

DEPARTMENT OF HEALTH

Board of Massage

RULE NO.: 64B7-28.010
 RULE TITLE: Requirements for Board Approval of Continuing Education Programs

PURPOSE AND EFFECT: The purpose of this proposed rule development is to reduce the fee charged for applications for continuing education provider approval and renewal and to update the application process.

SUBJECT AREA TO BE ADDRESSED: Requirements for Board Approval of Continuing Education Programs.

RULEMAKING AUTHORITY: 456.013(8), (9), 456.025(7), 456.036, 480.035(7), 480.0415 FS.

LAW IMPLEMENTED: 456.013(8), (9), 456.025(7), 456.036, 480.0415, 480.044(3) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

**Section II
 Proposed Rules**

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

RULE NOS.: 2A-2.002, 2A-2.013, 2A-2.014
 RULE TITLES: Victim Compensation Claims, Property Claims, Domestic Violence Relocation Assistance

PURPOSE AND EFFECT: To clarify definitions, documentation, benefits, and procedures for claims filed pursuant to the Crimes Compensation Act.

SUMMARY: This rule provides the definitions, documentation requirements, benefits and procedures for claims for victim compensation, property loss, domestic violence relocation assistance, and mental health treatment for victims of child pornography, minor victims who are witnesses to specific crimes, and victims of forcible felony offenses.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rules are necessary to maintain the financial solvency and integrity of the Crimes Compensation Trust Fund. Instead of merely changing the

forms which contain benefit amounts, actual rules have been written. Presently, benefits are being paid at a rate the trust fund cannot continue to support. The agency concludes this rulemaking procedure will prevent a budget shortfall and provide reassurance that crime victims in the State of Florida will be able to continue to obtain funds for crime related injuries if they are determined to be eligible, albeit at reduced rates. The agency is repealing all existing rules and writing new rules that clarify procedures and reduce the benefits and the timeframes for which those benefits are payable as authorized in Section 960.13(9)(b), F.S.

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: 960.045(1)(b), 960.13(9)(a), FS.

LAW IMPLEMENTED: 960.02, 960.03, 960.045(1)(b), 960.05, 960.065, 960.07, 960.09, 960.13, 960.14, 960.15, 960.16, 960.17, 960.18, 960.195, 960.197, 960.198 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: Gwen Roache, Chief of Victim Compensation, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050; Gwen Roache, Chief of Victim Compensation, Department of Legal Affairs, PL-01, The Capitol, Tallahassee, Florida 32399-1050

THE FULL TEXT OF THE PROPOSED RULES IS:

(Substantial rewording of Rule 2A-2.002 follows. See Florida Administrative Code for present text.)

2A-2.002 Victim Compensation Claims.

(1) Definitions.

(a) “Actual loss” means the total amount of treatment bills, medical/dental support services, lost wages, disability, funeral expenses, loss of support, and other related out-of-pocket losses, which are compensable by the Crimes Compensation Trust Fund.

(b) “Bureau” means the Bureau of Victim Compensation (BVC) within the Division of Victim Services and Criminal Justice Programs of the Office of the Attorney General.

(c) “Compensable crime” is an offense as defined in Section 960.03(3), F.S., which results in physical, psychological, or psychiatric injury or death for which an eligible claimant seeks benefits for economic loss, medical/dental/mental health treatment, funeral or burial costs, or disability benefits that are not payable by another source.

(d) “Crime scene cleanup” means the removal and disposal of biohazardous and/or biochemical substances following a violent crime that occurs in the private residence or conveyance of the victim and must be performed by a government authorized facility.

(e) “Division” means the Division of Victim Services and Criminal Justice Programs within the Department of Legal Affairs.

(f) “Domestic violence” is defined in Section 741.28(2), F.S.

(g) “Economic loss” means wage loss, loss of support and disability.

(h) “Family or household member” is defined in Section 741.28(3), F.S.

(i) “Forcible felony” is defined in Section 776.08, F.S.

(j) “Guardian” means:

1. A person who has been appointed by the court to act on behalf of a ward’s person or property, or both;

2. A court-appointed guardian of funds for a minor;

3. A relative who has temporary custody of a minor for treatment expenses; or

4. A personal representative on behalf of a mentally incompetent person with a durable power of attorney that preceded the incompetence.

(k) “Habitual felony offender” is defined in Section 775.084(1)(a), F.S.

(l) “Habitual violent felony offender” is defined in Section 775.084(1)(b), F.S.

(m) “Medical/Dental Support” means prescriptions, eyeglasses, contact lenses, dentures or any other prosthetic device which needs to be purchased or replaced as a result of the crime and which the claimant has already paid for with personal funds.

(n) “Occurrence” means the date the crime incident actually happened.

(o) “Physical injury” means bodily harm or hurt, excluding mental distress, fright, or emotional disturbance.

(p) “Proper authorities” includes child protection teams, law enforcement, state attorneys, and the Department of Children and Families.

(q) “Provider” means the entity that provides goods or services to or on behalf of the victim.

(r) “Psychiatric injury” and “psychological injury” mean emotional injury. These terms are used interchangeably.

(s) “Resident” means one who maintains his or her primary dwelling in Florida. Residency is governed by a person’s intent, as evidenced by all surrounding facts and circumstances. Military personnel stationed in Florida and students shall be deemed residents.

(t) “Treatment” includes services rendered in accordance with a religious method of healing, e.g., religious practitioner and cultural healing practices that use herbal remedies.

(u) “Unjust enrichment” means the offender will benefit directly or indirectly from victim compensation assistance paid to the victim, or the victim’s total payments from victim compensation and collateral sources will exceed the victim’s compensable monetary losses due to the crime upon which the application is based.

(v) “Violent career criminal” is defined in Section 775.084(1), F.S.

(2) Application. An application for victim compensation should be mailed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, the Capitol, Tallahassee, FL 32399-1050 or faxed to (850)487-1595, (850)487-2625, or (850)414-5779. The application must include the following information:

(a) Name, date of birth, mailing address, telephone number where claimant can be reached during the day, and email address for the victim and applicant for the individual on whose behalf benefits are sought.

(b) Optional demographic data for statistical purposes, including race and gender.

(c) A statement indicating if victim is disabled or deceased as a result of the crime.

(d) Agency name, name of agency representative, mailing address, telephone number, and email address for the person or agency assisting the claimant with the victim compensation claim.

(e) Name, mailing address, telephone number, and email address for the victim’s employer(s), if the victim was employed at the time of the crime.

(f) For loss of support, the name(s) and date(s) of birth of the deceased victim’s.

1. Surviving spouse;

2. Dependent parent, sibling, or child(ren); and

3. Other person who was dependent on the decedent for his or her principal support.

(g) Insurance information, including the company (carrier) name, mailing address, telephone number, email address, and policy number, and explanation of benefits statements for the following:

1. State and federal programs (i.e., Medicare, Champus, Erisa, Medicaid);

2. Homeowner’s, automobile, and major medical insurance;

3. Health maintenance organization;

4. Funeral or burial insurance, and

5. Disability and/or wage replacement coverage.

(h) Name, mailing address, telephone number, fax number, and email address of the attorney who is (or will be) handling civil litigation that has been (or will be) filed as a result of the crime.

(i) Crime information:

1. Date of occurrence, location and type of crime;

2. Date reported to law enforcement, the state attorney, or the Department of Children and Families;

3. Whether crime was reported within 72 hours after occurrence;

4. Official name of the agency to which crime was reported;

5. Law enforcement report number;

6. Name, email address, and telephone number of the law enforcement officer assigned to the case; and

7. Name of offender and status in the criminal justice system, including court case number.

(j) Statements asserting serious financial hardship, authorizing release of information, and acknowledging repayment requirements and subrogation obligations.

(k) Printed name and signature of the adult who is filing the claim.

(l) The following persons can file a claim:

1. Victim or intervenor;

2. Surviving spouse, parent, adult child or sibling of a deceased victim;

3. Guardian applying a minor victim, incompetent person, surviving minor child of a deceased victim, or surviving minor sibling of a deceased victim.

4. Relative applying on behalf of a deceased victim when there is no other source for payment of funeral expenses;

5. Non-relative applying on behalf of a deceased victim when no family member is available to apply (for funeral expenses only); or

6. Other person who was dependent for his or her principal support upon a deceased victim or intervenor (loss of support benefit only).

(3) Documentation.

(a) The claimant has the ultimate responsibility to provide information and documentation needed to support eligibility and benefits payment.

(b) The claimant must provide updated address and contact information, which shall be considered the address of record. Failure to update this information will result in denial of the claim and a loss of appeal rights.

(c) When the claim is received, the claimant may be asked to provide specific medical and financial information.

(d) When an incomplete claim is received, the department will notify the claimant at their address of record of the information needed for eligibility determination and benefits.

(e) Required information:

1. Complete and signed claim form.

2. Report from law enforcement, state attorney, or Department of Children and Families documenting that:

a. A compensable crime occurred;

b. The victim did not contribute to the infliction of his or her injury or death; and

c. The victim did not act unlawfully.

3. Proof of crime-related expenses (includes itemized bills from treatment providers).

4. Proof of third-party payments such as insurance, restitution, judgments or settlements (i.e., copy of insurance explanation of benefits, settlement agreements, court documents for restitution and judgments).

5. Proof of time missed from work as verified in writing by the treating physician and the chief executive or chief financial officer of the victim's employer. The director of personnel or director of human resources may serve as designees for the chief executive officer or chief financial officer.

6. Proof of the disability incurred as a result of the crime as verified in writing by the treating physician or a copy of the victim's social security disability benefits approval document.

(4) Filing Time.

(a) When a claim is received later than one year after the crime and less than two years after the incident, the claimant must provide an explanation for the late filing.

1. Good cause is demonstrated when the record shows the claimant was pursuing other means of recourse or when the claimant was not emotionally, mentally, or physically able to file the claim within one year after the date of the crime.

2. No explanation is acceptable for an adult filing a claim more than two years after the occurrence of the crime, unless Section 960.07(2)(c), 960.07(4), or 960.197(1)(b), F.S., applies.

(5) Penalty Assessments.

(a) An assessment of non-cooperation must be based on information obtained from the highest jurisdiction at the time of the assessment. If an arrest has been made and the criminal case is at the prosecution stage, the assessment of non-cooperation must be based on information obtained from the assistant state attorney. If the case is open at the local law enforcement agency, the assessment of non-cooperation must be based on information obtained from the law enforcement agency.

(b) Non-cooperation is established when the law enforcement agency or assistant state attorney informs the department in writing that the victim:

1. Failed to appear when requested by law enforcement or after proper notice from the state attorney;

2. Failed to testify or assist in the investigation and prosecution;

3. Gave false or misleading information regarding the crime without recanting; or

4. Aided the offender in his or her defense.

(c) Contributory misconduct is based on a determination by law enforcement or the state attorney that the victim's conduct contributed to his or her injury or death. The direct causal relationship between the actions of the victim and the offender must be documented by the assistant state attorney or the law enforcement agency.

(d) Penalty assessments, if imposed, will be applied only to payments made directly to the victim or claimant at the rate of 25 percent of the amount otherwise payable.

(6) Benefits.

(a) Collateral sources must be exhausted before the amount of any compensable benefit is determined.

(b) Disability benefits are available for eligible victims who suffered a permanent disability as a result of the crime.

(c) A physician must provide a written statement documenting the disability rating in accordance with the Florida Uniform Guide to Permanent Impairment Rating Schedule or the American Medical Association Guide to the Evaluation of Permanent Impairment. The disability statement from the treating physician must include the following:

1. Victim/patient's full name, date of birth, and other identifying information (e.g., social security number, patient account number);

2. Type of injury, diagnostic code(s) for the injury, whether the victim suffered a permanent disability as a result of the crime, and the permanent impairment to the body as a whole expressed as a percentage.

3. Physician's name, mailing address, email address, telephone number, fax number, and federal identification number.

4. Physician's signature and date signed.

(d) The disability allowance is calculated at \$250 per percentage point for disability of one through ten percent, and \$500 per percentage point for disability ratings of eleven percent and above.

(e) Pre-existing disability is not compensable.

(f) Wage loss benefits are available to eligible victims or claimants who missed time from work because they are/were unable to work as a result of the injuries sustained as a result of the crime. Wage loss benefits are also available to the victim's parent, when he or she misses time from work to provide immediate care to the victim.

(g) Lost wages will be paid at 66.67 percent based on the claimant's actual gross average weekly wage or the minimum or maximum gross average weekly wage provided by the Department of Financial Services for workers' compensation benefits. In no case may the wage loss payment exceed the maximum gross average weekly wage established by the Department of Financial Services.

(h) The victim or claimant must have been gainfully employed at the time of the crime.

(i) The following is needed to calculate wage loss benefits:

1. Pay stub; earnings statement; official notice to the Bureau which specifies the rate of pay, number of hours worked each week, job title, and date of hire; or most recent federal income tax return, schedule C (if self-employed).

2. Statement from treating physician including:

a. Victim's full name, date of birth, and other identifying information (e.g., social security number, patient account number);

b. Type of injury, diagnostic code(s) for the injury;

c. Dates victim was not able to work as a result of the crime;

d. Whether victim requires future treatment directly related to the injury;

e. Physician's name, mailing address, email address, telephone number, fax number, and federal identification number; and

f. Physician's signature and date signed.

3. Employment report from the victim/claimant's employer(s) that includes:

a. Employee's name, job title, and social security number (or other identifier).

b. Date hired and date terminated (if applicable).

c. Dates claimant missed work as a result of the crime.

d. Average number of hours worked per week, hourly rate (including tips, commissions, etc.), and average weekly wage if amount varies by week.

e. Name(s) of employer(s), name of supervisor, business mailing address, email address, supervisor's telephone number and fax number.

f. Printed name and title of employer's chief executive or chief financial officer or authorized designee, signature and date.

(j) When the victim was not employed at the time of the crime but was receiving unemployment compensation benefits, and because of the crime injuries the victim is not able to work or actively seek employment and is thereby no longer eligible to receive unemployment compensation benefits, the payment for lost wages will be based on the victim's non-discounted unemployment compensation benefit amount.

(k) Oral or electronic confirmation shall be obtained for the first five days' wage loss. Subsequent loss is compensable only upon receipt of written document requested herein.

(l) Loss of support benefits are available to eligible dependents of a deceased victim who was employed, or had applied for and would have been eligible for unemployment compensation benefits, at the time of the crime. Persons eligible for this benefit include:

1. Surviving spouse;

2. Dependent parent, sibling, and child(ren); and

3. A person who was dependent for his or her principal support on the deceased victim.

(m) Proof of dependency is established based on:

1. The deceased victim's federal income tax return;

2. Marriage certificate;

3. Birth certificate;

4. Copy of approval for Social Security Administration survivor benefits; or

5. When the claimant can provide actual documentation that joint expenses exceed the claimant's income and that the expenses had been paid by the deceased. Acceptable documentation includes certified copies of financial records, lease, mortgage or other forms of mutual indebtedness for a minimum of one year preceding the occurrence of the crime.

(n) Funeral/burial expenses are compensable and may be paid to the service provider or reimbursed to the claimant when the claimant has already paid the bill. The claimant must be shown to be the party who paid the funeral expenses or the party responsible for the unpaid funeral expense.

(o) Mental health treatment (inpatient and outpatient) expenses are compensable when the treatment is directly related to the crime and when such services are rendered by a person qualified to provide mental health counseling pursuant to Chapter 458, 490, or 491, F.S., and when such treatment is rendered within one year after the date of the crime.

(p) Inpatient mental health care is limited to acute, crisis stabilization up to seven days.

(q) Minors who saw or heard the crime incident and who suffered a psychological or psychiatric injury as a result of the crime, but were not physically injured, may receive mental health care, when the law enforcement report reflects that the minor was present at the crime scene.

(r) Persons who suffered a psychological or psychiatric injury as a direct result of a forcible felony may receive mental health care, when the law enforcement report identifies the individual as a victim of the crime. This is the only benefit available to adult victims who did not suffer a physical injury or death.

(s) A surviving minor child of a deceased victim, or a minor victim who was physically injured, may receive mental health care. When multiple applicants qualify for this benefit, payment is limited to \$7,500 per claim.

(t) A surviving spouse, parent, adult child or sibling of a deceased victim may receive mental health care, provided total treatment/mental health benefits do not exceed \$7,500 per claim.

(u) When a minor receiving mental health treatment care reaches the age of 18, the adult benefit level of \$2,500 per claim is applied to the entire claim. If that benefit amount has already been paid, no further benefits are available.

(v) Treatment (medical/dental/non-medical remedial care) costs are compensable.

(w) Treatment expenses include any financial obligation or monetary outlay for crime-related medical or non-medical remedial care and other services necessary as a result of the crime for which the claimant is responsible for payment.

(x) If the provider rejects payment in full from the department, the funds may be paid to the claimant, who is then responsible for the bill.

(y) Out-of-pocket reimbursement to the claimant for payments to providers is payable at 100 percent, not to exceed total benefit limits, except when the offender would be unjustly enriched directly or indirectly. In that event, reimbursement is not compensable.

(z) Crime-related medical expenses of a deceased adult victim incurred prior to his or her death are compensable only when an eligible claimant has (or has assumed) financial responsibility for the expense.

(aa) Other reimbursable costs are:

1. Costs for interpreter services for eligible victims with (foreign) language barriers and/or hearing impairment with regard to treatment services. These costs are included in the respective maximum benefit amounts and must be identified on an itemized bill. This does not apply to interpreter costs incurred for court-related activities.

2. Medically necessary equipment (e.g., wheelchairs, oxygen tanks) and prosthetics that are damaged during the crime. When the item was damaged during the crime, the law enforcement report must specifically identify what happened to the items.

3. Transportation costs to medical appointments. An itemized bill (receipt) for transportation is needed in order for the claimant to receive reimbursement. Rental car charges may be compensable for travel to another city for medical/dental treatment. A traveler who uses an indirect route for personal convenience must bear any extra costs; reimbursement for expenses shall be based only on such charges as would have been incurred by a usually-traveled route.

4. Crime scene cleanup costs for the removal and disposal of biohazardous and/or biochemical substances following a violent crime that occurs in the private residence or conveyance of the victim. These services must be performed by a government-authorized facility within seven days after the occurrence of the crime.

(bb) When the maximum benefit amount has been reached, no further benefits are available, regardless of whether that occurs prior to or after the effective date of these rules.

(9) Documentation Requirements –

(a) The claimant shall provide documentation needed to support a determination of eligibility for benefits under this Act. Failure to provide the requested information shall result in denial of the claim.

(b) A claim for compensation must include the type of benefits requested and the following:

1. Personal identification information for claimant and victim, if different;

2. Full legal name, date of birth, social security or other government-issued identification number, and relationship to victim;

3. Mailing address, including city, state and zip code where department correspondence can be received, which shall be the address of record;

4. Email address and telephone number where claimant can be reached during the day; and

5. Indication of whether victim was disabled before the crime occurred.

6. Referral information, if applicable:

a. Name of person who assisted claimant in completing the application;

b. Name of organization assisting the claimant;

c. Organization's mailing address, including city, state and zip code;

d. Email address and telephone number for person assisting claimant.

7. Employment information, if applicable:

a. Supervisor's name and title;

b. Legal name of company or business;

c. Employer's mailing address, including city, state and zip code; and

d. Supervisor's email address and telephone number.

8. An individual federal income tax return with W-2 or schedule C attachments, as appropriate.

9. Insurance and other third party payer information:

a. Name of insured;

b. Type of policy and policy number;

c. Name of insurance company;

d. Insurance company's mailing address, including city, state and zip code;

e. Name of insurance company adjuster or claims representative; and

f. Email address and telephone number for contact person at insurance company.

10. Crime information:

a. Date and location (street address, city, county, state) of crime;

b. Date crime was reported to the law enforcement or other proper authority and report number;

c. Name of law enforcement agency where crime was reported;

d. Type of crime;

e. Name of law enforcement officer and badge/identification number;

f. Name of offender;

g. Offender's status;

h. Name of assistant state attorney handling case; and

i. Court case number.

11. Affirmative statement signed by claimant that the information provided is true and correct to the best of his or her knowledge.

12. A contractual agreement signed by the claimant or attorney to:

a. Reimburse the department according to the provisions of Section 960.16, F.S.;

b. Authorize release of information pursuant to subsections 960.05(2)(k), (l), (m) and (n), F.S.; and

c. Affirm whether the victim wants to invoke confidentiality pursuant to Section 119.071, F.S.

(c) Acceptable documentation for proof that a compensable crime occurred shall include:

1. A law enforcement report that affirms a crime occurred, regardless of whether an offender can be identified;

2. An affidavit charging an individual with a crime filed by law enforcement;

3. An information charging an individual with a crime filed by a state attorney;

4. An indictment by a grand jury;

5. A child abuse investigation report completed by a Department of Children and Families or child protection team member;

6. Or communication from the United States Federal Bureau of Investigations for victims of human trafficking.

7. An OAG cybercrime investigator may certify a crime for purposes of Section 960.197, F.S.

(d) When there is an original law enforcement report showing a compensable crime occurred, the claim should be determined eligible, without regard to the offense to which the offender eventually pled or was convicted of, provided the remaining eligibility criteria are met.

(e) Itemized bills must be submitted before payment to a provider or reimbursement to the claimant can be considered pursuant to Sections 960.13, 960.197, and 960.28, F.S. The itemized bill (invoice) should be prepared using industry standard forms (e.g., CMS-1450, 1500, J400), or on the provider's letterhead and must include the following information:

1. Service provider/facility's name, street address, city, state and zip code, email address, and telephone number (including area code);

2. Organization/treatment facility's mailing address;

3. Federal tax identification number;

4. Provider's W-9 form, if not available through the Department of Financial Services;

5. Beginning and ending date(s) of service;

6. Date of occurrence of incident for which services are provided;

7. Name and address of individual being billed for services rendered;

8. Revenue code, description of service, CPT or equivalent code, service date, service units, and total charges;

9. Diagnosis code, diagnosis, or nature of injury; and

10. First and last name of attending medical professional and license number.

(f) Acceptable documentation for crime-related wage loss include:

1. The claimant's pay stub or individual earnings statement.
2. Unemployment compensation benefits statement.
3. Recent federal income tax return.
4. Quarterly federal income tax report, or
5. Document signed by the company's chief executive or chief financial officer, on the employer's letterhead; and
6. Document signed by a licensed physician or licensed mental health professional must be confirmed with the employer.

(g) Acceptable documentation for crime-related loss of support includes the following:

1. Deceased victim's pay stub or individual earnings statement.
2. Unemployment compensation benefits statement.
3. Recent federal income tax return.
4. Verification of earnings from the employer on the employer's letterhead and signed by the company's financial or chief executive officer, or
5. Pension or retirement statement.

(h) Proof of dependency may be established by a copy of a court order for support, birth certificate, marriage certificate, or federal income tax return.

(i) Acceptable documentation for crime-related disability benefits includes an assessment in writing by a licensed physician and must be in accordance with the American Medical Association's Guide to Evaluation of Permanent Impairment or the Florida Permanent Impairment Rating Guide.

(j) Acceptable documentation for crime scene cleanup services includes an itemized bill which provides the following:

1. Service provider/facility's name, street address, city, state and zip code, email address, and telephone number (including area code);
2. Federal tax identification number;
3. Date(s) of service;
4. Date of occurrence of incident for which services are provided;
5. Name and address of individual being billed for services rendered; and
6. Description of service, service date, service units, and total charges.

7. Provider's W-9 form for initial payment or when requested, if not available through the Department of Financial Services;

(k) The schedule of benefits for claims timely filed pursuant to the Crimes Compensation Act, except Sections 960.197 and 960.28, F.S., includes:

	<u>Benefit</u>	<u>Maximum benefit amount</u>	<u>Timeframe within which loss must be incurred after the date of the crime</u>
1.	<u>Wage loss</u>		
a.	<u>Victim</u>	<u>\$15,000</u>	<u>one year</u>
b.	<u>Parent</u>	<u>\$15,000</u>	<u>one year</u>
2.	<u>Disability</u>	<u>\$15,000</u>	<u>n/a</u>
3.	<u>Loss of Support</u>	<u>\$25,000</u>	<u>n/a</u>
4.	<u>Catastrophic Injury</u>	<u>\$30,000</u>	<u>n/a</u>
5.	<u>Mental Health Treatment (per claim)</u>	<u>\$7,500</u>	<u>(varies)</u>
a.	<u>Minor (until age 18) when victim is deceased</u>	<u>\$7,500</u>	<u>n/a</u>
b.	<u>Adult when victim is deceased</u>	<u>\$2,500</u>	<u>one year</u>
c.	<u>Adult or minor, inpatient crisis stabilization (7 days)</u>	<u>\$7,500</u>	<u>one year</u>
d.	<u>Adult victim</u>	<u>\$2,500</u>	<u>n/a</u>
e.	<u>Minor victim (until age 18)</u>	<u>\$7,500</u>	<u>n/a</u>
f.	<u>Minor witness</u>	<u>\$2,500</u>	<u>one year</u>
g.	<u>Victim of forcible felony</u>	<u>\$2,500</u>	<u>one year</u>
h.	<u>Victim of child pornography</u>	<u>\$7,500</u>	<u>n/a</u>
6.	<u>Medical/Dental Treatment</u>	<u>\$7,500</u>	<u>one year</u>
7.	<u>Funeral/Burial</u>	<u>\$5,000</u>	<u>n/a</u>
8.	<u>Crime scene cleanup</u>	<u>\$500</u>	<u>seven days</u>
9.	<u>Property Loss</u>	<u>\$500</u>	<u>date of the crime</u>

(l) Total benefits paid on a single claim or after July 1, 2010, cannot exceed the \$15,000 when the victim is not deceased, \$25,000 when the victim is deceased, or \$30,000 when the victim has sustained a catastrophic injury.

Rulemaking Specific Authority 960.045(1), 960.13(9)(b) FS. Law Implemented 960.065, 960.07, 960.12, 960.13, 960.15, 960.16, 960.17, 960.18, 960.195, 960.198 FS. History--New 1-1-92, Amended 11-1-92, 9-13-94, 1-8-96, 6-25-96, 10-1-96, 9-24-97, 8-17-99, 2-3-00, 10-23-01, 5-13-03, 1-16-08,_____.

2A-2.013 Property Claims.

(1) An application must be mailed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, The Capitol, Tallahassee, FL 32399-1050 or faxed to (850)487-1595, (850)487-2625, or (850)414-5779.

(2) For a faxed application to be timely submitted, the transmittal cover page must include the name of the victim and must bear a faxed date stamp that is within the statutory filing time.

(3) Proof of disability is required for persons between 18 and 60 years of age. Acceptable documentation includes written statements from the Department of Veteran Affairs, the Social Security Administration, or the victim's treating physician.

(4) The crime must be reported to law enforcement within 72 hours from the time that the event is known to have occurred.

(5) The law enforcement report must identify and assign a value to the property for which compensation is sought. Alternatively, the law enforcement report must identify the property, and receipts for actual damage may be provided by the victim if the value or estimated damage is not known at the time the law enforcement report is made.

(6) Definitions:

(a) "Abandoned property" means property that the owner voluntarily surrenders, relinquishes, or disclaims.

(b) "Activities of daily living" for purposes of Section 960.195, F.S., means the basic tasks of everyday life, such as eating, bathing, dressing, toileting, and communicating.

(c) "Damage" means loss or injury to person or property.

(d) "Intangible property" means property that lacks a physical existence. Examples include bank accounts, airtime, business goodwill, fees (impound, pawn shop, towing), options, and stocks.

(e) "Loss" means the failure to keep possession of something.

(f) "Property loss" means the loss of tangible personal property directly caused by a criminal or delinquent act of another. For purposes of Section 960.195, F.S., the following are specifically excluded: abandoned property, cash or other negotiable instruments, contraband, or other illicit items.

(g) "Replacement cost" means the cost of acquiring an asset that is as equally useful or productive as an asset previously held.

(h) "Tangible personal property" means property that can be seen, weighed, measured, felt, or touched or is in any way perceptible to the senses, excluding abandoned property, cash or other negotiable instruments, contraband or other illicit items, fees (impound, pawn shop, towing), bank accounts, stock, options, and business goodwill.

(i) "Substantial diminution" means the loss of the property directly impacts the victim's activities of daily living.

(7) Compensation may be paid for the cost of the item, plus tax, delivery and installation, up to a maximum of \$500.

(8) Objects can be valued only at replacement cost, regardless of sentimental value.

(9) Compensation is limited to items that are lawful tangible personal property of the claimant.

(a) Examples of compensable tangible personal property include one's eyeglasses, watch, clock, telephone, personal computer, wheelchair, medicine, tools of one's trade, oxygen tank, and mailbox.

(b) Examples of property that are not compensable include items that amount to a monetary loss, are intangible, or are cosmetic damage causing a devaluation of the property.

(10) Compensation is not available for contraband, other illicit items, or abandoned property.

(11) Acceptable documentation of replacement costs include a receipt for purchase of replacement item, official published advertisement, or written estimate from a retail establishment for the cost of an equivalent item. The written estimate must be on company letterhead and must include the retailer's name, address, email address, and name and title of the employee providing the estimate.

Rulemaking Authority 960.045(1)(b) FS. Law Implemented 960.195 FS. History—New _____.

2A-2.014 Domestic Violence Relocation Assistance.

(1) To be eligible for domestic violence relocation assistance, the victim must contact and application must be made through a State of Florida certified domestic violence center. The center must certify the application according to the requirements of Section 960.198, F.S.

