

**Section I**  
**Notices of Development of Proposed Rules**  
**and Negotiated Rulemaking**

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Plant Industry**

RULE NOS.:	RULE TITLES:
5B-66.001	Definitions
5B-66.002	Purpose
5B-66.003	Quarantine Area
5B-66.004	Movement or Procession of Hosts or Other Regulated Articles; Conditions of Certification
5B-66.005	Confiscation and Disposal of Hosts
5B-66.006	Treatment Areas, Treatment Procedures and Mitigative Measures

**PURPOSE AND EFFECT:** The purpose of this rule is to establish procedures for the eradication of fruit flies in the genera *Anastrepha* (except *A. suspensa*), *Bactrocera*, *Ceratitis*, *Dacus* and *Rahgoletis* upon their detection in the State of Florida. The effect will be that the state can quickly respond to a detection of a fruit fly outbreak and take appropriate measures to achieve eradication thereby protecting Florida’s agricultural industry, homegrown fruits and vegetables and certain native plants which are important food sources for wildlife.

**SUBJECT AREA TO BE ADDRESSED:** The proposed rule will address the necessity of immediate action to eradicate fruit flies of economic importance before the infestation spreads. If immediate action is not taken, eradication costs will rise dramatically due to the increased area which then will need treatment. If the fruit fly continues to spread unchecked, it will cause substantial damage to fruit-bearing plants in home gardens and ultimately spread into agricultural production areas where it would cost several millions of dollars in control costs, lost production and increased consumer prices in the marketplace.

**RULEMAKING AUTHORITY:** 570.07(23), (24), 581.031(1), (5), (7), (17) FS.

**LAW IMPLEMENTED:** 570.32 (5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 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 IS: Dr. Wayne N. Dixon, Assistant Director, Division of Plant Industry, Department of

Agriculture and Consumer Services, Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida 32608, (352)372-3505

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-66.001 Definitions.

For the purpose of this rule, the definitions in Section 581.011, F.S., and the following definitions shall apply:

(1) EPA. The United States Environmental Protection Agency.

(2) Fruit fly. Any life stage of any species of tephritid fruit fly in the genera *Anastrepha* (except *A. suspensa*), *Bactrocera*, *Ceratitis*, *Dacus*, *Rhagoletis* or synonyms thereof.

(3) Host. All fruit (including nuts, dates and berries), vegetables and the fruiting bodies of many wild and cultivated plants which are capable of infestation by any life stage of any species of fruit fly defined in subsection (2).

(4) Infested. Actually harboring a fruit fly in any of its life stages.

(5) Regulated article(s). Any article(s), including soil, capable of transporting or harboring a fruit fly.

(6) USDA-APHIS-PPQ. United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

5B-66.002 Purpose.

The purpose of this rule is to establish procedures for conducting a program to eradicate fruit flies defined in subsection 5B-66.001(2), F.A.C., upon their detection in the State of Florida. This rule chapter designates the size of quarantine areas and the requirements for the movement and certification of hosts and regulated articles. It also designates the size of treatment areas and the procedures for conducting treatments, outlines program mitigative measures and sets forth the requirements for declaring eradication.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (7), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

5B-66.003 Quarantine Area.

A minimum 81-square mile area around a fruit fly detection shall be quarantined upon finding:

(1) Two adults, within three miles (3.5 miles for *Bactrocera*) of each other within a life cycle; or

(2) One gravid female; or

(3) A larva; or

(4) A pupa.

The geographical boundaries of a quarantine area shall be published in a major newspaper of general distribution and through other appropriate media. It shall be unlawful to move a host of the fruit fly species detected or a regulated article within, through, or from a quarantine area unless in accordance with Rule 5B-66.004, F.A.C. A list of hosts most likely to be present in a quarantine area shall be published in a major newspaper of general distribution, on the Department's website and provided to affected industry groups. An area shall be released from quarantine following a declaration that the fruit fly has been eradicated in accordance with paragraph 5B-66.006(4)(h), F.A.C.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

#### 5B-66.004 Movement or Possession of Hosts or Other Regulated Articles; Conditions of Certification.

It shall be unlawful for any person to move hosts of the fruit fly species detected or regulated articles within, through or outside the quarantine area or to move or possess them for commercial or distribution purposes within the quarantine area unless in compliance with these rules and certified by the Department or the USDA-APHIS-PPQ.

(1) Hosts to be moved outside of a quarantine area for commercial or distribution purposes shall be certified based on negative trapping, post-harvest treatments or treatments applied to production areas which are approved by the Department. A Certificate of Inspection must accompany the treated host or regulated article and must include the method of treatment, location of the treatment facility and other pertinent data.

(2) Hosts offered for sale or distribution in the quarantined area shall be certified if an authorized representative of the Department or USDA-APHIS-PPQ has inspected them and determined that both of the following conditions have been met:

(a) All hosts have been received from outside the quarantine area. Vendors must have proof of origin in the form of written receipts or other documentation;

(b) All hosts are kept in fruit fly-proof screened enclosures or sealed containers, cold storage, or fly-proof vehicles or other enclosures to prevent infestation by a fruit fly.

(3) Hosts transiting the quarantine area must be covered by fly-proof screen or be in fly-proof vehicles and accompanied by proof of origin in the form of written receipt or other documentation.

(4) Soil and plants with soil attached:

(a) Soil and plants with soil attached shall be certified for movement if an authorized representative of the Department has inspected them and found that they are not or have not been under the canopy of a host plant which is bearing hosts, or was capable of bearing hosts within the previous 60 days.

(b) Soil and plants with soil attached under the canopy of a plant which is bearing hosts, or was capable of bearing hosts within the previous 60 days, shall be certified provided:

1. All soil and plants are removed to an area clear of plants bearing or capable of bearing hosts and the soil is treated with an EPA and Florida Department of Agriculture and Consumer Services (FDACS) registered pesticide or in the case of Emergency Exempted products, 40 CFR, Part 166, Section 18 or 40 CFR, Part 162, Section 24 (c), Special Local Need products, which is effective for fruit fly control.

2. All treatments must be conducted under the supervision of an authorized representative of the Department or pursuant to a compliance agreement as provided in subsection 5B-66.004(5), F.A.C.

