

PLACE: 143 Larson Building, 200 East Gaines Street, Tallahassee, Florida

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kerry Krantz, Office of Insurance Regulation, E-mail Kerry.krantz@flor.com

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

Section II Proposed Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NOS.:	RULE TITLES:
40B-2.025	Processing of Water Use Permit Applications
40B-2.901	Forms and Instructions

PURPOSE AND EFFECT: The purpose of the proposed rule is to update Chapter 40B-2, F.A.C., based on staff review. Proposed changes will provide clarification for procedures for reviewing unsolicited information, and repeal an existing rule that is no longer valid.

SUMMARY: This proposed rule will clarify procedures for reviewing unsolicited information with regard to application review, and repeal the rule for forms and instructions. Forms and instructions are now incorporated into the appropriate corresponding rule.

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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 120.60, 373.116, 373.229, 373.239 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: Linda Welch, Rules and Contracts Coordinator, SRWMD, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULE IS:

- 40B-2.025 Processing of Water Use Permit Applications.
 - (1) through (2) No change.
 - (3) Receipt of unsolicited information from the applicant during the review process shall reset the District's 30-day review clock.

Rulemaking Authority 120.54(5), 373.044, 373.113, 373.171 FS. Law Implemented 120.60, 373.116, 373.229, 373.239 FS. History--New 1-6-10, Amended.

40B-2.901 Forms and Instructions.

~~All forms necessary to apply for permits shall be furnished with instructions by the District upon request. The effective date of the following forms shall be October 1, 1982:~~

- ~~(1) Application for an Individual Water Use Permit.~~
- ~~(2) Individual Water Use Permit Application Supplemental Groundwater Withdrawal Site Description.~~
- ~~(3) Individual Water Use Permit Application Supplemental Surfacewater Withdrawal Site Description.~~
- ~~(4) Application for General Water Use Permit -- Agricultural Irrigation and Livestock Use.~~
- ~~(5) Application for General Water Use Permit -- Commercial/Industrial, Water Utility, Nursery, Landscape Irrigation, and Other Uses.~~
- ~~(6) Water Use Permit.~~

~~Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.219, 373.229 FS. Law Implemented 373 Part II FS. History--New 10-1-82, Amended 5-1-83, Repealed.~~

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Dinges, Deputy Clerk, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2010

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NOS.: RULE TITLES:
 40B-4.1070 Exemptions
 40B-4.3030 Conditions for Issuance of Works of
 the District Development Permits

PURPOSE AND EFFECT: The purpose of the proposed rule is to update these sections of Chapter 40B-4, F.A.C., based on staff review. Proposed changes to Rule 40B-4.1070, F.A.C., will amend incorrect language, and proposed changes to Rule 40B-4.3030, F.A.C. will provide clarification in paragraph (12)(a) by removing confusing terminology.

SUMMARY: This proposed rule will amend incorrect language and clarify that the District rule by removing confusing terminology.

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: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.084, 373.085, 373.086, 373.406, 373.416, 373.426 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: Linda Welch, Rules and Contracts Coordinator, SRWMD, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-4.1070 Exemptions.

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

(h) Recreational paths that have a width of eight ~~ten~~ feet or less for one-lane paths and twelve feet or less for two-lane paths and which do not allow motorized vehicles powered by internal combustion engines, except for maintenance and emergency vehicles.

(2) through (4) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086, 373.406, 373.416, 373.426 FS. History–New 9-25-85, Amended 2-1-89, 12-22-92, 9-13-04,_____.

40B-4.3030 Conditions for Issuance of Works of the District Development Permits.

(1) through (11) No change.

(12) The following conditions shall apply to all works of the district development permits issued for development on lands subdivided after January 1, 1985:

(a) No clearing of trees and vegetation shall occur [except as provided in paragraphs (d) and (e) below] other than what is necessary to ~~remove diseased vegetation~~, construct structures, associated water supply, wastewater disposal, and private driveway access facilities.

(b) through (f) No change.

Rulemaking Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086 FS. History–New 9-25-85, Amended 2-12-87, 2-1-89, 12-22-92, 10-18-04, 5-13-07, 8-8-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Dinges, Deputy Clerk, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 13, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2010

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:
 40D-3.600 Special Well Construction Standards

PURPOSE AND EFFECT: To expand the areas designated by the District as the North Dover and South Dover areas, located in the Dover-Plant City area of Hillsborough County, and for which the District has established special water well construction standards consisting of minimum well casing depths.

SUMMARY: The Dover-Plant City area located in eastern Hillsborough County is home to many farms specializing in strawberries, blueberries, row crops and citrus, which rely upon plant irrigation to provide protection from frost or freeze damage during cold events. In 2002, the District adopted Rule 40D-3.600, F.A.C., to establish a North Dover area and a South Dover area for which special well construction standards are applicable. Potable wells constructed in the North Dover area must be cased to a minimum depth of 105 feet below land surface and to 147 feet below land surface in the South Dover area. During 2010, an unprecedented period of actual or predicted freezing temperatures resulted in over 750 potable wells in and around the Dover area experiencing problems or running dry. Sinkholes also occurred because of the significant and concentrated irrigation pumping. Investigation by the District revealed that those wells that experienced failure were not constructed to the casing depths required by Rule

40D-3.600, F.A.C. Further investigation also revealed that the areas affected by large-scale cold protection irrigation in and around the Dover farming community actually extend beyond the boundaries presently designated by the District as the North and South Dover areas.

