373.421, 373.421(2), 373.4211, 373.422, 373.423, 373.426, 373.427, 373.4275, 373.428, 373.429, 373.433, 373.436, 373.439, 380.06, 380.23, 403.813(2), 403.805(1), 403.0877, 403.813(12) 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: Alice Heathcock, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources, 2600 Blair Stone Road – MS 2500, Tallahassee, Florida 32399-2400; telephone (850)245-8483; e-mail: Alice.Heathcock@dep.state.fl.us; or facsimile (850)245-8499. (OGC No. 07-1321)

THE FULL TEXT OF THE PROPOSED RULES IS:

62-346.010 Policy and Purpose.

This rule provides the requirements for processing environmental resource permits, under Section 373.4145(1)(a), F.S., and for obtaining formal determinations of the landward extent of wetlands and surface waters under Chapter 62-340, F.A.C., within the geographical jurisdiction of the Northwest Florida Water Management District (NFWFMD or District). This rule does not preclude the application of any other permit requirements or procedures in other chapters of Title 62, F.A.C. The requirements of this chapter are in addition to and not in lieu of the requirements specified in the Applicant's Handbook Volumes I and II incorporated by reference in Rule 62-346.091, or Chapter 62-341, F.A.C. Unless otherwise specified in this Chapter, "Department" means the Department of Environmental Protection. However, when implemented by the NFWFMD, the term "Department" means "Northwest Florida Water Management District."

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.418, 373.4145, 403.805(1) FS. Law Implemented 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 373.423, 373.426, 373.428, 373.429 FS. History--New 10-1-07, Amended _____.

62-346.020 General Provisions.

(1) This chapter applies to activities within the geographical jurisdiction of the NFWFMD and shall be implemented by both the Department of Environmental Protection ("Department") and the NFWFMD pursuant to Section 373.4145, F.S. The Department and NFWFMD have entered into an Operating Agreement (see definition in Rule 62-346.030, F.A.C.), determining which agency is responsible for reviewing and taking agency action on specified types of activities categories of applications and otherwise implementing the provisions of Part IV of Chapter 373, F.S., within the geographical jurisdiction of the NFWFMD.

(2) Except for those activities that continue to be governed by Chapter 62-25 or 62-312, F.A.C., pursuant to Section 373.4145(6), F.S., all Department actions concerning environmental resource permit applications, suspensions, revocations, modifications, extensions, and transfers, including emergency actions, associated with activities regulated under Part IV of Chapter 373, F.S., within the geographical jurisdiction of the NFWFMD are governed by this chapter, the Applicant's Handbook Volumes I and II, Chapter 62-341, F.A.C., and the Operating Agreement.

(3) The responsibilities for the review, and agency action on notices, petitions, permits, and compliance, and enforcement of activities that cross the geographical boundary of the NFWFMD will be governed by interagency agreement as provided in Section 373.046(6), F.S. Applications for activities requiring a permit under this chapter that extend into the geographical area of the Suwannee River Water Management District shall be submitted to and processed by the district office of the Department or water management district covering the location where the majority of the project

activities are proposed, and in accordance with the Operating Agreement between the Department and the applicable water management district as described in subsection (1) above, or in Chapter 62-113, F.A.C.

(4) No change.

(5) Applicants are advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, without obtaining the required lease, easement, or other form of consent authorizing the proposed use. Therefore, an applicant is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned submerged lands or other state-owned lands. For activities that are located on state-owned submerged lands, Sections 253.77 and 373.427, F.S., and Rules 18-21.00401 (October 12, 1995) and 62-346.075, F.A.C., require that neither the authorization to use sovereign submerged lands nor an individual (including conceptual approval) environmental resource permit may be issued unless the activity qualifies for both. Until the effective date of the rules adopted under Section 373.4145(1)(b), F.S., dredging, filling, and construction in, on or over surface waters of the state require separate permits under Chapter 62-312, F.A.C.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.414, 373.4145, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.413, 373.414, 373.4145, 373.416, 373.421, 373.426 FS. History--New 10-1-07, Amended _____.

62-346.030 Definitions.

Except as otherwise defined in this chapter or in the Applicant's Handbook, the definitions in Rules 62-4.020, 62-340.200, and 62-341.021, F.A.C., and the following definitions apply to this chapter and to the Applicant's Handbook Volumes I and II. ~~However, the definitions in subsections 62-346.030(8), (11), (17), (20), (24), (29), (35), (39), and (42), F.A.C., are not applicable under this rule until the effective date of the rules adopted under Section 373.4145(1)(b), F.S.:~~

(1) No change.

(2) "Activity" or "Activities," means construction, alteration, operation, maintenance, abandonment, or removal of any surface water stormwater management system. ~~Upon the effective date of the rules adopted under Section 373.4145(1)(b), F.S., this term will also include including dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S in, on, or over surface waters of the state.~~

(3) through (6) No change.

(7) "Completion of Construction" means the time when all components of the surface water stormwater management system are installed and fully functional.

(8) No change.

(9) "Construction" means any activity including land clearing, earth-moving, or the erection of structures that will result in the creation or alteration of a system.

(10) through (11) No change.

~~(12) "Department" means the Department of Environmental Protection. However, when implemented by the NFWFMD, the term "Department" means "Northwest Florida Water Management District."~~

~~(12)(13) "Detention" means the collection and temporary storage of stormwater with subsequent gradual release of the stormwater.~~

(13) "Direct discharge" means a discharge without prior opportunity for mixing and dilution sufficient to prevent a lowering of the existing ambient water quality.

(14) through (15) No change.

(16) "Endangered species" means those animal species that are listed in Rule 68A-27.003 (as amended December 16, 2003), F.A.C., and those plant species that are listed as endangered in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004), when such plants are found to be located in a wetland or other surface water).

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

~~(18)(17) "Enhancement" means improving the ecological value of wetlands, other surface waters, or uplands that have been degraded in comparison to their native historic condition.~~

(18) through (22) renumbered (19) through (23) No change.

~~(24)(23) "Isolated wetland" means any area that is determined to be a wetland in accordance with Chapter 62-340, F.A.C., but that does not have any connection via wetlands or other surface waters, including excavated waterbodies or a series of excavated waterbodies, to the landward extent of any of the following waters as defined in Rule 62-312.030, F.A.C.:~~

~~(a) Atlantic Ocean out to the seaward limit of the state's territorial boundaries;~~

~~(b) Gulf of Mexico out to the seaward limit of the state's territorial boundaries;~~

~~(c) Bays, bayous, sounds, estuaries, lagoons and natural channels and natural tributaries thereto;~~

~~(d) Rivers, streams and natural tributaries thereto;~~

~~(e) Natural lakes;~~

~~(f) The waters as defined in Sections 403.031(13)(a) and (b), F.S.;~~

(g) Waters within mosquito control impoundments constructed as part of a governmental mosquito control program, excluding those portions which have become wetlands or other surface waters based on a change to vegetative dominance as defined in Chapter 62-340, F.A.C., solely because of construction of the impoundment. Specifically included as wetlands and other surface waters are those areas which were naturally occurring wetlands or other

surface waters before construction of the impoundment but which have had their connection to other wetlands or other surface waters severed as a result of the construction of dikes. Also included as wetlands and other surface waters are areas where vegetative dominance of obligate, facultative wet, and facultative species, as defined in Rule 62-340.450, F.A.C., has been lost solely because of construction of the impoundment.

~~(25)(24) "Listed species" means those animal species that are endangered, threatened or of special concern and are listed in Rules 68A-27.003 (as amended December 16, 2003), 68A-27.004 (as amended May 15, 2008), and 68A-27.005 (as amended November 8, 2007), F.A.C., and those plant species listed in 50 Code of Federal Regulation 17.12, (as amended April 8, 2004) June 19, 2006, when such plants are located in a wetland or other surface water.~~

~~(26)(25) "Littoral zone" means that portion of a stormwater management system wet detention pond that is designed to contain rooted emergent aquatic plants.~~

~~(27)(26) "Materials," when used in the context of "filling," means matter of any kind, such as, sand, clay, silt, rock, dredged material, construction debris, solid waste, pilings or other structures, ash, and residue from industrial and domestic processes. The term does not include the temporary use and placement of lobster pots, crab traps, or similar devices or the placement of oyster cultch pursuant to Section 597.010, F.S., and Chapter 5L-3, F.A.C. (April 9, 2007).~~

(27) through (29) renumbered (28) through (30) No change.

~~(31)(30) "Off-line" means the storage of a specified portion of the stormwater in such a manner so that subsequent runoff in excess of the specified volume of stormwater does not flow into the area storing the treatment volume initial stormwater.~~

~~(32)(31) No change.~~

~~(33)(32) "Operating Agreement," refers to the "Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection," incorporated by reference in Rule 62-346.091, F.A.C. A copy of the Operating Agreement is contained in Appendix A of Applicant's Handbook Volume I can be obtained by contacting a district or branch office of the Department or NFWFMD, or at the Internet sites of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, or NFWFMD at: <http://www.nwfwmd.state.fl.us/permits/ruleform.htm>.~~

~~(34)(33) No change.~~

~~(35)(34) "Permanent pool" means that portion of a wet detention pond that normally holds water (e.g., between the normal water level and the pond bottom), excluding any water volume claimed as wet detention treatment volume pursuant to Section 8.5 of the Applicant's Handbook Volume II.~~

~~(36)(35) No change.~~

~~(37)~~(36) “Project area” means the area being modified or altered in conjunction with a proposed activity requiring a permit under this chapter, including all areas that are part of the surface water management system.

~~(38)~~(37) No change.

~~(39)~~(38) “Regional stormwater management system facility” means a system designed, constructed, operated, and maintained to collect convey, store, absorb, inhibit, treat, use or reuse stormwater to prevent or reduce flooding, overdrainage, environmental degradation and water pollution or otherwise affect the quantity and quality of discharges ~~accept and treat stormwater~~ from multiple parcels and projects within the drainage area served by the regional system facility, where the term “drainage area” refers to the land or development that is served by or contributes stormwater to the regional system facility.

~~(40)~~(39) No change.

~~(41)~~(40) “Registered Professional” means a professional registered or licensed by and in the State of Florida and who possesses with the necessary expertise and experience necessary for the competent preparation, submittal and certification of documents and materials, and performing other services required in support of permitting, constructing, altering, inspecting, and operating a proposed or existing activity regulated under Part IV of Chapter 373, F.S. in the fields of hydrology, hydrogeology, hydraulics, drainage, flood control, erosion and sediment control, and stormwater pollution control, and who is qualified by education and experience in the technical analyses, design, and application of required structures, processes, and systems, to design and certify the stormwater management systems under review. Examples of registered professionals, authorized pursuant to Chapter 455, F.S., and the respective practice acts by which they are regulated, are professional engineers licensed under Chapter 471, F.S., professional landscape architects licensed under Chapter 481, F.S., professional surveyors and mappers under Chapter 472, F.S., and professional geologists licensed under Chapter 492, F.S. ~~Registered professionals may sign and seal only those drawings, documents, and calculations commensurate with their skills, background, knowledge, education, and experience, and in accordance with their respective practice acts.~~

~~(42)~~(41) “Remove” or “removal” means ~~cessation of use and maintenance activities for a system, or part of a system, accompanied by~~ elimination of all or part of the system.

(42) through (43) renumbered (43) through (44) No change.

~~(45)~~(44) “Routine custodial maintenance” means those activities described in section ~~3.4.3.4(b)~~ 3-4.2.5(b) in Applicant’s Handbook Volume I.

(45) through (47) renumbered (46) through (48) No change.

~~(49)~~(48) “Sensitive Kkarst Aareas” means those areas described in Section 17 and Appendix A of Applicant’s Handbook Volume II, where the Floridan aquifer is at or near the land surface.

~~(50)~~(49) No change.

~~(51)~~ “Stormwater management system” means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.

~~(52)~~(50) “Surface water management system” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof. The terms “surface water management system” or “system” include areas of dredging or filling, as those terms are defined in Sections 373.403(13) and (14), F.S. ~~However, until the effective date of the rules authorized by Section 373.4145(1)(b), F.S., the term “surface water management system” is limited to stormwater management systems.~~

~~(53)~~ “Surface water” means water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth’s surface.

~~(51)~~ “Surface waters of the state” means those surface waters regulated pursuant to Rule 62-312.030, F.A.C.

~~(54)~~(52) No change.

~~(55)~~ “Threatened species” means those animal species listed in Rule 68A-27.004 (as amended May 15, 2008), F.A.C., and those plant species listed as “threatened” in 50 Code of Federal Regulations 17.12 (as amended April 8, 2004) when such plants are located in a wetland or other surface water.

~~(56)~~(53) No change.

~~(57)~~(54) “Traversing work” means any artificial structure or construction that is placed in or across a stream; or other flowing watercourse, or an impoundment.

(55) through (57) renumbered (58) through (60) No change.

~~(61)~~(58) “Wetlands stormwater management system” means a stormwater management system that incorporates those wetlands described in ~~s~~Section 10.3 of the Applicant’s Handbook Volume II into the stormwater management system to provide stormwater treatment.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.414, 373.415, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.019, 373.117, 373.403, 373.413, 373.414, 373.415, 373.416, 373.418, 373.421, 373.4211, 373.426, 403.0877, 403.813(1) FS. History–New 10-1-07, Amended _____.

62-346.040 Formal Determinations of the Landward Extent of Wetlands and Other Surface Waters.

Formal determinations of the landward extent of wetlands and other surface waters shall be performed in accordance with the procedures in Rule 62-343.040, F.A.C.

Rulemaking Specific Authority 373.026(7), 373.043, 373.4145, 373.421(2), 403.0877 FS. Law Implemented 373.4145, 373.421(2) FS. History—New 10-1-07.

62-346.050 Permits Required.

(1) An individual permit under this chapter must be obtained from the Department prior to the construction, alteration, operation, maintenance or repair (excluding routine custodial maintenance), abandonment, or removal of any surface water management system, unless the activity:

(a) Qualifies for an exemption under Section 373.406 or 403.813(1), F.S., or Rule 62-346.051, F.A.C., or a noticed general permit under Chapter 62-341, F.A.C. an individual permit under this chapter must be obtained from the Department prior to the construction, alteration, operation, maintenance or repair (excluding routine custodial maintenance), abandonment, or removal of a stormwater management system. This includes all applications for conceptual approval permits. However, the establishment of a mitigation bank under Chapter 62-342, F.A.C., shall not require a permit under this chapter; Applications for individual permits will be reviewed and acted upon in accordance with subsection 62-346.090(2), F.A.C. or

(b) Meets the following thresholds and criteria and is not part of a larger common plan of development or ownership:

1. The system is not located in whole or in part in, on, or over wetlands or other surface waters;

2. The system consists of less than or equal to 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;

3. The system consists of less than or equal to 5,000 square feet of building area or other impervious area not subject to vehicular traffic;

4. The system has less than or equal to one acre total project area.

5. The system does not have a direct discharge into an Outstanding Florida Water, as listed in Rule 62-302.700, F.A.C.

6. The system does not cause any of the following:

a. Adverse water quantity impacts to receiving waters and adjacent lands;

b. Adverse flooding to on-site or off-site property;

c. Adverse impacts to existing surface water storage and conveyance capabilities;

d. A violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and

62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;

e. Adverse secondary or cumulative impacts to the water resources.

7. The new work, by itself, or in combination with a system that has come into existence since the effective date of this chapter, cannot cumulatively exceed any of the thresholds in subparagraphs 62-346.050(1)(b)1. through 5., F.A.C., or violate the criteria of subparagraph 62-346.050(1)(b)6., F.A.C.

(2) Notwithstanding the provisions of this section, an individual permit under this chapter is required for the construction, alteration, operation, maintenance, abandonment, or removal of any dry storage facility for 10 or more vessels that is functionally associated with a boat launching area, including when the dry storage facility does not involve any work within the landward extent of wetlands or other surface waters. Activities qualify for a noticed general permit if they meet the criteria in Chapter 62-341, F.A.C. Noticed general permits will be reviewed and acted upon in accordance with subsection 62-346.090(1), F.A.C.

(3) Applications for individual permits will be reviewed and acted upon in accordance with subsection 62-346.090(2), F.A.C. Noticed general permits will be reviewed and acted upon in accordance with subsection 62-346.090(1), F.A.C. In addition to any permits required under this chapter, dredging and filling in, on, or over surface waters of the state remain subject to the requirements of Chapter 62-312, F.A.C., including the need to obtain a separate permit under that chapter until the effective date of the rules adopted under Section 373.4145(1)(b), F.S.

(4) Permits for construction or alteration of activities regulated under this chapter must be converted to an operation and maintenance phase in accordance with Rule 62-346.095, F.A.C.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.118, 373.409, 373.413, 373.4132, 373.4145, 373.416, 373.426, 403.0877 FS. History—New 10-1-07, Amended _____.

62-346.051 Exemptions from Permitting.

(1) The activities set forth in this section do not require an environmental resource permit under this chapter or Chapter 62-341, F.A.C., as applicable, and may be conducted without notice to the Department, unless otherwise specifically provided herein or in Sections 373.406, 373.4145(3), or 403.813, F.S., or in Chapters 62-25 or 62-312, F.A.C. The performance of activities in accordance with the provisions of the exemptions set forth in this section does not relieve the person or persons who are using the exemption or who are constructing or otherwise implementing the activity from

meeting the permitting, authorization, or performance requirements of other rules of the Department, the Board of Trustees, the water management districts, or other federal, state, or local governmental agencies. Any person proposing an activity under this section is also advised that such activity is subject to obtaining any required Works of the District permit pursuant to Chapter 40A-6, F.A.C. (March 2, 2000), if the work involves connection with, placement of structures in or across, or otherwise makes use of Works of the District.

(2) No change.

(3) Activities exempt under Section 373.406, F.S. Activities Below Threshold Criteria. The construction, alteration, operation, and maintenance of a whole and complete project that meets all the thresholds in paragraphs (a) through (e), all the criteria in paragraph (d), and is not part of a larger common plan of development or sale:

(a) Less than or equal to 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic, such as roads, parking lots, driveways, and loading zones;

(b) Less than or equal to 5,000 square feet of building area or other impervious area not subject to vehicular traffic;

(c) Less than or equal to one acre total project area; and

(d) Such project also must meet all of the following criteria:

1. There is no direct discharge into Outstanding Florida Waters, as listed in Rule 62-302.700, F.A.C. A discharge is not direct if it enters another water body or is located outside of the boundary of the Outstanding Florida Water, provided that, in either case, there is sufficient mixing to prevent a lowering of the existing ambient water quality in the Outstanding Florida Water.

2. Will not cause adverse water quantity impacts to receiving waters and adjacent lands;

3. Will not cause adverse flooding to on-site or off-site property;

4. Will not cause adverse impacts to existing surface water storage and conveyance capabilities;

5. Will not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244, and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.; and

6. Will not cause adverse secondary impacts to the water resources. Until the effective date of rules required under Section 373.4145(1)(b), F.S., this shall be limited to not causing a violation of water quality standards and not lowering or raising seasonal water levels in adjacent surface waters of the state to an extent that prevents the stormwater management

system from functioning as designed, not adversely altering normal water level fluctuations in adjacent surface waters of the state, and not otherwise adversely impacting the maintenance of surface or ground water levels, or surface water flows established pursuant to Section 373.042, F.S.

~~Notwithstanding the above provisions of this subsection, an individual permit is required for the construction, alteration, operation, maintenance, abandonment, or removal of any dry storage facility for 10 or more vessels that is functionally associated with a boat launching area, including when the dry storage facility does not involve any work within the landward extent of surface waters of the state.~~

(4) Bridges, Driveways, and Roadways.

(a) No change.

(b) The construction or maintenance of culverted driveway or roadway crossings and bridges of wholly artificial, non-navigable drainage conveyances, provided that:

1. through 9. No change.

10. The person performing the exempt activity must implement measures for erosion and pollution control using best management practices, including turbidity curtains or similar devices and other site specific practices, in strict adherence to "The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual" (Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, April 2006), "State of Florida Erosion and Sediment Control Designer and Reviewer Manual" (HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007), the Florida Department of Transportation's "Standard Specifications for Road and Bridge Construction, (2007)" and Chapter 6 of "The Florida Development Manual: A Guide to Sound Land and Water Management (Department of Environmental Regulation, June 1988)," to prevent violations of state water quality standards. Temporary erosion control measures must be implemented prior to and during construction, and permanent erosion control measures for all exposed soils must be completed within seven calendar days of the most recent construction activity;

11. through 14. No change.

(c) The construction of the following minor roadway safety projects, provided that the capacity of existing swales, ditches or other stormwater management systems is not reduced, the projects are not located in wetlands or other surface waters, and the projects include best management practices during construction to prevent secondary impacts in adjacent wetlands or other surface waters due to erosion and sedimentation:

1. through 2. No change.

3. Road widening and shoulder paving projects which do not result in the creation of additional traffic lanes; or

4. No change.

(d) No change.

In accordance with Section 373.4145(3)(e), F.S., the adoption of the noticed general permit in Rule 62-341.448, F.A.C., does not supersede this exemption.

(5) Docking, Pier, and Boat Ramp Facilities – Construction, Replacement or Repair.

(a) The construction, replacement or repair of pilings and dolphins associated with private docking facilities or piers, and the installation and repair of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities in accordance with Section 403.813(1)(b), F.S. This exemption shall include the construction and repair of structures on the dock, such as gazebos, or adjacent to the dock, such as boat shelters, provided such structures are not enclosed with walls and doors, are not used for residential or commercial purposes, or storage of materials other than those associated with water dependent recreational use, and provided the structures, including any roof area extending outside the footprint of the dock, does not exceed, together with the docking facility, the limitations specified in Section 403.813(1)(b), F.S. Any dock and associated structure shall be the sole dock constructed pursuant to this exemption as measured along the shoreline for a minimum distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot. For the purposes of this exemption, multi-family living complexes and other types of complexes or facilities associated with the proposed private dock shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property.

(b) through (c) No change.

(d) The construction and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists, or the construction and maintenance to design specifications of boat ramps open to the public in any wetlands or other surface waters where navigational access to the proposed ramp exists in accordance with Section 403.813(1)(c), F.S. Except as otherwise provided in this subsection, the installation of docks that are associated with and adjoining boat ramps constructed pursuant to this exemption shall be limited to an area of 500 square feet or less over wetlands and other surface waters ~~of the state~~. For the purpose of this exemption, artificial bodies of water shall include residential canal systems, canals permitted by a water management district created under Section 373.069, F.S., and artificially created portions of the Florida Intracoastal Waterway.

(e) No change.

(6) No change.

(7) Maintenance and Restoration of Systems.

(a) Maintenance activities in accordance with Sections 403.813(1)(f) and (g), F.S., including the notification requirements of Section 403.813(1)(f), F.S. The Department's interpretation and implementation of these exemptions is explained in section 3.4.3.5 ~~3.4.2.6~~ of the Applicant's Handbook Volume I.

(b) through (e) No change.

(8) Mosquito Control Activities, Surface Waters or Wetlands Created by – Construction, alteration, operation, maintenance, removal, and abandonment of surface water ~~stormwater~~ management systems, dams, impoundments, reservoirs, appurtenant works, or works in, on, or over lands that have become surface waters or wetlands solely because of mosquito control activities, in accordance with the provisions in Rule 62-340.750, F.A.C.

(9) through (12) No change.

(13) The construction, alteration, maintenance, removal or abandonment of recreational paths that:

(a) Are not located within wetlands or other surface waters ~~of the state~~;

(b) Include best management practices during construction to prevent secondary impacts in adjacent wetlands and ~~or~~ other surface waters due to erosion and sedimentation;

(c) Have a width of eight feet or less for unidirectional paths, and 12 feet or less for bidirectional paths; and

(d) No change.

(14) Seawall and Riprap Shore Stabilization – Construction, Restoration and Repair.

(a) No change.

(b) The restoration of a functional seawall or riprap in accordance with Section 403.813(1)(e), F.S., and the restoration of a seawall or rip rap that has been rendered non-functional by a discrete event, such as a storm, flood, accident, or fire. Such restoration shall be at or upland of its previous location, or within 18 inches waterward of its previous location, as measured from the face of the existing seawall slab to the face of the restored seawall slab, or from the front slope of the existing riprap to the front slope of the restored riprap. No filling can be performed except in the actual restoration of the seawall or riprap. This shall not be construed to authorize reclamation of land ~~No construction shall be undertaken without necessary title or leasehold interest, especially~~ where private and public ownership boundaries have changed as a result of natural occurrences such as accretion, reliction and natural erosion. ~~This exemption shall be limited to functioning seawalls or riprap.~~ This exemption shall not affect the permitting requirements of Chapter 161, F.S.

(c) through (d) No change.

(15) Single-Family Residences and Associated Residential Improvements.

(a) The construction or private use of a single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger common plan of development or sale proposed by the applicant and does not involve wetlands and ~~or~~ other surface waters in accordance with Section 373.4145(3)(c), F.S.;

(b) Stormwater management ~~systems~~ facilities designed to serve single-family residential projects conducted in conformance with Section 403.813(1)(q), F.S.

(16) Utilities.

(a) through (f) No change.

(g) Construction, alteration, maintenance, removal, or abandonment of electrical distribution substation sites with one acre or less of impervious or semi-impervious surface such as access roads, buildings, and equipment pads. The design of above-grade access roads shall not adversely affect the conveyance of surface water flows. The site must be surrounded by swales, as defined in Section 403.803(14), F.S., or other type of equivalent treatment, and must not have a direct discharge to an Outstanding Florida Water. No activities associated with the substation, including access to the site, may be located in wetlands or other surface waters, or within a 100-year floodplain.

(h) Temporary trenches dug by hand or with equipment that create a trench less than two feet wide to install utilities such as communication cables, water lines, and electrical lines, provided such activities:

1. Are not located within wetlands or other surface waters of the state;

2. through 3. No change.

4. Utilize and maintain erosion and soil stabilization controls in accordance with Part IV of ~~the~~ Applicant's Handbook Volume I; and

5. No change.

~~(17) Activities exempt under Section 373.406, F.S.~~

~~(17)(18)~~ Alteration of a wholly owned, artificial surface water created entirely from uplands that does not connect to wetlands or other surface waters of the state, except for those created for the purpose of providing mitigation under Part IV of Chapter 373, F.S., and except where permitted under Chapter 62-25, F.A.C., or this chapter. However, this exemption shall not be applicable until the effective date of the rules adopted under Section 373.4145(1)(b), F.S.

(18) Modification or reconstruction by a city, county, state agency, or water management district, of an existing conveyance system that has not been previously permitted, provided that it is not intended to serve new development, does not have a direct discharge to an Outstanding Florida Water, will not increase pollution loading or change points of discharge in a manner that would adversely affect the designated uses of wetlands or other surface waters, or will not result in new adverse water quantity impacts to receiving waters and adjacent lands. This exemption shall not apply to activities that:

(a) Propose to pipe and fill wetlands and other surface waters, including irrigation or drainage ditches;

(b) Propose to replace a functional treatment swale that was authorized under Chapter 62-25 or 62-346, F.A.C., or

(c) Propose construction exceeding the thresholds and criteria of subsection 62-346.050(1)(b), F.A.C.

~~Rulemaking Specific Authority 373.026(7), 373.043, 373.4145, 403.805(1) FS. Law Implemented 373.406, 373.4145, 403.813(2) FS. History--New 10-1-07, Amended _____.~~

62-346.060 Conceptual Approval Permits.

(1) A conceptual approval permit is a type of individual permit that is binding to the extent of the activity specified in the permit and subject to the limitations in this section. Issuance of a conceptual approval permit is a determination that the conceptual plans are, within the extent of detail provided in the conceptual approval permit application, consistent with applicable rules at the time of issuance. A conceptual approval permit provides the conceptual approval permit holder with assurance, during the duration of the conceptual approval permit, that the engineering and environmental concepts upon which the designs of the conceptual approval permit are based are (in concept, and within the extent of detail provided in the conceptual approval permit) likely to meet applicable rule criteria for issuance of permits for subsequent phases of the project, provided:

(a) There are no changes in the rules governing the conditions of issuance of permits for future phases of the project and the conceptual approval permit is not inconsistent with any Total Maximum Daily Load or Basin Management Action Plan adopted for the waterbody into which the system discharges or is located pursuant to Section 403.067(7), F.S., and Chapter 62-304, F.A.C.; and

(b) No change.

(2) through (4) No change.

~~(5) Applications for conceptual approval permits may be submitted and shall be reviewed by the Department only after the effective date of the rules adopted under Section 373.4145(1)(b), F.S.~~

~~Rulemaking Specific Authority 373.026, 373.043, 373.044, 373.4145, 373.418, 380.06, 403.805(1) FS. Law Implemented 373.026, 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 380.06 FS. History--New 10-1-07, Amended _____.~~

62-346.070 Procedures to Prepare Applications and Notices for Permits, Water Quality Certification, Coastal Zone Consistency Concurrence, and to Request Verification of Qualification for an Exemption.

(1) No change.

(2) Applications and notices shall be prepared as follows:

(a) Applications for individual permits shall be made on Form 62-346.900(1), "Joint Application for Environmental Resource Stormwater Permit/Authorization to Use State-Owned Submerged Lands/Federal Dredge and Fill in Northwest Florida," incorporated by reference herein.

1. Applications to the Department for individual permits must contain one original of the completed application with original signatures on Section A; location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; plans and drawings, calculations, environmental information, and other details requested in the application Section B that depict and describe the design, nature, scope, limits, intent, and functioning of the proposed activities; one paper copy of all the above; and the fee as required by Rule 62-346.071, F.A.C.

2. Applications to the NFWFMD for individual permits can be submitted through the NFWFMD Internet site using the NFWFMD e-permitting on-line portal at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. The application must include as attachments: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; plans and drawings, calculations, environmental information, and other details requested in Section B that depict and describe the design, nature, scope, limits, intent, and functioning of the proposed activities; and the fee as required by Rule 62-346.071, F.A.C. If the applicant does not utilize the electronic application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD. If a paper application is submitted, it must include all requirements of subparagraph ~~62-346.070(2)(a)1.~~, F.A.C., above, as for the Department.

(b) A notice of intent to use a noticed general permit under Chapter 62-341, F.A.C., shall be made at least 30 days prior to initiating the activities, or by such other time as specified in the noticed general permit by submitting a completed Form 62-346.900(2), "Notice of Intent to Use Conduct an Environmental Resource Noticed General Permit in Northwest Florida," incorporated by reference herein.

1. No change.

2. The notice to the NFWFMD can be submitted through the NFWFMD Internet site using the NFWFMD e-permitting on-line portal at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. The notice must include as attachments: location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; plans and drawings, calculations, environmental information, and other details required in the noticed general permit that depict and describe the design, nature, scope, limits, intent, and functioning of the proposed activities; and the fee as required by Rule 62-346.071, F.A.C. If the applicant

does not utilize an electronic permit application, paper copies shall be submitted by mail or other delivery service to the appropriate office of the NFWFMD. If a paper application is submitted, it must include all requirements of subparagraph ~~62-346.070(2)(b)1.~~, F.A.C., above, as for the Department.

~~(e) Verification of exemptions may be requested as provided below:~~

~~(c)4. Requests Applications to the Department for verification of an exemptions under this chapter must for stormwater systems that do not involve any work in, on, or over surface waters of the state shall be made either electronically via the Internet site of the Department, or by submitting Form 62-346.900(11) – "Request for Verification of an Exemption," which is hereby adopted and incorporated by reference, or by submitting an alternative written request such as by letter or e-mail. Exemption verification requests to the NFWFMD can be submitted through their Internet site. an "Application for Stormwater Permit in Northwest Florida" in accordance with paragraph 62-346.070(2)(a), F.A.C., or by letter. Applications for verification of any exemption that involves work in, on, or over waters of the state shall be made either on Form 62-312.900(1), "Joint Application for Works in the Waters of Florida," incorporated by reference herein, or by letter. All requests for verification of an exemption The application or letter must contain location map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; the fee required by Rule 62-346.071, F.A.C., two sets of plans and drawings, calculations, environmental information, and other supporting documents that clearly and legibly depict and describe the proposed activities in detail sufficient to demonstrate compliance with the terms, conditions, and limitations of the exemption; and identification (by number or description) to the rule or statutory exemption sought. If the request is by letter or e-mail, it must also include or be followed up within 10 days of submittal of the request with an original authorization signed by the property owner that authorizes Department staff to inspect the property for qualification for the exemption. In the case of e-mail requests, the fee required above must also be received by the Department within 10 days of submittal of the request. Self-certification of a private, single-family dock to the Department is available through the Department's Internet site at: <http://appprod.dep.state.fl.us/erppa/>.~~

~~2. Applications to the NFWFMD for verification of exemption under this chapter can be submitted through the NFWFMD Internet site at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. If the applicant does not utilize the electronic self-certification on the NFWFMD Internet site, then a verification of exemption may be obtained from the NFWFMD by providing the following for review: location~~

map(s) of sufficient detail to allow someone who is unfamiliar with the site to travel to and locate the specific site of the activity; and plans and drawings, calculations, environmental information, and other supporting documents sufficient to depict and describe the proposed activities. The NFWFMD will advise in writing whether the activity is exempt.

(3)(a) An application for a permit must include a certification by the applicant that they have a sufficient real property interest in or control over the land upon which the activities subject to the application will be conducted. Interests in real property are typically evidenced by an instrument such as a warranty deed, lease [subject to the provisions of paragraph (3)(b), below], easement, option agreement, judgment of the court, certificate of title issued by a clerk of the court, or condominium/homeowner's association documents that show that the person or entity has sufficient interest in or control over the property to authorize the activities to be permitted. An entity's contract for sale and purchase shall not be considered to have sufficient real property interest or control over the land that is subject to the application, but such entity shall be allowed to submit an application under this chapter, subject to the provisions of paragraph (3)(c), below. Entities with the power of eminent domain and condemnation authority shall be considered capable of demonstrating that they will have sufficient real property interest or control prior to construction, and do not have to provide the information required in paragraph (3)(d)2., below, but must comply with subparagraph (3)(d)1., below, and shall be required to make provisions to enable staff of the Department to enter onto, inspect, and conduct sampling on the lands that are subject to the application. Persons requesting activities on state-owned submerged land must submit satisfactory evidence of sufficient upland interest in accordance with paragraph 18-21.004(3)(b), F.A.C. (April 14, 2008). Such applicants are advised that necessary consent, lease, easement, or other form of authorization as required under the authority of Chapter 253 and, as applicable, Chapter 258, F.S., and the rules adopted thereunder is required prior to initiating such activities.

(b) When the real property interest is a lease, applicants must provide reasonable assurance that the system will be constructed or altered, and will be operated and maintained in accordance with the permit for the expected life of the system through such means as:

1. Having the fee simple owner included as a co-applicant to the application;

2. Including a written agreement with a governmental entity that provides for the governmental entity to accept transfer and conversion of the permit to the operation and maintenance phase, including completing construction as authorized by the permit, if needed;

3. Having the lease-hold interest over the land and system extending for the expected life of the system; or

4. Having the lease provide that operation and maintenance of the system is to be transferred to a new lessee or the landowner upon revocation, termination, or expiration of the lease.

In all cases, the lease must provide a contingency designating an entity responsible for completing construction of the system in the event construction is not or cannot be completed by the lessee, and an entity responsible for operation and maintenance of the system. If the lease does not so provide, a separate binding document will be required that establishes the landowner or other entity with sufficient financial capability and legal authority and capability to be responsible for completing construction or alteration of the system and for operating and maintaining the system in accordance with the permit.

(c) Where control is demonstrated by a sale and purchase agreement, the permit will be conditioned to prohibit construction and operation until ownership is transferred to the permittee, and to expire if ownership of the property that is subject to the application is not transferred to permittee, unless the permit is transferred to the owner or another entity with sufficient real property interest or control in the land that is subject to the application.

(d) When the applicant does not have sufficient real property interest in or control over the land as provided in paragraph (3)(a), above, the application must include:

1. Written documentation that the fee simple owner, easement holder, governmental entity, or other entity as provided for in section 12.3 of Applicant's Handbook Volume I agrees to operate and maintain the system after completion of authorized construction, and will complete any construction and perform other measures as required by the permit in the event the work is not completed by the permittee or the permittee fails to bring the system into conformance with the terms and conditions of the permit; and

2. Written authorization from the owner or easement holder for staff of the Department or NFWFMD to enter onto, inspect, and conduct sampling or monitoring of the site that is subject to the application. If this is not possible, the applicant shall secure other means for staff to enter onto, inspect, and conduct sampling of the site in a manner that prevents trespass access and conduct necessary site visits for the review, inspection, and sampling of the lands and waters on the property that are the subject of the application.

(4)(3) No change.

(5)(4) For individual permits issued pursuant to this chapter, a completed application shall also constitute an application for certification of compliance with state water

quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 U.S.C. Section 1341. Similarly, an application for water quality certification shall constitute an application for a noticed general or individual (including conceptual approval) environmental resource permit. Issuance of the permit shall constitute certification of compliance with state water quality standards, unless the permit specifically states otherwise. A noticed general permit under Chapter 62-341, F.A.C., also constitutes water quality certification for the activity described in the general permit when the activity is performed according to all applicable rules of the Department and all general and specific conditions of the general permit. Water quality certification is waived for applications that qualify as an exemption under Chapter 373 or 403, F.S., or this chapter. For individual permits issued pursuant to this chapter to federal agencies, a completed application shall also constitute a request for determination of concurrence under Florida's Coastal Zone Management Program as provided in Section 307 of the Coastal Zone Management Act and 15 CFR 930, Subpart D.

(6) For activities regulated under Part IV of Chapter 373, F.S., that are located in or seaward of coastal counties, and that include work in, on or over wetlands or other surface waters, as delineated by the methodology ratified pursuant to Section 373.4211, F.S., a complete application for an individual (including conceptual approval) environmental resource permit, or submittal of a notice to use a general permit under Chapter 62-341, F.A.C., shall also constitute a request for the State's concurrence that the project is consistent with the Florida Coastal Management Program (FCMP). Issuance of an individual or noticed general environmental resource permit shall constitute the state's concurrence that the activity is consistent with the FCMP in accordance with the requirements of Section 380.23, F.S. Denial of an individual permit, or final agency action that the activity does not qualify for a noticed general environmental resource permit shall constitute the state's determination that the activity is inconsistent with the FCMP. Activities that are exempt under Part IV of Chapter 373, F.S., or Chapter 403, F.S., are not subject to review by the Department for consistency with the FCMP; however, a

request to verify qualification to use an exemption may be subject to consistency review by other agencies with statutory authorities in the FCMP.

(7)(5) For paper applications submitted to the Department or NFWFMD, all copies of the plans and drawings, together with supporting calculations and documentation submitted to the Department must be signed, sealed, and dated by a registered professional, as required by Chapter 471, 472, 481 or 492, F.S., as applicable, when the design of the system requires the services of a registered professional for paper applications submitted to the Department or NFWFMD. Materials submitted in support of For electronic applications submitted submissions to the NFWFMD by registered professionals must be electronically certified as allowed by their rules, an electronic signature file must be submitted that shall serve the same purpose as individual signing or sealing of paper applications, plans, and supporting documents.

(8)(6) No change.

(9) A separate mangrove alteration or trimming permit under Sections 403.9321 through .9333, F.S., shall not be required where the mangrove trimming or alteration is authorized and conducted as part of and in conformance with a noticed general or individual environmental resource permit, or when necessary to construct activities conducted in conformance with an exemption authorized under Part IV of Chapter 373, F.S., or under Chapter 62-346.051, F.A.C.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.0877, 403.805(1) FS. Law Implemented 373.026(7), 373.109, 373.117, 373.118, 373.413, 373.4141, 373.4145, 373.416, 373.426, 373.428, 403.0877 FS. History—New 10-1-07, Amended _____.

62-346.071 Fees.

(1) The fee required for the type of permit as provided in this chapter is as follows. The highest fee shall apply whenever an activity meets the criteria for more than one fee category. For purposes of determining the applicable fee, the size of the area of any proposed mitigation shall not be considered as part of the project area.

(a) Individual (including conceptual approval) permits, other than for a mitigation bank, that involves the following amount of dredging, filling, construction, or alteration in, on or over wetlands and other surface waters ~~including conceptual approval permits~~ the highest fee shall apply whenever an activity meets the criteria for more than one fee category in subparagraph (1)(a)1. through (1)(1)~~3~~, below:

1. Greater than or equal to 100 acres	\$14,020
2. Less than 100 acres and greater than or equal to 50 acres	\$11,220
3. Less than 50 acres and greater than or equal to 10 acres	\$9,120
4. Less than 10 acres and greater than or equal to 5 acres	\$7,710
5. Less than 5 acres and greater than or equal to 2 acres	\$5,610
6. Less than 2 acres and greater than or equal to 1 acre	\$4,210
7. Less than 1 acre	\$710
8. New boat slips:	
a. 50 or more	\$5,610
b. 30 to 49	\$4,210
c. 10 to 29	\$2,110
d. 3 to 9	\$850
e. 1 to 2	\$500
9. Deadhead logging	\$500

(b) Individual (including conceptual approval) permits for stormwater management systems (not for other surface water management systems such as mitigation banks, new boat slips, or construction or alteration in, on, over wetlands and other surface waters):

1. Having a A project area of greater than or equal to 100 acres, or that is capable of impounding greater than or equal to 120 acre-feet of water	\$3,510
2. Serving a A project area less than 100 acres but greater than or equal to 40 acres, or that is capable of impounding less than 120 but more than 40 acre-feet of water, or that provides for the placement of 12 or more acres of impervious surface that also constitutes more than 40 percent of the total land area	\$1,340
3. Serving a A project that does not exceed any of the thresholds in 1. or 2., above	\$310
(c)4- Retrofits of existing surface water management systems, in accordance with section 2.10, Applicant's Handbook Volume II	\$310

(d) Individual (including conceptual approval) permits solely for environmental restoration or enhancement activities, provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. For the purposes of this provision, the term "environmental restoration or enhancement" means an action or actions designed and implemented solely to convert degraded or altered uplands, wetlands, or other surface waters to intact communities typical of those historically present, or an action or actions that are designed and implemented solely to improve the quality and condition of currently degraded wetlands or other surface waters to a more healthy, functional, and sustaining condition for fish, wildlife, and listed species

~~(e)5-~~ For a system involving ~~Activities requiring an individual permit involving the following types of~~ Class I solid waste disposal facilities, as defined in subsection 62-701.340(3), F.A.C.:

1.a- New Class I solid waste disposal facility	\$10,520
2.b- Major modification of an existing Class I solid waste disposal facility	\$11,920

(f) Mitigation Banks

1. Mitigation Bank Permit, other than Conceptual Approval	\$6,050
2. Credit Release (credit available for sale)	\$330
3. Credit Withdrawal (actual use of credit)	\$0
4. Mitigation Bank Conceptual Approval Permit	\$6,050
5. Major modifications involving changes to one or more of the following components: service area; credit assessment; success or release criteria; hydrologic structures or alterations; construction or mitigation design that does not increase the project area; elimination of lands; or monitoring or management plans:	
a. Affecting one of the above components	\$1,340

b. Affecting two of the above components	\$2,680
c. Affecting three of the above components	\$4,020
<u>(g)(b) Major modifications (see Rule 62-346.100, F.A.C.), including to mitigation bank permits under Chapter 62-342, F.A.C., that increase the project area or involve four or more of the components listed in sub-subparagraph 62-4.050(4)(h)3.e., F.A.C., except those involving Class I solid waste disposal facilities, as defined in subsection 62-701.340(3), F.A.C., or as otherwise specified above.</u>	Same fee as a new application for the activity
<u>(h)(e) Minor modifications where the modification will not require substantial technical evaluation by the Department, will not lead to substantially different environmental impacts or will lessen the impacts of the original permit, and as further defined in (see Rule 62-346.100, F.A.C.):</u>	
1. <u>To correct minor errors or typographical mistakes or to incorporate changes requested by the Department or required through permits issued by other regulatory agencies, and to change due dates for reporting or performance deadlines when such changes in the due date do not involve any new work, any new work locations, or any new activities, and will not alter, replace, or otherwise eliminate the requirements for otherwise performing the work required by the permit</u> Minor modifications in accordance with paragraph 62-346.100(1)(d), F.A.C.	\$ 0
2. No change.	
3. That consist of a transfer of an individual permit, or a time extension	\$80
4. <u>That consist of minor technical changes, minor adjustments to work locations, materials, dimensions or configurations, or elimination of work authorized by the permit when the original permit fee of the issued permit is less than \$300</u>	<u>\$250</u>
5. <u>That consist of minor technical changes, minor adjustments to work locations, materials, dimensions or configurations, or elimination of work authorized by the permit when the original permit fee of the issued permit is more than or equal to \$300</u>	<u>\$420</u>
6. 4. For minor modifications of Individual or Conceptual Approval Permits for Class I solid waste disposal facilities	\$2,110
(i) <u>Individual permits to construct and operate systems for which a conceptual approval permit has been obtained:</u>	
1. <u>First phase of a system, if the construction and operation permit is submitted concurrently with the application for the conceptual approval permit, and construction is proposed to commence within two years of issuance of the conceptual approval permit</u>	<u>\$0</u>
2. <u>First or any subsequent phase of a system, if not requested concurrently with the application for the conceptual approval permit</u>	<u>The fee as established in subsection 62-346.071(1), F.A.C.</u>
(j)(e) (d) Verification of qualification to use a Noticed General Permit, except:	\$250
a. 1. Paving of existing municipally-owned roads under Rule 62-312.824 or 62-341.448, F.A.C.	\$0
b. 2. Environmental enhancement and restoration activities conducted by the U.S. Army Corps of Engineers under Rule 62-341.486, F.A.C.	\$0
(k)(e) (c) Variances and waivers:	
1. U nder Section 120.542, F.S.	\$0
2. <u>Under Section 373.414(17), F.S.:</u>	
a. <u>Of the prohibition of work in waters approved for shellfish harvesting</u>	<u>\$170</u>
b. <u>Of all other types of variances</u>	<u>\$830</u>
(l)(f) (f) Verification that an activity is exempt from regulation under Section 373.406 or 403.813(1), F.S., or Rule 62-346.051, F.A.C., other than self-certification for which no fee will apply Part IV of Chapter 373, F.S.	\$100
(2) through (6) No change.	
<u>Rulemaking Specific Authority 373.026(7), 373.043, 373.109, 373.4145, 373.418, 403.805(1) FS. Law Implemented 218.075, 373.109, 373.4145, 373.418, 373.421 FS. History--New 10-1-07, Amended 4-21-09, _____ .</u>	
	<u>62-346.075 Additional Requirements and Procedures for Concurrent Review of Related Applications.</u>
	<u>(1) A single application shall be submitted to the Department and reviewed for activities that require an individual environmental resource permit under Part IV of Chapter 373, F.S., and a proprietary authorization under Chapter 253 or 258, F.S., to use sovereign submerged lands. In such cases, the application shall not be deemed complete, and</u>

the timeframes for approval or denial shall not commence, until all information required by applicable provisions of Part IV of Chapter 373, F.S., and proprietary authorization under Chapter 253 or 258, F.S., and rules adopted thereunder for both the environmental resource permit and the proprietary authorization is received.