(c) Plants bearing hosts. In addition to the above, plants bearing hosts, or which were capable of bearing hosts, shall be certified for movement after all hosts have been removed in accordance with subsection 5B-66.006(2), F.A.C., and the soil treated with an EPA-registered pesticide which is effective for fruit fly control. All treatments must be conducted under the supervision of an authorized representative of the Department or pursuant to a compliance agreement as provided in subsection 5B-66.004(5), F.A.C.

(5) Compliance agreements. The certification of hosts and regulated articles can be accomplished through the use of a compliance agreement, Cooperative Fruit Fly Eradication Project, DACS-08468, Rev. 09/10, or Cooperative Fruit Fly Eradication Project, Aerial Applicator, DACS-08469, Rev. 09/10, if the Department does not require each treatment or movement to be witnessed by an authorized representative of the Department. The form Cooperative Fruit Fly Eradication Project, DACS 08468, Rev. 09/10, and Cooperative Fruit Fly Eradication Project, Aerial Applicator, DACS-08469, Rev. 09/10, are incorporated herein by reference and may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, by writing to P. O. Box 147100, Gainesville, FL 32514-7100, or on the Department's website at <http://www.doacs.state.fl.us/onestop/plt/plantinsp.html>.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

#### 5B-66.005 Confiscation and Disposal of Hosts.

(1) All hosts offered for sale or distribution in the quarantine area which are not in compliance with Rule 5B-66.004, F.A.C., shall be considered infested and shall be confiscated, held and destroyed at the expense of the vendor or person having possession of the hosts by issuing a Stop-Sale Notice and Hold Order, DACS-08016, Rev. 02/10, as adopted by reference in subsection 5B-65.005(2), F.A.C., or if the vendor or person having possession of the hosts agrees to voluntarily destroy the hosts an Agreement For Treatment, Destruction, Forfeiture or Return of Plants and/or Plant Parts.

DACS-08029, Rev. 09/10, as adopted by reference in Rule 5B-3.0038, F.A.C. If the vendor or person is in compliance, then the host shall be released upon lifting of the Stop Sale Notice or quarantine.

(2) All hosts to be disposed must be placed in a tightly sealed plastic bag, then placed in a puncture proof container for delivery to an approved landfill or incinerator.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17), FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

#### 5B-66.006 Treatment Areas, Treatment Procedures and Mitigative Measures.

(1) Treatment areas and treatment procedures to eradicate a fruit fly infestation will be dependent on the species, life-stages and numbers of fruit flies detected and the geographical area affected by the fruit fly infestation. Treatment areas shall be treated under the direction of the Department and the USDA-APHIS-PPQ. Treatments may include:

(a) Ground or aerial applications of EPA and FDACS-registered pesticide or in the case of Emergency Exempted product brands (Section 18) or Special Local Need products, a FDACS registered product;

(b) Bait stations applied to host plants or plants capable of harboring adult fruit flies;

(c) The removal and destruction of all hosts known or suspected to harbor any stage of the fruit fly species detected;

(d) The removal and destruction of abandoned or unwanted plants capable of bearing hosts;

(e) The placement of traps;

(f) The release of sterile fruit flies to achieve eradication.

All pesticide applications will be applied in accordance with all applicable federal and state regulations implementing mitigative measures to reduce environmental and public impact as described in this rule.

(2) Delimitation area and Treatment areas. The geographical boundaries of treatment areas shall be published in a major newspaper of general distribution and through other appropriate media. Areas shall be declared treatment areas as follows:

(a) When a single male or unmated female fruit fly is detected, an intensified monitoring program will be implemented in a delimitation area which will be a minimum 81-square mile area around the positive site.

(b) When two adult fruit flies are detected within three miles (3.5 miles for Bactrocera) of each other within a life cycle, or a single gravid female, larva, or pupa are detected, an intensified monitoring program will be implemented in a minimum 81-square mile area around the positive site. The treatment area shall be a minimum nine-square mile area around a positive site for pesticide treatments.

(c) If a larva is detected, in addition to paragraph 5B-66.007(1)(b), F.A.C., above, the soil under the canopy of all host plants on the property and each adjacent property shall be drenched with an EPA and FDACS-registered pesticide or a 40 CFR, Part 166, Section 18, Emergency Exempted products or 40 CFR, Part 162, Section 24 (c), Special Local Need products, and all hosts shall be removed within a 660-foot radius of the positive site by the Department and the USDA-APHIS-PPQ.

(3) Treatment procedures. Treatments will be conducted in accordance with the following procedures upon notification of applicable federal, state, and local government agencies and officials who will be provided an opportunity for input into program procedures or mitigative measures or participation in program monitoring activities:

(a) All necessary control actions will be conducted based on the species of fruit fly detected using the treatments necessary to prevent further spread and achieve eradication.

(b) Local hospitals and public health facilities and agencies will be notified of the pesticide treatment schedules and the types of pesticides used and all accidental pesticide exposures will be reported to the appropriate local, state and federal authorities.

(c) All applicable environmental laws and regulations will be followed and an environmental monitoring program in accordance with applicable federal and state environmental laws will be implemented.

(d) All pesticides will be applied under the supervision of certified applicators in accordance with label instructions, applicable quarantine or emergency exemptions, USDA Environmental Impact Statements, site specific Environmental Assessments and state licensing requirements.

(e) All appropriate program personnel will be trained on the proper use and storage of materials and instructed on emergency procedures in the event of accidental chemical exposure.

(f) All necessary safety and cleaning equipment, protective clothing and Material Safety Data Sheets will be provided to program personnel.

(4) Program Mitigative Measures. The following mitigative measures will be taken to reduce public and environmental impact:

(a) Residents in treatment areas shall be notified by publication in a major newspaper of general distribution at least 24 hours in advance of the date and time of planned pesticide treatments. Notifications will be in English or other languages as necessary based on the ethnic structure of the community. The notification shall include basic information about the program, the geographical boundaries of the treatment area, treatment procedures and measures to be taken to avoid exposure and reduce damage.

(b) Residents in the treatment area on the Registry of Persons Requiring Prior Notification of the Application of Pesticides shall be notified 24 hours prior to any pesticide treatment applications in accordance with Section 482.2267, F.S.

(c) A telephone help line system will be established to keep the public informed of program activities and serve as a mechanism for registering and responding to complaints.

(d) Beekeepers in the treatment area will be notified 24 hours in advance of any chemical applications.