(2) A certification must accompany the application for assistance. The claim and certification should be mailed or faxed to the Office of the Attorney General, Bureau of Victim Compensation, PL-01, The Capitol, Tallahassee, FL 32399-1050 or facsimile (850)487-1595, (850)487-2625, or (850)414-5779. Failure to submit a properly completed certification will result in denial of benefits.

(3) Application for relocation assistance must be received by the department within 30 days immediately following the occurrence of the domestic violence offense.

(4) For a faxed application to be timely submitted, the transmittal cover page must include the name of the victim and must bear a faxed date stamp that is within 30 days immediately following the offense.

(5) Immediate need is defined as 30 days directly following the occurrence of the domestic violence offense, as defined in Section 741.28, F.S. Exceptions include:

(a) Victims for whom a convicted domestic violence offender is within 30 days of pending release from incarceration. In cases involving release, the original domestic violence offense report must be provided along with court or Department of Corrections documentation regarding pending release of the offender.

(b) When law enforcement or the assistant state attorney says in writing there is a present need to relocate the victim due to the threat of further domestic violence.

(6) Proper authority for purposes of Section 960.198, F.S., means a child protection team, law enforcement, state attorney, and the Department of Children and Families.

(7) The victim must cooperate with law enforcement, except when:

(a) The victim has already moved outside the geographical vicinity where he or she resided with the abuser;

(b) The victim is planning to leave the vicinity and cannot be available to assist law enforcement;

(c) The victim is in fear of the abuser; or

(d) A language barrier precludes effective communication with law enforcement.

(8) The victim must:

(a) Identify how the domestic violence relocation assistance funds will be used;

(b) Certify that he or she will comply with Section 960.198(2), F.S.;

(c) Affirm that he or she is not residing with and will not in the future reside with the abuser;

(d) Use the funds to relocate to a safe environment;

(e) Accept the funds at the center within 30 days of issuance;

(f) Submit receipts to the department within 45 days of receipt of the funds; and

(g) Acknowledge that criminal prosecution for fraud under Section 960.18, F.S., may be pursued if he or she has made false representations to receive the money.

(9) An applicant assistant is a center representative who has completed specialized training provided by the department and is authorized to assist the victim in filing a claim for domestic violence relocation assistance.

(10) The OAG authorized applicant assistant must certify immediate need and compliance with the provisions of Section 960.198(2), F.S.

(11) It is the responsibility of the center to obtain and review personal identification documentation before certifying a victim's need for assistance. The center is not required to forward any personal identification documentation to the department.

(12) The certification shall include the name, mailing address, email address, telephone number, fax number, and the contract number assigned to the domestic violence center by the Department of Children and Families.

(13) If approved, the award will be made payable to the victim and mailed to the respective certified domestic violence center. The victim must accept the funds at the certified domestic violence center within 30 days of issue. The applicant assistant must witness the acceptance of payment.

(14) Monies payable under Section 960.198, F.S., may be made in the form of a bank card, voucher, check, or state warrant.

(13) Any attempt to spend funds for unauthorized goods or services will result in withdrawal of the award. Any expense not directly related to relocation is an unauthorized expenditure.

(14) If the victim has not accepted the funds at the center within 30 days of issue, the center shall return the funds to the department and withdraw the certification of immediate need.

(15) Upon receipt of the returned funds by the department, eligibility will be withdrawn. This action does not in any way create further appeal rights.

Rulemaking Authority 960.045(1)(b) FS. Law Implemented 960.198 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Gwen Roache

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Bill Stewart

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 28, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 2009

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Forestry

RULE NOS.:

5I-6.003

5I-6.004

RULE TITLES:

Presumption of Compliance

Notice of Intent to Implement

PURPOSE AND EFFECT: The purpose of this rule amendment is to amend by request from JAPC existing language in subsection 5I-6.003(4), F.A.C., by striking "non-regulatory and incentive-based" from line (4); and to incorporate by reference Best Management Practices for Silviculture Notice of Intent to Implement Rule 5I-6.004, F.A.C., DACS Form No. 11305, Revised 02/2010.

SUMMARY: The purpose of this rule amendment is to amend existing language in subsection 5I-6.003(4), F.A.C., by striking "non-regulatory and incentive-based" from line (4) and to establish a procedure for submitting a "Notice of Intent to Implement" Silviculture BMPs, that, when filed with the Florida Department of Agriculture and Consumer Services, Division of Forestry (DOF), and BMPs are implemented, provides a presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices. Once filed with DOF, the Notice of Intent shall enable the applicant to apply for assistance with the implementations as identified in Section 403.067(7)(c)2., F.S. This proposed rule amendment also provides that records maintained by the applicant confirming implementation of Silviculture BMPs are subject to DOF inspection.

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: 570.07 (23) FS.

LAW IMPLEMENTED: 403.067(7)(c)(2), 589.04(1)(a) 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: Jeffery L. Vowell, Division of Forestry, 3125 Conner Boulevard, Tallahassee, Florida 32399-1650, telephone (850)414-9969, fax (850)488-0863

THE FULL TEXT OF THE PROPOSED RULE IS:

5I-6.003 Presumption of Compliance.

(1) through (3) No change.

(4) Maintain documentation to verify the implementation and maintenance of the Silviculture ~~non-regulatory and incentive-based~~ BMPs as outlined in Rule 5I-6.005, F.A.C.

Rulemaking Authority 403.067(7)(c)2., 570.07(23) FS. Law Implemented 403.067(7)(c)2., 589.04(1)(a) FS. History--New 2-25-10, Amended 3-17-10,_____.

5I-6.004 Notice of Intent to Implement.

(1) through (2) No change.

(3) Best Management Practices for Silviculture Notice of Intent to Implement, DACS 11305, Revised 2/10 is hereby adopted and incorporated by reference and can be obtained on the Florida Division of Forestry internet website, <http://www.doacs.state.fl.us/onestop/forms/11305.pdf>.

Rulemaking Authority 403.067(7)(c)2., 570.07(23) FS. Law Implemented 403.067(7)(c)2., 589.04(1)(a) FS. History--New 2-25-10, Amended 3-17-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: James R. Karels, Division Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner of Agriculture

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 19, 2010

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NOS.:	RULE TITLES:
9B-60.002	Definitions
9B-60.003	Department Activities
9B-60.004	Florida Building Energy Rating System, Adopted
9B-60.005	Training and Certification Program
9B-60.007	Florida Building Energy Rating System, Existing Public Buildings
9B-60.008	RESNET Standards, Adopted

PURPOSE AND EFFECT: Section 553.992, Part VIII, F.S., requires the Department of Community Affairs (the Department) to update the Building Energy-Efficiency Rating System in accordance with the procedures of Chapter 120, F.S. Section 553.995(2), F.S., requires the BERS program to be compatible with federal rating systems and state building codes and standards, where applicable. The proposed rule changes coincide with changes made to a national standard for home energy rating systems that is promulgated by the National Association of State Energy Officials (NASEO). Updating to this standard allows Florida to maintain its accreditation with NASEO, which has positioned itself to provide certifications for builders wishing to claim federal tax credits from the Internal Revenue Service.

SUMMARY: Both Florida's energy code and the BERS ratings utilize the same computer programs. The Florida energy code upgraded to the EnergyGauge® USA program as its calculation engine during the 2007 code update cycle; this rule does the same for the BERS Program. Forms referenced by the rule are described with the year "2008" to assure that BERS criteria line up with the 2007 Florida Building Code, revised 2009, which references the EnergyGauge USA Fla/Res 2008 computer program and the EnergyGauge Summit Fla/Com 2008 computer program.

Adopts the 2006 Mortgage Industry National Home Energy Rating Systems Standards, amended July 22, 2009, promulgated by the Residential Energy Services Network (RESNET) and the National Association of State Energy Officials, and amends applicable portions of the rule to reflect this change:

1. The HERS Score is changed to a HERS Index with the Reference Standard for a home becoming a ratio when compared to the Design home.
2. The residential ratings will utilize the EnergyGauge® USA ResRate 2008 program, which meets the new Standards.
3. Class 1 raters will be required by the Standards to pass the RESNET National Core Exam. Recertification of raters will no longer require peer review and reevaluation.
4. Reporting of ratings will be via website upload.

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: 553.992, 553.994, 553.998 FS.

LAW IMPLEMENTED: 553.992, 553.995, 553.995(1), (1)(c), (4), 553.996 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 14, 2010, 10:00 a.m. – 12:00 Noon
 PLACE: Randall Kelley Training Room, Third Floor, Sadowski Building, 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: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850)487-1824. 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: Ann Stanton, Building Codes Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-0964, SUNCOM 278-0964

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-60.002 Definitions.

For the purpose of this chapter, the following words, unless the context does not permit such meaning, shall have the meanings indicated:

(1) through (7) No change.

(8) Rating System – a uniform scale of the relative energy use efficiency of buildings based

on annual energy usage and costs with consideration of local climate conditions, construction practices and building use.

(9) through (16) No change.

(17) Rating Class for Residential Buildings – the category of an energy rating, based on the source of the input data which are used by the Florida Building Energy Rating System to compute the energy and cost estimates of the energy rating, and consisting of the following three Classes:

(a) Class 1 Rating – a confirmed ~~an~~ energy rating, conducted in accordance with Chapter 9B-60, F.A.C., using site energy audit and performance test data as the sources for the input data on which the rating is based.

(b) Class 2 Rating – a confirmed ~~an~~ energy rating, conducted in accordance with Chapter 9B-60, F.A.C., using site energy audit data as the source for the input data on which the rating is based.

(c) No change.

(18) Registered Rating – a Florida Building Energy Rating for a specifically located building that has been compiled by a certified Florida Rater of any Class, has been found to be complete and accurate, and has been recorded with the Program Administrator Department.

(19) Projected Rating – A rating ~~of any Class~~ performed prior to the construction of a new building or prior to implementation of energy-efficiency improvements to an existing building.

(20) HERS Rating – An audit and computer-generated performance evaluation of a home conducted in accordance with Rule 9B-60.004, F.A.C., of this chapter and resulting in a HERS Index Score.

(21) HERS Index Score – The numerical rating for a home with a value between 0 and 100 where a value of 0 ~~100~~ indicates that the home uses no purchased energy for heating, cooling, ~~and~~ hot water, lighting and appliances, and a value of 100 ~~80+~~ indicates that the home has the same energy use for heating, cooling, ~~and~~ hot water, lighting and appliances as the HERS Reference Home established by the 2006 Mortgage Industry National Home Energy Rating Systems Accreditation Standards, amended July 22, 2009.

(22) Program Administrator – means a public or private entity that is qualified to perform the training and support functions of the Florida Building Energy Rating System and that is authorized by the Department to perform such functions.

Rulemaking Specific Authority 553.992 FS. Law Implemented 553.992, 553.995 FS. History–New 7-1-94, Amended 1-11-95, 12-27-98, 11-28-04, _____.

9B-60.003 Department Activities.

(1) No change.

(2) Within three (3) years of the date of adoption of the rating system, and at least triennially thereafter in conjunction with the triennial review of Chapter 13 of the Florida Building Code, Building (the Code), the Department shall review the energy rating system program criteria and the calculation tools used in common by both the BERS and the Code that are adopted herein to determine the need for revision or modification. ~~The residential rating system methodology is based on Method A of Sub Chapter 6 of Chapter 13 of the Code, while the commercial rating system methodology is based on Method A of Sub Chapter 4 of the Code.~~ At a minimum, the Department shall update the rating system by

adopting modifications to the current editions of the Code and ~~Attachment 1 to the 2006 Mortgage Industry National Home Energy Rating Systems Accreditation Standards, amended July 22, 2009, (the National Home Energy Rating Technical Guidelines)~~ promulgated by ~~the Residential Energy Services Network (RESNET) and the National Association of State Energy Officials (NASEO)~~. Copies of the ~~2006 Mortgage Industry National Home Energy Rating Systems Standards, amended July 22, 2009, Code and the National Home Energy Rating Technical Guidelines~~ are available at ~~the website [http://www.resnet.us/standards/mortgage/RESNET Mortgage Industry National HERS Standards.pdf](http://www.resnet.us/standards/mortgage/RESNET_Mortgage_Industry_National_HERS_Standards.pdf)~~ or from the Florida Department of Community Affairs, Building Codes and Standards Office, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824.

(3) Any person may submit recommendations for proposed revisions or modifications to the rating system to the Department for consideration. Such proposed revisions and modifications shall be submitted in writing on Department of Community Affairs' Form #300-2008, the Change Request form, Building Energy Rating System, incorporated herein by reference, effective _____ July 1, 1994. Copies of this form are available by writing to the Department of Community Affairs, Building Energy Rating System Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Such proposals shall include the date of submittal, an identification of the submitter, identification of the section of the rating system to be revised, the new proposed language, a justification or reason for the change, and anticipated financial impacts of the change. The Department shall conduct a public hearing(s) in accordance with the requirements of Chapter 120, F.S. and Rule 9B-60.003(2), F.A.C.

(4) The Department or its Program Administrator shall develop, maintain and make available, at no cost to the prospective purchaser, a Building Energy Rating System disclosure information brochures to be provided to the prospective purchaser.

Rulemaking Specific Authority 553.992, 553.998 FS. Law Implemented 553.992, 553.996 FS. History-New 7-1-94, Amended 12-27-98, 11-28-04, _____.

9B-60.004 Florida Building Energy Rating System, Adopted.

(1) No change.

(2) The home energy rating (HERS rating) for residential buildings shall be determined using only the Florida Residential Building Energy Rating System software EnergyGauge® USA, ResRate 2008, which produces the Florida Residential Building Energy Rating form, Form FRBER-2008, effective _____, incorporated herein by reference (EnergyGauge/ResFREE, Version 3), which produces the Florida Building Energy Rating Guide forms: Form #11A-01 for the North climate zone, Form #11B-01 for the Central climate zone, and Form #11C-01 for the South

climate. The rating system software (EnergyGauge/ResFree, Version 3) that produces these forms is hereby incorporated by reference. Certified BERS ratings shall be specific to one residence; sampling is not an acceptable procedure for ratings in Florida. Air distribution system testing for Class 1 ratings shall be performed in accordance with Annex B and Annex C of BSR/ASHRAE Standard 152-04, "Method of Test for Determining the Design and Seasonal Efficiencies of Residential Thermal Distribution Systems." A Class 3 rating shall be clearly labeled as a "projected rating based on plans."

(3) No change.

(4) The energy rating for public and commercial buildings shall be determined using only the Florida Commercial Building Energy Rating System software EnergyGauge® Summit ComRate 2008, which produces the Florida Commercial Building Energy Rating form, Form FCBER-2008, effective _____, incorporated herein by reference. (EnergyGauge/ComFREE, Version 1) which produces the Florida Building Energy Rating Guide forms: Form #12A-01 for the North climate zone, Form #12B-01 for the Central climate zone and Form #12C-01 for the South climate zone. The Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE, Version 1) is hereby incorporated by reference. Public buildings owned or leased by state agencies and units of local government that are governed by Section 255.254, F.S., may utilize this rating system as one of the annual energy usage and cost by methods approved by those agencies.

(5) No change.

Rulemaking Specific Authority 553.992 FS. Law Implemented 553.994, 553.995(1) FS. History-New 7-1-94, Amended 10-3-94, 1-11-95, 12-27-98, 11-28-04, _____.

9B-60.005 Training and Certification Program.

(1) General Provisions.

(a) Beginning with the implementation date of this rule, no person may provide a rating for buildings in Florida unless such a person has been certified as provided by this part. To perform a rating for any building as required by this rule, the person performing the rating must be certified by the Department of Community Affairs. For residential buildings, in accordance with Section 102.1.4.6 of the 2006 Mortgage Industry National Home Energy Rating Systems Standards, amended July 22, 2009, Chapter 1, Section 4.C.6 of the "National Accreditation Procedures for Home Energy Rating Systems," a Florida Certified Rater who has a financial or other interest resulting from the energy Rating results (including any recommended improvements resulting from the Rating) shall provide written disclosure of the nature of the financial or other interest to the owner of the property being rated utilizing Form FIDF-2008 44D-01, Financial Interest Disclosure Form, incorporated herein by reference, effective _____.

(b) No change.

(c) An application for annual certification renewal shall be submitted on a Certified Rater Renewal Form, Form 500B-2008 ~~04~~, herein incorporated by reference, effective _____, with a renewal fee of \$50. In addition to the annual renewal fee, a certified residential rater must, over a three year period, have completed twelve credit hours of continuing education in courses accepted by the Department for certification renewal. Acceptable courses shall, in general, be those dealing with energy use in buildings and building systems (including heating, ventilating and air conditioning), building design or construction, codes or plan review, financing or selling buildings, and courses on energy rating systems.

(2) The following qualifications, at a minimum, are required for certification as a rater:

(a) The individual shall submit an application on the Department of Community Affairs' Rater Certification Application Form, Form #500A-2008 ~~04~~, herein incorporated by reference, effective _____, and pay the appropriate application fee of \$150.00. The form is available by writing to the Department of Community Affairs, Energy Rating System Program, 2555 Shumard Oak Blvd, Tallahassee, Florida 32399-2100.

(b) Individuals applying for certification as raters for new residential (Class 3), public and commercial buildings shall attend a training program provided by the Department or its Program Administrator ~~designee~~ and shall demonstrate achievement of a level of knowledge and proficiency so as to successfully rate buildings by passing Department tests specific to the type of building rated for certification. Individuals may also qualify for Class 3 certification without attending the Class 3 training program by passing a Class 3 challenge test.

Individuals applying for certification as Class 2 raters for residential buildings, in addition to the ~~above~~ certification requirements ~~for a Class 3 rater~~, shall attend a Class 2 training program provided by the Department or its Program Administrator and shall demonstrate achievement of a level of knowledge and proficiency so as to successfully perform residential energy audits to rate existing residential buildings by passing a Department test specific to Class 2 certification. Individuals may also qualify for Class 2 certification without attending the Class 2 training program by passing a Class 2 challenge test.

Individuals applying for certification as Class 1 raters for residential buildings shall demonstrate having the same stated requirements as Class 2 raters, shall attend a Class 1 training program provided by the Department or its Program Administrator and shall demonstrate achievement of a level of knowledge and proficiency so as to successfully perform residential performance tests by passing a Department test specific to Class 1 certification. Individuals may also qualify

for Class 1 certification without attending the Class 1 training program by passing a Class 1 challenge test. In addition, a Class 1 rater candidate must complete five Class 1 ratings under the supervision of a certified Class 1 rater as well as pass the RESNET National Core Competency Test, referenced from Section 207.1.2 of the 2006 Mortgage Industry National Home Energy Rating Systems Standards, amended July 22, 2009, in order to obtain a Class 1 certification.

Individuals applying for certification as raters of existing commercial buildings, in addition to the requirements stated above for new commercial buildings, shall demonstrate certification as an energy auditor from a recognized commercial energy auditing program or have at least one year of experience performing a minimum of fifteen commercial energy audits.

(c) No change.

(d) No certification shall be approved unless the applicant demonstrates to the Department that the following conditions are met: the applicant has not been found to be in violation of Part VIII XI, Chapter 553, F.S., or this rule chapter; the applicant has filed an accurate and complete application with the application fee describing compliance with the relevant certification requirements; the applicant is capable of performing the activities for which he/she is seeking certification; the applicant has not shown a lack of ability or intention to comply with Part VIII XI, Chapter 553, F.S., or this rule chapter, or has not been unable or unwilling to conduct Energy Code compliance related activities forthrightly and honestly with his/her clients. Decertification shall be in accordance with procedures for revoking licenses of Chapter 120, F.S.

(e) Recertification is required within six months of the effective date of major revisions to the energy code provisions Chapter 13 of the Florida Building Code, Building, or at least every three years from the rater's last date of certification. For recertification, the applicant shall attend training on changes impacting the rating system provided by the Department of Community Affairs or its Program Administrator and demonstrate achievement of a level of knowledge and proficiency so as to successfully rate buildings by passing a Department test applicable to the buildings being rated. The fee for recertification shall be the annual certification renewal fee. In addition to the written test, Class 1 residential raters shall be required to satisfactorily demonstrate performance testing skills necessary to perform a Class 1 rating as part of the recertification as well as at the time of training and testing. ~~Class 1 residential raters shall be required to satisfactorily perform and complete one Class 1 rating, accompanied and evaluated by another randomly chosen Class 1 rater, as a requirement for recertification and to comply with Attachment 1 of the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems (the National Home Energy Rating Technical Guidelines) requirement for periodic peer~~

review and reevaluation of raters. Class 1 raters shall also be required to serve as a Class 1 peer evaluator at least once within three years before being recertified. These regulations in no way exempt any person from other state and local occupational licensure requirements. Any rater who fails to pass the recertification test in his or her rating classification shall be required to attend a refresher course approved by the Department of Community Affairs and retake the test. Until the rater can demonstrate his/her ability to perform ratings in his/her classification, registration of ratings by the rater shall be prohibited.

(3) Reporting Requirements. Certified raters shall submit all ratings to the Department in care of its Program Administrator via the website upload at: http://dbase.fsec.ucf.edu/pls/engauge/rating_home the Florida Solar Energy Center, 1679 Clearlake Road, Cocoa, FL 32920 in electronic format, either via electronic mail (e-mail) or on 3 1/2" diskette.

(a) The Program Administrator Florida Solar Energy Center shall maintain an electronic database that can be queried by the public to verify that a BERS Rating has been registered for a specific real property.

(b) Upon request and if authorized by the homeowner or his/her agent, the Program Administrator shall Florida Solar Energy Center may provide a registered BERS Rating report from the electronic database to a homeowner, or prospective home purchaser for a fee. The Program Administrator may charge a fee not to exceed the actual cost of providing such rating report.

(4) A written report shall be provided to the purchaser of real property or that individual who requested the rating. Such report shall include the Florida Building Energy Rating report and the following:

(a) A completed copy of the Florida Building Energy Rating, Form FRBER-2008 or Form FCBER-2008 Guide (Form #11-01 or Form #12-01);

(b) through (c) No change.

(d) The statement: "This notice is provided to you by an individual certified by the Florida Department of Community Affairs to perform a building energy rating evaluation. Any questions, comments, or complaints regarding the person or agency performing this service may be directed to the Florida Department of Community Affairs, Building Energy Rating System Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, or its Program Administrator or the Florida Solar Energy Center, 1679 Clearlake Road, Cocoa, FL 32920. The Department or the Program Administrator Florida Solar Energy Center may request the owner's permission in the future to conduct a quality assurance review of this rating;" and

(e) If it is a residential rating, (The disclosure form printed from [EnergyGauge@ USA ResRate 2008](#) the [EnergyGaugeRes/Free program \(Form No. 11D-01\).](#)

Rulemaking Specific Authority 553.992 FS. Law Implemented 553.995(4) FS. History--New 7-1-94, Amended 10-3-94, 1-11-95, 12-27-98, 11-28-04,_____.

9B-60.007 Florida Building Energy Rating System, Existing Public Buildings.

(1) The provisions of this rule are adopted to implement the Florida Building Energy Efficiency Rating Act of 1993, Part VIII XI, Chapter 553, Florida Statutes, by providing a state-wide uniform energy rating system for rating existing buildings proposed for acquisition for public use through lease or purchase and for existing public buildings undergoing renovation. The term existing public building, as used herein, shall have the same meaning as new public buildings in Rule 9B-60.002, F.A.C., except construction of such buildings shall have been permitted before this rule shall have taken effect.

(2) No change.

(3) The energy rating for existing public buildings shall be determined using the Florida Commercial Building Energy Rating System software, EnergyGauge® Summit ComRate-2008 (EnergyGauge/ComFREE 97, Version 1.2.2) in accordance with Rule 9B-60.004. Public buildings owned or leased by state agencies and units of local government governed by Section 255.254, F.S., may utilize this rating system as one of the annual energy usage and cost methods approved by those agencies.

(4) No change.

Rulemaking Authority 553.992 FS. Law Implemented 553.991, 553.993, 553.994, 553.995, 553.997, 553.998 FS. History--New 7-21-94, Amended 12-27-98,_____.

9B-60.008 RESNET Standards Guidelines for Uniformity, Adopted.

The 2006 Mortgage Industry National Home Energy Rating Systems Accreditation Standards, amended July 22, 2009, promulgated by the Residential Energy Services Network (RESNET) and the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET), June 15, 2002, are adopted for residential buildings and incorporated by reference as the rule of this Department except as otherwise specified in this rule chapter.

Rulemaking Specific Authority 553.992 FS. Law Implemented 553.995(1)(c) FS. History--New 12-27-98, Amended 11-28-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ann Stanton, Building Codes Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)488-0964, SUNCOM 278-0964

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 27, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 13, 2009

**DEPARTMENT OF TRANSPORTATION
 Florida Seaport Transportation and Economic Development Council**

RULE NOS.:	RULE TITLES:
14B-1.001	Definitions
14B-1.002	Port Project Funding Application Procedures and Requirements
14B-1.003	Measuring Economic Benefits
14B-1.004	Determination of Funding; Council/Agency Review
14B-1.005	Council Procedures
14B-1.006	Eligible Port Funding Requirements
14B-1.007	Reporting Requirements

PURPOSE, EFFECT AND SUMMARY: Provide implementation guidelines for port project funding application procedures, agency reviews, Council procedures and port funding requirements.

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: 311.09(4) FS.

LAW IMPLEMENTED: 315.02, 320.20 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Toy Keller, Florida Ports Council, 502 E. Jefferson Street, Tallahassee, Florida 32301, (850)222-8028. 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: Toy Keller, Florida Ports Council, 502 E. Jefferson Street, Tallahassee, Florida 32301, (850)222-8028

THE FULL TEXT OF THE PROPOSED RULES IS:

14B-1.001 Definitions.

(1) "Council" means the Florida Seaport Transportation and Economic Development Council as ~~provided~~ created in Section 311.09(1), F.S.

(2) "Program Funds" means those funds identified in Sections 311.07(2) and 320.20(3) and (4), F.S. ~~"Trust Fund" means the Florida Seaport Transportation and Economic Development Trust Fund as provided in Section 311.07(2), F.S.~~

(3) "Eligible Port" means deepwater ports listed in Section 403.021(9)(b), F.S., ~~which are~~ governed by a public body, or any other deepwater port ~~which is~~ governed by a public body which complies with the water quality provisions of Section 403.061, F.S., the comprehensive master plan requirements of Section 163.3178(2)(k), F.S., the local financial management and reporting provisions of Part III of Chapter 218, F.S., and the auditing provisions of Section 11.45(3)(a)4., F.S.

(4) "Port Facilities or Port Transportation Projects" are those defined in Section 311.07(3)(b), F.S. means:

~~(a) Transportation facilities within the jurisdiction of the port; or~~

~~(b) The dredging or deepening of channels, turning basins, or harbors; or~~

~~(c) The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing; or~~

~~(d) The acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce; or~~

~~(e) The acquisition of land to be used for port purposes; or~~

~~(f) The acquisition, improvement, enlargement, or extension of existing port facilities; or~~

~~(g) Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvement to existing and future spoil sites; defined in Section 376.22, F.S., or which result from the funding of eligible projects listed herein; or~~

~~(h) Transportation facilities as defined in Section 334.03(27), F.S., which are not otherwise part of the Department of Transportation's adopted work program.~~

~~(i) Seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in Section 311.09(3), F.S.; or~~

~~(j) Construction or rehabilitation of port facilities as defined in Section 315.02, F.S., excluding any park or recreational facilities, in ports listed in Section 311.09(1), F.S.;~~

with operating revenues of \$5 million or less, provided that such projects create economic development opportunities, capital improvements, and positive financial returns to such ports.

(5) “Port Master Plan” means a comprehensive master plan prepared by each eligible deepwater port listed in Section 403.021(9), F.S., which addresses existing port facilities and any proposed expansions and ~~which~~ adequately addresses the applicable requirements of Section 163.3178(2)(k), F.S., or other provisions of the Local Government Comprehensive Planning and Land Development Regulation Act, Part II of Chapter 163, F.S.

(6) “Florida Seaport Mission Plan” means the mission statement developed by the Council pursuant to Section 311.09(3), F.S. ~~which defines the goals and objectives of the Council concerning the development of port facilities and an intermodal transportation system. The five year plan shall be updated annually and shall include specific recommendations for the construction of intermodal transportation projects which connect a port to another transportation mode and port transportation projects which enhance international commerce and provide economic benefits to the state.~~

(7) “Matching Funds” ~~for an approved port transportation project other than seaport intermodal access projects means are those funds provided by a source other than the Florida Department of Transportation the eligible port which shall, at a minimum, be an amount equal to the program funds each contribution provided by the Trust Fund to fund the approved project.~~

(a) Matching Funds for seaport intermodal access projects as described in Section 341.053, F.S., as identified in the Seaport Mission Plan shall be mutually determined by the Council and the Department of Transportation, provided a minimum of 25 percent of the total project funds shall come from any port, local, private, or specifically earmarked federal funds.

(b) Matching Funds for seaport intermodal access projects that involve the dredging or deepening of channels, turning basins, or harbors; or the rehabilitation of wharves, docks, or similar structures shall be a minimum of 25 percent of the total project funds coming from any port, federal, local, or private funds.

(8) “Approved Project” means a port transportation project ~~which has been~~ determined by the Department of Community Affairs to be consistent, to the maximum extent feasible, with the port master plan and an approved local government comprehensive plan ~~and with the port master plan~~; determined by the Department of Transportation to be consistent with the policies and needs contained in the Florida Transportation Plan and, as appropriate, the Department of Transportation’s

adopted work program; and determined by the Office or Tourism, Trade, and Economic Development Department of Commerce to be consistent with the Florida Seaport Mission Plan and ~~to~~ have an economic benefit to the state.