(2) No application under this section shall be approved until all the requirements of applicable provisions of Part IV of Chapter 373, F.S., and proprietary authorization under Chapter 253 or 258, F.S., and rules adopted thereunder for both the individual environmental resource permit and the proprietary authorization are met. The approval shall be subject to all conditions of the regulatory permit and proprietary authorization, and any additional conditions imposed by such statutes or rules.

(3) For an application reviewed under this section for which a request for proprietary authorization to use sovereign submerged lands has been delegated to the Department to take final action without action by the Board of Trustees of the Internal Improvement Trust Fund, the Department or water management district shall issue a consolidated notice of intent to issue or deny the environmental resource permit and the proprietary authorization within 90 days of receiving a complete application under this section. Waiving or tolling the timeframes for final action on the application under this section shall constitute a waiver or tolling of the timeframes for final action on the environmental resource permit application.

(4) For an application reviewed under this section for which the request for proprietary authorization to use sovereign submerged lands has not been delegated to the Department to take final action without action by the Board of Trustees of the Internal Improvement Trust Fund, the application shall be reviewed and final agency action taken in accordance with the procedures in paragraphs 373.427(2)(a) through (c), F.S. The recommended consolidated intent, as required in paragraph 373.427(2)(a), F.S., shall be considered issued when the Department submits it for publication on the Board of Trustees' agenda, and releases it to the applicant and to any person to whom notice is required under Rule 62-346.090, F.A.C.

(5) The issuance of the consolidated notice of intent to issue or deny, or upon issuance of the recommended consolidated notice of intent to issue or deny pursuant to subsection (4), the Department shall be deemed to be in compliance with the timeframes for approval or denial in Section 120.60(1), F.S. Failure to satisfy these timeframes shall not result in approval by default of the application to use sovereign submerged lands. Also, if an administrative proceeding under Section 120.57, F.S., is properly requested on both the environmental resource permit and the proprietary authorization under this section, the review shall be conducted as a single consolidated administrative proceeding. If an administrative proceeding under Section 120.57, F.S., is

properly requested on either the environmental resource permit or the proprietary authorization under this section, final agency action shall not be taken on either authorization until the administrative proceeding is concluded.

(6) Appellate review of any consolidated order under this section is governed by the provisions of Section 373.4275, F.S.

(7) For an activity requiring an individual permit under Section 161.041, F.S., and an individual environmental resource permit under Part IV of Chapter 373, F.S., a joint coastal permit shall be required, as provided in Chapter 62B-49, F.A.C., in place of the above noted permits.

(8) This section shall be applicable to all applications for individual environmental resource permits under Part IV of Chapter 373, F.S., and proprietary authorizations under Chapter 253 or 258, F.S., to use sovereign submerged lands, that are received by the Department after [effective date]. If an applicant requests that its applications for individual environmental resource permit under Part IV of Chapter 373, F.S., and proprietary authorizations under Chapter 253 or 258, F.S., to use sovereign submerged lands, received prior to [effective date], be processed under this rule section, such request shall be granted if the applications for both are incomplete as of [effective date].

(9) Nothing in this section shall be construed to limit an applicant's ability to make separate applications for stages, phases, or portions of a project separate from an activity requiring both a proprietary authorization under Chapter 253 or 258, F.S., and an individual environmental resource permit under Part IV of Chapter 373, F.S.

Rulemaking Authority 161.055, 253.03(7), 253.77, 258.43, 373.026, 373.043, 373.044, 373.418, 373.427, 403.805(1) FS. Law Implemented 120.60, 161.041, 161.055, 253.03, 253.77, 258.42, 258.43, 373.026, 373.413, 373.416, 373.427, 373.4275 FS. History—New _____.

62-346.080 Submittal of Applications and Notices for Permits and Petitions for Formal Determinations to Department and NFWFMD Offices.

(1) No change.

(2) All applications and notices for environmental resource permits, variances, and other authorizations required under this chapter that are the responsibility of the Department under the Operating Agreement, except for activities as specified in paragraphs (a) through (d) and subsection (5) below, shall be submitted to the district or branch office of the Department that has geographical jurisdiction over the location where the activity is to occur, as described in section 1.2 of Applicant's Handbook Volume I, Figure 1A of the "Application for Stormwater Permit in Northwest Florida." For purposes of this subsection, the term "Department" does not include the NFWFMD. At this time, the Department does not accept applications for permits submitted electronically, although such electronically-prepared applications may

accompany the paper copies required in Rule 62-346.070, F.A.C. The following activities shall be submitted to the Department office specified below:

(a) Mines, which shall be submitted to the Bureau of Mining and Mineral Regulation at the address in section 1.3 of Applicant's Handbook Volume I;

(b) Coastal construction, as defined in Section 161.021(6), F.S., involving projects, as defined in Section 161.041, F.S., shall be submitted to the Bureau of Beaches and Coastal Systems (BBCS) at the address in section 1.3 of Applicant's Handbook Volume I, as a Joint Coastal Permit application. Projects located waterward of the Coastal Construction Control Line (CCCL) but landward of mean high water shall be processed by the district office of the Department. Any concurrently-required CCCL permit under Chapter 161, F.S., for such project shall be processed by the BBCS;

(c) Federal dredging projects in marine waters, which shall be submitted to the BBCS at the address in section 1.3 of Applicant's Handbook Volume I;

(d) Dredging of channels, turning basins, or berths within a deepwater port listed in Section 403.021(9)(b), F.S., which shall be submitted to the BBCS at the address in section 1.3 of Applicant's Handbook Volume I. Other port activities, such as bulkheads, docks, or upland development, shall be submitted to the district office of the Department having geographical jurisdiction over the location where the activity is to occur.

(3) All applications and notices for environmental resource permits, petitions for variances, and other authorizations required under this chapter that are the responsibility of the NFWFMD under the Operating Agreement can be submitted to the NFWFMD Internet site at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>. If submitting paper copies, submit to the office of the NFWFMD that has geographical jurisdiction over the location where the activity is to occur, as described in Figure 1B of Form 62-346.900(1). Additional details for submitting applications and notices to the NFWFMD are contained in Rule 62-346.070, F.A.C.

(4) No change.

(5) Unless otherwise provided by law, a proposed activity subject to the permit requirements of this chapter, Chapter 62-330 or 62-341, F.A.C., a portion of which extends beyond the boundary of the Suwannee River Water Management District (SRWMD), will be analyzed based on criteria such as the amount and geography of the activity's land area, the location of the activity's discharge or discharges, the type of activity, prior agency history, and operating agreement in effect between the agencies to determine whether the application for the activity would be most appropriately be reviewed and acted on by the NFWFMD, the SRWMD, or the Department. In the case of activities that extend into the area of the SRWMD Suwannee River Water Management that are the responsibility of the Department, the Director of District Management of the

Department district office processing the application shall have the authority to take the final agency action on the entire application. However, if the applicant prefers, a separate application may be submitted to each district or branch office of the Department that has responsibility for activities within the geographical limits where the activity is located. In such case, the applications shall be individually reviewed and processed separately by the applicable Department district or branch office.

Rulemaking Specific Authority 373.026, 373.043, 373.044, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.026, 373.118, 373.413, 373.4145, 373.416, 373.426 FS. History—New 10-1-07, Amended _____.

62-346.090 Processing of Notices and Applications.

(1) Noticed General Permits.

(a) through (d) No change.

(e) The Department shall notify the applicant if the activity is determined to be exempt from permitting. Such notice shall be given within 30 days of receipt of the notice or receipt of clarifying information that demonstrates that the proposed activity is exempt from permitting requirements. If the Department notifies an applicant within 30 days that the activity does not qualify for the noticed general permit, the application fee for the noticed general permit shall be applied to the application fee for an individual permit, provided that the applicant makes an application for such a permit within 30 days of notification by the Department.

(f) No change.

(g) Within three business days of receipt of an application for a noticed general permit, the Department shall send a copy of Section A and the materials submitted from Section B of Form 62-346.900(1), F.A.C., to the appropriate office of the U.S. Army Corps of Engineers (unless specifically authorized by the Corps to do otherwise), and, for noticed general permits under Rule 62-341.475, F.A.C., to the Florida Fish and Wildlife Conservation Commission.

(2) Individual (including Conceptual Approval) Permit Procedures.

(a) Within 30 days after receipt of an application, the Department shall determine whether the application is complete. In order to be considered complete, the submittal must contain the ~~required~~ required fee required in Rule 62-346.071, F.A.C., a completed application Form 62-346.900(1), including the applicable information requested in Sections A through F, and any additional information or exhibits needed to clearly and legibly depict and describe the activity proposed, and reasonable assurance that the activity will meet the terms and conditions for issuance in Rule 62-346.301, F.A.C.

(b) No change.

(c) The applicant shall have 90 days from the date the Department makes a timely request for additional information to submit that information to the Department. If an applicant

requires more than 90 days in which to respond to a request for additional information, the applicant shall notify the Department in writing of the circumstances, at which time the application shall remain in active status for one additional period of up to 90 days. Additional extensions shall be granted for good cause shown by the applicant. A showing that the applicant is making a diligent effort to obtain the requested additional information and that the additional time period requested is both reasonable and necessary to supply the information shall constitute good cause. In such case, a specified amount of additional time shall be granted at the mutual consent of the Department and the applicant. If the applicant chooses not to or is unable to respond to the request for additional information, the application shall be denied. However, an applicant may request that the application be deemed complete at any time, and the Department will determine whether the application qualifies for issuance of an individual permit within 90 days of the date of such a request by the applicant.

(d) The Department shall notify the applicant if the activity is exempt from permitting. Such notice shall be given within 30 days of receipt of the application or receipt of additional information that demonstrates to the Department that the proposed activity is exempt from permitting requirements. ~~Upon determination that the activity is exempt from permitting, the Department shall refund any tendered application fees.~~

(e) Applications for individual permits shall be evaluated for compliance with the criteria in Rules 62-346.301 and 62-346.302, F.A.C., as applicable, the Applicant's Handbook Volumes I and II, and the other rules incorporated by reference in this chapter.

(f) No change.

(g) The Department shall take agency action to issue or deny ~~make a determination and notify the applicant whether the application does or does not qualify for issuance of an individual permit within 90 days of receipt of a complete application, in accordance with Section 120.60, F.S., and Rule 62-110.106, F.A.C.,~~ unless a written request to waive this time period is received from the applicant.

(h) No change.

(i) If the Department determines that the application does not qualify for issuance of an individual permit, or if the applicant does not respond to timely requests for additional information, the Department shall issue a notice of denial. If the Department informs the applicant that the application does not qualify for issuance of an individual permit, such notice must explain the reasons ~~in general terms,~~ and what changes in the permit application, if any, would address the reasons for denial.

(j) through (k) No change.

(l) If an individual permit application involves activities located in, on, or over wetlands or other surface waters, as determined by the methodology ratified by Section 373.4211, F.S., and codified in Chapter 62-340, F.A.C., or as otherwise indicated in application form 62-343.900(1), F.A.C., the Department shall, at a minimum, forward a copy of Sections A and C of the form, including any drawings required in Section C, to the appropriate office of the U.S. Army Corps of Engineers, the Florida Fish and Wildlife Conservation Commission, and the Florida Department of State Division of Historical Resources within three business days of receipt of the application, unless specifically authorized by the Corps to do otherwise.

(3) through (5) No change.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.413, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.109, 373.118, 373.4141, 373.4145 FS. History—New 10-1-07, Amended _____.

62-346.091 Documents Incorporated by Reference.

(1) The following documents are hereby incorporated by reference for use in this Chapter:

(a) "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook – Volume I (General & Environmental)," including Appendices A, ~~and C,~~ and E through G, but excluding Appendices B and D, effective [Effective Date] October 1, 2007.

(b) "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook – Volume II (Design Requirements for Stormwater Treatment and Management Systems Water Quality and Water Quantity)," including Appendices Appendix A and B, effective [Effective Date] October 1, 2007.

(c) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between Northwest Florida Water Management District and Department of Environmental Protection," executed on [Date] August 2, 2007, and effective [Effective Date] October 1, 2007.

(d) Chapter 5, and Chapter 6 [except Section 3.04(swales), 3.05 (Parking lot storage), 3.08 (Rooftops), and 3.09 (Storage Tank Treatment)], of The Florida Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation, June 1988).

(e) The Florida Stormwater, Erosion, and Sediment Control Inspector's Manual, Florida Department of Environmental Protection and Florida Department of Transportation, Sixth Impression, April 2006.

(f) State of Florida Erosion and Sediment Control Designer and Reviewer Manual, Prepared for Florida Department of Transportation & Florida Department of

Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007.

~~(g)(f)~~ Florida Department of Transportation’s “*Standard Specifications for Road and Bridge Construction, 2007.*”

(2) The documents incorporated by reference in this section may be inspected at ~~obtained from~~ a district or branch office of the Department or NFWFMD, or ~~by downloading from~~ the Internet sites of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>, or NFWFMD at <http://www.nwfwmd.state.fl.us/permits/permit-ERP.html>.

Rulemaking Specific Authority 373.026, 373.043, 373.044, 373.046, 373.113, 373.4145, 373.416, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.026, 373.042, 373.409, 373.0421, 373.043, 373.046, 373.413, 373.4132, 373.4142, 373.4145, 373.416, 373.418, 373.423, 373.426, 373.428, 373.433, 373.436, 373.439, 380.06(9), 403.813(2) FS. History—New 10-1-07, Amended _____.

62-346.095 Operation, and Maintenance, and Inspections.

(1) Upon completion of a system constructed in conformance with an individual permit issued under this chapter, ~~or a noticed general permit under Chapter 62-341, F.A.C.,~~ the permit must be converted from the construction phase to an operation and maintenance phase. The responsibility for operation and maintenance of systems permitted under this chapter or Chapter 62-341, F.A.C., shall be an obligation for the life of the system by a single entity that wholly owns or controls the lands on which any component of the permitted system is located, or in the case where a local government will operate a portion of a system, a maximum of two entities. Such entity or entities ~~also~~ must have the fiscal, legal, and logistical capability to perform operation and maintenance in accordance with Department rules and permit conditions. The conversion shall follow the procedures specified below, except that:

(a) No change.

(b) The operation phase of Systems that serve mining activities ~~operations~~ subject to the land reclamation requirements of Chapter 378, F.S., shall be allowed to terminate, without the need to apply for abandonment of the permit, after the mine, or its subunits as applicable ~~not be required to be converted to an operation and maintenance phase if they:~~

1. Have been successfully reclaimed in accordance with Chapter 378, F.S., other than lands disturbed by mining operations that are not subject to the requirements of Chapter 378, F.S.;

2. No change.

3. Do not contain components that require long-term operation or maintenance, such as stormwater management systems, conservation easements, state-owned ~~sovereign~~ submerged lands authorizations, dams, above-grade impoundments, works, water control structures, erosion and sedimentation controls, or dewatering pits.

In addition, if the mine already is operating under an operation and maintenance phase of an individual permit, such operation and maintenance phase shall be allowed to terminate upon successful completion of all phases of reclamation and receipt of final success determinations by the Department over lands reclaimed in accordance with the rules adopted pursuant to ~~under the permit issued under~~ Chapter 378, F.S.

(2)(a) For systems that do not serve an individual, private single-family dwelling unit, duplex, triplex, or quadruplex, ~~Within~~ 30 days after completion of construction of a whole system, or independent portion of a system, constructed in conformance with an individual permit issued under this chapter, the permittee shall submit Form 62-346.900(4), “As-Built Certification by a Registered Professional,” incorporated by reference herein. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as “as-built” or “record” drawings. The submittal of the above forms does not require a processing fee, and their review shall not require processing as a permit modification under Rule 62-346.100, F.A.C. If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), “Request for Conversion of Environmental Resource Individual Stormwater Management Permit Construction Phase to Operation and Maintenance Phase,” incorporated by reference herein. Upon receipt and review of both forms, the Department will determine compliance with the terms and conditions of the permit and notify the permittee whether the conversion to the operation and maintenance phase will become effective. The operation and maintenance phase of an individual permit will not become effective if the Department determines that the activity subject to the permit is not in substantial compliance with all the plans, specifications, terms, and conditions of the permit. In such case, the permittee will be responsible for any necessary permit modifications, alterations, maintenance or repairs to bring the system into such compliance. ~~The submittal of the above forms does not require a processing fee, and their review shall not require processing as a permit modification under Rule 62-346.100, F.A.C.~~ Any required modification to the permit will be processed in accordance with Rule 62-346.100, F.A.C.

(b) For activities associated with an individual, private single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of development proposed by the applicant, within 30 days after completion of construction of the system, the permittee shall submit a fully executed Form 62-346.900(5), “Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit,” incorporated by reference herein, certifying that the system was constructed in conformance with all the terms, specifications, and conditions

of the permit. Upon receipt of this form, the construction phase of this permit shall automatically convert to an operation and maintenance phase. However, if at any time the Department determines that such a system was not built in conformance with the terms and conditions of the permit, the permittee shall be subject to enforcement by the Department and for all measures required to bring the system into compliance with the permit. The permittee shall remain liable for compliance with the terms of the permit for the life of the system, unless such permit is transferred in accordance with Rule 62-346.130, F.A.C.

(3) Each phase or independent portion of the permitted system must be approved by the Department for conversion to the operation phase prior to the initiation of the permitted use of: that phase or independent portion of the system facility; or the site infrastructure located within the area served by that portion or phase of the system. The request for conversion to the operating phase for any phase or independent portion of the permitted system shall occur after construction of the roads, stormwater conveyance systems, treatment and attenuation systems, and for that particular phase or independent portion of the system have been completed.

(4) No change.

(5) For those systems that will be operated and maintained by an entity that requires an easement or deed restriction in order to operate and maintain the system in conformance with the permit, such easement or deed restriction, together with any other final operation and maintenance documents required by Part V of Applicant’s Handbook Volume I, must be submitted to the Department for approval prior to conversion to the operation and maintenance phase. Deed restrictions, easements, and other operation and maintenance documents that require recordation with the Clerk of the Circuit Court must be recorded in the county where the project is located prior to any lot or unit sales within the project served by the system, or upon completion of construction of the system, whichever occurs first. For those systems that are to be operated and maintained by county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system.

(6) The operation and maintenance entity of a surface water management system, except those serving an individual, private single-family dwelling unit, duplex, triplex, or quadruplex that is not part of a larger plan of common development, shall provide for the inspection of the ~~stormwater management~~ system at least once every third year after conversion of a permit to the operation phase, unless otherwise specified in the permit. However, Ssystems that include vegetated natural buffers and all systems located in karst

sensitive areas shall be inspected at least annually. A report describing the results of the inspection and certifying that the system is operating as designed and permitted must be filed with the Department within 30 days after the third-year inspection, including those systems using a vegetated natural buffer or located in a karst sensitive area. A report shall also be submitted within 30 days of a system failure or deviation from the permit. The results of all such inspections shall be filed with the Department using Form 62-346.900(8), “Operation and Maintenance Inspection Certification,” incorporated by reference herein. The permittee of all other surface water management systems shall be subject, through special permit conditions, to routine inspecting and reporting on the permitted system when such monitoring and reporting is needed to ensure that the construction and operation of the system will not cause harm to public health, safety, or welfare, or harm to water resources.

(7) through (8) No change.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.416, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.4141, 373.4145, 373.416 FS. History–New 10-1-07, Amended

62-346.100 Modification of Permits.

(1) Modifications to an existing, currently valid individual permit under this Chapter may be requested by the permittee as follows:

(a) Applications for major modifications shall be made in accordance with the procedures for applying for a new permit applicable to the type of permit originally obtained. Applications for minor modifications shall be made in accordance with the same provisions, or by letter that describes the proposed modification, along with drawings reflecting changes in the design of the system. The modification request shall include payment of the fee required by Rule 62-346.071, F.A.C., ~~except that minor modifications to noticed general permits shall not require an additional fee.~~

(b) No change.

(c) All modification requests shall be reviewed, and will be issued or denied in accordance with the procedures in Rule 62-346.090(2), F.A.C., applicable to the type of permit being modified.

(d) Minor modifications include requests for a time extension pursuant to Rule 62-346.120, F.A.C., to correct errors or typographical mistakes, to incorporate changes requested by the Department or required through permits issued by other regulatory agencies, to change due dates for reporting or performance deadlines, to transfer a permit, or to make minor technical changes. ~~However, E~~for the purpose of this chapter, minor a modifications ~~shall be considered minor only when it does not:~~

1. Require a new site inspection or detailed technical analysis by the Department to evaluate the request; ~~or~~

2. Lead to substantially different environmental impacts or will lessen the impacts of the original permit; or

~~3.2. No change.~~

(e) A modification that does not meet all the requirements in paragraph (d) above is a major modification.

(2) No change.

(3) A person or entity other than a permittee or the Department may request a modification of a currently valid individual permit only when the person or entity has purchased, or is authorized to and intends to take ownership through condemnation or a contract to purchase, the part of a permitted system subject to the requested modification. In such case, the entity requesting the modification must submit either a formal application or letter modification in accordance with subsection (1) above, and must demonstrate that both the modified portions of the system and the unmodified portions of the system, including portions of the system remaining in the ownership of the existing permittee, will continue to comply with the ~~criteria conditions for issuance~~ in Rule 62-346.301, F.A.C., the criteria in Rule 62-346.302, F.A.C., as applicable. Applicant's Handbook Volumes I and II, and all permit conditions.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.026(7), 373.043, 373.109, 373.118, 373.409, 373.413, 373.4141, 373.4142, 373.4145, 373.416, 373.418, 373.429 FS. History–New 10-1-07, Amended.

62-346.110 Duration of Permits.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.426 FS. History–New 10-1-07.

62-346.120 Permit Extensions.

(1) through (2) No change.

(3) If a timely, ~~sufficient~~, and complete request application is received for an extension of a permit to construct, alter, abandon, or remove a system, then the existing permit shall remain in full force and effect until the Department takes action on the application for extension. If the request for permit extension is denied or the terms limited, the permit shall not expire until the last day for requesting review of the Department order, or a later date fixed by order of the reviewing court.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.409, 373.413, 373.4145, 373.416, 373.426, 373.429 FS. History–New 10-1-07, Amended.

62-346.130 Transfer of Ownership or Permit.

(1) No change.

(2) Except as provided in subsection (1), the request for transfer will be processed as a modification of the permit in accordance with Rule 62-346.100, F.A.C. The Department shall approve a request for transfer of a permit if the proposed transferee provides reasonable assurance that it can construct, operate and maintain the permitted system in conformance with the terms and conditions of the permit. Such provisions of reasonable assurance shall be limited to the ability of the transferee to comply with the conditions of the existing permit, including the ability to operate and conduct routine custodial maintenance on the system in accordance with the terms and conditions of the permit, and demonstration of ownership or control of the lands subject to the modification. Nothing herein shall limit the ability of the Department to modify the permit after transfer, as provided in Rule 62-346.100, F.A.C. If the Department proposes to deny the transfer, it shall, within 30 days of receipt of the application for transfer, provide both the existing permittee and the proposed new permittee a written notice of denial of such transfer, which will include the reasons for the denial.

(3) No change.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.118, 373.109, 373.409, 373.413, 373.4142, 373.4145, 373.416(2), 373.426 FS. History–New 10-1-07, Amended.

62-346.140 Suspension and Revocation.

Rulemaking Specific Authority 373.026, 373.043, 373.044, 373.118, 373.4145, 373.418, 373.439, 403.805(1) FS. Law Implemented 373.026, 373.118, 373.413, 373.414, 373.4145, 373.416, 373.426, 373.429, 373.439 FS. History–New 10-1-07.

62-346.150 Relinquishment and Abandonment.

(1) In accordance with Section 373.426(1), F.S., the owner of a stormwater management system that no longer requires a permit pursuant to Rule 62-346.050, F.A.C., may request to abandon future operation of the system or to relinquish a permit under Part IV of Chapter 373, F.S., that authorized the system subject to the permittee applying for, and receiving written authorization from, the Department prior to abandoning or relinquishing the permit for the system. The Department will authorize abandonment or relinquishment upon determination that the permittee has provided reasonable assurance has been provided that:

(a) There will not be a violation of state water quality standards as set forth in Chapters 62-302 and 62-550, F.A.C., as a result of abandonment or relinquishment of the permit;

(b) Adjacent or nearby properties not owned or controlled by the applicant will not be adversely affected by drainage or flooding; and

(c) There will be no harm to the water resources as a result of abandonment or relinquishment of the permit.

(2) A system that has been abandoned for a period of three or more years shall be subject to the provisions of Section 373.426(2), F.S.

(3) The determination of title to the ownership of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works is subject to a court of competent jurisdiction in accordance with Section 373.426(3), F.S.

Rulemaking Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 373.426, 403.805(1) FS. Law Implemented 373.117, 373.118, 373.409, 373.413, 373.4132, 373.4145, 373.416, 373.426, 403.0877 FS. History—New _____.

62-346.301 Conditions for Issuance of Individual Permits.

(1) In order to obtain an individual permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of a surface water stormwater management system:

(a) through (c) No change.

(d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters.

~~(e)~~ No change.

~~(f)~~ Will not cause adverse secondary impacts to the water resources. ~~Until the effective date of rules required under Section 373.4145(1)(b), F.S., this shall be limited to not causing a violation of water quality standards and not lowering or raising seasonal water levels in adjacent surface waters of the state to an extent that prevents the stormwater management system from functioning as designed, not adversely altering normal water level fluctuations in adjacent surface waters of the state, and not otherwise adversely impacting the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.~~

(f) through (g) renumbered (g) through (h) No change.

~~(i)~~ Will comply with any applicable special basin or geographic area criteria rules incorporated by reference in this chapter. When karst features exist on the site of a proposed stormwater-management system, in addition to paragraphs (a) through ~~(h)~~(g) above, the applicant must provide reasonable assurance that untreated stormwater from the proposed system will not reach the Floridan Aquifer through sinkholes, solution pipes, or other karst features.

(2) No change.

~~(3) Except as provided in subsection 62-346.301(2), F.A.C., a showing by the applicant that a stormwater management system complies with the applicable criteria in Part III, Applicant's Handbook Volume II, shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraphs 62-346.301(1)(a), (b), (c), and (e), F.A.C. A showing by the applicant that a stormwater management~~

~~system complies with the applicable criteria in Part IV, Applicant's Handbook Volume II, shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraph 62-346.301(1)(d), F.A.C. A showing by the applicant that a stormwater management system complies with the applicable criteria in Part V, Applicant's Handbook Volume I and Part V of Applicant's Handbook Volume II, shall create a presumption that the applicant has provided reasonable assurance that the proposed activity meets the requirements in paragraphs 62-346.301(1)(f), F.A.C. The applicant must also demonstrate that the activity can be operated and maintained in accordance with requirements in Part V of the Applicant's Handbook Volume I, in order to meet the requirements in paragraph 62-346.301(1)(g), F.A.C.~~

~~(4) An applicant's submittal of alternative designs to those provided in Applicant's Handbook Volumes I and II will be reviewed by the Department to determine whether, based on plans, test results, or other information, the alternative design provides reasonable assurance that the project satisfies the conditions for issuance in Rule 62-346.301, F.A.C.~~

~~(3)(5) In addition to the criteria in subsections 62-346.301(1); and (2) and (3), F.A.C., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the public interest test of Section 373.414(1)(a), F.S., including the potential adverse impacts to manatees.~~

(4) The standards and criteria, including the provisions for elimination or reduction of impacts, and the mitigation provisions contained in sections 10.2.1 through 10.2.1.3 and sections 10.3 through 10.3.8, respectively, of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C., shall determine whether the reasonable assurances required by subsection 62-346.301(1) and Rule 62-346.302, F.A.C., have been provided, as applicable.

Rulemaking Specific Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.042, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.4132, 373.426, 373.429 FS. History—New 10-1-07, Amended _____.

62-346.302 Additional Conditions for Issuance of Individual and Conceptual Approval Permits.

(1) In addition to the conditions set forth in Rule 62-346.301, F.A.C., in order to obtain an individual (including conceptual approval) permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, and abandonment of a system:

(a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida

Water, that the activity will be clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C.:

1. Whether the activity will adversely affect the public health, safety, or welfare or the property of others;

2. Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;

3. Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;

4. Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;

5. Whether the activity will be of a temporary or permanent nature;

6. Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of Section 267.061, F.S.; and

7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

(b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Applicant's Handbook Volume I.

(c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting as set forth or incorporated by reference in Chapter 5L-1, F.A.C. (July 29, 2008), will comply with the additional criteria in section 10.2.5 of Applicant's Handbook Volume I.

(d) Which constitute vertical seawalls in estuaries or lagoons, will comply with the additional criteria provided in section 10.2.6 of Applicant's Handbook Volume I.

(2) When determining whether a permit applicant has provided reasonable assurances that Department's permitting standards will be met, the Department shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91 through 403.929, F.S., (1984 Supp.), as amended, or any Department rules adopted pursuant to Part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations.

Rulemaking Authority 373.026(7), 373.043, 373.414(9), 403.805(1) FS. Law Implemented 373.042, 373.413, 373.414, 373.416, 373.426, 380.23 FS. History—New _____.

62-346.381 General and Special Limiting Conditions.

(1) The following general conditions shall be applicable to and binding on all individual permits issued pursuant to this chapter, unless the conditions are not applicable to the activity authorized by the permit, or where the conditions must be modified to accommodate unique, project-specific conditions.

(a) No change.

(b) This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications, shall be kept at the work site of the permitted activity during the construction phase. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit. A weather-resistant sign, measuring at least 8 1/2 inches by 11 inches, and including the permit number (in lettering that is easily visible from the access road) shall be placed on the property facing the road.

(c) No change.

(d) Immediately prior to, ~~and~~ during construction, and for the period of time after construction to allow for stabilization of all disturbed areas, the permittee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens ~~required~~ to retain sediment on-site and to prevent violations of state water quality standards. These devices ~~Turbidity barriers~~ shall be installed, used, and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work, ~~and~~ ~~Turbidity barriers~~ shall remain in place at all locations until construction is completed and soils are permanently stabilized ~~and vegetation has been established.~~ All best management practices shall be in accordance with the guidelines and specifications described in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Transportation and Florida Department of Environmental Protection, 2007 Chapter 6 of the Florida Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation, June 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. If project-specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual, Prepared for Florida Department of Transportation & Florida Department of Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007 Chapter 6 of the Florida Development Manual. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as practicable. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before conversion of the permit to the operation and maintenance phase, all silt screens and

fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

(e) through (f) No change.

(g) Within 30 days after completion of construction of the whole system, or independent portion of the system, the permittee shall notify the Department that construction has been completed and the system is ready for inspection by submitting one of the following forms to the Department office that issued the permit:

1. For systems other than those that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(4), "As-Built Certification by a Registered Professional." If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Environmental Resource Individual Stormwater Management Permit Construction Phase to Operation and Maintenance Phase." The system shall not be used and operated for its permitted purpose until the Department has approved the request to authorize the operation phase, in accordance with Rule 62-346.095, F.A.C. The "As-Built Certification" shall be ~~based on the on-site observation of construction by the registered professional or by a designee under the direct supervision of the registered professional, and review of the permitted drawings~~ for the purpose of determining if the work was completed in substantial compliance with permitted plans and specifications. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as "as-built" or "record" drawings. ~~The following information, at a minimum, shall be verified on the as-built or record drawings:~~

~~1. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;~~

~~2. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;~~

~~3. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;~~

~~4. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;~~

~~5. Dimensions, elevations, contours, final grades, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;~~

~~6. Existing water elevations and the date determined; and
7. Elevation and location of benchmarks for the survey.~~

2. For systems that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(5), "Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit."

(h) through (j) No change.

(k) This permit does not convey to the permittee or create in the permittee any property right or any interest in real property, nor does it authorize any entrance upon or activities on property that is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in this permit or Chapter 62-346, F.A.C. Permittees having the right to exercise the power of eminent domain or who had a contract to purchase the property subject to this permit shall not commence any work under this permit until the permittee has provided the Department with proof of transfer of ownership of the property in the name of the permittee. If such transfer of ownership does not occur, the permittee shall surrender this permit, and the permit shall be null and void.

(l) through (m) No change.

(n) The permittee shall notify the Department in writing at least 30 days prior to any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. Where ownership of the land subject to the permit was demonstrated through a long-term lease, the lessee must have transferred ownership and control of the permitted system to the current landowner or new lessee, effective prior to or on the date of expiration of the lease. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 62-346.095 and 62-346.130, F.A.C.

(o) through (s) No change.

(2) In addition to those general conditions set forth in subsection (1) above, the Department shall impose on any individual permit granted under this chapter such reasonable project-specific special conditions as are necessary to assure that the permitted system will not be harmful to the water resources, as set forth in Rules 62-346.301 and .302, as applicable, F.A.C., and the Applicant's Handbook Volumes I and II.

Rulemaking Specific Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 373.428, 403.0877 FS. History—New 10-1-07, Amended _____.

62-346.451 Emergency Authorizations and Actions.

No change.

Rulemaking Specific Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 120.569(2), 373.026(7), 373.119, 373.409, 373.413, 373.4145, 373.416, 373.418, 373.426, 373.439 F.S. History—New 10-1-07.

62-346.900 Environmental Resource Permit Forms.

The forms and instructions used in the Environmental Resource Permit program under this chapter are incorporated by reference as stated in subsections (1) through (10) below. The forms are 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 the Internet sites of the Department at <http://www.dep.state.fl.us/water/wetlands/erp/forms.htm>, or NFWFMD at <http://www.nfwfmd.state.fl.us/permits/permits-ERP.html>, or from any local district or branch office of the Department (see <http://www.dep.state.fl.us/secretary/dist/>) or NFWFMD, or by writing to the Florida Department of Environmental Protection, Submerged Lands and Environmental Resources Office, M.S. 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, or to Northwest Florida Water Management District, District Headquarters Office, 75 Water Management Drive, Havana, Florida 32333.

(1) “Joint Application for Environmental Resource Stormwater Permit/Authorization to Use State-Owned Submerged Lands/Federal Dredge and Fill Permit in Northwest Florida,” incorporated by reference in subsection 62-346.070(2), F.A.C., [Effective Date] ~~October 1, 2007~~.

(2) “Notice of Intent to Use an Environmental Resource Noticed General Permit in Northwest Florida,” incorporated by reference in subsection 62-346.070(2), F.A.C., [Effective Date] ~~October 1, 2007~~.

(3) “Construction Commencement Notice,” incorporated by reference in paragraph 62-346.381(1)(f), F.A.C., [Effective Date] ~~October 1, 2007~~.

(4) “As-Built Certification by a Registered Professional,” incorporated by reference in subsection 62-346.095(2), F.A.C., [Effective Date] ~~October 1, 2007~~.

(5) “Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit,” incorporated by reference in subparagraph 62-346.381(1)(g)2., F.A.C., [Effective Date]. ~~Systems Not Requiring Certification by a Registered Professional,” to be developed after adoption of the rules authorized under Section 373.4145(1)(a), F.S.~~

(6) “Request for Conversion of Environmental Resource Individual Stormwater Management Permit Construction Phase to Operation and Maintenance Phase,” incorporated by reference in subsection 62-346.095(2), F.A.C., [Effective Date] ~~October 1, 2007~~.

(7) “Notification of Transfer of Permit,” incorporated by reference in subsection 62-346.130(1), F.A.C., [Effective Date] ~~October 1, 2007~~.

(8) “Operation and Maintenance Inspection Certification,” incorporated by reference in subsection 62-346.095(6), F.A.C., [Effective Date] ~~October 1, 2007~~.

(9) through (10) No change.

(11) “Request for Verification of an Exemption,” incorporated by reference in paragraph 62-346.070(2)(c), F.A.C., [Effective Date].

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.4145, 373.418, 373.421, 403.805(1) FS. Law Implemented 373.019, 373.026, 373.109, 373.117, 373.118, 373.403, 373.409, 373.413, 373.4132, 373.414, 373.4141, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.421, 373.4211, 373.423, 373.426, 373.428, 373.429, 380.06, 403.0877, 403.813(2) FS. History—New 10-1-07, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Janet G. Llewellyn, Director, Division of Water Resource Management

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 2, 2007

DEPARTMENT OF HEALTH**Division of Medical Quality Assurance**

RULE NO.: 64B-9.001
RULE TITLE: Biennial Licensing

PURPOSE AND EFFECT: The purpose and effect would be to update the rule to include new professions established by the Legislature.

SUMMARY: This rule is amended to provide that Dentists – Health Access will renew their licenses on February 28 in even years and Pharmacy Technicians will renew their licenses on December 31 of even years.

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: 456.004(1) FS.

LAW IMPLEMENTED: 456.004(1), 456.013, 456.036(5), 456.039, 456.0391, 456.077 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: Lola Pouncey, Bureau Chief, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-9.001 Biennial Licensing.

(1) through (3) No change.

(4) The schedule for biennial license renewal for each respective profession shall be as follows:

	EVEN YEARS	ODD YEARS
Acupuncturists	February 28	
Athletic Trainers	September 30	
Certified Master Social Workers		March 31
Certified Nursing Assistants (Group I)		December 31
Certified Nursing Assistants (Group II)	December 31	
Chiropractic Physicians & Assistants	March 31	
Clinical Laboratory Personnel	August 31	
Clinical Social Workers		March 31
Consultant Pharmacists	December 31	
Dental Hygienists	February 28	
Dental Laboratories	February 28	
Dentists	February 28	
<u>Dentists – Health Access</u>	<u>February 28</u>	
Dietitians/Nutritionists		May 31
Dispensing Opticians	December 31	
Electrologists	May 31	
Electrolysis Facilities	May 31	
Hearing Aid Specialists		February 28
Marriage & Family Therapists		March 31
Massage Therapists		August 31
Massage Establishments		August 31
Medical Doctors (Group I)	January 31	
Medical Doctors (Group II)		January 31
Medical Doctors – Public Psychiatry/Health Certificate	January 31	
Medical Doctors – Limited License	January 31	
Medical Doctors – Area of Critical Need	January 31	
Medical Physicists		January 31
Mental Health Counselors		March 31
Midwives		December 31
Naturopathic Physicians	September 30	
Nuclear Pharmacists	February 28	
Nurses		
Group I: Registered & Advanced Registered Nurse Practitioners	April 30	
Group II: Registered & Advanced Registered Nurse Practitioners	July 31	
Group III: Registered & Advanced Registered Nurse Practitioners		April 30
Licensed Practical Nurses		July 31
Nursing Home Administrators	September 30	
Occupational Therapists & Assistants		February 28
Optometrists		February 28
Optometrist Branch Offices		February 28
Orthotists & Prosthetists		November 30
Osteopathic Physicians	March 31	
Pharmacies		February 28
Pharmacists		September 30

<u>Pharmacy Technicians</u>	<u>December 31</u>	
Physical Therapists & Assistants		November 30
Physician Assistants	January 31	
Podiatric Physicians	March 31	
Psychologists	May 31	
Respiratory Care Practitioners		May 31
Respiratory Therapists		May 31
School Psychologists		November 30
Speech Language Pathologists/ Audiologists & Assistants		December 31

EXTENSION OF BIENNIAL LICENSURE PERIODS –
When a current biennial licensure period for a profession is extended for a period longer than two years to conform to the above schedule of biennial periods, the biennial licensure fee for the profession shall be increased pro-rata to cover the additional extended period. The increased licensure fee shall be based on the biennial licensure fee established by the board. The amended licensure period and the pro-rated renewal fee shall be implemented for the purpose of restructuring the Department’s renewal schedule.

(5) through (6) No change.

Rulemaking Specific Authority 456.004(1) FS. Law Implemented 456.004(1), 456.013, 456.036(5), 456.039, 456.0391, 456.077 FS. History–New 11-5-00, Amended 11-24-05, 11-8-07, 7-30-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lola Pouncey
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: May 8, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 26, 2008

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NO.: 64B14-5.002
RULE TITLE: Continuing Education Requirement
PURPOSE AND EFFECT: The purpose and effect of this rule development is to make the C.E. requirement effective in the next biennium rather than in the middle of the current biennium.

SUMMARY: The proposed rule clarifies the biennium for continuing education requirement.

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: 468.802, 468.806 FS.

LAW IMPLEMENTED: 456.013, 456.024, 468.806 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 Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B14-5.002 Continuing Education Requirement.

(1) As a condition of license renewal or recertification, each licensee must complete approved continuing education.

(a) No change.

(b) For the biennium beginning December 1, ~~2009~~ 2007, each licensee's continuing education must include two hours on Chapters 456, 468, Part XIV, F.S., and Rule Chapter 64B14, F.A.C.; an up to date registration showing competency as a Healthcare Provider by the American Heart Association, the American Safety and Health Institute or the American Red Cross; and two hours of continuing education relating to the prevention of medical errors, which shall include a study of root cause analysis, error reduction and prevention, and patient safety; and one hour in infection control, including HIV/AIDS. ~~The two hour medical error course shall be a course approved by the Board and shall count toward the total number of continuing education hours required for the biennium.~~

(2) through (8) No change.

Rulemaking Specific Authority 468.802, 468.806 FS. Law Implemented 456.013, 456.024, 468.806 FS. History—New 7-1-98, Amended 5-18-00, 7-18-02, 11-11-02, 2-15-05, 11-1-05, 3-2-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Orthotists and Prosthetists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Orthotists and Prosthetists

DATES PROPOSED RULE APPROVED BY AGENCY HEAD: June 25, 2008 and March 13, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 3, 2009

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE NO.: 64B20-2.001
RULE TITLE: Licensure by Certification of Credentials

PURPOSE AND EFFECT: The proposed rule amendment is intended incorporate the revised licensure application into the Board's licensure rule.

SUMMARY: The proposed rule amendment incorporates the revised application for licensure in the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendment does 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: 456.013(7), 468.1135(4) FS.

LAW IMPLEMENTED: 456.013(7), 468.1145(2), 468.1185 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: Kaye Howerton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-2.001 Licensure by Certification of Credentials.

(1) Any person desiring to be licensed as a speech-language pathologist or audiologist shall apply to the Department of Health and pay the fee required by Rule 64B20-3.002, F.A.C. The application shall be made on Form SPA-1, (Revised 5/09), Application for Licensure, which is incorporated by reference herein, ~~will be effective~~ March 25, 1994, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C-06, Tallahassee, FL 32399-3256. The Department shall notify the applicant by letter of any deficiencies in the application within 30 days after the application is filed. The applicant shall rectify all deficiencies in the application within one year from the date of such letter or the application will be processed as an incomplete application and the application file will be closed.

(2) through (3) No change.

Rulemaking Specific Authority 456.013(7), 468.1135(4) FS. Law Implemented 456.013(7), 468.1145(2), 468.1185 FS. History—New 3-14-91, Amended 5-25-92, Formerly 21LL-2.001, Amended 11-30-93, Formerly 61F14-2.001, 59BB-2.001, Amended 6-4-02, 5-18-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Speech Language Pathology and Audiology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Speech Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 4, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 20, 2009

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE NO.: 64B20-4.001
 RULE TITLE: Certification of Assistants

PURPOSE AND EFFECT: The proposed rule amendment is intended incorporate the revised application for certification of assistants into the Board’s licensure rule.