(e) The United States Department of the Interior’s Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission will be contacted to determine the presence of any endangered or threatened species in need of protection within the treatment area and the program shall take appropriate measures to protect those species as recommended by these agencies.

(f) Sensitive areas in or near treatment areas shall be identified prior to chemical treatments and appropriate measures taken to ensure that these areas are not adversely affected.

(g) All control actions will be conducted with appropriate concern for potential impact on the public, wildlife, non-target organisms and sensitive areas.

(h) Declaration of Eradication. Following the completion of all treatments, eradication shall be declared when no fruit fly is detected after a period of a minimum of two fruit fly life cycles.

(i) Program Evaluation. Following the completion of a fruit fly eradication program, program activities and monitoring results will be reviewed and evaluated and appropriate changes implemented for future programs.

Rulemaking Authority 570.07(23), (24), 581.031(1), (5), (7), (17) FS. Law Implemented 570.32(5), (6), 581.031(6), (7), (9), (15), (17), (20), (26), (30), 581.101, 581.161, 581.181 FS. History—New \_\_\_\_\_.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.05731  
 RULE TITLE: Industry Certification of Automotive Service Technology Education Programs

PURPOSE AND EFFECT: The purpose of the rule development is to develop the Industry Certification of Automotive Service Technology Education Programs by fiscal year 2013-2014, pursuant to Section 1004.925, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Certification of Automotive Service Technology Education Programs.

RULEMAKING AUTHORITY: 1004.925 FS.

LAW IMPLEMENTED: 1004.925 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: Darl Walker, Senior Educational Program Director, Career and Technical Education Programs, 325 West Gaines Street, Room 701, Tallahassee, Florida 32399; (850)245-9020. To request a rule development workshop, please contact: Lynn Abbott, Agency Clerk, Department of Education, (850)245-9661 or e-mail [lynn.abbott@fldoe.org](mailto:lynn.abbott@fldoe.org) or go to <https://app1.fldoe.org/rules/default.aspx>

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT: <https://app1.fldoe.org/rules/default.aspx>

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.: 6A-6.07861  
 RULE TITLE: Model Forms for Charter Technical Career Center Applicants and Sponsors

PURPOSE AND EFFECT: The purpose of this rule development is to implement the Model Florida Charter Technical Career Center Application, Florida Charter Technical Career Center Application Evaluation Instrument, and the Florida Charter Technical Career Center Contract Format, pursuant to Section 1002.34, Florida Statutes. The effect will be a rule that is aligned with Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Charter Technical Career Centers.

RULEMAKING AUTHORITY: 1002.34 FS.

LAW IMPLEMENTED: 1002.34 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: Tara Goodman, Budget Chief, Budget Accountability and Assessment, Division of Career and Adult Education, 325 West Gaines Street, Room 744, Tallahassee, FL 32399, (850)245-9002. To request a rule development workshop, please contact: Lynn Abbott, Agency Clerk, Department of Education, (850)245-9661 or e-mail [lynn.abbott@fldoe.org](mailto:lynn.abbott@fldoe.org) or go to <https://app1.fldoe.org/rules/default.aspx>

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

**DEPARTMENT OF EDUCATION****Commission for Independent Education**

RULE NO.: 6E-2.004  
 RULE TITLE: Standards and Procedures for Licensure

**PURPOSE AND EFFECT:** The purpose is to develop standards and procedures to ensure new institutions seeking licensure have sufficient resources, including financial resources, and to increase the protection afforded students by requiring training and reporting requirements for institutional personnel who recruit and enroll students at an institution.

**SUBJECT AREA TO BE ADDRESSED:** Financial licensure standards for institutions with a provisional license and recruitment and admission licensure standards for enrollment personnel.

**RULEMAKING AUTHORITY:** 1005.22(1)(e), 1005.31(2), (3), 1005.34, 1005.39 FS.

**LAW IMPLEMENTED:** 1005.04, 1005.31, 1005.33(1), 1005.34, 1005.39 FS.

**A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** October 25, 2010, 10:30 a.m.

**PLACE:** Howey-In-The-Hills, 10400 County Road 48, Howey-In-The-Hills, Florida 34737

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: Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS:** Samuel L. Ferguson, Executive Director, Commission for Independent Education, 325 West Gaines Street, Suite 1414, Tallahassee, Florida 32399-0400, (850)245-3206

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

6E-2.004 Standards and Procedures for Licensure.

(1) through (4) No change.

(5) Standard 5: Recruitment and Admissions. In all admissions and recruitment-related activities, the institution shall comply with the fair consumer practices provisions of Sections 1005.04 and 1005.34, F.S., and Rule 6E-1.0032, F.A.C., and the rule regarding Agents, Rule 6E-2.010, F.A.C.

(a) An institution's recruitment efforts shall be designed to target students who are qualified and likely to complete and benefit from the training provided by the institution.

(b) Recruiting Practices. Each institution must observe ethical practices and procedures in the recruitment of its students. Ethical practices and procedures include, at a minimum, the following:

1. An institution shall use only individuals, whether its own employees or agents, who are trained and licensed as agents pursuant to Rule 6E-2.010, F.A.C., to enroll students off-campus. Outside the United States, its territories, or its possessions, the institution may use third-party agents for recruiting; however, the institution remains responsible for the accuracy of advertising and of representations made to prospective students regarding the institution, its programs and policies, financial aid eligibility, availability and procedures, and other pertinent information. Other institutional officials who are not licensed agents may participate in occasional College Week or Career Week programs at area high schools or community centers, or give speeches regarding the institution to groups when invited; but no misleading information shall be communicated, no students shall be enrolled, and no tuition or fees shall be collected.

2. An institution shall not use employment agencies to recruit prospective students, or place advertisements in help-wanted sections of classified advertisements, or otherwise lead prospective students to believe they are responding to a job opportunity.

3. An institution shall ensure that its recruiting agents and other personnel do not make false or misleading statements about the institution, its personnel, its programs, its services, its licensure status, its accreditation, or any other pertinent information.

4. An institution shall not permit its recruiting agents or other personnel to recruit prospective students in or near welfare offices, unemployment lines, food stamp centers, homeless shelters, nursing homes, or other circumstances or settings where such persons cannot reasonably be expected to make informed and considered enrollment decisions. Institutions may, however, recruit and enroll prospective students at one-stop centers operated under government auspices, provided that all other recruitment and admissions requirements are met.