Based upon the fact that the well casing requirements for the Dover area proved effective in preventing potable wells from failing during this recent period of intense water use, the District proposes to expand the North and South Dover area boundaries to include additional surrounding areas that were affected by the cold protection pumping. The current casing depth requirements for each area will remain the same.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Individuals and entities that may be affected by the proposed rule amendments include licensed well contractors acting as agents for individuals and entities wishing to construct, repair or modify potable wells in the affected areas. Given that over the past five years, an average of 90 new potable wells were constructed and one repaired per year in the proposed expanded areas. District staff anticipate that a similar number will be constructed and repaired per year in the future. For the existing North and South Dover areas, an average of five potable wells per year have been repaired, and it is anticipated that the same number of wells will need to be repaired annually in the future and thus have to comply with the casing depth requirement. Additional well construction inspection and enforcement costs to the District will be minimal. There will be no direct implementation and enforcements costs to other agencies. There will be no impacts on state and local government revenues. In the expanded areas, approximately 24% of new potable wells constructed already meet the new casing depth criteria. Incremental costs for construction of new potable wells in the expanded areas will range from approximately \$1,000 to \$2, 200 per well. Incremental costs of repair or modification of existing potable wells will range from approximately \$2,600 to \$3,000 to extend the casing and provide an appropriate pump. Small businesses requiring construction of new or repair or modification of existing potable wells that must comply with the new requirements will incur these incremental costs but will benefit from avoidance of water supply losses and potential reductions in sales during frost/freeze or other high water use events. There are no small cities within special well construction criteria areas and Hillsborough County is not a small county.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, 373.308 FS.

LAW IMPLEMENTED: 373.308, 373.309 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: Dianne.Lee@watermatters.org, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4660 (OGC #2010005)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-3.600 Special Well Construction Standards.

To prevent impacts to water wells from periodic high water use, in addition to complying with the other construction requirements of this chapter, the construction, modification or repair of potable water wells in the area of the Dover community shall also comply with the requirements set forth below.

(1) Potable water wells constructed, modified or repaired in the North Dover Area north of Interstate 4 (North Dover), as identified in subsection (2) below, shall be cased to a minimum depth of 105 feet below land surface.

(2) The area of North Dover is as follows:
Township 27, Range 21, Sections 25 through 36;
Township 27, Range 22, Sections 26 through 35;
 Township 28, Range 20, Sections 12 through 14, 23, 24 and those portions of 25 and 26 lying north of Interstate 4;
 Township 28, Range 21, Sections 1 through 19 and those portions of 20 through 24 and 30 lying north of Interstate 4; and
 Township 28, Range 22, Sections 2 through 10, 15 through 18 ~~and that portion of 20, Sections 22 through 27, and Sections 34 through 36 lying north of Interstate 4.~~

(3) Potable water wells constructed, modified or repaired in the South Dover Area south of Interstate 4 (South Dover), as identified in subsection (4) below, shall be cased to a minimum depth of 147 feet below land surface.

(4) The area of South Dover is as follows:
 Township 28, Range 20, those portions of Sections 25 and 26 lying south of Interstate 4 and Sections 35 and 36;
 Township 28, Range 21, those portions of Sections 20 through 24 and 30 lying south of Interstate 4 and Sections 25 through 29 and 31 through 36;
~~Township 28, Range 22, that portion of Section 20 lying south of Interstate 4;~~
 Township 29, Range 20, Sections 1, 2, 11 through 13 and 24;
 Township 29, Range 21, Sections 1 through 29, and 33 through and 364; and
 Township 29, Range 22, Sections 14 through 36 9 and 15 through 21;
Township 30, Range 21, Sections 1,2,11, and 12; and
Township 30, Range 22, Sections 2 through 10.

Rulemaking Specific Authority 373.044, 373.113, 373.171, 373.308 FS. Law Implemented 373.308, 373.309 FS. History–New 4-9-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Tony Gilboy, Regulation Well Construction Manager
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2010

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-8.041 RULE TITLE: Minimum Flows

PURPOSE AND EFFECT: This rulemaking is to comply with Section 373.042, F.S. and will amend Rule 40D-8.041, F.A.C., to establish Minimum Flows for the estuarine reach of the lower Peace River located within the District’s Peace River Basin.

SUMMARY: The proposed revision adopts minimum flow rules for the tidal reaches of the lower Peace River.

Significant harm was defined as occurring when modeled withdrawals from the baseline or unaltered flow conditions caused more than a 15 percent decline in any one of several ecologically based habitat metrics. In addition to determination of an allowable percent flow reduction, a low flow threshold (LFT) of 130 cubic feet per second (cfs) has also been proposed. A LFT is defined to be the flow that serves to prohibit withdrawals under very low flow conditions throughout the year.

The lower Peace River minimum flow was determined based on the sum of the combined flows of the Peace River at Arcadia, Horse Creek and Joshua Creek.

For the low flow period (Block 1, which runs from April 20 through June 25), it was determined that more than 15 percent of the historically available habitat would be lost, if flows were reduced by more than 16 percent based on the combine flows of the three gages noted above as long as total daily withdrawals from Peace River were limited to 400 cfs.

For the medium flow period (which runs from October 27 of one year through April 19 of the next), it was determined that more than 15 percent of historically available habitat would be lost if flows were reduced by more than 16 percent at or below a flow of 625 cfs based on the combined flows of three gages, but that when flows exceeded 625 cfs, up to 29 percent of the combined flows could be taken without causing significant harm to the available habitat as long as total daily withdrawals from off the Peace River were limited to 400 cfs.