(9) “Eligible Costs” means ~~costs~~ expenses that may be incurred and paid by program funds ~~from the Trust Fund~~. Eligible costs include: design and engineering, permitting ~~costs~~, environmental mitigation, construction of the port transportation project, right-of-way acquisition, relocation of electrical utilities, drainage, railroad spurs, water lines, sewer lines, ~~and~~ other infrastructure costs associated with construction of the ~~port transportation project~~, and the acquisition of trade data information products. Eligible costs may include improvements or fixtures constructed or placed on leased property, however, the useful life of the improvements or fixtures shall be equal to or less than the length of the lease, or so long as the improvements or fixtures remain under the control and use of the ports after the termination of the lease. Costs associated with preparation of the application or administration of the project fund are not eligible costs.

(10) “Acquisition” means the securing of real or personal property by purchase, lease, gift, devise, grant, bequest, or eminent domain.

(11) “Trade Data Information Products” means products related to the purchase of information involving any or all of the following:

- (a) Market intelligence;
- (b) Economic activity;
- (c) Economic and natural resources;
- (d) Transportation infrastructure;
- (e) Navigational and shipping issues;
- (f) Environmental issues.

(12) “Major Change” means a deviation from an approved project that is reasonably expected to have any of the following impacts:

- (a) Increases the program funds requested for an approved project;
- (b) Increases the demand, reduces the capacity or changes the demand or capacity on internal roadways or rail lines by more than 5% of the original estimate;
- (c) Leads to a new or substantially different type of facility or project, including any operational change or other changes that impact the reported level of service on any affected roadway; or
- (d) Any land acquisition.

(13) “SeaCIP” is a secure, comprehensive capital improvement project and financial management database system designed for use by Council members. It allows for online application submission by seaports and online review and approval of seaport capital improvement projects by

Council state agencies. As projects are funded by the Council and progress through the construction phase, the SeaCIP system accepts inputs regarding funds allotted and funds disbursed to the project creating a "real time" financial management tool.

Rulemaking Specific Authority ~~120.53~~, 311.09(4) FS. Law Implemented 311.07, 311.09, 315.02, 320.20 FS. History--New 12-19-90, Amended _____.

14B-1.002 Port Project Funding Application Procedures and Requirements.

(1) An application shall be accepted only from an eligible port. The port shall apply for the grant by submitting to the Council an Florida Seaport Transportation and Economic Development Project Application entitled "SeaCIP – Seaport Grant Management System." ~~Florida Seaport Transportation and Economic Development Project Application, Form FSTED-1~~, hereby incorporated by reference, effective August 1, 2009 which contains five separate elements as described in subsection (7) below. Applications for program funds shall be submitted in electronic format utilizing SeaCIP (www.seacip.com), and Applications shall be submitted by the appropriate duly authorized official of such port. Beginning in 1991, the submission deadline period for submitting applications for the applicable Department of Transportation fiscal-year funding cycle shall be determined by the Council in consultation with the Department each calendar year from January 1 to February 15 in each calendar year. Applications for other Department of Transportation fiscal funding cycles may be electronically submitted utilizing SeaCIP by an eligible port at any time during the calendar year. Application forms may be obtained from and completed applications submitted in five (5) copies to: Florida Seaport Transportation and Economic Development Council, P. O. Box 10137, Tallahassee, FL 32302.

(2) The applicant must provide information in the electronic application format so that it may be determined whether the proposed port transportation project is consistent, to the maximum extent feasible, with an approved port master plan, local government comprehensive plan and five year schedule of capital improvements and port master plan. The applicant must include provide its current updated port master plan as part of the electronic application both to the Council and to the Department of Community Affairs.

(3) The application shall must be accompanied by a drawing or map depicting which depicts the location of the proposed port transportation project and adjacent properties in relation to the port and the local community.

(4) The applicant must provide information in the electronic application format so that it may be determined whether the project provides an economic benefit and is consistent with the Florida Seaport Mission Plan.

(5) The applicant must provide information in the electronic application format so that it may be determined whether the project is consistent with the policies and needs contained in the Florida Transportation Plan, its adopted work program and other relevant statewide, regional and local transportation plans, goals and objectives.

(6) The Council ~~shall will~~ have up to fifteen (15) days from receipt of an application to examine the application and notify the applicant via SeaCIP in writing of any apparent errors or omissions and ~~to~~ request any relevant needed additional information. The applicant shall ~~then~~ have up to fifteen (15) days from receipt of the request to provide the additional information. The application shall ~~not~~ be considered incomplete to be properly completed if the requested additional information is not provided.

(7) The project information required to be submitted by the applicant port is contained in SeaCIP and includes in the application Form FSTED-1, consisting of the following five units or forms:

(a) ~~Part A. The cover sheet summary of the Council's application contains the summary information:~~

(a) ~~Name of applicant, authorized representative, brief project description, unique project identification project number, total project cost, estimated completion date and port priority. amount requested/fiscal year, plan information, economic benefit analysis, map/drawing, and signature of authorized official of the applicant port. Attached to Form A is a description of "Project Eligibility Requirements."~~

(b) ~~Total funding requested, Form B – Means of Financing.~~ Incorporated herein by reference is a copy of Form B which requires a detailed description of the project, estimated number of years for project completion, phase or year of request, state funds requested, local funds available, and source of port matching funds.

(c) ~~Form C – Port Development Candidate File.~~ Incorporated herein by reference is Form C which is a five year forecast of funding requests for capital improvements at the applicant port. If the port's total capital improvement program for the five year period is different than the five year forecast of funding requests, a description of the total five year capital improvement program should also be provided. This latter information will be used for the reporting requirements of the Florida Seaport Mission Plan.

(c)(d) ~~Form D – Plan Information.~~ Incorporated herein by reference is Form D which requires information from the applicant port about its port master plan and local government comprehensive plan so that the Department of Community Affairs may review the project and to determine whether it is consistent, to the maximum extent feasible, with the port master plan and local government comprehensive plan and the port master plan. The applicant must provide an electronic version of two (2) copies of its current updated port master plan when submitting the applications.

~~(d)(e) Form E—Economic Benefit Analysis.~~ Incorporated herein by reference is Form E which requires ~~E~~conomic benefit information related to the project so that the ~~Office of Tourism, Trade, and Economic Development Department of Commerce~~ can may determine whether the project provides an economic benefit to the state and is consistent with the Florida Seaport Mission Plan. For ports with annual operating revenues of \$5 million or less seeking funding for certain projects as defined in Section 315.02(6), F.S., a statement of eligibility, operating revenues, and economic benefits is required.

~~(e)~~ Transportation impact information related to the project so that the Department of Transportation can determine the impacts to the state transportation system.

~~(8) All forms and form instructions are incorporated herein by reference and are available by writing to the address provided in subsection (1) above.~~

~~(8)(9) The Council shall will consider the electronic submittal by an eligible port of an application for funding of an emergency project at any time during the calendar year. An emergency project is defined as the maintenance or reconstruction of an eligible project which contributes to or enables the port to continue to perform an essential service at the same level of service which it has previously provided in the movement of cargo or passengers.~~

(9) Approved projects shall remain eligible for funding for a period of three calendar years from the date of approval, or for three sequential fiscal-year funding cycles, whichever is greater. Approved projects that have any major change shall require the submission of a new or modified application for consistency review by the Council and agencies.

Rulemaking Specific Authority 120.53, 311.09(4) FS. Law Implemented 311.09 FS. History—New 12-19-90, Amended _____.

14B-1.003 Measuring Economic Benefits.

~~(1)~~ The Council shall review each properly completed application to determine the economic benefit of the port transportation project measured by the potential for the proposed project to increase or maintain cargo flow, cruise passenger movement, international commerce, port revenues, and the number of jobs for the port’s local community.

~~(2) The minimum criteria to be utilized by the Council in specifying and identifying a port transportation project as facilitating the economic benefit of Florida shall consist of satisfaction of the following:~~

~~(a) Each application must indicate the amount of the port’s capital investment in the port transportation project and the source of port matching funds.~~

~~(b) Each application must provide a separate port analysis of how the port transportation project will support international commerce, increase cargo flow through the port or improve cruise passenger movements. The analysis must provide~~

~~specific assumptions about demand for additional service or capacity on which the project is based; type of employment to include the average hourly wage that will be created by the project or reasons the port project is needed to support existing employment; expected life of the project; expected port revenue stream resulting from the project; and a description of how the port project will affect and enhance the local, regional and state economies. The applicant shall, upon request by the Council, provide any other economic impact information which would assist the Council and the Department of Commerce to determine the economic benefit of the port transportation project.~~

Rulemaking Specific Authority 120.53, 311.09(4) FS. Law Implemented 311.09 FS. History—New 12-19-90, Amended _____.

14B-1.004 Determination of Funding; Council/Agency Review.

(1) The Council shall review and approve or disapprove each project’s eligibility ~~eligible~~ for funding from the Trust Fund within one hundred twenty (120) days of the application deadline. After such determination, the Council shall annually submit to the Secretary of Transportation, the Office of Tourism, Trade and Economic Development Secretary of Commerce, and the Secretary of Community Affairs, a list of eligible projects and which have been approved by the Council. ~~The list shall specify the requested recommended~~ funding level for each project, ~~and, if staged implementation of the project is appropriate, the funding requirements for each stage shall be specified. The decision to fund a project at any funding level is within the sole discretion of the Council.~~

(2) Pursuant to Section 311.09(6), F.S., ~~u~~Upon receipt of the list of eligible projects approved by the Council and the appropriate related project information, the Department of Community Affairs shall review the projects to determine consistency, ~~to the maximum extent feasible, with approved local government comprehensive plans of the units of local government in which the port is located and with the port master plan. It is the expectation of the Council that w~~Within forty-five (45) days ~~of from~~ receipt of the list of projects and supporting applications, the Department of Community Affairs will ~~shall~~ notify the Council of those projects which are not consistent, ~~to the maximum extent feasible, with such comprehensive plans and port master plans. Should additional information be requested from one or more applicants by the Department of Community Affairs to permit the Department of Community Affairs to evaluate project consistency, the time limit for the Department of Community Affairs’ review and notice to the Council may shall be extended up to fifteen (15) days following receipt of the requested information.~~

(3) Pursuant to Section 311.09(7), F.S., ~~u~~Upon receipt of the list of eligible projects approved by the Council and the appropriate related project information, the Department of Transportation shall review the ~~list of~~ projects for consistency

with the policies and needs contained in the Florida Transportation Plan and, as appropriate, the Department's adopted work program. In evaluating the consistency of a project, the Department shall determine whether the transportation impact of the proposed project is adequately handled by existing state highway facilities or by the construction of additional state highway facilities as identified in the Department's adopted work program. In reviewing for consistency a transportation facility project as defined in s. 334.03(31)(27), F.S., which is not otherwise part of the Department work program, the Department shall evaluate whether the project is needed to provide for projected movement of cargo or passengers from the port to the State Highway System or local road. If the project is needed to provide for projected movement of cargo or passengers, the project shall be approved for consistency as a consideration to facilitate the economic development and growth of the state in a timely manner. It is the expectation of the Council that ~~w~~Within forty-five (45) days ~~of~~ from receipt of the list of projects, the Department of Transportation will ~~shall~~ identify those projects which are not consistent with the policies and needs contained in the Florida Transportation Plan and, as appropriate, the Department's adopted work program and shall notify the Council of projects found to be inconsistent. When ~~Should~~ additional information is ~~be~~ requested from one or more applicants by the Department of Transportation to permit the Department of Transportation to evaluate project consistency, the time limit for the Department of Transportation's review and notice to the Council may ~~shall~~ be extended up to fifteen (15) days following receipt of the requested information.

(4) Pursuant to Section 311.09(8), F.S., ~~u~~Upon receipt of the list of eligible projects approved by the Council and the appropriate related project information, the Office of Tourism, Trade and Economic Development ~~Department of Commerce~~ shall review the list of projects to evaluate the economic benefit of the project and to determine whether the projects are ~~is~~ consistent with the Florida Seaport Mission Plan. The Department of Commerce shall evaluate the economic benefits of each project based upon the information required by the Council Rule No. 14B 1.003 and, in so doing, may conduct any appropriate investigation to determine the accuracy of the information. It is the expectation of the Council that ~~w~~Within forty-five (45) days from receipt of the list of eligible projects, the Office of Tourism, Trade and Economic Development ~~will~~ ~~Department of Commerce~~ shall identify those projects which it ~~has determined~~ do not offer an economic benefit to the state or are not consistent with the Florida Seaport Mission Plan and shall notify the Council of its findings. When ~~Should~~ additional economic impact information is ~~be~~ requested from the applicant ~~by the Department of Commerce~~, the time limit for the Department's review of the project may ~~shall~~ be extended up to fifteen (15) days following receipt of the requested information.

(5) Pursuant to Section 311.09(11), F.S., a member of the Council from The Department of Community Affairs, Department of Transportation, or the Office of Tourism, Trade, and Economic Development may vote to overrule any action of the Council which approves a project pursuant to subsection (1). Any action to overrule a project shall be taken prior to, or at, the Council meeting at which the project is approved for submission to the Department of Transportation for funding. A vote overruling an action of the Council shall be in writing, give specific reasons for overruling the Council, and be considered final agency action for purposes of Chapter 120, F.S. The Council shall review the findings of the Department of Community Affairs, the Department of Commerce and the Department of Transportation. Projects found to be inconsistent pursuant to subsections (2), (3), and (4) above and projects which have been determined not to offer an economic benefit to the state pursuant to subsection (4) shall not be included in the list of projects to be funded. However, the list of proposed projects may include projects which have been determined inconsistent, where such inconsistency determination was wholly unrelated to the proposed project itself, but was made on the basis that the local government comprehensive plan was not in compliance with the requirements of Chapter 163, F.S. Such projects are eligible for funding at the time the local government comprehensive plan is determined by the Department of Community Affairs or the Administration Commission to be in compliance with Chapter 163, F.S.; provided, however, that no amendments to the local comprehensive plan which brought it into compliance altered or modified the plan in relation to the impacts of the project itself.

(6) ~~The Council shall submit to the Department of Transportation a list of approved projects for funding from the Trust Fund. The Department of Transportation shall include in its annual legislative budget request a Florida Seaport Transportation and Economic Development grant program for expenditure of funds in the Trust Fund. Such budget request shall request funding for the list of approved projects submitted by the Council based upon the funds expected to be available in the Trust Fund during the ensuing budget year. Additionally, the Council may submit to the department a list of unfunded approved projects that could be made production ready within the biennium and for which trust funds are not available in that budget year. The list of unfunded approved projects shall be submitted by the Department of Transportation as part of the project list prepared pursuant to Section 339.135(4)(j), F.S., and the needs list prepared pursuant to Section 339.155(5)(b), F.S.~~

Rulemaking Specific Authority 120.53, 311.09(4) FS. Law Implemented 311.09 FS. History--New 12-19-90, Amended _____.

14B-1.005 Council Procedures.

~~(1) The Council shall meet at the call of its chairperson, at the request of a majority of its membership, or at such times as may be prescribed in its bylaws. However, the Council must meet at least semiannually. A majority of voting members of the Council constitutes a quorum for the purpose of transacting the business of the Council. All members of the Council are voting members except for members representing the Department of Transportation, the Department of Community Affairs, and the Department of Commerce. A majority vote of the voting members present is sufficient for any action of the Council, unless the bylaws of the Council require a greater vote for a particular action.~~

~~(1)(2) The Council shall prioritize and allocate funding to seaports for approved projects at the Council meeting and in accordance with the following criteria adopted by Florida Seaport Transportation and Economic Development Council, June 10, 1998, and revised February 25, 2003:~~

~~(a) Consistency reviews performed by the Departments of Transportation and Community Affairs and the Governor's Office of Tourism, Trade, and Economic Development (OTTED) and the economic benefit review performed by OTTED.~~

~~(b) The goals and objectives of the Florida Seaport Mission Plan.~~

~~(c) Competition for cargo or trade between an applicant port and port located outside the State of Florida.~~

~~(d) Importance of a project to support or maintain existing cargo, trade or passenger movements at the applicant port.~~

~~(e) Revenues or funds available at the applicant port to ensure that the port meets its matching fund requirement and to ensure that the project is initiated within the funding year in which the project is approved.~~

~~(f) The overall 5-year capital improvement needs of each applicant port.~~

~~(g) The ability of the port to finance port improvements through other sources.~~

~~(h) Fairness in achieving balanced support for each port's priorities, objectives and goals in a 5-year capital improvement program.~~

~~(i) Each port's recommendations concerning its funding needs.~~

~~(2) A majority vote of the voting Council members present is sufficient to approve funding for a specific port transportation project and is sufficient for the Council to prioritize and allocate funding to seaports for all approved projects. A Certification of Project Acceptance which certifies that the Council has reviewed the port projects pursuant to the requirements of applicable Florida law must be executed by the Chairman of the Council, witnessed, and attested to by the Assistant Secretary prior to submission of the approved project candidate list to the Department of Transportation. Said certification in the form approved by the Department of~~

~~Transportation shall accompany the project list submittal. A majority vote of the voting Council members present is sufficient to disapprove funding for a specific port transportation project.~~

~~(3) The Council shall submit a summary of port transportation projects with pertinent information to the Council members no less than five (5) seven (7) working days prior to the date of the meeting at which time such projects will be considered for funding approval.~~

~~(4) Eligible ports Applicants whose port transportation projects are not recommended for funding in any given year may reapply for subsequent funding consideration by the Council.~~

~~(5) The Council may also hold monthly meetings to facilitate the project review process and other related issues. The Council shall publish in the Florida Administrative Weekly, at least seven (7) days prior to Council meetings or workshops, notification of the time and place the Council will meet. Such meetings or workshops shall be open to the public. At least seven (7) days prior to a meeting, the Council shall prepare and make available an agenda for distribution on request of any interested person. The Council also shall provide seven (7) days prior notification of Council meetings or workshops by mailing a notice to each eligible port applicant whose port transportation project is to be considered.~~

~~(6) Special meetings of the Council may be held at the call of the Chairman or shall be called by the Chairman at the written request of a majority of the voting members. Upon seven (7) days public notice, a special meeting may be conducted by a telephone conference call with members of the Council in accordance with the provisions of Chapter 28-8, F.A.C., Model Rules of Procedure.~~

~~(7) Emergency meetings of the Council may be held at the call of the Chairman in accordance with the provisions of Rule 28-2.007, F.A.C., Model Rules of Procedure.~~

~~(8) Members of the Council shall serve without compensation but are entitled to receive reimbursement for per diem and traveling expenses as provided in Section 112.061, F.S. The Council may elect to provide an administrative staff to provide services to the Council on matters relating to the Trust Fund and the Council. The cost for such administrative services shall be paid by all ports that receive funding from the Trust Fund, based upon a pro rata formula measured by each recipient's share of the funds as compared to the total trust funds disbursed to all recipients during the year. The share of costs for administrative services shall be paid in full by the recipient port at the time the first payment of trust funds are disbursed to it. Such administrative services payment is in addition to the matching funds required to be paid by the recipient port.~~

~~Rulemaking Specific Authority 120.53, 311.09(2), (11) FS. Law Implemented 311.09 FS. History--New 12-19-90, Amended _____.~~

14B-1.006 Eligible Port Funding Requirements.

(1) A port eligible for matching funds from the Trust Fund may receive a grant from the Trust Fund of not more than \$7 million during any one calendar year and grants of not more than \$30 million during any five calendar year period.

(2) Any port which receives funding from the Trust Fund shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in Section 110.112, F.S.

(3) The Department of Transportation shall subject any project that receives funds pursuant to this section to a final audit. The Department may adopt rules and perform such other acts as are necessary or convenient to ensure that the final audits are conducted and that any deficiency or questioned costs noted by the audit are resolved.

~~(1)(4) Program funds received by eligible ports from the Trust Fund shall be expended on eligible costs only. If program funds are not expended on eligible costs, the port shall immediately reimburse the Council for the ineligible costs.~~

(2) For projects funded pursuant to bonds issued under the provisions of Sections 320.20(3) and (4), F.S., the reimbursement procedures will be as set forth in the Master Agreement, the Indenture of Trust, and the Loan Agreement, incorporated herein by reference, and any other agreement with another applicable governmental entity.

~~(5) Upon legislative approval of the Department of Transportation's budget request as provided in Rule 14B-1.004, F.A.C., and upon entering into a written grant agreement with an eligible port, the Department of Transportation will reimburse the eligible port an amount equal to 50 percent of eligible costs incurred on an approved project. This reimbursement will be made upon receipt of an invoice showing total eligible costs incurred to date, less the port's 50 percent share, less reimbursements received to date. These reimbursements will be made in compliance with the payment requirements set forth in Section 215.422, F.S. The final reimbursement to the port will be released upon the satisfactory completion of a final audit conducted by the Florida Department of Transportation.~~

Rulemaking Specific Authority 120.53, 311.09(4) FS. Law Implemented 311.07, 320.20(3), (4) FS. History--New 12-19-90, Amended _____.

14B-1.007 Reporting Requirements.

~~(1) If the port transportation project is to be funded in annual phases, the Council shall require the port to submit an annual written report which describes the work completed per the project schedule, the status of the project, a description of any change orders which change the nature of the project and a budget summary detailing the amount of financial contribution to the project by the port. A phased project shall be considered~~

~~by the Council as one project and shall be annually prioritized accordingly. An approved phased project shall be awarded separate annual grants until complete; provided, however, that no change order has been requested recipient port. Change orders requested for previously approved projects will require resubmission of a revised project application for Council and agency consistency review.~~

~~(2) The eligible port shall enter into a joint participation agreement (JPA) with the Department of Transportation which sets forth the duties and obligations of the parties thereto regarding the expenditure and receipt of funds prior to any expenditure of state funds. The recipient port also shall provide a signed letter stating that the port accepts total responsibility and ownership of the port transportation project.~~

Rulemaking Specific Authority 120.53, 311.09(4) FS. Law Implemented 311.07 FS. History--New 12-19-90, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Toy Keller

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Nancy Leikauf, Interim President, Florida Ports Council, Third Party Administrator, Florida Seaport Transportation and Economic Development Council

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 28, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.800
RULE TITLE: Close Management

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to change Form DC6-128, Close Management Referral Assessment, to state that an inmate's mental health classification shall be based on the inmate's present mental health status, rather than the inmate's status within the past 30 days; add lewd and lascivious behavior to the list of "major rule violations"; add a definition of lewd and lascivious behavior; create a process and criteria for review of a Security Threat Group member before he or she is released from close management; clarify book and periodical possession limits for close management inmates; and remove restrictions on providing typing services to inmates on close management status.

SUMMARY: The proposed rule: amends Form DC6-128 to state that an inmate's mental health classification will be based on the inmate's present mental health status, rather than the inmate's status within the past 30 days; adds lewd and lascivious behavior to the list of "major rule violations"; adds a definition of lewd and lascivious behavior; creates a process and criteria for review of a Security Threat Group member before he or she is released from close management; clarifies book and periodical possession limits for close management inmates; and removes the restriction on providing typing services to inmates on close management status.

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

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

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.800 Close Management.

(1) Definitions.

(a) through (l) No change.

(m) Major Rule Violation – any assault, battery or attempted assault or battery; any intentional lewd or lascivious exhibition in the presence of staff or visitors; any spoken or written threat towards any person; inciting, attempting to incite or participating in any riot, strike, mutinous act or disturbance; fighting; possession of weapons, ammunition, explosives or escape paraphernalia; and any escape or escape attempt.

(n) through (q) No change.

(r) Lewd or Lascivious Exhibition – An inmate commits a lewd or lascivious exhibition when the inmate:

1. Intentionally masturbates;

2. Intentionally exposes the genitals without authorization;

or

3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a staff member or volunteer.

(2) through (9) No change.

(10) Conditions and Privileges in CM Units.

(a) through (g) No change.

(h) Religious Accommodations – Inmates in close management status shall be allowed to participate in religious ceremonies that can be accomplished at cell-side (for example, communion). Additionally, close management inmates shall be allowed to possess religious publications as defined in Rule 33-503.001, F.A.C., literature and have access to a spiritual advisor or clergy visit with citizen clergy persons at a time and location approved by the warden. Religious publications shall not count toward the limit on personal book possession set forth in paragraph (10)(l) but do fall under the storage space provisions of Rule 33-602.201, F.A.C.

(i) Legal Access – An inmate in close management will have access to his or her personal legal papers and law books and have correspondence access with the law library. Access to the law library will be obtained through delivery of research materials to an inmate's cell, and access to visits with certified inmate law clerks research aides. Although the inmate may not be represented by an attorney at any administrative hearing under this rule, access to an attorney or aide to that attorney will be granted for legal visits at any reasonable time during normal business hours. Indigent inmates will be provided paper and writing utensils in order to prepare legal papers. Inmates who are not indigent will be allowed to purchase paper and envelopes from the canteen for this purpose, within the stated time frames. ~~Typewriters or typing services are not considered required items and will not be permitted in close management cells.~~ Inmates with disabilities that hinder the preparation of legal correspondence will be allowed the use of auxiliary aids (writer/reader). An inmate who is provided an auxiliary aid shall also be allowed access to a certified inmate law clerk research aide for the purpose of preparing legal documents, legal mail, and filing grievances.

(j) through (k) No change.

(l) Reading materials – ~~Reading materials, including scriptural or devotional materials and books that are in compliance with admissibility requirements,~~ are allowed in close management units unless there is an indication of a threat to the safety, security, or sanitation of the institution. An inmate shall be limited to possession of three personal soft cover books. If it is determined that there is a safety, security or sanitation risk, the items will be removed. Such removal of reading materials will be documented on Form DC6-229,

Daily Record of Special Housing. If items are removed in order to prevent the inmate from inflicting injury to him or herself or others or to prevent the destruction of property or equipment, staff shall re-assess the need for continued restriction every 72 hours thereafter. The warden, based on this assessment, will make the final determination on the continued denial or return of the items. The items will be returned to the inmate when no further behavior or threat of behavior of the type leading to the restriction has occurred. An inmate who receives services from the Bureau of Braille and Talking Book library will be allowed to have his tape player, devotional or scriptural material tapes, and other books on tape which are in compliance with Rule 33-501.401, F.A.C.

(m) through (n) No change.

(11) Programs and Privileges in Close Management Units.

(a) No change.

(b) CMI. Privileges for an inmate assigned to CMI are as follows:

1. No change.

2. Check out three soft-back books from the library at least once per week and possess no more than three soft back library books at any given time. An inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to check out three books in braille or on tape per week and possess no more than three books at any given time, even though the actual number of tapes may be more than three per book. Books checked out from the library shall not count toward the limit on personal book possession set forth in paragraph (10)(l);

3. No change.

4. ~~Inmates may subscribe to, purchase, or receive no more than one periodical which is printed and distributed more frequently than weekly and four other periodicals which are printed and distributed weekly or less frequently than weekly. Subscribe to one magazine and newspaper and possess no more than four issues of each at any given time;~~ an inmate who receives services from the Bureau of Braille and Talking Book Library will be allowed to receive up to four issues of a periodical magazine;

5. through (15) No change.

(16) Review of Close Management.

(a) through (f) No change.

(g) ~~Before an inmate who has been convicted, regardless of whether adjudication is withheld, of any assault or battery that constitutes a felony on a staff member is released from CM, written authorization must be obtained by the SCO from the Secretary, Deputy Secretary, or Assistant Secretary of for Institutions, or Deputy Assistant Secretary of Institutions, if any of the following apply:~~

1. The inmate has been convicted, regardless of whether adjudication is withheld, of any assault or battery, or any attempted assault or battery, that constitutes a felony on a staff member;

2. The inmate has an active detainer as a result of any assault or battery, or any attempted assault or battery, that constitutes a felony on a staff member; or

3. The inmate is confined under the Interstate Corrections Compact and has been convicted, regardless of whether adjudication is withheld, of any assault or battery, or any attempted assault or battery, that constitutes a felony on a staff member in the state from which he transferred.

(17) through (18) No change.

(19) Forms. The following forms referenced in this rule are hereby incorporated by reference. Copies of any of these forms are available from the Forms Control Administrator, Office of Research, Planning and Support Services, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) Form DC6-128, Close Management Referral Assessment, effective date ~~4-8-04~~.

(b) through (k) No change.

~~Rulemaking Specific~~ Authority 944.09 FS. Law Implemented 944.09 FS. History—New 2-1-01, Amended 12-16-01, 4-8-04, 3-10-05, 4-9-06, 8-23-07, 4-27-08, _____.

Editorial Note: Formerly 33-601.801-.813, substantially amended February 1, 2001.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2010

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.901
RULE TITLE: Confidential Records

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to delete those provisions related to medical and substance abuse files that are being moved to proposed Rule 33-401.701, F.A.C., via the rulemaking process.

SUMMARY: The rule is amended to remove language related to medical and substance abuse clinical files, as those provisions are being relocated to proposed Rule 33-401.701, F.A.C.

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

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

RULEMAKING AUTHORITY: 20.315, 944.09, 945.10 FS.
LAW IMPLEMENTED: 119.07, 944.09, 945.10, 945.25 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: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.901 Confidential Records.

(1) Inmate and offender access to records or information.

(a) No change.

(b) Inmate and offender access to their own medical or substance abuse clinical files is addressed in Rule 33-401.701, F.A.C records.