SUMMARY: The proposed rule amendment incorporates the revised application for certification of assistants in the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendment does 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: 468.1125(9), 468.1135(4) FS.

LAW IMPLEMENTED: 468.1125(3), (9), 468.1215 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: Kaye Howerton, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-4.001 Certification of Assistants.

(1) Any person desiring to be certified as a speech-language pathology assistant or audiology assistant shall apply to the Department of Health. The application shall be made on Form SPA-3, (Revised 5/09), Assistant Certification, which is incorporated by reference herein, ~~will be effective _____ March 25, 1991,~~ and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C-06, Tallahassee, FL 32399-3256. Such application and application fee required pursuant to Rule 64B20-3.002, F.A.C., shall expire one year from the date on which the application and fee are initially received in the Board office. After the period of one year, a new application and application fee must be submitted.

(2) No change.

Rulemaking Specific Authority 468.1125(9), 468.1135(4) FS. Law Implemented 468.1125(3), (9), 468.1215 FS. History–New 3-14-91, Amended 12-4-91, Formerly 21LL-4.001, Amended 10-12-93, Formerly 61F14-4.001, Amended 5-22-96, Formerly 59BB-4.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Board of Speech Language Pathology and Audiology

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Speech Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 4, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 20, 2009

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-20.008	Application
65C-20.009	Staffing Requirements
65C-20.010	Health and Safety Related Requirements
65C-20.011	Health Records
65C-20.012	Enforcement
65C-20.013	Large Family Child Care Homes (LFCCH)
65C-20.014	Gold Seal Quality Care Program

PURPOSE AND EFFECT: The modifications were made to clarify and reorganize sections of the rule for easier use, and provide additional fire and emergency preparedness language to protect the health and safety of children in a child care setting.

SUMMARY: The rule modifications were implemented based on requests for clarification on sections of the rules by licensing staff, providers, and community partners throughout the state. To meet the requests, several sections of the rules have been reorganized to move related topics to one area and the consolidation of several CF-FSP Forms.

In addition, more stringent fire safety requirements were added for providers when conducting monthly fire drills to include monitoring and maintaining of equipment, which could, if not maintained, result in a fire. The new fire safety requirements are as a result of the death of a child during naptime at a child care facility in the summer 2008. Language was also added requiring facilities and homes to create emergency preparedness plans to ensure procedures are in place for situations such as inclement weather or threats from an outside source.

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: 402.26-.319 FS.

LAW IMPLEMENTED: 402.26-.319 FS.

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

DATES AND TIME: Tallahassee: Monday, June 22, 2009, 12:00 Noon

Orlando: Thursday, June 25, 2009, 12:00 Noon

PLACE: Tallahassee: Department of Children and Family Services, 1317 Winewood Blvd., Bldg. 4, Tallahassee, Florida 32399-0700

Orlando: Department of Children and Family Services, 400 W. Robinson Street, Conference Rooms A & B, South Tower, Orlando, FL 32801

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: Department of Children and Family Services, Child Care Program Office-Policy Unit, 1317 Winewood Blvd., Bldg. 6, 3rd Floor, Room 389A, Tallahassee, Florida 32399-0700, or by calling (850)488-4900. 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: Department of Children and Family Services, Child Care Program Office – Policy Unit, 1317 Winewood Blvd., Bldg. 6, 3rd Floor, Room 389A, Tallahassee, Florida 32399-0700, or by calling (850)488-4900

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-20.008 Application.

(1) Application for a license or for renewal of a license to operate a family day care home must be made on CF-FSP Form 5133, March 2009 August 2007, Application for a License to Operate a Family Day Care Home, which is incorporated by reference. CF-FSP Form 5133 may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the forms link.~~

(2) A completed CF-FSP Form 5133 for renewal of an annual license must be submitted to the licensing authority at least 45 days prior to the expiration date of the current license to ensure that a lapse of licensure does not occur. Failure to submit a completed CF-FSP Form 5133 at least 45 days prior to the expiration date of the current license constitutes a licensing violation as defined in paragraph 65C-20.012(3)(d), F.A.C.

(3) A submitted CF-FSP Form 5133 will not be considered complete until the licensing authority receives proof of background screening clearance on the operator/~~applicant~~ of the family day care home, substitutes, and on all other household members who are subject to background screening pursuant to Section 402.313(3), F.S. If the designated

substitute changes during the licensure year, ~~p~~Prior to taking care of children, the new designated substitute for the operator must comply with background screening requirements and the licensing authority must receive proof of background screening clearances.

(a) Initial Screening includes all of the following:

1. Level 2 screening, which includes at a minimum Federal Bureau of Investigation (FBI), Florida Department of Law Enforcement (FDLE), and local criminal records checks. For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for licensing and screening purposes under this rule.

~~2.(a)~~ An employment history check for the operator and substitute(s) is required as part of background screening, must include the previous two ~~(2)~~ years of employment history and must be maintained in the department's licensing file, which shall include the applicant's position description, confirmation of employment dates from previous job(s), and level of job performance.

~~3.(b)~~ CF Form 1649A, January 2007, Child Care an Attestation of Good Moral Character, which is incorporated by reference, must be completed ~~for all operators/applicants and all adult household members, annually or in accordance with the local licensing agency compliance and must be maintained in the department's licensing file. A copy of the CF Form 1649A may be obtained from the licensing authority or on the department's Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the forms link.~~

4. Initial screening submission and clearance documentation must be maintained in the department's licensing file.

~~(c)~~ For the purpose of issuing a license, any ~~out-of-state criminal offense, which if committed in Florida would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes under this rule.~~

~~(b)(4)~~ Re-screening: A screening conducted under this rule is valid for five ~~(5)~~ years, at which time a statewide five (5) year re-screen must be conducted.

~~(a)~~ The five (5) year re-screen is required for the operator/applicant and all other household members, including juveniles and substitutes, and must be maintained in the department's licensing file.

1. The five year re-screen is required for the operator, household members and all substitutes.

~~2.(b)~~ The five (5) year re-screen must include, at a minimum, a statewide criminal records checks through the FDLE Florida Department of Law Enforcement and a local criminal records check.

3. CF Form 1649A, Child Care Attestation of Good Moral Character must be completed annually. A copy of the CF Form 1649A may be obtained from the department's website at www.myflorida.com/childcare.

4. Documentation/clearance from the five year re-screening must be included in the department's licensing file.

(c) An operator/applicant must complete a new application for licensure and the operator, substitute and all household members must be re-screened as outlined in Section 402.313(3), Florida Statutes following a break in operation of the family day care home that exceeds 90 days. A person in this category must undergo the same level of screening that was required at the time of initial operation of the family day care home.

(d) If the operator/applicant takes a leave of absence, such as maternity leave, extended sick leave, etc., re-screening is not required unless the five (5) year re-screen has come due during the leave of absence.

(4) The Department may issue a provisional license allowing a home to operate for a designated period of time while working to correct one or more licensing standard(s) not met, provided the operator is making adequate provisions to ensure the health and safety of the children in care. A provisional license may not be issued as the initial license and is a not a disciplinary sanction.

(5) CF-FSP Form 5337, March 2009, Child Abuse & Neglect Reporting Requirements, which is incorporated by reference, must be signed annually by the operator and substitute(s).

Rulemaking Specific Authority 402.313 FS. Law Implemented 402.302(13), 402.313 FS. History--New 7-2-98, Amended 7-13-03, 9-12-04, 4-12-07, 5-1-08,_____.

65C-20.009 Staffing Requirements.

(1) Definitions.

(a) "Foster Grandparents" are directly supervised volunteers who work with one or more children with special or exceptional needs in child care programs. Foster grandparents are not counted in the staff-to-child ratio. Foster grandparents shall be required to have 100% attendance in the following department's training courses: Family Child Care Home Rules and Regulations; Health, Safety, and Nutrition; Identifying and Reporting Child Abuse and Neglect; and Special Needs Appropriate Practices. Foster grandparents are not classified as child care personnel, and they may not be assigned the roles of teacher's aides, group leaders or other similar positions pursuant to Title 45, Public Welfare, Code of Federal Regulations, section 2552.75. "Active" refers to the status of a candidate's awarded credential or certification in which requirements have been successfully met.

(b) ~~"Early Childhood Education" refers to coursework, certification, a credential or degree that specializes in children ages birth through eight (8).~~

(e) ~~"Florida Child Care Professional Credential (FCCPC)," pursuant to Section 402.305(3)(b), F.S., is a department approved training program that consists of a minimum of 120 hours of early childhood instruction, 480 contact hours with children ages birth through eight (8), and at least two (2) methods of formal assessment that offers two (2) areas of certification: "Birth Through Five" (formerly the department approved CDA Equivalency training programs)" and "School Age" (formerly the Florida School Age Certification) A list of approved and recognized FCCPC programs may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare.~~

~~1. Florida Child Care Professional Credential Training Program Providers.~~

~~2. Birth through Five FCCPC Training Providers.~~

~~I. Training providers seeking to offer the Birth through Five FCCPC training must utilize the criteria approved by the department referenced on CF FSP Form 5191, April 2006, Birth through Five Florida Child Care Professional Credential (FCCPC) Training Program Provider Application, which is incorporated by reference. CF FSP Form 5191 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the forms link. Training providers must submit a completed CF FSP Form 5191 to the department for approval.~~

~~II. Training providers that offer the Birth through Five FCCPC shall submit FCCPC training student completion documentation in the format referenced on CF FSP Form 5191 to the department for issuance of the Birth through Five FCCPC and to update the graduate's child care training transcript.~~

~~III. Training providers approved to offer the Birth through Five FCCPC must annually complete, sign, date and submit the attestation page of CF FSP Form 5191 to the Department of Children and Family Services for review and approval based on the providers anniversary date listed on CF FSP 5191.~~

(d) ~~"National Early Childhood Credential (NECC)" pursuant to Section 402.305(3)(c), F.S., is an early childhood credential recognized by licensing authorities in at least five (5) states that incorporates 120 hours of early childhood instruction, 480 contact hours with children ages birth through eight (8), and includes at least two (2) methods of formal assessment. This includes the Child Development Associate (CDA) credential issued by the Council for Professional Recognition in Washington, DC. A list of approved and recognized NECC programs may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the training link.~~

(b)(e) ~~"Training Transcript" is the electronic documentation of statutorily mandated training and staff~~

credential qualifications for child care personnel. Training transcripts may be obtained from ~~on~~ the ~~department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare.

(c)(~~f~~) "Weighted score" means a scaled score, rather than a percentage score, based on the difficulty of the exam and determined by competency exam professionals in consultation with subject matter experts.

(2) Personnel.

(a) Operator. The family day care home license shall be issued in the name of the operator who must be at least 18 years of age and a resident of the family home. In the event of rental or leased property, the operator shall be the individual who occupies the residence. The operator of a family day care home may not work outside of the home during the hours the family day care home is operating.

(b) Substitutes. There shall be a written plan to provide at least one (~~1~~) other competent adult, who must be at least 18 years of age, to be available as a substitute for the operator on a temporary or emergency basis.

1. This plan shall include the name, address, and telephone number of the designated substitute. Proof of background screening clearance and completion of required training for the designated substitute must be submitted with the written plan at time of licensure.

2. Any changes to the substitute plan that occur during the home's licensure year must be submitted to the licensing authority within five working days of the change.

3. Substitutes may not work more than ~~over~~ 40 hours per month on average ~~during a 12-month period~~ in any single home for which they have been identified as the designated substitute.

(c) No person shall be an operator, substitute or employee in a family day care home while using or under the influence of narcotics, alcohol, or other drugs that impair an individual's ability to provide supervision and safe child care.

(3) Staff Training.

(a) Prior to licensure and prior to caring for children, all family day care home operators and substitutes who work 40 hours or more per month on average ~~during a 12-month period~~ must:

1. Successfully complete the ~~department's Department of Children and Family Services'~~ 30-clock-hour Family Child Care Home training, as evidenced by successful completion of a competency based examination(s) offered by the ~~Department of Children and Family Services~~ or its designated representative with a weighted score of 70 or better. Family day care home operators who successfully completed the mandatory 30-clock-hour Family Child Care Home training prior to January 1, 2004, are not required to fulfill the competency examination requirement. Documentation of course completion may either be a single Family Child Care Home (~~30-Hr~~) certificate or certificates for the five (~~5~~)

individual training courses which total 30-clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening.

~~2. Training completed successfully will be documented on the training transcript or on CF FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF FSP Form 5267 may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the training link.~~

~~2.3.~~ Complete a single course of training in early literacy and language development of children ages birth through five years (~~5~~) that is a minimum of five-~~(5)~~-clock-hours or .5 CEUs. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma. In order to meet this requirement, individuals must complete one (~~1~~) of the following:

a. One (~~1~~) of the department's online literacy courses available on the ~~department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare; or

b. One (~~1~~) of the department's approved literacy training courses. A list of these courses may be obtained from the ~~licensing authority or on the department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare (no additional courses will be approved by the department); or

c. One (~~1~~) college level early literacy course (for credit or non-credit) if taken within the last five (~~5~~) years.

~~4. Certificate(s) of course completion for infant and child cardiopulmonary resuscitation (CPR) procedures and first aid training, which must be current and valid at all times. Certificates of course completion are valid based on the time frames established by each first aid and CPR training program, not to exceed three (3) years. Online CPR courses are not acceptable to meet this standard. CPR training must be completed by classroom instruction.~~

(b) Family day care home substitutes who work less than 40 hours a month on average ~~during a 12-month period~~ shall complete the ~~department's Department of Children and Family Services'~~ six (~~6~~) clock-hour Family Child Care Home Rules and Regulations training, as evidenced by successful completion of a competency based examination offered by the ~~Department of Children and Family Services~~ or its designated training representative prior to licensure and caring for children. ~~Training completed successfully will be documented on the Department of Children and Family Services' CF FSP Form 5267 or the Department of Children and Family Services' child care training transcript.~~

1. The operator of the family day care home must sign a statement attesting to the number of hours that the substitute works in the operator's home. The statement must be placed in the substitute's file.

2. Family day care substitutes who have successfully completed the three (3) clock-hour Fundamentals of Child Care training or 30 clock-hour Family Child Care Home training are not required to complete the six (6) clock-hour Family Child Care Home Rules and Regulations course.

(c) The operator and substitute must have certificate(s) of course completion for infant and child cardiopulmonary resuscitation (CPR) procedures and first aid training, which must be current and valid at all times. Certificates of course completion are valid based on the time frames established by each first aid and CPR training program, not to exceed three years. CPR courses must include an on-site instructor-based skills assessment that shall be documented by the certified CPR instructor.

(d) Effective July 1, 2010, the department's Training Transcript will be the only acceptable verification of successful completion of the department's training. Training completion documented on CF-FSP Form 5267, March 2009, Child Care Training Course Completion Certificate, which is incorporated by reference, will no longer be accepted by the department after July 1, 2010, nor any previous version of the form. A copy of the department's Training Transcript may be obtained from the department's website at www.myflorida.com/childcare.

1. A copy of the CF-FSP Form 5267 or Training Transcript for the operator must be included in the department's licensing file.

2. Training documented on the CF-FSP Form 5267 that is not included on an individual's on the Training Transcript must be sent to the department or designated representative prior to July 1, 2010 to be documented on the individual's Training Transcript.

3. As of July 1, 2010, any course completion certificate not documented on the Training Transcript will be considered invalid, requiring that the course(s) be retaken. Until the coursework is retaken and completed, family day care homes will be out of compliance with the mandated training standard.

(4) Annual In-Service Training.

(a) All family day care home operators must complete a minimum of 10-clock-hours or one (1) CEU of in-service training annually during the operator's 12 month licensing period.

(b) The annual 10-clock-hours or one (1) CEU of in-service training concentrating on children ages birth through 12 years must be completed in one (1) or more of the following areas (college level courses will be accepted):

1. Health and safety, including universal precautions;
2. Infant/child CPR;

3. First Aid (may only be taken to meet the in-service requirement once every three (3) years);

4. Nutrition;

5. Child development – typical and atypical;

6. Child transportation and safety;

7. Behavior management;

8. Working with families;

9. Design and use of child oriented space;

10. Community, health and social service resources;

11. Child abuse;

12. Child care for multilingual children;

13. Working with children with disabilities in child care;

14. Safety in outdoor play;

15. Literacy;

16. Guidance and discipline;

17. Computer technology;

18. Leadership development/program management and staff supervision;

19. Age appropriate lesson planning;

20. Homework assistance for school-age care;

21. Developing special interest centers/spaces and environments; or

22. Other course areas relating to child care or child care management.

(c) Documentation of the in-service training requirement must be recorded on CF-FSP Form 5268A, March 2009 April 2006, Child Care In-Service Training Record, which is incorporated by reference, and maintained at the family day care home. CF-FSP Form 5268A may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services' website~~ at www.myflorida.com/childcare. A new in-service training record is required each licensing year. The in-service training records for the previous two (2) licensing years must also be maintained at the family day care home for review by the licensing authority.

(d) Operators who do not complete the required annual in-service training during a given licensure year must complete the remaining in-service training hours within 30 days of the noncompliance finding by the licensing authority. These hours cannot be used to meet the current year's in-service training requirements.

(5) Supervision.

(a) At all times, which includes when the children are napping or sleeping, the operator shall remain responsible for the supervision of the children in care and capable of responding to emergencies and the needs of the children. While children are napping or sleeping in bedrooms, the bedroom doors must remain open. During the daytime hours of operation, children shall have adult supervision, which means watching and directing children's activities, both indoors and outdoors, and responding to each child's needs.

(b) A child who has been placed in an isolation area due to illness as stated in paragraph 65C-20.010(4)(b), F.A.C., must be within sight and hearing of the operator.

(c) Children must be attended at all times when being diapered or when changing clothes.

(d) The operator's children under the age of 13 shall be included in the home's capacity. However, supervision of the operator's children shall be left to the discretion of the operator.

Rulemaking Specific Authority 402.313 FS. Law Implemented 402.313 FS. History--New 7-2-98, Amended 5-21-00, 7-13-03, 9-12-04, 4-12-07, 5-1-08, _____.

65C-20.010 Health and Safety Related Requirements.

(1) General Requirements.

(a) Animals, pets or fowl must have current immunizations, if immunizations are available for the type of animal, pet or fowl; and be free from disease. Custodial parents or legal guardian must be informed in writing of all animals on the premises of the home. Such information may be provided by way of a parent flier, a notification statement, or a statement included in the child's enrollment form. Documentation of current immunizations must be available for review upon request by the licensing authority.

(b) All areas and surfaces accessible to children shall be free from toxic substances and hazardous materials. All potentially harmful items including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials must be labeled. These items, including ~~as well as~~ knives, sharp tools, BB guns, pellet guns and other potentially dangerous hazards, shall either be stored ~~separately~~ and in a locked area or must be inaccessible and out of a child's reach.

(c) All family day care home operators shall inform custodial parents or legal guardians in writing, if someone living in the home smokes. Pursuant to Chapter 386, F.S., while children are in care, smoking is prohibited, within the family day care home, in on all outdoor play areas, during field trips, and in vehicles when transporting children.

(d) At all times when children are in care, all firearms and weapons, as defined in Section 790.001, F.S., must shall be stored in a location inaccessible to children and in accordance with Section 790.174, F.S. No firearms or weapons as defined in Section 790.001, F.S., shall be kept upon any person located on the premises, excluding federal, state or local law enforcement officers.

(e) Play areas shall be clean and free from litter, nails, glass, and other hazards.

(f) Family day care homes caring only for infants under 12 months of age shall not be required to have an outdoor play area; however, infants in care shall be provided opportunities for outdoor time each day that weather permits. For all other family day care homes, including those providing evening

care, the outdoor play area shall maintain safe and adequate fencing or walls, a minimum of four ~~(4)~~ feet in height, if the family day care home property borders any of the following:

1. Laned road or laned street open to travel by the public;
2. Road or street open to travel by the public, divided by a median;

3. Road or street open to travel by the public where the posted or unposted speed limit is equal to or greater than 25 miles per hour; by municipal or county ordinance, pursuant to Section 316.189, F.S.

4. Lake, ditch, pond, brook, canal or other water hazard.

(g) Fencing, including gates, must be continuous, and shall not have gaps that would allow children to exit the outdoor play area. The bottom or base of the fence must remain at ground level and free from erosion or buildup to prevent inside or outside access by children or animals.

(h) Outdoor Play Area and Outdoor Equipment.

1. All family day care homes' play activities shall be suitable to each child's age and development.

2. All playground equipment, if provided, shall be securely anchored, unless portable or stationary by design, in good repair, maintained in safe condition, and placed to ensure safe usage by the children. Maintenance shall include checks at least every other month of all supports above and below the ground, all connectors, and moving parts.

3. Permanent or stationary playground equipment must have a ground cover or other protective surface under the equipment that provides resilience and is maintained to reduce the incidence of injuries to children in the event of falls.

4. All equipment, fences, and objects on the family day care home's premises shall be free from sharp, broken and jagged edges and properly placed to prevent overcrowding or safety hazards in any one ~~(1)~~ area.

5. All equipment used in the outdoor play area shall be constructed to allow for water drainage and maintained in a safe and sanitary condition.

(i) All in-ground swimming pools and above-ground swimming pools more than one ~~(1)~~ foot deep shall have either a fence or barrier on all four ~~(4)~~ sides, at a minimum of four ~~(4)~~ feet in height, separating the home from the swimming pool, or a pool alarm that is operable at all times when children are in care. The fence or barrier shall not have any gaps or openings that would allow a young child to crawl under, squeeze through, or climb over the barrier. All spas and hot tubs must meet the same barrier requirements for in-ground and above-ground swimming pools, or spas and hot tubs may be covered with a safety cover, as defined in Section 515.25(1), F.S., that complies with American Society for Testing and Materials (ASTM) F1346-91 (2003), Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Hot Tubs, and Spas at all times when children are in care. ~~A copy of ASTM F1346-91 (2003), Standard Performance Specification for Safety Covers~~

~~and Labeling Requirements for All Covers for Swimming Pools, Hot Tubs, and Spas, may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the forms link.~~ The exterior wall of the home with an ingress and egress does not constitute a fence or barrier. All doors or gates in the fence or barrier shall be locked at all times when children are in care and when the pool is not being used by the children in care. In addition to the fence, barrier or pool alarm, the family day care home operator shall ensure that all exterior doors leading to the pool, spa, or hot tub area remain locked at all times while children are in care. Barriers may be temporary in nature, but must be sturdy and meet all the above requirements, and be in place during all times when children are in care. The wall of an above-ground swimming pool may be used as its barrier; however, such structure must be at least four (4) feet in height. In addition, any ladder or steps that are the means of access to an above-ground pool must be removed at all times while children are in care and when the pool is not being used by the children in care.

(j) If a family day care home uses a swimming pool, it shall be maintained by using chlorine or other suitable chemicals. If the family day care home uses a swimming pool that exceeds three (3) feet in depth at the family day care home site, one (1) person who has completed a basic water safety course such as offered by the American Red Cross, YMCA or other organization, must be present when children have access to the swimming area. If the family day care home uses swimming pools not at the family day care home site or takes the children to water areas such as a beach or lake for swimming activities, the family day care home operator must provide one (1) person with a certified lifeguard certificate or equivalent who must be present when children are in the swimming area, unless a certified lifeguard is on duty.

(k) A family day care home must include a designated area where each child can sit quietly or lie down to rest or nap.

(l) Each child in care must be provided safe and sanitary bedding to be used when napping or sleeping.

Sleep bedding includes beds, cribs, or mattresses (excluding an air mattress or a foam mattress). Nap bedding includes sleep bedding, cots, playpens, or floor mats. Floor mats must be at least one inch thick, and covered with an impermeable surface cleaned, and sanitized or disinfected after each use. Bedding must be appropriate for the child's size. Nap bedding is not required for school-age children; however, the family day care home provider shall provide an area as described below for those children choosing to rest.

Bedding means a cot, bed, crib, mattress, playpen or floor mat. Air mattresses and foam mattresses may not be used for napping. Mats must be at least one (1) inch thick and covered with an impermeable surface.

(m) Children one (1) year of age or older may nap or sleep on beds used by the family, provided individual linens are provided for each child. Each child shall have a separate bed, cot, crib, playpen, mattress or floor mat, except that two (2) sibling preschool children may share a double bed. Sleeping refers to the normal night time sleep cycle ~~and playpens, air mattresses, foam mattresses, and mats may not be used for care when children are sleeping.~~ The operator must prepare a written plan outlining the sleeping arrangements of the children in care to be provided to the licensing counselor upon request. If the children are sleeping overnight, the operator must ensure accepted bedtime routines, such as brushing teeth and washing face and hands, are followed. Toothbrushes, towels and wash cloths may not be shared.

(n) Children up to one (1) year of age must be in an individual crib, portacrib or playpen with sides. Crib sides must be raised and secured while an infant is in the crib and bar spacings may not exceed two and three-eighths inches. Cribs must meet the construction regulations as outlined in Title 16, sections Parts 1508.7 and 1509.8, Code of Federal Regulations, January 1, 2004. No double or multi-deck cribs, cots or beds may be used. When napping or sleeping, young infants who ~~that~~ are not capable of rolling over on their own shall be positioned on their back and on a firm surface to reduce the risk of Sudden Infant Death Syndrome (SIDS), unless an alternative position is authorized in writing by a physician. The documentation shall be maintained in the child's record.

(o) A minimum distance of 18 inches must be maintained around ~~between~~ individual napping spaces, except a maximum of two sides of a napping space may be against a solid barrier, such as a wall. The solid side of a crib does not meet the requirement of a solid barrier.

1. Napping spaces shall not be designated in kitchens, bathrooms, utility rooms, or garages.

2. Napping spaces shall not be under furniture, against furniture that may create a hazard, or blocking exit routes designated.

3. If separate rooms are used for napping, the doors to each room shall remain open to allow the operator to respond to emergencies and needs of the children.

(p) Potable drinking water shall be available to children of all ages at all times.

(q) Single service paper or plastic plates, utensils, and cups shall not be reused. Plates, utensils, cups, bottles and sippy cups provided by the family day care home that are not disposable shall be washed, rinsed, and sanitized between uses. All bottles and sippy cups prepared by the operator for a child to use more than once in a day or ~~and~~ brought from home shall be individually labeled with the child's first and last name, and shall be cleaned and sanitized or ~~and~~ returned to the custodial parent or legal guardian daily.

(r) Rodents and vermin shall be exterminated. Pest control shall not take place while rooms are occupied by children.

(s) All parts of the home, both indoors and outdoors; including the furnishings, equipment, and plumbing shall be kept clean, and sanitary, free from hazards, in an orderly condition and in good repair at all times.

1. Heating and air conditioner vents, filters, exhaust fans, air vents, ceiling fans and dryer vents must be clean and free from dust and lint build-up of more than 1/2 inch thick.

2. The family day care home shall have an operable smoke detector and fire extinguisher with a current certificate, at least one (4) operable corded telephone, and lighting that allows for safe movement and egress for children in care.

3. At all times and appropriate for the activity, lighting in family day care homes must be sufficient enough to allow the operator to visually observe and supervise children in care.

4. The home must have proper ventilation, and the temperature must be maintained between 65 and 82 degrees Fahrenheit.

(t) If the operator chooses to supply food, the operator shall provide nutritious meals and snacks of a quantity and quality to meet the daily nutritional needs of the children. Meal and snack menus shall be planned and written, and must be available for review upon request by the custodial parent or legal guardian. Menus used to meet the USDA Food Program requirements shall also meet the department's licensing standard. The USDA My Pyramid, April 2005, which is incorporated by reference, shall be used to determine what food groups to serve at each meal or snack and the serving size of the selected foods for children ages two (2) and older. The categories "oils" and "discretionary calories" may not be considered food groups. Copies of the USDA My Pyramid may be obtained from ~~the licensing authority, the local county health department or from~~ the USDA website at www.mypyramid.gov. Using the USDA My Pyramid, breakfast shall consist of at least three (3) different food groups; lunch and dinner shall consist of at least four (4) different food groups, and snacks shall consist of at least two (2) different food groups. If a special diet is required for a child by a physician, a copy of the physician's order, a copy of the diet and a sample meal plan for the special diet shall be maintained in the child's file for as long as the child is in care. If the custodial parent or legal guardian notifies the family day care home of any known food allergies, written documentation must be maintained in the child's file. Daily meal and snack menus shall be maintained for a minimum of six months for licensing purposes. Operators who participate in the USDA Food Program, they shall provide nutritious meals and snacks and must keep menus in accordance with the Department of Health and the USDA requirements.

(2) Hygiene and Sanitation.

(a) Operators, substitutes, and children shall wash their hands with soap and running water, dry thoroughly, and follow personal hygiene procedures for themselves or while assisting others, and immediately after outdoor play.

(b) Soiled items shall immediately be placed in plastic lined, securely covered containers that are not accessible to children. The container shall be emptied, cleaned and sanitized or disinfected daily. Children's wet or soiled clothing and crib sheets shall be changed promptly.

(c) Potty chairs, if used, shall be cleaned and sanitized or disinfected after each use.

(d) Each family day care home shall provide and maintain toilet and bath facilities that are easily accessible and at a height usable by the children. Platforms or stools are acceptable when they are safely constructed, with impervious surfaces, and can be easily cleaned and sanitized or disinfected.

(e) Running water, soap, trash receptacles, toilet paper and individual towels/disposable towels shall be available and within reach of children using the toileting facility.

~~(f)(4)~~ Each child shall have his own individually labeled towel and wash cloth. If disposable towels are used, they shall be discarded after each use.

~~(g)(e)~~ When children in diapers are in care, there shall be a diaper changing area with an impermeable surface that is cleaned and sanitized or disinfected with a sanitizing solution after each use. The diaper changing area shall be located separate from the food preparation, food service and feeding area. In addition, items unrelated to diaper changing shall not be stored in the diaper changing area nor shall they be placed on the diaper changing table.

(3) First Aid Kit and Emergency Procedures.

(a) At least one (4) first aid kit must be maintained on the premises of the family day care home at all times and on activities away from the home. The first aid kit shall be accessible to the operator and kept out of the reach of children. The kit must be clearly labeled "First Aid" and must, at a minimum, include:

1. Soap,
2. Band-Aids or equivalent,
3. Disposable non-porous gloves,
4. Cotton balls or applicators,
5. Sterile gauze pads and rolls,
6. Adhesive tape,
7. Thermometer,
8. Tweezers,
9. Pre-moistened wipes,
10. Scissors, and

11. A current resource guide on first aid and CPR procedures.

(b) Emergency Procedures and Notification.

1. Emergency telephone numbers, including ambulance, fire, police, poison control center, Florida Abuse Hotline, the county public health unit; and the home's address, ~~of~~ and directions to the home, including major intersections and local landmarks, must be posted ~~posed~~ on or near all telephones and shall be used to protect the health, safety and well-being of any

child in care. To meet the immediate needs of the child, family day care home operators shall call 911 or other emergency numbers in the event of an emergency.

2. Custodial parents or legal guardian shall be notified immediately in the event of any serious illness, accident, injury or emergency involving to their child and their specific instructions regarding action to be taken under such circumstances shall be obtained and followed. If the custodial parent or legal guardian cannot be reached, the family day care home operator will contact those persons designated by the custodial parent or legal guardian to be contacted under these circumstances, and shall follow the written instructions provided by the custodial parent or legal guardian.

3. All accidents, incidents, and observed health related signs and symptoms which occur at a family day care home must be documented on the day they occur. Documentation shall include the name of the affected party, date and time of occurrence, description of occurrence, actions taken, and signature of operator and custodial parent or legal guardian. This documentation must be shared with the custodial parent or legal guardian on the date of occurrence. Records of accidents, incidents, and observed health related signs and symptoms must be maintained for one (+) year. If the child is not picked up by the custodial parent or legal guardian, the home must document on the accident or incident form when the custodial parent or legal guardian was contacted about the accident or incident and who picked up the child, and must obtain the signature of the custodial parent or legal guardian on the accident or incident form the first time they return to the home.

4. Fire drills shall be conducted monthly and shall be conducted at various times when children are in care. A written record shall be maintained showing the date, time, number of children in attendance, evacuation route used, and time taken to evacuate the home. This record shall be maintained for one year from the date of the fire drill six (6) months. During the license year, the monthly fire drills conducted must include, at a minimum:

a. Two fire drills during the established napping/sleeping times.

b. Two fire drills using different alternate evacuation routes, and

c. One fire drill in the presence and at the request of the licensing authority in coordination with the operator.

5. The operator shall develop a written emergency preparedness plan to include, at a minimum, procedures for lockdown, inclement weather, and other conditions.

6. Emergency preparedness drills shall be conducted when children are in care and are in addition to fire drills required in subparagraph (3)(b)4., above. Each drill outlined in the emergency preparedness plan must be practiced a minimum of one time per year, and the documentation must be maintained for one year. The operator shall maintain a written record of the

emergency preparedness drills showing the type of drill, date conducted, number of children in attendance, and time taken for all individuals to complete the drill.

7. The operator shall maintain a written record of emergency preparedness drills showing the type of drill, date conducted, number of children and staff, if applicable, in attendance, and time taken for all individuals to complete the drill.

8. Documentation of completed fire and emergency preparedness drills must be available at the time of the inspection. Documentation produced after the inspection shall not meet the licensing standard or corrective action requirements.

~~9.5.~~ After a fire or natural disaster, the operator must notify the licensing ~~authority agency~~ within 24 hours as to their operational status ~~of operation~~ in order for the ~~department or local~~ licensing authority agency to ensure health standards are met for continued operation as a family day care home.

(4) Communicable Disease Control.

(a) Children in care shall be observed on a daily basis for signs of communicable disease. Signs and symptoms of a suspected communicable disease include the following:

1. Severe coughing, causing a ~~the~~ child to become red or blue in the face or to make a whooping sound;

2. Difficult or rapid breathing;

3. Stiff neck;

4. Diarrhea (more than one abnormally loose stool within a 24 hour period);

5. Temperature of 101 degrees Fahrenheit or higher when in conjunction with any other signs of illness;

6. Pink Eye;

7. Exposed, open skin lesions;

8. Unusually dark urine and/or gray or white stool;

9. Yellowish skin or eyes; or

10. Any other unusual sign or symptom of illness.

(b) The family day care home shall have a designated isolation area for a child who becomes ill. The child's condition shall be closely observed. Any child who is suspected of having a communicable disease or who has a fever of 101 degrees Fahrenheit or higher, in conjunction with any of the signs and symptoms listed in paragraph ~~65C 20.010(4)(a), above F.A.C.~~, shall be placed in the isolation area. Linens and disposable items shall be changed after each use. The condition shall be reported to the custodial parent or legal guardian and the child shall be removed from the family day care home. Such children shall not return to the home without medical authorization, or until the signs and symptoms of the disease are no longer present.

(c) A child identified as having head lice shall not be permitted to return until the following day and only provided that treatment has occurred and been verified. Verification of treatment may include a product box, box top, empty bottle, or

signed statement by a custodial parent or legal guardian that treatment has occurred. The operator must also treat areas, equipment, toys, and furnishings, with which the child has been in contact.

(d) An operator, substitute, employee, or household member who develops signs and symptoms of a communicable disease or who has a fever of 101 degrees Fahrenheit or higher, in conjunction with any of the signs and symptoms listed in paragraph ~~65C-20.010~~(4)(a), above F.A.C., shall leave the areas of the home occupied by the children and shall not return without medical authorization, or until the signs and symptoms are no longer present. If it is the operator who is ill, the substitute must assume the operator's responsibilities.

(e) Outbreaks. Operators are required to notify the local county health department immediately upon any suspected outbreak of communicable disease in accordance with Chapter 64D-3, F.A.C., Communicable Disease Control and follow the health department's direction. A suspected outbreak occurs when two or more children or adults have the onset of similar signs or symptoms, as outlined in paragraph (4)(a), above, within a 72-hour period or when a case of a serious or reportable communicable disease is diagnosed or suspected in a child or employee.

(5) Medication. Family day care homes are not required to give medication; however, if they choose to do so, the following shall apply:

(a) The family day care home must have written authorization from the custodial parent or legal guardian to dispense prescription and non-prescription medications. This authorization must be dated and signed by the custodial parent or legal guardian and must contain the child's name; the name of the medication to be dispensed; and the date, time and amount of dosage to be given. This record shall be initialed or signed by the family day care home provider who gave the medication.

(b) Any known allergies to medication or special restrictions must also be documented, maintained in the child's file, and posted with stored medication.

(c) Prescription and non-prescription medication brought to the family day care home by the custodial parent or legal guardian must be in the original container. Prescription medication must have a label stating the name of the physician, child's name, name of the medication, and medication directions. All prescription and non-prescription medication shall be dispensed according to written directions on the prescription label or printed manufacturer's label.

(d) In the event of an emergency, non-prescription medication that is not brought in by the custodial parent or legal guardian can ~~only~~ be dispensed only if the family day care home has written authorization from the custodial parent or legal guardian to do so.

(e) Any medication dispensed under these conditions must be documented in the child's file and the custodial parent or

legal guardian must be notified on the day of occurrence.

(f) The family day care home must maintain a record for each child receiving medications that documents the full name of the child, the name of medication, the date and time the medication was dispensed, the amount and dosage, and the name of the person who dispensed the medication. The record shall be maintained for a minimum of four (~~4~~) months after the last day the child received the dosage.

(g) All medicine must have child resistant caps, if applicable, and shall either be stored in a separately and locked area or must be inaccessible and out of a child's reach.

(h) Medication which has expired or is no longer being administered shall be returned to the custodial parent or legal guardian or discarded if the child is no longer enrolled in care at the family day care home.

(6) Child Discipline.

(a) Family day care homes shall adopt a discipline policy consistent with Section 402.305(12), F.S., including standards that prohibit children from being subjected to discipline which is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.

(b) All family day care home operators, employees, ~~including~~ substitutes, and volunteers must comply with the family day care home's written discipline policy.

(c) A copy of the written discipline policy must be available for review by the parents or legal guardian and the licensing authority.

(7) Child Abuse or Neglect.

(a) Acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in Sections 402.301-.319, F.S.

(b) Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S., constitutes a violation of the standards in Sections 402.301-.319, F.S.

(8) Transportation.

(a) When any vehicle is ~~regularly~~ used by a family day care home to provide transportation for the children in care, the driver shall have a valid Florida driver's license in accordance with Section 322.03(1), F.S.

(b) All family day care homes must maintain documentation of current insurance coverage on all vehicles used to transport children in care ~~and documentation thereof.~~

(c) The maximum number of individuals transported in a vehicle shall not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.

(d) Each child, when transported, must be in an individual factory installed seat belt or federally approved, properly installed, child safety restraint, unless the vehicle is excluded from this requirement by Florida Statute.

(e) An adult must remain within sight and hearing of children being transported in a vehicle so as to be able to

respond to the needs of the children at all times.

(f) Prior to transporting children and upon the vehicle(s) arrival at its destination, the following tasks shall be completed ~~conducted~~ by the driver(s) of the vehicle(s) used to transport the children:

1. A log shall be maintained for all children being transported in the vehicle. ~~The log shall be retained for a minimum of six months.~~ The log shall include each child's name, date, time of departure and time of arrival, and signature of the driver to verify the fact that all children have left the vehicle. The log shall be retained for a minimum of six months.

2. Upon arrival at the destination, the driver of the vehicle shall:

a. Mark each child off the log as the child departs the vehicle,

b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and

c. Sign, date and record the driver's log immediately, verifying that all children were ~~at~~ accounted for and that the visual sweep was conducted.

(g) Smoking is prohibited in all vehicles while being used to transport children.

(h) Emergency medical consent forms or copies of the consent forms signed by the custodial parent or legal guardian and emergency contact numbers must accompany the children on all field trips.

(i) A permission and transportation release form signed by the custodial parent or legal guardian of the children in care must be on file for planned and unplanned activities. Written permission may be in the form of a general permission slip. Documentation of parental permission must be maintained for a minimum of six months from the date of planned and unplanned activities.

(j) A means of instant communication shall be available at all times while transporting children.

Rulemaking Specific Authority 402.313 FS. Law Implemented 402.313 FS. History--New 7-2-98, Amended 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08, _____.

65C-20.011 Health Records.

(1) Immunizations.

(a) The family day care home provider is responsible for obtaining, for each child in care, a current, complete and properly executed Florida Certification of Immunization form, Parts A-1, B, and/or C, DH 680 (July 2008~~4~~), or the Religious Exemption from Immunization form, DH 681 (July 2008) ~~(May 1999)~~, which are incorporated herein by reference, from the custodial parent or legal guardian. DH Form 680 and DH Form 681 may be obtained from the local health department. Immunizations received out-of-state are acceptable; however, immunizations must be documented on the Florida Certification of Immunization form and must be signed by a physician practicing in the State of Florida. Specific

immunization requirements are included and detailed in the most current edition of the "Immunization Guidelines – Florida Schools, Child Care Facilities and Family Day Care Homes" as referenced in Rule 64D-3.011, F.A.C.

(b) The family day care home operator is responsible for obtaining, for each child in care, a current, complete and properly executed Student Health Examination form, DH 3040 (June 2002), incorporated herein by reference, or a signed statement by an authorized professional that indicates the results of the components of the form are included in the health examination from the custodial parent or legal guardian, within 30 days of enrollment. The Student Health Examination shall be completed by a person given statutory authority to perform health examinations.

(c) The Student Health Examination form or signed statement is valid for two ~~(2)~~ years from the date the physical was performed and must be on file as long as the child is in care.

(d) If the custodial parents or legal guardians fail to provide the documentation required in paragraph (a) or (c) above within 30 days of enrollment, the family day care home shall not allow the child to remain in the program.

~~(e)(4)~~ School-aged children attending public or nonpublic schools are not required to have student health examination and immunization records on file at the family day care home as such records are on file at the school where the child is enrolled.

~~(f)(e)~~ If the custodial parents or legal guardians need assistance concerning these requirements, the family day care home shall refer them to the Department of Health or to the child's physician.

~~(g)(f)~~ Medical records in this section are the property of the custodial parent or legal guardian and must be returned when the child is no longer in care. The medical records are transferable if the child is placed in a different family day care home.

(2) Enrollment and Medical Authorization.

(a) The operator shall obtain enrollment information from the child's custodial parent or legal guardian prior to accepting the child into care. This information shall be documented on CF-FSP Form 5219, January 2008, Child Care Application for Enrollment, which is incorporated by reference, or an equivalent that contains all the information required by the department's form. CF-FSP Form 5219 may be obtained from the ~~department's Department of Children and Family Services website at www.myflorida.com/childcare or the local licensing agency.~~

(b) Enrollment information shall be kept current and on file for each child in care.

(c) There shall be signed statements from the custodial parents or legal guardian that the family day care home has provided them with the following information: The Department of Children and Family Services family day care

home brochure, CF/PI 175-28, ~~September 2007~~ July 2005, Selecting a Family Day Care Home Provider, which is incorporated by reference. This brochure may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services' website at www.myflorida.com/childcare.~~

Rulemaking Specific Authority 402.313 FS. Law Implemented 402.313 FS. History—New 7-2-98, Amended 5-21-00, 7-13-03, 9-12-04, 4-12-07, 5-1-08, _____.

65C-20.012 Enforcement.

(1) Definitions.

(a) “Day” means a weekday, excluding weekends and holidays.

(b) “Probation” is a licensing status indicating the license is in jeopardy of being revoked or not renewed due to violations within the control of the provider. Probation may require the licensee to comply with specific conditions intended to ensure that the licensee comes into and maintains compliance with licensing standards. Examples of such conditions are: a deadline to remedy an existing violation, a specified period during which compliance with licensing standards must be strictly maintained; and, specified conditions under which the home must operate during the probationary period wherein the department or local licensing agency issues a disciplinary action imposing a deadline for a facility to remedy a violation or violations, which are within the control of the facility, to become compliant with licensing standards.

(c) “Standards” are requirements for the operation of a licensed family day care home or large family child care home provided in statute or in rule that must be met for licensure as a family day care home and a large family child care home that are identified on the CF-FSP Form 5318, October 2007, Family Day Care Home Standards Classifications Summary, and CF-FSP Form 5317, October 2007, Large Family Child Care Home Standards Classification Summary, which is incorporated by reference.

(d) “Violation” means a finding of noncompliance by the department or local licensing authority agency of ~~with~~ a licensing standard.

1. “Class I Violation” is an incident incidence of noncompliance with a Class I standard as described on CF-FSP Form 5318, March 2009 Family Day Care Home Standards Classifications Summary and CF-FSP Form 5317, March 2009 Large Family Child Care Home Standards Classification Summary, which is incorporated by reference. Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or do result in death or serious harm to the health, safety or well-being of a child.

2. “Class II Violation” is the second or subsequent incident incidence of noncompliance with an individual Class II standard as described on CF-FSP Form 5318 and CF-FSP

Form 5317. Class II violations are less serious in nature than Class I violations and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent.

3. “Class III Violation” is the third or subsequent incident incidence of noncompliance with an individual Class III standard as described on CF-FSP Form 5318 and CF-FSP Form 5317. Class III violations are less serious in nature than either Class I or Class II violations and pose a low potential for harm to children.