For the high flow season of the year (which runs from June 26 through October 26), it was determined that more than 15 percent of historically available habitat would be lost if flows were reduced by more than 16 percent at or below a flow of 625 cfs based on the combined flows of the three gages, but that when flows exceeded 625 cfs, up to 38 percent of the combined flows could be taken without causing significant harm to the available habitat as long as total daily withdrawals from off the Peace River were limited to 400 cfs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A seasonal minimum flow regime is proposed for the Lower Peace River to minimize disruptions to estuarine processes and estuarine dependent species. The flows are based on the sum of flow at the Peace River, Horse Creek and Joshua Creek. Small water users exempt from water use permitting are not subject to the minimum flow restrictions. Aside from the Peace River Manasota Water Supply Authority (PRMWSA), there have been too few applications for withdrawals affecting the flow of the Lower Peace River to estimate a future number of applicants that could be impacted by the proposed minimum flows. It is not anticipated that the proposed revisions will significantly increase permitting, monitoring or enforcement costs to the District. No other state or local governments are responsible for the implementation or enforcement of the proposed minimum flows. The proposed minimum flows will not have an impact on state or local revenues. It is anticipated that there will be quantities available for permitting but they may be seasonal and require storage for a reliable year round supply. Additional sources of water are available in the area from brackish groundwater, local utilities and the PRMWSA ranging in costs from \$.31 to \$6.69 per thousand gallons. The seasonal nature of water availability from the river, due to existing Chapter 40D-2, F.A.C. criteria, makes it unlikely that a small business would apply for withdrawals from the river. Small businesses with withdrawal facilities and quantities that do not exceed Chapter 40D-2, F.A.C. permitting thresholds will not be affected by the proposed minimum flows. Commercial and recreational fishing and related businesses in the area will benefit from the protection of estuarine-dependent fish, invertebrate and shellfish species. Most such businesses are small businesses. It is unlikely that any small cities or counties will be affected by the proposed revisions as they lie upstream of the Lower Peace River.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421 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 5 days before the workshop/meeting by contacting: The Southwest Florida Water Management District Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352)796-7211, ext. 4702 or 1(800)423-1476 (FL only), ext. 4702; TDD (FL only) 1(800)231-6103; or email to ADACoordinator@swfwmd.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Martinez, Office of General Counsel, 2379 Broad St., Brooksville, FL 34604-6899, (352)796-7211 (4660) (OGC #2007102)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.041 Minimum Flows.

(1) through (7) No change.

(8) Minimum Flows for the lower Peace River

(a) The Minimum Flows are to ensure that the minimum hydrologic requirements of the water resources or ecology of the natural systems associated with the estuarine reach of the lower Peace River are met.

(b) Minimum Flows for the estuarine reach of the lower Peace River are based on the sum of the combined flows of the USGS Peace River near Arcadia Gage # 02296750 plus the flow at the USGS Horse Creek near Arcadia Gage # 02297310, and the USGS Joshua Creek at Nocatee Gage #02297100, and are set forth in Table 8-19 below. Minimum Flows for the lower Peace River are both seasonal and flow dependent. One standard, the Minimum Low Flow Threshold, is flow based and applied continuously regardless of season. No surface water withdrawals shall be permitted that would cumulatively cause the flow to be reduced below the Minimum Low Flow Threshold of 130 cfs based on the sum of the mean daily flows for the three gages listed above. Additionally, permitted withdrawals shall cease when flows are below the Minimum Low Flow Threshold of 130 cfs. The total permitted maximum withdrawals on any day shall not exceed 400 cfs. There are also three seasonally dependent or Block specific Minimum Flows that are based on the sum of the mean daily flows for the three gages denoted above that would occur in the absence of

any permitted upstream withdrawals. The Block Minimum Flows are based on potential changes in habitat availability for select salinity ranges within a season.

Period	Effective Dates	Where Flow on Previous Day Equals:	Minimum Flow Is
Annually	January 1 through December 31	≤130 cfs >130 cfs	Actual Flow (no surface water withdrawals permitted) Seasonally dependent – see Blocks below
Block 1	April 20 through June 25	≤130 cfs >130 cfs	Actual Flow (no surface water withdrawals permitted) previous day's flow minus 16% but not less than 130 cfs
Block 2	October 28 through April 19	≤130 cfs >130 cfs and <625 cfs 625 cfs	Actual Flow (no surface water withdrawals permitted) previous day's flow minus 16% but not less than 130 cfs previous day's flow minus 29%
Block 3	June 26 through October 27	≤130 cfs >130 cfs and <625 cfs 625 cfs	Actual Flow (no surface water withdrawals permitted) previous day's flow minus 16% but not less than 130 cfs previous day's flow minus 38%

(c) Minimum five-year and ten-year moving mean and median flow values are set forth in Table 8-20 as a tool to assess whether flows to the lower Peace River remain above flow rates that are expected to occur with implementation of the Minimum Flow described in Table 8-19 and a daily maximum withdrawal rate of 400 cfs. The means and medians are based on evaluation of daily flow records for the three gages listed above for the period 1951 through 2008. Yearly means and medians were computed for January 1 through December 31 of each year, then moving five-year and ten-year averages were calculated from these yearly values. Therefore, the five-year and ten-year means and medians are hydrologic statistics that represent the flows that will be met or exceeded if compliance with the Minimum Flow and the 400 cfs maximum withdrawal rate is maintained during hydrologic conditions similar to the 1951-2008 period. Climatic changes or future structural alterations in the watershed could potentially affect surface water or groundwater flow characteristics within the watershed and flows in the river. Therefore, as additional information relevant to Minimum Flows development becomes available, the District is committed to periodically evaluate whether any declines in these minimum moving average values below that expected with the application of the Minimum Flow are due to factors other than permitted water use.

(d) The Minimum Flows for the lower Peace River will be reevaluated to incorporate additional ecological data for the Lower Peace River within 5 years of adoption of this rule.