1. Definitions.

a. "Medical record" as used in this rule includes the inmate's medical, mental health, and dental files maintained by the department.

b. "Protected health information" or "PHI" as used in this rule means individually identifiable health information about an inmate or offender.

c. "Psychotherapy notes" as used in this rule means notes recorded by a mental health professional documenting or analyzing the contents of conversation during a private or group session. The term does not include medication prescription and monitoring, session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

d. "Substance abuse clinical record" as used in this rule means the department inmate file containing all written documents and records, including department forms compiled to detail an inmate's substance abuse history, substance abuse screening, assessment, intervention, and other substance abuse services, including the results of urinalysis testing done for treatment, program participation, and admission and discharge summaries.

e. "Substance abuse progress notes" as used in this rule means notes recorded by a substance abuse health care professional documenting or analyzing the contents of conversation during a private or group session. The term does not include session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

2. An inmate shall be allowed to have access to his own medical record and, if such exists, his own substance abuse clinical record. An inmate desiring access to his own medical record shall submit a written request to the health services

administrator or his designee; an inmate desiring access to his own substance abuse clinical record shall submit a written request to the substance abuse program manager or his designee.

3. The department does not maintain medical records or substance abuse clinical records on offenders under community supervision. Access to records maintained by treatment providers under contract with the department should be requested by contacting the treatment provider.

4.a. Inmates shall have no access to psychotherapy notes or substance abuse progress notes maintained in the department's records.

b. Inmates and offenders shall have no access to health information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.

5. The request for access shall be denied in whole or in part due to any of the following reasons:

a. The request is for records or information identified in subparagraph 4. above.

b. The request is for PHI that was obtained from someone other than a health care provider under a promise of confidentiality and the access requested would with reasonable likelihood reveal the source of the information.

c. The request is for information not maintained or no longer maintained by the department in its files.

d. There has been a determination by a licensed or certified health care professional that:

I. The requested access is reasonably likely to endanger the life or physical safety of the inmate or another person;

II. The requested access is to PHI that makes reference to another person (other than a health care provider) and such access is reasonably likely to cause substantial harm to such other person; or

III. The access is requested by a personal representative of the inmate and such access is likely to cause substantial harm to the inmate.

6. All requests shall be granted, including providing access or copies or both, or denied, in whole or in part, by the health services administrator or his designee or substance abuse program manager or his designee in writing within 30 days of the date of receipt of the request, except that where the requested records are not maintained on-site, the department shall provide or deny access, in whole or in part, within 60 days from receipt of the request. If the department is unable to grant or deny, in whole or in part, the request for access within the 30 or 60 day time periods, the department is authorized to extend the time for such action an additional 30 days by providing the inmate a written statement that the time period has been extended for 30 days and the reason(s) for the extension. This extension is available only one time.

7. Denials must provide:

a. The basis for the denial;

~~b. Information on where the requested information is maintained if sub-subparagraph 5.e. applies, and the department knows where the information is maintained;~~

~~e. Notification that the inmate may request a review of the denial by submitting a written request to the health services administrator or his designee in the case of medical records, or the substance abuse program manager or his designee in the case of substance abuse clinical records; and~~

~~d. That the inmate may grieve the denial through the inmate grievance process pursuant to Chapter 33-103, F.A.C.~~

~~8. Upon written request of the inmate to the staff member designated above, denials based on sub-subparagraph 5.d. shall be reviewed by a licensed or certified health care professional who is designated by the health services administrator or his designee or substance abuse program manager or his designee, and who did not participate in the original decision to deny the request. Review of the denial must be completed within a reasonable time after receipt of the request for review. Immediately upon determination on review, the inmate shall be notified in writing of the decision. The determination on review shall be followed by the department.~~

~~9. Where a request for access to an inmate's medical record or substance abuse clinical record is denied in part, the department shall provide access to the requested record after excluding the information for which access was denied.~~

~~(c) Copies will be provided upon receipt of payment as provided in subsection (2) of this rule, except that when providing the inmate a copy of the requested information would jeopardize either the health, safety, security, custody of the inmate or of other inmates; or the safety of any officer, employee, or other person at the correctional institution or a person responsible for the transporting of the inmate, no copies shall be provided. A denial of copies on this basis shall not be subject to review under subparagraph (b)8. above.~~

(2) No change.

(3) The following records or information contained in department files shall be confidential and shall be released for inspection or duplication only as authorized in this rule or in Rule 33-401.701, F.A.C.:

(a) Medical reports, opinions, memoranda, charts or any other medical record of an inmate or offender, including dental and medical classification reports as well as clinical drug treatment and assessment records; letters, memoranda or other documents containing opinions or reports on the description, treatment, diagnosis or prognosis of the medical or mental condition of an inmate or offender; the psychological screening reports contained in the admission summary; the psychological and psychiatric evaluations and reports on inmates or offenders; health screening reports; Mentally Disordered Sex Offender Status Reports. Other persons may review medical records only when necessary to ensure that the inmate's or offender's overall health care needs are met, or upon a specific written authorization from the inmate or offender whose

records are to be reviewed, or as provided by law. If a request for inmate or offender medical records is submitted upon consent or authorization given by the patient inmate or offender, Form DC4-711B, the department's Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information, ~~Form DC4-711B~~, or a legally approved, HIPAA compliant release of protected health information form from another governmental agency shall be utilized in accordance with Rule 33-401.701, F.A.C. Form DC4-711B is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is November 27, 2007. Offenders under supervision, or previously under supervision, who desire information from their own records, shall be referred to the agency or office originating the report or document to obtain such information.

(b) through (8) No change.

~~(9) Any information, whether recorded or not, concerning the identity, diagnosis, prognosis or treatment of any inmate or offender which is maintained in connection with the performance of any alcohol or drug abuse prevention or treatment function shall be confidential and shall be disclosed only as follows:~~

~~(a) With the prior written consent of the inmate or offender. The written consent shall include the following information:~~

~~1. The specific name or general designation of the program or person permitted to make the disclosure;~~

~~2. The name or title of the individual or the name of the organization to which disclosure is to be made;~~

~~3. The name of the inmate or offender;~~

~~4. The purpose of the disclosure;~~

~~5. How much and what kind of information is to be disclosed;~~

~~6. The signature of the inmate or offender; or, when required for an inmate or offender who is incompetent or deceased, the signature of a person authorized to sign in lieu of the inmate or offender;~~

~~7. The date on which the consent is signed;~~

~~8. A statement that the consent is subject to revocation at any time except to the extent that the program or person which is to make the disclosure has already acted in reliance on it.~~

~~9. The date, event, or condition upon which the consent will expire if not revoked before. This date, event, or condition must ensure that the consent will last no longer than reasonably necessary to serve the purpose for which it is given.~~

~~If a request for inmate medical records is submitted upon consent given by the patient inmate/offender, the department's Consent and Authorization for Use and Disclosure, Inspection and Release of Confidential Information, Form DC4-711B, or~~

a legally approved, HIPAA compliant release of protected health information form from another governmental agency shall be utilized in order to obtain medical records held by the department.

(b) Pursuant to 42 C.F.R. Part 2, the department is authorized to disclose information about an inmate or offender to those persons within the criminal justice system who have made participation in the program a condition of the disposition of any criminal proceedings against the inmate or offender or of the inmate or offender's parole or other release from custody if:

1. The disclosure is made only to those individuals within the criminal justice system who have a need for the information in connection with their duty to monitor the inmate or offender's progress; and

2. The inmate or offender has signed Form DC4-711B meeting the requirements of paragraph (9)(a) except for the revocation provision in subparagraph (9)(a)8. This written consent shall state the period during which it remains in effect. This period shall be reasonable, taking into account:

a. The anticipated length of the treatment;

b. The type of criminal proceeding involved, the need for the information in connection with the final disposition of that proceeding, and when the final disposition will occur; and

c. Such other factors as the program, the inmate or offender, and the persons who will receive the disclosure consider pertinent. The written consent shall state that it is revocable upon the passage of a specified amount of time or the occurrence of a specified, ascertainable event. The time or occurrence upon which consent becomes revocable shall be no later than the final disposition of the action in connection with which consent was given.

(c) A disclosure may not be made on the basis of a consent which:

1. Has expired;

2. On its face substantially fails to conform to any of the requirements set forth in paragraph (9)(a) above;

3. Is known to have been revoked; or

4. Is known, or through a reasonable effort could be known, by the person holding the records to be materially false.

(d) Each disclosure made with the inmate or offender written consent shall be accompanied by the following written statement:

This information has been disclosed to you from records protected by federal confidentiality rules (42 C.F.R. Part 2). The federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 C.F.R. Part 2. A general authorization for the release of medical or other

information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

(e) Whether or not the inmate or offender has given written consent, 42 C.F.R. Part 2 permits disclosure of information as follows:

1. To medical personnel to the extent necessary to meet a medical emergency and for continuity of care;

2. To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel shall not identify, directly or indirectly, any individual inmate or offender in any report of such research, audit, or evaluation, or otherwise disclose inmate or offender identities in any manner.

3. To communicate within a program or between a program and an entity having direct administrative control over that program;

4. To law enforcement officers concerning crimes on program premises or against program personnel, or when a threat to commit such a crime has been made;

5. Reports of suspected child abuse and neglect; and

6. If authorized by a court order.

(10) Each employee of the Department of Corrections shall maintain as confidential all medical and mental health, including substance abuse information, regarding any inmate or offender that the employee obtains in conjunction with his or her duties and responsibilities, and shall not disseminate the information or discuss the medical, mental health or substance abuse condition of the inmate or offender with any person except persons directly necessary to the performance of the employee's duties and responsibilities. An employee who has been designated as a member of the healthcare transfer team or is part of a mental health or substance abuse treatment team shall not disseminate inmate medical or substance abuse information or discuss the medical or mental health or substance abuse condition of an inmate with any person except other members of the healthcare transfer team, medical, mental health or substance abuse staff, upper level management at the institution or facility level, regional level and central office level, inspectors from the Inspector General's Office, or department attorneys. Breach of this confidentiality shall subject the employee to disciplinary action. Each employee shall acknowledge receipt and review of Form DC2-813, Acknowledgement of Responsibility to Maintain Confidentiality of Medical Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC2-813 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 2-9-06.

~~(11) Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall maintain as confidential all health or substance abuse information that he sees or hears while performing his duties and responsibilities, and shall not disseminate the information or discuss the medical or substance abuse information with any person except health care staff or substance abuse program staff. Failure to keep health or substance abuse information confidential and private shall subject the inmate to disciplinary action. Each inmate assigned as an inmate worker, inmate assistant, substance abuse peer facilitator, or other assignment involving possible contact with health or substance abuse information about other inmates shall acknowledge receipt and review of Form DC1-206, Inmate Acknowledgement of Responsibility to Maintain Confidentiality of Health or Substance Abuse Information, indicating that he understands the medical and substance abuse confidentiality requirements. Form DC1-206 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is 7-8-03.~~

Rulemaking Specific Authority 20.315, 944.09, 945.10 FS. Law Implemented 119.07, 944.09, 945.10, 945.25 FS., 42-USCS 290 ee 3, 45-CFR Parts 160 and 164. History-New 10-8-76, Amended 6-10-85, Formerly 33-6.06, Amended 1-12-89, 7-21-91, 9-30-91, 6-2-92, 8-4-93, 6-12-96, 10-15-97, 6-29-98, Formerly 33-6.006, Amended 9-19-00, 7-8-03, 2-9-06, 11-27-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dean Aufderheide, Mental Health Services Director
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter McNeil, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 25, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-4.230
RULE TITLE: Physician Services

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-4.230, F.A.C., is to incorporate by reference the Florida Medicaid Physician Services Coverage and Limitations Handbook, January 2010. The effect of the update will provide for new Medicaid policy that allows coverage for intrathecal baclofen therapy (ITB) used to manage severe spasticity of spinal cord or cerebral origin.

SUMMARY: It will include limitations of coverage, prior authorization requirements for the ITB infusion pump, and conditions of payment for this device.

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

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.905, 409.907, 409.908, 409.9081, 409.912, 409.913 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday, June 1, 2010, 11:00 a.m. – 12:00 Noon

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least hours before the workshop/meeting by contacting: Alyssa Anderson at the Bureau of Medicaid Services, (850)412-4227. 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: Alyssa Anderson, Medicaid Services, 2727 Mahan Drive, Mail Stop 20, Tallahassee, Florida 32308-5407, telephone: (850)412-4227, e-mail: alyssa.anderson@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.230 Physician Services.

(1) No change.

(2) All physician services providers enrolled in the Medicaid program must be in compliance with the Florida Medicaid Physician Services Coverage and Limitations Handbook, ~~January 2010~~ ~~January 2007, errata January 2007, updated January 2007 and May 2007,~~ which is incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, CMS-1500, which is incorporated by reference in Rule 59G-4.001, F.A.C. Both handbooks are available from the Medicaid fiscal agent's website at www.mymedicaid-florida.com ~~http://floridamedicaid.aes-inc.com~~. Click on **Public Information for Providers**, **Provider Support**, and then on **Provider Handbooks**. Paper copies of the handbooks may be obtained by calling Provider Enrollment at (800)377-8216.

(3) through (5) No change.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.907, 409.908, 409.9081, 409.912, 409.913 FS. History–New 1-1-77, Revised 2-1-78, 4-1-78, 1-2-79, 1-1-80, Amended 2-8-82, 3-11-84, Formerly 10C-7.38, Amended 1-10-91, 11-5-92, 1-7-93, Formerly 10C-7.038, Amended 6-29-93, 9-6-93, Formerly 10P-4.230, Amended 6-13-94, 2-9-95, 3-10-96, 5-28-96, 3-18-98, 9-22-98, 8-25-99, 4-23-00, 8-5-01, 2-20-03, 8-5-03, 8-3-04, 8-18-05, 8-31-05, 10-26-06, 2-11-07, 5-7-07, 7-2-07, 11-15-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Alyssa Anderson

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-5.010 RULE TITLE: Provider Enrollment

PURPOSE AND EFFECT: The purpose of the amendment to Rule 59G-5.010, F.A.C., is to incorporate by reference The Florida Medicaid Enrollment Application, April 2010. The amendment will update the fiscal agent information, clarify background screening procedures and associated fees, and simplify the overall enrollment process.

SUMMARY: The amendment to Rule 59G-5.010, F.A.C., provides for a revised Medicaid Provider Enrollment application which is aligned with the new Florida Medicaid Management Information System (FMMIS).

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

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.907, 409.9071, 409.908, 409.912, 409.913 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Tuesday June 1, 2010, 10:00 a.m. – 11:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by

contacting: Ellen Emenheiser at Medicaid Contract Management, (850)412-3430. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ellen Emenheiser, Medicaid Contract Management, 2562 Executive Center Circle E, Montgomery Building, Suite 100, Tallahassee, Florida 32301, (850)412-3430, e-mail: ellen.emenheiser@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-5.010 Provider Enrollment.

(1) Unless otherwise specified in Chapter 59G-4, F.A.C., all providers and billing agents are required to enroll in the Medicaid program and submit a completed Florida Medicaid Provider Enrollment Application, AHCA Form 2200-0003 (April 2010) ~~(December 2004)~~. AHCA Form 2200-0003 is the application to be completed by applicants and is incorporated by reference in Rule 59G-5.010, F.A.C. AHCA Form 2200-0003 is available from the Medicaid fiscal agent's Web Portal Portal@http://mymedicaid-florida.com. Click on Public Information for Providers, then on Provider Support, and then on Enrollment, and incorporated in this rule by reference. ~~AHCA Form 2200-0003 is the application to be completed by applicants.~~

(2) through (5) No change.

(6) ~~Enrollment of a Medicaid provider applicant is effective no earlier than the date of the approval of the provider application.~~ "Approved application" means an accurately and fully completed application with all the requirements which includes background screenings and onsite inspections resolved and completed with approval of the agency or its designee.

Rulemaking Specific Authority 409.919 FS. Law Implemented 409.902, 409.907, 409.9071, 409.908, 409.912, 409.913 FS. History–New 9-22-93, Formerly 10P-5.010, Amended 7-8-97, 9-8-98, 7-5-99, 7-10-00, 5-7-03, 7-7-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ellen Emenheiser

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-6.020 RULE TITLE: Payment Methodology for Inpatient Hospital Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan effective January 1, 2010.

The 2009-10 General Appropriations Act, Senate Bill 2600, Specific Appropriation 188, authorized a \$35,478,571 inpatient hospital rate reduction, based upon the calculation of the unit cost. If the unit cost was equal to or less than the unit cost used in establishing the budget, no rate reduction would be necessary. After calculating the unit cost for the July 1, 2009 inpatient hospital rates, it was determined that no rate reduction was necessary for the July 1, 2009 rate semester.

For the January 1, 2010, rate semester, the unit cost was recalculated and it was determined that a rate reduction would be necessary. Effective January 1, 2010, the Agency shall implement a recurring methodology in the Title XIX Inpatient Hospital Reimbursement Plan to achieve a \$9,635,295 rate reduction. In establishing rates through the normal process, prior to including this reduction, if the unit cost is equal to or less than the unit cost used in establishing the budget, then no additional reduction in rates is necessary. In establishing rates through the normal process, prior to including this reduction, if the unit cost is greater than the unit cost used in establishing the budget, then rates shall be reduced by an amount required to achieve this reduction, but shall not be reduced below the unit cost used in establishing the budget.

SUMMARY: Effective January 1, 2010, the Agency shall implement a recurring methodology in the Title XIX Inpatient Hospital Reimbursement Plan to achieve a \$9,635,295 rate reduction.

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

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908, 409.911, 409.9112, 409.9113, 409.9115, 409.9116, 409.9117 409.9118, 409.9119 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 3, 2010, 9:00 a.m. – 10:00 a.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308, (850)412-4077 or edwin.stephens@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version XXVI, Effective Date ~~January March 1, 2010~~ ~~March 1, 2008~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Rulemaking Authority 409.919 FS. Law Implemented 409.908, 409.9117 FS. History—New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00, 3-31-02, 1-8-03, 7-3-03, 2-1-04, 2-16-04, 2-17-04, 8-10-04, 10-12-04, 4-19-06, 12-11-06, 3-4-08, 6-10-08, 1-11-09, 3-24-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edwin Stephens

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Roberta K. Bradford

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 20, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2010

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE NO.: 59G-9.070

RULE TITLE: Administrative Sanctions on Providers, Entities, and Persons

PURPOSE AND EFFECT: The 2009 Legislature passed Senate Bill 1986 which revised laws within the jurisdiction of the Agency for Health Care Administration (“AHCA” or “Agency”). These statutory revisions will have an effect upon administrative sanctions and disincentives imposed upon a provider, entity, or person for each violation of any Medicaid – related law. In pertinent summary, Section 409.913, F.S., as revised during the 2009 Legislative session, requires the Agency to deny payment or require repayment for Medicaid services under certain circumstances; requires the Agency to immediately terminate a Medicaid provider’s participation in the Medicaid program as a result of certain adjudications against the provider or certain affiliated persons; requires the

Agency to suspend or terminate a Medicaid provider's participation in the Medicaid program if the provider or certain affiliated persons participating in the Medicaid program have been suspended or terminated by the Federal Government or another state; provides that a provider is subject to sanctions for violations of law as the result of actions or inactions of the provider or certain affiliated persons; requires that the Agency provide notice of certain administrative sanctions to other regulatory agencies within a specified period; requires the Agency to withhold or deny Medicaid payments under certain circumstances; requires the Agency to terminate a provider's participation in the Medicaid program if the provider fails to repay certain overpayments from the Medicaid program; requires the Agency to post a list on its website of Medicaid providers and affiliated persons of providers who have been terminated or sanctioned; and requires the Agency to take certain actions to improve the prevention and detection of health care fraud.

SUMMARY: Rule modification is required to fully implement the revised and expanded statutory provisions, as summarized above. Additionally, to assist the Agency and the Legislature achieve their intended and mutual purpose of reducing and preventing fraud and abuse of the Medicaid program, it is necessary to modify the monetary sanctions, as a deterrent for violating laws governing the Medicaid program.

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

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

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.907, 409.913, 409.9131, 409.920, 812.035 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: June 1, 2010, 2:00 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Art Williams, Medicaid Program Integrity, 2727 Mahan Drive, Building 3, Mail Stop 6, Tallahassee, Florida 32308-5407, (850)412-4634, or by email at williasa@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 59G-9.070 follows. See Florida Administrative Code for present text.)

59G-9.070 Administrative Sanctions on Providers, Entities and Persons.

(1) PURPOSE: This rule provides notice of administrative sanctions imposed upon a provider, entity, or person for each violation of any Medicaid-related law.

(2) APPLYING AND REPORTING SANCTIONS: Notice of the application of sanctions will be by way of written correspondence and the final notice shall be the point of entry for administrative proceedings pursuant to Chapter 120, F.S. Satisfaction of an overpayment following a preliminary audit report will not avoid the application of sanctions at a final audit report unless the Agency offers amnesty pursuant to Section 409.912(25)(e), F.S. The Agency shall report all sanctions imposed upon any provider, entity, or person, or any principal, officer, director, agent, managing employee, or affiliated person of a provider who is regulated by another state entity, regardless of whether enrolled in the Medicaid program, to that other state entity. Sanctions are imposed upon the Final Order being filed with the Agency Clerk.

(3) DEFINITIONS:

(a) "Audit report" is the written notice of determination that a violation of Medicaid laws has occurred, and where the violation results in an overpayment, it also shows the calculation of overpayments.

(b) "Claim" is as defined in Section 409.901(6), F.S., and includes the total monthly payment to a provider for per diem payments and the payment of a capitation rate for a Medicaid recipient.

(c) "Contemporaneous" records means records created at the time the goods or services were provided unless otherwise specified in Medicaid laws or the laws that govern the provider's profession.

(d) A "corrective action plan" is an activity to address the specific areas of non-compliance determined by the Agency, to reduce the risk of future non-compliance.

(e) An "erroneous claim" is an application for payment from the Medicaid program or its fiscal agent that contains an inaccuracy.

(f) "Fine" is a monetary sanction. The amount of a fine shall be as set forth within this rule.

(g) A "false claim" is as provided for in the Florida False Claims Act set forth in Chapter 68, F.S.

(h) "Offense" means the occurrence of one or more violation as set forth in a final audit report. For purposes of the progressive nature of sanctions under this rule, offenses are characterized as "first", "second", "third", or "subsequent" offenses; subsequent offenses are any occurrences after a third offense.

(i) “Patient Record” means the patient’s medical record, including all documentation maintained by the provider, entity, or person to document furnishing, ordering, or authorizing goods or services, and includes the documentation in multiple files if the practitioner maintains separate files for different types of documentation.

(j) “Patient Record Request” means a request by the Agency for Medicaid-related documentation or information. Such requests are not limited to Agency audits to determine overpayments or violations and are not limited to enrolled Medicaid providers. Each requesting document constitutes a single Patient Record Request.

(k) “Pattern of erroneous claims” is defined as when more than 5% of the claims reviewed are found to contain an error or the reimbursements for the claims found to contain an error are more than 5% of the total reimbursement for the claims reviewed.

(l) “Provider” is as defined in Section 409.901(17), F.S., and includes all of the provider’s locations that have the same base provider number (with separate locator codes).

(m) “Provider Group” is more than one individual provider practicing under the same tax identification number, enrolled in the Medicaid program as a group for billing purposes, and having one or more locations.

(n) “Sanction” shall be any monetary or non-monetary disincentive imposed pursuant to this rule; a monetary sanction may be referred to as a “fine.”

(o) “Suspension” is a one-year preclusion from furnishing, supervising a person who is furnishing, or causing a person to furnish goods or services that result in a claim for payment to the Medicaid program. Suspension applies to any person, corporation, partnership, association, clinic, group, or other entity, whether or not enrolled in the Medicaid program.

(p) “Termination” is a twenty-year preclusion from furnishing, supervising a person who is furnishing, or causing a person to furnish goods or services that result in a claim for payment to the Medicaid program. Termination applies to any person, corporation, partnership, association, clinic, group, or other entity, whether or not enrolled in the Medicaid program. However, if termination is imposed against a provider enrolled in the Medicaid program, the provider agreement shall also be terminated. A termination pursuant to this rule is also called a “for cause” or “with cause” termination.

(q) “Violation” means any omission or act performed by a provider, entity, or person that is contrary to Medicaid laws, the laws that govern the provider’s profession, or the Medicaid provider agreement.

1. For purposes of this rule, each day that an ongoing violation continues and each instance of an act or omission contrary to a Medicaid law, a law that governs the provider’s profession or the Medicaid provider agreement shall be considered a “separate violation”.

2. For purposes of deterring first, second, third or subsequent offenses under this rule, prior Agency actions during the preceding five years will be counted where the provider, entity, or person was deemed to have committed the same violation.

3. The failure to comply with a corrective action plan constitutes a violation and is an ongoing violation for each day following the deadline for submission of the corrective action plan that the failure continues.

4. For purposes of determining a violation regarding including an unallowed cost in a cost report (paragraph (7)(k) and Section 409.913(15)(k), F.S.), a violation has not occurred if the unallowed cost or costs are the subject of an administrative hearing pursuant to Chapter 120, F.S.

5. For purposes of violations under paragraph (7)(n) of this rule regarding purchase shortages (as opposed to shortages of time), each good found to be short, by units of each type of goods, such as each tablet of a particular drug, is a violation.

6. For purposes of violations under paragraph (7)(q) of this rule (generally, non-payment on a payment plan) a second, third, or subsequent offense occurs when there has been a prior violation on any repayment agreement.

(4) LIMITS ON SANCTIONS.

(a) Where a sanction is applied for violations of Medicaid laws (under paragraph (7)(e) of this rule), for a pattern of erroneous claims (under paragraph (7)(h) of this rule), or shortages of goods (under paragraph (7)(n) of this rule) and the violations are a “first offense” as set forth in this rule, if the cumulative amount of the fine to be imposed as a result of the violations giving rise to that overpayment exceeds twenty-percent of the amount of the overpayment, the fine shall be adjusted to twenty-percent of the amount of the overpayment.

(b) Where a sanction is applied for violations of Medicaid laws (under paragraph (7)(e) of this rule), for a pattern of erroneous claims (under paragraph (7)(h) of this rule), or shortages of goods (under paragraph (7)(n) of this rule) and the violations are a “second offense” as set forth in this rule, if the cumulative amount of the fine to be imposed as a result of the violations giving rise to that overpayment exceeds forty-percent of the amount of the overpayment, the fine shall be adjusted to forty-percent of the amount of the overpayment.

(c) Where a sanction is applied for violations of Medicaid laws (under paragraph (7)(e) of this rule), for a pattern of erroneous claims (under paragraph (7)(h) of this rule), or shortages of goods (under paragraph (7)(n) of this rule) and the violations are a “third” or “subsequent” offense, if the cumulative amount of the fine for violations giving rise to the overpayment exceeds fifty-percent of the amount of the overpayment, the fine shall be adjusted to fifty-percent of the amount of the overpayment.

(d) Where the audit report does not include an overpayment determination, it only applies a sanction, and where a fine is assessed for violations that are a “first offense” as set forth in this rule, the cumulative amount of the fine shall not exceed \$20,000; where the violations are a “second offense” as set forth in this rule, the cumulative amount of the fine shall not exceed \$50,000.

(e) Where a sanction would apply pursuant to this rule, no sanction will be imposed if the Agency has instituted an amnesty pursuant to Section 409.913(25)(e), F.S.

(5) MANDATORY TERMINATION OR SUSPENSION: Whenever the Agency is required to terminate or suspend participation in the Medicaid program and the required period of time for the exclusion exceeds one year, the sanction of termination shall apply.

(6) ADDITIONAL REQUIREMENTS REGARDING SUSPENSION AND TERMINATION:

(a) For purposes of this rule a “suspension” precludes participation for one year, or such shorter period of time as is set forth in this rule. The suspension period begins from the date of the Final Order that imposes the Agency action unless the suspension is an “immediate suspension”. An immediate suspension period begins from the date of notice of the suspension.

1. To resume participation following the suspension period, a written request must be submitted to the Agency, Bureau of Medicaid Program Integrity, seeking to be reinstated in the Medicaid program. The request must include a copy of the notice of suspension, and a statement regarding whether the violation(s) that brought rise to the suspension have been remedied. If the provider, entity, or person was not enrolled in the Medicaid program at the time of the suspension, the request must also include a complete and accurate provider enrollment application, even if the person or entity seeks only to prescribe or otherwise order or authorize goods or services, and does not seek to directly furnish goods or services to Medicaid recipient; the application will be processed, and accepted or denied in the standard course of business by the Agency.

2. Participation in the Medicaid program may not resume until written confirmation is issued from the Agency indicating that participation has been authorized. Where a Medicaid provider application is required, authorization is at the point where the person or entity is enrolled as a provider; if the application is not granted, the person or entity may not resume participation.

(b) For purposes of this rule, a “termination” shall preclude participation in the Medicaid program for twenty years from the date of the Agency action. The termination period begins from the date of the Final Order that imposes the Agency action unless the termination is an “immediate termination”. An immediate termination period begins from the date of notice of the termination.

1. To resume participation, the provider, entity, or person must submit a complete and accurate provider enrollment application, which will be processed, and accepted or denied in the standard course of business by the Agency. In addition to the application, the provider, entity or person must include a copy of the notice of termination issued by the Agency, and a written acknowledgement regarding whether the violation(s) that brought rise to the termination has been remedied.