5. An institution shall inform each student accurately about financial assistance and obligations for repayment of loans.

6. An institution shall not make explicit or implicit promises of employment or salary expectations to prospective students.

7. An institution shall not permit the payment of cash or other nonmonetary incentives, such as but not limited to travel or gift certificates, to any student or prospective student as an inducement to enroll. An institution shall not use the word "free" or its synonyms in reference to any equipment, tuition, books, or other items in conjunction with recruiting or

advertising. Tuition or fee discounts are not permissible; any reductions of tuition or fees must comply with subsection 6E-1.0032(7), F.A.C.

8. An institution must provide the applicant with a copy of the completed enrollment agreement, signed by both parties.

9. Ethical practices shall be followed in all aspects of the recruiting process. An institution shall ensure that its personnel do not discredit other institutions by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or similar negative characteristics; making other false representations; disparaging the character, nature, quality, value or scope of their program of instruction or services; or demeaning their students. An institution shall also ensure that its personnel do not knowingly influence any student to leave another institution or encourage a student to change plans after signing an enrollment application and paying a registration fee to another institution.

(c) Admissions Acceptance Policies. The purpose of this section is to ensure that institutions admit only those students who are capable of successfully completing the training offered. Admission decisions shall be based on fair, effective, and consistently applied criteria that enable the institution to make an informed judgment as to an applicant's ability to achieve the program's objectives.

1. An institution shall determine with reasonable certainty that each applicant for enrollment is fully informed as to the nature of the training provided. The institution shall advise each applicant prior to admission to ensure that the applicant understands the program's responsibilities and demands.

2. An institution shall consistently and fairly apply its admission standards as published. It shall determine that applicants admitted meet such standards and are capable of benefitting from the training offered, and that applicants rejected did not meet such standards. The institution shall ensure that each applicant admitted has the proper qualifications, abilities, and skills necessary to complete the training, and shall secure and maintain documentation to demonstrate that each applicant meets all admissions requirements.

3. If an institution enrolls a person who does not have a high school diploma or recognized equivalency certificate, the determination of the applicant's ability to benefit from the training offered must be confirmed as provided in subparagraph (4)(o)3. of this rule.

4. An institution shall not deny admission or discriminate against students enrolled at the institution on the basis of race, creed, color, sex, age, disability or national origin. Institutions must reasonably accommodate applicants and students with disabilities to the extent required by applicable law.

5. An institution shall not accept enrollment from a person of compulsory school age, or one attending a school at the secondary level, unless the institution has established through

contact with properly responsible parties that pursuit of the training will not be detrimental to the student's regular schoolwork.

6. The institution shall document its reasons for denying admission to any prospective student. Records of denied applicants must be kept on file for at least one year.

(d) To ensure that the requirements of subsection (5) are met, it shall be the responsibility of an institution to require a training program for all staff who recruit prospective students, or who participate in the admission of prospective students, at the institution.

1. With each application for an annual license, an institution shall submit CIE Form XYZ, to demonstrate that the institution has instituted a training program that meets the requirements of subsection (5) and that all recruiting and admission staff have completed the training at least once annually.

2. The provisions of this paragraph shall apply to applications submitted by institutions beginning January 2012.

(6) Standard 6: Finances. All institutions must demonstrate that the financial structure of the institution is sound, with resources sufficient for the proposed operations of the institution and the discharge of its obligations to the students. To demonstrate this, the school shall provide the following:

(a) Provisional License:

1. A plan setting forth the sources, kinds and amounts of both current and anticipated financial resources. The plan shall include a budget for the institution's first year of operation, clearly identifying sources of revenue to ensure effective operations. The plan shall include estimates of projected operating expenses including the following areas: academics, administrative costs, occupancy, advertising, admission, and learning resources.

2. A pro forma balance sheet prepared in accordance with Generally Accepted Accounting Principles for the type of institution making application.

3. If the corporation that controls the institution is ongoing, the institution shall provide a financial statement of the parent corporation compiled, reviewed or audited in accordance with Generally Accepted Accounting Principles, prepared by an independent certified public accountant.

4. Institutions that are new and do not have a history of educational operations shall provide financial statements of the controlling principals, compiled, reviewed, or audited by an independent certified public accountant. These statements must demonstrate sufficient resources to ensure appropriate institutional development.

5. A school applying for the initial provisional license or a school receiving an extended provisional license shall provide evidence of cash reserves, a letter of credit or a bond to cover operating expenses for a minimum of six months.

(b) Annual License, Extended Annual License, or Annual Review:

1. Licensed nondegree schools shall provide annually a review or audit, prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. Licensed colleges and universities shall provide annually an audit, prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. This annual financial statement shall demonstrate that the current assets of the institution exceed the current liabilities, and that there was a positive net working capital and a profit or surplus for the prior year. If an institution does not meet the above requirements, the Commission shall require an explanation of the financial condition of the institution including a financial improvement plan or teach-out plan or form of surety guaranteeing that the resources are sufficient to protect the current students. Financial improvement plans shall include information on projected operating expenses including the following areas: academics, administrative costs, occupancy, advertising, admission, and learning resources.

This plan shall If the Commission determines that the institution does not have sufficient resources, it shall take actions up to and including revocation of licensure.

2. If an independent postsecondary educational institution earns less than \$100,000 gross tuition revenue per the institution's fiscal year, the institution shall provide both a financial statement of the institution and of the controlling principles. The financial statement shall be compiled, reviewed, or audited by an independent certified public accountant. These statements must demonstrate sufficient resources to ensure appropriate institutional development.

3. Non-Florida corporations having one or more Florida location shall provide a profit and loss statement for each location in order to assess the financial stability of each individual location.

(c) License by Means of Accreditation: All institutions shall submit an annual audit prepared in accordance with Generally Accepted Accounting Principles by an independent certified public accountant. This audit shall demonstrate that the current assets of the institution exceed the current liabilities, and that there was a positive net working capital and a profit or surplus for the prior year. If an institution does not meet the above requirements, the Commission shall require an explanation of the financial condition of the institution including a financial improvement plan or teach-out plan or form of surety guaranteeing that the resources are sufficient to protect the current students. If the Commission determines that the institution does not have sufficient resources, it shall take actions up to and including revocation of licensure.