Table 8-20 Minimum Five-Year and Ten-Year Moving Mean and Median flows for the lower Peace River based on the sum of flows from Horse Creek, Joshua Creek, and the Peace River at Arcadia

<u>Minimum Flow</u>	<u>Hydrologic Statistic</u>	<u>Flow (cfs)</u>
<u>Annual Flow</u>	<u>10-Year Mean</u>	<u>713</u>
	<u>10-Year Median</u>	<u>327</u>
	<u>5-Year Mean</u>	<u>679</u>
	<u>5-Year Median</u>	<u>295</u>
<u>Block 1</u>	<u>10-Year Mean</u>	<u>284</u>
	<u>10-Year Median</u>	<u>264</u>
	<u>5-Year Mean</u>	<u>204</u>
	<u>5-Year Median</u>	<u>114</u>
<u>Block 2</u>	<u>10-Year Mean</u>	<u>429</u>
	<u>10-Year Median</u>	<u>383</u>
	<u>5-Year Mean</u>	<u>330</u>
	<u>5-Year Median</u>	<u>235</u>
<u>Block 3</u>	<u>10-Year Mean</u>	<u>1260</u>
	<u>10-Year Median</u>	<u>930</u>
	<u>5-Year Mean</u>	<u>980</u>
	<u>5-Year Median</u>	<u>595</u>

(8) through (11) renumbered (9) through (12) No change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.0395, 373.042, 373.0421 FS. History—Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06, 4-6-06, 1-1-07, 11-25-07, 2-18-08, 3-2-08, 5-12-08, 5-10-09.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marty Kelly, Minimum Flows and levels Program Director, Resource Projects Dept. Southwest Florida Water Management District

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2010

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: 40D-8.041 RULE TITLE: Minimum Flows

PURPOSE AND EFFECT: This rulemaking is to comply with Section 373.042, F.S. and will amend Rule 40D-8.041, F.A.C., to establish Minimum Flows for the Anclote River System located within the District’s Pinellas-Anclote Basin.

SUMMARY: For purposes of the rule, the Anclote River system includes the watercourse from the headwaters to the Gulf of Mexico. For this rule, the location of the gage

represents the division between the freshwater portion of the river upstream of the gage and the estuarine portion downstream of the gage.

Significant harm was defined as occurring when modeled withdrawals from the baseline or unaltered flow conditions caused more than a 15 percent decline in any one of several ecologically based habitat metrics. In addition to determination of an allowable percent flow reduction, a low flow threshold (LFT) has also been proposed for the freshwater segment. A LFT is defined to be the flow that serves to prohibit withdrawals under very low flow conditions throughout the year.

Three seasons (Blocks 1, 2 and 3) were evaluated separately and a freshwater and estuarine MFL was determined for each Block. The proposed freshwater minimum flows allow reduction of up to 11% of Block 1 (April 12 through July 21) baseline flows, up to 18% of Block 3 flows (October 15 through April 11) and up to 14 % of Block 2 flows (July 22 through October 14) when flows are between 12 cfs and 138 cfs. A freshwater LFT is established so that withdrawals are prohibited from depressing flows below 12 cfs at any time. When baseline flows exceed 138 cfs, up to 8% of the excess flows may be withdrawn. Estuarine MFLs are similar, but do not have a low flow threshold. Proposed minimum flows allow reductions of up to 12% of Block 1 flows, up to 16 % of Block 2 flows and up to 18%, of Block 3 flows.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A seasonal minimum flow regime is proposed for the Anclote River to minimize disruptions to estuarine processes and estuarine dependent species. Groundwater withdrawals in the Northern Tampa Bay area have significantly reduced its flows. It is estimated that the mean flow of the river has been reduced by 29% for the years 1955 to 2007. Small water users exempt from water use permitting are not subject to the minimum flow restrictions. There are no permitted surface withdrawals or applications for withdrawals from the river so it is not possible to estimate the number of future surface water withdrawals that may be impacted by the proposed revisions. Groundwater withdrawals that could affect the flows have been limited by existing Chapter 40D-2, F.A.C. permitting criteria but may be available on a case-by-case basis. It is not anticipated that the proposed revisions will significantly increase permitting, monitoring or enforcement costs to the District. No other state or local governments are responsible for the implementation or enforcement of the proposed minimum flows. The proposed minimum flows will not have an impact on state or local revenues. It is not anticipated that there will be quantities available for permitting until proposed minimum flows are exceeded. Additional sources of water are available in the area from stormwater, local utilities and Tampa Bay Water ranging in costs from \$2.80 to \$3.98 per thousand gallons. The seasonal nature of water availability from the river, due to

existing Chapter 40D-2, F.A.C. criteria and the proposed minimum flows, make it unlikely that a small business would apply for withdrawals from the river. Small businesses with withdrawal facilities and quantities that do not exceed Chapter 40D-2, F.A.C. permitting thresholds will not be affected by the proposed minimum flows. Commercial and recreational fishing and related businesses in the area will benefit from the protection of estuarine-dependent fish, invertebrate and shellfish species. Most such businesses are small businesses. It is unlikely that any small cities or counties will be affected by the proposed revisions.

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

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421 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 5 days before the workshop/meeting by contacting: ADACoordinator@WaterMatters.org. 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: Dianne.Lee@watermatters.org, Office of General Counsel, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, extension 4660 (OGC #2008071)

THE FULL TEXT OF THE PROPOSED RULE IS:

40D-8.041 Minimum Flows.

(1) through (13) No change.

(14) Minimum Flows for the Anclote River.

(a) The Minimum Flows are to ensure that the minimum hydrologic requirements of the water resources or ecology of the natural systems associated with the freshwater and estuarine reaches of the Anclote River are met.