(7) SANCTIONS: In addition to the recoupment of the overpayment, if any, the Agency will impose sanctions as outlined in this subsection. Except when the Secretary of the Agency determines not to impose a sanction, pursuant to Section 409.913(16)(j), F.S., sanctions shall be imposed as follows:

(a) A required license is not renewed, or is revoked, suspended, or terminated: For a first offense of suspension, an immediate suspension for the duration of the licensure suspension; for all other violations, including suspension after a first offense, termination. [Section 409.913(15)(a), F.S.]:

(b) For failure to make available or refused access to Medicaid-related records: For a first offense, \$2,500 fine per record request or instance of refused access and suspension until the records are made available or access is granted; if after 10 days the violation continues, an additional \$1,000 fine per day; and if after 30 days the violation remains ongoing, termination. For a second offense, \$5,000 fine per record request or instance of refused access and suspension until the records are made available or access is granted; if after 10 days the violation continues, an additional \$2,000 fine per day; and if after 30 days the violation remains ongoing termination. For a third or subsequent offense, termination. [Section 409.913(15)(b), F.S.]:

(c) For failure to make available or furnish all Medicaid-related records, to be used in determining whether and what amount should have or should be reimbursed: For a first offense, \$2,500 fine per record request and suspension until the records are made available; if after 10 days the violation continues, an additional \$1,000 fine per day; and, if after 30 days the violation remains ongoing, termination. For a second offense, \$5,000 fine per record request and suspension until the records are made available; if after 10 days the violation continues, an additional \$2,000 fine per day; and if after 30 days the violation remains ongoing, termination. For a third or subsequent offense, termination. [Section 409.913(15)(c), F.S.]:

(d) For failure to maintain contemporaneous documentation: For a first offense, \$250 fine per claim; however, if there are more than two claims for the same patient without records, or more than two patients for which no records are maintained, \$2,500 fine per patient for which there are any claims without records. For a second offense, \$500 fine per claim; however, if there are more than two claims for the same patient without records, or more than two patients for

which no records are maintained, \$5,000 fine per patient for which there are any claims without records. For a third or subsequent offense, termination. [Section 409.913(15)(d), F.S.];

(e) For failure to comply with the provisions of the Medicaid laws: For a first offense, \$1,000 fine per claim found to be in violation. For a second offense, \$2,500 fine per claim found to be in violation. For a third or subsequent offense, \$5,000 fine per claim found to be in violation. [Section 409.913(15)(e), F.S.];

(f) For furnishing, authorizing, or ordering goods or services that are inappropriate, unnecessary, excessive, of inferior quality, or harmful: For a first offense, \$1,000 fine, however, if there is more than one instance, \$5,000 fine per instance; For a second offense, \$5,000 fine, however, if there is more than one instance, \$5,000 fine per instance and suspension; For a third and subsequent offense, \$5,000 fine per instance and suspension, however, if there is more than one instance, termination. [Section 409.913(15)(f), F.S.];

(g) For a pattern of failure to provide necessary care: For a first offense, \$5,000 fine for each instance and suspension. For a second or subsequent offense, termination. [Section 409.913(15)(g), F.S.];

(h) For false or a pattern of erroneous Medicaid claims:

1. For false claims, termination.

2. For a first offense of a pattern of erroneous claims, \$1,000 fine per claim found to be erroneous. For a second offense of a pattern of erroneous claims, \$2,500 fine per claim found to be erroneous. For a third or subsequent offense of a pattern of erroneous claims, \$5,000 fine per claim found to be erroneous. [Section 409.913(15)(h), F.S.];

(i) For an application, renewal, prior authorization, drug exception request, or cost report with materially false or materially incorrect information: For a first offense, \$10,000 fine for each instance of false or incorrect information, and suspension. For a second and subsequent offense, termination. [Section 409.913(15)(i), F.S.];

(j) For improperly collecting or billing a recipient: For a first offense, \$5,000 fine per instance and suspension; for a second and subsequent offense, termination. [Section 409.913(15)(j), F.S.];

(k) For, including costs in a cost report that are not authorized under the Medicaid state plan or that were disallowed during the audit process, after having been advised that the costs were not allowable: For a first offense, \$5,000 fine; however, if after 30 days the violation continues, suspension and \$1,000 fine per day that the violation continues. For a second offense \$5,000 fine; however, if after 30 days the violation continues, suspension and \$5,000 fine per day that the violation continues. For a third and subsequent offense, termination. [Section 409.913(15)(k), F.S.];

(l) For being charged with specified actions: Immediate suspension for the duration of the indictment and, if convicted, termination. [Section 409.913(15)(l), F.S.];

(m) For negligently ordering or prescribing which resulted in the patient's injury or death: immediate termination. [Section 409.913(15)(m), F.S.];

(n) For shortages of time: For a first offense, \$5,000 fine per day found to have shortages, not to exceed the total Medicaid reimbursement for the day(s) with shortages; For a second offense, \$5,000 fine per day found to have shortages, not to exceed two-times the total Medicaid reimbursement for the day(s) with shortages; For a third or subsequent offense, termination. For shortages of goods: For a first offense, \$1,000 fine per type of good found to be short. For a second offense, \$2,500 fine per type of good found to be short. For a third or subsequent offense, \$5,000 fine per type of good found to be short. [Section 409.913(15)(n), F.S.];

(o) For failure to comply with the notice and reporting requirements of Section 409.907, F.S.: For a first offense, \$2,500 fine. For a second offense: \$5,000 fine. For a third and subsequent offense: termination. [Section 409.913(15)(o), F.S.];

(p) For a finding of patient abuse or neglect, or any act prohibited by Section 409.920, F.S.: Immediate suspension, and if convicted: termination. [Section 409.913(15)(p), F.S.];

(q) For failure to comply with any of the terms of a previously agreed-upon repayment schedule: For a first offense: \$5,000 fine and suspension until the violation is corrected; if after 30 days the violation continues: termination. For a second offense: \$5,000 fine and suspension until the violation is corrected, and, if the violation is not corrected within 5 calendar days, an additional \$1,000 fine per day for which the violation continues; if after 30 days the violation continues: termination. For a third and subsequent offense: termination. [Sections 409.913(15)(q) and 409.913(25)(c), F.S.];

(r) For violations under Sections 409.913(13), F.S. (generally, criminal offenses related to the delivery of health care, the practice of the provider's profession, and patient abuse or neglect), the agency shall consider the violations identified in Sections 435.04 and 408.809, F.S., as related to the provider's profession, and shall impose immediate termination.

(s) For non-payment or partial payment where monies are owed to the Agency, and failure to enter into a repayment agreement, in accordance with Sections 409.913(25)(c) and 409.913(30), F.S., the Agency shall impose the sanction of termination.

(8) ADDITIONAL SANCTIONS FOR MULTIPLE VIOLATIONS UNDER THE SANCTION RULE.

(a) In the event the Agency issues an audit report wherein it has determined that violations of more than one provision of this rule (the sanction rule) have been committed, the Agency

shall cumulatively apply the sanction associated with each section; if the violations invoke three or more provisions of this rule (the sanction rule), a corrective action plan will also be required.

(9) THE FOLLOWING TABLE SUMMARIZES THE SANCTIONS SET FORTH IN SUBSECTION (7) ABOVE:

<u>Violation Type/ Provision of Rule</u>	<u>1st offense</u>	<u>2nd offense</u>	<u>3rd and subsequent offense</u>
<u>(7)(a) Required license has not been renewed, or has been revoked, suspended, or terminated. [§ 409.913(15)(a), F.S.];</u>	<u>For licensure suspension: immediate suspension; for all other violations, termination.</u>	<u>Termination.</u>	<u>Termination.</u>
<u>(7)(b) Failure to make available or refuse access to Medicaid-related records. [Section 409.913(15)(b), F.S.];</u>	<u>A \$2,500 fine per record request or refused access; and suspension until the records are made available or access granted; if after 10 days the violation continues, an additional \$1,000 fine per day; if after 30 days, the violation continues, termination.</u>	<u>A \$5,000 fine per record request or refused access and suspension until the records are made available or access granted; if after 10 days the violation continues, an additional \$2,000 fine per day; if after 30 days, the violation continues, termination.</u>	<u>Termination.</u>
<u>(7)(c) Failure to furnish Medicaid-related records to determine whether payments are or were due. [Section 409.913(15)(c), F.S.];</u>	<u>\$2,500 fine per record request and suspension until the records are made available; if after 10 days, the violation continues, an additional \$2,000 fine per day; if after 30 days, the violation continues, termination.</u>	<u>A \$5,000 fine per record request; if after 30 days, the provider is still in violation, suspension until the records are made available; if after 90 days, the provider is still in violation, termination.</u>	<u>Termination.</u>
<u>(7)(d) Failure to maintain contemporaneous Medicaid-related records. [Section 409.913(15)(d), F.S.];</u>	<u>\$250 fine per claim found in violation; if there are more than two claims without records for the same patient or more than two patients without records, \$2,500 fine per patient for which there are any violations.</u>	<u>A \$500 fine per claim found in violation; if there are more than two claims without records for the same patient or more than two patients without records, \$5,000 fine per patient for which there are any violations.</u>	<u>Termination.</u>
<u>(7)(e) Failure to comply with the provisions of Medicaid laws. [Section 409.913(15)(e), F.S.];</u>	<u>\$1,000 per claim found in violation.</u>	<u>\$2,500 per claim found in violation.</u>	<u>\$5,000 per claim found in violation.</u>
<u>(7)(f) Furnishing, or authorizing, or ordering goods or services that are inappropriate, unnecessary or excessive, of inferior quality, or that are harmful. [Section 409.913(15)(f), F.S.];</u>	<u>\$1,000 fine; however, if there is more than one instance, \$5,000 fine for each instance.</u>	<u>\$5,000 fine; however, if there is more than one instance, \$5,000 fine for each instance and suspension.</u>	<u>\$5,000 fine for each instance and suspension; however, if there is more than one instance, termination.</u>

<p><u>(7)(g) A pattern of failure to provide medically necessary care.</u> [Section 409.913(15)(g), F.S.];</p>	<p><u>\$5,000 fine for each instance, a Corrective Action Plan and suspension.</u></p>	<p><u>Termination.</u></p>	<p><u>Termination.</u></p>
<p><u>(7)(h) False or pattern of erroneous claims.</u> [Section 409.913(15)(h), F.S.];</p>	<p><u>For false claims: Termination. For a pattern of erroneous claims: a \$1,000 fine per erroneous claim.</u></p>	<p><u>For false claims: termination. For a pattern of erroneous claims: A \$2,500 fine per erroneous claim.</u></p>	<p><u>Termination.</u></p>
<p><u>(7)(i) Certain documents containing materially false or materially incorrect information.</u> [Section 409.913(15)(i), F.S.];</p>	<p><u>\$10,000 fine for each instance and suspension.</u></p>	<p><u>Termination.</u></p>	<p><u>Termination.</u></p>
<p><u>(7)(j) Collecting or billing a recipient improperly.</u> [Section 409.913(15)(j), F.S.];</p>	<p><u>A \$5,000 fine for each instance and suspension.</u></p>	<p><u>Termination.</u></p>	<p><u>Termination.</u></p>
<p><u>(7)(k) Including unallowable costs after having been advised.</u> [Section 409.913(15)(k), F.S.];</p>	<p><u>\$5,000 fine for each unallowable cost and, if after 30 days the cost report has not been amended to remove the unallowable cost, \$1,000 a day until the cost report is corrected.</u></p>	<p><u>\$5,000 fine for each unallowable cost; and, if after 30 days the cost report has not been amended to remove the unallowable cost, \$5,000 a day until the cost report is corrected. If after 90 days the cost report has not been amended to remove the unallowable cost, suspension.</u></p>	<p><u>Termination.</u></p>
<p><u>(7)(l) Being charged with specified actions.</u> [Section 409.913(15)(l), F.S.];</p>	<p><u>Immediate suspension for the duration of the indictment. If the provider is found guilty, termination.</u></p>	<p><u>Immediate suspension for the duration of the indictment. If the provider is found guilty, termination.</u></p>	
<p><u>(7)(m) Negligently ordering or prescribing, which resulted in the patient's injury or death.</u> [Section 409.913(15)(m), F.S.];</p>	<p><u>Immediate termination.</u></p>	<p><u>Immediate termination.</u></p>	<p><u>Immediate termination.</u></p>
<p><u>(7)(n) Shortages of goods or time.</u> [Section 409.913(15)(n), F.S.];</p>	<p><u>For shortages of time: \$5,000 per day with time shortages, not to exceed the total Medicaid reimbursement for the day with time shortages. For shortages of goods: \$1,000 per type of good found to be short.</u></p>	<p><u>For shortages of time: \$5,000 per day with time shortages, not to exceed twice the total Medicaid reimbursement for the day with time shortages. For shortages of goods: \$2,500 per type of good found to be short.</u></p>	<p><u>Termination.</u></p>
<p><u>(7)(o) Failure to comply with notice and reporting requirements.</u> [Section 409.913(15)(o), F.S.];</p>	<p><u>\$2,500 fine.</u></p>	<p><u>A \$5,000 fine.</u></p>	<p><u>Termination.</u></p>

<u>(7)(p) Patient abuse or neglect Section 409.920, F.S. [Section 409.913(15)(p), F.S.];</u>	<u>Immediate suspension, a Corrective Action Plan, and if convicted, termination.</u>	<u>Termination.</u>	<u>Termination.</u>
<u>(7)(q) Failure to comply with an agreed-upon repayment schedule. [Section 409.913(15)(q), F.S.] and 409.913(25)(c), F.S.</u>	<u>\$5,000 fine; and, suspension; until the violation is corrected; where the non-compliance continues for more than 30 days, termination.</u>	<u>\$5,000 fine; and, suspension until the violation is corrected; where the violation is not corrected within 5 calendar days, an additional \$1,000 fine per day of continued non-compliance and, where non-compliance continues for more than 30 days, termination.</u>	<u>Termination.</u>
<u>(7)(r) Violations under Section 409.913(13), F.S.];</u>	<u>Immediate termination.</u>	<u>Immediate termination.</u>	<u>Termination.</u>
<u>(7)(s) Failure to repay and failure to enter into an agreement to repay. [Section 409.913(25)(c) and 409.913(30), F.S.];</u>	<u>Termination.</u>	<u>Termination.</u>	<u>Termination.</u>

Rulemaking Authority 409.919 FS. Law Implemented 409.907, 409.913, 409.9131, 409.920 FS. History--New 4-19-05, Amended 4-26-06, 10-29-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Art Williams, Medicaid Program Integrity, 2727 Mahan Drive, Building 3, Mail Stop 6, Tallahassee, Florida 32308-5407, (850)412-4634, or by email at williasa@ahca.myflorida.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Thomas W. Arnold, Secretary, Agency for Health Care Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 15, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 12, 2010

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NOS.: RULE TITLES:
61C-1.001 Definitions
61C-1.004 General Sanitation and Safety Requirements

PURPOSE AND EFFECT: The proposed rule reflects changes made to Chapter 509, F.S., by Laws of Florida Chapters 2008-055 and 2008-134. The proposed rule also provides a general update to ensure accurate and consistent requirements and terms throughout the rule and to improve readability under the plain language initiative.

SUMMARY: The proposed rule addresses changes to Chapter 509, F.S., resulting from Laws of Florida Chapters 2008-055 and 2008-134. The proposed rule also updates specific requirements in the rule for consistency with the 2001 Food

Code, revises definitions, and provides a general update of the rule language to improve readability and ensure accurate and consistent terms throughout the rule.

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

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

RULEMAKING AUTHORITY: 509.032 FS.

LAW IMPLEMENTED: 509.032, 509.215, 509.221 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michelle Comingore, Operations Review Specialist, Division of Hotels and Restaurants, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1012, telephone: (850)488-1133

THE FULL TEXT OF THE PROPOSED RULES IS:

61C-1.001 Definitions.

Except when otherwise defined in this rule, the definitions provided in paragraph 1-201.10(B), Food Code, 2001 *Recommendations of the United States Public Health Service/Food and Drug Administration*, the 2001 *Food Code Errata Sheet* (August 23, 2002), and *Supplement to the 2001 FDA Food Code* (August 29, 2003) shall apply to Chapters 61C-1, 61C-3 and 61C-4, F.A.C. In addition, the following definitions apply to Chapters 61C-1, 61C-3 and 61C-4, F.A.C.:

(1) through (7) No change.

(8) Commissary – ~~A public food service establishment licensed by the division or a food establishment permitted by the Department of Agriculture and Consumer Services, which is utilized by a mobile food dispensing vehicle for the purpose of providing all required support services, including potable water and wastewater disposal, that are not available on the mobile food dispensing vehicle. An approved food service establishment, commercial establishment, where food, containers, or supplies are stored, prepared, or packaged, or where utensils are sanitized for transit to, and sale or service at other locations, or where liquid and solid wastes are disposed, or where potable water is obtained.~~

(9) through (10) No change.

(11) District – The district ~~manager administrator~~ in one of the established district offices of the division, or the district manager's ~~their~~ designee.

(12) through (14) No change.

(15) Food establishment – As utilized in the Food Code, this term shall apply to public lodging establishments and food service establishments as defined in Chapter 509, F.S., according to the context of the applicable rule language.

(16) No change.

(17) Hot water – Hot water means a water temperature of 100 ~~140~~ degrees Fahrenheit or above.

(18) through (19) No change.

(20) Owner – A person, firm or corporation who, or which, owns or controls the premises property.

~~(21) Packaged – Items prepared in a public food service establishment that are bottled, canned, cartoned, bagged, or securely wrapped, and sealed and sold for off premises consumption. Such items customarily sold as “take out” or “to go” orders shall not be considered as packaged items for the purposes of this definition.~~

(21)(22) Potable water – Water satisfactory for drinking, culinary, and domestic purposes meeting quality standards of Chapters 62-550 and 62-555, F.A.C.

(22)(23) Premises – The ~~physical~~ public food service or lodging establishment and the contiguous land or property under the control of the operator. The ~~physical~~ property may include all yards, alleys, driveways, sidewalks, and other exterior portions of the licensed premises.

~~(24) Pre packaged – foods which have been prepared and bottled, canned, cartoned, bagged or securely wrapped in commercial food processing establishments.~~

(23)(25) Railway – Either a railing ~~or~~; a guardrail system of building components located near the open sides of elevated walking surfaces.

(24)(26) Remodel Remodeled – To make any ~~The term remodeled means any~~ change to an existing public food service establishment which affects the sanitation or safety of the establishment.

~~(25)(27)~~ Sewage – Any liquid waste containing chemicals or animal, mineral, or vegetable matter, or in suspension or solution, and may include liquids containing chemicals, in solution. ~~Included in this definition is~~ liquid waste from sinks, bathroom toilet facilities, grinders, garbage containers, dishwashing machines, floor drains, floor washing or handwashing facilities.

~~(26)(28)~~ Single – As it refers to public lodging occupancy, this term means one person.

~~(27)(29)~~ Stairway – One or more flights of stairs or steps, either interior or exterior, and the landings, platforms, or other supporting structures necessary to connect separate levels in order to form a continuous passage from one level to another in a building structure.

(28) Temporary food service event – Any event of 30 or fewer consecutive days in duration, advertised and recognized in the community, where food is prepared, served, or sold to the general public.

~~(29)(30)~~ Wholesome – Food which is in sound condition, clean, free from adulteration and otherwise suitable for human consumption.

Rulemaking Specific Authority 509.032 FS. Law Implemented 509.032 FS. History—Amended 9-20-63, 3-21-64, 1-7-70, Revised 2-4-71, Amended 10-18-71, 11-17-73, 12-18-74, 12-5-82, Formerly 7C-1.01, Amended 9-10-89, 12-31-90, 2-27-92, 11-4-92, Formerly 7C-1.001, Amended 3-31-94, 10-9-95, 9-25-96, 1-1-98, 12-6-00, 2-27-05, 8-12-08, _____.

61C-1.004 General Sanitation and Safety Requirements.

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

(1) Water, plumbing and waste. Except as specifically provided in these rules, standards for water, plumbing and waste shall be governed by Chapter 5, Food Code, as adopted by reference in Rule 61C-1.001, F.A.C. For the purposes of this section, the term “food establishment” as referenced in the Food Code shall apply to all public lodging and public food service establishments as defined in Chapter 509, F.S.

(a) The water supply shall meet the standards provided in Chapters 64E-8, 62-550 and 62-555, F.A.C., ~~herein adopted by reference~~, where applicable.

(b) Bottled and packaged potable water shall be transported and obtained in accordance with the requirements of Title 21, Code of Federal Regulation, Parts 129 and 165, as adopted by the Department of Agriculture and Consumer Services in Rule 5K-4.002, F.A.C., ~~herein adopted by reference~~.

(c) Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in Title 21, Code of Federal Regulations 173.310, ~~herein adopted by reference~~.

(d) Sewage shall be disposed of in a public sewage ~~sewerage~~ system or other approved sewage ~~sewerage~~ system in accordance with the provisions of Chapter 64E-6 or 62-601, F.A.C., ~~herein adopted by reference~~, whichever is applicable. Grease interceptors shall be designed and installed in accordance with provisions of Chapter 64E-6, F.A.C., ~~herein adopted by reference~~, or the local building plumbing authority having jurisdiction.

(e) All garbage and rubbish shall be removed from the establishment premises with sufficient frequency to prevent nuisance conditions and shall be disposed of in accordance with provisions of Chapter 62-701, F.A.C., ~~herein adopted by reference~~.

(2) Public and employee bathrooms.

(a) Each public lodging establishment and public food service establishment shall provide a minimum of one ~~be provided with adequate and~~ conveniently located bathroom facility ~~facilities~~ for its employees and customers ~~guests~~ in accordance with provisions of these rules, the Florida Building Code, and the local building plumbing authority having jurisdiction. Public bathroom ~~access to toilet~~ facilities shall be located so that customers are not required or allowed to pass ~~be permitted~~ through food preparation, storage, or warewashing areas to access the public bathroom facility. Bathroom fixtures shall be of readily cleanable sanitary design. Bathroom facilities shall be kept clean, in good repair and free from objectionable odors. Bathroom facilities ~~Bathrooms~~ shall provide at least 20 foot candles of light. The walls, ceilings and floors of all bathroom facilities shall be kept in good condition. Toilet paper shall be provided in each bathroom facility.

(b) Bathroom facilities ~~Public bathrooms~~ shall be completely enclosed and shall have tight-fitting, self-closing doors. Such doors shall not be left open except during cleaning or maintenance. Bathroom facilities located ~~or~~, in public lodging establishments or ~~bathrooms~~ located outside a public food service establishment, may have entrances and exits constructed in such a manner as to ensure privacy of occupants. ~~Such doors shall not be left open except during cleaning or maintenance.~~

(c) Handwashing signs shall be posted in each bathroom facility used by employees.

(d) For the purposes of this section, the term toilet shall mean a flush toilet properly plumbed, connected and discharging to an approved sewage disposal system. In a bathroom facility where more than one toilet is provided, each toilet shall be separated by a partition from adjoining fixtures and a door shall be provided which will partially conceal the occupant from outside view.

(e) No change.

(3) Vermin Control – Effective control measures shall be taken to protect against the entrance into the establishment, and the breeding or presence on the premises of rodents, flies, roaches and other vermin. All buildings shall be effectively

rodent-proofed, free of rodents and maintained in a rodent-proof and rodent-free condition. All windows used for ventilation must be screened, except when effective means of vermin control are used. Screening material shall not be less than 16 mesh to the inch or equivalent, tight-fitting and free of breaks. Insecticides or rodenticides, when used, shall be used in compliance with Chapter 5E-14, F.A.C., ~~herein adopted by reference~~.

(4) No change.

~~(5) All fire safety, protection and prevention equipment must be installed, approved, maintained and used in accordance with Chapter 509, F.S., and the National Fire Protection Association Life Safety Code Chapter 101, as adopted by the Division of State Fire Marshal in Chapter 69A-3, F.A.C., herein adopted by reference.~~

~~(5)(6)~~ All building structural components, attachments and fixtures shall be kept in good repair, clean and free of obstructions.

~~(6)(7)~~ Attics, basements, boiler rooms, meter rooms, laundry rooms, and storage rooms shall be kept clean and free of debris and flammables.

~~(8) Flammable materials inside an establishment shall be stored in approved type containers (maximum size 5 gallons) and in such a manner as to prevent a fire hazard.~~

~~(7)(9)~~ Fire safety equipment.

(a) All fire safety, protection and prevention equipment must be installed, approved, maintained and used in accordance with the Florida Fire Prevention Code as approved by the local fire authority. Fire Extinguisher Installation – Fire extinguishers shall be installed in accordance with NFPA 10, Standard for Portable Fire Extinguishers, herein adopted by reference.

~~(b) A standard state approved service tag shall be attached to each extinguisher and a person holding a valid state permit issued by the State Fire Marshal shall recharge or inspect the extinguisher and shall prepare the tag to include the information required by Rule 69A-21.241, F.A.C., herein adopted by reference.~~

~~(c) Fire Hose Maintenance – Inspections shall be made every 6 months to assure that the hose is in proper position on the racks and that all of the equipment is in place and in good condition. The hose shall be removed and re-racked at least annually and new gaskets installed in the couplings, both at the hose valves and at the nozzles if necessary. Where couplings are polished, care should be taken to see that polish used does not touch fabric of hose.~~

~~(b)(d)~~ Carbon dioxide and helium tanks shall be adequately secured so as to preclude any danger to safety.

~~(c)(e)~~ Specialized Smoke Detectors – Specialized smoke detectors for the deaf and hearing-impaired shall be made available upon request by guests in transient public lodging establishments without charge. Failure of the operator to

inform any employee charged with registering guests of the location of such detector constitutes failure to make such detectors available.

~~(8)(10) Means of access, including entrances, halls, and stairways, must permit unobstructed travel at all times and be maintained free of obstructions and fire hazards. Halls, entrances and stairways shall be clean, ventilated and well-lighted day and night. Hall and stair runners shall be kept in good condition. Railways, as defined in subsection 61C-1.001(23), F.A.C., Hand rails shall be installed on all stairways and guard rails around all porches and steps. Adequate means of exit shall be provided pursuant to NFPA 101. Exits shall be clearly marked with approved illuminated exit signs.~~

~~(11) Electrical wiring — To prevent fire or injury, defective electrical wiring shall be replaced and wiring shall be kept in good repair. No extension cords shall be used except during cleaning, maintenance and other temporary activities. Only a wall switch or approved pull cord shall be permitted in bathrooms. In accordance with the provisions of NFPA 70, the National Electrical Code, as adopted by the Division of State Fire Marshal in Chapter 69A-3, F.A.C., sufficient electrical outlets shall be provided.~~

~~(9)(12) Heating and ventilation – The heating and ventilation system shall be kept in good repair or be installed to maintain a minimum of 68 degrees Fahrenheit throughout the building. The insurance inspector’s boiler report is required annually for power boilers and high pressure/high temperature boilers and biannually for low pressure steam or vapor heating boilers and shall be posted in the boiler room. The provisions of this section do not apply to the common areas of resort condominiums.~~

~~(13) Gas appliances — All appliances, including water heaters using gas, shall be kept in good repair and properly vented when manufacturers’ instructions require venting of the appliance and shall meet the following requirements:~~

~~(a) All appliances shall have a nationally recognized testing laboratory seal such as AGA or UL seal.~~

~~(b) Heating appliances shall be properly sized in BTU input for room air space. Proper sizing of heating appliances shall be determined in accordance with the provisions of NFPA 54, the National Fuel Gas Code, as adopted by the Division of State Fire Marshal in Chapter 69A-3, F.A.C.~~

Rulemaking Specific Authority 509.032 FS. Law Implemented 509.032, 509.215, 509.221 FS. History—Amended 2-20-64, 7-14-67, 2-8-69, Revised 2-4-71, Amended 2-17-73, Repromulgated 12-18-74, Amended 9-19-84, Formerly 7C-1.04, Amended 12-31-90, 2-11-92, 2-27-92, 6-15-92, Formerly 7C-1.004, Amended 3-31-94, 10-9-95, 9-25-96, 5-11-98, 7-2-98, 2-24-08, 8-12-08,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charlie Liem, Interim Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 18, 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 NO.: 62-304.415
RULE TITLE: Lower St. Johns River Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt Total Maximum Daily Loads (TMDLs), and their allocations, for fecal coliforms in the Lower St. Johns River Basin.

SUMMARY: These TMDLs address fecal coliform impairments in the Lower St. Johns River Basin. Specifically, the TMDL rules being proposed for adoption are for Cormorant Branch, Craig Creek, Fishing Creek, Greenfield Creek, and Hopkins Creek. These waterbodies were verified as impaired using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The methodology used to develop these TMDLs was the percent reduction method. This rulemaking has been given OGC case number 10-0997.

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: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 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 3, 2010, 2:00 p.m.

PLACE: Florida Department of Environmental Protection, 2600 Blair Stone Road, Room A204/208, Laboratory Building, 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: Ms. Pat Waters at (850)245-8449. 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: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.415 Lower St. Johns River Basin TMDLs.

(1) through (45) No change.

(46) Cormorant Branch. The TMDL for Cormorant Branch is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 73 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 73 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(47) Craig Creek. The TMDL for Craig Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require an 87 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on

the measured concentrations from the 2001 to 2007 period, will require an 87 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(48) Fishing Creek. The TMDL for Fishing Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources must meet the facility's permit condition. The WLA is granted to Jacksonville Heights Wastewater Reclamation Facility.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2008 period, will require a 69 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2008 period, will require a 69 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(49) Greenfield Creek. The TMDL for Greenfield Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2008 period, will require a 70 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on

the measured concentrations from the 2001 to 2008 period, will require a 70 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(50) Hopkins Creek. The TMDL for Hopkins Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 67 percent reduction of sources contributing to exceedances of the criteria.

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2001 to 2007 period, will require a 67 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History--New 12-3-03, Amended 5-15-06, 6-3-08, 7-27-09, 11-2-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-330.200
 RULE TITLE: Rules Adopted by Reference

PURPOSE AND EFFECT: Pursuant to subparagraph 120.54(1)(i)5., F.S., the Department proposes to amend subsection 62-330.200(2), F.A.C., to incorporate updates of the St. Johns River Water Management District's (SJRWMD) Chapters 40C-1, 40C-4, 40C-8, 40C-40, 40C-41, and 40C-42, F.A.C., including the SJRWMD Applicant's Handbooks governing Stormwater Regulation and Management and Storage of Surface Waters, that are incorporated by reference. These rules are used by the Department to implement the environmental resource permit (ERP) program under Part IV of Chapter 373, F.S., within the geographic territory of the SJRWMD. All the rules that are proposed to be updated are already in effect and are being used by the SJRWMD.