(7) through (12) No change.

Rulemaking Specific Authority 1005.22(1)(e), 1005.31(2), (3), 1005.34, 1005.39 FS. Law Implemented 1005.04, 1005.31, 1005.33(1), 1005.34, 1005.39 FS. History—Repromulgated 12-5-74, Formerly 6E-3.01(1), Readopted 11-11-75, Amended 3-7-77, 5-7-79, 10-13-83, Formerly 6E-2.04, Amended 11-27-88, 11-29-89, 12-10-90, 10-19-93, 4-2-96, 4-11-00, 1-7-03, 4-5-04, 5-24-04, 7-20-04, 5-18-05, 7-10-06, 7-23-07, \_\_\_\_\_.

## **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.: 33-602.206  
RULE TITLE: Emergency Management

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to update the department's emergency preparedness and response programs.

SUBJECT AREA TO BE ADDRESSED: Emergency Management.

RULEMAKING AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 944.34, 944.43, 944.44, 944.45 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 IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.206 Emergency Management Riot and Disorder Plan.

(1) Definitions.

(a) Incident Command System (ICS) – a standard operating procedure that can be employed in establishing command in a correctional setting during any incident or event outside of normal operations and that provides a means for the effective management of personnel and resources that respond to the incident as it escalates.

(b) Incident commander – the individual assuming and having responsibility for the management of all incidents and events outside of normal operations.

(c) National Incident Management System (NIMS) – a system created under Homeland Security Directive #5 (February 2003) that directs the comprehensive, national

~~approach to incident management by federal, state, territorial, tribal, and local responders. There shall be a Riot and Disorder Plan at each major institution, road prison and vocational center, that sets forth procedures for dealing with riots and disorders. Each such plan shall be approved by the warden of the institution and the Security Coordinator of the Department. Such plans shall be confidential and care shall be taken that their contents are not disclosed to inmates.~~

~~(2) The department will respond to all emergencies using ICS in conjunction with NIMS. A state of riot or disorder may be declared by the Regional Director in conjunction with the warden of the institution involved whenever:~~

~~(a) Two or more inmates act in concert, with or without preconceived plan, to resist authority, or~~

~~(b) Any inmate takes any person hostage or threatens to cause injury to any person and has the apparent ability to carry out such a threat.~~

~~(3) The department will ensure that there are critical incident plans in place at each facility that houses inmates.~~

~~(4)(3) Upon determining that a critical incident an emergency situation has occurred or is about to occur, the incident commander warden or his designee shall immediately notify the department's Emergency Action Center, the appropriate prison inspector, Prison Inspector and then the regional director Office of the Regional Director. The regional director Regional Director or his designee shall in turn immediately notify the Office of the Secretary, and the Secretary or his designee shall notify the Office of the Governor and appropriate central office Central Office personnel. Notification shall include the essential facts of the situation, and persons notified shall be kept informed of new developments as they occur by the same process.~~

~~(5)(4) The following tactical priorities considerations shall govern the measures taken to resolve a critical incident deal with a riot or disorder:~~

~~(a) Provide for the The safety, accountability, and welfare of the general public, personnel, and inmates. This priority is ongoing throughout the incident.~~

~~(b) Stabilize, isolate, and contain the incident and provide for preservation of life, property, and order. The safety of any hostages,~~

~~(c) Remove endangered persons and obtain treatment for the injured. The welfare and safety of staff and inmates,~~

~~(d) Conserve expenses and damage to The protection of property,~~

~~(e) Resolve the incident and return the institution to normal operations. The restoration of order and control,~~

~~(f) Ensure the The identification, arrest, and prosecution of persons violating the law.~~

~~(6)(5) Force may be used to restore order subject to the provisions of Rule 33-602.210, F.A.C., Use of Force. No personal weapons or ammunition of any kind will be used except as specifically authorized by the incident commander warden.~~

~~(7)(6) Until order is restored no employee shall give any information to the news media without the authority of the incident commander, regional director warden, Regional Director, or Secretary. News media representatives shall not be allowed to enter any area where active rioting is taking place. The incident commander warden has the responsibility of advising the news media of appropriate information, with the advice and assistance of the director of the Office of Communications Central Office Information Services Director.~~

~~(8)(7) There shall be no bargaining with or concessions to inmates who continue in a state of revolt or insurrection. An appropriate official may talk to and attempt to reason with the rebellious inmates in an attempt to regain control by peaceful means. Demands of inmates that they be permitted to negotiate only with the Governor, news media, or other specified party will be refused.~~

~~(9)(8) Dealing with inmate leaders in regard to hostages will be handled by the incident commander warden or other designated, trained officials of the institution or department Department. Immediate efforts will be directed toward the liberation of said hostages without undue delay. Any employee taken hostage has no authority regardless of his rank or position, while he is a hostage. An inmate(s) who demands to be released from custody by threatening to do bodily harm to a hostage if he is not released, will not be released, even if all efforts to secure the hostage fail.~~

~~Rulemaking Specific Authority 944.09 FS. Law Implemented 944.09, 944.34, 944.43, 944.44, 944.45 FS. History--New 11-3-82, Formerly 33-3.16, 33-3.016, Amended \_\_\_\_\_.~~

**DEPARTMENT OF CORRECTIONS**

**RULE NO.:** 33-602.210  
**RULE TITLE:** Use of Force

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule is to update forms, form references, and employee title references.

**SUBJECT AREA TO BE ADDRESSED:** Use of Force.

**RULEMAKING AUTHORITY:** 944.09 FS.

**LAW IMPLEMENTED:** 776.07, 944.09, 944.35 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 IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500**



THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-602.210 Use of Force.

(1) through (3) No change.

(4) Use of Deadly Force to Prevent Escape or to Recapture Escapee. Generally, correctional officers are authorized to use force, including deadly force, as necessary to prevent the escape of an inmate from a penal institution.

(a) No change.

(b) Apprehension of escaped inmates once they are outside an institutional perimeter.

1. Correctional officers are considered to be in active pursuit of an inmate who has escaped from an institution or supervised work squad so long as the incident escape commander determines that the escape recovery efforts are active. When the inmate has refused a verbal order to stop, the correctional officer is authorized to use deadly force to stop the inmate, once the officer has clearly identified the individual as the escaped inmate and is sure of the target and what lies beyond.