(b) Minimum Flows for the freshwater and estuarine reaches of the Anclote River are based on the natural flow at the USGS Anclote River near Elfers Gage No. 02310000 (the "Elfers Gage") and are set forth in Table 8-20 (estuarine reach downstream of the Elfers Gage) and Table 8-21 (freshwater reach upstream of Elfers Gage). Natural flow is defined as flow that would exist in the absence of withdrawal impacts. There are three seasonally dependent or Block specific Minimum Flows for each reach. In addition, the Minimum Flows for the

freshwater reach are flow-based. The Minimum Low Flow Threshold for the freshwater reach is applied continuously regardless of season. No surface water withdrawal from the freshwater reach will be permitted that would cumulatively cause the natural flow to be reduced below the Minimum Low Flow Threshold of 12 cfs. Additionally, permitted withdrawals shall cease when flows are below the Minimum Low Flow Threshold of 12 cfs. In addition, the total permitted maximum withdrawals from the freshwater reach on any given day from July 22 through April 11 shall not exceed eight percent of the previous day's flow when natural flow equals or exceeds 138 cfs at the Elfers Gage.

Table 8-20 Minimum Flow for Anclote River below USGS Anclote River near Elfers Gage

Period	USGS No. 02310000 (Estuarine Reach)	
	Effective Dates	Minimum Flow Is
Block 1	April 12 through July 21	Previous day's flow minus 12%
Block 2	October 15 through April 11	Previous day's flow minus 16%
Block 3	July 22 through October 14	Previous day's flow minus 18%

The Minimum Flow at any given point below the Elfers Gage is based on the previous day's natural flow at that point minus the percentage specified above corresponding to the applicable Block.

Table 8-21 Minimum Flow for Anclote River above USGS Anclote River near Elfers Gage USGS No. 02310000 (Freshwater Reach)

Period	Effective Dates	Where Flow on Previous Day Equals:		Minimum Flow Is
		≤12 cfs	>12 cfs and <138 cfs	
Annually	January 1 to December 31	138 cfs	138 cfs	Actual flow Seasonally dependent – see Blocks below Seasonally dependent – see Blocks below
Block 1	April 12 through July 21	≤12 cfs	>12 cfs	Actual flow Previous day's flow minus 11% but not less than 12 cfs
Block 2	October 15 through April 11	≤12 cfs	>12 cfs and <138 cfs	Actual flow Previous day's flow minus 14% but not less than 12 cfs Previous day's flow minus 8%
Block 3	July 22 through October 14	≤12 cfs	>12 cfs and <138 cfs	Actual flow Previous day's flow minus 18% but not less than 12 cfs Previous day's flow minus 8%

(c) Minimum five-year and ten-year moving annual average values are set forth in Table 8-22 as a tool to assess whether flows to the Anclote River remain above flow rates that are expected to occur with implementation of the Minimum Flow described in Table 8-21. The Means and Medians are based on evaluation of daily flow records for the Elfers Gage, adjusted for withdrawal impacts for the period 1955 through 2006. Yearly means and medians are computed for January 1 through December 31 of each year. Therefore, the Means and Medians are hydrologic statistics that represent

the flows that will be met or exceeded if compliance with the Minimum Flow is maintained during hydrologic conditions similar to the 1955-2006 period. However, since changes in the watershed such as future structural alterations and climatic change could potentially affect surface water or groundwater flow characteristics and additional information relevant to Minimum Flows development may become available, the District is committed to periodic re-evaluation of the Minimum Flows.

Table 8-22 Minimum Five-Year and Ten-Year Moving Mean and Median Flows for the Anclote River above USGS Anclote River near Elfers Gage USGS No. 02310000 Based on Application of the Table 8-21 Minimum Flow on Adjusted Flows at USGS 02310000

<u>Minimum Flow</u>	<u>Hydrologic Statistic</u>	<u>Flow (cfs)</u>
<u>Annual Flow</u>	<u>10-Year Mean</u>	<u>48</u>
	<u>10-Year Median</u>	<u>17</u>
	<u>5-Year Mean</u>	<u>36</u>
	<u>5-Year Median</u>	<u>15</u>
<u>Block 1</u>	<u>10-Year Mean</u>	<u>13</u>
	<u>10-Year Median</u>	<u>7</u>
	<u>5-Year Mean</u>	<u>11</u>
	<u>5-Year Median</u>	<u>6</u>
<u>Block 2</u>	<u>10-Year Mean</u>	<u>25</u>
	<u>10-Year Median</u>	<u>17</u>
	<u>5-Year Mean</u>	<u>21</u>
	<u>5-Year Median</u>	<u>15</u>
<u>Block 3</u>	<u>10-Year Mean</u>	<u>92</u>
	<u>10-Year Median</u>	<u>64</u>
	<u>5-Year Mean</u>	<u>81</u>
	<u>5-Year Median</u>	<u>56</u>

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.0361, 373.042, 373.0421 FS. History—Readopted 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06, 4-6-06, 1-1-07, 11-25-07, 2-18-08, 3-2-08, 5-12-08, 5-10-09, 3-23-10, 3-28-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Heyl, Chief Environmental Scientist
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Southwest Florida Water Management District Governing Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 4, 2010

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.: 62-304.325
 RULE TITLE: Choctawhatchee River Basin TMDLS

PURPOSE AND EFFECT: The purpose of the rule is to adopt new and update existing Total Maximum Daily Loads (TMDLs), and their allocations, for fecal coliforms in the Choctawhatchee River Basin. Also, the Department is repealing the subsection related to "total coliform concentrations."

SUMMARY: These TMDLs address fecal coliform impairments in the Choctawhatchee River Basin. Specifically, the TMDL rules being proposed for adoption are for Alligator Creek, Minnow Creek, Camp Branch, and Sikes 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. Also, the existing TMDL for the Choctawhatchee River from the state line to Wrights Creek is being updated for consistency with other TMDLs, and also to remove the subsection regarding "total coliform concentrations," as this criterion no longer exists. This rulemaking has been given OGC Case Number 10-1283.