4. “Technical Support Violations” are the first or second occurrence of noncompliance of an individual Class III standard or the first occurrence of noncompliance of an individual Class II standard.

(2) Authority. The operation of a family day care home is prohibited unless registered or licensed, as required by county ordinance or resolution. The department or local licensing agency shall have the authority to seek an injunction in the circuit court where the home is located to stop the continued operation of a family day care home that is not licensed or registered. For licensed family day care homes, the department or local licensing agency shall also have the authority to seek an injunction in the circuit court where the home is located to stop the continued operation if the family day care home is in violation of the minimum standards. Pursuant to Section 120.60(6), F.S., an emergency suspension order may also be used to stop the continued operation if the family day care home poses immediate serious danger to the public health, safety, or welfare of the children who are enrolled.

(3) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction with any disciplinary sanction. The department shall take into consideration the actions taken by the home facility to correct the violation when determining the appropriate disciplinary sanction.

(b) Each standard violation has an assigned classification based on the nature or severity of the violation(s) as identified within CF-FSP Form 5318, October 2007, Family Day Care Home Standards Classification Summary, and CF-FSP Form 5317, October 2007, Large Family Child Care Home Standards Classification Summary.

(c) A violation of a Class II standard that results in death or serious harm to a child shall escalate to a Class I violation.

(d) Failure to submit a completed CF-FSP Form 5133, Application for a License to Operate a Family Day Care Home, or CF-FSP Form 5238, Application for a License to Operate a Large Family Child Care Home for renewal of an annual license at least 45 days prior to the expiration date of the current license constitutes a licensing violation. The department shall issue an administrative complaint imposing a

fine of \$50.00 for the first occurrence, \$100.00 for the second occurrence, and \$200.00 for each subsequent occurrence within a five year period.

~~(e)~~(d) Disciplinary sanctions for licensing violations that occur within a two ~~(2)~~ year period shall be progressively enforced as follows:

1. Class I Violations.

a. For the first and second violation of a Class I standard violation, the department shall, upon applying the factors in Section 402.310(1), F.S., issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 per day for each violation, and may impose other disciplinary sanctions in addition to the fine.

b. For the third and subsequent violation of the same Class I standard violation, the department shall issue an administrative complaint to suspend, deny or revoke the license. The department, upon applying the factors in Section 402.310(1), F.S., may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. For the first violation of a Class II standard violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard occur. The violation will be classified as "Technical Support."

b. For the second violation of the same Class II standard violation, the department shall issue an administrative complaint imposing a fine of \$50 for each violation. This violation, and subsequent violations, of the same standard within a two ~~(2)~~ year period will be classified as "Class II."

c. For the third violation of the same Class II standard violation of that standard, the department shall issue an administrative complaint imposing a fine of \$60 per day for each violation.

d. For the fourth violation of the same Class II standard violation, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six ~~(6)~~ months, and the department shall also issue an administrative complaint imposing an additional fine of \$75 per day for each violation.

e. For the fifth and subsequent violation of the same Class II standard violations, the department shall issue an administrative complaint to suspend, deny, or revoke the license and the department shall also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

3. Class III Violations.

a. For the first violation of a Class III standard violation, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III standard violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third violation of the same Class III standard violation, the department shall issue an administrative complaint imposing a fine of \$25 for each violation. This violation, and subsequent violations of the same standard within a two ~~(2)~~ year period will be classified as "Class III."

d. For the fourth violation of the same Class III standard violation, the department shall issue an administrative complaint imposing a fine of \$30 per day for each violation.

e. For the fifth violation of the same Class III standard violation, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six ~~(6)~~ months, and the department shall also issue an administrative complaint imposing a fine of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III standard violation, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall also issue an administrative complaint imposing a fine of \$50 per day for each violation.

4. Children's Health/Immunization Records Disciplinary Sanctions.

a. For the first violation of a Class III Children's Health and/or Immunization standard violation, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue an administrative complaint imposing a fine in the amount of \$25 for each violation. This Class III violation, and subsequent Class III violations of the same standard within a two ~~(2)~~ year period, will be classified as "Class III."

d. For the fourth violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue an administrative complaint imposing a fine in the amount of \$30 for each violation.

e. For the fifth violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue an administrative complaint imposing a fine in the amount of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue an administrative complaint placing

the provider's license or registration on probation status for a period not to exceed six (6) months, and the department shall also issue an administrative complaint imposing an additional fine of \$50 per day for each violation.

(4) Access. The family day care operator must allow access to the entire premises of the family day care home to inspect for compliance with family day care home minimum standards. Access to the family day care home also includes access by the parent, legal guardian, and/or custodian, to their child(ren) while in care.

Rulemaking Specific Authority 402.313, FS. Law Implemented 402.313 FS. History--New 7-2-98, Amended 7-13-03, 9-12-04, 4-12-07, 5-1-08,_____.

65C-20.013 Large Family Child Care Homes (LFCCH).

(1) Large Family Child Care Homes.

(a) A ~~L~~Large ~~f~~Family ~~c~~Child ~~c~~Care ~~h~~Home, for the purposes of this rule, means a home that is licensed under Section 402.3131, F.S. A large family child care home must first have operated as a licensed family day care home for two consecutive years, with an operator who has had a child development associate credential or its equivalent for one year. must have been licensed in the State of Florida as and meet all the requirements of a family day care home for two (2) consecutive years. The two consecutive years of operation as a licensed family day care home must have been within five years of the date of the application to operate a large family child care home.

(b) Large family child care homes must meet and comply with all standards in Section 402.3131, F.S., and in this rule at all times unless there are insufficient numbers of children in care to meet the definition of a large family child care home, in which case an additional employee is not required.

(c) Large family child care homes shall meet all of the requirements in Rules 65C-20.008-.012, F.A.C., in addition to the requirements listed below.

(2) Large Family Child Care Home Definitions.

(a) "Full Time Employee" means one (~~4~~) additional staff person at least 18 years of age, who is on the premises of a home operating as a large family child care home.

(b) "Hours of Operation" means the hours of the day or night that a large family child care home has ~~enough~~ children in care ~~to meet the definition of a large family child care home.~~

(c) "Operator" means the occupant and licensee of the large family child care home who is at least 21 years of age and responsible for the overall operation of the home.

(d) "Substitute" means a competent adult, at least 18 years of age, who is available to substitute for the operator or employee on a temporary or emergency basis.

(3) Large Family Child Care Home Application and License.

(a) Application for a license or for renewal of a license to operate a large family child care home must be made on CF-FSP Form 5238, ~~March 2009 April 2006~~, Application for a License to Operate a Large Family Child Care Home, which is incorporated by reference. CF-FSP Form 5238 may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare. A license to operate a ~~L~~Large ~~f~~Family ~~c~~Child ~~c~~Care ~~h~~Home may be used to operate a ~~f~~Family ~~d~~Day ~~c~~Care ~~h~~Home when the number of children in care meets the definition of a ~~f~~Family ~~d~~Day ~~c~~Care ~~h~~Home. A license to operate a ~~f~~Family ~~d~~Day ~~c~~Care ~~h~~Home cannot be used to operate a ~~L~~Large ~~f~~Family ~~c~~Child ~~c~~Care ~~h~~Home.

(b) A completed CF-FSP Form 5238, for renewal of an annual license must be submitted to the licensing authority at least 45 days prior to the expiration date of the current license to ensure that a lapse of licensure does not occur. Failure to submit a completed CF-FSP Form 5238, at least 45 days prior to the expiration date of the current license constitutes a licensing violation as defined in paragraph 65C-20.012(3)(d), F.A.C.

(c) CF-FSP Form 5238 is not considered complete until the licensing authority receives proof of background screening clearance on the operator of the large family child care home, substitutes, and on all other household members who are subject to background screening pursuant to Section 402.3131(2), F.S. If the designated substitute changes during the licensure year, prior to taking care of children, the new designated substitute for the operator must comply with background screening requirements and the licensing authority must receive proof of background screening clearances.

(d) The Department may issue a provisional license allowing a home to operate for a designated period of time while working to correct one or more licensing standard(s) not met, provided the owner is making adequate provisions to ensure the health and safety of the children in care. A provisional license may not be issued as an initial license and is not a disciplinary sanction.

(e) CF-FSP Form 5337, March 2009, Child Abuse & Neglect Reporting Requirements, must be signed annually by the operator, employee and substitute(s).

(~~f~~)~~(b)~~ The large family child care home license shall be issued in the name of the operator, who must be at least 21 years of age and the resident of the large family child care home. In the event of rental or leased property, the operator shall be the individual who occupies the residence.

(~~g~~)~~(e)~~ A copy of the annual license shall be posted in a conspicuous location within the large family child care home.

(4) Large Family Child Care Home Personnel.

(~~a~~) ~~The operator of the large family child care home may not work outside of the home during hours the large family child care home is in operation.~~

(b) No person shall be an operator, substitute, or employee while using or who is under the influence of narcotics, alcohol, or other drugs that impair an individual's ability to provide supervision and safe child care.

(c) ~~Large family child care homes must have one (1) person on the premises during all hours of operation who has a valid and current certificate(s) of course completion for infant and child cardiopulmonary resuscitation (CPR) procedures and first aid training.~~

(a)(~~d~~) Prior to caring for children, the employee ~~and substitute for the employee~~ must, within 5 working days after starting work, submit to the employer a complete set of information necessary to conduct a screening under this section.

(b) Initial Screening. Screening information for the employee must be documented on CF-FSP Form 5131, March 2009, Background Screening and Personnel File Requirements, which is incorporated by reference.

(c) Re-screening. Re-screening information for the employee must be documented on CF-FSP Form 5131.

(5) Large Family Child Care Home Staff Training.

(a) Definitions.

1. "Active" ~~is refers to~~ the status of a candidate's awarded credential or certification ~~in~~ which demonstrates that the credential requirements have been successfully met.

2. "Begin training for child care personnel" refers to a candidate's commencement of at least one (~~1~~) of the child care training courses listed in Section ~~402.3131(3)305(2)(d)~~, F.S. This may be accomplished by classroom attendance in a department-approved training course, acquiring an educational exemption from a department-approved training course, beginning a department-approved online child care training course, or by receiving results from completion of a department-approved competency examination within the first 90 days of employment in the child care industry in any licensed Florida family day care home or large family child care home. The large family child care home is responsible for obtaining documentation from child care personnel.

3. "Continuing Education Unit (CEU)" is a standard unit of measure of coursework used for training and credential purposes. The department will accept CEUs from education institutions accredited and recognized by the U.S. Department of Education, or nationally affiliated state or local professional organizations.

~~4.3.~~ "Early Childhood Education" refers to coursework, certification, a credential or degree that specializes in children ages birth through eight years (8).

4. "Expired" refers to the status of a candidate's awarded credential or certification that is not eligible for renewal.

5. "Florida Child Care Professional Credential (FCCPC)," pursuant to Section 402.305(3)(b), F.S., certifies successful completion of is a department-approved training program that consists of a minimum of 120 hours of early childhood

instruction, 480 contact hours with children ages birth through eight years (8), and at least two (~~2~~) methods of formal assessment that offers two (~~2~~) areas of certification: "Birth Through Five" (formerly the department-approved CDA Equivalency training programs)" and "School-Age" (formerly the Florida School-Age Certification). Credentials must be documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate, which is incorporated by reference. Active credentials are valid for five years from the date of issuance. A list of approved and recognized FCCPC programs may be obtained from ~~on~~ the department's Department of Children and Family Services' website at www.myflorida.com/childcare.

6. "Florida Department of Education Child Care Apprenticeship Certificate (CCAC)" is a department-approved child care credential that consists of a minimum of 120 hours of early childhood instruction, and 480 contact hours with children ages birth through eight years (8), and meets or exceeds the requirements outlined in Section 402.305(3)(c), F.S. A list of approved and recognized DOE programs may be obtained from ~~on~~ the department's Department of Children and Family Services' website at www.myflorida.com/childcare. Active credentials are valid for five years from the date of issuance. Credential renewal certificates must documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate.

7. "Florida Department of Education Early Childhood Professional Certificate (ECPC)" is a department-approved child care credential that consists of a minimum of 120 hours of early childhood instruction, and 480 contact hours with children ages birth through eight years (8), and meets or exceeds the requirements outlined in Section 402.305(3)(c), F.S. A list of approved and recognized DOE programs may be obtained from ~~on~~ the department's Department of Children and Family Services' website at www.myflorida.com/childcare. Active credentials are valid for five years from the date of issuance. Credential renewal certificates must documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate.

8. "Florida Department of Education School-Age Professional Certificate (SAPC)" is a department-approved child care credential that consists of a minimum of 120 hours of early childhood instruction, and 480 contact hours with school-age children, and that meets or exceeds the requirements outlined in Section 402.305(3)(c), F.S. A list of approved and recognized DOE programs may be obtained from ~~on~~ the department's Department of Children and Family Services' website at www.myflorida.com/childcare. Active credentials are valid for five years from the date of issuance. Credential renewal certificates must documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate.

9. “High School Diploma, GED and/or College Degree” means a diploma or degree obtained from institution accredited and recognized by U.S. Department of Education. If a high school diploma is earned outside the U.S., it must be translated by someone who is a member of the American Translators Association, an approved credential evaluation agency approved by the Bureau of Educators Certification, or an accredited college/university. If a college degree is earned outside the U.S., it must be evaluated by an approved credential evaluation agency approved by the Bureau of Educators Certification or an accredited college/university to be equivalent to a U.S. degree.

10. “Inactive” refers to the status of a candidate’s awarded credential or certification that is no longer active; however, remains eligible for renewal.

11. “National Early Childhood Credential (NECC)” pursuant to Section 402.305(3)(c), F.S., is an early childhood credential approved by the department and recognized by licensing authorities in at least five (5) states that incorporates 120 hours of early childhood instruction, 480 contact hours with children ages birth through eight years (8), and includes at least two (2) methods of formal assessment. This includes the Child Development Associate (CDA) credential issued by the Council for Professional Recognition in Washington, DC. A list of approved and recognized NECC programs may be obtained from ~~on the department’s Department of Children and Family Services’~~ website at www.myflorida.com/childcare.

~~12.11. “Professional contribution” demonstrates a dedication to early childhood or school-age education outside of the child care program responsibilities. “Training Transcript” is the electronic documentation of statutorily mandated training and staff credential qualifications for child care personnel. Training transcripts may be obtained on the Department of Children and Family Services’ website at www.myflorida.com/childcare.~~

~~13.12. “Year of experience” is equivalent to a minimum of 1040 hours of paid and/or nonpaid documented work experience. “Weighted score” means a scaled score, rather than a percentage score, based on the difficulty of the exam and determined by competency exam professionals in consultation with subject matter experts.~~

(b) Large Family Child Care Home Operators. In addition to the training requirements identified in paragraphs 65C-20.009(3)(a) and (c), F.A.C., large family child care home operators must:

1. Possess a ~~CF-FSP Form 5206, April 2005, Staff Credential Verification Confirmation, documented on the Training Transcript.~~

a. To apply for a staff credential verification, a candidate must complete CF-FSP Form 5211, March 2009, Florida Child Care Staff Credential Verification Application, which is incorporated by reference, and may be obtained from the department’s website at www.myflorida.com/childcare.

Operators must meet ~~for~~ one (1) of the following credentials below for a minimum of one (1) year prior to initial Large Family Child Care Home Licensure:

(I) An active National Early Childhood Credential (NECC); or

(II) ~~An~~ active Birth Through Five Child Care Credential awarded as a ~~or School-Age~~ Florida Child Care Professional Credential (FCCPC), ~~(formerly known as the Child Development Associate Equivalency);~~ an active Florida Department of Education Child Care Apprenticeship Certificate (CCAC), or Early Childhood Professional Certificate (ECPC); or

(III) An active School-Age Child Care Credential awarded as a Florida Child Care Professional Credential (FCCPC) or School-Age Professional Certificate (SAPC); or

(IV) ~~or meet the~~ Formal Educational Qualifications requirement outlined on CF-FSP Form 5211, January 2008, Staff Credential Application, which is incorporated by reference.

b. An Employment History Recognition Exemption will not be accepted to meet the minimum staff credential requirements for Large Family Child Care Homes.

~~a. A candidate must complete CF-FSP Form 5211, January 2008, Staff Credential Application.~~

~~c.b.~~ An Employment History Recognition Exemption and a School-Age FCCPC will not be accepted to meet the minimum staff credential requirements for Voluntary Pre-Kindergarten (VPK).

d. All credentials used for the participation in the Voluntary Pre-Kindergarten (VPK) must be active. If the licensing authority identifies that the designated VPK teacher does not have an active credential, the licensing authority will notify the local Early Learning Coalition or designated representative.

2. Within six (6) months of licensure, successfully complete 10-clock-hours of specialized training from the department’s Part II training courses as evidenced by successful completion of a competency examination with a weighted score of 70 or better.

a. These courses include:

(I) Infant and Toddler Appropriate Practices (10 hours).

(II) Preschool Appropriate Practices (10 hours).

(III) School-Age Appropriate Practices (10 hours).

(IV) Special Needs Appropriate Practices (10 hours).

(V) Early Literacy for Children Ages Birth Through Three (5 hours online).

(VI) Basic Guidance and Discipline (5 hours online).

(VII) Emergent Literacy for Voluntary Pre-Kindergarten (VPK) Instructors (5 hours online), or

(VIII) Early Childhood Computer Learning Centers (5 hours online).

b. Child care operators have one opportunity, if they

choose, to exempt from one or more of the department's training courses prior to attending training by successful completion of corresponding competency examinations. Exemption examinations are not available for the department's online Part II training courses.

c. The department or its designated representative shall exempt individuals from one or more of the department's training courses with a:

(I) Bachelor's degree or higher B.A., B.S. or advanced degree in Early Childhood Education or Preschool Education from the Infant and Toddler Appropriate Practices course and Preschool Appropriate Practices course.

(II) Bachelor's degree or higher B.A., B.S. or advanced degree in Elementary Education from the School-Age Appropriate Practices course.

(III) Bachelor's degree or higher B.A., B.S. or advanced degree in Exceptional Student Education from the Special Needs Appropriate Practices course.

3. Maintain an active staff credential, documented on the individual's Training Transcript. Inactive staff credentials may not be used to operate a large family child care home.

e. Credential Renewal Requirements:

a.(H) A National Early Childhood Credential must be renewed through the agency that awarded the original credential. Once renewed, for licensing purposes, individuals must complete a CF-FSP Form 5211, Florida Child Care Staff Credential Verification Application to have the individual's Training Transcript updated with renewed credential information. Prior to December 31, 2008, a National Early Childhood Credential may comply with the Birth Through Five Florida Child Care Professional Credential renewal process referenced in sub-sub-subparagraph 65C 20.013(5)(b)1.c.(II), F.A.C., if the credential was issued prior to December 31, 2003.

b.(H) To renew maintain an active Birth Through Five or School-Age Child Care Credential FCCPC, every five (5) years a candidate must complete the renewal section of the CF-FSP Form 5211; if all criteria are met, the individual's Training Transcript will be updated with renewed credential information renew their Birth Through Five FCCPC by completing CF-FSP Form 5273, April 2006, Birth Through Five Florida Child Care Professional Credential Renewal Application, which is incorporated by reference. CF-FSP Form 5273 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare.

(A) A Birth Through Five FCCPC Renewal will be documented on CF-FSP Form 5270. Renewal applications may will be submitted by the candidate no earlier than one (1) year prior to the end of the active period date of the Birth Through Five or School-Age Child Care Credential FCCPC.

(B) Individuals with a Birth Through Five FCCPC issued before December 31, 2003 will renew the credential by submitting a completed CF-FSP 5273 with the required

documentation by December 31, 2008. A Birth Through Five FCCPC issued after December 31, 2003 will have a renewal date of five (5) years from the date of issuance.

(C) An individual with an inactive Birth Through Five or School-Age Child Care Credential may FCCPC will submit a renewal application for a period of up to three (3) years after the end of the Birth Through Five FCCPC active period, but while inactive, the credential shall not be used to operate a large family child care home. The application will be reviewed, and, if approved, a certificate will be issued with a renewal date of five (5) years from the date the renewal requirements are met completed CF-FSP Form 5273 is processed.

(D) For purposes of participation in the Voluntary Pre-Kindergarten (VPK) Program, an individual must ensure an active credential by July 1, 2006.

(H) To maintain an active School-Age FCCPC, every five (5) years a candidate must renew their School-Age FCCPC by completing CF-FSP Form 5307, April 2006, the School-Age Florida Child Care Professional Credential Renewal Application, which is incorporated by reference. CF-FSP Form 5307 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare. A School-Age FCCPC will not be accepted to meet the minimum staff credential requirements for Voluntary Pre-Kindergarten (VPK).

(A) A School-Age FCCPC renewal will be documented on CF-FSP Form 5270. Renewal applications shall be submitted no earlier than one (1) year prior to the end of the active date of the School-Age FCCPC.

(B) An individual with an inactive School-Age FCCPC shall submit a renewal application for the period of up to three (3) years from the end of the School-Age FCCPC active period. The application will be reviewed and, if approved, a certificate will be issued with a renewal date of five (5) years from the date the completed CF-FSP Form 5270 is processed.

(IV) To maintain an active Florida Department of Education Child Care Apprenticeship Certificate (CCAC) or Early Childhood Professional Certificate (ECPC), every five (5) years a candidate must renew their CCAC or ECPC by completing CF-FSP Form 5309, April 2006, Florida Department of Education Child Care Apprenticeship Certificate (CCAC) and Early Childhood Professional Certificate (ECPC) Renewal Application, which is incorporated by reference. To maintain an active Florida Department of Education School-Age Professional Certificate (SAPC), every five (5) years a candidate must renew their SAPC by completing CF-FSP Form 5308, April 2006, Florida Department of Education School-Age Professional Certificate (SAPC) Renewal Application, which is incorporated by reference. CF-FSP Forms 5308 and 5309 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare.

(A) A Florida Department of Education CCAC, ECPC or SAPC renewal will be documented on CF-FSP Form 5310, April 2006, Certificate for Florida Department of Education Child Care Apprenticeship Certificate (CCAC)/Early Childhood Professional Certificate (ECPC)/School-Age Professional Certificate (SAPC) Program Renewal, which is incorporated by reference. CF-FSP Forms 5308 and 5309, as applicable, for renewal will be submitted by the candidate no earlier than one (1) year prior to the end of the active period of the Florida Department of Education CCAC, ECPC, or SAPC.

(B) An individual with an inactive Florida Department of Education CCAC, ECPC, or SAPC may submit CF-FSP Form 5308 or 5309 for a period of up to three (3) years from the end of the Florida Department of Education CCAC, ECPC, or SAPC active period. CF-FSP Form 5308 or 5309, as applicable, will be reviewed and, if approved, a CF-FSP Form 5310 will be issued with a renewal date of five (5) years from the date the completed CF-FSP Form 5308 or 5309 is processed.

~~c.(V)~~ A staff credential awarded for formal educational qualifications is always active and does not need to be renewed to remain active.

~~2. Within six (6) months of licensure, successfully complete 10 clock-hours of specialized training from the Department of Children and Family Services' Part II specialized training courses as evidenced by successful completion of a competency examination with a weighted score of 70 or better. These courses include:~~

- ~~a. Infant and Toddler Appropriate Practices (10 hours);~~
- ~~b. Preschool Appropriate Practices (10 hours);~~
- ~~c. School-Age Appropriate Practices (10 hours);~~
- ~~d. Special Needs Appropriate Practices (10 hours);~~
- ~~e. Basic Guidance and Discipline (5 hours online);~~
- ~~f. Computer Technology for Child Care Professionals (5 hours online);~~
- ~~g. Early Literacy for Children Ages Birth Through Three (5 hours online);~~
- ~~h. Early Childhood Computer Learning Centers (5 hours online); or~~
- ~~i. Emergent Literacy for Voluntary Pre-Kindergarten (VPK) Instructors (5 hours online);~~
- ~~j. Child care operators have one (1) opportunity, if they choose, to exempt from one (1) or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better. Exemption examinations are not available for the department's online Part II specialized training courses.~~
- ~~k. The Department of Children and Family Services or its designated representative shall exempt individuals with a:~~

~~(I) B.A., B.S., or advanced degree in Early Childhood Education or Preschool Education from the Infant and Toddler Appropriate Practices course and Preschool Appropriate Practices course.~~

~~(II) B.A., B.S., or advanced degree in Elementary Education from the School Age Appropriate Practices course.~~

~~(III) B.A., B.S., or advanced degree in Exceptional Student Education from the Special Needs Appropriate Practices course.~~

(c) Large Family Child Care Home Employees. Employees in a large family child care home shall be at least 18 years of age and must satisfy the following training requirements:

1. Within 90 days of employment in a Florida large family child care home, begin the department's 30 clock-hour Family Child Care Home training. The training shall be successfully completed within 12 months from the date on which the training began, as evidenced by the successful completion of a competency examination offered by the department or its designated representative with a weighted score of 70 or better. Training completion may not exceed 15 months from the date of employment in a Florida large family child care home. Documentation of course completion may either be a single Family Child Care Home (30 Hr) certificate or certificates for the five (5) individual training courses which total 30-clock-hours of training: Family Child Care Home Rules and Regulations; Health, Safety and Nutrition; Identifying and Reporting Child Abuse and Neglect; Child Growth and Development; and Behavioral Observation and Screening.

2. Within 12 months of date of employment in the Florida large family child care home, complete a single course of training in early literacy and language development of children ages birth through five years that is a minimum of five-(5)-clock-hours or .5 CEUs. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma. In order to meet this requirement, employees must complete one of the following:

- a. One of the department's online literacy courses available on the department's website at www.myflorida.com/childcare; or
- b. One of the department's approved literacy training courses. A list of these courses may be obtained from the department's website at www.myflorida.com/childcare (no additional courses will be approved by the department); or
- c. One college level early literacy course (for credit or non-credit) if taken within the last five years.

~~(d)(e)~~ Large Family Child Care Home Substitutes. Substitutes are persons designated by the operator to care for children in the absence of the operator or an employee. Substitutes must be at least 18 years of age. Substitutes for the operator and an employee who works more than 40 hours per month on average must meet the training requirements in paragraph 65C-20.009(3)(a), F.A.C. Substitutes for the

employee who work less than 40 hours per month on average must meet the training requirements in paragraph 65C-20.009(3)(a), F.A.C. Prior to taking care of children, substitutes for the operator of large family child care home and substitutes for the large family child care home employee who work 40 hours or more per month on average during a 12 month period shall be at least 18 years of age and must:

1. Successfully complete the Department of Children and Family Services' 30 clock hour Family Child Care Home training, as evidenced by successful completion of a competency based examination(s) offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better. Individuals who have successfully completed the mandatory 30 clock hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement.

2. Training completed successfully will be documented on the training transcript or on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP Form 5267 may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childeare by clicking on the training link.

a. A copy of the CF-FSP Form 5267 or training transcript must be included in each staff member's child care personnel record and maintained at each child care facility.

b. A copy of the CF-FSP Form 5267 or training transcript for the director of a child care facility must be included in the department's official licensing file.

3. Complete a single course of training in early literacy and language development of children ages birth through five (5) that is a minimum of five (5) clock hours or .5 CEUs. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma. In order to meet this requirement, substitutes for the operator of a large family child care home and substitutes for the large family child care home employee who work 40 hours or more per month on average during a 12 month period must complete one (1) of the following:

a. One (1) of the department's online literacy courses available on the Department of Children and Family Services' website at www.myflorida.com/childeare; or

b. One (1) of the department's approved literacy training courses. A list of these courses may be obtained from the licensing authority on the Department of Children and Family Services' website at www.myflorida.com/childeare (no additional courses will be approved by the department); or

e. One (1) college level early literacy course (for credit or non-credit) if taken within the last five (5) years.

(d) Large Family Child Care Home Employees. Employees in a large family child care home shall be at least 18 years of age and must:

1. Within 90 days of employment in the child care industry, begin the Department of Children and Family Services' 30 clock hour Family Child Care Home training. The training shall be successfully completed within 12 months from the date on which the training began, as evidenced by the successful completion of a competency examination offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better, and may not exceed 15 months from the date of employment in the child care industry. All individuals who have successfully completed the mandatory 30 clock hour Family Child Care Home training prior to January 1, 2004 are not required to fulfill the competency examination requirement.

2. Training completed successfully will be documented on the training transcript or on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference. CF-FSP Form 5267 may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childeare by clicking on the training link.

a. A copy of the CF-FSP Form 5267 or training transcript must be included in each staff member's child care personnel record and maintained at each child care facility.

b. A copy of the CF-FSP Form 5267 or training transcript for the director of a child care facility must be included in the department's official licensing file.

3. Within 12 months of date of employment in the child care industry, complete a single course of training in early literacy and language development of children ages birth through five (5) that is a minimum of five (5) clock hours or .5 CEUs. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma. In order to meet this requirement, employees must complete one (1) of the following:

a. One (1) of the department's online literacy courses available on the Department of Children and Family Services' website at www.myflorida.com/childeare; or

b. One (1) of the department's approved literacy training courses. A list of these courses may be obtained from the licensing authority on the Department of Children and Family Services' website at www.myflorida.com/childeare (no additional courses will be approved by the department); or

e. One (1) college level early literacy course (for credit or non-credit) if taken within the last five (5) years.

(c) Substitutes for an employee at a large family child care home. Prior to caring for children, substitutes for an employee at a large family child care home who work less than 40 hours a month on average during a 12 month period shall complete the department's six (6) clock hour Family Child Care Home Rules and Regulations training, as evidenced by successful completion of a competency based examination offered by the Department of Children and Family Services or its designated representative training prior to caring for children as

documented on the Department of Children and Family Services' CF FSP Form 5267 and the Department of Children and Family Services' child care training transcript. Large family child care substitutes who have successfully completed the three (3) clock-hour Fundamentals of Child Care or the 30 clock-hour Family Child Care Home training are not required to complete the (6) clock-hour Family Child Care Home Rules and Regulations course.

~~(f) Documentation of Training. Training completed successfully will be documented on the training transcript or on CF FSP Form 5267.~~

(6) Large Family Child Care Home Annual In-Service Training. ~~(a)~~ All large family child care home operators and employees, must complete the annual in-service training requirements in subsection 65C-20.009(4), F.A.C.

(a) Mandated 30-clock-hour Family Child Care Home training may be used to meet the annual in-service training requirement during the first year of employment.

(b) All employees continuously employed or hired prior to the last month of the provider's licensure year must complete the annual in-service training requirement. This includes any changes in employment from one program to another.

(c) Employees continuously employed or hired prior to the last month of the provider's licensure year who do not complete the required annual in-service training during any given year must complete the remaining in-service training hours within 30 days of the noncompliance finding by the licensing authority. These hours cannot be used to meet the current year's in-service training requirements.

a minimum of 10 clock hours or one (1) CEU of in-service training annually during the operator's 12 month licensure period.

~~(b) The annual 10 clock hours or one (1) CEU of in-service training concentrating on children ages birth through 12 must be completed in one (1) or more of the following areas (college level courses will be accepted):~~

- ~~1. Health and safety, including universal precautions;~~
- ~~2. CPR;~~
- ~~3. First aid (may only be taken to meet the in-service requirement once every three (3) years);~~
- ~~4. Nutrition;~~
- ~~5. Child development — typical and atypical;~~
- ~~6. Child transportation and safety;~~
- ~~7. Behavior management;~~
- ~~8. Working with families;~~
- ~~9. Design and use of child oriented space;~~
- ~~10. Community, health and social service resources;~~
- ~~11. Child abuse;~~
- ~~12. Child care for multilingual children;~~
- ~~13. Working with children with disabilities in child care;~~
- ~~14. Safety in outdoor play;~~
- ~~15. Literacy;~~

- ~~16. Guidance and discipline;~~
- ~~17. Computer technology;~~
- ~~18. Leadership development/program management and staff supervision;~~
- ~~19. Age appropriate lesson planning;~~
- ~~20. Homework assistance for school age care;~~
- ~~21. Developing special interest centers/spaces and environments; or~~
- ~~22. Other course areas relating to child care or child care management.~~

~~(e) Documentation of the in-service training requirement must be recorded on CF FSP Form 5268A and maintained at the large family child care home. CF FSP Form 5268A may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childcare/ by clicking on the forms link. A new in-service training record is required each licensing year. The in-service training records for the previous two (2) licensing years must also be maintained at the large family child care home for review by the licensing authority.~~

(7) Large Family Child Care Home Supervision.

(a) In a large family child care home, direct supervision must be maintained at all times during the hours of operation. Direct supervision means watching and directing children's activities ~~within the area designated as usable indoor floor space or outdoor play space and~~ responding to each child's need. While children are napping or sleeping in bedrooms, the bedroom doors must remain open.

(b) Additional Supervision Requirements.

1. In addition to the number of staff required to meet staff-to-child ratios, if there are more than six ~~(6)~~ preschoolers participating on field trips away from the large family child care home, there must be one ~~(1)~~ additional adult present per each six ~~(6)~~ preschoolers, or any fraction thereof, to provide direct supervision to the children. If some children remain in the home, the adult supervision staff-to-child ratios as required in Section 402.302(7), F.S., shall apply and must be maintained. In addition, one ~~(1)~~ staff member on the field trip and one ~~(1)~~ staff member remaining on the premises with children must have a valid and current certificate(s) of course completion for infant and child cardiopulmonary resuscitation (CPR) procedures and first aid training. At no time shall the total number of children exceed the capacity as defined in Section 402.302(8), F.S.

2. If a large family child care home uses a swimming pool that exceeds three ~~(3)~~ feet in depth or uses beach or lake areas for water activities, the large family child care home must provide one ~~(1)~~ person with a certified lifeguard certificate or equivalent, unless a certified lifeguard is on duty and present when children are in the swimming area.

(8) Large Family Child Care Home Transportation. In addition to the transportation requirements identified in subsection 65C-20.010(8), F.A.C., a large family child care home must comply with the following:

~~(a) When any vehicle is regularly used by a large family child care home to provide transportation, the driver shall have a valid Florida driver's license in accordance with Sections 322.03(1), F.S.~~

~~(b) All large family child care homes must maintain current insurance coverage on all vehicles used to transport children in care, and documentation thereof.~~

~~(c) The maximum number of individuals transported in a vehicle may not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.~~

~~(d) Each child, when transported, must be in an individual factory installed seat belt or federally approved child safety restraint, unless the vehicle is excluded from this requirement by Florida Statute.~~

~~(e) An adult must remain within sight and hearing of children being transported in a vehicle so as to be able to respond to the needs of the children at all times.~~

~~(f) Prior to transporting children and upon the vehicle(s) arrival at its destination the following shall be conducted by the driver(s) of the vehicle(s) used to transport the children:~~

~~(a)1. Driver's Log. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of six (6) months. The log shall include each child's name, date, time of departure and time of arrival, signature of driver and signature of second staff member to verify driver's log and the fact that all children have left the vehicle.~~

~~2. Upon arrival at the destination the driver of the vehicle shall:~~

~~a. Mark each child off the log as the child departs the vehicle,~~

~~b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle, and~~

~~c. Sign, date and record the driver's log immediately, verifying that all children were accounted for and that the visual sweep was conducted.~~

~~(b)3. Upon arrival at the destination, a second adult shall:~~

~~1.a. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle;~~ and

~~2.b. Sign, date and record the driver's log immediately, verifying that all children were accounted for and that the log is complete.~~

~~(g) Smoking is prohibited in all vehicles being used to transport children.~~

~~(c)(h) When one (1) staff member takes some children on a field trip and one (1) staff member remains on the premises with the remainder of the children in care, the operator or employee transporting children is totally responsible for the~~

care and supervision of those children and shall follow the transportation guidelines for a family day care home as defined in subsection 65C-20.010~~3~~(8)(7), F.A.C.

(9) Large Family Child Care Home Planned and Unplanned Activities.

(a) Each age group or class must have a written and followed plan of scheduled activities posted in a conspicuous location accessible to the custodial parents or legal guardian. The written plan must meet the needs of the children being served and include scheduled activities that:

1. Promote emotional, social, intellectual and physical growth;

2. Include quiet and active play, both indoors and outdoors; and

3. Include meals, snacks, and nap times, if appropriate for the age and the times the children are in care.

(b) Providers are encouraged to advise parents or legal guardians of their child's activities on a daily basis and to participate in the program's activities. A permission and transportation release form signed by the custodial parent or legal guardian of the children in care must be on file for planned and unplanned activities.

~~1. A telephone or other means of instant communication shall be available to the operator, employee or other adult responsible for children during all field trips. Cellular phones, two-way radio devices, citizen band radios, and other means of instant communication are acceptable.~~

~~2. Emergency medical forms signed by the custodial parent or legal guardian and emergency contact numbers must accompany the children on all field trips.~~

~~(10) Child Discipline.~~

~~(a) Large family child care homes shall adopt a discipline policy consistent with Section 402.305(12), F.S.~~

~~(b) All large family child care home operators and personnel, including substitutes, must comply with the large family child care home's written disciplinary policy.~~

~~(c) Copy of the written discipline policy must be available for review by the parents or legal guardian and the licensing authority.~~

(10)(44) Large Family Child Care Home General Requirements.

(a) Fire Safety. Large family child care homes shall conform to state standards adopted by the State Fire Marshal, Chapter 69A-36, F.A.C., Uniform Fire Safety Standards for Child Care Facilities and shall be inspected annually. A copy of the current and approved annual fire inspection report by a certified fire inspector must be on file with the licensing authority.

(b) Indoor Floor Space and Indoor Equipment.

1. A large family child care home must have 35 square feet of usable indoor floor space per child that does not include bedrooms unless it can be demonstrated that these bedrooms are used as multipurpose activity rooms.

2. Usable indoor floor space refers to that space available for indoor play and activities. Usable indoor floor space is calculated by measuring at floor level from interior walls and by deleting space for stairways, toilets and bath facilities, permanent fixtures and non-movable furniture. Kitchens, offices, laundry rooms, storage areas, hallways, and other areas not used in normal day-to-day operations are not included when calculating usable indoor floor space.

3. Shelves or storage for toys and other materials shall be considered as usable indoor floor space if accessible to children.

4. Where infants are in care, they shall have open indoor floor space outside of cribs and playpens.

5. Large family child care homes shall make available toys, equipment and furnishings suitable to each child's age and development and of a quantity suitable for each child to be involved in activities.

6. Toys, equipment and furnishings must be safe and maintained in a sanitary condition, and shall be cleaned and sanitized or disinfected immediately if exposed to bodily fluids, such as saliva.

(c) Outdoor Play Area and Outdoor Equipment.

1. At all large family child care homes, the outdoor play area shall maintain safe and adequate fencing or walls, a minimum of four (4) feet in height. Fencing, including gates, must be continuous and shall not have gaps that would allow children to exit the outdoor play area. The base of the fence must remain at ground level, free from erosion or buildup, to prevent inside or outside access by children or animals.

2. All large family child care homes must have a minimum of 270 square feet of usable outdoor play area located on their property and which is ~~exclusively~~ used for the children attending or residing at the large family child care home, during operating hours. Large family child care homes caring only for infants under 12 months of age shall not be required to have an outdoor play area; however, infants in care shall be provided opportunities for outdoor time each day that weather permits.

~~3. All large family child care homes shall provide equipment and play activities suitable to each child's age and development.~~

~~4. All playground equipment shall be securely anchored, unless portable or stationary by design, in good repair, maintained in safe condition, and placed to ensure safe usage by the children. Maintenance shall include checks, at least every other month, of all supports, above and below the ground, all connectors, and moving parts.~~

~~5. Permanent or stationary playground equipment must have a ground cover or other protective surface under the equipment that provides resilience and is maintained to reduce the incidence of injuries to children in the event of falls.~~

~~6. All equipment, fences, and objects on the large family child care home's premises shall be free from sharp, broken and jagged edges and properly placed to prevent overcrowding or safety hazards in any one (1) area.~~

~~7. All equipment used in the outdoor play area shall be constructed to allow for water drainage and maintained in a safe and sanitary condition.~~

(d) Emergency Procedures and Notification.

~~1.~~ The operator shall prepare an emergency evacuation plan including a diagram of safe routes by which the operator, employee and children may exit each area of the home in the event of fire or other emergency requiring evacuation. This plan shall be posted and ~~or~~ shared with the employees, custodial parents, and/or legal guardians.

~~2. The large family child care home shall maintain and retain a written record of monthly fire drills as specified in subparagraph 65C-20.010(3)(b)4., F.A.C.~~

~~Rulemaking Specific Authority 402.3131 FS. Law Implemented 402.302, 402.302(13), 402.305, 402.3131 FS. History--New 5-21-00, Amended 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08,_____.~~

65C-20.014 Gold Seal Quality Care Program.

(1) Definitions.

~~(a) Gold Seal Quality Care Provider refers to a child care program that is accredited by a nationally recognized accrediting association pursuant to Section 402.281(1), F.S. "Active" refers to the status of a Gold Seal Quality Care Accrediting Association that has met all of the criteria of a Gold Seal Quality Care Accrediting Association for accreditation.~~

~~1.(b)~~ "Effective" refers to the beginning date of a Gold Seal Quality Care provider's designation certificate issued by the Child Care Program Office.

~~2.(e)~~ "Expired" refers to the end date of a provider's Gold Seal Quality Care designation certificate issued by the Child Care Program Office.

~~(b)(4)~~ "Gold Seal Quality Care Accrediting Association" refers to an accrediting association that has applied for and been approved by the department ~~as a Gold Seal Quality Care Accrediting Association.~~

~~1. "Active" refers to the status of a Gold Seal Quality Care Accrediting Association that has met all the criteria for accreditation and has been designated a Gold Seal Quality Care Accrediting Association by the department.~~

~~2.(e)~~ "Inactive" refers to the status of a Gold Seal Quality Care Accrediting Association in which all criteria for accreditation are no longer being successfully met or where an entity has failed to renew its active designation.

3.(f) "Nationally Recognized" refers to an association whose accrediting body is recognized and ~~is actively issuing accreditation certificates accepted and present~~ in at least five (5) states ~~at the time of approval~~ or which had been approved as a Gold Seal Quality Care Accrediting Association by the department prior to July 1, 2007.

(2) Gold Seal Quality Care Provider Requirements.

(a) Gold Seal Quality Care Provider Designation Certificate.

Pursuant to ~~s~~Section 402.281(1), F.S., family day care homes and large family child care homes seeking to obtain designation as a Gold Seal Quality Care provider shall provide the department with documentation of accreditation by an accrediting association that has been approved by the department. Acceptance of the documentation is subject to verification by the issuing accrediting association. A list of approved accrediting associations may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services' website at www.myflorida.com/childcare.~~

(b) Gold Seal Quality Care Enforcement.

1. Gold Seal Quality Care providers must maintain ~~national~~ accreditation by a Gold Seal Quality Care Accrediting Association in order to retain their designation. A family day care home's Gold Seal designation will be terminated upon expiration of accreditation. In order to obtain and maintain Gold Seal Quality Care provider designation, a family day care home must meet the additional criteria outlined in Section 402.281(3), F.S.

2. If a provider's Gold Seal Quality Care designation is revoked by the ~~d~~Department, the Gold Seal Quality Care designation will be terminated ~~termination of the designation will be effective on the date of revocation last day of the current period of licensure.~~

3. If a provider ~~the family day care home's~~ accreditation is revoked by the accrediting association ~~agency~~, termination of the provider ~~family day care home's~~ Gold Seal Quality Care designation by the department will be ~~terminated~~ effective on the date of revocation.

4. If a provider receives accreditation from an inactive accrediting association, it shall not be recognized as a Gold Seal Quality Care Provider.

(3) Gold Seal Quality Care Accrediting Association Requirements.

(a) Accrediting associations seeking recognition as a Gold Seal Quality Care Accrediting Association must complete and attest to the requirements referenced on CF-FSP Form 5315, ~~March 2009 August 2007~~, Gold Seal Quality Care Accrediting Application, which is incorporated by reference. CF-FSP Form 5315 may be obtained ~~from on the department's Department of Children and Family Services' website at www.myflorida.com/childcare.~~ Applications are accepted during the months of

January and July. Denial of an application requires a minimum of a six (6) month waiting period from the date of denial before re-submission during the next scheduled acceptance month.

(b) The department may revoke a Gold Seal Quality Care Accrediting Association's active status for failure to notify the department of a change in the association's administration, operation or any condition under which the accreditation association was initially approved by the department as a Gold Seal Quality Care Accrediting Association, if such change results in the Association's inability to meet the criteria provided in Section 402.281, F.S.