2. Once the incident escape commander determines that immediate recapture efforts are over, recapture becomes a law enforcement agency function and department staff only provide assistance to local law enforcement. Correctional officers who are utilized to assist outside law enforcement agencies are authorized to use deadly force only in self defense or to defend others against deadly use of force.

3. No change.

(c) Escape attempts by inmates while being transported or escorted outside institutional perimeters, e.g., court appearances, hearings and medical visits, or while being supervised while in a hospital for treatment. Deadly force is only authorized in accordance with paragraph (2)(c), when the officers are in immediate active pursuit of the escapee. The incident escape commander will determine when the period of active pursuit has ended. At this point, involvement by correctional officers will be limited to assisting law enforcement officers and deadly force is only authorized for self defense or to defend others against deadly use of force.

(5) through (16) No change.

(17) Force or restraint may be used to administer medical treatment when ordered by a physician or clinical associate, and only when treatment is necessary to protect the health of other persons, as in the case of contagious and venereal diseases, or when treatment is offered in satisfaction of a duty to protect the inmate against self-inflicted injury or death. The physician or clinical associate shall prepare Form DC6-232, Authorization for Use of Force Report, documenting the reasons that force or restraint was authorized. The physician's or clinical associate's report shall be attached to Form DC6-230, Institutions Report of Force Used, when actual force is used, or Form DC6-210, Incident Report, when restraints are

applied without the use of force as described above. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In all cases where physical force is used to manage an inmate, the inmate and any employee who is involved will be required to receive a medical examination or will sign Form DC4-711A, Refusal of Health Care Services, declining the examination. In those cases where an injury is claimed but not substantiated by medical examination, the statement by the medical provider shall indicate this, and the documentation shall be sufficient to support that no injury was found upon examination. Form Forms DC4-711A is incorporated by reference in Rule 33-401.105, F.A.C.; Forms DC4-701C and DC4-708 are incorporated by reference in subsection (29)(30) of this rule. When the use of four-point or five-point psychiatric restraints is authorized and the inmate does not offer resistance to the application of the restraints, the completion of Form DC6-230, Institutions Report of Force Used, or Form DC6-231, Institutions Report of Force Used Staff Supplement, will not be required. In these situations, where there is no resistance to the application of psychiatric restraints, the application of the restraints will be videotaped and Form DC6-210, Incident Report, will be completed. The videotape, the completed Incident Report, and the completed Form DC6-232, Authorization for Use of Force Report, will be forwarded to the warden or acting warden for review within one working day. The warden will forward the videotape and associated reports to the institutional inspector within five working days. The institutional inspector will ensure that all documentation is complete and will forward all materials to the Office of the Inspector General, as outlined in subsection (11) above, for review. If at any time prior to or during the application of the psychiatric restraints the inmate offers resistance to the application, the steps outlined in subsection (9) above will be followed.

(18) through (20) No change.

(21) Use of Chemical Agents. Chemical agents shall not be used on anyone other than an inmate during an authorized use of force.

(a) through (q) No change.

(r) Upon request, appropriate health services staff shall provide the following completed forms to Department inspectors or legal staff: Form DC4-701C, Use of Force Exam ~~and~~; Form DC4-708, Diagram of Injury; ~~and Form DC4-701, Chronological Record of Health Care. Form DC4-701 is incorporated by reference in subsection (30) of this rule.~~

(22) Specialty Impact Munitions. Specialty impact munitions shall be used primarily by the department's rapid response teams and correctional emergency response teams during riots and disturbances. They are intended as a less lethal alternative to the use of deadly force. Specialty impact munitions shall only be employed by officers trained in their use and effects and shall not be used on anyone other than an inmate during an authorized use of force.

(a) through (b) No change.

(c) Selection and deployment of specialty impact munitions during a riot or disturbance shall be authorized by the ~~incident ultimate~~ commander and supervised by the rapid response or correctional emergency response team leader. For the purposes of this rule, the ~~incident ultimate~~ commander is the Secretary ~~secretary~~ or his designee at the central office level, the regional director or his designee at the regional level, or the warden or his designee at the institution level.

(d) through (28) No change.

(29) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (e) No change.

~~(f) DC4-711A, Refusal of Health Care Services, effective September 7, 2010.~~

(g) through (m) renumbered (f) through (l) No change.

~~(m)(n) DC4-650B, Risk Assessment for the Use of Chemical Restraint Agents and Electronic Immobilization Devices, effective August 4, 2008.~~

~~(o) DC4-701, Chronological Record of Health Care, effective 4-8-10.~~

Rulemaking Authority 944.09 FS. Law Implemented 776.07, 944.09, 944.35 FS. History--New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, 3-3-08, 8-4-08, 1-6-09, 5-26-09, 4-8-10, 9-13-10, \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-1.002	Delegation of Authority
40D-1.1002	Variations from Water Shortage Rules (Chapter 40D-21, F.A.C.)
40D-1.659	Forms and Instructions

PURPOSE AND EFFECT: This rulemaking is to adopt and incorporate by reference a Petition for Variance Form No. LEG-R.42.00-058(09/28/10) in Rule 40D-1.659, Forms and Instructions and in Rule 40D-1.1002, Variations from Water Shortage Rules. The Form will streamline processing of requests for relief from Chapters 40D-22 and 40D-21, F.A.C., and water shortage orders issued under Chapter 40D-21, F.A.C. This rulemaking also amends Rule 40D-1.002, F.A.C.

to change the staff positions authorized to act on requests for relief via a Petition for Variance in order to reflect a recent realignment of the Demand Management Program that processes Petitions for Variance.

SUBJECT AREA TO BE ADDRESSED: Variations from Chapter 40D-21, F.A.C., Water Shortage Plan, water shortage orders and Chapter 40D-22, F.A.C., Year-round Water Conservation Measures.

RULEMAKING AUTHORITY: 120.54(5), 373.044, 373.103, 373.113, 373.118, 373.149, 373.171, 373.219, 373.309, 373.337 FS.