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: Friday, July 9, 2010, 2:00 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 609, Tallahassee, FL 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: 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:

62-304.325 Choctawhatchee River Basin TMDLs. (Choctawhatchee River.)

(1) ~~Choctawhatchee River. Fecal Coliform TMDL.~~ The fecal coliform Total Maximum Daily Load (TMDL) for the Choctawhatchee River from the state line to Wrights Creek is an annual median of 4.913×10^{13} colonies/day, and is allocated as follows:

(a) The Wasteload Allocation (WLA) for wastewater point sources is for each facility to meet its permit limits for fecal coliform,

(b) The WLA for discharges subject to the Department's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is not applicable.

~~(c)(b)~~ The Load Allocation (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 average measured concentrations for the year the Secretary adopted the verified list that first listed the waterbody as impaired for fecal coliform, will require a 60 percent reduction of in-stream fecal coliform concentrations, and

(d)(e) 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.

(2) Alligator Creek. The TMDL for Alligator 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 National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is not applicable;

(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 2002 to 2009 period, will require a 94 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction 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.

~~Total Coliform TMDL.~~ The total coliform Total Maximum Daily Load for the Choctawhatchee River from the state line to Wrights Creek is an annual median of 2.948×10^{14} colonies/day, and is allocated as follows:

(a) The Wasteload Allocation for wastewater point sources is for each facility to meet its permit limits for coliform;

(b) The Load Allocation for nonpoint sources is a 62 percent reduction of in-stream total coliform concentrations, and

(c) The Margin of Safety is implicit.

(3) Minnow Creek. The TMDL for Minnow 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 not applicable;

(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 2002 to 2009 period, will require an 81 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction 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.

~~(3) Unless specifically stated, "in-stream fecal coliform concentrations" and "in-stream total coliform concentrations" shall be the average concentrations for the year the Secretary adopted the verified list that first listed the waterbody as impaired for the parameter of concern.~~

(4) Camp Branch. The TMDL for Camp Branch 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 the City of Bonifay Wastewater Treatment Facility (WWTF);

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(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 2002 to 2009 period, will require an 88 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.

(5) Sikes Creek. The TMDL for Sikes 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 not applicable:

(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 2002 to 2009 period, will require a 48 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction 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 Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New 8-3-06, Amended _____.

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: May 26, 2010

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.800 RULE TITLE: Caloosahatchee River Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt a Total Maximum Daily Load (TMDL), and its allocations, for fecal coliforms in the Caloosahatchee River Basin.

SUMMARY: This TMDL addresses the fecal coliform impairment in the Caloosahatchee River Basin, specifically for Trout Creek. The waterbody was verified as impaired using the methodology established in Chapter 62-303, F.A.C.,

Identification of Impaired Surface Waters. The methodology used to develop the TMDL was the percent reduction method. This rulemaking has been given OGC case number 10-1285.

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: Friday, July 9, 2010, 2:00 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 609, Tallahassee, FL 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: 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:

62-304.800 Caloosahatchee River Basin TMDLs.

(1) through (2) No change.

(3) Trout Creek. The TMDL for Trout 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 2002 to 2010 period, will require a 58 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 2002 to 2010 period, will require a 58 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 8-3-06, Amended 8-13-09,_____.

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: May 26, 2010

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.805
 RULE TITLE: Charlotte Harbor 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 Charlotte Harbor Basin.

SUMMARY: These TMDLs address fecal coliform impairments in the Charlotte Harbor Basin. Specifically, the TMDL rules being proposed for adoption are for Gottfried Creek and the North Prong of Alligator 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 the TMDL was the percent reduction method. This rulemaking has been given OGC case number 10-1286.

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: Friday, July 9, 2:00 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 609, Tallahassee, FL

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: 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:

62-304.805 Charlotte Harbor Basin TMDLs.

(1) Coral Creek – East Branch. The Total Maximum Daily Loads (TMDLs) to address the low dissolved oxygen condition for Coral Creek – East Branch are 0.74 mg/L total nitrogen (TN), 0.044 mg/L total phosphorus (TP), and 2.0 mg/L five-day biochemical oxygen demand (BOD₅), and are allocated as follows:

(a)(+) The Wasteload Allocation (WLA) for wastewater sources is not applicable;

(b)(2) The WLA for discharges subject to the Department’s National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program to address anthropogenic sources in the basin such that in-stream concentrations meet the dissolved oxygen criteria, based on the measured concentrations from the January 2007 to December 2007 period, will require a 31 percent reduction of TN, a 36 percent reduction of TP, and a 33 percent reduction of BOD₅ at sources contributing to exceedances of the criteria;

(c)(3) The Load Allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the dissolved oxygen criteria which, based on the measured concentrations from the January 2007 to December 2007 period, will require a 31 percent reduction of TN, a 36 percent reduction of TP, and a 33 percent reduction of BOD₅ at sources contributing to exceedances of the criteria; and

(d)(4) The Margin of Safety is implicit.

(e)(5) While the LA and WLA for TN and TP have been expressed as the percent reduction 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 TN and TP concentrations. However, it is not the intent of the TMDL to abate natural background conditions.

(2) Gottfried Creek. The TMDL for Gottfried 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 2005 to 2008 period, will require a 74 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 2005 to 2008 period, will require a 74 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.

(3) North Prong of Alligator Creek. The TMDL for the North Prong of Alligator 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 2005 and 2007 period, will require a 72 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 2005 and 2007 period, will require a 72 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 I 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 10-15-09, Amended _____.