(c)(b) Active Gold Seal Quality Care Associations must re-apply every five (5) years by submitting CF-FSP Form 5315 that may be obtained ~~from on the department's Department of Children and Family Services' website at www.myflorida.com/childcare.~~ Re-applications must be received a minimum of six (6) months prior to end of the five (5) year period. Failure to submit CF-FSP Form 5315 every five (5) years or denial of the application will place the accrediting association in an inactive state, during which the association is not recognized as a Gold Seal Quality Care Accrediting Association. ~~Child care arrangements receiving accreditation certificates from an inactive association shall not be recognized as a Gold Seal Quality Care Provider.~~

(d)(e) Inactive Gold Seal Quality Care Accrediting Associations seeking ~~wishing~~ to renew their ~~become~~ active status must be in compliance with all requirements outlined on CF-FSP Form 5315 as a new applicant before being reinstated as an active Gold Seal Quality Care Accrediting Association, pending ~~department's the Department of Children and Family Services' approval.~~

Rulemaking Specific Authority 402.281 FS. Law Implemented 402.291 FS. History-New 5-1-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Department of Children and Family Services- Child Care Program

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Melissa Jaacks

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 20, 2009

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Family Safety and Preservation Program

RULE NOS.:	RULE TITLES:
65C-22.001	General Information
65C-22.002	Physical Environment
65C-22.003	Training
65C-22.004	Health Related Requirements
65C-22.005	Food and Nutrition

- 65C-22.006 Record Keeping
- 65C-22.007 Evening Child Care
- 65C-22.008 School Age Child Care
- 65C-22.009 Gold Seal Quality Care Program
- 65C-22.010 Enforcement

PURPOSE AND EFFECT: The modifications were made to clarify and reorganize sections of the rule for easier use and provide additional fire and emergency preparedness language to protect the health and safety of children in a child care setting.

SUMMARY: The rule modifications were implemented based on requests for clarification on sections of the rules by licensing staff, providers, and community partners throughout the state. To meet the requests, several sections of the rules have been reorganized to move related topics to one area and the consolidation of several CF-FSP Forms.

In addition, more stringent fire safety requirements were added for providers when conducting monthly fire drills to include monitoring and maintaining of equipment, which could, if not maintained, result in a fire. The new fire safety requirements are as a result of the death of a child during naptime at a child care facility in the summer 2008. Language was also added requiring facilities and homes to create emergency preparedness plans to ensure procedures are in place for situations such as inclement weather or threats from an outside source.

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: 402.26-.319 FS.

LAW IMPLEMENTED: 402.26-.319 FS.

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

DATES AND TIME: Tallahassee: Monday, June 22, 2009, 12:00 Noon

Orlando: Thursday, June 25, 2009, 12:00 Noon

PLACE: Tallahassee: Department of Children and Family Services, 1317 Winewood Blvd., Bldg. 4, Tallahassee, Florida 32399-0700

Orlando: Department of Children and Family Services, 400 W. Robinson Street, Conference Rooms A & B, South Tower, Orlando, Florida 32801

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: Department of Children and Family Services, Child Care Program Office – Policy Unit, 1317 Winewood Blvd., Bldg. 6, 3rd Floor, Room 389A, Tallahassee, Florida

32399-0700 or by calling (850)488-4900. 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: Department of Children and Family Services, Child Care Program Office – Policy Unit, 1317 Winewood Blvd., Bldg. 6, 3rd Floor, Room 389A, Tallahassee, Florida 32399-0700 or by calling (850)488-4900

THE FULL TEXT OF THE PROPOSED RULES IS:

65C-22.001 General Information.

(1) Application.

(a) Application for a license or for renewal of a license to operate a child care facility must be made on CF-FSP Form 5017, ~~March 2009 August 2007~~, Application for a License to Operate a Child Care Facility, which is incorporated by reference. CF-FSP Form 5017 may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the forms link.~~

(b) Each completed, CF-FSP Form 5017 must be submitted with the licensure fee pursuant to Section 402.315, F.S.

(c) The completed CF-FSP Form 5017 must be signed by the individual owner, ~~or~~ prospective owner, or the designated representative of a partnership, association, or corporation, ~~and must include submission of background screening documents for the owner/operator, and approved fire and environmental health inspections.~~

~~(d) For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida, would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes under this rule.~~

~~(d)(e)~~ A completed CF-FSP Form 5017 for renewal of an annual license must be submitted to the licensing authority at least 45 days prior to the expiration date of the current license to ensure that a lapse of licensure does not occur. Failure to submit a completed CF-FSP Form 5017 at least 45 days prior to the expiration date of the current license constitutes a licensing violation as defined in paragraph 65C-22.010(2)(d), F.A.C.

~~(e)(f)~~ Urban Child Care.

1. In order to be classified as an urban child care facility, the applicant, prior to submitting an application for licensure must:

a. Obtain written documentation from the local governing body that confirms the geographical area has been declared urban; ~~and-~~

b. Consult with Urban child care facilities must receive approval from the licensing authority to verify that the required and provide documentation at the time of application that the outdoor play space, required by subsection 65C-22.002(4), F.A.C., does not exist or cannot be made available. Urban designation will not be granted if the licensing authority determines space for an outdoor play area is available: requirement cannot be met. An urban child care facility will not be approved if outdoor space is found by the licensing authority to be available. Outdoor play space is "available" if appropriate space:

(I) is adjacent to the facility, or

(II) can be reached by a route that is free of hazards and is within 1/8 mile of the facility.

2. If requirements in subparagraph 1., above, are met, the applicant must complete and submit the CF-FSP Form 5017.

3. No application for an urban child care facility designation will be approved by the licensing authority without the above criteria being met.

(2) License.

(a) A child care facility license is issued in the name of the owner; The owner may be an individual, partnership, association, or corporation.

(b) At least one (1) week prior to changing ownership of a child care facility, in compliance with Section 402.305(18), F.S., one (1) of the following methods of notification to custodial parents or legal guardians must be observed:

1. Posting a notice in a conspicuous location at the facility;
2. Incorporating information into an existing newsletter; or
3. Individual letters or fliers.

(c) The total number of children in care on-site and while on field trips may never exceed the facility's licensed capacity as reflected on the annual license.

(d) The Department may issue a provisional license allowing a facility to operate for a designated period of time while working to correct one or more licensing standard(s) not met, provided the owner is making adequate provisions to ensure the health and safety of the children in care. A provisional license is a not a disciplinary sanction.

(3) Minimum Age Requirements. In the absence of the operator, there must be a staff person at least 21 years of age in charge of the child care facility, and on the premises at all times.

(4) Ratios.

(a) The staff-to-child ratio, as established in Section 402.305(4), F.S., is based on primary responsibility for the direct supervision of children, and applies at all times while children are in care.

(b) Mixed Age Groups.

1. In groups of mixed age ranges, where children under one (1) year of age are included, one (1) staff member shall be responsible for no more than four (4) children of any age group, at all times.

2. In groups of mixed age ranges, where children one (1) year of age but under two (2) years of age are included, one (1) staff member shall be responsible for no more than six (6) children of any age group, at all times.

(c) For every 20 children, a child care facility must have one (1) credentialed staff member pursuant to Section 402.305(3), F.S.

(5) Supervision.

(a) Direct supervision means watching and directing children's activities within the same room or designated outdoor play area, and responding to the needs of each child. Child care personnel at a facility must be assigned to provide direct supervision to a specific group of children, and be present with that group of children at all times. When caring for school-age children, child care personnel shall remain responsible for the supervision of the children in care, shall be capable of responding to emergencies, and are accountable for children at all times, including when children are separated from their groups.

(b) During nap time, supervision requires that staff be ~~means sufficient staff are~~ in close proximity, within sight and hearing of all the children. All other staff required to meet the staff-to-child ratio shall be within the same building on the same floor, and must be readily accessible and available to be summoned to ensure the safety of the children. Nap time supervision, as described in this section, does not include supervision of children up to 24 months of age, who must be directly supervised at all times.

(c) No person shall be an operator, owner, or employee of a child care facility while using or under the influence of narcotics, alcohol, or other drugs that impair an individual's ability to provide supervision and safe child care.

(d) Additional Supervision Requirements.

1. In addition to the number of staff required to meet the staff-to-child ratio, for the purpose of safety, one (1) additional adult must be present on all field trips away from the child care facility to assist in providing direct supervision.

2. If a child care facility uses a swimming pool that exceeds three (3) feet in depth or uses beach or lake areas for water activities, the child care facility must provide one (1) person with a certified lifeguard certificate or equivalent unless a certified lifeguard is on duty and present when any children are in the swimming area. In situations where the child care facility provides a person with a certified lifeguard certificate or equivalent, that person can also serve as the additional adult to meet the requirement in subparagraph (d)1., above.

3. A telephone or other means of instant communication shall be available to staff responsible for children during all field trips. Cellular phones, two-way radio devices, citizen band radios, and other means of instant communication are acceptable.

(6) Transportation. For the purpose of this section, vehicles refer to those that are owned, ~~operated,~~ or contracted to transport children to or from regularly used by the child care facility and vehicles that provide transportation through a contract or agreement with an outside entity. Parents' personal vehicles used during field trips are excluded from meeting the requirements in subparagraphs 65C-22.001(6)(a)2., (b) & (c), F.A.C.

(a) When any vehicle is ~~regularly~~ used by a child care facility to provide transportation, the driver shall have the following:

1. ~~A~~ valid current Florida driver's license,
2. ~~An~~ annual physical examination which grants medical approval to drive, and valid certificate(s) of course completion for first aid training and infant and child cardiopulmonary resuscitation (CPR) procedures.

(b) All child care facilities must comply with the insurance requirements found in Section 316.615(4), F.S.

(c) All vehicles ~~regularly~~ used to transport children shall be inspected annually by a mechanic to ensure proper working order. Documentation by the mechanic shall be maintained in the vehicle.

(d) The maximum number of individuals transported in a vehicle may not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.

(e) Each child, when transported, must be in an individual factory installed seat belt or federally approved child safety restraint, unless the vehicle is excluded from this requirement by Florida Statute.

(f) When transporting children, staff-to-child ratios must be maintained at all times. The driver may be included in the staff-to-child ratio. Prior to transporting children and upon the vehicle(s) arrival at its destination, the following shall be conducted by the driver(s) of the vehicle(s) used to transport the children:

1. Driver's Log. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of four ~~(4)~~ months. The log shall include each child's name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver's log and the fact that all children have left the vehicle.

2. Upon arrival at the destination, the driver of the vehicle shall:

a. Mark each child off the log as the children depart the vehicle;

b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and

c. Sign, date and record the driver's log immediately, verifying that all children were accounted for, and that the visual sweep was conducted.

3. Upon arrival at the destination, a second staff member shall:

a. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and

b. Sign, date and record the driver's log immediately, verifying that all children were accounted for and that the log is complete.

(g) Emergency medical consent forms or copies of the consent forms signed by the custodial parent or legal guardian, and emergency contact numbers must accompany the children while being transported.

(7) Planned Activities.

(a) Each age group or class must have a written and followed plan of scheduled daily activities posted in a conspicuous location accessible to parents. The written plan must meet the needs of the children being served and include scheduled activities that:

1. Promote emotional, social, intellectual and physical growth;

2. Include quiet and active play, both indoors and outdoors; and

3. Include meals, snacks and nap times, if appropriate for the age and the times the children are in care.

(b) Providers are encouraged to advise parents or legal guardians of their child's activities on a daily basis and to participate in the program's activities.

~~(c)(b)~~ Parents or legal guardians must be advised in advance of each field trip activity. The date, time, and location of the field trip must be posted in a conspicuous location at least two ~~(2)~~ working days prior to each field trip. Written parental permission must be obtained in the form of a general permission slip. If special circumstances arise where notification of an event cannot be posted for two ~~(2)~~ working days, individual permission slips must be obtained from ~~each~~ the custodial parent or legal guardian for each child participating on the field trip. Documentation of parental permission for field trips shall be maintained for a minimum of four ~~(4)~~ months from the date of each field trip.

(8) Child Discipline.

(a) Verification that the child care facility has provided, in writing, the disciplinary policy used by the facility shall be documented on the enrollment form with the signature of the custodial parent or legal guardian.

(b) All child care personnel must comply with the facility's written disciplinary policy. Such policies shall include standards that prohibit children from being subjected to discipline which is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited for by all child care personnel.

(c) A copy of the facility’s current written disciplinary policy must be available to the licensing authority to review for compliance with Section 402.305(12), F.S.

(9) Access. A child care facility must provide the custodial parent or legal guardian access, in person and by telephone, to the child care facility during the facility’s normal hours of operation or during the time the child is in care.

(10) Attendance. Daily attendance of children shall be taken and recorded by the child care facility personnel, documenting the time when each child enters and departs a child care facility or program. The custodial parent or guardian may document the time when their child(ren) enter and depart the child care facility or program. However, child care facility personnel are responsible for ensuring that attendance records are complete and accurate. Such records shall be maintained for a minimum of four ~~(4)~~ months. Attendance forms used for Voluntary Pre-Kindergarten or School Readiness may be used if applicable.

(11) Child Safety.

(a) Acts or omissions that meet the definition of child abuse or neglect provided in Chapter 39, F.S., constitute a violation of the standards in Section 402.301-~~319~~~~309~~, F.S., and shall support imposition of a sanction, as provided in Section 402.310, F.S.

(b) Failure to perform the duties of a mandatory reporter pursuant to Section 39.201, F.S., constitutes a violation of the standards in Section 402.301-319, F.S.

Rulemaking Specific Authority 402.305 FS. Law Implemented 402.305, 402.3055, 402.308, 402.310, ~~402.311~~, 402.315 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08,_____.

65C-22.002 Physical Environment.

(1) General Requirements.

(a) All child care facilities must be clean, in good repair, free from health and safety hazards and from vermin infestation.

(b) During the hours that the facility is in operation, no portion of the building shall be used for any activity which endangers the health and safety of children.

(c) Heating and air conditioning vents, filters, exhaust fans, air vents, ceiling fans, and dryer vents must be clean and free from dust and lint build-up of more than 1/2 inch thick and must meet fire and building code requirements. It is the owner’s responsibility to obtain lead and asbestos environmental assessments, as applicable.

~~(d)(b)~~ All areas and surfaces accessible to children shall be free from toxic substances and hazardous materials.

~~(e)(e)~~ Animals must be properly immunized, free from disease, and clean. Parents must be informed in writing of all animals on the premises. Such information may be provided by way of a conspicuously posted notice or bulletin, policy handbook, parent flier, or a statement included on the

enrollment form. Documentation of current immunizations must be available for review upon request by the licensing authority.

~~(f)(d)~~ All potentially harmful items including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials must be labeled. These items, including as well as knives, sharp tools, and other potentially dangerous hazards, shall either be stored and in a locked container or a locked area or must be inaccessible and out of a child’s reach that is inaccessible to children.

~~(g)(e)~~ No firearms or weapons as defined in Section 790.001, F.S., shall be allowed within any building ~~or conveyance~~, or upon any person located on the premises, excluding federal, state or local Law Enforcement Officers.

~~(h)(f)~~ No narcotics, alcohol, or other impairing drugs shall be present on the premises.

~~(i)(g)~~ Pursuant to Chapter 386, F.S., smoking is prohibited within the child care facility, all outdoor ~~play~~ areas, during field trips, and in vehicles when being used to transport children. Owners/operators are to notify custodial parents and legal guardians, in writing, that smoking is prohibited on the premises of the child care facility.

~~(j)(h)~~ Design and construction of a new child care facility or modifications to an existing facility must meet the minimum requirements of the applicable local governing body.

(2) Rooms Occupied by Children.

(a) All rooms must have and maintain lighting the equivalent of 20 foot candles at three ~~(3)~~ feet from the floor to allow for supervision, and for safe methods of entering and exiting each room.

(b) In reading, painting, and other close work areas, lighting must be equivalent to 50 foot candles on the work surface.

(c) During naptime, At all times lighting must be sufficient to visually observe and supervise children, ~~including during naptime.~~

~~(d)(b)~~ An inside temperature of 65° to 82° degrees ~~Fahrenheit Fahrenheit~~ must be maintained at all times.

~~(e)(e)~~ All rooms shall be kept clean, adequately ventilated and in good repair. Cleaning shall not take place while rooms are occupied by children except for general clean-up activities which are a part of the daily routine.

~~(f)(d)~~ Rodents and vermin shall be exterminated. Pest control shall not take place while rooms are occupied by children.

(3) Indoor Floor Space.

(a) A child care facility that held a valid license on October 1, 1992, must have a minimum of 20 square feet of usable indoor floor space for each child. A child care facility that did not hold a valid license on October 1, 1992, and seeks regulatory approval to operate as a child care facility, must have a minimum of 35 square feet of usable indoor floor space for each child.

(b) Usable indoor floor space refers to that space available for indoor play, classroom, work area, or nap space. Usable indoor floor space, for the facility as a whole, is calculated by measuring at floor level from interior walls, and by deleting space for stairways, toilets and bath facilities, permanent fixtures, and non-movable furniture. Kitchens, offices, laundry rooms, storage areas, hallways, and other areas not used in normal day-to-day operations are not included when calculating usable indoor floor space.

(c) In addition to the total facility minimum square footage per child, each room that is routinely occupied by children must also have a minimum of 20 square feet or 35 square feet (whichever is applicable) per child at all times, pursuant to Section 402.305(6), F.S.

(d) Shelves or storage for toys and other materials shall be considered as usable indoor floor space if accessible to children.

(e) Where infants are in care, they shall have open indoor floor space outside of cribs and playpens. The space used for play may be interchangeable with space used for cribs and play pens.

(f) The capacity, as calculated by the licensing authority for each room, must be posted in a conspicuous location within the room.

(g) When common or multi-purpose areas are used for dining or occasional large group assembly activities and special events, the applicable 20 or 35 square feet requirement of usable space for each child does not apply for that period of time only; however, the facility must maintain minimum square footage per child in accordance with the local fire authority requirements.

(4) Outdoor Play Area.

(a) There shall be a minimum of 45 square feet of usable, safe, and sanitary outdoor play area per child, one (1) year of age and older. A minimum outside play area shall be provided for one-half (1/2) of this identified population.

(b) The outdoor play area shall be calculated at the rate of 45 square feet per child in any group using the play area at one (1) time.

(c) The outdoor play area shall be clean, free from litter, nails, glass, and other hazards.

1. The outdoor play area shall provide shade.

2. During outdoor play, personnel must situate themselves in the outdoor play area so that all children can be observed and direct supervision provided.

(d) The facility's outdoor play area shall be fenced in accordance with ~~accepted safety practices~~ and local ordinances to prevent access by children to all water hazards, within or adjacent to outdoor play areas, such as pools, ditches, retention and fish ponds.

(e) The outdoor play area shall have and maintain safe and adequate fencing or walls a minimum of four (4) feet in height. Fencing, including gates, must be continuous and shall not

have gaps that would allow children to exit the outdoor play area. The base of the fence must remain at ground level and be free from erosion or build-up to prevent inside or outside access by children or animals.

(f) For the purposes of child care facilities that are providing care to school-age children, a fence is not required if all the following conditions are met:

1. The children using the outdoor play area are in five-year-old kindergarten and grades one or above;

2. One additional staff member above the established staff-to-child ratios provides direct supervision during all outdoor activities;

3. The outdoor play area is bordered by a road or street open to travel by the public with a posted or unposted speed limit of no more than 25 miles per hour, or where the posted or unposted speed limit is no greater than 35 miles per hour, and the playground is a minimum of 30 feet from the edge of the road; and

4. The licensing authority has provided written authorization to the program to operate without a fence.

~~(g)(f)~~ For the purposes of a licensed urban child care facility, an additional minimum of 45 square feet of usable indoor play space for 25% of the licensed capacity shall be substituted for outdoor play space. The urban child care facility must provide this additional indoor space with equipment that provides physical activities appropriate for the age of the children.

~~(h)(g)~~ Infants in care shall be provided opportunities for outdoor time each day that weather permits.

~~(h) For the purposes of child care facilities who are providing care to school-age children, a fence is not required if all the following conditions are met:~~

~~1. The children using the outdoor play area are in five-year-old kindergarten and grades one (1) or above;~~

~~2. In addition to the established staff to child ratios, for the purpose of safety, an additional staff member is present, during all times of outdoor activities, to assist in providing direct supervision;~~

~~3. The outdoor play area is bordered by a road or street open to travel by the public with a posted or unposted speed limit of no more than 25 miles per hour, or where the posted or unposted speed limit is no greater than 35 miles per hour, and the playground is a minimum of 30 feet from the edge of the road; and~~

~~4. The licensing authority has provided written authorization to the program to operate without a fence.~~

(5) Napping and Sleeping Space. For the purposes of these standards, sleeping refers to the normal night time sleep cycle while napping refers to a brief period of rest during daylight or early evening hours.

(a) Each facility must include a designated area where each child can sit quietly or lie down to rest or nap. When not in use, napping space and usable indoor floor space may be used interchangeably.

~~(b) Each child in care must be provided safe and sanitary bedding to be used when napping or sleeping. Bedding means a cot, bed, crib, playpen, mattress (excluding an air mattress or a foam mattress) or floor mat. Floor mats must be at least one (1) inch thick and covered with an impermeable surface. Floor mats, foam mattresses, air mattresses, and playpens may not be used for care when children are sleeping. Bedding must be appropriate for the child's size. Bedding is not required for school age children; however, the program or facility shall provide an area as described in paragraph 65C 22.002(5)(a), F.A.C., for those children choosing to rest.~~

~~(c) Linens, if used, must be laundered at least once each week and more often if soiled or dirty. Linens, if used for more than one (1) child shall be laundered between usage. Linens must be provided when children are sleeping and pillows and blankets must be available.~~

~~(d) Linens must be stored in a sanitary manner.~~

~~(b)(e) A minimum distance of 18 inches must be maintained around individual napping and sleeping spaces, except a maximum of two sides of a napping or sleeping space may be against a solid barrier, such as a wall. The solid side of a crib does not meet the requirement of a solid barrier.~~

1. Napping and sleeping spaces shall not be under furniture or against furniture that may create a hazard.

2. Napping and sleeping spaces shall not interfere with eExit areas, which must remain clear in accordance with fire safety regulations.

~~(c)(f) Children up to one (1) year of age must be in an individual crib, portacrib, or playpen with sides. Crib sides must be raised and secured while an infant is in the crib, and bar spacings may not exceed two and three-eighths (2-3/8) inches. Cribs must meet the construction regulations as outlined in Title 16, Parts 1508 & 1509, Code of Federal Regulations. No double or multi-deck cribs, cots or beds may be used.~~

~~(d)(g) When napping or sleeping, young infants who that are not capable of rolling over on their own should shall be positioned on their back and on a firm surface to reduce the risk of Sudden Infant Death Syndrome (SIDS) unless an alternate position is authorized in writing by a physician. The documentation shall be maintained in the child's record.~~

(6) Toilet and Bath Facilities.

(a) Each child care facility shall provide and maintain toilet and bath facilities that are easily accessible, and at a height usable by the children. Platforms are acceptable when safely constructed, with impervious surfaces, that can be and easily cleaned and sanitized or disinfected.

(b) For facilities having from one (1) to 15 children, there shall be one (1) toilet and one (1) wash basin. There shall be one (1) additional toilet and basin for every 30 children thereafter. For design and construction of a new child care facility or modification to an existing facility, paragraph 65C 22.002(1)(j)(h), above F.A.C., shall apply.

1. If only diapered infants are cared for in the facility, then one (1) toilet plus two (2) basins per 30 infants are is required.

2. Potty chairs, if used, shall be in addition to the toilet requirements, and shall be cleaned and sanitized or disinfected after each use.

(c) Toilet facilities shall not open directly into an area where food is prepared. A toilet facility may open directly into an area used by children where food is served.

(d) Children must receive supervision and care in accordance with their age and required needs, and be accounted for at all times while bathing or toileting.

(e) At least one (1) portable or permanent bath facility shall be provided and be available for bathing children. The portable or permanent bath facility shall be clean and must be sanitized or disinfected after each use.

(f) Running water, soap, trash receptacles, toilet paper, and disposable towels or hand drying machines that are properly installed and maintained shall be available and within reach of children using the toileting facility.

(g) Each basin and toilet must be maintained in good operating condition, clean, and sanitized or disinfected as needed, at least once per day.

(7) Fire and Emergency Safety.

(a) Unless statutorily exempted, all child care facilities shall conform to state standards adopted by the State Fire Marshal, Chapter 69A-36, F.A.C., Uniform Standards for Life Safety and Fire Prevention in Child Care Facilities, and shall be inspected annually. A copy of the current and approved annual fire inspection report by a certified fire inspector must be on file with the licensing authority.

(b) There shall be at least one (1) corded telephone in the child care facility that is neither locked nor located at a pay station that and is available to all staff during the hours of operation.

(c) The child care facility must properly maintain fire extinguishers at all times.

(d) The operator shall prepare and post an emergency evacuation plan in each room of the facility, excluding restrooms, including a diagram of safe routes by which the personnel and children may exit in the event of fire or other emergency requiring evacuation.

(e)(e) Fire drills shall be conducted monthly at various times when children are in care. A current attendance record must accompany staff out of the building during a drill or actual evacuation, and be used to account for all children. During the facility's license year, the monthly fire drills conducted must include, at a minimum:

1. Two fire drills during the established napping/sleeping times.

2. Two fire drills using different alternate evacuation routes, and

3. One fire drill in the presence and at the request of the licensing authority in coordination with the operator or designee.

(f)(4) The operator shall maintain a written record of monthly fire drills showing the date, number of children and staff in attendance, evacuation route used, and time taken for all individuals to evacuate the premises. Each monthly record shall be maintained for a minimum of one year ~~four (4) months~~ from the date of the fire drill.

(g) When the facility's fire alarm is activated, all adults and children must evacuate the facility.

(h) The operator shall develop a written emergency preparedness plan to include, at a minimum, procedures for lockdown, inclement weather, and other conditions.

(i) Emergency preparedness drills shall be conducted when children are in care and are in addition to fire drills required in paragraph (7)(e) above. Each drill outlined in the emergency preparedness plan must be practiced a minimum of one time per year, and the documentation must be maintained for one year. A current attendance record must accompany staff during the drill or actual emergency and must be used to account for all children.

(j) The operator shall maintain a written record of emergency preparedness drills showing the type of drill, date conducted, number of children and staff in attendance, and time taken for all individuals to complete the drill.

(k) Documentation of completed fire and emergency preparedness drills must be available at the time of the inspection. Documentation produced after the inspection shall not meet the licensing standard or corrective action requirements.

(l) After a fire or natural disaster, the operator must notify the licensing authority within 24 hours as to their operational status in order for the licensing authority to ensure health standards are being met for continued operation.

(8) Health and Sanitation.

(a) General Requirements.

1. All buildings, when the windows or doors are open, must have and maintain screens to prevent entrance of any insect or rodent. Screens are not required for open air classrooms and picnic areas.

2. Employees, volunteers, and children shall wash their hands with soap and running water, dry thoroughly, and follow personal hygiene procedures for themselves, or while assisting others, and immediately after outdoor play.

3. Safe drinking water shall be available to all children. If disposable cups are used, they must be discarded after each use.

4. If children are sleeping overnight in the facility, child care staff must ensure accepted bedtime routines are practiced, such as brushing teeth and washing face and hands ~~washing~~. Toothbrushes, towels, and wash cloths may not be shared. Toothbrushes shall be stored so that they cannot touch each other.

(b) Diapering Requirements.

1. Hand = washing facilities that include a basin with running water, soap, trash receptacle, and disposable towels or hand drying machines that are properly installed and maintained shall be provided; ~~in~~

a. In the infant room or in an adjoining room which opens into the room where infants or children with special needs in diapers are in care; or

b. In an adjoining room, which opens into a room where children in diapers are in care.

2. Hands shall be washed and dried thoroughly after each diapering or toileting procedure, and all surfaces touched shall be cleaned and sanitized or disinfected to prevent the spread of germs.

3. Handwashing sinks shall not be used for food service preparation or food clean up.

4. The diaper changing area shall be physically separated from the food preparation, food service, and feeding area.

~~5.2.~~ When children in diapers are in care, there shall be a diaper changing area with an impermeable surface that is cleaned and sanitized or disinfected with a sanitizing solution after each use.

6. Children must be attended at all times when being diapered or when changing clothes.

~~7.3.~~ The diaper changing area shall be located separate from the food preparation, service and feeding area. In addition, items unrelated to diaper changing shall not be stored in the diaper changing area nor shall they be placed on the diaper changing table.

~~8.4.~~ There shall be a supply of clean diapers, clothing, and linens at all times. When diapers, clothing or linens that are in use become soiled or wet, they shall be changed immediately, ~~or removed~~ and properly disposed of.

~~a.5.~~ Soiled disposable diapers shall be disposed of in a plastic lined, securely covered container that is not accessible to children. The container shall be emptied, cleaned and sanitized or disinfected at least daily.

~~b.6.~~ Soiled cloth diapers shall be emptied of feces in the toilet and placed in a securely covered container that is not accessible to children. The container shall be emptied, cleaned and sanitized or disinfected, at least, daily.

(c) Bedding and Linens.

1. Each child in care must be provided safe and sanitary bedding to be used when napping or sleeping. Sleep bedding includes beds, cribs, or mattresses (excluding an air mattress or a foam mattress). Nap bedding includes sleep bedding, cots,

playpens, or floor mats. Floor mats must be at least one inch thick, and covered with an impermeable surface cleaned and sanitized or disinfected after each use. Bedding must be appropriate for the child's size. Nap bedding is not required for school-age children; however, the program or facility shall provide an area as described in paragraph (5)(a), above for those children choosing to rest.

2. Linens, if used, must be laundered at least once each week and more often if soiled or dirty. Linens, if used for more than one child shall be laundered between usage. Linens must be provided when children are sleeping, and pillows and blankets must be available.

3. Linens, when not in use, must be stored in a sanitary manner which prevents the spread of germs or lice from other linens.

(9) Equipment and Furnishings.

(a) Indoor Equipment.

1. A child care facility shall make available toys, equipment, and furnishings suitable to each child's age and development and of a quantity for each child to be involved in activities.

2. Toys, equipment, and furnishings must be safe and maintained in a sanitary condition, and shall be cleaned and sanitized or disinfected immediately if exposed to bodily fluids, such as saliva.

(b) Outdoor Equipment.

1. A child care facility shall provide and maintain equipment, and play activities suitable to each child's age and development.

2. All playground equipment shall be securely anchored, unless portable or stationary by design, in good repair, maintained in safe condition, and placed to ensure safe usage by the children. Maintenance shall include inspections checks, at least every other month, of all supports above and below the ground, and all connectors and moving parts. Documentation of maintenance inspections shall be retained for one year.

3. Permanent or stationary playground equipment must have a ground cover or other protective surface under the equipment that provides resilience, and is maintained to reduce the incidence of injuries to children in the event of falls.

4. All equipment, fences, and objects on the facility's premises shall be free from sharp, broken and jagged edges, and properly placed to prevent overcrowding or safety hazards in any one (1) area.

5. All equipment used in the outdoor play area shall be constructed and maintained to allow for water drainage, and must be maintained in a safe and sanitary condition.

Rulemaking Specific Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-13-03, 9-12-04, 6-30-05, 4-12-07, _____.

65C-22.003 Training.

(1) Definitions.

(a) "Active" is ~~refers to~~ the status of a candidate's awarded credential or certification ~~in~~ which demonstrates that the credential requirements have been successfully met.

(b) "Before-School and After-School site" refers to a program, regardless of location, that provides child care for children who are at least five (5) years old and who are enrolled in and attend a kindergarten program or grades one (1) and above during a school district's calendar year. This is limited to programs that provide care only before and after the recognized hours of a district's school day, and on teacher planning days, holidays, and intercessions that occur during the school district's official calendar year.

(c) "Begin training for child care personnel" refers to a candidate's commencement of at least one (1) of the child care training courses listed in Section 402.305(2)(d), F.S. This may be accomplished by classroom attendance in a department-approved training course, acquiring an educational exemption from a department-approved training course, beginning a department-approved online child care training course, or by receiving results from completion of a department-approved competency examination within the first 90 days of employment in the child care industry in any licensed Florida ~~the~~ child care facility. The child care facility is responsible for obtaining documentation from child care personnel.

(d) "Continuing Education Unit (CEU)" is a standard unit of measure of coursework used for training and credential purposes. The department will accept CEUs from education institutions accredited and recognized by the U.S. Department of Education, or nationally affiliated state professional organizations.

(e)(d) "Director," means pursuant to the definition of "operator," as defined in Section 402.302(11), F.S.; and is the on-site administrator or individual who has the primary responsibility for the day-to-day operation, supervision, and administration of a child care facility.

(f)(e) "Director Credential" is a department-approved comprehensive credential that consists of education, and experiential requirements as referenced in paragraph 65C-22.003(8)(a) below, ~~F.A.C.~~

(g)(f) "Early Childhood Education" refers to coursework, certification, a credential or degree specific to that specializes in children ages birth through eight years (8).

(g) "Expired" ~~refers to the status of a candidate's awarded credential or certification that is not eligible for renewal.~~

(h) "Florida Child Care Professional Credential (FCCPC)," pursuant to Section 402.305(3)(b), F.S., certifies successful completion of is a department-approved training program that consists of a minimum of 120 hours of early childhood instruction, 480 contact hours with children ages birth through eight years (8), and at least two (2) methods of formal assessment that offers two (2) areas of certification, "Birth Through Five" (formerly the department-approved

CDA Equivalency training programs)” and “School-Age” (formerly the Florida School-Age Certification).²² Credentials must be documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate, which is incorporated by reference. Active credentials are valid for five years from the date of issuance. A list of approved and recognized FCCPC programs may be obtained from ~~on~~ the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare.

~~(j)(4)~~ “Florida Department of Education Child Care Apprenticeship Certificate (CCAC)” is a department-approved child care credential that consists of a minimum of 120 hours of early childhood instruction, and 480 contact hours with children ages birth through eight ~~years~~ (8), and meets or exceeds the requirements outlined in Section 402.305(3)(c), F.S. A list of approved and recognized DOE programs may be obtained from ~~on~~ the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare. Active credentials are valid for five years from the date of issuance. Credential renewal certificates must documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate.

~~(k)(4)~~ “Florida Department of Education Early Childhood Professional Certificate (ECPC)” is a department-approved child care credential that consists of a minimum of 120 hours of early childhood instruction, and 480 contact hours with children ages birth through eight ~~years~~ (8), and meets or exceeds the requirements outlined in Section 402.305(3)(c), F.S. A list of approved and recognized DOE programs may be obtained from ~~on~~ the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare. Active credentials are valid for five years from the date of issuance. Credential renewal certificates must documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate.

~~(l)(4)~~ “Florida Department of Education School-Age Professional Certificate (SAPC)” is a department-approved child care credential that consists of a minimum of 120 hours of early childhood instruction and 480 contact hours with school-age children, and that meets or exceeds the requirements outlined in Section 402.305(3)(c), F.S. A list of approved and recognized DOE programs may be obtained from ~~on~~ the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare. Active credentials are valid for five years from the date of issuance. Credential renewal certificates must documented on CF-FSP Form 5270, April 2006, Florida Child Care Professional Credential Certificate.

(m) “Foster Grandparents” are directly supervised volunteers who work with one or more children with special or exceptional needs in child care programs. Foster grandparents are not counted in the staff-to-child ratio. Foster grandparents shall be required to have 100% attendance in the following

training courses: Child Care Facility Rules and Regulations; Health, Safety, and Nutrition; Identifying and Reporting Child Abuse and Neglect; and Special Needs Appropriate Practices. Foster grandparents are not classified as child care personnel, and they may not be assigned the roles of teacher’s aides, group leaders or other similar positions pursuant to Title 45, Public Welfare, Code of Federal Regulations, section 2552.75.

(n) “High School Diploma, GED and/or College Degree” means a diploma or degree obtained from institution accredited and recognized by U.S. Department of Education. If a high school diploma is earned outside the U.S., it must be translated by someone who is a member of the American Translators Association, an approved credential evaluation agency approved by the Bureau of Educators Certification, or an accredited college/university. If a college degree is earned outside the U.S., it must be evaluated by an approved credential evaluation agency approved by the Bureau of Educators Certification or an accredited college/university to be equivalent to a U.S. degree.

~~(o)(4)~~ “Inactive” refers to the status of a candidate’s awarded credential or certification that is no longer active; however, remains eligible for renewal.

~~(p)(4)~~ “National Early Childhood Credential (NECC)” pursuant to Section 402.305(3)(c), F.S., is an early childhood credential approved by the department and recognized by licensing authorities in at least five ~~(5)~~ states that incorporates 120 hours of early childhood instruction, and 480 contact hours with children ages birth through eight ~~years~~ (8), and that includes at least two ~~(2)~~ methods of formal assessment. This includes the Child Development Associate (CDA) credential issued by the Council for Professional Recognition in Washington, DC. A list of approved and recognized NECC programs may be obtained from ~~on~~ the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare.

(q) “Professional contribution,” for the purpose of Director Credential renewal, demonstrates a dedication to early childhood or school-age education outside of the child care program responsibilities.

~~(r)(4)~~ “Training Transcript” is the electronic documentation of statutorily mandated training and staff credential qualifications for child care personnel. Training Transcripts may be obtained from ~~on~~ the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare.

~~(s)(4)~~ “Weighted score” means a scaled score, rather than a percentage score, based on the difficulty of the exam and determined by competency exam professionals in consultation with subject matter experts.

(t) “Year of experience” is equivalent to a minimum of 1040 hours of paid and/or nonpaid documented work experience.

(2) Training Requirements.

(a) Child care personnel ~~hired on or after October 1, 1992~~ must successfully complete the ~~department's Department of Children and Family Services'~~ 40 hour Introductory Child Care Training, as evidenced by successful completion of competency based examinations offered by the ~~dDepartment of Children and Family Services~~ or its designated representative with a weighted score of 70 or better. Child care personnel who successfully completed the mandatory 40 hour Introductory Child Care Training prior to January 1, 2004 are not required to fulfill the competency examination requirement.

1. All child care personnel must begin training within 90 days of employment and successfully complete training within 12 months from the date training begins. Training completion and may not exceed 15 months from the date of employment in the child care industry in any licensed Florida the child care facility.

2. The 40 hour Introductory Child Care Training requirement is divided into two ~~(2)~~ parts. Part I is comprised of 30 hours of training that consists of the ~~department's Department of Children and Family Services'~~ training courses, developed by the department, identified below:

- a. Child Care Facility Rules and Regulations;
- b. Health, Safety, and Nutrition;
- c. Identifying and Reporting Child Abuse and Neglect;
- d. Child Growth and Development; and
- e. Behavioral Observation and Screening.

3. Part II is comprised of 10 hours of training that consists of a selection from the ~~department's Department of Children and Family Services'~~ specialized training courses, ~~developed by the department, identified below:~~

- a. Infant and Toddler Appropriate Practices (10 hours),
- b. Preschool Appropriate Practices (10 hours),
- c. School-Age Appropriate Practices (10 hours),
- d. Special Needs Appropriate Practices (10 hours),
- e. Basic Guidance and Discipline (5 hours online),
- f. ~~Computer Technology for Child Care Professionals (5 hours online);~~
- f.g. Early Literacy for Children Age Birth to Three (5 hours online),
- g.h. Early Childhood Computer Learning Centers (5 hours online), or
- h.i. Emergent Literacy for Voluntary Pre-Kindergarten (VPK) Instructors (5 hours online).

4. Child care personnel in compliance with the school-age requirements in paragraph 65C-22.008(4)(c), F.A.C., shall be considered in compliance with the child care personnel training requirements.

5. Child care personnel who left the child care industry in compliance with training requirements, upon returning, shall be granted 90 days to comply with any new mandated training requirements. Completion of such training may be counted toward the in-service training requirement.

6. Child care personnel who left the child care industry not in compliance with training requirements must complete required training prior to re-employment.

7. Child care personnel employed at the same child care facility prior to October 1, 1992, with no break in employment with the same employer, are exempt from completing Part II of the child care training.

(b) Pursuant to Section 402.305(2)(d)5., F.S., all child care personnel must complete a single course of training in early literacy and language development of children ages birth through five ~~years~~ ~~(5)~~ that is a minimum of five ~~(5)~~-clock-hours or .5 CEUs.

1. All child care personnel must complete early literacy training within 12 months of date of employment in the child care industry. Proof of completion will be documented on the certificate of course completion, classroom transcript, or diploma.

2. In order to meet the literacy training requirement, child care personnel must complete one ~~(1)~~ of the following:

- a. One ~~(1)~~ of the department's online literacy courses available on the ~~department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare; or
- b. One ~~(1)~~ of the department's approved literacy training courses. A list of these courses may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare. (No additional courses will be approved by the department); or

c. One ~~(1)~~ college level early literacy course (for credit or non-credit) if taken within the last five ~~(5)~~ years.

(3) Exemptions from the Introductory Child Care Training.

(a) Competency Examination Exemptions. Child care personnel have one ~~(1)~~ opportunity, if they choose, to exempt from one ~~(1)~~ or more of the department's Introductory Child Care Training courses prior to attending training by achieving successful completion of corresponding competency examinations with a weighted score of 70 or better on the corresponding competency examination(s). Exemption examinations are not available for the department's online Part II specialized training courses.

(b) Educational Exemptions.

1. The ~~dDepartment of Children and Family Services~~ or its designated representative shall exempt ~~child care personnel~~ from the Health, Safety and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses those child care personnel who meet one ~~(1)~~ of the following educational qualifications:

- a. Associate's degree or higher with six ~~(6)~~ college credit hours in early childhood/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade.

b. An active National Early Childhood Credential (NECC) or an active Birth Through Five Florida Child Care Professional Credential (FCCPC).

2. The ~~Department of Children and Family Services~~ or its designated representative shall exempt child care personnel with a Bachelor's degree or higher B.A., B.S. or advanced degree in Early Childhood Education or Preschool Education from the Infant and Toddler Appropriate Practices course and Preschool Appropriate Practices course.

3. The ~~Department of Children and Family Services~~ or its designated representative shall exempt child care personnel with a Bachelor's degree or higher B.A., B.S. or advanced degree in Elementary Education from the School-Age Appropriate Practices course.

4. The ~~Department of Children and Family Services~~ or its designated representative shall exempt child care personnel with a Bachelor's degree or higher B.A., B.S. or advanced degree in Exceptional Student Education from the Special Needs Appropriate Practices course.

5. There are no educational exemptions from the Child Care Facility Rules and Regulations and the Identifying and Reporting Child Abuse and Neglect courses, or from the department's online training courses.

(4) Documentation of Training. Effective July 1, 2010, the department's Training Transcript will be the only acceptable verification of successful completion of the department's training. Completed successfully will be documented on the Training completion documented transcript or on CF-FSP Form 5267, March 2009 April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference, will no longer be accepted by the department after July 1, 2010, nor will any previous version of the form CF-FSP 5267. A copy of the department's Training Transcript may be obtained from the licensing authority or on the department's Department of Children and Family Services' website at www.myflorida.com/childcare by clicking on the training link.

(a) A copy of the CF-FSP Form 5267 until July 1, 2010, or Training Transcript must be included in each staff member's child care personnel record and maintained at each child care facility.

(b) A copy of the CF-FSP Form 5267 until July 1, 2010, or Training Transcript for the director of a child care facility must be included in the department's official licensing file.

(c) Training documented on CF-FSP Form 5267 that is not included on an individual's Training Transcript must be sent to the department or designated representative prior to July 1, 2010, to be documented on the individual's Training Transcript.

(d) As of July 1, 2010, any course completion certificate not documented on the Training Transcript will be considered invalid, requiring that the course(s) be retaken. Until the coursework is retaken and completed, child care facilities will be out of compliance with the mandated training standard.

(5) Child Care Trainer Qualifications. Child care professionals approved to teach the ~~department's Department of Children and Family Services'~~ Child Care Training courses must meet, at a minimum, the following qualifications:

(a) ~~Be a~~ At least 21 years of age.

(b) Have completed the department's ~~six (6)~~ clock-hour Train-the-Trainer course.

(c) ~~Have Meet~~ one (1) of the following educational and experiential credentials verified by the department Department of Children and Family Services or its designated representative:

1. ~~Four (4)~~ Four (4) year college degree or higher with six (6) college credit hours in early childhood education/child growth and development and 480 hours experience in a child care setting serving children ages birth through eight years (8); or ~~A~~ A Florida teaching certificate may be substituted for the 480 hours experience in a child care setting.

2. Associate's degree in Early Childhood Education or Child Development and 480 hours experience in a child care setting serving children ages birth through eight years (8).

3. Associate's degree with six (6) college credit hours in early childhood/child growth and development and 960 hours experience in a child care setting serving children ages birth through eight years (8).

4. ~~Four (4)~~ Four (4) year college degree with a Florida teaching certificate and be currently employed by a school district in the state of Florida to teach Early Childhood Education in the Education and Training Cluster under the Department of Education Career and Technical Education Family and Consumer Sciences Program. Trainers who meet this education and experience qualification are limited to teaching only in the Florida Department of Education Early Childhood Professional Certificate (ECPC) and Child Care Apprenticeship Certificate (CCAC) programs.

5. ~~Family child care trainers may meet the qualifications referenced in paragraph 65C-22.003(5)(c), F.A.C., or the following qualifications: A~~ a high school diploma or GED; a National Early Childhood Credential or a department-approved Birth Through Five FCCPC; and three (3) years of full-time experience in licensed family child care within the past five (5) years. Trainers who meet this education and experience qualification are limited to teaching only the six hour Family Child Care Home Rules and Regulations course.