LAW IMPLEMENTED: 120.54(5), 253.002, 373.083, 373.103, 373.0831(3), 373.116, 373.149, 373.171, 373.175, 373.196(1), 373.1961(3), 373.206, 373.207, 373.209, 373.216, 373.219, 373.223, 373.224, 373.226, 373.229, 373.239, 373.246, 373.306, 373.308, 373.309, 373.313, 373.323, 373.324, 373.413, 373.414, 373.416, 373.419, 373.421, 373.427, 668.50 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: Pam Gifford, Certified Legal Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4156 (OGC#2010012)

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-4.091	Publications, Forms and Agreements Incorporated by Reference

PURPOSE AND EFFECT: Proposed rule amendment incorporates by reference a revised Environmental Resource Permitting Information Manual Part B, Basis of Review (BOR). Revisions are proposed to BOR Chapter 3, Sections 3.2 – 3.3.2.2. The purpose and effect of this rulemaking will be to clarify and correct certain provisions pertaining to mitigation of impacts to wetlands and other surface waters.

SUBJECT AREA TO BE ADDRESSED: Environmental Resource Permitting.

RULEMAKING AUTHORITY: 373.044, 373.046, 373.113, 373.171, 373.414 FS.

LAW IMPLEMENTED: 373.0361, 373.079(4)(a), 373.083(5), 373.114, 373.171, 373.403, 373.413, 373.4135, 373.4136, 373.414, 373.4144, 373.416, 373.429, 373.441 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: Pam Gifford, Certified Legal Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4156 (OGC#2010018)

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

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NOS.:	RULE TITLES:
40D-22.101	Definitions
40D-22.201	Year-Round Water Conservation Measures
40D-22.303	Variations and Waivers

PURPOSE AND EFFECT: Minor changes are proposed to enhance the effectiveness of Chapter 40D-22, F.A.C. Year-round Conservation Measures and consistency with Chapter 40D-21, F.A.C., Water Shortage Plan. The proposed amendments include adding or clarifying definitions for consistency between Chapters, clarifying allowable times for Spot Treatment, adding a schedule for plant establishment irrigation for large properties and allowing extra irrigation for salt flushing after tropical storms or hurricanes. This rulemaking also makes examples of circumstances for which a variance or waiver may be appropriate applicable only to variances, sets forth additional examples of circumstances warranting a variance and incorporates a new form, Petition for Variance Form No. LEG-R.42.00-0589 (9/28/10) required to be submitted in order to request a variance. The form will streamline processing of requests for variances from Chapter 40D-22, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Amendments to Chapter 40D-22, F.A.C., Year-round Water Conservation Measures

RULEMAKING AUTHORITY: 120.542, 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 120.542, 373.119, 373.171, 373.175(4), 373.219, 373.223, 373.246(7), 373.62, 373.609 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: Pam Gifford, Certified Legal Assistant, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4156 (OGC#2010039)

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.:	RULE TITLE:
61D-2.023	Animal Welfare

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement recent changes in Florida Statutes pertaining to the welfare of racing animals.

SUBJECT AREA TO BE ADDRESSED: The proposed rule addresses the welfare of racing animals, inspections of areas where racing animals are raced, trained, housed, or maintained, including any areas where food, medications, or other supplies are kept, to ensure the humane treatment of racing animals and compliance with this chapter and the rules of the division.

RULEMAKING AUTHORITY: 550.0251(3), 550.2415(12) FS.

LAW IMPLEMENTED: 550.0251(11), 550.2415(6) FS.

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

DATE AND TIME: November 4, 2010, 11:00 a.m. – 5:00 p.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
61D-6.006	Procedures Relating to Split Samples
61D-6.007	Permitted Medications for Racing Greyhounds

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rules will be to implement Florida Statutes pertaining to split sample procedures and permitted medications for greyhounds by establishing threshold levels for certain Class III and IV medications.

**SUBJECT AREA TO BE ADDRESSED:** Rule 61D-6.006, F.A.C., addresses an internal procedure change that requires the Office of Operations to handle split sample requests rather than the Office of Investigations. Rule 61D-6.007, F.A.C., addresses the establishment of threshold levels for certain Class III and IV medications commonly found in greyhounds.

**RULEMAKING AUTHORITY:** 120.80(4)(a), 550.0251(3), (11), 550.2415(5), (13), (16) FS.

**LAW IMPLEMENTED:** 120.80(4)(a), 550.0251, 550.2415 FS.

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

**DATE AND TIME:** November 4, 2010, 10:00 a.m. – 11:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Mary Polombo at (850)413-0750. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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

**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 HEALTH**

**Board of Opticianry**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
64B12-15.001	Continuing Education for License Renewal

**PURPOSE AND EFFECT:** The Board proposes the rule amendment to delete unnecessary language and renumber the rest of the rule correctly.

**SUBJECT AREA TO BE ADDRESSED:** Continuing education for license renewal.

**RULEMAKING AUTHORITY:** 456.013(8), (9), 484.005, 484.008(3) FS.

**LAW IMPLEMENTED:** 456.013(8), (9), 484.008(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:** Susan Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258  
**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.**

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
64E-3.001	Fees
64E-3.002	Definitions
64E-3.003	Qualifications for Examination
64E-3.0031	Radiation Therapy Assistance by General Radiographers
64E-3.0032	Radiologist Assistant Duties and Supervision
64E-3.0033	Positron Emission Tomography-Computed Tomography (PET-CT) by Nuclear Medicine Technologists
64E-3.004	Practice of Radiologic Technology by Applicants for Certification by Examination
64E-3.005	Written Examinations
64E-3.006	Certification by Endorsement
64E-3.007	Bone Densitometry
64E-3.008	Continuing Education Requirements
64E-3.009	Standards for Continuing Education Courses
64E-3.010	Reactivation of Inactive Certificates
64E-3.011	Disciplinary Guidelines

**PURPOSE AND EFFECT:** Review this Chapter and amend and/or adopt new rule language as necessary to ensure that all rules conform with statutory requirements and the current practices and procedures for radiological personnel.

**SUBJECT AREA TO BE ADDRESSED:** Fees, definitions; forms; application procedures and requirements; educational programs; examinations; endorsement; continuing education and providers; scope of practice and prohibited practices for all persons certified or governed by Ch. 468, Part IV; x-ray; radiography; nuclear medicine; radiation therapy; training; remedial education; supervision; HIV/AIDS; certificate issuance, display, renewal, reactivation, resignation, and relinquishment; investigations; discipline guidelines; national organizations; specialty boards; advisory council recommendations.