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: May 26, 2010

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.:	RULE TITLES:
62-532.200	Definitions for Water Well Permitting and Construction
62-532.400	Permit for Water Well Construction or Repair, or Abandonment
62-532.410	Water Well Completion Report
62-532.420	Emergency Water Well Permits
62-532.440	Abandonment of Water Wells
62-532.500	Water Well Construction Standards
62-532.900	Forms and Instructions

PURPOSE AND EFFECT: To make Chapter 62-532, F.A.C., consistent with recent amendments to Chapters 64E-8 and 62-555, F.A.C., address technical changes to industry practices, adopt standardized forms for statewide use and update references.

SUMMARY: The proposed amendments to the rule add four new definitions, set forth the construction standards for wells serving bottled water plants and wells permitted pursuant to Chapter 62-524, F.A.C., set forth the geothermal well tubing and fitting material standards and grouting requirements, amends several technical drilling methods related to well construction and grouting requirements, amends the alternate grouting requirements, updates the references to NSF International and the American National Standards Institute, updates the setback distances and footnotes in Table 1, and adopts new statewide forms for water well permitting. In addition, the rulemaking uses plain language as much as possible, corrects or improves grammar, and updates citations where needed. There are many Department of Environmental Protection rules that reference rules in this Notice. Rule 62-532.400, F.A.C., which includes the reference to Table 1 with the setback distances, is referenced in Rule 62-555.312, F.A.C., but the amendment will have no effect. Rule 62-532.500, F.A.C., is referenced in Rules 62-520.600, 62-524.550, 62-761.600, 62-762.600, and 62-762.640, F.A.C., and these amendments have no effect on those rules except for Rule 62-524.550, F.A.C., which does effect the construction standards for grouting of wells under Chapter 62-524, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A SERC has been prepared. Most of the amendments are clarifications or updates to the existing rules. However, there are several rule amendments that may have an impact on small businesses as summarized hereafter. Water wells are required to be installed by licensed water well contractors and nearly, if not all, of these contractors operate as or are employees of small businesses. Some of the owners of wells including owners of water systems that rely on water from wells are small businesses, small cities, or small counties. The following is a summary of the amendments that may result in an increased or decreased cost. Under the current rule, a geothermal well is not specifically addressed or listed as a water well. However, under the statutory and rule definitions of a well, these types of wells should be considered water wells and regulated as such. Because a water well contractor is required to obtain a license from a water management district by passing a written test and maintaining the license through continuing education, all non-licensed geothermal well installers may incur additional costs because of this amendment. The proposed amendments will impose standards and specifications for heat exchange pipes and fitting materials and for grouting and sealing methods for geothermal wells due to the possibilities of breaching confining units and potential threats of aquifer cross contamination. These new requirements may increase costs to some water well contractors and geothermal well installers who currently do not have these specified manuals and standards and use cheaper, non-standard materials in geothermal well construction. It is conceivable such a requirement may increase well construction costs for some water well contractors that would use native fill or lower cost grouting and sealing methods in the absence of the proposed rule. The amendments will expand the undercutting requirement to wells with driven casing permitted in the delineated areas pursuant to Chapter 62-524, F.A.C., and to production wells for bottled water plants with driven casing. It is conceivable such a requirement may primarily increase costs to persons intending to construct wells with driven casings in the delineated areas. The Department is proposing to amend setback distances from sanitary hazards based on a recent change to Chapter 62-555, F.A.C. This will reduce the setback from some sanitary hazards for public water supply wells from 100 feet to 50 feet. This change may reduce costs to a small number of property owners by having more options for placement of a well. The rules will adopt two statewide forms for water well permitting. Because the statewide forms require more information from applicants, some water well contractors may believe they would take more time to complete. However, the consistency among the water management districts by using the same forms will ultimately save time in their completion. Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 373.309 FS.

LAW IMPLEMENTED: 373.303, 373.308, 373.309, 373.313, 373.316, 373.326., 373.333, 381.0062, 403.852, 403.862 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: July 7, 2010, 10:00 a.m.

PLACE: Room 609, Bob Martinez Building, 2006 Blair Stone Road, 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: David C. James, (850)245-8648 or David.James@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David C. James, (850)245-8648 or David.James@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-532.200 Definitions for Water Well Permitting and Construction.

The following words and phrases, when used in this Chapter, shall have the following meaning, except where the context clearly indicates a different meaning:

(1) through (4) No change.

(5) “Bottled water” means water that is intended for human consumption and that is sealed in bottles or other containers.

(6) “Bottled water plant” means a food establishment, regulated by the Florida Department of Agriculture and Consumer Services, in which bottled water is prepared for sale.

(5) through (10) renumbered (7) through (12) No change.

(13) “Geothermal well” means a type of well used for the purpose of developing ground water as a medium for thermal heat exchange.

(11) through (14) renumbered (14) through (17) No change.

~~(18)(15)~~ “Neat Cement Grout” means a mixture consisting of water and Portland cement (American Concrete Institute Type I, Type II, or American Concrete Institute Type III); or a mixture of water and Portland cement of a type or kind approved by the permitting authority; or a mixture of water, Portland cement of a type or kind approved by the permitting authority, and an amount of those additives approved for use in cement grouts and approved by the permitting authority.

(16) through (17) renumbered as (19) through (20) No change.

(21) “Potable water” means water that is satisfactory for human consumption, dermal contact, culinary purposes, or dishwashing.

(18) through (24) renumbered (23) through (29) No change.

Rulemaking Specific Authority 373.309 FS. Law Implemented 373.303, 381.0062, 403.852 FS. History–New 8-17-74, Amended 7-16-81, Formerly 17-21.02, 17-21.020, Amended 7-30-89, 3-11-92, Formerly 17-532.200, Amended 3-28-02,_____.