6. Four year college degree or higher with six college credit hours in school-age education, and 480 hours experience in a child care setting serving school-age children ages birth through twelve years. A Florida teaching certificate may be substituted for the 480 hours experience in a child care setting.

Trainers who meet this education and experience qualification are limited to teaching only the ten hour School-Age Appropriate Practices course.

(d) ~~The Department of Children and Family Services~~ or its designated representative may require a trainer to attend a specific child care training course prior to being approved.

(6) Annual In-Service Training.

(a) All child care facility personnel must complete a minimum of 10-clock-hours or one (4) CEU of in-service training annually during the state's fiscal year beginning July 1 and ending June 30.

(b) The annual 10-clock-hours or one (4) CEU of in-service training concentrating on children ages birth through 12, must be completed in one (4) or more of the following areas (college level courses will be accepted):

1. Health and safety, including universal precautions;
2. Infant and/or child CPR;
3. First Aid (may only be taken to meet the in-service requirement once every three (3) years);
4. Nutrition;
5. Child development – typical and atypical;
6. Child transportation and safety;
7. Behavior management;
8. Working with families;
9. Design and use of child oriented space;
10. Community, health and social service resources;
11. Child abuse;
12. Child care for multilingual children;
13. Working with children with disabilities in child care;
14. Safety in outdoor play;
15. Literacy;
16. Guidance and discipline;
17. Computer technology;
18. Leadership development/program management and staff supervision;
19. Age appropriate lesson planning;
20. Homework assistance for school-age care;
21. Developing special interest centers/spaces and environments; or
22. Other course areas relating to child care or child care management.

(c) Documentation of the in-service training requirement must be recorded on CF-FSP Form 5268, March 2009 ~~September 2005~~, Child Care In-Service Training Record, which is incorporated by reference, and included in the child care facilities' personnel records. CF-FSP Form 5268 may be obtained from the licensing authority or on the ~~Department of Children and Family Services'~~ website at www.myflorida.com/childcare. A new in-service training record is required

each fiscal year. The in-service training records for the previous two (2) fiscal years must also be maintained at the child care facility for review by the licensing authority.

(d) Mandated 40-clock-hour introductory child care training, Parts I and II, may be used to meet the annual in-service training requirement during the first fiscal year of employment.

(e) All child care personnel continuously employed or hired between July 1 and June 1 of the state's fiscal year must complete the annual in-service training requirement. This includes any changes in employment from one program to another.

(f) Child care personnel continuously employed or hired between July 1 and June 1 of the state's fiscal year who do not complete the required annual in-service training during any given year must complete the remaining in-service training hours within 30 days of the noncompliance finding by the licensing authority. These hours cannot be used to meet the current year's in-service training requirements.

(7) Staff Credentials.

(a) Staff Credential Requirement. Pursuant to Section 402.305(3), F.S. a licensed child care facility must have a minimum of one (4) credentialed staff member for every 20 children.

1. A credentialed staff member is defined as a child care professional who has been issued a ~~CF-FSP Form 5206, January 2008~~, Staff Credential Verification documented on the individual's Training Transcript, which is incorporated by reference, by the department. All credentials used for the participation in the Voluntary Pre-Kindergarten (VPK) must be active. If the licensing authority identifies that a designated VPK teacher does not have an active credential, the licensing authority will notify the local Early Learning Coalition or designated representative.

2. To apply for a staff credential verification ~~CF-FSP Form 5206~~, a candidate must complete CF-FSP Form 5211, March 2009 ~~January 2008~~, Florida Child Care Staff Credential Verification Application, which is incorporated by reference, and ~~copies of which may be obtained from~~ on the department's Department of Children and Family Services' website at www.myflorida.com/childcare, and The candidate must meet one (4) of the following five six (6) qualifications as cited on CF-FSP Form 5211:

a. An active National Early Childhood Credential (NECC).

b. Formal Educational Qualifications.

c. An active Birth Through Five ~~Florida~~ Child Care ~~Professional~~ Credential awarded as a Florida Child Care Professional Credential (FCCPC); Florida Department of Education Child Care Apprenticeship Certificate (CCAC), or Early Childhood Professional Certificate (ECPC). by successful completion of a Birth Through Five FCCPC Training Program as documented on CF-FSP Form 5270, April

2006, Florida Child Care Professional Credential Certificate, which is incorporated by reference. A list of approved programs is maintained on the Department of Children and Family Services' website at www.myflorida.com/childcare.

d. An active Florida Department of Education Child Care Apprenticeship Certificate (CCAC), Early Childhood Professional Certificate (ECPC) (formerly CDA Equivalent), or School Age Professional Certificate (SAPC) (formerly School Age Certification Training).

d.e. An active School-Age Florida Child Care Professional Credential awarded as a Florida Child Care Professional Credential (FCCPC) or School-Age Professional Certificate (SAPC) by successful completion of a School-Age FCCPC Training Program as documented on CF-FSP Form 5270. A list of approved programs is maintained on the Department of Children and Family Services' website at www.myflorida.com/childcare. Graduates who successfully complete a school-age training program offered by a branch of the U.S. Military will be recognized as having met the School-Age FCCPC requirement. A School-Age FCCPC will not be accepted to meet the minimum staff credential requirements for Voluntary Pre-Kindergarten (VPK).

e.f. Employment History Recognition Exemption. An Employment History Recognition Exemption shall ~~will~~ not be accepted to meet the minimum staff credential requirements for Voluntary Pre-Kindergarten (VPK) or towards a Director Credential. Applications for Employment History Recognition Exemption will not be accepted after July 1, 2006.

(b) Calculation of Number of Personnel Necessary. The required number of credentialed staff for a facility shall be calculated as follows:

1. Child care facilities with 19 or fewer children or that operate less than eight (8) hours per week are not subject to the staff credential requirement.

2. For every 20 children, a child care facility must have one (1) child care staff member who meets the staff credential requirement. Based on this formula, child care facilities with 20-39 children must have one (1) credentialed staff member, facilities with 40-59 children must have two (2) credentialed staff members, and so on. The licensing authority will calculate the number of credentialed personnel required based on daily attendance.

3. Child care personnel meeting the staff credential requirement in paragraph 65C-22.003(7)(a) ~~above, F.A.C.~~, must work at the facility a minimum of 20 hours per week. A credentialed staff person must be on-site during all operational hours for those facilities that operate 20 hours or less per week.

4. Nap time and lunch times are excluded from this calculation.

5. Volunteers who work at the facility a minimum of 20 hours per week and meet the credential requirement may ~~will~~ be included in calculating the credential ratio.

6. Children who are five (5) years old, and who are enrolled in and attend a kindergarten program or grades one (1) and above are excluded from the credential ratio.

7. An individual with an ~~expired or~~ inactive credential is ineligible to be counted as a credentialed staff member pursuant to subparagraph 65C-22.003(7)(a)1. ~~above, F.A.C.~~, until the credential is renewed or the individual meets one (1) of the qualifications listed in paragraph 65C-22.003(7)(a) ~~above, F.A.C.~~

(c) On-Site Documentation. A copy of the ~~CF-FSP Form Training Transcript~~ for each credentialed staff member must be maintained on-site at the child care facility, in the employee personnel file, for review by child care licensing staff. ~~In addition to CF-FSP Form 5206,~~ child care facilities must maintain written documentation of credentialed personnel's work schedules. Examples of written documentation are employee time sheets, personnel work schedules, and employment records.

(d) Staff Credential Renewal.

1. To maintain an active ~~A National Early Childhood Credential, it~~ must be renewed through the agency that awarded the original credential. Once renewed, for licensing purposes, individuals must complete a CF-FSP Form 5211, Florida Child Care Staff Credential Verification Application to have the individual's Training Transcript updated with renewed credential information. Prior to December 31, 2008, a National Early Childhood Credential may comply with the Birth Through Five Florida Child Care Professional Credential renewal process referenced in subparagraph 65C-22.003(7)(d)3., F.A.C., if the credential was issued prior to December 31, 2003.

2. A staff credential awarded for formal education qualifications is always active and does not need to be renewed ~~to remain active.~~

3. To maintain an active Birth Through Five or School-Age Child Care Credential FCCPC, every five (5) years a candidate must complete the renewal section of the CF-FSP Form 5211; if all criteria are met, the individual's Training Transcript will be updated with renewed credential information ~~renew their Birth Through Five FCCPC by completing CF-FSP 5273, April 2006, Birth Through Five Florida Child Care Professional Credential Renewal Application, which is incorporated by reference. CF-FSP Form 5273 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare/.~~

a. ~~A Birth Through Five FCCPC renewal will be documented on CF-FSP Form 5270. Renewal applications may be submitted by the candidate no earlier than one (1) year prior to the end of the active period of the Birth Through Five or School-Age Child Care Credential FCCPC.~~

b. ~~Individuals with a Birth Through Five FCCPC issued before December 31, 2003 may renew the credential by submitting a CF-FSP 5273 with the required documentation by~~

December 31, 2008. A Birth Through Five FCCPC issued after December 31, 2003 will have a renewal date of five (5) years from the date of issuance.

e. An individual with an inactive Birth Through Five or School-Age Child Care Credential FCCPC may submit a renewal application for a period of up to three (3) years from the end of the Birth Through Five FCCPC active period, but while inactive the individual shall not be counted to meet the staff credential requirement. The application will be reviewed, and if approved, a certificate will be issued with a renewal date of five (5) years from the date the renewal requirements are met completed CF FSP Form 5273 is processed.

d. For purposes of participation in the Voluntary Pre-Kindergarten (VPK) Program, child care personnel must ensure an active credential by July 1, 2006.

4. To maintain an active Florida Department of Education Child Care Apprenticeship Certificate (CCAC), Early Childhood Professional Certificate (ECPC), every five (5) years a candidate must renew their Florida Department of Education CCAC, ECPC by completing CF FSP Form 5309, April 2006, Florida Department of Education Child Care Apprenticeship Certificate (CCAC) and Early Childhood Professional Certificate (ECPC) Renewal Application, which is incorporated by reference. To maintain an active Florida Department of Education School-Age Professional Certificate (SAPC), every five (5) years a candidate must renew their SAPC by completing CF FSP Form 5308, April 2006, Florida Department of Education School-Age Professional Certificate (SAPC) Renewal Application, which is incorporated by reference. CF FSP Forms 5308 and 5309 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare.

a. A Florida Department of Education CCAC, ECPC or SAPC renewal will be documented on CF FSP Form 5310, April 2006, Certificate for Florida Department of Education Child Care Apprenticeship Certificate (CCAC)/Early Childhood Professional Certificate (ECPC)/School-Age Professional Certificate (SAPC) Program Renewal, which is incorporated by reference. CF FSP Forms 5308 and 5309, as applicable, may be submitted by the candidate no earlier than one (1) year prior to the end of the active period of the Florida Department of Education CCAC, ECPC or SAPC.

b. An individual with an inactive Florida Department of Education CCAC, ECPC or SAPC may submit a renewal application for a period of up to three (3) years from the end of the Florida Department of Education CCAC, ECPC or SAPC active period. CF FSP Form 5308 or 5309, as applicable, will be reviewed and, if approved, a CF FSP Form 5310 will be issued with a renewal date of five (5) years from the date the completed CF FSP Form 5308 or 5309 is processed.

5. To maintain an active School-Age FCCPC, every five (5) years a candidate must renew their School-Age FCCPC by completing CF FSP Form 5307, April 2006, the School-Age

Florida Child Care Professional Credential Renewal Application, which is incorporated by reference. CF FSP Form 5307 may be obtained on the Department of Children and Family Services' website at www.myflorida.com/childcare.

a. A School-Age FCCPC renewal will be documented on CF FSP Form 5270. Renewal applications may be submitted no earlier than one (1) year prior to the end of the active date of the School-Age FCCPC.

b. An individual with an inactive School-Age FCCPC may submit a renewal application for a period of up to three (3) years from the end of the School-Age FCCPC active period. The application will be reviewed and, if approved, a certificate will be issued with a renewal date of five (5) years from the date the completed CF FSP Form 5270 is processed.

4.6. A staff credential awarded for Employment History Recognition Exemption is always active and does not need to be renewed to remain active.

(e) Florida Child Care Professional Credential Training Program Providers.

1. Birth Through Five FCCPC Training Providers.

a. Training providers seeking to offer the Birth Through Five FCCPC training must utilize the criteria approved by the department referenced on CF-FSP Form 5191, March 2009 April 2006, Birth Through Five Florida Child Care Professional Credential (FCCPC) Training Program Provider Application, which is incorporated by reference. CF-FSP Form 5191 may be obtained from on the department's Department of Children and Family Services' website at www.myflorida.com/childcare. Training providers must submit a completed CF-FSP Form 5191 to the department or designated representative for approval.

b. Training providers that offer the Birth Through Five FCCPC training shall submit FCCPC training student completion documentation in the format referenced on CF-FSP Form 5191 to the department for issuance of the Birth Through Five FCCPC, and to update the graduate's child care Training Transcript.

c. Training providers approved to offer the Birth Through Five FCCPC training must annually complete, sign, date, and submit the attestation page of CF-FSP Form 5191 to the Department of Children and Family Services for review and approval based on the provider's anniversary date listed on CF-FSP Form 5191.

2. School-Age FCCPC Training Providers.

a. Training providers seeking to offer the School-Age FCCPC training must utilize the criteria approved by the department referenced on CF-FSP Form 5257, March 2009 April 2006, School-Age Florida Child Care Professional Credential (FCCPC) Training Program Provider Application, which is incorporated by reference. CF-FSP Form 5257 may be obtained from on the department's Department of Children and Family Services' website at www.myflorida.com.

com/childcare. Training providers must submit a completed CF-FSP Form 5257 to the department or designated representative for approval.

b. Training providers that offer the School-Age FCCPC training shall submit FCCPC training student completion documentation in the format referenced on CF-FSP Form 5257 ~~5191~~, to the department for issuance of the School-Age FCCPC and to update the graduate's child care Ttraining Transcript.

(8) Director Credential.

(a) Director Credential Requirement. Pursuant to Section 402.305(2)(f), F.S., every child care facility must have a credentialed director. An individual with an inactive Director Credential is ineligible to be the director of a child care facility. An applicant for the Director Credential ~~or Advanced Director Credential~~ must meet the requirements referenced in CF-FSP Form 5290, March 2009 ~~April 2006~~, Florida Child Care Director Credential and Renewal Verification and Application, which is incorporated by reference. CF-FSP Form 5290 may be obtained from on the department's ~~Department of Children and Family Services'~~ website at www.myflorida.com/childcare. All applications and documentation will be verified, and if complete, the credential will be issued by the dDepartment or designated representative of Children and Family Services on CF-FSP Form 5252, April 2006, Florida Director Credential Certificate, incorporated by reference.

1. An individual may not be the director of child care facilities that overlap in the hours of operation.

2. Each child care facility must have a credentialed director who that is on-site a majority of hours that the facility is in operation between 7:00 AM and 6:00 PM.

3. Every applicant for a license to operate a child care facility or a license for a change of ownership of a child care facility must document that the facility director has an active Director Credential prior to issuance of the license.

4. Child care facility owners must notify the licensing authority within five (5) working days of when the facility loses a credentialed director or when there is a change of director.

a. The licensing authority will then issue a provisional license for a period not to exceed six (6) months for any facility without a credentialed director.

b. The provisional license will have an effective date of the first day the facility was without a credentialed director.

5. CF-FSP Form 5252, Florida Director Credential Certificate, must be maintained at the facility for review by the licensing authority.

(b) The following exceptions to the Director Credential apply:

1. A credentialed director is not required during evening hours as defined in Section 402.302(6), F.S.

2. Pursuant to Section 402.305(1)(c), F.S., a credentialed director may supervise multiple before-school and after-school sites as outlined in paragraph ~~65C-22.003(8)(c)~~ below, F.A.C.

(c) Director Credential Requirement for before-school and after-school sites.

1. A credentialed director may supervise multiple before-school and after-school sites for a single organization as follows:

a. Three (3) sites regardless of the number of children enrolled, or

b. More than three (3) sites if the combined total number of children enrolled at the sites does not exceed 350. In calculating the total number of children enrolled, the number of children in the before-school and after-school program shall be calculated and viewed as separate programs.

c. In counties where the public school district has included four (4) year-old children in public before-school and after-school programs, the school district may participate in the multi-site supervision option. Public school districts which serve four (4) year old children in the before-school and after-school programs are required to have a credentialed staff person pursuant to the credentialing requirements in paragraphs ~~65C-22.003(7)(a)~~ above, F.A.C., in order to accommodate the four (4) year-old children.

2. When a credentialed director is supervising multiple sites, the individual left in charge of the site during the director's absence must meet the following requirements:

a. Be At least 21 years of age;

b. Have completed the approved 40 clock-hour Introductory Child Care Training approved by the dDepartment of Children and Family Services; and

c. Have completed the department's ~~Department of Children and Family Services'~~ Part II specialized training course, Special Needs Appropriate Practices, or completed a minimum of eight (8) hours of in-service training in serving children with disabilities; or

d. Have completed the department's ~~Department of Children and Family Services'~~ School-Age Appropriate Practices specialized training module.

(d) Director Credential Renewal.

1. To maintain an active Director Credential at either level, candidates must complete the renewal section of the ~~meet the requirements referenced on~~ CF-FSP Form 5290, March 2009, Florida Child Care Director Credential and Renewal Application, which ~~5306, April 2006, Florida Director Credential Renewal Application, which is incorporated by reference.~~ CF-FSP Form 5306 may be obtained from on the department's ~~Department of Children and Family Services'~~ website at www.myflorida.com/childcare.

2. A Director Credential renewal, as documented on CF-FSP Form 5252, Florida Director Credential Certificate is active for five (5) years from the date of issuance. The completed renewal application, including all required

documentation, ~~may~~ must be submitted to the ~~d~~Department of ~~Children and Family Services~~ for review, and issuance of a Director Credential Renewal Certificate no earlier than one (1) year prior to the end of the active period of the Director Credential. The Director Credential renewal date is determined by the end date of the active period.

3. If a renewal application is received after the end of the active period for the Director Credential, the Director Credential Renewal Application will be reviewed, and, if approved, a certificate will be issued with a renewal date of five (5) years from the date the completed renewal application was processed.

(e) Director Credential Training Providers.

1. The ~~d~~Department of ~~Children and Family Services~~ is responsible for reviewing and approving "Overview of Child Care Management" courses offered through vocational-technical schools, community colleges, and universities to determine if the requirements for the Director Credential coursework are met. Applications for new coursework will no longer be accepted by the department. A list of approved "Overview of Child Care Management" courses may be obtained ~~from~~ on the ~~department's~~ Department of Children and Family Services' website at www.myflorida.com/childcare.

2. All college level coursework pertaining to the following content areas will be accepted as approved coursework towards the Advanced Level Director Credential requirements:

- a. Child Care and Education Organizational Leadership and Management;
- b. Child Care and Education Financial and Legal Issues; and
- c. Child Care and Education Programming.

Rulemaking Specific Authority 402.305 FS. Law Implemented ~~402.302, 402.305, 402.309~~ FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 10-10-01, 4-2-02, 7-17-03, 9-12-04, 6-30-05, 4-12-07, 5-1-08, _____.

65C-22.004 Health Related Requirements.

(1) Communicable Disease Control.

(a) Children in care shall be observed on a daily basis for signs of communicable disease. Any child, child care personnel or other person in the child care facility suspected of having a communicable disease shall be removed from the facility or placed in an isolation area until removed. Such person may not return without medical authorization or until the signs and symptoms of the disease are no longer present. ~~With~~ A child's, the condition shall be reported to the custodial parent or legal guardian. Signs and symptoms of a suspected communicable disease include the following:

- 1. Severe coughing, causing a the child to become red or blue in the face or to make a whooping sound;
- 2. Difficult or rapid breathing;
- 3. Stiff neck;

- 4. Diarrhea (more than one abnormally loose stool within a 24 hour period);
- 5. Temperature of 101 degrees Fahrenheit or higher when in conjunction with any other signs of illness;
- 6. Pink Eye;
- 7. Exposed, open skin lesions;
- 8. Unusually dark urine and/or gray or white stool;
- 9. Yellowish skin or eyes; or
- 10. Any other unusual sign or symptom of illness.

(b) A child identified as having head lice shall not be permitted to return until the following day, and only provided that treatment has occurred and has been verified. Verification of treatment may include a product box, box top, empty bottle, or signed statement by a custodial parent or legal guardian that treatment has occurred. The child care facility must also treat areas, equipment, toys, and furnishings with which the child has been in contact.

(c) Isolation Area. Each facility shall have a designated isolation area for a child who becomes ill at the facility. Such space shall be adequately ventilated, heated, and equipped with a bed, mat, or cot, and materials that can be cleaned and sanitized or disinfected easily. Linens ~~and disposables~~ shall be changed after each use, and used linens ~~and disposables~~ shall be kept in a closed container in the isolation area until cleaned ~~or disposed.~~ Disposable items shall be kept in a closed container in the isolation area until thrown away. The isolated child must be within sight and hearing of a staff person at all times. The child must be carefully observed for worsening conditions.

(d) Outbreaks. Operators are required to notify the local county health department immediately upon any suspected outbreak of communicable disease in accordance with Chapter 64D-3, F.A.C., Communicable Disease Control, and must follow the health department's direction. A suspected outbreak occurs when two (2) or more children or employees have the onset of similar signs or symptoms, as outlined in subparagraphs (1)(a)1.-10., ~~F.A.C.~~, above, within a 72-hour period or when a case of a serious or reportable communicable disease is diagnosed or suspected ~~in~~ on a child or employee.

(2) First Aid, Cardiopulmonary Resuscitation and Emergency Procedures.

(a) Each child care facility must have at least one (1) staff member with current and valid certificate(s) of course completion for first aid training and infant and child cardiopulmonary resuscitation (CPR) procedures. One (1) staff member satisfying these training requirements shall be present at all times that children are in ~~the care at~~ of the facility, ~~both on-site and on field trips, and during all transportation activities.~~ A field trip includes all activities away from the facility excluding regular transportation to and from the facility, i.e., pick-up and drop-off.

(b) Certificate(s) of course completion are valid based on the time frames established by each first aid and CPR training program, not to exceed three (3) years. CPR courses must include an on-site instructor-based skills assessment that shall be documented by the certified CPR instructor. On-line CPR courses are not acceptable to meet this standard. CPR training must be done by classroom instruction. Documentation that identifies staff members who have met the first aid and infant and child cardiopulmonary resuscitation (CPR) training requirement shall be kept on file at the child care facility.

(c) At least one (1) first aid kit must be maintained on the premises of the child care facility at all times. A first aid kit must also accompany child care staff when children are participating on field trips. Each kit shall be in a closed container and labeled "First Aid." The kits shall be accessible to the child care staff at all times, and kept out of the reach of children. Each kit must, at a minimum, include:

1. Soap,
2. Band-aids or equivalent,
3. Disposable non-porous gloves,
4. Cotton balls or applicators,
5. Sterile gauze pads and rolls,
6. Adhesive tape,
7. Thermometer,
8. Tweezers,
9. Pre-moistened wipes,
10. Scissors, and
11. A current resource guide on first aid and CPR procedures.

(d) Emergency Procedures and Notification.

1. Emergency telephone numbers, including ambulance, fire, police, poison control center, Florida Abuse Hotline, the county public health unit, and the facility's address, ~~of~~ and directions to the facility, including major intersections and local landmarks, must be posted on or near all facility telephones, and shall be used to protect the health, safety and well-being of any child in care.

2. Custodial parents or legal guardians shall be notified immediately in the event of any serious illness, accident, injury or emergency to their child, and their specific instructions regarding action to be taken under such circumstances shall be obtained and followed. If the custodial parent or legal guardian cannot be reached, the facility owner will contact those persons designated by the custodial parent or legal guardian to be contacted under these circumstances, and shall follow any written instructions provided by the custodial parent or legal guardian on the enrollment form.

3. All accidents and incidents which occur at a facility or while a child is in the care of facility staff must be documented on the day they occur. This documentation must be shared with the custodial parent or legal guardian on the date of occurrence. Documentation shall include the name of the

affected party, date and time of occurrence, description of occurrence, actions taken and by whom, and appropriate signatures of facility staff and custodial parent or legal guardian. The documentation must be and maintained for one (1) year. If the child is not picked up by the custodial parent or legal guardian, the facility must document on the accident or incident form when the custodial parent or legal guardian was contacted about the accident or incident and who picked up the child, and must obtain the signature of the custodial parent or legal guardian on the accident or incident form the first time they return to the facility.

~~4. After a fire or natural disaster, the operator must notify the licensing agency within 24 hours as to their status of operation in order for the licensing authority to ensure health standards are being met for continued operation.~~

~~5. The operator shall prepare an emergency evacuation plan including a diagram of safe routes by which the personnel and children may exit the facility in the event of fire or other emergency requiring evacuation of the facility and post a copy of the plan in each room of the facility.~~

(3) Medication. Child care facilities are not required to give medication; however, if a facility chooses to do so, the following shall apply:

(a) The facility must have written authorization from the custodial parent or legal guardian to dispense prescription and non-prescription medications. This authorization must be dated and signed by the custodial parent or legal guardian and must contain the child's name; the name of the medication to be dispensed; and the date, time and amount of dosage to be given. This record shall be initialed or signed by the facility personnel who gave the medication.

(b) Any known allergies to medication or special restrictions must also be documented, maintained in the child's file, shared with staff, and posted with stored medication.

(c) Prescription and non-prescription medication brought to the child care facility by the custodial parent or legal guardian must be in the original container. Prescription medication must have a label stating the name of the physician, child's name, name of the medication, and medication directions. All prescription and non-prescription medication shall be dispensed according to written directions on the prescription label or printed manufacturer's label.

(d) In the event of an emergency, non-prescription medication that is not brought in by the custodial parent or legal guardian can be dispensed only if the facility has written authorization from the custodial parent or legal guardian to do so.

(e) Any medication dispensed under these conditions must be documented in the child's file, and the custodial parent or legal guardian must be notified on the day of occurrence.

(f) The facility must maintain a record for each child receiving medications that documents the full name of the child, the name of medication, the date and time the medication

was dispensed, the amount and dosage, and the name of the person who dispensed the medication. The record shall be maintained for a minimum of four ~~(4)~~ months after the last day the child received the dosage.

(g) All medicine must have child resistant caps, if applicable, and shall either be stored in a locked area or must be inaccessible separately and locked or out of a child's reach.

(h) Medication which has expired or is no longer being administered shall be returned to the custodial parent or legal guardian or discarded if the child is no longer enrolled ~~in care~~ at the facility.

Rulemaking Specific Authority ~~402.302,~~ 402.305 FS. Law Implemented ~~402.302,~~ 402.305 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 4-2-02, 7-13-03, 9-12-04, 4-12-07, 5-1-08, _____.

65C-22.005 Food and Nutrition.

(1) Nutrition.

(a) If a facility chooses to supply food, it shall provide nutritious meals and snacks of a quantity and quality to meet the daily nutritional needs of the children. The USDA MyPyramid, April 2005, which is incorporated by reference, shall be used to determine what food groups to serve at each meal or snack, and the serving size of the selected foods for children ages two ~~(2)~~ and older. The categories "oils" and "discretionary calories" may not be considered food groups. Copies of the USDA MyPyramid may be obtained from the ~~licensing authority, the local county health department or from~~ the USDA website at www.mypyramid.gov. Using the USDA MyPyramid, breakfast shall consist of at least three ~~(3)~~ different food groups, lunch and dinner shall consist of at least four ~~(4)~~ different food groups, and snacks shall consist of at least two ~~(2)~~ different food groups. Operators who participate in the USDA Food Program shall provide nutritious meals and snacks in accordance with the Department of Health and the USDA requirements.

(b) If a facility chooses not to provide meals and snacks, arrangements must be made with the custodial parent or legal guardian to provide nutritional food for the child.

(c) If a special diet is required for a child by a physician, a copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet shall be maintained in the child's file. If the custodial parent or legal guardian notifies the child care facility of any known food allergies, written documentation must be maintained in the child's file for as long as the child is in care. Special food restrictions must be shared with staff and must be posted in a conspicuous location.

(d) Meal and snack menus shall be planned, written, and posted at the beginning of each week. Menus shall be dated and posted in the food service area and in a conspicuous place accessible to parents. Any menu substitution shall be noted on the menu. Daily meal and snack menus shall be maintained for a minimum of four ~~one~~(1) months for licensing purposes.

Operators who participate in the USDA Food Program must keep menus in accordance with the Department of Health and the USDA requirements.

(2) Food Preparation Area. All licensed child care facilities approved by the Environmental Health Section to prepare food shall have documentation on file from the Department of Health verifying the facility meets the applicable requirements as specified in Chapter 64E-11, F.A.C., Food Hygiene.

(3) Food Service.

(a) Children shall be individually fed or supervised at feeding, and offered foods appropriate for their ages.

(b) Single service paper or plastic plates, utensils, and cups shall not be reused. Plates, utensils, cups, bottles, and sippy cups provided by the facility that are not disposable shall be washed, rinsed, and sanitized between uses.

(c) There shall be no propped bottles. If a child cannot hold the bottle, then a staff person or volunteer must hold the bottle during feeding. There shall be no automatic feeding devices unless medically prescribed. Formula shall be refrigerated and handled in a sanitary manner at all times.

(d) All bottles and sippy cups provided by the facility for a child to use more than once in the day or brought from home shall be individually labeled with the child's first and last name, cleaned and sanitized or returned to the custodial parent or legal guardian daily.

~~(e)(d)~~ Heated foods and bottles must be tested before feeding to ensure heat is evenly distributed and to prevent injury to children.

~~(f)(e)~~ Facilities shall provide sufficient age appropriate seating so that children are seated at tables for meals.

Rulemaking Specific Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, Repromulgated 5-1-08, Amended _____.

65C-22.006 Record Keeping.

(1) General Requirements.

(a) Records required to document compliance with Section 402.305, F.S., and rules adopted thereunder, shall be maintained at the facility, and shall be available during the hours of operation for review by the licensing authority.

(b) A copy of all background screening clearance documents for the director and owner must be provided to the department and will become part of ~~included in~~ the department's official licensing file.

(c) Copies of required records are acceptable for documentation. Original documents are the property of the party providing the information.

(2) Children's Health Requirements.

(a) The child care facility is responsible for obtaining for each child in care a current, complete and properly executed Student Health Examination form DH 3040 (June 2002), which

is incorporated herein by reference, from the parent or legal guardian or a signed statement by authorized professionals that indicates the results of the components of the Student Health Examination form are included in the health examination. The Student Health Examination shall be completed by a person given statutory authority to perform health examinations.

(b) The Student Health Examination or the signed statement is valid for two (2) years from the date the physical was performed. An up-to-date version must be on file for as long as the child is enrolled at the facility.

(c) The child care facility is responsible for obtaining for each child in care a current, complete and properly executed Florida Certification of Immunization form Part A-1, B, or C, DH 680 (July 2008+), or the Religious Exemption from Immunization form, DH 681 (July 2008 ~~May 1999~~), which are incorporated herein by reference, from the custodial parent or legal guardian. DH Form 680 and DH Form 681 may be obtained from the local county health department. Immunizations received out-of-state are acceptable; however immunizations must be documented on the Florida Certification of Immunization form and must be signed by a physician practicing in the State of Florida. Specific immunization requirements are included and detailed in the most current edition of the "Immunization Guidelines-Florida Schools, Child Care Facilities and Family Day Care Homes" as promulgated by the Florida Department of Health.

(d) If the custodial parents or legal guardians fail to provide the documentation required in paragraph (a) or (c) above within 30 days of enrollment, the facility shall not allow the child to remain in the program.

(e) School-aged children attending public or non-public schools are not required to have student health examination and immunization records on file at the child care facility as such records are on file at the school where the child is enrolled.

(f) If the custodial parents or legal guardians need assistance concerning these requirements, the facility shall refer them to the Department of Health or to the child's physician.

(g) Medical records in this section are the property of the custodial parent or legal guardian and must be returned to them when the child withdraws from the facility. The medical records are transferable if the child attends another facility.

(3) Enrollment Information. The facility operator shall obtain enrollment information from the child's custodial parent or legal guardian prior to accepting a child in care. This information shall be documented on CF-FSP Form 5219, March 2009 ~~January 2008~~, Child Care Application for Enrollment, which is incorporated by reference, or an equivalent form that contains all the information required by the ~~Department of Children and Family Services~~ on CF-FSP Form 5219. CF-FSP Form 5219 may be obtained from the

licensing authority or on the ~~department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare.

(a) Enrollment information shall be kept current and on file.

(b) The child shall not be released to any person other than the person(s) authorized or in the manner authorized in writing by the custodial parent or legal guardians.

(c) There shall be signed statements from the custodial parents or legal guardian that the child care facility has provided them with the following information:

1. The ~~Department of Children and Family Services~~ child care facility brochure, CF/PI 175-24, October 2007 ~~July 2005~~, Know Your Child Care Facility, which is incorporated by reference. This brochure may be obtained from the ~~department's licensing authority or on the Department of Children and Family Services'~~ website at www.myflorida.com/childcare. Local licensing agencies may use an equivalent brochure approved by the ~~Department of Children and Family Services~~.

2. The child care facility's written disciplinary policy.

(4) Personnel Records. Records shall be maintained and kept current on all child care personnel, as defined by Section 402.302(3), F.S., and household members if the facility is located in a private residence. These shall include:

(a) An employment application with the required statement pursuant to Section 402.3055(1)(b), F.S.

(b) Position and date of employment.

(c) CF-FSP Form 5337, March 2009, Child Abuse & Neglect Reporting Requirements, which is incorporated by reference, must be signed annually by all child care personnel. Signed statement that the employee understands the statutory requirements for professionals' reporting of child abuse and neglect.

(d) Initial Screening. Level 2 Screening information must be documented on CF-FSP Form 5131, March 2009 ~~Feb. 2004~~, Background Screening and Personnel File Requirements, which is incorporated by reference, Screening includes the following:

1. Level 2 screening as defined in Section 435.04, F.S., which includes at a minimum Federal Bureau of Investigations (FBI), Florida Department of Law Enforcement (FDLE), and local law enforcement records checks. For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida, would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes under this rule.

2. An employment history check must include the previous two years, which shall include the applicant's job title and a description of their regular duties, confirmation of employment dates, and level of job performance. Failed

attempts to obtain the employment history must be documented in the personnel file, and include date, time, and the reason the information was not obtained.

3. CF Form 1649A, January 2007, Child Care Attestation of Good Moral Character, which is incorporated by reference, must be completed for all child care personnel annually. A copy of the CF Form 1649A may be obtained from the department's website at www.myflorida.com/childcare.

(e)4. Re-Screening. A screening conducted under this rule is valid for five (5) years, at which time a statewide re-screen must be conducted.

1. The five year re-screen is required for all child care personnel.

2. The five year re-screen must include, at a minimum, statewide criminal records checks through the FDLE and a local criminal records check.

1. A person in this five (5) year re-screen category must undergo, at a minimum:

a. Statewide criminal records checks through the Florida Department of Law Enforcement and a local criminal records check;

b. An employment history check that includes the previous two (2) years. An employment history check conducted under this rule shall include the applicant's position description, confirmation of employment dates from previous job(s), and level of job performance.

3.e. CF Form 1649A, January 2007, A Child Care Attestation of Good Moral Character which is incorporated by reference, must be completed annually for all child care personnel annually. A copy of the CF 1649A may be obtained from the licensing authority or on the department's Department of Children and Family Services' website at www.myflorida.com/childcare.

4. Re-screening. Re-screening information for all child care personnel must be documented on CF-FSP Form 5131 March 2009. Background Screening and Personnel File Requirements,

5.2. A copy of all background screening clearance documents for the director and owner must be included in the department's official licensing file or in accordance with the appropriate local licensing agency requirements.

6. Break In Employment. Child care personnel must be re-screened as outlined in subparagraphs (4)(e)2. & 3. and 4. above following a break in employment in the child care industry that which exceeds 90 days.

7. Leave of Absence. If child care personnel takes a leave of absence, such as maternity leave, extended sick leave, migrant child care programs, etc., re-screening is not required unless the five (5) year re-screen has come due during the leave of absence.

(f)(e) Copies of training information and credentials as described in subsections 65C-22.003(4), (6) and (7), F.A.C., as applicable.

(g)(f) Driver's license and driver physical examination documentation. A copy of the driver's license and the physician certification, or another form containing the same elements of the physician certification, granting medical approval to operate the vehicle, and valid certificate(s) of course completion for first aid training and infant and child cardiopulmonary resuscitation (CPR) procedures must also be maintained in the driver's personnel file.

(5) Summary of Records. In addition to the documentation outlined in subsections ~~65C-22.006(1)-(6)(4)~~, above F.A.C., the following is a list of records that shall be maintained at the facility, and that shall be available during the hours of operation for review by the licensing authority:

(a) Driver's log: ~~m~~Must be retained for a minimum of four (~~4~~) months as referenced in subparagraph 65C-22.001(6)(f)1., F.A.C.

(b) Documentation of parental permission for field trips: ~~m~~Must be retained for a minimum of four (~~4~~) months as referenced in paragraph 65C-22.001(7)(b), F.A.C.

(c) Facility's written disciplinary policies as referenced in paragraph 65C-22.001(8)(c), F.A.C.

(d) Daily attendance of children records: ~~m~~Must be maintained for a minimum of four (~~4~~) months as referenced in subsection 65C-22.001(10), F.A.C.

(e) Written record of monthly fire drills: ~~m~~Must be maintained for a minimum of one year ~~four (4) months~~ as referenced in paragraph 65C-22.002(7)(d), F.A.C.

(f) Documentation of staff members that have met the first aid and infant and child cardiopulmonary resuscitation (CPR) training requirement as referenced in paragraph 65C-22.004(2)(b), F.A.C.

(g) Posted emergency telephone numbers, ~~and~~ the facility address, of and directions to the facility as referenced in subparagraph 65C-22.004(2)(d)1., F.A.C.

(h) Documentation of accidents/incidents: ~~m~~Must be maintained for one (~~1~~) year as referenced in subparagraph 65C-22.004(2)(d)3., F.A.C.

(i) Emergency evacuation plan and emergency preparedness plan as referenced in paragraphs ~~65C-22.002(7)(e) & (g) 65C-22.004(2)(d)5.~~, F.A.C. Written records of emergency preparedness plan drills must be maintained for one year from each drill.

(j) Record for each child receiving medication: ~~m~~Must be maintained for a minimum of four (~~4~~) months after the last day the child received the dosage as referenced in paragraph 65C-22.004(3)(f), F.A.C.

(k) Sample meal plan for special diet (if applicable). A copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet must be maintained for as long as the child is in care as referenced in paragraph 65C-22.005(1)(c), F.A.C.

(l) Written documentation of known food allergies (if applicable). Must be maintained for as long as the child is in care as referenced in paragraph 65C-22.005(1)(c), F.A.C.

(m) Daily meal and snack menus, including meal substitutions must be maintained for ~~four~~ ~~one~~ ~~(4)~~ months ~~month~~ as referenced in paragraph 65C-22.005(1)(d), F.A.C.

Rulemaking Specific Authority 402.305 FS. Law Implemented 402.305 FS. History—New 6-1-97, Amended 7-2-98, 3-17-99, 7-26-00, 1-4-01, 7-13-03, 9-12-04, 4-12-07, 5-1-08,_____.

65C-22.007 Evening Child Care.

(1) Hours of Care. Evening Child Care, as defined in Section 402.302(6), F.S., means child care provided during evening hours and may encompass the hours of 6:00 p.m. to 7:00 a.m.

(2) Supervision. During evening child care hours, staff must remain awake at all times. While children are awake, direct supervision as described in paragraph 65C-22.001(5)(a), F.A.C., must be provided. When children are sleeping, supervision, as defined in paragraph 65C-22.001(5)(b), F.A.C., is required.

(3) Exemptions. Child care standards, as outlined in Section 402.301 through 402.305, F.S., and Rules 65C-22.001 through 65C-22.006, F.A.C., apply to Evening Child Care with the following exceptions:

(a) Outdoor Play Area. For ~~facilities that centers which only~~ provide only evening child care, outdoor play space is not required. An open area within the existing indoor floor space designated for play that promotes the development of gross motor skills must be available.

(b) Credentialed staff, pursuant to Section 402.305(3), F.S., are not required for Evening Child Care.

(c) Director credentialed staff ~~are is~~ not required ~~for of~~ Evening Child Care ~~as defined in subsection 65C-22.007(1), F.A.C.~~

Rulemaking Specific Authority ~~402.302~~, 402.305 FS. Law Implemented ~~402.302~~, 402.305 FS. History—New 7-2-98, Amended 9-12-04, 4-12-07,_____.

65C-22.008 School Age Child Care.

(1) Definitions.

(a) “School-Age Child” means a child who is at least five ~~(5)~~ years of age by September 1st of the beginning of the school year and who attends kindergarten through grade five ~~(5)~~.

(b) “School-Age Child Care Program” means any licensed child care facility serving school-aged children as defined in paragraph ~~65C-22.008(1)(a), above F.A.C.~~, or any before and after school programs that are licensed as a child care facility defined in Section 402.302, F.S., and serve only school-aged children as defined in paragraph ~~65C-22.008(1)(a), above F.A.C.~~

(2) Licensure Requirements.

(a) An after school program exempted under subparagraph ~~65C-22.008(2)(c)1. or 3., below F.A.C.~~, may become licensed if they choose to meet all of the applicable licensing standards in subsection ~~65C-22.008(3) below, F.A.C.~~

(b) After school programs that choose to expand their program beyond the parameters in subparagraphs ~~65C-22.008(2)(c)1. through 4., below F.A.C.~~, must be assessed to determine if licensure is required. Any of the after school programs accepting children under the age of the school-age child as defined in paragraph ~~65C-22.008(1)(a), above F.A.C.~~, above, must be licensed.

(c) An “After School Program” serving school-age children is not required to be licensed if the program meets one of the following criteria, and complies with the minimum background screening requirements provided in subsections 402.305 and 402.3055, Florida Statutes.

1. Program is located on public/nonpublic school sites, operated and staffed directly by that school or through a written or formal agreement between the school, and a provider to serve school-age children attending the school. These programs exclusively serve those children who attend the public/nonpublic school during the school day. The program may extend to providing services before school, on teacher planning days, holidays, and intercessions that occur during the school district’s official calendar year. Pursuant to Section 402.305(5), F.S., programs operated in public school facilities, regardless of the operator, shall follow the standards set forth by the Florida Building Code State Requirements for Public Educational Facilities; or

2. Program provides activities that are strictly instructional or tutorial/academic in nature. These programs cannot extend beyond the instructional and tutorial/academic activities of that program and ~~cannot do not~~ serve or prepare meals ~~or snacks~~. ~~However,~~ the program may choose to provide drinks, snacks, and vending machine items ~~snacks~~ that do not require refrigeration ~~or vending machine items that do not require refrigeration~~. Some examples of these programs include, but are not limited to, computer class; ballet; karate; gymnastics; baseball, and other sports; or

3. Program meets all of the following criteria:

a. Operates for a period not to exceed a total of four ~~(4)~~ hours in any one ~~(1)~~ day; however, the program may extend to providing services before school, on teacher planning days, holidays, and intercessions that occur during the school district’s official calendar year; and

b. Allows children to enter and leave the program at any time, without adult supervision; and

c. Dos not provide any transportation, directly or through a contract or agreement with an outside entity, for the purpose of field trips, during the hours of operation; and

d. ~~Does~~ not serve or prepare any meals or snacks, ~~however~~ the program may choose to provide drinks, snacks, and vending machine items ~~snacks~~ that do not require refrigeration ~~or vending machine items that do not require refrigeration~~; or

4. ~~Program~~ Provides after school care exclusively for children in grades six ~~(6)~~ and above.

(d) Application for licensure. Application for a license or for renewal of a license to operate a school-age child care program must be made on CF-FSP Form 5017 5272, March 2009 Feb. 2004, Application for a License to Operate a School-Age Child Care Facility Program, which is incorporated by reference. CF-FSP Form 5017 5272 may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare.

1. Each completed CF-FSP Form 5017 5272 must be submitted with the licensure fee.

2. The completed CF-FSP Form 5017 5272 must be signed by the individual owner, or prospective owner, or the designated representative of a partnership, association, or corporation, and must include submission of background screening documents for the owner/operator, and approved fire and environmental health inspections.

3. For the purpose of issuing a license, any out-of-state criminal offense, which if committed in Florida would constitute a disqualifying felony offense, shall be treated as a disqualifying felony offense for screening purposes under this rule.

~~3.4.~~ A completed CF-FSP Form 5017 5272 for renewal of an annual license must be submitted to the licensing authority at least 45 days prior to the expiration date of the current license to ensure that a lapse of licensure does not occur. Failure to submit a completed CF-FSP Form 5017 at least 45 days prior to the expiration date of the current license constitutes a licensing violation as defined in paragraph 65C-22.010(2)(d), F.A.C.

(e) License. A school-age child care license is issued in the name of the owner, ~~The owner may be an individual,~~ partnership, association, or corporation, and the license must be posted in a conspicuous location where the school-age child care program is operating.