The Department originally adopted the above rules on October 3, 1995, when the ERP program became effective. The SJRWMD has made numerous amendments to those rules since that date. The Department needs to adopt the updated rules to provide consistency in implementing the ERP program, as required by Section 373.414(9), F.S.

SUMMARY: Adopt updated rules of the SJRWMD that the Department adopted by reference in 1995 under Chapter 62-330, F.A.C., pursuant to subparagraph 120.54(1)(i)5., F.S.

RULEMAKING AUTHORITY: 373.026(7), 373.043, 373.118, 373.406(5), 373.414, 373.415, 373.418, 373.461, 380.06(9), 403.0877 FS.

LAW IMPLEMENTED: 373.019, 373.042, 373.0421, 373.085, 373.086, 373.109, 373.118, 373.119, 373.129, 373.136, 373.403, 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.419, 373.421(2)-(6), 373.4211(22), (25), 373.422, 373.423, 373.426, 373.427, 373.429, 373.430, 373.433, 373.436, 373.439, 373.461, 380.06(9), 403.0877, 403.813(1) FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SUBPARAGRAPH 120.54(1)(i)5. FS.

WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Mary VanTassel, Florida Department of Environmental Protection, Office of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, Florida, 32399-2400, telephone (850)245-8486, or e-mail: Mary.VanTassel@dep.state.fl.us. Further information and updates on this rule development also may be obtained from the Department's Web Site at: http://www.dep.state.fl.us/water/rules_dr.htm#erp. (OGC No. 06-1580).

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE FILE AN OBJECTION WITH THE AGENCY CLERK. THE

OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASON FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-330.200 Rules Adopted by Reference.

The Department hereby adopts by reference the following rules. The rules adopted by reference are available for inspection at the Department’s Tallahassee and District offices:

- (1) No change.
- (2) The following rules are adopted by reference for application by the Department within the geographical jurisdiction of St. Johns River Water Management District as set forth in Section 373.069, F.S.:

(a) Subsections 40C-1.602(4), (5), (7), ~~and (8), (10), and (11)~~ (September 11, 2003), 40C-1.608(1) (August 4, 1998), and 40C-1.1009(1) (October 11, 2001), F.A.C., except that all references to “Chapter 40C-400, F.A.C.” are changed to “Chapter 62-341, F.A.C.”

~~(b) Subsection 40C-1.608(2), F.A.C.;~~

~~(b)(e)~~ Rules 40C-4.011 (December 7, 1983), 40C-4.021 (October 29, 2009), 40C-4.031 (November 11, 2003), 40C-4.041 (October 11, 2001), 40C-4.051 [except 40C-4.051(12)(e)] (November 11, 2003), 40C-4.091 (February 16, 2010), 40C-4.301 (December 3, 2006), 40C-4.302 (July 1, 2007), ~~40C-4.341, 40C-4.381 (November 11, 2003), 40C-4.451, 40C-4.461, 40C-4.471, 40C-4.481 and 40C-4.751 (November 11, 2003), F.A.C., except, that:~~

- 1. All references to “Chapter 40C-400, F.A.C.” are changed to “Chapter 62-341, F.A.C.”;
- 2. All references to “Florida Game and Freshwater Fish Commission” and “FGFWFC” are changed to “Florida Fish and Wildlife Conservation Commission” and “FWC,” respectively; and
- 3. The following references and language within the above incorporated rules are changed as shown in Table 62-330.200(2)-1;

Table 62-330.200(2)-1		
Rule Number	From (reference in District rule)	To (for Department use)
40C-4.051(8)	The amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.3 and 16.1.5, Applicant’s Handbook: Management and Storage of Surface Waters, effective 9-25-1991, shall not apply to each system for which the District has issued an individual or general permit pursuant to Chapter 40C-4 or 40C-40, F.A.C., prior to 9-25-1991. This subsection applies only to the project area and plan approved in the referenced permit; however, where the referenced permit authorizes construction of a master system for drainage and flood control, this subsection shall apply to the project area served by the master system and to the plan approved in the referenced permit.	The amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.3 and 16.1.5, Applicant’s Handbook: Management and Storage of Surface Waters, effective 9-25-1991, shall not apply to each system for which the District or the Department has issued an individual or general permit pursuant to Chapter 40C-4 or 40C-40, F.A.C., prior to 9-25-1991. This subsection applies only to the project area and plan approved in the referenced permit; however, where the referenced permit authorizes construction of a master system for drainage and flood control, this subsection shall apply to the project area served by the master system and to the plan approved in the referenced permit.
40C-4.051(9)	The amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.3 and 16.1.5, Applicant’s Handbook: Management and Storage of Surface Waters, effective 9-25-1991 shall not apply to each system for which the District has issued, pursuant to Chapter 40C-4, F.A.C., and prior to 9-25-1991, both a conceptual approval permit and at least one permit authorizing construction consistent with the conceptual approval permit. This subsection applies only to the project area and plan approved in the referenced conceptual approval permit.	The amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.3 and 16.1.5, Applicant’s Handbook: Management and Storage of Surface Waters, effective 9-25-1991 shall not apply to each system for which the District or Department has issued, pursuant to Chapter 40C-4, F.A.C., and prior to 9-25-1991, both a conceptual approval permit and at least one permit authorizing construction consistent with the conceptual approval permit. This subsection applies only to the project area and plan approved in the referenced conceptual approval permit

<p><u>40C-4.051(10)</u></p>	<p><u>The permitting threshold set forth in subparagraph 40C-4.041(2)(b)8., F.A.C., as it existed on 9-25-91 regarding isolated wetlands and the amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.5. Applicant's Handbook: Management and Storage of Surface Waters, effective 9-25-1991 shall not apply to each system for which the District has issued a permit pursuant to Chapter 40C-42, F.A.C., prior to 9-25-1991. This subsection applies only to a system which did not require a permit pursuant to Chapter 40C-4 or 40C-40, F.A.C., prior to 9-25-1991 and only to the project area and the plan approved in the referenced permit.</u></p>	<p><u>The permitting threshold set forth in subparagraph 40C-4.041(2)(b)8., F.A.C., as it existed on 9-25-91 regarding isolated wetlands and the amendments to subsections 10.7.2, 10.7.4, 10.7.5, 16.1.5. Applicant's Handbook: Management and Storage of Surface Waters, effective 9-25-1991 shall not apply to each system for which the District or Department has issued a permit pursuant to Chapter 40C-42, F.A.C., prior to 9-25-1991. This subsection applies only to a system which did not require a permit pursuant to Chapter 40C-4 or 40C-40, F.A.C., prior to 9-25-1991 and only to the project area and the plan approved in the referenced permit.</u></p>
<p><u>40C-4.051(12)(f)</u></p>	<p><u>The installation and repair of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, which structures have 1000 square feet or less of surface area over wetlands or other surface waters or 500 square feet or less of surface area over wetlands or other surface waters which are located in Outstanding Florida Waters. This exemption shall include the construction and repair of structures above the dock area, such as gazebos and boat shelters, provided such structures are not enclosed with walls and doors, are not used for living, commercial purposes, or storage of materials other than those associated with recreational use, and provided the structures do not exceed, together with the docking facility, the total area limitations above. To qualify for this exemption, any such dock and associated structure:</u></p>	<p><u>The installation, replacement or repair of mooring 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 when the local governmental entity's activities will not take place in any manatee habitat, any of which structures have 1000 square feet or less of surface area over wetlands or other surface waters, or 500 square feet or less of surface area over wetlands or other surface waters which are located in Outstanding Florida Waters. This exemption shall include the construction and repair of structures above the dock area, such as gazebos and boat shelters, provided such structures are not enclosed with walls and doors, are not used for living, commercial purposes, or storage of materials other than those associated with recreational use, and provided the structures do not exceed, together with the docking facility, the total area limitations above. To qualify for this exemption, any such dock and associated structure:</u></p>
<p><u>40C-4.051(12)(g)</u></p>	<p><u>Construction of private docks in artificially created waterways where construction will not violate water quality standards, impede navigation, or adversely affect flood control.</u></p>	<p><u>Construction of private docks of 1,000 square feet or less of over-water surface area in artificially created waterways where construction will not violate water quality standards, impede navigation, or adversely affect flood control.</u></p>
<p><u>40C-4.051(15)</u></p>	<p><u>The performance of activities pursuant to 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 or performance requirements of other District rules.</u></p>	<p><u>The performance of activities pursuant to 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 or performance requirements of other District and Department rules.</u></p>

<p><u>40C-4.091(2)</u></p>	<p>The documents may be obtained by contacting: <u>Director, Division of Permit Data Services</u> <u>St. Johns River Water Management District</u> <u>4049 Reid Street</u> <u>Palatka, Florida 32177-2529</u></p> <p><u>St. Johns River Water Management District</u> <u>7775 Baymeadows Way, Suite 102</u> <u>Jacksonville, Florida 32256</u></p> <p><u>St. Johns River Water Management District</u> <u>975 Keller Road</u> <u>Altamonte Springs, Florida 32714-1618</u></p> <p><u>St. Johns River Water Management District</u> <u>525 Community College Pkwy., S. E.</u> <u>Palm Bay, Florida 32909</u></p>	<p>The documents may be obtained by contacting: <u>Florida Department of Environmental Protection</u> <u>Northeast District</u> <u>7825 Baymeadows Way, Suite B200</u> <u>Jacksonville, Florida 32256-7577</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Central District</u> <u>3319 Maguire Boulevard, Suite 232</u> <u>Orlando, Florida 32803-3767</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Southwest District</u> <u>13051 N Telecom Parkway</u> <u>Temple Terrace, Florida 33637-0926</u></p>
<p><u>40C-4.301(1)(e)</u></p>	<p><u>Will not adversely affect the quality of receiving waters such that the water quality standards set forth in Chapters 62-3, 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), 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., will be violated;</u></p>	<p><u>Will not adversely affect the quality of receiving waters such that the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), 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., will be violated;</u></p>
<p><u>40C-4.302(1)(c)</u></p>	<p><u>(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 as approved, restricted or conditionally restricted for shellfish harvesting as set forth or incorporated by reference in Chapter 16R-7, F.A.C., will comply with the additional criteria in subsection 12.2.5 of the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C.</u></p>	<p><u>(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 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 subsection 12.2.5 of the Applicant's Handbook: Management and Storage of Surface Waters adopted by reference in Rule 40C-4.091, F.A.C.</u></p>

<p>40C-4.302(2)</p>	<p><u>When determining whether a permit applicant has provided reasonable assurances that District permitting standards will be met, the District shall take into consideration the applicant’s violation of any Department rules adopted pursuant to Sections 403.91-403.929, F.S., (1984 Supp.), as amended, which the District had the responsibility to enforce pursuant to delegation, or any District 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. The Department’s delegation to the District to enforce Department rules is set forth in the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation, dated January 4, 1988; Operating Agreement concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the St. Johns River Water Management District and Department of Environmental Regulation, dated August 28, 1992; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated August 25, 1994; Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated December 3, 1998; and Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007, all incorporated by reference in Rule 40C-4.091, F.A.C.</u></p>	<p><u>When determining whether a permit applicant has provided reasonable assurances that Department and District permitting standards will be met, the Department shall take into consideration the applicant’s violation of any Department rules adopted pursuant to Sections 403.91-403.929, F.S., (1984 Supp.), as amended, as well as any District rules, which the Department had the responsibility to enforce pursuant to delegation, 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. The District’s delegation to the Department to enforce District rules is set forth in the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation, dated January 4, 1988; Operating Agreement concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the St. Johns River Water Management District and Department of Environmental Regulation, dated August 28, 1992; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated August 25, 1994; Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated December 3, 1998; and Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007, all incorporated by reference in Rule 62-113.200, F.A.C.</u></p>
<p>40C-4.381(1)(f)</p>	<p><u>At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a Construction Commencement Notice Form No. 40C-4.900(3) indicating the actual start date and the expected completion date.</u></p>	<p><u>At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department a fully executed “Construction Commencement Notice” Form 62-343.900(3) indicating the actual start date and the expected completion date.</u></p>
<p>40C-4.381(1)(g)</p>	<p><u>When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an Annual Status Report Form No. 40C-4.900(4). These forms shall be submitted during June of each year.</u></p>	<p><u>When the duration of construction will exceed one year, the permittee shall submit construction status reports to the Department on an annual basis utilizing an Annual Status Report Form 62-343.900(4). These forms shall be submitted during June of each year.</u></p>

<p>40C-4.381(1)(j)</p>	<p><u>Within 30 days after completion of construction of the permitted system, or independent portion of the system, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing As Built Certification Form 40C-1.181(13) or 40C-1.181(14) supplied with this permit. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the District. Submittal of the completed form shall serve to notify the District that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as “as-built” or “record” drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the as-built drawings:</u></p>	<p><u>Within 30 days after completion of construction of the permitted system, or independent portion of the system, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing As Built Certification Form 62-343.900(5) supplied with this permit. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the Department. Submittal of the completed form shall serve to notify the Department that the system is ready for inspection. The statement of completion and certification shall be based on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as “as-built” or “record” drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the “as-built” or “record” drawings:</u></p>
<p>40C-4.381(1)(o)</p>	<p><u>Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under Rule 40C-1.1006, F.A.C., provides otherwise.</u></p>	<p><u>Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under Rule 62-343.040, F.A.C., provides otherwise.</u></p>
<p>40C-4.381(1)(p)</p>	<p><u>The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 40C-1.612, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.</u></p>	<p><u>The permittee shall notify the Department in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.</u></p>

40C-4.381(2)	In addition to those general conditions set forth in subsection (1), the Governing Board shall impose on any permit granted under this chapter and Chapter 40C-40, F.A.C., such reasonable project-specific conditions as are necessary to assure that the permitted system will not be inconsistent with the overall objectives of the District or be harmful to the water resources of the District as set forth in District rules. Upon receipt of the notice of intended District action, any person whose substantial interests are affected shall have the right to request a hearing in accordance with Chapter 28-106 and Rule 40C-1.1007, F.A.C.	In addition to those general conditions set forth in subsection (1), the Department shall impose on any permit granted under this chapter and Chapter 40C-40, F.A.C., such reasonable project-specific conditions as are necessary to assure that the permitted system will not be inconsistent with the overall objectives of the District or be harmful to the water resources of the District as set forth in District and Department rules. Upon receipt of the notice of intended Department action, any person whose substantial interests are affected shall have the right to request a hearing in accordance with Chapter 28-106 and Rule 62-110.106, F.A.C.
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(c)(d) Chapter 40C-8, F.A.C. (January 11, 2010);
 (d)(e) Chapter 40C-40, F.A.C. (December 3, 2006), except for subsections 40C-40.011(2) and (3), Rule 40C-40.112, paragraph 40C-40.302(6)(b), and Rules 40C-40.321, 40C-40.351, and 40C-40.900, F.A.C., and except that the following Sections are not adopted by reference:
 1. Rule 40C 40.112, F.A.C.;;
 2. Rule 40C 40.321, F.A.C.;;

3. Rule 40C 40.351, F.A.C.;; and
 4. Rule 40C 40.900, F.A.C.;;
 1. All references to “Chapter 40C-400, F.A.C.,” are changed to “Chapter 62-341, F.A.C.,” and
 2. The following references and language within the above incorporated rules are changed as shown in Table 62-330.200(2)-2:

Rule Number	From (reference in District rule)	To (for Department use)
40C-40.302(6)(a)1.	For the purposes of this requirement, an application is complete when the applicant has submitted all information required on application form 40C-4.900(1) and has submitted all information requested by District staff in timely requests for additional information.	For the purposes of this requirement, an application is complete when the applicant has submitted all information required on application form 62-343.900(1) and has submitted all information requested by Department staff in timely requests for additional information.

(e)(f) Chapter 40C-41, F.A.C. (December 3, 2006), except that any references to “paragraph 40C-41.063(5)(d)” and “subparagraph 40C-41.063(5)(d)1., F.A.C.,” in paragraph 40C-41.063(5)(c), F.A.C., are changed to “paragraph 40C-41.063(5)(c)” and “subparagraph 40C-41.063(5)(c)1., F.A.C.,” respectively.
 (f)(g) Chapter 40C-42, F.A.C. (December 3, 2006), except for subsections 40C-42.024(3), (4), and (5), Rule 40C-42.071, and subsections 40C-42.900(1), (2), (4), and (5), F.A.C., and except that the following provisions are not adopted by reference:
 1. All references to “Chapter 40C-400, F.A.C.” are changed to “Chapter 62-341, F.A.C.,” and the references to “Governing Board” and “Board” in Rules 40C-42.032 and 40C-42.091, F.A.C., are changed to “Department,” and Subsections 40C-42.0265(3) and Rule 40C-42.900, F.A.C.;;

2. The forms referenced in paragraphs 40C-42.028(1)(b) and (2); 40C-42.029(1)(a), (b) and (c); and subparagraphs 40C-42.032(2)(a)8. and 9., F.A.C.;;
 3. The effective date provision of subsection 40C-42.033(1), F.A.C.;;
 4. Rule 40C 42.071, F.A.C.;; and
 5. Rule 40C 42.091, F.A.C.;;
 2. The following references and language within the above incorporated rules are changed as shown in Table 62-330.200(2)-3:

<u>Table 62-330.200(2)-3</u>		
<u>Rule Number</u>	<u>From (reference in District rule)</u>	<u>To (for Department use)</u>
<u>40C-42.011(3)</u>	<u>Stormwater discharges to groundwater shall be regulated under the provisions of Rule 62-28.700, F.A.C., and other applicable rules of the Department of Environmental Protection.</u>	<u>Stormwater discharges to groundwater shall be regulated under the provisions of Chapters 62-520, 62-522, and 62-550, F.A.C., and other applicable rules of the Department of Environmental Protection.</u>
<u>40C-42.023(1)(a)</u>	<u>Will not result in discharges from the system to surface and ground water of the state that cause or contribute to violations of state water quality standards as set forth in Chapters 62-3, 62-4, 62-302 and 62-550, F.A.C., including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), 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.;</u>	<u>Will not result in discharges from the system to surface and ground water of the state that cause or contribute to violations of state water quality standards as set forth in Chapters 62-4, 62-302 and 62-550, F.A.C., including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), 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.;</u>
<u>40C-42.028(1)(b)</u>	<u>The certification prepared by a registered professional (not necessarily the project design registered professional but one who has been retained by the permittee to provide professional services during the construction phase of project completion) shall be made on form number 40C-1.181(13), As Built Certification by a Registered Professional.</u>	<u>The certification prepared by a registered professional (not necessarily the project design registered professional but one who has been retained by the permittee to provide professional services during the construction phase of project completion) shall be made on form number 62-343.900(5), As Built Certification by a Registered Professional.</u>
<u>40C-42.028(2)</u>	<u>The operation phase of a stormwater management system permit which was not designed by an appropriate registered professional does not become effective until all of the criteria in this subsection, and subsection (3) below, have occurred. Within 30 days after completion of construction of the stormwater management system, permittee shall submit a certification, on form number 40C-1.181(14), As Built Certification, that the system has been constructed in accordance with the design approved by the District and shall notify the District that the system is ready for inspection.</u>	<u>The operation phase of a stormwater management system permit which was not designed by an appropriate registered professional does not become effective until all of the criteria in this subsection, and subsection (3) below, have occurred. Within 30 days after completion of construction of the stormwater management system, permittee shall submit a certification, on form number 62-343.900(5), As Built Certification by a Registered Professional, that the system has been constructed in accordance with the design approved by the Department and shall notify the Department that the system is ready for inspection.</u>
<u>40C-42.028(4)</u>	<u>The permit will be converted from a construction permit to an operation permit once the project is determined to be in compliance with the permitted plans and an appropriate entity exists for maintenance of the system. The District will transfer the permit to the maintenance entity upon request, pursuant to Rule 40C-4.351, F.A.C., once all conditions for converting the construction permit to an operation permit have been met.</u>	<u>The permit will be converted from a construction permit to an operation permit once the project is determined to be in compliance with the permitted plans and an appropriate entity exists for maintenance of the system. The Department will transfer the permit to the maintenance entity upon request, pursuant to Rule 62-343.100, F.A.C., once all conditions for converting the construction permit to an operation permit have been met.</u>

<p><u>40C-42.029(1)(a)</u></p>	<p><u>Inspection reports for exfiltration and pumped systems shall be submitted one year after the completion of construction and every two years thereafter on form number 40C-1.181(15), Registered Professional's Inspection Report. A registered professional must sign and seal the report certifying the exfiltration or pumped system is operating as designed. However, reports for those systems in sensitive karst areas must be submitted pursuant to paragraph (b) below.</u></p>	<p><u>Inspection reports for exfiltration and pumped systems shall be submitted one year after the completion of construction and every two years thereafter on form number 62-343.900(6), Inspection Certification. A registered professional must sign and seal the report certifying the exfiltration or pumped system is operating as designed. However, reports for those systems in sensitive karst areas must be submitted pursuant to paragraph (b) below.</u></p>
<p><u>40C-42.029(1)(c)</u></p>	<p><u>Systems in sensitive karst areas must be inspected monthly for the occurrence of sinkholes and solution pipes. The inspection reports for these systems must be submitted to the District annually on form number 40C-1.181(15), Registered Professional's Inspection Report, for systems designed by a registered professional. For systems not designed by a registered professional, the inspection reports shall be submitted on form number 40C-1.181(16), Statement of Inspection Report.</u></p>	<p><u>Systems in sensitive karst areas must be inspected monthly for the occurrence of sinkholes and solution pipes. The inspection reports for these systems must be submitted to the Department annually on form number 62-343.900(6), Inspection Certification.</u></p>
<p><u>40C-42.029(6)</u></p>	<p><u>If the system is not functioning as designed and permitted, operational maintenance must be performed immediately to restore the system. If operational maintenance measures are insufficient to enable the system to meet the design and performance standards of this chapter, the permittee must either replace the system or construct an alternative design. A permit modification must be obtained from the District prior to constructing such alternative design pursuant to Rule 40C-4.331, F.A.C.</u></p>	<p><u>If the system is not functioning as designed and permitted, operational maintenance must be performed immediately to restore the system. If operational maintenance measures are insufficient to enable the system to meet the design and performance standards of this chapter, the permittee must either replace the system or construct an alternative design. A permit modification must be obtained from the Department prior to constructing such alternative design pursuant to Rule 62-343.100, F.A.C.</u></p>
<p><u>40C-42.032(2)(a)8.</u></p>	<p><u>If the permitted system was designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the District the following: District Form No. 40C-1.181(13) (As Built Certification By a Registered Professional), signed and sealed by an appropriate professional registered in the State of Florida, and two (2) sets of "As Built" drawings when a) required by a special condition of this permit, b) the professional uses "As Built" drawings to support the As Built Certification, or c) when the completed system substantially differs from permitted plans. This submittal will serve to notify the District staff that the system is ready for inspection and approval.</u></p>	<p><u>If the permitted system was designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the Department the following: Form No. 62-343.900(5) (As Built Certification By a Registered Professional), signed and sealed by an appropriate professional registered in the State of Florida, and two (2) sets of "As Built" drawings when a) required by a special condition of this permit, b) the professional uses "As Built" drawings to support the As Built Certification, or c) when the completed system substantially differs from permitted plans. This submittal will serve to notify the Department staff that the system is ready for inspection and approval.</u></p>

<p><u>40C-42.032(2)(a)9.</u></p>	<p><u>If the permitted system was not designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the District the following: District Form No. 40C-1.181(14) (As Built Certification), signed by the permittee and two (2) sets of “As Built” drawings when required by a special condition of this permit, or when the completed system substantially differs from permitted plans. This submittal will serve to notify the District staff that the system is ready for inspection and approval.</u></p>	<p><u>If the permitted system was not designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the Department the following: Form No. EN-44 (As Built Certification), signed by the permittee and two (2) sets of “As Built” drawings when required by a special condition of this permit, or when the completed system substantially differs from permitted plans. This submittal will serve to notify the Department staff that the system is ready for inspection and approval.</u></p>
<p><u>40C-42.032(2)(a)12.</u></p>	<p><u>Within thirty (30) days after sale or conveyance of the permitted stormwater management system or the real property on which the system is located, the owner in whose name the permit was granted shall notify the District of such change of ownership. Transfer of this permit shall be in accordance with the provisions of Rule Rule 40C-1.612, F.A.C. All terms and conditions of this permit shall be binding upon the transferee. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.</u></p>	<p><u>Within thirty (30) days after sale or conveyance of the permitted stormwater management system or the real property on which the system is located, the owner in whose name the permit was granted shall notify the Department of such change of ownership. Transfer of this permit shall be in accordance with the provisions of Rule 62-343.100, F.A.C. All terms and conditions of this permit shall be binding upon the transferee. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.</u></p>
<p><u>40C-42.061(6)</u></p>	<p><u>Applications for conceptual agency review of stormwater management systems, as required by Section 380.06, F.S., will be reviewed in accordance with the procedure used by the District to review conceptual approval permit applications pursuant to subsection 40C-4.041(2), F.A.C.</u></p>	<p><u>Applications for conceptual agency review of stormwater management systems, as required by Section 380.06, F.S., will be reviewed in accordance with the procedure used by the Department to review conceptual approval permit applications pursuant to Rule 62-343.060, F.A.C.</u></p>
<p><u>40C-42.091(3)</u></p>	<p><u>A copy of this document may be obtained by contacting:</u> <u>Director, Division of Permitting Data Services</u> <u>St. Johns River Water Management District</u> <u>4049 Reid Street</u> <u>Palatka, Florida 32177-2529</u></p> <p><u>St. Johns River Water Management District</u> <u>7775 Baymeadows Way, Suite 102</u> <u>Jacksonville, Florida 32256</u></p> <p><u>St. Johns River Water Management District</u> <u>975 Keller Road</u> <u>Altamonte Springs, Florida 32714-1618</u></p> <p><u>St. Johns River Water Management District</u> <u>525 Community College Pkwy., S.E.</u> <u>Palm Bay, Florida 32909</u></p>	<p><u>A copy of this document may be obtained by contacting:</u> <u>Florida Department of Environmental Protection</u> <u>Northeast District</u> <u>7825 Baymeadows Way, Suite B200</u> <u>Jacksonville, Florida 32256-7577</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Central District</u> <u>3319 Maguire Boulevard, Suite 232</u> <u>Orlando, Florida 32803-3767</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Southwest District</u> <u>13051 N Telecom Parkway</u> <u>Temple Terrace, FL 33637-0926</u></p>

<p><u>40C-42.900</u></p>	<p><u>The following forms and instructions incorporated by reference have been approved by the Governing Board and are available upon request from:</u> <u>Department of Resource Management</u> <u>St. Johns River Water Management District</u> <u>4049 Reid Street</u> <u>Palatka, Florida 32177-2529.</u></p>	<p><u>The following forms and instructions incorporated by reference have been approved by the Department and are available upon request from:</u> <u>Florida Department of Environmental Protection</u> <u>Northeast District</u> <u>7825 Baymeadows Way, Suite B200</u> <u>Jacksonville, Florida 32256-7577</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Central District</u> <u>3319 Maguire Boulevard, Suite 232</u> <u>Orlando, Florida 32803-3767</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Southwest District</u> <u>13051 N Telecom Parkway</u> <u>Temple Terrace, FL 33637-0926</u></p>
<p><u>40C-42.900(3)</u></p>	<p><u>As Built Certification, form number 40C-1.181(14), adopted 3-21-93.</u></p>	<p><u>As Built Certification, form number EN-44, adopted 3-21-93.</u></p>

(g)(h) Part I “Policy and Procedures,” except sections 5.4 through 6.0, 7.1 through 7.2, and 7.6 through 7.8; Part II “Criteria for Evaluation,” and Part III “Operation and Maintenance,” of the document entitled “Applicant’s Handbook: Regulation of Stormwater Management Systems, Chapter 40C-42, F.A.C.” effective December 3, 2006 40-03-95, except:-

1. All references to “Chapter 40C-400, F.A.C.” shall be changed to “Chapter 62-341, F.A.C.,” all references to “standard general environmental resource permit” or “standard general permit” shall be changed to “standard environmental resource permit” or “standard permit,” as applicable, and references to “Governing Board” or “Board,” in sections 5.3(c), 7.5.2, and 7.5.3, shall be changed to “Department;” and