**RULEMAKING AUTHORITY:** 381.0034(4), 468.302(3)(a), (3)(d), (3)(h), 468.303, 468.304(1), (2), (3)(e), 468.305, 468.306, 468.3065, 468.307(1), 468.309(1)(a), (2), (3), (5), (6), (7), 468.3095(1), (2)(a), 468.3101(4), (6) FS.

**LAW IMPLEMENTED:** 381.0034, 468.3003, 468.301, 468.302, 468.303, 468.304, 468.305, 468.306, 468.3065, 468.307, 468.309, 468.3095, 468.3101, 468.314 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:** James Futch, Bin #C21, 4052 Bald Cypress Way, Tallahassee, FL 32399-1741; (850)245-4266; James\_Futch@doh.state.fl.us

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

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

### **Agency for Persons with Disabilities**

**RULE NO.:** 65G-4.020 **RULE TITLE:** iBudget Florida

**PURPOSE AND EFFECT:** The purpose of the rule development is to solicit public input to be used in developing rules to comply with Section 393.0662, F.S., requiring the Agency to establish the iBudget (Individual Budget) program for the delivery of home and community-based Medicaid waiver program services to serve clients with developmental disabilities.

**SUBJECT AREA TO BE ADDRESSED:** Section 393.0662, F.S., requires that the agency develop and implement a comprehensive redesign of the service delivery system using individual budgets as the basis for allocating the funds appropriated for the home and community-based services

Medicaid waiver program among eligible enrolled clients. The service delivery system shall be called the iBudget system. These rules will implement those requirements.

**SUBJECT AREA TO BE ADDRESSED:** iBudget program for the delivery of the home and community based services Medicaid waiver program to clients with developmental disabilities.

**RULEMAKING AUTHORITY:** 393.0662 FS.

**LAW IMPLEMENTED:** 393.0662 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.**

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: **INFORMATION REGARDING THE IBUDGET FLORIDA PROGRAM IS AVAILABLE ON THE AGENCY'S WEBSITE AT WWW.APDCARES.ORG. THIS INFORMATION INCLUDES THE PLAN FOR IBUDGET FLORIDA SUBMITTED TO THE LEGISLATURE AND MATERIALS RELATED TO THE MEETINGS OF THE IBUDGET FLORIDA STAKEHOLDERS' GROUP, WHOSE INPUT WAS USED IN DEVELOPING THE IBUDGET FLORIDA PLAN AND PROGRAM. COMMENTS MAY ALSO BE SUBMITTED VIA THE WEBSITE.**

Mary Beth Date, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, (850)488-4873, mary\_beth\_date@apd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Mary Beth Date, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, (850)488-4873, mary\_beth\_date@apd.state.fl.us

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

## **DEPARTMENT OF FINANCIAL SERVICES**

### **Division of Insurance Agents and Agency Services**

**RULE NO.:** 69B-215.235 **RULE TITLE:** Use of Designations

**PURPOSE AND EFFECT:** The purpose of the proposed rule development is to extend guidance and set forth standards in the use of professional designations or certifications by licensees engaged in the marketing and sale of insurance products. The proposed rule clarifies that lawful designations must be granted only by recognized organizations that

maintain published standards and procedures that assure the ongoing competency and ethical conduct of members or conferees. The proposed rule prohibits any use of self-conferred or baseless designations by licensees engaged in the marketing of insurance products. The proposed rule is designed to protect consumers from deceptive trade practices by licensees who claim, or falsely imply, certain levels of expertise or credentials that could reasonably induce consumers to place unwarranted confidence in the quality, accuracy, or veracity of their statements.

SUBJECT AREA TO BE ADDRESSED: Use of designations and certifications in the marketing of insurance products.

RULEMAKING AUTHORITY: 626.9611(1) FS.

LAW IMPLEMENTED: 626.9541(1)(ff) FS.

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

DATE AND TIME: Tuesday, October 26, 2010, 10:00 a.m.

PLACE: 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brinkley, (850)413-5654 or Richard.Brinkley@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Richard Brinkley, Government Analyst II, Bureau of Investigation, Division of Insurance Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850)413-5654

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

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Consumer Services**

RULE NO.: 69J-9.001                      RULE TITLE: Database of Information Relating to Sinkholes

PURPOSE AND EFFECT: The proposed rule amendment revises the rule to change the time period and restrict database submissions to only those claims that involve sinkholes and catastrophic ground cover collapse that were "closed" and "confirmed" on or after January 25, 2007. These guidelines will prevent the database from becoming burdened by claims that do not provide useful information. The time period for

which claims shall be submitted has been changed to harmonize the rule with statute. Additional definitions and changes to related dates have also been made.

SUBJECT AREA TO BE ADDRESSED: Proposed amendment to clarify requirements associated with the submission of claims data to sinkhole database.

RULEMAKING AUTHORITY: 624.308(1), 627.7065(6) FS.

LAW IMPLEMENTED: 627.706, 627.7065 FS.

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

DATE AND TIME: Wednesday, October 27, 2010, 2:00 p.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Greg Thomas, Chief, Bureau of Education, Advocacy & Research, Department of Financial Services, 200 E. Gaines Street, Tallahassee, Florida 32399, (850)413-5768

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

**Section II  
Proposed Rules**

**DEPARTMENT OF LAW ENFORCEMENT**

**Division of Local Law Enforcement Assistance**

RULE NO.: 11D-2.005                      RULE TITLE: Methamphetamine Precursor Electronic Monitoring System

PURPOSE AND EFFECT: Rule 11D-2.005, F.A.C., is created to implement Florida Statute Section 893.1495, for FDLE to provide an approved electronic recordkeeping system for retailers to record the real-time purchase of products containing ephedrine or related compounds for the purpose of monitoring this information to prevent or investigate illegal purchases of these products. Access to the electronic recordkeeping system shall be provided to a retailer without any additional cost or expense. Tracking of the purchase of the products must be implemented by January 1, 2011 or sooner.

SUMMARY: Rule 11D-2.005, F.A.C.. implements Florida Statute Section 893.1495, for FDLE to provide an approved electronic recordkeeping system for retailers that sell non-prescription products containing ephedrine or related compounds. It provides definitions, and specifies a process for a retailer to request a statutory exemption from the recordkeeping requirements.