(3) School-Age Child Care Standards. The following school-age child care standards apply to "School-Age Child Care Programs" as defined in paragraph ~~65C-22.008(1)(b),~~ above F.A.C. These programs must meet the following licensing standards:

(a) Minimum Age Requirements. In the absence of the operator, there must be a staff person at least 21 years of age in charge of the school-age child care program and on the premises at all times.

(b) Ratios. For children five ~~(5)~~ years of age and older, there must be one ~~(1)~~ child care personnel for every 25 children.

(c) Supervision. When caring for school-age children, child care personnel shall remain responsible for the supervision of the children in care and capable of responding to emergencies, and are accountable for children at all times, which includes when children are separated from their groups. At all times lighting must be sufficient to visually observe and supervise children while in care.

1. No person shall be an operator, owner, or employee in a school-age child care program while using or under the influence of narcotics, alcohol, or other drugs that impair an individual's ability to provide supervision and safe child care.

2. In addition to the number of staff required to meet the staff-to-child ratio, for the purpose of safety, one ~~(1)~~ additional adult must be present on all field trips away from the school-age child care program to assist in providing direct supervision.

3. A telephone or other means of instant communication shall be available to staff responsible for children during all field trips. Cellular phones, two-way radio devices, citizen band radios, and other means of instant communication are acceptable.

4. If a school-age child care program uses a swimming pool that exceeds three ~~(3)~~ feet in depth or uses beach or lake areas for water activities, the school-age child care program must provide one ~~(1)~~ person with a certified lifeguard certificate or equivalent, unless a certified lifeguard is on duty, and present when any children are in the swimming area. In situations where the school-age child care program provides a person with a certified lifeguard certificate or equivalent, that person can also serve as the additional adult to meet the requirement in subparagraph (c)2., above.

(d) Access. A school-age child care program must provide the custodial parent or legal guardian access, in person and by telephone, to the program during the program's normal hours of operation or during the time the child is in care.

(e) General Requirements.

1. All school-age child care programs facilities must be clean, in good repair, and free from health and safety hazards and from vermin infestation. During the hours that the program is in operation, no portion of the building shall be used for any activity which endangers the health and safety of the children. Heating and air conditioning vents, filters, exhaust fans, air vents, ceiling fans, and dryer vents must be clean and free from dust and lint build-up of more than 1/2 inch thick and must meet fire and building code requirements. It is the owner's responsibility to obtain lead and asbestos environmental assessments, as applicable.

2. All areas and surfaces accessible to children shall be free from toxic substances and hazardous materials.

3. All potentially harmful items including cleaning supplies, flammable products, poisonous, toxic, and hazardous materials must be labeled. These items, ~~including as well as~~ knives, ~~and~~ sharp tools, and other potentially dangerous hazards, shall either be stored in a separately and locked area or must be inaccessible and out of a child's reach.

4. No firearms or weapons, as defined in Section 790.001, F.S., shall be allowed within any building ~~or conveyance~~, or upon any person located on the premises, excluding federal, state, or local Law Enforcement Officers.

5. No narcotics, alcohol, or other impairing drugs shall be present on the premises.

6. Animals must be properly immunized, free from disease, and clean. Parents must be informed in writing of all animals on the premises. Such information may be provided by way of a conspicuously posted notice or bulletin, policy handbook, parent flier, or a statement included on the enrollment form. Documentation of current immunizations must be available for review upon request by the licensing authority.

7. Pursuant to Chapter 386, F.S., smoking is prohibited within the school-age child care ~~facility program~~, all outdoor ~~play~~ areas, during field trips, and in vehicles when being used to transport children. Owner/operators are to notify custodial parents and legal guardians, in writing that smoking is prohibited on the premises of the child care facility.

8. Design and construction of a new child care facility or modifications to an existing facility must meet the minimum requirements of the applicable local governing body.

(f) Rooms Occupied by Children.

1. An inside temperature of 65 to 82 degrees Fahrenheit must be maintained at all times.

2. All rooms shall be kept clean, adequately ventilated and in good repair. Cleaning shall not take place while rooms are occupied by children except for general clean-up activities which are a part of the daily routine.

3. Rodents and vermin shall be exterminated. Pest control shall not take place while rooms are occupied by children.

(g) Napping and Sleeping Space. For the purposes of this standard, sleeping refers to the normal night time sleep cycle while napping refers to a brief period of rest during daylight or early evening hours. Each school-age child care program must include a designated area where each child can sit quietly or lie down to rest or nap. When not in use, napping space and usable indoor floor space may be used interchangeably as described in paragraph ~~65C-22.008(3)(i)~~, below F.A.C.

(h) Toilet and Bath Facilities.

1. Each school-age child care program shall provide and maintain toilet and bath facilities that are easily accessible, and at a height usable by the children. Platforms are acceptable when safely constructed, with impervious surfaces that can be ~~and~~ easily cleaned and sanitized or disinfected.

2. For facilities having from one ~~(4)~~ to fifteen ~~15~~ children, there shall be at least one ~~(4)~~ toilet and one wash basin. There shall be one ~~(4)~~ additional toilet and basin for every 30 children thereafter. For design and construction of a new child care facility or modification to an existing facility, subparagraph ~~65C-22.008(3)(e)8.~~, above F.A.C., shall apply.

3. Toilet facilities shall not open directly into an area where food is prepared. A toilet facility may open directly into an area used by children where food is served.

4. Running water, soap, trash receptacles, toilet paper, and disposable towels or hand drying machines that are properly installed and maintained shall be available and within reach of children using the toileting facility.

5. Each basin and toilet must be maintained in good operating condition, cleaned and sanitized or disinfected as needed, at least once per day.

(i) Indoor Floor Space.

1. A school-age child care program that held a valid license on October 1, 1992, must have a minimum of 20 square feet of usable indoor floor space for each child. A school-age child care program that did not hold a valid license on October 1, 1992, and seeks regulatory approval to operate as a school-age child care program, must have a minimum of 35 square feet of usable indoor floor space for each child.

2. Usable indoor floor space refers to that space available for indoor play, classroom, work area, or nap space. Usable indoor floor space is calculated by measuring at floor level from interior walls, and by deleting space for stairways, toilets and bath facilities, permanent fixtures and non-movable furniture. Kitchens, offices, laundry rooms, storage areas, hallways, and other areas not used in normal day-to-day operations are not included when calculating usable indoor floor space.

3. In addition to the total facility minimum square footage per child, each room that is routinely occupied by children must have a minimum of 20 square feet or 35 square feet (whichever is applicable) per child at all times.

a. The capacity, as calculated by the licensing authority for each room, must be posted in a conspicuous location within the room.

b. When common or multi-purpose areas are used for dining or occasional large group assembly activities and special events, the applicable 20 or 35 square feet requirement of usable space for each child does not apply for that period of time only; however, the facility must maintain minimum square footage per child in accordance with the requirements of the local fire authority.

4. Shelves or storage for toys and other materials shall be considered as usable indoor floor space if accessible to children.

5. A school-age child care program may request in writing permission from the licensing authority to operate under an exception to usable indoor floor space as specified in

paragraph ~~65C-22.008(3)(i)~~, above F.A.C. The written request must include an explanation of why the exception is necessary as well as an alternate plan to accommodate instances of inclement weather.

(j) Outdoor Play Area.

1. There shall be a minimum of 45 square feet of usable, safe, and sanitary outdoor play area per each school-age child. A minimum outside play area shall be provided for one-half (~~1/2~~) of the licensed capacity.

2. Based on the outdoor square footage, the total number of children using the play area may not exceed the outdoor capacity.

3. The outdoor play area shall be clean, and free from litter, nails, glass, and other hazards.

4. The outdoor play area shall provide shade.

5. During outdoor play, personnel must situate themselves in the outdoor play area so that all children can be observed and direct supervision can be provided.

6. The facility's outdoor play area shall be fenced in accordance with ~~accepted safety practices and~~ local ordinances to prevent access by children to all water hazards within or adjacent to outdoor play areas, such as pools, ditches, retention and fish ponds.

7. The outdoor play area shall have and maintain safe and adequate fencing or walls a minimum of four (~~4~~) feet in height. Fencing, including gates, must be continuous, and shall not have gaps that would allow children to exit the outdoor play area. The base of the fence must remain at ground level, and be free from erosion or build-up to prevent inside or outside access by children or animals.

8. A school-age child care program may request in writing permission from the licensing authority to operate under an exception to outdoor floor space as specified above ~~in paragraph 65C-22.008(3)(j), F.A.C.~~ The written request must include an explanation of why the exception is necessary as well as an alternate plan for inclusion of fine and gross motor skills opportunities. If not requesting an exemption to the outdoor play area, the school-age child care program may operate without a fence if all the following provisions are met:

a. The children using the outdoor play area are in five (~~5~~) year old kindergarten and grades one (~~1~~) or above;

b. In addition to the established staff-to-child ratios, for the purpose of safety, an additional staff member is present at all times during outdoor activities, to assist in providing direct supervision;

c. The outdoor play area is bordered by a road or street open to travel by the public with a posted or unposted speed limit of no more than 25 miles per hour, or where the posted or unposted speed limit is no greater than 35 miles per hour, and the playground is a minimum of 30 feet from the edge of the road; and

d. The licensing authority has provided written authorization to the program to operate without a fence.

(k) Health and Sanitation.

1. All buildings, when the windows or doors are open, must have and maintain screens to prevent entrance of any insect or rodent. Screens are not required for open air classrooms and picnic areas.

2. Employees, volunteers, and children shall wash their hands with soap and running water, dry thoroughly, and follow personal hygiene procedures for themselves, or while assisting others, and immediately after outdoor play.

3. Safe drinking water shall be available to all children. If disposable cups are used, they must be discarded after each use.

4. School-age child care programs must have written documentation from the local Environmental Health Unit that they have either met or have been exempted from local environmental health standards.

(l) Equipment and Furnishings.

1. Indoor Equipment.

a. A school-age child care program shall make available toys, equipment, and furnishings suitable to each child's age and development and of a quantity suitable for each child to be involved in activities.

b. Toys, equipment, and furnishings must be safe and maintained in a sanitary condition, and shall be cleaned and sanitized or disinfected immediately if exposed to bodily fluids, such as saliva.

2. Outdoor Equipment.

a. A school-age child care program shall provide and maintain equipment and play activities suitable to each child's age and development.

b. All playground equipment shall be securely anchored, unless portable or stationary by design, in good repair, maintained in safe condition, and placed to ensure safe usage by the children. Maintenance shall include inspections checks, at least every other month, of all supports above and below the ground, and all connectors and moving parts. Documentation of maintenance inspections shall be maintained for one year.

c. Permanent or stationary playground equipment must have a ground cover or other protective surface under the equipment that provides resilience, and is maintained to reduce the incidence of injuries to children in the event of falls.

d. All equipment, fences, and objects on the program's premises shall be free from sharp, broken and jagged edges, and shall be properly placed to prevent overcrowding or safety hazards in any one (~~1~~) area.

e. All equipment used in the outdoor play area shall be constructed and maintained to allow for water drainage, and shall be maintained in a safe and sanitary condition.

(m) Health Related Requirements.

1. Communicable Disease Control.

a. Children in care shall be observed on a daily basis for signs of communicable disease. Any child, child care personnel or other person in the school-age child care program suspected of having a communicable disease shall be removed from the program or placed in an isolation area until removed. Such person may not return without medical authorization, or until the signs and symptoms of the disease are no longer present. ~~With Aa child's,~~ the condition shall be reported to the custodial parent or legal guardian. Signs and symptoms of a suspected communicable disease include the following:

- (I) Severe coughing, causing a ~~a~~ child to become red or blue in the face or to make a whooping sound;
- (II) Difficult or rapid breathing;
- (III) Stiff neck;
- (IV) Diarrhea (more than one abnormally loose stool within a 24 hour period);
- (V) Temperature of 101 degrees Fahrenheit or higher when in conjunction with any other signs of illness;
- (VI) Pink Eye;
- (VII) Exposed, open skin lesions;
- (VIII) Unusually dark urine and/or gray or white stool;
- (IX) Yellowish skin or eyes; or
- (X) Any other unusual sign or symptom of illness.

b. A child identified as having head lice shall not be permitted to return until the following day, only if treatment has occurred and has been verified. Verification of treatment may include a product box, box top, empty bottle, or signed statement by a parent that treatment has occurred. The child care facility must treat areas, equipment, toys, and furnishings with which the child has been in contact.

c. Isolation Area. Each school-age child care program shall have a designated isolation area for a child who becomes ill while in care of the program. Such space shall be adequately ventilated, heated, and equipped with a bed, mat, or cot, and materials that can be cleaned and sanitized or disinfected easily. Linens ~~and disposables~~ shall be changed after each use and used linens ~~and disposables~~ shall be kept in a closed container in the isolation area until cleaned ~~or disposed~~. Disposable items shall be kept in a closed container in the isolation area until thrown away. The isolated child must be within sight and hearing of a staff person at all times. The child must be carefully observed for worsening conditions.

d. Outbreaks. Operators are required to notify the local county health department immediately upon any suspected outbreak of communicable disease in accordance with Chapter 64D-3, F.A.C., Communicable Disease Control and must follow the health department's direction. A suspected outbreak occurs when two (2) or more children or employees have the onset of similar signs or symptoms, as outlined in sub-subparagraphs ~~65C-22.008(3)(m)1.a., F.A.C.,~~ above, within a 72-hour period or when a case of a serious or reportable communicable disease is diagnosed or suspected on a child or employee.

2. First Aid, Cardiopulmonary Resuscitation and Emergency Procedures.

a. Each school-age child care program must have at least one (1) staff member with current and valid certificate(s) of course completion for first aid training and child cardiopulmonary resuscitation (CPR) procedures. One (1) staff member satisfying these training requirements shall be present at all times that children are in the care ~~at~~ of the program, both on-site and on field trips. A field trip includes all activities away from the program excluding regular transportation to and from the program, i.e., pick-up and drop-off.

b. Certificate(s) of course completion are valid based on the time frames established by each first aid and CPR training program, not to exceed three (3) years. CPR courses must include an on-site instructor-based skills assessment that shall be documented by the certified CPR instructor. ~~Online CPR courses are not acceptable to meet this standard. CPR training must be done by classroom instruction.~~ Documentation that identifies staff members have met the first aid and child cardiopulmonary resuscitation (CPR) training requirement shall be kept on file at the school-age child care program facility.

c. At least one (1) first aid kit must be maintained on the premises of the school-age child care program at all times. A first aid kit must also accompany child care staff when children are participating on field trips. Each kit shall be in a closed container and labeled "First Aid₁". The kits shall be accessible to the child care staff at all times, and kept out of the reach of children. Each kit must at a minimum include:

- (I) Soap,
- (II) Band-aids or equivalent,
- (III) Disposable non-porous gloves,
- (IV) Cotton balls or applicators,
- (V) Sterile gauze pads and rolls,
- (VI) Adhesive tape,
- (VII) Thermometer,
- (VIII) Tweezers,
- (IX) Pre-moistened wipes,
- (X) Scissors, and
- (XI) A current resource guide on first aid and CPR procedures.

3. Emergency Procedures and Notification.

a. Emergency telephone numbers, including ambulance, fire, police, poison control center, Florida Abuse Hotline, the county public health unit, and the address ~~of~~ and directions to the facility, including major intersections and local landmarks, must be posted on or near all school-age child care program telephones and shall be used to protect the health, safety and well-being of any child in day care.

b. Custodial parents or legal guardians shall be notified immediately in the event of any serious illness, accident, injury or emergency to their child, and their specific instructions

regarding action to be taken under such circumstances shall be obtained and followed. If the custodial parent or legal guardian cannot be reached, the school-age child care program owner will contact those persons designated by the custodial parent or legal guardian to be contacted under these circumstances, and shall follow any written instructions provided by the custodial parent or legal guardian on the enrollment form.

c. All accidents and incidents which occur at a school-age child care program or while a child is in the care of program staff must be documented on the day they occur. This documentation must be shared with the custodial parent or legal guardian on the date of occurrence. Documentation shall include the name of the affected party, date and time of occurrence, description of occurrence, actions taken and by whom, and appropriate signatures of program staff and custodial parent or legal guardian. The documentation must be and maintained for one (1) year. If the child is not picked up by the custodial parent or legal guardian, the facility must document on the accident or incident form when the custodial parent or legal guardian was contacted about the accident or incident and who picked up the child, and must obtain the signature of the custodial parent or legal guardian on the accident or incident form the first time they return to the facility.

~~d. After a fire or natural disaster, the operator must notify the licensing agency within 24 hours as to their status of operation in order for the licensing authority to ensure health standards are being met for continued operation.~~

~~e. The operator shall prepare an emergency evacuation plan including a diagram of safe routes by which the personnel and children may exit the school-age child care program site in the event of fire or other emergency requiring evacuation of the program and post a copy of the plan in each room of the program site.~~

4. Medication. School-age child care programs are not required to give medication; however, if a program chooses to do so, the following shall apply:

a. The school-age child care program must have written authorization from the custodial parent or legal guardian to dispense prescription and non-prescription medications. This authorization must be dated and signed by the custodial parent or legal guardian and contain the child's name; the name of the medication to be dispensed; and date, time, and amount of dosage to be given. This record shall be initialed or signed by the program personnel who gave the medication.

b. Any known allergies to medication or special restrictions must also be documented, maintained in the child's file, shared with staff and posted with stored medication.

c. Prescription and non-prescription medication brought to the school-age child care program by the custodial parent or legal guardian must be in the original container. Prescription medication must have a label stating the name of the physician, child's name, name of the medication, and medication

directions. All prescription and non-prescription medication shall be dispensed according to written directions on the prescription label or printed manufacturer's label.

d. In the event of an emergency, non-prescription medication that is not brought in by the parent or legal guardian can be dispensed only if the program has written authorization from the parent or legal guardian to do so.

e. Any medication dispensed under these conditions must be documented in the child's file, and the custodial parent or legal guardian must be notified on the day of occurrence.

f. The facility must maintain a record for each child receiving medications that documents the full name of the child, the name of medication, the date and time the medication was dispensed, the amount and dosage, and the name of the person who dispensed the medication. The record shall be maintained for a minimum of four (4) months after the last day the child received the dosage.

g. All medicine must have child resistant caps, if applicable, and shall either be stored in a separately and locked area or must be inaccessible and out of a child's reach.

h. Medication that has expired or that is no longer being dispensed shall be returned to the custodial parent or legal guardian or discarded if the child is no longer enrolled at ~~in~~ the school-age child care program.

(n) Child Discipline.

1. Verification that the school-age child care program has provided, in writing, the disciplinary policy used by the program shall be documented on the enrollment form with the signature of the custodial parent or legal guardian.

2. All child care personnel must comply with the school-age child care program's written disciplinary policy. Such policies shall include standards that prohibit children from being subjected to discipline that is severe, humiliating, frightening, or associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited by all child care personnel.

3. A copy of the school-age child care program's current written disciplinary policies must be available to the licensing authority to review for compliance with Section 402.305(12), F.S.

(o) Attendance. Daily attendance of children shall be taken and recorded by the school-age child care program personnel, documenting the time when each child enters and departs a child care facility or program. The custodial parent or guardian may document the time when their child(ren) enter and depart the child care facility or program. However, child care facility personnel are responsible for ensuring that attendance records are complete and accurate. Such records shall be maintained for a minimum of four months. Attendance forms used for School Readiness may be used if applicable.

(p)(~~o~~) Nutrition.

1. If a school-age child care program chooses to supply food, it shall provide nutritious meals and snacks of a quantity and quality to meet the daily nutritional needs of the children. The USDA My Pyramid, April 2005, shall be used to determine what food groups to serve at each meal or snack and the serving size of the selected foods for children ages two (2) and older. Using the USDA My Pyramid, breakfast shall consist of at least three (3) different food groups, lunch and dinner shall consist of at least four (4) different food groups, and snacks shall consist of at least two (2) different food groups. The categories "oils" and "discretionary calories" may not be considered food groups. Copies of the USDA My Pyramid may be obtained from the ~~licensing authority, the local county health department or from the~~ USDA website at www.mypyramid.gov.

2. If a school-age child care program chooses not to provide meals and snacks, arrangements must be made with the custodial parent or legal guardian to provide nutritional food for the child.

3. If a special diet is required for a child by a physician, a copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet shall be maintained in the child's file. If the parent or legal guardian notifies the school-age child care program of any known food allergies, written documentation must be maintained in the child's file for as long as the child is in care. Special food restrictions must be shared with staff and must be posted in a conspicuous location.

4. Meal and snack menus shall be planned, written, and posted at the beginning of each week. Any menu substitution shall be noted on the menu. Menus shall be dated and posted in the food service area and in a conspicuous place accessible to parents. Daily meal and snack menus shall be maintained for a minimum of ~~four (4) months for licensing purposes.~~ Operators who participate in the USDA Food Program must keep menus in accordance with the Department of Health and USDA requirements.

~~(q)(p)~~ Food Preparation Area.

1. All licensed school-age child care programs approved by the Environmental Health Section to prepare food shall have documentation on file from the Department of Health verifying the facility meets the applicable requirements as specified in Chapter 64E-11, F.A.C., Food Hygiene.

2. School-age child care programs must have written documentation from the local Environmental Health Unit that they have either met or have been exempted from local environmental health standards, specified in Chapter 64E-11, F.A.C., Food Hygiene, as it pertains to the food preparation area defined above ~~specified in subparagraph 65C-22.008(3)(p)1., F.A.C.~~

~~(r)(q)~~ Food Service.

1. School-age child care programs shall provide sufficient age appropriate seating so that children are seated at tables for meals.

2. Children shall be supervised during all meals and snacks and offered foods appropriate for their ages.

3. Single service paper or plastic plates, utensils, and cups shall not be reused. Plates, utensils and cups provided by the facility that are not disposable shall be washed, rinsed, and sanitized between uses.

~~(s)(r)~~ Fire Safety.

1. Unless statutorily exempted, all school-age child care programs shall conform to state standards adopted by the State Fire Marshal, Chapter 69A-36, F.A.C., Uniform Standards for Life Safety and Fire Prevention in Child Care Facilities, ~~which is incorporated herein by reference,~~ and shall be inspected annually. A copy of the current and approved annual fire inspection report by a certified fire inspector must be on file with the licensing authority. If the school-age program is granted a fire inspection exemption by ~~However, a school-age child care program may seek an exemption to state standards adopted by the State Fire Marshal, Chapter 69A-36, F.A.C., Uniform Standards for Life Safety and Fire Prevention in Child Care Facilities. The written exemption request, which must include a plan for ensuring the safety of children in care, must be made to~~ the local fire inspection office ~~and, if granted,~~ the exemption must be documented and maintained on file at the program.

2. There shall be at least one ~~(1)~~ corded telephone in the school-age child care program facility that is neither locked nor located at a pay station ~~that~~ and is available to all staff during the hours of operation.

3. The child care facility must properly maintain fire extinguishers at all times.

4. The operator shall prepare and post the emergency evacuation plan in each room of the program, including a diagram of safe routes by which the personnel and children may exit in the event of fire or other emergency requiring evacuation.

5. Fire drills shall be conducted monthly at various times when children are in care. A current attendance record must accompany staff out of the building during a drill or actual evacuation, and be used to account for all children. During the school-age child care program facility's licensure year, the monthly fire drills conducted must include, at a minimum:

a. Two fire drills using alternate evacuation routes, and

b. One drill in the presence and at the request of the licensing authority in coordination with the operator or designee.

~~6.4.~~ The operator shall maintain a written record of monthly fire drills showing the date, number of children and staff in attendance, evacuation route used, and time taken for all individuals to evacuate the premises. Each monthly record shall be maintained for a minimum of one year ~~four (4) months~~ from the date of the fire drill.

7. When the school-age program's fire alarm is activated, all adults and children must evacuate the facility.

8. After a fire or natural disaster, the operator must notify the licensing authority within 24 hours as to their operational status in order for the licensing authority to ensure health standards are being met for continued operation.

9. The operator shall develop a written emergency preparedness plan to include, at a minimum, procedures for lockdown, inclement weather, and other conditions.

10. Emergency preparedness drills shall be conducted when children are in care and are in addition to fire drills required in subparagraph (3)(s)5., above. Each drill outlined in the emergency preparedness plan must be practiced a minimum of one time per year, and documentation must be maintained for one year. A current attendance record must accompany staff during the drill or actual emergency and be used to account for all children.

11. The operator shall maintain a written record of the emergency preparedness drills showing the type of drill, date conducted, number of children and staff in attendance, and time taken for all individuals to complete the drill.

12. Documentation of completed fire and emergency preparedness drills must be available at the time of the inspection. Documentation produced after the inspection shall not meet the licensing standard or corrective action requirements.

(t)(s) Transportation. For the purpose of this section, vehicles refer to those owned, operated, or contracted for use to transport children to or from used regularly by the school-age child care program, and vehicles that provide transportation through a contract or agreement with an outside entity. Parents' personal vehicles used during field trips are excluded from meeting the requirements in sub-subparagraphs (t)1.b.,2 & 3., below.

1. When any vehicle is regularly used by a school-age child care program to provide transportation, the driver shall have the following:

a. ~~A~~ a valid ~~current~~ Florida driver's license,

b. ~~A~~ an annual physical examination which grants medical approval to drive, and valid certificate(s) of course completion for first aid training and infant and child cardiopulmonary resuscitation (CPR) procedures.

2. All child care facilities must comply with the insurance requirements found in Section 316.615(4), F.S.

3. All vehicles regularly used to transport children shall be inspected annually by a mechanic to ensure that they are in proper working order. Documentation by the mechanic shall be maintained in the vehicle.

4. The maximum number of individuals transported in a vehicle may not exceed the manufacturer's designated seating capacity or the number of factory installed seat belts.

5. Each child, when transported, must be in an individual factory installed seat belt or federally approved child safety restraint unless the vehicle is excluded from this requirement by Florida Statute.

6. When transporting children, staff-to-child ratios must be maintained at all times. The driver may be included in the staff-to-child ratio.

7. Driver's Log. A log shall be maintained for all children being transported in the vehicle. The log shall be retained for a minimum of four (4) months. The log shall include each child's name, date, time of departure, ~~and~~ time of arrival, signature of driver, and signature of second staff member to verify the driver's log and ~~the fact~~ that all children have left the vehicle.

8. Prior to transporting children, the driver's log must be recorded, signed, and dated immediately, verifying that all children were accounted for and that the log is complete.

9. Upon arrival at the destination, the driver of the vehicle shall:

a. Mark each child off the log as the children depart the vehicle;

b. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and

c. Record, sign, and date the driver's log immediately, verifying that all children were accounted for, and that the visual sweep was conducted.

10. Upon arrival at the destination, a second staff member shall:

a. Conduct a physical inspection and visual sweep of the vehicle to ensure that no child is left in the vehicle; and

b. Sign, date, and record the driver's log immediately, verifying that all children were accounted for, and that the log is complete.

11. Emergency medical consent forms or copies of the consent forms signed by the custodial parent or legal guardian and emergency contact numbers must accompany the children while being transported.

12. Planned Activities.

a. Each group or class must have a written and followed plan of scheduled activities posted in a conspicuous location accessible to parents. The written plan must meet the needs of the children being served and include scheduled activities that:

(I) Include both indoors and outdoor play, if applicable; and

(II) Include meals, snacks, and the times the children are in care.

b. Parents must be advised in advance of each field trip activity. The date, time, and location of the field trip must be posted in a conspicuous location at least two working days prior to each field trip. Written parental permission must be obtained in the form of a general permission slip. If special circumstances arise where notification of an event cannot be posted for two working days, individual permission slips must be obtained from the custodial parent or legal guardian for each child participating on the field trip. Documentation of parental permission for field trips shall be maintained for a minimum of four months from the date of each field trip.

(u)(+) Record Keeping.

1. General Requirements.

a. Each of the records described in this section shall be maintained at the school-age child care program and shall be available during the hours of operation for review by the licensing authority.

b. A copy of all background screening clearance documents for the director and owner must be provided to the department to be included in the department's official licensing file.

c. Copies of required records are acceptable for documentation. Original documents are the property of the party providing the information.

2. Health Records. School-aged children attending public or nonpublic schools are not required to have student health examination and immunization records on file at the school-age child care program as such records are on file at the school where the child is enrolled.

3. Enrollment Information. The facility operator shall obtain enrollment information from the child's custodial parent or legal guardian prior to accepting a child in care. This information shall be documented on CF-FSP Form 5219, March 2009, Child Care Application for Enrollment, or an equivalent form that contains all the information required by the ~~Department of Children and Family Services~~ on CF-FSP Form 5219. CF-FSP Form 5219 may be obtained from the licensing authority or by going to the department's Department of Children and Family Services' website at www.myflorida.com/childcare.

a. Enrollment information shall be kept current and on file.

b. The child shall not be released to any person other than the person(s) authorized or in the manner authorized in writing by the custodial parent or legal guardians.

c. There shall be signed statements from the custodial parents or legal guardian that the school-age child care program has provided them with the following information:

(I) The ~~department's Department of Children and Family Services~~ child care facility brochure, CF/PI 175-24, Know Your Child Care Facility. This brochure may be obtained from the licensing authority or by going to the department's Department of Children and Family Services' website at www.myflorida.com/childcare. Local licensing agencies may use an equivalent brochure approved by the ~~Department of Children and Family Services.~~

(II) The school-age child care program's written disciplinary practices.

4. Personnel Records. Records shall be maintained and kept current on all child care personnel, as defined by Section 402.302(3), F.S., and household members if the facility is located in a private residence. These shall include:

a. An employment application with the required statement pursuant to Section 402.3055(1)(b), F.S.

b. Position and date of employment.

c. CF-FSP Form 5337, March 2009, Child Abuse & Neglect Reporting Requirements must be signed annually by all child care personnel. Signed statement that the employee understands the statutory requirements for professionals' reporting of child abuse and neglect.

d. Initial Screening. Level 2 Sscreening information must be documented on CF-FSP Form 5131, March 2009 Feb. 2004, Background Screening and Personnel File Requirements, which is incorporated by reference. Screening includes the following:

(I) Level 2 screening as defined in Section 435.04., F.S., which includes at a minimum, FBI, FDLE, and local law enforcement records checks.

(II) An employment history check must include the previous two years, which shall include the applicant's job title and a description of their regular duties, confirmation of employment dates, and level of job performance. Failed attempts to obtain the employment history must be documented in the personnel file and include date, time, and the reason the information was not obtained.

(III) CF Form 1649A, January 2007, Child Care Attestation of Good Moral Character, which is incorporated by reference, must be completed for all child care personnel annually. CF Form 1649A may be obtained from the department's website at www.myflorida.com/childcare.

e. Re-Screening. A screening conducted under this rule is valid for five (5) years, at which time a statewide re-screen must be conducted.

(I) The five year re-screen is required for the all child care personnel.

(II) The five year re-screen must include, at a minimum, statewide criminal records checks through the Florida Department of Law Enforcement (FDLE) and a local criminal records check.

(III) CF 1649A, January 2007, A Child Care Attestation of Good Moral Character, which is incorporated by reference, must be completed annually for all child care personnel annually. A copy of the CF 1649A may be obtained from the department's licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childcare.

(IV) A copy of all background screening clearance documents for the director and owner must be included in the department's official licensing file or in accordance with the appropriate local licensing agency requirements.

f. Break In employment. Child care personnel must be re-screened following a break in employment in the child care industry as outlined sub-subparagraphs (3)(u)4.e. above that which exceeds 90 days.

g. Leave of Absence. If child care personnel takes a leave of absence, such as maternity leave, extended sick leave, migrant child care programs, etc., re-screening is not required unless the five (5) year re-screen has come due during the leave of absence.

~~d. Level 2 screening information documented on CF FSP Form 5131, Background Screening and Personnel File Requirements. A screening conducted under this rule is valid for five (5) years, at which time a statewide re screen must be conducted. Child care personnel must be re-screened following a break in employment in the child care industry which exceeds 90 days. If child care personnel takes a leave of absence, such as maternity leave, extended sick leave, migrant child care programs, etc., re screening is not required unless the five (5) year re screen has come due during the leave of absence.~~

~~(I) A person in this five (5) year re-screen category must undergo the same level of screening which was required upon initial employment and must include, at a minimum:~~

~~(A) Statewide criminal records checks through the Florida Department of Law Enforcement and a local criminal records check.~~

~~(B) An employment history check that includes the previous two (2) years. An employment history check conducted under this rule shall include the applicant's position description, confirmation of employment dates from previous job(s), and level of job performance.~~

~~(C) CF 1649A, A Child Care Attestation of Good Moral Character, must be completed annually for all child care personnel. CF 1649A may be obtained from the licensing authority or on the Department of Children and Family Services' website at www.myflorida.com/childcare.~~

~~(II) A copy of all background screening documents for the director and owner must be included in the department's official licensing file or in accordance with the appropriate local licensing agency requirements.~~

~~h.e. Copies of training information and credentials as described in subsection 65C-22.008(4), below F.A.C.~~

~~i.f. Driver's license and driver physical examination documentation. A copy of the driver's license and the physician certification or another form containing the same elements of the physician certification, granting medical approval to operate the vehicle, and valid certificate(s) of course completion for first aid training and child cardiopulmonary resuscitation (CPR) procedures must also be maintained in the driver's personnel file.~~

5. Summary of Records. In addition to the documentation outlined in subparagraphs ~~65C-22.008(3)(u)(t)1., 2. and 3.,~~ above F.A.C., the following is a list of records that shall be maintained at the school-age child care program and available during the hours of operation for review by the licensing authority.

a. Driver's log. Must be retained for the previous four (4) months as referenced in subparagraph ~~65C-22.008(3)(t)(s)7.,~~ above F.A.C.

b. Facility's written disciplinary policies as referenced in subparagraph ~~65C-22.008(3)(n)3.,~~ above F.A.C.

c. Written record of monthly fire drills. Must be maintained for a minimum of one four (4) year months as referenced in subparagraph ~~65C-22.008(3)(s)(r)4.,~~ above F.A.C.

d. Documentation of staff members ~~who that~~ have met the first aid and child cardiopulmonary resuscitation (CPR) training requirement as referenced in sub-subparagraph ~~65C-22.008(3)(m)2.b.,~~ above F.A.C.

e. Posted emergency telephone numbers, ~~and the facility address of,~~ and directions to the facility as referenced in sub-subparagraph ~~65C-22.008(3)(m)3.a.,~~ above F.A.C.

f. Documentation of accidents/incidents. Must be maintained for one (1) year as referenced in sub-subparagraph ~~65C-22.008(3)(m)3.c.,~~ above F.A.C.

g. Emergency evacuation plan and preparedness plan as referenced in sub-subparagraph ~~65C-22.008(3)(s)9.(m)3.e.,~~ above F.A.C. Documentation must be maintained for one year from the date of each drill.

h. Record for each child receiving medication. Must be maintained for a minimum of four (4) months after the last day the child received the dosage as referenced in sub-subparagraph ~~65C-22.008(3)(m)3.f.,~~ above F.A.C.

i. Sample meal plan for special diet (if applicable). A copy of the physician's order, a copy of the diet, and a sample meal plan for the special diet must be maintained for as long as the child is in care as referenced in subparagraph ~~65C-22.008(3)(p)(o)3.,~~ above F.A.C.

j. Written documentation of known food allergies (if applicable). Must be maintained for as long as the child is in care as referenced in subparagraph ~~65C-22.008(3)(p)(o)3.,~~ above F.A.C.

k. Daily meal and snack menus, including meal substitutions. Must be maintained for four ~~months one (1) month~~ as referenced in subparagraph ~~65C-22.008(3)(p)(o)4.,~~ above F.A.C.

(4) School-Age Child Care Personnel Training Requirements.

(a) Definitions.

1. "Active" is ~~refers to~~ the status of a candidate's awarded credential or certification signifying in which requirements have been successfully met.

2. "Before-School and After-School site" refers to a program, regardless of location, that provides child care for children who are at least five (5) years old, ~~and~~ are enrolled in and attend a kindergarten program, or grades one (1) and above during a school district's calendar year. This is limited to programs that provide care only before and after the

recognized hours of a district's school day and on teacher planning days, holidays, and intercessions that occur during the school district's official calendar year.

3. "Begin training for child care personnel" refers to a candidate's commencement of at least one (1) of the child care training courses listed in Section 402.305(2)(d), F.S. This may be accomplished by classroom attendance in a department-approved training course, acquiring an educational exemption from a department-approved training course, beginning a department-approved online child care training course, or by receiving results from completion of a department-approved competency examination within the first 90 days of employment in the child care industry in any licensed Florida school-age child care program. The child care facility is responsible for obtaining documentation from child care personnel.

4. "Continuing Education Unit (CEU)" is a standard unit of measure of coursework used for training and credential purposes. The department will accept CEUs from education institutions accredited and recognized by the U.S. Department of Education, or nationally affiliated state professional organizations.

5.4. "Director" means "operator" as defined in Section 402.302(11), F.S., is the on-site administrator or individual who has the primary responsibility for the day-to-day operation, supervision, and administration of a child care facility.

6.5. "Director Credential" is a department-approved comprehensive credential that consists of educational and experiential requirements as referenced in paragraph 65C 22.008(4)(i), below F.A.C.

7. "Foster Grandparents" are directly supervised volunteers who work with one or more children with special or exceptional needs in child care programs. Foster grandparents are not counted in the staff-to-child ratio. Foster grandparents shall be required to have 100% attendance in the following department's training courses: Child Care Facility Rules and Regulations; Health, Safety, and Nutrition; Identifying and Reporting Child Abuse and Neglect; and Special Needs Appropriate Practices. Foster grandparents are not classified as child care personnel, and they may not be assigned the roles of teacher's aides, group leaders or other similar positions pursuant to Title 45, Public Welfare, Code of Federal Regulations, section 2552.75.

8. "High School Diploma, GED and/or College Degree" means a diploma or degree obtained from institution accredited and recognized by U.S. Department of Education. If a high school diploma is earned outside the U.S., it must be translated by someone who is a member of the American Translators Association, an approved credential evaluation agency approved by the Bureau of Educators Certification, or an accredited college/university. If a college degree is earned outside the U.S., it must be evaluated by an approved

credential evaluation agency approved by the Bureau of Educators Certification or an accredited college/university to be equivalent to a U.S. degree.

9. "Inactive" refers to the status of a candidate's awarded credential or certification that is no longer active; however, remains eligible for renewal.

10. "Professional contribution," for the purpose of Director Credential renewal, demonstrates a dedication to early childhood or school-age education outside of the child care program responsibilities.

11.6. "Training Transcript" is the electronic documentation of statutorily mandated training and staff credential qualifications for child care personnel. Training Transcript's may be obtained from on the department's Department of Children and Family Services' website at www.myflorida.com/childcare.

12.7. "Weighted score" means a scaled score, rather than a percentage score, based on the difficulty of the exam and determined by competency exam professionals in consultation with subject matter experts.

13. "Year of experience" is equivalent to a minimum of 1040 hours of paid and/or nonpaid documented work experience.

(b) All child care personnel must begin training within 90 days of employment and successfully complete the department's training within 12 months from the date training begins. Training completion and may not exceed 15 months from the date of employment in the child care industry in any licensed Florida child care facility.

(c) Child care personnel hired on or after October 1, 1992 must successfully complete 40 hours of child care training by completing the following department's Department of Children and Family Services' training as evidenced by successful completion of competency examinations offered by the Department of Children and Family Services or its designated representative with a weighted score of 70 or better. School-age child care personnel must complete; Child care personnel who successfully completed the following training prior to January 1, 2004 are not required to fulfill the competency examination requirement:

1. Child Care Facilities Rules and Regulation;
2. Health, Safety, and Nutrition;
3. Identifying and Reporting Child Abuse and Neglect; and
4. School Age-Appropriate Practices.

5.(d) The remaining hours must be met by successfully completing any a combination of training identified in paragraphs a. and b. below.

a. other Department of Children and Family Services' training identified below as evidenced by Successful completion of competency examinations offered by the

~~d~~Department of Children and Family Services or its designated representative with a weighted score of 70 or better for any of the following courses:

- ~~(I)~~4. Child Growth and Development (6 or 10 hours),
- ~~(II)~~5. Behavioral Observation and Screening (6 or 10 hours),
- ~~(III)~~6. Infant and Toddler Appropriate Practices (10 hours),
- ~~(IV)~~7. Preschool Appropriate Practices (10 hours),
- ~~(V)~~8. Special Needs Appropriate Practices (10 hours),
- ~~(VI)~~9. Basic Guidance and Discipline (5 hours online),
- ~~7.~~ Computer Technology for Child Care Professionals (5 hours online),
- ~~(VII)~~8. Early Literacy for Children Ages Birth Through Three (5 hours online),
- ~~(VIII)~~9. Early Childhood Computer Learning Centers (5 hours online),
- ~~(IX)~~10. Emergent Literacy for Voluntary Pre-Kindergarten (VPK) Instructors (5 hours online), or

b.11. Completion of 20 hours of specialized school-age training, provided by the department, a national organization or its affiliates of a national organization, that requires demonstration of competencies through passage of examination(s), or completion and assessment of a Professional Resource File (portfolio of materials that demonstrate competency).

6. School-age child care personnel in compliance with paragraph 65C-22.003(2)(a), F.A.C., shall be considered in compliance with the school-age child care personnel training requirements.

7. Child care personnel who left the child care industry in compliance with training requirements, upon returning, shall be granted 90 days to comply with any new mandated training requirements. Completion of such training may be counted toward the annual in-service training requirement.

8. Child care personnel who left the child care industry not in compliance with training requirements must complete required training prior to re-employment.

9. Child care personnel employed at the same child care facility prior to October 1, 1992, with no break in employment with the same employer, are exempt from completing Part II of the child care training.

(d) Documentation of Training. Effective July 1, 2010, the department's Training Transcript will be the only acceptable verification of successful completion of the department's training. Training completion documented on CF-FSP Form 5267, April 2006, Child Care Training Course Completion Certificate, which is incorporated by reference, will no longer be accepted by the department after July 1, 2010, nor will any previous versions. A copy of the department's Training Transcript may be obtained from the department's website at www.myflorida.com/childcare.

1. A copy of the CF-FSP Form 5267 until July 1, 2010, or Training Transcript must be maintained at the school-age child care program.

2. A copy of the CF-FSP Form 5267 until July 1, 2010, or Training Transcript for the director of a school-age child care program must be maintained in the department's licensing file.

3. Training documented on CF-FSP Form 5267 that is not included on the Training Transcript must be sent to the department or designated representative prior to July 1, 2010, to be documented on the individual's Training Transcript.

4. As of July 1, 2010, any course completion certificate not documented on the Training Transcript will be considered invalid, requiring that the course(s) be retaken. Until the coursework is retaken and completed, child care facilities will be out of compliance with the mandated training standard.

(e) School-age child care personnel are exempt from the training requirement of five ~~(5)~~ clock-hour early literacy and language development of children from birth to five ~~(5)~~ years of age, under paragraph 65C-22.003(2)(b), F.A.C.

(f) School-age child care programs are exempt from the staff credential requirement as outlined in subsection 65C-22.003(7), F.A.C.

(g) Exemptions from the Introductory Child Care Training.

1. Competency Examination Exemptions. Child care personnel have one ~~(1)~~ opportunity, if they choose, to exempt from one ~~(1)~~ or more of the department's Introductory Child Care Training courses prior to attending training by successful completion of corresponding competency examinations with a weighted score of 70 or better. Exemption examinations are not available for the department's online Part II specialized training courses.

2. Educational Exemptions.

a. The ~~d~~Department of Children and Family Services or its designated representative shall exempt child care personnel from the Health, Safety and Nutrition; Child Growth and Development; and Behavioral Observation and Screening courses who meet one ~~(1)~~ of the following educational qualifications:

(I) Associate's degree or higher with six ~~(6)~~ college credit hours in early childhood education/child growth and development or degree in elementary education with certification to teach any age birth through 6th grade.

(II) An active National Early Childhood Credential (NECC) or an active Birth Through Five Florida Child Care Professional Credential (FCCPC).

b. The ~~d~~Department of Children and Family Services or its designated representative shall exempt child care personnel with a Bachelor's degree or higher B.A., B.S. or advanced degree in Early Childhood Education or Preschool Education from the Infant and Toddler Appropriate Practices course and Preschool Appropriate Practices course.

c. The ~~d~~Department of Children and Family Services or its designated representative shall exempt child care personnel with a Bachelor's degree or higher B.A., B.S. or advanced degree in Elementary Education from the School-Age Appropriate Practices course.

d. The ~~d~~Department of Children and Family Services or its designated representative shall exempt child care personnel with a Bachelor's degree or higher B.A., B.S. or advanced degree in Exceptional Student Education from the Special Needs Appropriate Practices course.

e. There are no educational exemptions from the Child Care Facility Rules and Regulations and the Identifying and Reporting Child Abuse and Neglect courses or from the department's online training courses.

(h) Annual In-Service Training.

1. All child care facility personnel must complete a minimum of 10-clock-hours or one ~~(+)~~ CEU of in-service training annually during the state's fiscal year beginning July 1 and ending June 30.