2. The following references and language within the Handbook sections are changed as shown in Table 62-330.200(2)-4:

Section Number	From (language in Handbook)	To (language for Department use)
1.3	<p>If an applicant or potential applicant has any questions about these procedures or wishes to have <u>District staff assistance in interpreting them or in completing an application</u>, he or she is encouraged to contact the SJRWMD's Department of Resource Management at the appropriate location given below:</p> <p><u>Orlando Field Office</u> <u>618 East South Street</u> <u>Orlando, FL 32801</u> <u>(407)897-4300</u> for projects located in <u>Lake, Orange, Polk, Seminole and Volusia Co.</u></p> <p><u>Melbourne Field Office</u> <u>305 East Drive</u> <u>Melbourne, FL 32904</u> <u>(407) 84-4940</u> for projects located in <u>Brevard, Indian River, Okeechobee and Osceola Co.</u></p> <p><u>District Headquarters</u> <u>P. O. Box 1429</u> <u>Palatka, Florida 32178-1429</u> <u>(904)329-4500</u> for projects located in <u>Alachua, Flagler, Marion and Putnam Co.</u></p> <p><u>Jacksonville Field Office</u> <u>7775 Baymeadows Way, Suite 102</u> <u>Jacksonville, FL 32256</u> <u>(904)730-6270</u> for projects located in <u>Baker, Bradford, Clay, Duval, Nassau, and St. Johns Co.</u></p>	<p>If an applicant or potential applicant has any questions about these procedures or wishes to have Department staff assistance in interpreting them or in completing an application, he or she is encouraged to contact the applicable office of the Department at the location given below:</p> <p><u>Florida Department of Environmental Protection</u> <u>Northeast District</u> <u>7825 Baymeadows Way, Suite B200</u> <u>Jacksonville, Florida 32256-7577</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Central District</u> <u>3319 Maguire Boulevard, Suite 232</u> <u>Orlando, Florida 32803-3767</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Southwest District</u> <u>13051 N. Telecom Parkway</u> <u>Temple Terrace, FL 33637-0926</u></p>
1.4	<p><u>The environmental resource stormwater permit application process is governed by Chapters 120, 373 and 403, F.S., and Chapters 28-106, 28-107, 40C-1, 40C-4, 40C-40, 40C-41, 40C-42, 62-1, 62-3, 62-40, and 62-302, F.A.C. A copy of Chapter 40C-42, F.A.C., is included in Appendix A of this handbook.</u></p>	<p><u>The environmental resource stormwater permit application process is governed by Chapters 120, 373 and 403, F.S., and Chapters 28-106, 28-107, 40C-1, 40C-4, 40C-40, 40C-41, 40C-42, 62-1, 62-40, and 62-302, F.A.C. A copy of Chapter 40C-42, F.A.C., is included in Appendix A of this handbook.</u></p>
2.0(35)	<p><u>"Waters" are as defined in subsection 373.019(8) F.S.</u></p>	<p><u>"Waters" are as defined in subsection 373.019(20), F.S.</u></p>
3.1	<p><u>Chapter 40C-42, F.A.C., became effective on April 1, 1986. Revisions occurred on October 1, 1987, May 30, 1990, August 11, 1991, September 25, 1991, March 21, 1993, April 11, 1994, and October 3, 1995.</u></p>	<p><u>Chapter 40C-42, F.A.C., became effective on April 1, 1986. Revisions occurred on October 1, 1987, May 30, 1990, August 11, 1991, September 25, 1991, March 21, 1993, April 11, 1994, October 3, 1995, and December 3, 2006.</u></p>

<p><u>3.2</u></p>	<p><u>[3rd paragraph] A “standard general environmental resource stormwater permit” is available for stormwater management systems which follow specific requirements as outlined in section 5. A standard general environmental resource stormwater permit is approved at the staff level and does not require action by the District’s Governing Board.</u></p> <p><u>[4th paragraph] An “individual environmental resource stormwater permit” requires action by the District’s Governing Board. Stormwater management systems which are required to obtain a permit and do not qualify for a standard general environmental resource stormwater permit are required to obtain an individual environmental resource stormwater permit. Please refer to section 6 for a discussion of individual permit processing procedures.</u></p> <p><u>[5th paragraph] The Board will not issue separate permits for parts of a system, except for a system which is to be constructed in phases.</u></p>	<p><u>[3rd paragraph] A “standard environmental resource stormwater permit” is available for stormwater management systems which follow specific requirements as outlined in section 5.</u></p> <p><u>[4th paragraph] Stormwater management systems which are required to obtain a permit and do not qualify for a standard environmental resource stormwater permit are required to obtain an individual environmental resource stormwater permit. Please refer to section 6 for a discussion of individual permit processing procedures.</u></p> <p><u>[5th paragraph] The Department will not issue separate permits for parts of a system, except for a system which is to be constructed in phases.</u></p>
<p><u>4.2</u></p>	<p><u>The application form for an environmental resource stormwater permit has been adopted by rule (see Rule 40C-42.900, F.A.C.). A copy of the application form is included in Appendix B of this handbook. This form must be used when making application for an individual or standard general environmental resource stormwater permit for construction, reconstruction, operation, maintenance, alteration, removal, or abandonment of new or existing stormwater systems.</u></p>	<p><u>The application form for an environmental resource stormwater permit has been adopted by rule (see Rule 62-343.900, F.A.C.). A copy of the application form is included in Appendix B of this handbook. This form must be used when making application for an individual or standard general environmental resource stormwater permit for construction, reconstruction, operation, maintenance, alteration, removal, or abandonment of new or existing stormwater systems.</u></p>
<p><u>4.3</u></p>	<p><u>A non-refundable permit processing fee as specified by Rule 40C-1.603, F.A.C., is required for the processing of each application for individual or standard general environmental resource stormwater permits or for a permit modification, and must be submitted concurrently with the filing of an application. An application submitted without the fee will not be considered complete.</u></p>	<p><u>A non-refundable permit processing fee as specified by subsection 62-4.050(4), F.A.C., is required for the processing of each application for individual or standard general environmental resource stormwater permits or for a permit modification, and must be submitted concurrently with the filing of an application. An application submitted without the fee will not be considered complete.</u></p>
<p><u>4.4</u></p>	<p><u>The requirement to submit multiple copies shall not apply when the application package is received electronically via the District’s E-Permitting website at www.sjrwmd.com</u></p>	<p><u>[Last paragraph in this section deleted]</u></p>
<p><u>4.5</u></p>	<p><u>The previous sections describe preparation of permit applications that are required under the regulation of stormwater management systems. Sections 5 and 6 contain a detailed discussion on the application processing procedures for standard general and individual environmental resource stormwater permits, respectively. An overview on how the two types of permits are processed by the District is provided in Appendix G.</u></p>	<p><u>The previous sections describe preparation of permit applications that are required under the regulation of stormwater management systems. Sections 5 and 6 contain a detailed discussion on the application processing procedures for standard general and individual environmental resource stormwater permits, respectively.</u></p>

<p>5.1</p>	<p><u>District standard general environmental resource stormwater permits differ from individual permits in that they are granted by rule rather than upon Board approval, to all systems which meet standard general permit design and performance criteria.</u> <u>To receive a standard general permit, the system must:</u> <u>(a) Meet certain threshold requirements described in section 3.3 of this handbook.</u> <u>(b) Be designed, constructed and operated in accordance with District criteria described in Parts II and III of this handbook.</u> <u>The person who seeks a standard general permit must submit a complete standard general environmental resource stormwater permit application to the District at least 30 days prior to undertaking the activity and must receive District authorization prior to proceeding.</u></p>	<p><u>To receive a standard general permit, the system must:</u> <u>(a) Meet certain threshold requirements described in section 3.3 of this handbook</u> <u>(b) Be designed, constructed and operated in accordance with District criteria described in Parts II and III of this handbook</u></p>
<p>5.3</p>	<p><u>Upon determination that one of the factors listed above is present, District staff will notify the applicant that the application has been upgraded to an individual environmental resource stormwater permit and that the provisions of section 6 will be followed.</u></p>	<p><u>Upon determination that one of the factors listed above is present, Department staff will notify the applicant that the application has been upgraded to an individual environmental resource stormwater permit.</u></p>
<p>7.4</p>	<p><u>One condition of each permit is that District authorized staff, upon proper identification, will have permission to enter, inspect and observe the system to insure compliance with the permitted plans and all conditions included in the permit issued by the District (see section 7.6.3).</u> <u>Chapter 373, F.S., provides for the enforcement of District rules by both administrative and civil complaint. In addition to the authority of the Governing Board to enforce, the District has the authority to obtain the assistance of county and city officials in the enforcement of the rules (see Sections 373.603 and 373.609, F.S.). A violation of any provision of Chapter 373, F.S., Chapters 40C-4, 40C-40, 40C-41, 40C-42, F.A.C., or orders of the District Governing Board, is a second degree misdemeanor and the violator may be subject to prosecution.</u></p>	<p><u>One condition of each permit is that Department authorized staff, upon proper identification, will have permission to enter, inspect and observe the system to insure compliance with the permitted plans and all conditions included in the permit issued by the Department (see section 7.5.3).</u> <u>Chapter 373, F.S., provides for the enforcement of Department and District rules by both administrative and civil complaint. In addition, the Department has the authority to obtain the assistance of county and city officials in the enforcement of the rules (see Sections 373.603 and 373.609, F.S.). A violation of any provision of Chapter 373, F.S., Chapters 40C-4, 40C-40, 40C-41, 40C-42, F.A.C., or orders of the Department, is a second degree misdemeanor and the violator may be subject to prosecution.</u></p>

<p>7.5.3.7</p>	<p><u>Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with the guidelines and specifications in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), which are hereby incorporated by reference, unless a project specific erosion and sediment control plan is approved as part of the permit, in which case the practices must be in accordance with the plan. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment, beyond those specified in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the specification in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988). The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.</u></p>	<p><u>Immediately prior to, 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 to retain sediment on-site and to prevent violations of state water quality standards. These devices 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 shall remain in place at all locations until construction is completed and soils are permanently stabilized. 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, 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 <i>State of Florida Erosion and Sediment Control Designer and Reviewer Manual</i>, Prepared for Florida Department of Transportation & Florida Department of Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007. 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.</u></p>
<p>7.5.3.8</p>	<p><u>If the permitted system was designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the District the following: District Form No. 40C-1.181(13) (As Built Certification By a Registered Professional), signed and sealed by an appropriate professional registered in the State of Florida, and two (2) sets of "As Built" drawings when a) required by a special condition of this permit, b) the professional uses "As Built" drawings to support the As Built Certification, or c) when the completed system substantially differs from permitted plans. This submittal will serve to notify the District staff that the system is ready for inspection and approval.</u></p>	<p><u>If the permitted system was designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the Department the following: Form No. 62-343.900(5), (As Built Certification By a Registered Professional), signed and sealed by an appropriate professional registered in the State of Florida, and two (2) sets of "As Built" drawings when a) required by a special condition of this permit, b) the professional uses "As Built" drawings to support the As Built Certification, or c) when the completed system substantially differs from permitted plans. This submittal will serve to notify the Department staff that the system is ready for inspection and approval.</u></p>

<p><u>7.5.3.9</u></p>	<p><u>If the permitted system was not designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the District the following: District Form No. 40C-1.181(14) (As Built Certification), signed by the permittee and two (2) sets of "As Built" drawings when required by a special condition of this permit, or when the completed system substantially differs from permitted plans. This submittal will serve to notify the District staff that the system is ready for inspection and approval.</u></p>	<p><u>If the permitted system was not designed by a registered professional, within 30 days after completion of the stormwater system, the permittee must submit to the Department the following: Form No. 62-343.900(6) (Inspection Certification), signed by the permittee and two (2) sets of "As Built" drawings when required by a special condition of this permit, or when the completed system substantially differs from permitted plans. This submittal will serve to notify the Department staff that the system is ready for inspection and approval.</u></p>
<p><u>7.5.3.12</u></p>	<p><u>Within thirty (30) days after sale or conveyance of the permitted stormwater management system or the real property on which the system is located, the owner in whose name the permit was granted shall notify the District of such change of ownership. Transfer of this permit shall be in accordance with the provisions of Rule 40C-1.612, F.A.C. All terms and conditions of this permit shall be binding upon the transferee. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.</u></p>	<p><u>Within thirty (30) days after sale or conveyance of the permitted stormwater management system or the real property on which the system is located, the owner in whose name the permit was granted shall notify the Department of such change of ownership. Transfer of this permit shall be in accordance with the provisions of Rule 62-343.130, F.A.C. All terms and conditions of this permit shall be binding upon the transferee. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.</u></p>
<p><u>7.5.3.19</u></p>	<p><u>Activities approved by this permit shall be conducted in a manner which do not cause violations of state water quality standards.</u></p>	<p><u>Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards.</u></p>
<p><u>8.3(a)</u></p>	<p><u>Will not result in discharges from the system to surface and ground water of the state that cause or contribute to violations of state water quality standards as set forth in Chapters 62-3, 62-4, 62-302 and 62-550, F.A.C., including any anti-degradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), 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.</u></p>	<p><u>Will not result in discharges from the system to surface and ground water of the state that cause or contribute to violations of state water quality standards as set forth in Chapters 62-4, 62-302 and 62-550, F.A.C., including any anti-degradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), 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.</u></p>
<p><u>8.4</u></p>	<p><u>State water quality standards are established by DER and are set forth in Chapters 62-3, 62-4, 62-302, and 62-550, F.A.C. Surface and ground water discharges from stormwater management systems can not cause or contribute to a violation of state water quality standards. Systems in compliance with Chapter 40C-42, F.A.C., are presumed to meet state water quality standards.</u></p>	<p><u>State water quality standards are established by the Department and are set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C. Surface and ground water discharges from stormwater management systems can not cause or contribute to a violation of state water quality standards. Systems in compliance with Chapter 40C-42, F.A.C., are presumed to meet state water quality standards.</u></p>

<p><u>8.4.2</u></p>	<p><u>State water quality standards for ground water are set forth in Chapter 62-3, F.A.C. Rule 17-3.402, F.A.C., specifies minimum criteria for ground water. In addition to the minimum criteria, Class G-I and G-II ground water must meet primary and secondary drinking water quality standards for public water systems established pursuant to the Florida Safe Drinking Water Act, which are listed in Rules 62-550.310 and .320, F.A.C.</u></p> <p><u>Only the minimum criteria apply within a zone of discharge, as determined in Rule 62-28.700, F.A.C. A zone of discharge is defined as a volume underlying or surrounding the site and extending to the base of a specifically designated aquifer or aquifers, within which an opportunity for the treatment, mixture or dispersion of wastes into receiving ground water is afforded. Generally, stormwater systems have a zone of discharge 100 feet from the system boundary or to the project's property boundary, whichever is less.</u></p>	<p><u>State water quality standards for ground water are set forth in Chapters 62-520, 62-522, and 62-550, F.A.C. Rule 62-520.400, F.A.C., specifies minimum criteria for ground water. In addition to the minimum criteria, Class G-I and G-II ground water must meet primary and secondary drinking water quality standards for public water systems established pursuant to the Florida Safe Drinking Water Act, which are listed in Rules 62-550.310 and .320, F.A.C.</u></p> <p><u>Only the minimum criteria apply within a zone of discharge, as determined in Chapter 62-522, F.A.C. A zone of discharge is defined as a volume underlying or surrounding the site and extending to the base of a specifically designated aquifer or aquifers, within which an opportunity for the treatment, mixture or dispersion of wastes into receiving ground water is afforded. Generally, stormwater systems have a zone of discharge 100 feet from the system boundary or to the project's property boundary, whichever is less.</u></p>
<p><u>9.1.3</u></p>	<p><u>[Last paragraph] These seven principles are usually integrated into a system of vegetative and structural measures along with other management techniques to develop a plan to prevent erosion and control movement of sediment. Livingston et al. (1988) reports that in most cases, a combination of limited grading, limited time of exposure, and a judicious selection of erosion control practices and sediment trapping systems will prove to be the most practical method of controlling erosion and the associated production and transport of sediment. Permit applicants, system designers, and contractors can refer to the Florida Department of Transportation Drainage Manual (FDOT 1987) and The Florida Land Development Manual (Livingston et al. 1988) for further information on erosion and sediment control. These manuals provide guidance for the planning, design, construction, and maintenance of erosion and sediment control practices. Copies of Chapters 3 and 6 of The Florida Land Development Manual (Livingston et al. 1988) can be obtained upon request from any District permitting office (see section 1.3 for the location of the nearest office).</u></p>	<p><u>[Last paragraph] These seven principles are usually integrated into a system of vegetative and structural measures along with other management techniques to develop a plan to prevent erosion and control movement of sediment. Livingston et al. (1988) reports that in most cases, a combination of limited grading, limited time of exposure, and a judicious selection of erosion control practices and sediment trapping systems will prove to be the most practical method of controlling erosion and the associated production and transport of sediment. Permit applicants, system designers, and contractors can refer to 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 and the latest edition of the Florida Department of Transportation Drainage Manual for further information on erosion and sediment control. These manuals provide guidance for the planning, design, construction, and maintenance of erosion and sediment control practices.</u></p>
<p><u>9.11.2</u></p>	<p><u>[Last paragraph] If the design of the proposed stormwater management systems does not include the minimum design criteria discussed in this section, an analysis must be submitted to the District that provides reasonable assurance that the ground water quality standards as set forth in Chapter 17-3, F.A.C., are met.</u></p>	<p><u>[Last paragraph] If the design of the proposed stormwater management systems does not include the minimum design criteria discussed in this section, an analysis must be submitted to the Department that provides reasonable assurance that the ground water quality standards as set forth in Chapters 62-520, 62-522, and 62-550, F.A.C., are met.</u></p>

<p>9.12</p>	<p><u>[4th paragraph] Off-line systems are generally more effective at removing pollutants than on-line systems because accumulated pollutants cannot be “flushed out” during storm events that produce runoff volumes exceeding the treatment storage volume. Consequently, on-line systems must treat a greater volume of runoff than off-line systems to reduce the likelihood of flushing accumulated pollutants out of the system and achieve the pollutant removal goals required by State Water Policy (Chapter 62-40, F.A.C.). Treatment volumes for each of the stormwater treatment practices described in Chapter 40C-42, F.A.C., is discussed in the section for that BMP (sections 10-16).</u></p>	<p><u>[4th paragraph] Off-line systems are generally more effective at removing pollutants than on-line systems because accumulated pollutants cannot be “flushed out” during storm events that produce runoff volumes exceeding the treatment storage volume. Consequently, on-line systems must treat a greater volume of runoff than off-line systems to reduce the likelihood of flushing accumulated pollutants out of the system and achieve the pollutant removal goals required by the Water Resource Implementation Rule (Chapter 62-40, F.A.C.). Treatment volumes for each of the stormwater treatment practices described in Chapter 40C-42, F.A.C., is discussed in the section for that BMP (sections 10-16).</u></p>
<p>9.13</p>	<p><u>Rates. In <i>Proceedings of the Conference on Stormwater Detention Facilities</i>, ed. W. DeGroot, pages 105-120. Engineering Foundation, American Society of Civil Engineers, New York.</u></p>	<p><u>Lakatos, D.F. and R.H. Kropp. 1982. Stormwater Detention – Downstream Effects on Peak Flow Rates. In <i>Proceedings of the Conference on Stormwater Detention Facilities</i>, ed. W. DeGroot, pages 105-120. Engineering Foundation, American Society of Civil Engineers, New York.</u></p>
<p>16.6</p>	<p><u>The use of wetlands for stormwater treatment must meet the criteria in section 12.0, Environmental Consideration, of the <i>Applicant’s Handbook: Management and Storage of Surface Waters</i>, adopted by reference in Rule 40C-4.091, F.A.C. Pretreatment can reduce the impact of untreated stormwater upon the wetland. In addition, pre-treatment can be utilized to attenuate stormwater volumes and peak discharge rates so that the wetland’s hydroperiod is not adversely altered (Livingston 1989). Swale conveyances and lakes adjacent to the wetland are typical pretreatment practices.</u></p>	<p><u>The use of wetlands for stormwater treatment must meet the criteria in section 12.0, Environmental Consideration, of the <i>Applicant’s Handbook: Management and Storage of Surface Waters</i>, adopted by reference in paragraph 62-330.200(2)(i), F.A.C. Pretreatment can reduce the impact of untreated stormwater upon the wetland. In addition, pre-treatment can be utilized to attenuate stormwater volumes and peak discharge rates so that the wetland’s hydroperiod is not adversely altered (Livingston 1989). Swale conveyances and lakes adjacent to the wetland are typical pretreatment practices.</u></p>
<p>18.1.2(b)</p>	<p><u>The certification prepared by a registered professional (not necessarily the project design registered professional but one who has been retained by the permittee to provide professional services during the construction phase of project completion) shall be made on form number 40C-1.181(13), “As Built Certification by a Registered Professional” (see Appendix C for a copy of this form).</u></p>	<p><u>The certification prepared by a registered professional (not necessarily the project design registered professional but one who has been retained by the permittee to provide professional services during the construction phase of project completion) shall be made on form 62-343.900(5), “As Built Certification by a Registered Professional.”</u></p>
<p>18.1.3(a)</p>	<p><u>Within 30 days after completion of construction of the stormwater management system, permittee shall submit a certification on form number 40C-1.181(14), “As Built Certification” (see Appendix C for a copy of this form) that the system has been constructed in accordance with the design approved by the District and that the system is ready for inspection by the District.</u></p>	<p><u>Within 30 days after completion of construction of the stormwater management system, permittee shall submit a certification on form EN-44 “As Built Certification” (subsection 40C-42.900(3), F.A.C.) that the system has been constructed in accordance with the design approved by the Department and that the system is ready for inspection by the Department.</u></p>
<p>19.1.1</p>	<p><u>(a) Form number 40C-1.181(15), “Registered Professional’s Inspection Report,” for systems designed by a registered professional.</u> <u>(b) Form number 40C-1.181(16), “Statement of Inspection Report,” for systems not designed by a registered professional.</u></p>	<p><u>(a) Form number EN-46, “Registered Professional’s Inspection Report,” for systems designed by a registered professional.</u> <u>(b) Form number EN-47, “Statement of Inspection Report,” for systems not designed by a registered professional.</u></p>

<p>19.1.2</p>	<p><u>Inspection reports for dry detention, exfiltration, stormwater reuse, filtration, and pumped systems shall be submitted one year after the completion of construction and every two year thereafter on form number 40C-1.181(15), "Registered Professional's Inspection Report." A registered professional must sign and seal the report certifying the dry detention, exfiltration, or pumped system is operating as designed. However, reports for those systems in the Sensitive Karst Areas basin must be submitted pursuant to section 19.1.3 below.</u></p>	<p><u>Inspection reports for dry detention, exfiltration, stormwater reuse, filtration, and pumped systems shall be submitted one year after the completion of construction and every two year thereafter on form number EN-46, "Registered Professional's Inspection Report." A registered professional must sign and seal the report certifying the dry detention, exfiltration, or pumped system is operating as designed. However, reports for those systems in the Sensitive Karst Areas basin must be submitted pursuant to section 19.1.3 below.</u></p>
<p>19.1.3</p>	<p>(a) <u>Form number 40C-1.181(15), "Registered Professional's Inspection Report," for systems designed by a registered professional</u> (b) <u>Form number 40C-1.181(16), "Statement of Inspection Report," for systems not designed by a registered professional.</u></p>	<p>(a) <u>Form number EN-46, "Registered Professional's Inspection Report," for systems designed by a registered professional.</u> (b) <u>Form number EN-47, "Statement of Inspection Report," for systems not designed by a registered professional.</u></p>

(h)(i) ~~Subsections 1.1, 1.2, 1.3, 1.4, 1.5, section 2.0, subsections 3.1, 3.2, 3.3, 3.4, 7.1, 7.2, and 7.4 of Part I "Policy and Procedures," except for paragraphs 2.0(z) and (gg) through (kk) and (rr), sections 4.0 through 6.8, section 7.3, and sections 7.5 through 7.6.2; Part II "Criteria for Evaluation," except for sections 12.4 and 12.5; subsections 18.0, 18.1, 18.2, and 18.3 of Part III "Methodologies," and Appendix K "Hydrologic Basin Boundaries" "Legal Description Upper St. Johns River Hydrologic Basin," "Legal Description Oeklawaha River Hydrologic Basin," "Legal Description of the Wekiva River Hydrologic Basin," "Legal Description of the Eeonlockhatchee River Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Alachua County," and "Legal Description of the Sensitive Karst Areas Basin, Marion County" of the document entitled Applicant's Handbook: Management and Storage of Surface Water (February 16, 2010 40-3-95), and except: as provided in subparagraph 1. through 3.~~

1. All references to "Chapter 40C-400, F.A.C." are changed to "Chapter 62-341, F.A.C.," all references to "standard general environmental resource permit" or "standard general permit" are changed to "standard environmental resource permit" or "standard permit," as applicable, the references to "section" in section 3.3.3. (a) through (r) are changed to "Rule," all references to "403.813(2)" are changed to "403.813(1)" and the reference to "403.813(3)" in paragraph 3.4.1(e)4.b. shall be "403.813(1)," all references to "Florida Game and Freshwater Fish Commission" and "FGFWFC" are changed to "Florida Fish and Wildlife Conservation Commission" and "FWC," as applicable, all references to

~~"Chapter 62-3" are deleted, and the reference to the "Governing Board" or "Board," in section 3.5.3, is changed to "Department;" and Subsection 12.2.2: The second paragraph is amended to read "In evaluating whether an applicant has provided reasonable assurances under subsection 12.2.2, de minimis effects shall not be considered adverse for the purposes of this subsection."~~

2. Subsection 12.2.2: The last paragraph is amended to read: "The need for a wildlife survey will depend upon the likelihood that the site is used by listed species, considering site characteristics and the range and habitat needs of such species, and whether the proposed system will impact that use such that the criteria in subsection 12.2.2 12.2.2.3 and subsection 12.2.7 will not be met. In assessing the likelihood of use of a site by listed species, the Department will consult scientific literature, such as "Closing the Gaps in Florida's Wildlife Conservation System" (Florida Game and Fresh Water Fish Commission, 1994) and the Florida Natural Areas Inventory Survey methodologies employed to inventory the site must provide reasonable assurances regarding the presence or absence of the subject listed species."

2.3. The following references and language within the Handbook sections are changed as shown in Table 62-330.200(2)-5: Figure 12.2.8-1, effective {8-21-00}:

Section Number	Table 62-330.200(2)-5 From (language in Handbook)	To (language for Department use)
1.3	<p><u>If an applicant or potential applicant has any questions about these procedures or wishes to have District staff assistance in interpreting them or in completing an application, the applicant is encouraged to contact the nearest District office:</u></p> <p><u>St. Johns River Water Management District</u> <u>P. O. Box 1429</u> <u>Palatka, Florida 32178-1429</u> <u>(904)329-4500</u></p> <p><u>St. Johns River Water Management District</u> <u>7775 Baymeadows Way, Suite 102</u> <u>Jacksonville, Florida 32256</u> <u>(904)730-6270</u></p> <p><u>St. Johns River Water Management District</u> <u>618 East South Street, Suite 200</u> <u>Orlando, Florida 32801</u> <u>(407)879-4300</u></p> <p><u>St. Johns River Water Management District</u> <u>305 East Drive</u> <u>Melbourne, Florida 32904</u> <u>(407)984-4940</u></p>	<p><u>If an applicant or potential applicant has any questions about these procedures or wishes to have Department staff assistance in interpreting them or in completing an application, the applicant is encouraged to contact the nearest Department office:</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Northeast District</u> <u>7825 Baymeadows Way, Suite B200</u> <u>Jacksonville, Florida 32256-7577</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Central District</u> <u>3319 Maguire Boulevard, Suite 232</u> <u>Orlando, Florida 32803-3767</u></p> <p><u>Florida Department of Environmental Protection</u> <u>Southwest District</u> <u>13051 N Telecom Parkway</u> <u>Temple Terrace, FL 33637-0926</u></p>
7.1	<p><u>All permits to construct, alter and maintain a surface water management system also include a permit to operate the system. An applicant must submit the information described in this section to specify the entity that will operate and maintain the system with the construction, alteration or maintenance permit application. The construction, alteration, or maintenance permit will be converted to the operation permit once the District determines the system or independent portion of a system has been constructed in compliance with the permit, and an appropriate entity has accepted responsibility for operation and maintenance of the system or independent portion of a system. The District will transfer the operation permit to an operation and maintenance entity upon request, pursuant to Rule 40C-4.351, F.A.C., once all conditions for converting the construction, alteration, or maintenance permit have been met.</u></p>	<p><u>All permits to construct, alter and maintain a surface water management system also include a permit to operate the system. An applicant must submit the information described in this section to specify the entity that will operate and maintain the system with the construction, alteration or maintenance permit application. The construction, alteration, or maintenance permit will be converted to the operation permit once the District determines the system or independent portion of a system has been constructed in compliance with the permit, and an appropriate entity has accepted responsibility for operation and maintenance of the system or independent portion of a system. The Department will transfer the operation permit to an operation and maintenance entity upon request, pursuant to Rule 62-343.110, F.A.C., once all conditions for converting the construction, alteration, or maintenance permit have been met.</u></p>

<p>8.2</p>	<p><u>Chapter 373, F.S. (Water Resources Act of 1972); Chapter 403, F.S., (Environmental Control); Chapter 62-40, F.A.C. (State Water Policy); and Governing Board policy as stated in Chapter 40C-4, F.A.C., (Environmental Resource Permits: Surface Water Management Systems), Chapter 40C-40, F.A.C., (Standard Environmental Resource Permits), Chapter 40C-41, F.A.C., (Environmental Resource Permits: Surface Water Management Basin Criteria), Chapter 40C-42, F.A.C., (Environmental Resource Permits: Regulation of Stormwater Management Systems), Chapter 40C-44, F.A.C., (Environmental Resource Permits: Regulation of Agricultural Surface Water Management Systems), this Handbook, and through permitting decisions of the Governing Board.. Copies of Chapter 373, F.S., (abridged), Chapters 40C-4, 40C-40, 40C-41, and 40C-400, F.A.C., are contained in the appendices in Part IV of this Handbook.</u></p>	<p><u>Chapter 373, F.S. (Water Resources Act of 1972); Chapter 403, F.S., (Environmental Control); Chapter 62-40, F.A.C. (Water Resource Implementation Rule); and Governing Board policy as stated in Chapter 40C-4, F.A.C., (Environmental Resource Permits: Surface Water Management Systems), Chapter 40C-40, F.A.C., (Standard Environmental Resource Permits), Chapter 40C-41, F.A.C., (Environmental Resource Permits: Surface Water Management Basin Criteria), Chapter 40C-42, F.A.C., (Environmental Resource Permits: Regulation of Stormwater Management Systems), Chapter 40C-44, F.A.C., (Environmental Resource Permits: Regulation of Agricultural Surface Water Management Systems), this Handbook, and through permitting decisions of the Governing Board. copies of Chapter 373, F.S., (abridged), Chapters 40C-4, 40C-40, 40C-41, and 62-341, F.A.C., are contained in the appendices in Part IV of this Handbook.</u></p>
<p>10.1.1(c)</p>	<p><u>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 as approved, restricted or conditionally restricted for shellfish harvesting pursuant to Chapter 62R-7, F.A.C., will comply with the additional criteria in subsection 12.2.5 of the Applicant's Handbook adopted by reference in Rule 40C-4.091, F.A.C.</u></p>	<p><u>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 as approved, restricted or conditionally restricted for shellfish harvesting pursuant to Chapter 62R-7, F.A.C., will comply with the additional criteria in subsection 12.2.5 of the Applicant's Handbook adopted by reference in Chapter 62-113, F.A.C.</u></p>
<p>10.1.2</p>	<p><u>When determining whether a permit applicant has provided reasonable assurances that District permitting standards will be met, the District shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91-403.929, F.S., (1984 Supp.), as amended, which the District had the responsibility to enforce pursuant to delegation, or any District 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. The Department's delegation to the District to enforce Department rules is set forth in the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation, dated January 4, 1988; Operating Agreement concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the St. Johns River Water Management District and Department of Environmental Regulation, dated August 28, 1992; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated August 25, 1994; Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated December 3, 1998; and Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007, all incorporated by reference in Rule 40C-4.091, F.A.C. Revised 7/1/07.</u></p>	<p><u>When determining whether a permit applicant has provided reasonable assurances that District permitting standards will be met, the District shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91-403.929, F.S., (1984 Supp.), as amended, which the Department had the responsibility to enforce pursuant to delegation, or any District or 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. The Department's delegation to the District to enforce Department rules is set forth in the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation, dated January 4, 1988; Operating Agreement concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the St. Johns River Water Management District and Department of Environmental Regulation, dated August 28, 1992; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated August 25, 1994; Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated December 3, 1998; and Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007, all incorporated by reference in Chapter 62-113, F.A.C. Revised 7/1/07.</u></p>

<p><u>12.1.1(d)</u></p>	<p><u>a regulated activity located in, adjacent to or in close proximity to Class II waters or located in waters classified by the Department as approved, restricted, or conditionally restricted for shellfish harvesting pursuant to Chapter 62R-7, F.A.C., will comply with the additional criteria in subsection 12.2.5 of the Applicant's Handbook (subsection 40C-4.302(3), F.A.C.);</u></p>	<p><u>a regulated activity located in, adjacent to or in close proximity to Class II waters or located in waters classified by the Department of Agriculture and Consumer Services (DACS) as approved, restricted, or conditionally restricted for shellfish harvesting pursuant to Chapter 5L-1, F.A.C. (July 29, 2008), will comply with the additional criteria in subsection 12.2.5 of the Applicant's Handbook (subsection 40C-4.302(3), F.A.C.)</u></p>
<p><u>12.2.2(b)</u></p>	<p><u>[2nd paragraph] As part of the assessment of the impacts of regulated activities upon fish and wildlife, the District will provide a copy of all notices of applications for standard, individual, and conceptual approval permits which propose regulated activities in, on or over wetlands or other surface waters to the Florida Game and Fresh Water Fish Commission for review and comment. In addition, the District staff may solicit comments from the Florida Game and Fresh Water Fish Commission regarding other applications to assist in the assessment of potential impacts to wildlife and their habitats, particularly with regard to listed wildlife species. Where proposed activities have a potential to impact listed marine species, the District will provide a copy of the above-referenced types of applications to the Department of Environmental Protection.</u></p>	<p><u>[2nd paragraph] As part of the assessment of the impacts of regulated activities upon fish and wildlife, the Department will provide a copy of all notices of applications for standard, individual, and conceptual approval permits which propose regulated activities in, on or over wetlands or other surface waters to the Florida Fish and Wildlife Conservation Commission for review and comment. In addition, the District staff may solicit comments from the Florida Fish and Wildlife Conservation Commission regarding other applications to assist in the assessment of potential impacts to wildlife and their habitats, particularly with regard to listed wildlife species.</u></p>
<p><u>12.2.3.1(b)</u></p>	<p><u>impacts to areas classified by the Department as approved, conditionally approved, restricted or conditionally restricted for shellfish harvesting. Activities which would cause closure or a more restrictive classification or management plan for a shellfish harvesting area would result in a negative factor in the public interest balance with respect to this criterion.</u></p>	<p><u>impacts to areas classified by the DACS as approved, conditionally approved, restricted or conditionally restricted for shellfish harvesting. Activities which would cause closure or a more restrictive classification or management plan for a shellfish harvesting area would result in a negative factor in the public interest balance with respect to this criterion.</u></p>
<p><u>12.2.4.4</u></p>	<p><u>A temporary mixing zone for water quality during construction or alteration may be requested by the applicant. The District shall review such request pursuant to Rule 62-4.242 and subsection 62-4.244(5), F.A.C., in accordance with the Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between St. Johns River Water Management District and Department of Environmental Protection, adopted by reference in Rule 40C-4.091, F.A.C.</u></p>	<p><u>A temporary mixing zone for water quality during construction or alteration may be requested by the applicant. The Department shall review such request pursuant to Chapter 62-4.242 and subsection 62-4.244(5), F.A.C., in accordance with the Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., Between St. Johns River Water Management District and Department of Environmental Protection, adopted by reference in Chapter 62-113, F.A.C.</u></p>
<p><u>12.3.1.3</u></p>	<p><u>Mitigation through participation in a mitigation bank shall be in accordance with section 12.4 (Mitigation Banks).</u></p>	<p><u>Mitigation through participation in a mitigation bank shall be in accordance with Chapter 62-342, F.A.C. (Mitigation Banks).</u></p>
<p><u>12.3.2</u></p>		<p><u>[Add as first paragraph] For applications received on or after February 2, 2004, except as provided in Chapter 62-345, F.A.C., Sections 12.3.2-12.3.2.4 are superseded by Rule 62-345, F.A.C.</u></p>

<p><u>12.3.7.8(c)</u></p>	<p><u>When transferring a permit in accordance with Rule 40C-4.351, F.A.C., the new owner or person with legal control shall submit documentation to satisfy the financial responsibility requirements of subsections 12.3.7-12.3.7.9. The prior owner or person with legal control of the project shall continue the financial responsibility mechanism until the District has approved the permit transfer and substitute financial responsibility mechanism.</u></p>	<p><u>When transferring a permit in accordance with Rule 62-343.130, F.A.C., the new owner or person with legal control shall submit documentation to satisfy the financial responsibility requirements of subsections 12.3.7-12.3.7.9. The prior owner or person with legal control of the project shall continue the financial responsibility mechanism until the Department has approved the permit transfer and substitute financial responsibility mechanism.</u></p>
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~~(j) The Department will conduct a study of the implementation of Sections 12.2.1 and 12.2.7(b) of the Applicant's Handbook and report to the Environmental Regulation Commission by July 1, 1996, recommending to the Commission whether amendments to these rules should be proposed.~~

(3) through (4) No change.

Rulemaking Specific Authority 373.026(7), 373.043, 373.118, 373.406(5), 373.414, 373.415, 373.418, 373.461, 380.06(9), 403.0877 FS. Law Implemented 373.019, 373.042, 373.0421, 373.085, 373.086, 373.109, 373.118, 373.119, 373.129, 373.136, 373.403, 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.419, 373.421(2)-(6), 373.4211(22), (25), 373.422, 373.423, 373.426, 373.427, 373.429, 373.430, 373.433, 373.436, 373.439, 373.461, 380.06(9), 403.0877, 403.813(1) FS. History—New 12-7-92, Formerly 17-330.200, Amended 10-3-95, 6-6-96, 8-21-00, 9-4-05, 12-5-05, 6-5-06, 8-2-06, 8-2-06, _____.

DEPARTMENT OF JUVENILE JUSTICE

Detention Services

RULE NOS.:	RULE TITLES:
63G-1.001	Scope
63G-1.002	Definitions
63G-1.003	Determining Residence
63G-1.004	Calculating Estimated Costs
63G-1.005	Fiscally Constrained Counties
63G-1.006	Receipt of Payment
63G-1.007	Quarterly Reporting
63G-1.008	Annual Reconciliation
63G-1.009	Dispute Resolution and Collection

PURPOSE AND EFFECT: The existing rule sections are to be repealed in favor of new rule sections with substantial rewording.

SUMMARY: The repealed rule sections govern the process by which detention costs are shared by state and county government.

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: 985.686 FS.

LAW IMPLEMENTED: 985.686 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 1, 2010, 9:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel's Conference Room 3223, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63G-1.001 Scope.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(1) FS. History—New 7-16-06, Repealed _____.

63G-1.002 Definitions.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(1) FS. History—New 7-16-06, Repealed _____.

63G-1.003 Determining Residence.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5) FS. History—New 7-16-06, Repealed _____.

63G-1.004 Calculating Estimated Costs.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(3) FS. History—New 7-16-06, Repealed _____.

63G-1.005 Fiscally Constrained Counties.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5) FS. History—New 7-16-06, Amended 3-19-07, Repealed _____.

63G-1.006 Receipt of Payment.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5)-(6) FS. History—New 7-16-06, Repealed _____.

63G-1.007 Quarterly Reporting.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(7) FS. History–New 7-16-06, Repealed.

63G-1.008 Annual Reconciliation.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5) FS. History–New 7-16-06, Amended 3-19-07, Repealed.

63G-1.009 Dispute Resolution and Collection.

Rulemaking Specific Authority 985.2155(10) FS. Law Implemented 985.2155(5)-(8) FS. History–New 7-16-06, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Beth Davis, Director of Program Accountability
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Frank Peterman, Jr., Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 16, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2010

DEPARTMENT OF HEALTH

Division of Medical Quality Assurance

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

PURPOSE AND EFFECT: To incorporate by reference within this rule the forms to be used for renewing the licenses of profiled professions, non-profiled professions, and facilities.

SUMMARY: Incorporates by reference the three forms, one of which each licensee within the Division of Medical Quality Assurance shall be required to use, for the biennial renewal of the license.

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, 456.0635, 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) Pursuant to Section 456.004(1), F.S., the Department hereby implemented a plan for staggered biennial renewal of licenses issued by the Division of Medical Quality Assurance. Each licensed person who is subject to practitioner profiling under Sections 456.039(1) or 456.0391(1), F.S., shall renew using Form DH-MQA 1229 (02/10), Renewal Notice. All other licensed persons shall renew using Form DH-MQA 1230 (02/10), Renewal Notice. Licensed facilities shall renew by using Form DH-MQA 1231 (02/10), Renewal Notice. These forms are incorporated by reference and can be obtained from the Division at 4052 Bald Cypress Way, Bin C01, Tallahassee, FL 32399, or on line at <http://ww2.doh.state.fl.us/mqaservices/login.asp>.

(2) through (5) No change.

Rulemaking Authority 456.004(1) FS. Law Implemented 456.004(1), 456.013, 456.036(5), 456.039, 456.0391, 456.0635, 456.077 FS. History New 11-5-00, Amended 11-24-05, 11-8-07, 7-30-08, 7-19-09, 11-08-09, _____.

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: April 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 19, 2010

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.: RULE TITLE:
64B5-4.004 Advertising Specialty Services

PURPOSE AND EFFECT: To repeal the rule due to the case of Ducoin v. Board of Dentistry.

SUMMARY: The Board proposes to repeal the rule due to the case of Ducoin v. Board of Dentistry.

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: 466.004(4), 466.019 FS.
LAW IMPLEMENTED: 466.019, 466.028(1)(d), 466.0282 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: Susan Foster, Executive Director, Board of Dentistry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, FL 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-4.004 Advertising Specialty Services.

Rulemaking Specific Authority 466.004(4), 466.019 FS. Law Implemented 466.019, 466.028(1)(d), 466.0282 FS. History--New 1-11-89, Formerly 21G-4.004, 61F5-4.004, Amended 6-9-96, Formerly 59Q-4.004, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 2009

DEPARTMENT OF HEALTH

Board of Hearing Aid Specialists

RULE NO.: RULE TITLE:

64B6-2.003 Licensure by Examination

PURPOSE AND EFFECT: The Board proposes the rule amendment to update Form 1155, which is adopted and incorporated by reference.

SUMMARY: The rule amendments make changes to Form 1155, which is adopted and incorporated by reference.

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

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

RULEMAKING AUTHORITY: 456.017(1)(c), (6), 484.044, 484.0445(1) FS.

LAW IMPLEMENTED: 456.017(1)(c), 484.045, 484.0445(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B6-2.003 Licensure by Examination.

Any person desiring to be licensed as a hearing aid specialist shall apply to the Department at least one hundred twenty (120) days prior to the date the examination is to be administered.

(1) The Board, or its designee, shall certify for examination each applicant who:

(a) Has completed the Board of Hearing Aid Specialists Licensure by Examination Form, Form DH-MQA 1155 (Revised 11/09 ~~10/08~~), hereby adopted and incorporated by reference, which can be obtained from the Board of Hearing Aid Specialists' website at <http://www.doh.state.fl.us/mqa/HearingAid/index.html>, and remitted the application fee to the Board;

(b) through (g) No change.

(2) through (3) No change.

Rulemaking Authority 456.017(1)(c), (6), 484.044, 484.0445(1) FS. Law Implemented 456.017(1)(c), 484.045, 484.0445(1) FS. History--New 8-9-84, Amended 1-20-85, Formerly 21JJ-4.01, 21JJ-4.001, Amended 12-21-86, 5-22-90, 3-5-91, Formerly 21JJ-2.003, Amended 8-18-93, 6-28-95, Formerly 61G9-2.003, Amended 1-24-02, 3-4-08, 5-28-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Hearing Aid Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Hearing Aid Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: RULE TITLE:

64B17-7.001 Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment to update the guidelines to accommodate new violations created in Section 456.072, F.S.

SUMMARY: The amendment adds a penalty range for new disciplinary guidelines.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting: Allen Hall, Executive Director, at the address listed below. The following is a summary of the SERC:

(1) An estimated number of individuals or entities likely to be required to comply with the rule is as follows: for the fiscal year 2007-2008, there were 16, 107 active licensees including both physical therapists and physical therapist assistants. During that time period, 1,302 applications for licensures for both professions were received. It is estimated that over a five year period, approximately 6,510 applications could be

received. (2) The number of licensees or applicants who may be subject to the penalties in the rule is unknown. (3) The agency will incur the costs of rulemaking, as well as costs associated with enforcing the proposed changes. (4) Licensees found to have violated any of the proposed sections will experience the cost of associated penalties. (5) The proposed changes will have an impact on small businesses. Licensees who offer services to the public and found in violation will be impacted.

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: 456.036, 456.072, 456.079, 486.025 FS.

LAW IMPLEMENTED: 456.072, 456.073, 456.079, 486.125 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: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-7.001 Disciplinary Guidelines.

(1)(a) through (cc) No change.

(dd) Section 456.072(1)(ii), F.S.: Being convicted of, or entering a plea of guilty or nolo contendere to a crime under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to the Medicaid program from a minimum of a reprimand, six months probation and a fine of \$5,000 to a maximum of revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and revocation;

(ee) Section 456.072(1)(jj), F.S.: Failing to return an overpayment from the Medicaid program from a minimum of a reprimand, a fine of \$1000 and/or suspension until the Medicaid program is reimbursed in full to a maximum of revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and revocation;

(ff) Section 456.072(1)(kk), F.S.: Being terminated from the state Medicaid program pursuant to Section 409.913, F.S., if not terminated for cause, from a minimum of a reprimand, a fine of \$1000 and/or six months probation to revocation and a \$10,000 fine. If terminated for cause or if it is the second offense, a \$10,000 fine and revocation.

(gg) Section 456.072(1)(ll), F.S., Being convicted of, or entering a plea of guilty or nolo contendere to a crime related to health care fraud. If the crime is a felony under chapter 409, chapter 817, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396

the penalty shall be a minimum fine of \$1000 and revocation. Otherwise the penalty range is from a from a minimum of a reprimand, six months probation and a fine of \$5,000 to a maximum of revocation and a fine of \$10,000. For a second offense, a fine of \$10,000 and revocation.

(2) No change.

Rulemaking Specific Authority 456.036, 456.072, 456.079, 486.025 FS. Law Implemented 456.072, 456.073, 456.079, 486.125 FS. History–New 2-10-87, Formerly 21M-9.023, Amended 8-2-90, 10-14-91, 12-6-92, 3-24-93, Formerly 21MM-7.002, 61F11-7.002, 59Y-7.002, Amended 1-8-98, 8-3-00, 1-2-03, 4-9-06, 2-5-07, 4-5-07, 6-27-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 2009

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: RULE TITLE:

64B17-7.002 Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to make deadlines in citations consistent. SUMMARY: Deadlines in citations will be clarified. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below. The following is a summary of the SERC:

(1) There are approximately 11,182 Physical Therapists and 4,925 Physical Therapist Assistants with active licenses who would be subject to a continuing education audit. Only the licensees who fail to comply with the audit will be subject to these new provisions. (2) The only costs to be incurred are rule making costs. No effect on state or local revenue is expected. (3) No transactional costs are expected to be incurred by applicants or other entities by the proposed modifications. (4) The proposed change is not expected to impact small business, small counties or small cities.

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: 456.077, 486.025 FS.

LAW IMPLEMENTED: 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: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-7.002 Citations.

(1) "Citation" means an instrument which meets the requirements set forth in Section 456.077, F.S., and which is served upon a licensee for the purpose of assessing a penalty in an amount established by this rule. All citations will include a requirement that the subject correct the violation, if remediable, within a specified period of time not to exceed 60 days, and impose whatever obligations will remedy the offense, ~~except that up to six months shall be permitted with regard to the completion of continuing education credit hours.~~ If the violation is not corrected, or is disputed, the Department shall follow the procedure set forth in Section 456.073, F.S.

(2) No change.

(3) The Board designates the following as citation violations:

(a) through (d) No change.

(e) Failure of the licensee to satisfy continuing education requirements established by the Board (Rule 64B17-9.001, F.A.C.):

1. Fines:

a. Failure to complete less than 9 hours, a fine of \$300.

b. Failure to complete between 9 and 16 hours, a fine of \$600.

c. Failure to complete between 17 and 24 hours, a fine of \$1,000.

2. Licensee must provide proof of completion of the deficient hours within 60 ~~90~~ days of the date the citation was filed.

(f) No change.

(g) Failure to comply with a continuing education audit request (Section 486.109(4) and 486.125(1)(k), F.S.) – A fine of \$250, and licensee must provide proof of compliance with continuing education requirements within 60 ~~30~~ days of the date the citation was filed.

(h) No change.

(4) through (5) No change.

Rulemaking Specific Authority 456.077, 486.025 FS. Law Implemented 456.077 FS. History–New 1-19-92, Formerly 21MM-7.003, Amended 10-28-93, Formerly 61F11-7.003, 59Y-7.003, Amended 1-6-99, 1-6-02, 4-18-04, 7-13-05, 11-16-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-9.001
 RULE TITLE: Continuing Education

PURPOSE AND EFFECT: The Board proposes the rule amendment so that confidential information can be protected.

SUMMARY: Updating Form 1144 in order to move the social security number and special testing accommodation question.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting: Allen Hall, Executive Director, at the address listed below. The following is a summary of the SERC:

(1) An estimate of the number of applicants impacted each year is 17,236. (2) The only costs to be incurred are rulemaking costs. (3) No effect on state or local revenue is expected. (4) No transactional costs are expected to be incurred by applicants or other entities. (5) The proposed change is not expected to impact small business, small counties or small cities.

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: 486.025 FS.

LAW IMPLEMENTED: 456.013(6), 486.109(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: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-9.001 Continuing Education.

(1) through (5) No change.

(6) The Board approves for continuing education credit:

(a) through (e) No change.

(f) Licensees who file DOH form #DH-MQA 1144, PT Florida Laws and Rules Examination Application, Revised ~~0802~~09, incorporated by reference, which is available through www.doh.state.fl.us/mqa, and take and pass the Florida laws and rules examination shall receive two (2) hours of continuing education per biennium. The continuing education credit shall be awarded only for the biennium in which the examination was taken and passed. Continuing education credit shall not be

awarded to licensees that take and pass the examination as a result of a disciplinary proceeding or as a board ordered condition of initial licensure, re-activation or reinstatement.

(7) through (8) No change.

Rulemaking Authority 486.025 FS. Law Implemented 456.013(6), 486.109(2) FS. History—New 4-6-92, Formerly 21MM-9.001, Amended 3-7-94, Formerly 61F11-9.001, Amended 12-5-95, Formerly 59Y-9.001, Amended 2-14-02, 4-21-02, 1-2-03, 6-28-04, 4-9-06, 5-28-06, 2-17-08, 5-21-09, 8-10-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Physical Therapy Practice
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 18, 2009

DEPARTMENT OF HEALTH

Council of Medical Physicists

RULE NO.: 64B23-6.001
RULE TITLE: Penalty Guidelines

PURPOSE AND EFFECT: To include within the rule new guidelines for specific offenses enumerated in Section 456.072, F.S., by the 2009 legislative Session.

SUMMARY: As required by the statute, the amendment specifies new disciplinary guidelines for being convicted or entering a plea to certain crimes, for failing to repay an overpayment from Medicaid, and for being terminated from serving as a Medicaid or Medicare provider.

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: 456.079(1), 483.901(6)(g) FS.

LAW IMPLEMENTED: 456.072, 456.079, 483.901(6)(g) 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: Vicki R. Grant, Executive Director, 4052 Bald Cypress Way, Bin #C85, Tallahassee, Florida 32399-3285

THE FULL TEXT OF THE PROPOSED RULE IS:

64B23-6.001 Penalty Guidelines.
(1)(a) through (z) No change.

(aa) Section 456.072(1)(ii), F.S.: Being convicted of or entering a plea to any misdemeanor or felony under 18 U.S.C. s. 669, ss. 285-287, s. 371, s. 1001, s. 1035, s. 1341, s. 1343, s. 1347, s. 1349, or s. 1518, or 42 U.S.C. ss. 1320a-7b, relating to Medicaid – misdemeanor – from a minimum fine of \$1,000 and six months probation up to a maximum fine of \$7,500 and one year of suspension followed by two years of probation. Felony or for a second violation, revocation and a fine of \$10,000.

(bb) Section 456.072(1)(jj), F.S.: Failing to remit the sum owed for an overpayment from the Medicaid program or from a final order, judgment, stipulation, or settlement – from a minimum fine of \$1,000 and a reprimand to a maximum fine of \$3,500 and two years of suspension. For a second or subsequent violation, a fine of up to \$10,000 and six months probation to revocation.

(cc) Section 456.072(1)(kk), F.S.: Being terminated from a state Medicaid program or from the federal Medicare program unless participation eligibility restored – from a minimum fine of \$500 and a reprimand to a maximum fine of \$7,500 and revocation. For a second or subsequent violation, up to a fine of \$10,000 and revocation.

(dd) Section 456.072(1)(ll), F.S.: Being convicted of or entering a plea to any misdemeanor or felony relating to health care fraud – misdemeanor with no intentional fraud – from a minimum fine of \$1,000 and two years of probation up to a maximum fine of \$3,000 and revocation. Felony or for a second violation, revocation and a fine of \$10,000.

(2) No change.

Rulemaking Specific Authority 456.079(1), 483.901(6)(g) FS. Law Implemented 456.072, 456.079, 483.901(6)(g) FS. History—New 7-15-99, Amended 8-5-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Vicki R. Grant
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: April 26, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 15, 2010

DEPARTMENT OF HEALTH

Council of Licensed Midwifery

RULE NO.: 64B24-2.001
RULE TITLE: Licensure to Practice Midwifery

PURPOSE AND EFFECT: To update, reorganize, and add questions to the licensure application in accordance with legislation passed during the 2009 Session.

SUMMARY: This rule incorporates the revised application form including questions required by Section 456.0635(2), Florida Statutes.

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(5), 467.005 FS.

LAW IMPLEMENTED: 381.0034, 456.013, 467.011, 467.0125 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, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-2.001 Licensure to Practice Midwifery.

(1) Persons desiring to be licensed as a midwife shall make application to the department and remit all applicable fees as required by Chapter 64B24-3, F.A.C. The application shall be made on incorporated by reference Form DH-MQA 1051, (3/10) (~~2/09~~) Application for Midwifery Licensure, which can be obtained from the Council of Licensed Midwifery, Department of Health, 4052 Bald Cypress Way, Bin C06, Tallahassee, Florida 32399-3256 or at <http://www.doh.state.fl.us/mqa/midwifery>. If incomplete, the application and fees shall expire 1 year from the date on which the application is initially received by the department. After a period of 1 year a new application with required fees must be submitted.

(2) through (4) No change.

Rulemaking Authority 456.004(5), 467.005 FS. Law Implemented 381.0034, 456.013, 467.011, 467.0125 FS. History--New 1-26-94, Formerly 61E8-2.001, 59DD-2.001, Amended 10-29-02, 12-26-06, 2-7-08, 5-17-09, _____

NAME OF PERSON ORIGINATING PROPOSED RULE: Kaye Howerton

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: April 26, 2010

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

FISH AND WILDLIFE CONSERVATION COMMISSION

Freshwater Fish and Wildlife

RULE NO.: 68A-15.005 RULE TITLE: Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits

PURPOSE AND EFFECT: The purpose of the proposed rule changes is to delete reference in rule to how special-opportunity dove permits will be issued. The effect of the proposed rule changes will be to enable the agency to better manage fish and wildlife resources and public use on WMAs.

SUMMARY: The proposed rule change would eliminate the requirement that special-opportunity dove permits be issued on a first-come, first-served basis.

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

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

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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: Bill Hunter, Director, Office of Licensing and Permitting, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68A-15.005 Quota Permits; Antlerless Deer Permits; Special-Opportunity Permits.

(1) through (2) No change

(3) Special-Opportunity Permits: Special-opportunity permits shall be issued for the following hunt types as described below and as designated by order of the Executive Director. A special-opportunity permit holder may participate in the designated hunt and take the bag limit of wildlife as established by Commission rule.

(a) through (c) No change.

(d) Application for, selection of, and issuance of special-opportunity Permits.

1. through 5. No change.

6. ~~Special opportunity Dove Club and Daily Dove permits shall be issued on a first come, first served basis.~~

(4) through (5) No change

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 8-1-79, Amended 5-19-80, 6-22-80, 12-29-80, 6-4-81, 8-4-81, 6-21-82, 7-29-82, 7-1-83, 7-5-84, 7-1-85, 9-19-85, Formerly 39-15.05, Amended 5-7-86, 6-10-86, 5-10-87, 6-8-87, 10-8-87, 4-13-88, 6-7-88, 7-1-89, 7-1-90, 9-1-90, 7-1-91, 7-2-91, 7-1-92, 8-23-92, 7-1-93, 7-1-94, 3-30-95, 6-20-95, 8-15-95, 4-1-96, 6-27-96, 9-15-96, 10-20-96, 6-1-97, 8-7-97, 11-23-97, 7-1-98, 7-2-98, 8-11-98, 12-28-98, 5-13-99, Formerly 39-15.005, Amended 12-9-99, 4-30-00, 7-1-01, 8-1-01, 11-1-01, 5-13-02, 10-16-02, 5-1-03, 7-1-03, 9-29-03, 7-1-04, 7-2-04, 8-1-04, 5-1-05, 5-1-06, 6-1-06, 5-1-07, 7-1-08, 5-1-09, 6-1-10, _____.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bill Hunter, Director, Office of Licensing and Permitting, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 28, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-4.0021	Florida Teacher Certification Examinations

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 15, April 16, 2010 issue of the Florida Administrative Weekly.

(2)(c)1. Before January 1, 2011 the general knowledge competencies and skills as contained in the publication, “Competencies and Skills Required for Teacher Certification in Florida, Fourteenth Edition.” Beginning with the January 1, 2011, test administration, the general knowledge competencies

and skills as contained in the publication “Competencies and Skills Required for Teacher Certification in Florida, Fifteenth Edition.” Copies of these publications may be obtained from the Department’s web site at <http://www.fldoe.org/asp/ftce/>.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-6.0787	Ballot Process for Teacher and Parent Voting for Charter School Conversion Status

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 15, April 16, 2010 issue of the Florida Administrative Weekly.

(1) Initiation of ballot process. A district school board, the principal, teachers, parents, and/or the school advisory council at an existing public school that has been in operation for at least two (2) years may submit a request in writing to the school administrator to conduct a vote for conversion. ~~Any individual or group may submit a request in writing to the school administrator to conduct a vote for conversion.~~ The request shall be submitted no later than ninety (90) days prior to the August 1 deadline for charter applications. The administrator shall initiate the ballot process within sixty (60) days of receipt of the written request and the ballot process shall be completed no less than thirty (30) days prior to the charter application deadline.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

PUBLIC SERVICE COMMISSION

RULE NO.:	RULE TITLE:
25-4.0665	Lifeline Service

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 50, December 18, 2009 issue of the Florida Administrative Weekly.

Docket No. 090504-TP

The following changes have been made to the proposed rule:

25-4.0665 Lifeline Service.

(1) A subscriber is eligible for Lifeline service if:

(a) the subscriber is a participant in one of the following federal assistance programs:

1. Medicaid;