2. The annual 10-clock-hours or one ~~(+)~~ CEU of in-service training concentrating on children ages birth through 12 must be completed in one ~~(+)~~ or more of the following areas (college level courses will be accepted):

- a. Health and safety, including universal precautions;
- b. Child CPR;
- c. First Aid (may only be taken to meet the in-service requirement once every three ~~(3)~~ years);
- d. Nutrition;
- e. Child development – typical and atypical;
- f. Child transportation and safety;
- g. Behavior management;
- h. Working with families;
- i. Design and use of child oriented space;
- j. Community, health and social service resources;
- k. Child abuse;
- l. Child care for multilingual children;
- m. Working with children with disabilities in child care;
- n. Safety in outdoor play;
- o. Literacy;
- p. Guidance and discipline;
- q. Computer technology;
- r. Leadership development/program management and staff supervision;
- s. Age appropriate lesson planning;
- t. Homework assistance for school-age care;
- u. Developing special interest centers/spaces and environments; or
- v. Other course areas relating to child care or child care management.

3. Documentation of the in-service training requirement must be recorded on CF-FSP Form 5268, March 2009, Child Care In-Service Training Record, and included in the child care facilities' personnel records. CF-FSP Form 5268 may be obtained from ~~the licensing authority or on the department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare. A new in-service training record is required each fiscal year. The in-service training records for the previous two ~~(2)~~ fiscal years must also be maintained at the school-age child care program facility for review by the licensing authority.

(4) Mandated 40-clock-hour introductory child care training, Parts I and II, may be used to meet the annual in-service training requirement during the first fiscal year of employment.

(5) All child care personnel continuously employed or hired between July 1 and June 1 of the state's fiscal year must complete the annual in-service training requirement. This includes any changes in employment from one program to another.

(6) Child care personnel continuously employed or hired between July 1 and June 1 of the state's fiscal year who do not complete the required annual in-service training during any given year must complete the remaining in-service training hours within 30 days of the noncompliance finding by the licensing authority. These hours cannot be used to meet the current year's in-service training requirements.

(i) Director Credential.

1. Director Credential Requirement. Pursuant to Section 402.305(2)(f), F.S., a child care facility must have a credentialed director. An individual with an inactive Director Credential is ineligible to be the director of a child care facility. An applicant for the Director Credential ~~or Advanced Director Credential~~ must meet the requirements referenced in CF-FSP Form 5290, March 2009, Florida Child Care Director Credential and Renewal ~~Verification and~~ Application. CF-FSP Form 5290 may be obtained ~~from~~ on the ~~department's Department of Children and Family Services'~~ website at www.myflorida.com/childcare. All applications and documentation will be verified, and if complete, the credential will be issued by the ~~d~~Department or designated representative of Children and Family Services on CF-FSP Form 5252, April 2006, Florida Director Credential Certificate.

a. An individual may not be the director of child care facilities that overlap in the hours of operation.

b. Each school-age child care program facility must have a credentialed director that is on-site a majority of hours that the facility is in operation.

c. Every applicant for a license to operate a child care facility or a license for a change of ownership of a child care facility must document that the facility director has an active Director Credential prior to issuance of the license.

d. School-age child care program ~~facility~~ owners must notify the licensing authority within five ~~(5)~~ working days of when the facility loses a credentialed director or when there is a change of director.

~~(I)~~ The licensing authority will then issue a provisional license for a period not to exceed six ~~(6)~~ months for any facility without a credentialed director.

~~(II)~~ The provisional license will have an effective date of the first day the facility was without a credentialed director.

e. CF-FSP Form 5252, Florida Director Credential Certificate, must be maintained at the school-age child care program for review by the licensing authority posted in a conspicuous location at the facility.

~~2. The following exceptions to the Director Credential apply only to before and after school programs that are licensed as child care facilities defined in Section 402.302, F.S., and serve only school aged children:~~

~~a. A credentialed director is not required during evening hours as defined in Section 402.302(6), F.S.~~

~~b. A credentialed director may supervise multiple before-school and after-school sites for a single organization as follows:~~

~~a. (A) Three (3) sites regardless of the number of children enrolled, or~~

~~b. (B) More than three (3) sites if the combined total number of children enrolled at the sites does not exceed 350. In calculating the total number of children enrolled, the number of children in the before- and after-school program shall be calculated and viewed as separate programs.~~

~~c. (C) In counties where the public school district has included four (4) year-old children in public before-school and after-school programs, the school district may participate in the multi-site supervision option. Public school districts that serve four (4) year old children in the before-school and after-school programs are required to have a credentialed staff person pursuant to the credentialing requirements in paragraph 65C-22.003(7)(a), F.A.C., in order to accommodate the four (4) year-old children.~~

~~d. (D) When a credentialed director is supervising multiple sites, the individual left in charge of the site during the director's absence must meet the following requirements:~~

~~(I)(A) Be a~~ At least 21 years of age;

~~(II)(B) Have completed the approved 40 clock-hour Introductory Child Care Training approved by the~~ Department of Children and Family Services; and

~~(III)(C) Have completed the~~ department's Department of Children and Family Services' Part II specialized training course, Special Needs Appropriate Practices, or completed a minimum of eight ~~(8)~~ hours of in-service training in serving children with disabilities; or

~~(IV)(D) Have completed the~~ department's Department of Children and Family Services' School-Age Appropriate Practices specialized training module.

3. Director Credential Renewal.

a. To maintain an active Director Credential at either level, complete the renewal section of the ~~meet the requirements referenced on~~ CF-FSP Form 5290, March 2009, Florida Child Care Director Credential and Renewal Application~~5306, Florida Director Credential Renewal Application. CF-FSP Form 5306~~ which may be obtained from ~~on~~ the department's ~~Department of Children and Family Services~~ website at www.myflorida.com/childcare.

b. A Director Credential renewal, as documented on CF-FSP Form 5252, Florida Director Credential Certificate is active for five ~~(5)~~ years from the date of issuance. The completed renewal application, including all required documentation, may ~~must~~ be submitted to the ~~d~~Department of Children and Family Services for review, and issuance of a Director Credential Renewal Certificate no earlier than one ~~(1)~~ year prior to the end of the active period of the Director Credential. The Director Credential renewal date is determined by the end date of the active period.

c. If a renewal application is received after the end of the active period for the Director Credential, the Director Credential Renewal Application will be reviewed and, if approved, a certificate will be issued with a renewal date of five ~~(5)~~ years from the date the completed renewal application was processed.

4. Director Credential Training Providers.

a. The ~~d~~Department of Children and Family Services is responsible for reviewing and approving "Overview of Child Care Management" courses offered through vocational-technical schools, community colleges, and universities to determine if the requirements for the Director Credential coursework are met. Applications for new coursework will no longer be accepted by the department. ~~Coursework will be reviewed and approved according to the guidelines found in "Florida Child Care and Education Program Director Credential Curriculum Areas;" copies of which may be obtained from the Department of Children and Family Services.~~

~~(1) Vocational-technical schools, community colleges and universities seeking to offer the Director Credential training shall submit CF-FSP Form 5247, Florida Child Care and Education Program Director Credential Course Approval Application to the department for course review and approval. CF-FSP Form 5247 may be obtained on the Department of Children and Family Services' website at~~ www.myflorida.com/childcare.

~~(H) A list of approved "Overview of Child Care Management" courses may be obtained~~ from ~~on~~ the department's ~~Department of Children and Family Services'~~ website at www.myflorida.com/childcare.

b. All college level coursework pertaining to the following content areas will be accepted as approved coursework towards the Advanced Level Director Credential requirements:

(I) Child Care and Education Organizational Leadership and Management;

(II) Child Care and Education Financial and Legal Issues; and

(III) Child Care and Education Programming.

Rulemaking Specific Authority ~~402.302~~, 402.305 FS. Law Implemented ~~402.302~~, 402.305 FS. History—New 9-12-04, Amended 4-12-07, 5-1-08, _____.

65C-22.009 Gold Seal Quality Care Program.

(1) Definitions.

(a) Gold Seal Quality Care Provider refers to a child care program that is accredited by a nationally recognized accrediting association pursuant to Section 402.281(1), F.S. “Active” refers to the status of a Gold Seal Quality Care Accrediting Association that has met all of the criteria of a Gold Seal Quality Care Accrediting Association for accreditation.

(b) “Effective” refers to the beginning date of a Gold Seal Quality Care provider’s designation certificate issued by the Child Care Program Office.

(c) “Expired” refers to the end date of a provider’s Gold Seal Quality Care designation certificate issued by the Child Care Program Office.

~~(b)(4)~~ “Gold Seal Quality Care Accrediting Association” refers to an accrediting association that has applied for and been approved by the department as a Gold Seal Quality Care Accrediting Association.

1. “Active” refers to the status of a Gold Seal Quality Care Accrediting Association that has met all criteria for accreditation and has been designated a Gold Seal Quality Care Accrediting Association by the department.

~~2.(e)~~ “Inactive” refers to the status of a Gold Seal Quality Care Accrediting Association in which all criteria for accreditation are no longer being successfully met or where an entity has failed to renew its active designation.

~~3.(f)~~ “Nationally Recognized” refers to an association whose accrediting body is recognized; and is actively issuing accreditation certificates ~~accepted and~~ in at least five ~~(5)~~ states at the time of approval or which had been approved as a Gold Seal Quality Care Accrediting Association by the department prior to July 1, 2007.

(2) Gold Seal Quality Care Provider Requirements.

(a) Gold Seal Quality Care Provider Designation Certificate.

Pursuant to Section 402.281(1), F.S., a child care facility seeking to obtain a designation as a Gold Seal Quality Care provider shall provide the department with documentation of accreditation by an accrediting association that has been approved by the department. Acceptance of the documentation is subject to verification by the issuing accrediting association. A list of approved accrediting associations may be obtained

from ~~the licensing authority or on the department’s Department of Children and Family Services’~~ website at www.myflorida.com/childcare.

(b) Gold Seal Quality Care Enforcement.

1. Gold Seal Quality Care providers must maintain ~~national~~ accreditation by a Gold Seal Quality Care Accrediting Association in order to retain their designation. A child care facility’s Gold Seal designation will be terminated upon expiration of accreditation. In order to obtain and maintain Gold Seal Quality Care provider designation, a child care facility must meet the additional criteria outlined in Section 402.281(3), F.S.

2. If a provider’s Gold Seal Quality Care designation is revoked by the department, the Gold Seal Quality Care designation will be terminated ~~termination of the designation will be~~ effective on the date of revocation ~~the last day of the current period of licensure~~.

3. If a provider’s ~~the child care facility’s~~ accreditation is revoked by the accrediting association agency, termination of the provider’s child care facility’s Gold Seal Quality Care designation by the department will be ~~terminated~~ effective on the date of revocation.

4. If a provider receives accreditation from an inactive accrediting association, it shall not be recognized as a Gold Seal Quality Care Provider.

(3) Gold Seal Quality Care Accrediting Association Requirements.

(a) Accrediting associations seeking recognition as a Gold Seal Quality Care Accrediting Association must complete and attest to the requirements referenced on CF-FSP Form 5315, ~~March 2009 August 2007~~, Gold Seal Quality Care Accrediting Application, which is incorporated by reference. CF-FSP Form 5315 may be obtained ~~from~~ on the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare. Applications are accepted during the months of January and July. Denial of an application requires a minimum of a six ~~(6)~~ month waiting period from the date of denial before re-submission during the next scheduled acceptance month.

(b) The department may revoke a Gold Seal Quality Care Accrediting Association’s active status for failure to notify the department of a change in the association’s administration, operation or any condition under which the accreditation association was initially approved by the department as a Gold Seal Quality Care Accrediting Association, if such change results in the Association’s inability to meet the criteria provided in Section 402.281, F.S.

~~(c)(b)~~ Active Gold Seal Quality Care Associations must re-apply every five ~~(5)~~ years by submitting CF-FSP Form 5315 that may be obtained ~~from~~ on the department’s Department of Children and Family Services’ website at www.myflorida.com/childcare. Re-applications must be received a minimum of six ~~(6)~~ months prior to end of the five

~~(5)~~ year period. Failure to submit CF-FSP Form 5315 every five ~~(5)~~ years or denial of the application will place the accrediting association in an inactive state, during which the association is not recognized as a Gold Seal Quality Care Accrediting Association. ~~Child care arrangements receiving accreditation certificate from an inactive association shall not be recognized as a Gold Seal Quality Care Provider.~~

(d) Inactive Gold Seal Quality Care Accrediting Associations ~~seeking~~ wishing to renew their ~~become~~ active status must be in compliance with all requirements outlined on CF-FSP Form 5315 as a new applicant before being reinstated as an active Gold Seal Quality Care Accrediting Association, pending ~~department's~~ the Department of Children and Family Services' approval.

Rulemaking Specific Authority 402.281 FS. Law Implemented 402.281 FS. History—New 5-1-08, Amended _____.

65C-22.010 Enforcement.

(1) Definitions.

(a) "Day" means a weekday, excluding weekends and holidays.

(b) "Probation" is a licensing status indicating the license is in jeopardy of being revoked or not renewed due to violations of licensing standards. Probation may require the licensee to comply with specific conditions intended to ensure that the licensee comes into and maintains compliance with licensing standards. Examples of such conditions are: a deadline to remedy an existing violation, a specified period during which compliance with licensing standards must be strictly maintained; and, specified conditions under which the facility must operate during the probationary period a violation or violations, which are within the control of the facility, to become compliant with licensing standards.

(c) "Standards" are requirements for the operation of a licensed facility provided in statute or in rule that must be met for licensure as a child care facility and that are identified on the CF-FSP Form 5316, October 2007, Child Care Facility Standards Classification Summary, which is incorporated by reference.

(d) "Violation" means a finding of noncompliance by the department or local licensing authority of agency with a licensing standard.

1. "Class I Violation" is an incident ~~incidence~~ of noncompliance with a Class I standard as described on CF-FSP Form 5316, March 2009 ~~October 2007~~, Child Care Facility Standards Classification Summary, which is incorporated by reference. Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect, and which could or does result in death or serious harm to the health, safety or well-being of a child.

2. "Class II Violation" is the second or subsequent incident ~~incidence~~ of noncompliance with an individual Class II standard as described on CF-FSP Form 5316. Class II

violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent.

3. "Class III Violation" is the third or subsequent incident ~~incidence~~ of noncompliance with an individual Class III standard as described on CF-FSP Form 5316. Class III violations are less serious in nature than either Class I or Class II violations, and pose a low potential for harm to children.

4. "Technical Support Violations" are the first or second occurrence of noncompliance of an individual Class III standard or the first occurrence of noncompliance of an individual Class II standard.

(2) Disciplinary Sanctions.

(a) Enforcement of disciplinary sanctions shall be applied progressively for each standard violation. In addition, providers will be offered technical assistance in conjunction with any disciplinary sanction. The department shall take into consideration the actions taken by the facility to correct the violation when determining the appropriate disciplinary sanction.

(b) Each standard violation has an assigned classification based on the nature or severity of the violation(s) as identified within the Child Care Facility Standards Classification Summary, CF-FSP Form 5316.

(c) A violation of a Class II standard that results in death or serious harm to a child shall escalate to a Class I violation.

(d) Failure to submit a completed CF-FSP Form 5017, Application for a License to Operate a Child Care Facility, for renewal of an annual license at least 45 days prior to the expiration date of the current license constitutes a licensing violation. The department shall issue an administrative complaint imposing a fine of \$50.00 for the first occurrence, \$100.00 for the second occurrence, and \$200.00 for each subsequent occurrence within a five year period.

~~(e)(4)~~ Disciplinary sanctions for licensing violations that occur within a two ~~(2)~~ year period shall be progressively enforced as follows:

1. Class I Violations.

a. For the first and second violation of a Class I standard ~~violation~~, the department shall, upon applying the factors in Section 402.310(1), F.S., issue an administrative complaint imposing a fine not less than \$100 nor more than \$500 per day for each violation, and may impose other disciplinary sanctions in addition to the fine.

b. For the third and subsequent violation of the same Class I standard ~~violations~~, the department shall issue an administrative complaint to suspend, deny or revoke the license. The department, upon applying the factors in Section 402.310(1), F.S., may also levy a fine not less than \$100 nor more than \$500 per day for each violation in addition to any other disciplinary sanction.

2. Class II Violations.

a. For the first violation of a Class II standard violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard occur. The violation will be classified as "Technical Support."

b. For the second violation of the same Class II standard violation, the department shall issue an administrative complaint imposing a fine of \$50 for each violation. This violation, and subsequent violations, of the same standard within a two (2) year period will be classified as "Class II."

c. For the third violation of the same Class II standard violation, the department shall issue an administrative complaint imposing a fine of \$60 per day for each violation.

d. For the fourth violation of the same Class II standard violation, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six (6) months, and the department shall also issue an administrative complaint imposing an additional fine of \$75 per day for each violation.

e. For the fifth and subsequent violation of the same Class II standard violation, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall also issue an administrative complaint imposing an additional fine of \$100 per day for each violation.

3. Class III Violations.

a. For the first violation of a Class III standard violation, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III standard violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The violation will be classified as "Technical Support."

c. For the third violation of the same Class III standard violation, the department shall issue an administrative complaint imposing a fine of \$25 for each violation. This violation, and subsequent violations of the same standard within a two (2) year period will be classified as "Class III."

d. For the fourth violation of the same Class III standard violation, the department shall issue an administrative complaint imposing a fine of \$30 per day for each violation.

e. For the fifth violation of the same Class III standard violation, the department shall issue an administrative complaint placing the provider's license on probation status for a period not to exceed six (6) months, and the department shall also issue an administrative complaint imposing a fine of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III standard violation, the department shall issue an administrative complaint to suspend, deny, or revoke the license, and the department shall also issue an administrative complaint imposing a fine of \$50 per day for each violation.

4. Children's Health/Immunization Records Disciplinary Sanctions.

a. For the first violation of a Class III Children's Health and/or Immunization standard violation, technical assistance shall be provided. The violation will be classified as "Technical Support."

b. For the second violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue a formal warning letter stating the department's intent to take administrative action if further violations of the standard are found. The standard violation will be classified as "Technical Support."

c. For the third violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue an administrative complaint imposing a fine in the amount of \$25 for each violation. This Class III violation, and subsequent Class III violations of the same standard within a two (2) year period will be classified as "Class III."

d. For the fourth violation of the same Class III Children's Health and/or Immunization standard violation, the department shall issue an administrative complaint imposing a fine in the amount of \$30 for each violation.

e. For the fifth violation of the same Class III Children's Health and or Immunization standard violation, the department shall issue an administrative complaint imposing a fine in the amount of \$40 per day for each violation.

f. For the sixth and subsequent violation of the same Class III Children's Health and or Immunization standard violations, the department shall issue an administrative complaint placing the provider's license or registration on probation status for a period not to exceed six (6) months, and the department shall also issue an administrative complaint imposing an additional fine of \$50 per day for each violation.

Rulemaking Specific Authority 402.305, 402.310 FS. Law Implemented 402.305, 402.310 FS. History—New 5-1-08, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Department of Children and Family Services – Child Care Program

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Melissa Jaacks

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 8, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 20, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.:
69B-162.011

RULE TITLE:
Suitability and Disclosure in Annuity Contracts – Forms Required

PURPOSE AND EFFECT: The proposed rule implements Section 627.4554, Florida Statutes, by adopting an Annuity Suitability form and a Disclosure and Comparison of Annuity Contracts form for use in sales of annuities to senior consumers.

SUMMARY: The proposed rule adopts an Annuity Suitability form and a Disclosure and Comparison form to be used when an insurance agent sells an annuity to a senior consumer. The proposed forms may be found at http://www.myfloridacfo.com/Agents/Industry/Laws-Rules/SeniorAnnuityRule_Jan09.htm.

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: 624.308(1), 627.4554(9) FS.

LAW IMPLEMENTED: 627.4554 FS.

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

DATE AND TIME: Tuesday, June 16, 2009, 9:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Susan Jordan @ (850)413-5655. 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: Susan Jordan, Government Analyst II, Bureau of Investigation, Division of Insurance Agents and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850)413-5655

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-162.011 Suitability and Disclosure in Annuity Contracts – Forms Required.

(1) Forms Adopted.

Forms DFS-HI-1980, “Annuity Suitability Questionnaire.” (Effective: _____) and DFS-HI-1981, “Disclosure and Comparison of Annuity Contracts” (Effective: _____), are adopted pursuant to Section 627.4554(4)(b) and (d), F.S., and are hereby incorporated by reference, effective January 1, 2009.

(2) Application.

This rule applies exclusively to any recommendation to purchase or exchange an annuity contract as defined in Section 627.4554(3), F.S., made to a senior consumer by an insurance agent or an insurer, which results in the purchase or exchange recommended. A senior consumer is a person 65 years of age or older. In a joint purchase or exchange, if any party is 65 or older the joint purchasers are considered to be senior consumers.

(3) Duties of Insurers and Insurance Agents.

(a) Before executing a purchase or exchange of an annuity to a senior consumer, an insurance agent or an insurer, unless exempted by Section 627.4554(8), F.S., and required by the Financial Industry Regulatory Authority to perform an alternative suitability analysis, must use form DFS-HI-1980, Annuity Suitability Questionnaire incorporated in subsection (1) above, to obtain information in order to determine the suitability of the recommendation.

(b) In addition to obtaining the information required by paragraph (a), before executing a replacement or exchange of an annuity contract to a senior consumer, the insurance agent or insurer must also provide contract comparison information to the senior consumer utilizing form DFS-HI-1981, Disclosure and Comparison of Annuity Contracts, incorporated in subsection (1) above.

(c) The type face for all printed questions or requests for information that will be directly received or answered by the consumer, and all portions of the referenced forms relating to the disclosure requirements pursuant to paragraphs (3)(a) and (b) above, must be of least 12-point type.

(d) Nothing in this rule shall prevent an insurer from adapting the forms adopted in subsection (1) for its use, upon written approval of any modifications by the Department. The Department shall approve an insurer’s modification to the forms provided:

1. The forms still contain all of the same information as the Department forms referenced above;

2. The type size requirement of paragraph (3)(c) above is met;

3. Additional material added to the form does not obscure the information required, or rearrange the required information in such a way as to make it more difficult to find or understand;

4. The revised form does not contain misrepresentations or misleading statements, and is not in any other way in violation of Section 626.9541, Florida Statutes.

(e) Insurers are permitted to modify the form to use check-off boxes for indication of investment experience and risk tolerance, but shall not substitute check-off boxes for any other items on the form.

(f) The addition of an insurer’s name, contact information, or trademark; the addition of borders; or changes in font which do not alter type size, do not require prior written approval by the Department.

(g) Approval by the Department does not preclude disapproval by the Florida Office of Insurance Regulation pursuant to any provision of the Florida Insurance Code, and rules adopted there under.

Rulemaking Authority 624.308(1), 627.4554(9) FS. Law Implemented 627.4554 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Susan Jordan, Government Analyst II, Bureau of Investigation, Division of Insurance Agents and Agency Services, 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: April 23, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 16, 2009

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-228.030	Definitions
69B-228.220	Licensee Compliance; Requirements; Penalties for Non-Compliance

PURPOSE AND EFFECT: The proposed amendment deletes the term “satellite” and thus allows courses that would have fallen in that category to be subject to the same compliance standards as other similar courses. A definition of “printed material” is added to allow for electronic text documents provided they are readily printable. Rule 69B-228.220, F.A.C. is amended to require public adjusters have their continuing education in public adjuster courses. Technical corrections are also made to the history notes.

SUMMARY: The definition of the term “satellite” is deleted. A definition of “printed material” is added to include readily printable electronic text documents. Continuing education for public adjusters must be specific to public adjusters.

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: 624.308, 626.2816(2)(3), 648.26(1)(a) FS.

LAW IMPLEMENTED: 624.307(1), 626.221(2)(d), 626.2815, 626.2816, 626.611, 626.621, 626.681, 626.691, 626.869(5), 648.385, 648.386(2) 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, June 17, 2009, 9:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Lyra Erath @ (850)413-5497. 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: Lyra Erath, Senior Management Analyst Supervisor, Bureau of Licensing, Division of Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850)413-5497

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-228.030 Definitions.

For purposes of these rules, the following definitions shall apply:

(1) through (4) No change.

(5)(a) “Class” means the study method of a course designed to be presented to a group of licensees using lecture, video, ~~satellite~~, or other audio-visual presentation method material which has an approved instructor, or supervising instructor ~~or other approved means of oversight and delivery present in the classroom during the presentation.~~

(b) No change.

(31) “Printed material” as used in Section 626.2815(4)(j)2., F.S. does not exclude electronic text documents that are readily printable.

~~(32)~~(34) “Property and casualty agent” refers to an agent who holds a type and class of licensure that authorizes the licensee to transact property, casualty, surety, or surplus lines insurance.

~~(33)~~(32) “Public” means a course that is available to any person, in contrast to an “in-house” course.

~~(34)~~(33) “Sales promotion” means discussion of production levels or target markets or other demographics of a specialized nature in order to promote or effectuate sales.

~~(35)~~(34) “Salesmanship” means methods designed to:

(a) through (c) No change.

~~(35) “Satellite” means an audio-video method of presenting course material which is:~~

~~(a) Presented by an approved instructor, speaker, or lecturer; or~~

~~(b) Broadcast from a remote location to designated (identified) locations, specified on a Course Offering Form, where approved instructors are prepared with notes, outlines and/or word for word written scripts to continue, and complete if necessary, the presentation if the broadcast is interrupted for longer than five (5) minutes for any reason.~~

(36) through (45) No change.

Rulemaking Specific Authority 624.308, 626.2816(2),(3), 648.26(1)(a) FS. Law Implemented 624.307(1), 626.2815, 626.2816(2),(3), 626.869(5), 648.26, 648.386(2) FS. History—New 8-17-93, Amended 4-11-94, 4-29-01, Formerly 4-228.030, Amended 1-17-05, _____.

69B-228.220 Licensee Compliance; Requirements; Penalties for Non-Compliance.

(1)(a) through (4) No change.

(5) Except as otherwise stated in this rule, credit shall be earned in the line of business for which the licensee is licensed.

(a) through (b) No change.

(c) Company and independent aAdjusters shall earn credits in courses on adjusting subjects.

(d) Public adjusters shall earn credits in courses on public adjusting subjects.

~~(e)(d)~~ Title agents who are licensed only as title agents shall earn credits in courses on title subjects.

~~(f)(e)~~ Bail Bond Agents shall earn credits in courses in Bail Bond Agent license subjects.

~~(g)(f)~~ General lines agents who are licensed only in property and casualty shall earn:

1. through 3. No change.

~~(h)(g)~~ General lines agents who also are licensed as life or health or variable annuity agents shall earn:

1. through 3. No change.

~~(i)(h)~~ General lines agents who have become appointed as health agents with an insurer that requests a health only (2-40 type and class) appointment for the agent, shall earn 50% of the total credits required in property and casualty subjects and 50% in health only subjects.

~~(j)(i)~~ Credit hours for a single course cannot be used to satisfy the requirement for more than one license type and class during the compliance period. Credit hours for a single course cannot be split to satisfy the requirement of more than one continuing education law.

~~(k)(j)~~ Customer representatives who are licensed only as customer representatives shall earn:

1. through 2. No change.

~~(l)(k)~~ Customer representatives who are also licensed as a life or health or variable annuity agent shall earn:

1. through 3. No change.

~~(m)(l)~~ Limited customer representatives who are licensed only as limited customer representatives shall earn:

1. through 2. No change.

~~(n)(m)~~ Limited customer representatives who are also licensed as life or health or variable annuity agent shall earn:

1. through 2. No change.

~~(o)(n)~~ Administrative agents who are only licensed as administrative agents shall earn:

1. through 2. No change.

~~(p)(o)~~ Administrative agents who are also licensed as property and casualty insurance agents shall earn:

1. through 3. No change.

~~(q)(p)~~ Administrative agents who are also licensed as any other type of life or health or variable annuity agent shall earn:

1. through 3. No change.

~~(r)(q)~~ Title agents who are also licensed as life or health or variable annuity agents shall earn:

1. through 3. No change.

~~(s)(r)~~ Title agents who are also licensed as property and casualty insurance agents shall earn:

1. through 3. No change.

~~(t)(s)~~ Title agents who are also licensed as property and casualty insurance agents and life or health or variable annuity insurance agents shall earn:

1. through 3. No change.

~~(u)(t)~~ Industrial fire agents who are also licensed as life or health or variable annuity agents shall earn:

1. through 3. No change.

~~(v)(u)~~ Persons who adjust claims who are also licensed as a life, health, property and casualty, industrial fire, surplus lines, or title agent, bail bond agent, or as a customer representative or limited customer representative shall earn, in addition to the hours required for the agent or customer representative license, the total required hours for:

1. through 2. No change.

~~(w)(v)~~ 1. If a dually licensed agent or customer representative earns all the hours in one line of business, the Department will not assume that the licensee intends to drop the other license.

2. No change.

~~(x)(w)~~ 1. If an agent or customer representative has qualified for exemption from the requirements of these rules due to employment with a governmental entity as defined in Section 626.2815, Florida Statutes, (other than agents or customer representatives employed by the Department of Financial Services), the individual shall declare that status to the Department on Form DFS-H2-1106, Statement of Government Status, rev. 6/93, which is adopted in Rule 69B-228.180, F.A.C.

2. No change.

~~(y)(x)~~ 1. An agent or customer representative will no longer qualify for a reduction in the required hours if the license to which those qualifications apply is terminated, and if the reduction was based on:

a. through d. No change.

2. No change.

~~(z)(y)~~ Credits earned by company and independent adjusters to satisfy the requirements of 24 hours of credit shall be earned as follows:

1. Two hours of ethics;
2. Ten hours in law and policy;
3. Twelve hours in optional approved adjusting subjects or additional hours in law and policy, or ethics.

(aa) Credits earned by public adjusters to satisfy the requirements of 24 hours of credit:

1. Shall be earned as follows:

- a. Two hours of ethics;
- b. Ten hours in law and policy;
- c. Twelve hours in optional approved adjusting subjects or additional hours in law and policy, or ethics.

2. Shall not earn credit in:

- a. Health insurance;
- b. Life and annuities insurance;
- c. Workers' Compensation Insurance;
- d. Personal or bodily injury and medical subjects.

~~(bb)(z)~~ 1. Credits from the same course will not be credited to more than one continuing education requirement of a licensee.

2. through 4. No change.

~~(cc)(aa)~~ Section 626.2815(3)(h), Florida Statutes, allows excess hours to be carried forward to the next compliance period. Excess hours may be used to satisfy part or all of the requirement for the next compliance period. Excess hours may be earned at any time during the period.

~~(dd)(bb)~~ Agents shall not earn more than 50% of their required credit hours in courses described in paragraphs 69B-228.080(4)(a), (b), and (c), F.A.C.

~~(ee)(ee)~~ Six-year rule.

1. through 3. No change.

~~(ff)(dd)~~ Section 626.2815(3)(b), Florida Statutes, allows a reduction in hours from ~~24~~ 28 to 20 per compliance period for certain licensees who have been licensed in Florida for 6 years or more. If the license expires, is surrendered, canceled, revoked, or otherwise no longer exists to which the experience applies, the reduction in hours is no longer in effect for the remaining licenses.

~~(gg)(ee)~~ 1. Section 648.385(2)(a), Florida Statutes, requires a bail bond agent to earn 14 hours of continuing education credit for compliance periods beginning January, 1997, and every month thereafter.

2. through 4. No change.

~~(hh)(ff)~~ If the bail bond agent also holds other insurance licenses for which continuing education is required pursuant to Sections 626.2815 and 626.869, Florida Statutes, the agent shall earn the credits for the bail bond agent in addition to the required hours for the other licenses held.

(6) through (12) No change.

Rulemaking Specific Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 62+6.221(2)(d), 626.2815, 626.611, 626.621, 626.681, 626.691, 626.869(5), 648.385 FS. History--New 8-17-93, Amended 4-11-94, 4-29-01, Formerly 4-228.220, Amended 1-17-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lyra Erath, Senior Management Analyst Supervisor, Bureau of Licensing, Division of Agent and Agency Services, 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: April 1, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 17, 2009

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-163.0075	Term and Evidence of Insurance
69O-163.009	Determination of Reasonableness of Benefits in Relation to Premium Charge
69O-163.011	Credit Disability Insurance Rates

PURPOSE AND EFFECT: Credit Life and Credit Disability Insurance is being amended to address the statutory changes contained in House Bill 343, which the Governor approved on May 28, 2008. The bill removes the fifty thousand dollar (\$50,000) for credit life, but did not remove the ten (10) year limit that is still contained in Section 627.681, Florida Statutes. Similarly, the bill removed the ten (10) year limit for credit disability, but did not remove the fifty thousand dollar limit (\$50,000) that is still contained in Section 627.679, Florida Statutes.

SUMMARY: Credit Life and Credit Disability Insurance is being amended to address the statutory changes contained in House Bill 343, which the Governor approved on May 28, 2008.

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: 627.678, 627.6785 FS.

LAW IMPLEMENTED: 627.681, 627.682 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: June 16, 2009, 11:00 a.m.
 PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Gerry Smith, Division of Life and Health, Office of Insurance Regulation, E-mail gerry.smith@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gerry Smith, Division of Life and Health, Office of Insurance Regulation, E-mail gerry.smith@fldfs.com

THE FULL TEXT OF THE PROPOSED RULES IS:

690-163.0075 Term and Evidence of Insurance.

~~The term of insurance and evidence of insurance shall not exceed ten years subject to the following limitations:~~

~~(1) Credit life insurance shall not exceed ten years from the date of issue and provide coverage for at least 5 years or the term of the loan if the loan is for less than 5 years;~~

~~(2) Credit disability insurance shall provide for monthly payments which are the lesser of 60 monthly payments or the number of monthly payments for the full term of the loan.~~

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.681, 627.6785(3), 627.681(3) FS. History–New 2-11-03, Formerly 4-160.0075, Amended _____.

690-163.009 Determination of Reasonableness of Benefits in Relation to Premium Charge.

(1) Section 627.682, Florida Statutes, requires that benefits provided by credit insurance policies must be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may be reasonably expected to develop a loss ratio of claims incurred to premiums earned of not less than:

- (a) 55% for credit life insurance, and
- (b) 50% for credit disability insurance.

(2) Use of rates not greater than those contained in Rules 690-163.010 and 690-163.011, F.A.C., (“prima facie rates”) shall be deemed premium rates reasonably expected to develop the required loss ratio. An insurer may only file and use rates with such forms which are greater than prima facie rates upon a satisfactory filing with the Office showing to the Director that the use of such rates will not result on a statewide basis for that insurer of a ratio of claims incurred to premiums earned of less than the required loss ratio.

(3) If an actual rate is greater than the prima facie rates, the actual rate may not exceed the prima facie rates plus the difference between:

- (a) Claims which may be reasonably expected, and
- (b) The product of the required loss ratio and the prima facie rate set forth for the coverage being provided.

(4) When some rates are based on subsection (1) above and others on the prima facie rate, the expected loss ratios of statewide business must meet the minimum loss ratio standard in subsection (1) above.

(5) Nonstandard Coverage. If any insurer files for approval of any form providing coverage more restrictive than that described in Rules 690-163.010 and 690-163.011, F.A.C., the insurer shall make a filing to demonstrate to the satisfaction of the Office Director that the premium rates to be charged for such restricted coverage comply with subsection (1) above or, are less than or equal to rates which are actuarially equivalent to the prima facie rates.

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.682 FS. History–New 5-9-82, Formerly 4-7.09, Amended 6-11-91, Formerly 4-7.009, Amended 3-15-94, 2-11-03, Formerly 4-163.009, Amended _____.

690-163.011 Credit Disability Insurance Rates.

(1) Credit disability insurance premium rates for the insured portion of an indebtedness repayable in equal monthly installments, where the insured portion of the indebtedness decreases uniformly by the amount of the monthly installment paid, shall not be greater than in paragraphs (a) and (b). Paragraphs (c), (d) and (e) refer to premium rates for other types of coverages either alone or in combination with the type of coverages applicable to paragraphs (a) and (b).

(a) If premiums are payable on a single-premium basis for the duration of the coverage:

TABLE I

No. of months in which indebtedness is repayable	14-Day		30-Day		7-Day	
	Non-Retroactive	Non-Retroactive	Non-Retroactive	Retroactive	Retroactive	Retroactive
6 or less	\$0.81	\$0.36	\$0.36	\$1.47	\$1.30	\$1.05
7-12	1.13	0.72	0.72	1.76	1.58	1.36
13-18	1.46	1.08	1.08	2.05	1.87	1.67
19-24	1.78	1.44	1.44	2.34	2.16	1.97
25-30	2.11	1.80	1.80	2.64	2.45	2.28
31-36	2.43	2.16	2.16	2.93	2.74	2.58
37-48	2.84	2.70	2.70	3.34	3.10	2.97
49-60	3.16	2.97	2.97	3.69	3.38	3.28
61-72 [⊛]	3.43	3.27	3.27	3.97	3.62	3.53
73-84 [⊛]	3.61	3.47	3.47	4.18	3.79	3.70
85-96 [⊛]	3.76	3.64	3.64	4.34	3.92	3.84
97-108 [⊛]	3.86	3.75	3.75	4.46	4.01	3.94
109-120 [⊛]	3.95	3.85	3.85	4.55	4.09	4.02
<u>Per month for terms exceeding 120 months</u>	<u>.0303</u>	<u>.0296</u>	<u>.0296</u>	<u>.0348</u>	<u>.0313</u>	<u>.0308</u>

[⊛]Maximum benefit is 60 monthly payments.

(b) If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured indebtedness, these premiums shall be computed according to the formula: $OPn = (20XSPn) / (n + 1)$ using a rate no less than the 24 month rate in Table I above. A company may submit a different formula for approval which produces rates actuarially equivalent to the single premium rates in Table I:

Where

SPn = Single Premium Rate per \$100 of initial insured indebtedness repayable in equal monthly installments (Table I). The Single Premium Rate shall not be less than the 19-24 month rate for the appropriate coverage.

OPn = Monthly Outstanding Balance Premium Rate per \$1,000.

n = Original repayment period, in months.

(c) Coverage which provides a constant maximum indemnity for a given period of time shall use rates no greater than those rates which are actuarially equivalent to the rates in paragraph (a) or (b).

(d) If the coverages provided are other than those described in this subsection (1), rates for such coverages shall be actuarially equivalent to the rates provided in paragraph (a), (b) or (c).

(e) Joint coverage rates shall be no greater than 175% of the specific rate for that type of coverage.

(f) The monthly outstanding balance rate for credit disability insurance may be either a term specified rate or may be a single composite term rate applicable to all insured loans.

(2) The premium rates in subsection (1) shall apply to policies providing credit disability insurance to be issued with or without evidence of insurability, to be offered to all eligible debtors, and containing:

(a)1. No provision excluding or denying a claim for disability resulting from pre-existing conditions, except for those conditions for which the insured debtor received medical advice, diagnosis, or treatment within six months preceding the effective date of the debtor's coverage, and which caused loss within the 6 months following the effective date of coverage;

2. Disability commencing after 6 months following the effective date of coverage resulting from the condition shall be covered.

3. Coverage with no pre-existing provision limitation shall result in an additional premium of 10% of the amounts shown in subsection (1), above.

(b) No other provision which excludes or restricts liability in the event of disability caused in a specific manner, except that it may contain provisions excluding or restricting coverage for intentionally self-inflicted injuries and normal pregnancy.

(c) No provision which requires that the debtor be employed more than thirty (30) hours per week in order to be eligible for insurance coverage.

(d) No age restrictions, or only age restrictions making ineligible for coverage debtors 66 or over at the time the indebtedness is incurred.

(e) However, coverage shall be provided, at a minimum, until the earlier of the maturity date of the loan or the loan anniversary at age 66. Where loans are in the form of revolving credit arrangements, an insurer may terminate coverage when the debtor attains the age 66.

(f) A daily benefit equal in amount to one-thirtieth of the monthly benefit payable under the policy for the indebtedness.

(g)1. A definition of "disability" which provides that during the first 12 months of disability the insured shall be unable to perform the duties of his occupation at the time the disability occurred, and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training or experience.

2. This paragraph shall not apply to lump sum disability coverage.

Rulemaking Specific Authority 624.308(1), 627.678 FS. Law Implemented 624.307(1), 627.678, 627.6785, 627.682 FS. History—New 5-9-82, Formerly 4-7.11, Amended 6-11-91, Formerly 4-7.011, Amended 2-11-03, Formerly 4-163.011, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gerry Smith, Division of Life and Health, Office of Insurance Regulation, E-mail gerry.smith@fldfs.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 28, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2008

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
69O-164.040	Determining Reserve Liabilities for Preneed Life Insurance

PURPOSE AND EFFECT: The purpose of this rule is to recognize the inadequacy of the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value, and to require the continued use of the 1980 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value.

SUMMARY: This rule calls for adopting the 1980 Commissioner’s Standard Ordinary Life Valuation Mortality Tables (1980 CSO) for use in determining reserve value and non-forfeiture value of pre-need life insurance, rather than using the new 2001 Commissioners’ Ordinary Standard Life Valuation Mortality Tables (2001 CSO). The rule allows use of the 2001 CSO for pre-need life insurance policies issued before January 1, 2012, but only after the insurance company submits documentation demonstrating they have adequate reserves.

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: 625.121(5)(a)3., 627.476(9)(h)5. FS.

LAW IMPLEMENTED: 625.121(5)(a)3., 627.476(9)(h)5. 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: June 16, 2009, 9:30 a.m.
PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Office of Insurance Regulation, E-mail kerry.krantz@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail kerry.krantz@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-164.040 Determining Reserve Liabilities for Preneed Life Insurance.

(1) Authority.

This rule is adopted by the commission pursuant to Sections 625.121(5)(a)3. and 627.476(9), Florida Statutes.

(2) Scope.

This rule applies to preneed life insurance policies and certificates as defined in Section Four (4) of this rule, and similar policies and certificates.

(3) Purpose.

The purpose of this rule is to recognize the inadequacy of the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value, and to require the continued use of the 1980 Commissioners Standard Ordinary Life Valuation Mortality Table for use in determining the minimum standard of valuation and the minimum standard nonforfeiture value.

(4) Definitions.

(a) The term “2001 CSO Mortality Table” means the 2001 Commissioners Standard Ordinary Life Valuation Mortality Table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002). Unless the context indicates otherwise, the “2001 CSO Mortality Table” includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

(b) The term “Ultimate 1980 CSO” means the Commissioners’ 1980 Standard Ordinary Life Valuation Mortality Tables (1980 CSO) without ten-year (10-year) selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law approved in December 1983.

(c) For the purposes of this rule, preneed insurance is any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for a prearrangement agreement for goods and services to be provided at the time of and immediately following the death of the insured. Goods and services may include, but are not limited to embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or contract as preneed insurance is determined at the time of issue in accordance with the policy form filing.

(5) Minimum Valuation Mortality Standards.

For preneed insurance contracts, as defined in paragraph (4)(c), and similar policies and contracts, the minimum mortality standard for determining reserve liabilities and non-forfeiture values for both male and female insureds shall be the Ultimate 1980 CSO.

(6) Minimum Valuation Interest Rate Standards.

(a) The interest rates used in determining the minimum standard for valuation of preneed life insurance shall be the calendar year statutory valuation interest rates as defined in Section 625.121(6), F.S.

(b) The interest rates used in determining the minimum standard for nonforfeiture values for preneed life insurance shall be the calendar year statutory nonforfeiture interest rates as defined in Section 627.476(9)(i), F.S.

(7) Minimum Valuation Method Standards.

(a) The method used in determining the minimum standard for valuation of preneed life insurance shall be the method as defined in Section 625.121(5), F.S.

(b) The method used in determining the minimum standard for nonforfeiture values for preneed life insurance shall be the method as defined in Section 627.476(9), F.S.

(8) Transition Rules.

(a) For preneed insurance policies issued on or after the effective date of this rule and before January 1, 2012, the 2001 CSO may be used as the minimum standard for reserves and minimum standard for non-forfeiture benefits for both male and female insureds.

(b) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after the effective date of this rule and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company’s asset adequacy testing, an annual written notification to the domiciliary commissioner. The notification shall include:

1. A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;

2. A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and

3. Supporting information regarding the adequacy of reserves for preneed insurance policies issued after the effective date of this rule and using the 2001 CSO as a minimum standard for reserves.

(c) Preneed insurance policies issued on or after January 1, 2012, must use the Ultimate 1980 CSO in the calculation of minimum nonforfeiture values and minimum reserves.

(9) Effective Date.

This rule is applicable to preneed life policies and certificates as defined in subsection (2) issued on or after January 1, 2009.

Rulemaking Authority 625.121(5)(a), (3), 627.476(9) FS. Law Implemented 625.121(5)(a)(3), 627.476(9)(h), (5) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Kerry Krantz, Office of Insurance Regulation, E-mail kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 13, 2008

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

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.”

AGENCY FOR HEALTH CARE ADMINISTRATION

Certificate of Need

RULE NOS.: 59C-1.008 59C-1.012	RULE TITLES: Certificate of Need Application Procedures Administrative Hearing Procedures
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