62-532.400 Permit for Water Well Construction, ~~or~~ Repair, or Abandonment.

(1) After the effective date upon which a district implements a permit system pursuant to Chapter 373, Part III, F.S., a permit shall be required before beginning construction, ~~or repair, or abandonment~~ of any water well within such area. The permit shall be obtained from the permitting authority by making written application on Form Number 62-532.900(1), adopted and incorporated herein, and available as described in Rule 62-532.900, F.A.C ~~appropriate forms~~. The application shall be made and submitted to the permitting authority by the owner or by the water well contractor on behalf of the owner ~~and shall contain: the well location, description, use, and such other pertinent information as the permitting authority shall require~~. Any required fee shall be submitted with the permit applications.

(2) Permit issuance shall require that:

(a) The application is in the proper form and contains the required information, provided that the proposed construction, ~~or repair, or abandonment~~ will not violate applicable laws, rules, or orders of the permitting authority.

(b) Additional information shall be required by the permitting authority if needed to assess site specific conditions. Such information includes, ~~but shall not be limited to:~~ geophysical logs, geologic samples and logs, and well pumping tests.

(3) Receipt of the permit by the applicant shall constitute permission to begin well construction, ~~or repair, or abandonment~~.

(4) The permit shall be available for inspection at the site of the well during construction, ~~or repair, or abandonment~~ of the well.

(5) Any permittee who desires to change the location of a well before the start of construction or before construction ~~or repair~~ is completed shall apply to the permitting authority for an amendment to the ~~of his well construction~~ permit. When ~~Where~~ a permit fee was required to obtain the original permit no additional fee charge shall be charged made to amend the permit. As a condition to approving an amended permit, the permitting authority shall require the sealing or plugging of any incomplete ~~the uncompleted~~ well.

(6) Each permit shall be valid for a period of one year. In the event construction, ~~or repair, or abandonment~~ is not completed within that time, the permitting authority shall extend the time limit upon written request by the permittee or require the applicant to obtain a new permit before continuing construction, ~~or repair, or abandonment~~ of a water well.

(7) Water wells shall be located placed to comply with the setback distances in Table I at the end of this chapter.

(8) A drinking water supply well installed by an installation used to serve that installation’s operation is exempt from meeting the 500-foot setback distance from on-site slow rate and rapid rate land application flow systems, domestic wastewater residuals land application, phosphogypsum stack systems, and solid water disposal facilities if reasonable assurance is provided by the installation owner that the ground water and drinking water source are protected. Reasonable assurance shall be demonstrated if:

(a) The planned withdrawal from the drinking water supply well will not cause the discharge from the operation to be captured by the well, or

(b) The drinking water supply well is withdrawing from a confined aquifer, or

(c) Additional monitoring of the ground water and the drinking water is provided to ensure that contaminants are not reaching the drinking water supply well and a commitment is made to treat the drinking water supply if a contaminant is detected or to provide an alternate drinking water supply, and-

(d) The 100-foot and 75-foot setback distances from sanitary hazards as provided in Table I shall apply.

Rulemaking Specific Authority 373.309, FS. Law Implemented 373.306, 373.308, 373.309, 373.316, 403.862, FS. History–New 8-17-74, Amended 9-10-78, Formerly 17-21.04, 17-21.040, Amended 7-30-89, 3-11-92, Formerly 17-532.400, Amended 3-28-02,_____.

62-532.410 Water Well Completion Report.

Within 30 days after completion of the construction, ~~or repair, or abandonment~~ of any water well, a written report shall be filed with the permitting authority on Form Number 62-532.900(2), adopted and incorporated herein, and available as described in Rule 62-532.900, F.A.C ~~the appropriate forms~~.

Rulemaking Specific Authority 373.309 FS. Law Implemented 373.309 FS. History–New 8-17-74, Formerly 17-21.05, 17-21.050 Amended 7-30-89, Formerly 17-532.410, Amended _____.

62-532.420 Emergency Water Well Permits.

(1) Permission to begin construction, ~~or repair, or abandonment~~ of any well may be applied for by telephone when emergency conditions exist that which would justify such a request. The permitting authority shall may grant an emergency permit to avert an imminent and substantial danger to the public health, safety, or welfare.

(2) No change.

Rulemaking Specific Authority 373.309 FS. Law Implemented 373.306, 373.308, 373.313, 373.326 FS. History—New 8-17-74, Formerly 17-21.06, 17-21.060, Amended 7-30-89, Formerly 17-532.420, Amended.

62-532.440 Abandonment of Water Wells.

Rulemaking Specific Authority 373.309 FS. Law Implemented 373.306, 373.309, 373.313, 373.316, 373.333 FS. History—New 8-17-74, Formerly 17-21.09, 17-21.090 Amended 7-30-89, Formerly 17-532.440, Repealed.

62-532.500 Water Well Construction Standards.

The following minimum standards shall apply to the construction, ~~and~~ repair, and abandonment of water wells in the State unless exempted by a water management district rule with the concurrence of the Department. Operation requirements for public water systems are included in Chapter 62-555, F.A.C., and operation requirements for limited use public water systems, multifamily water systems, and private water systems are included in Chapter 64E-8, F.A.C.

(1) Well Casing, Liner Pipe, Coupling, and Well Screen Requirements.

(a) Well casing, liner pipe, coupling, and well screen shall be new or in like new condition. Such well casing, liner pipe, coupling, or well screen shall not be used unless free of breaks, corrosion and dents, is straight and true, and not out of round. Welded or seamless black or galvanized steel pipe or casing, or stainless steel pipe or casing, or approved types of nonmetallic pipe shall be used for well casing or liner pipe. All well casing shall conform to one of the following standards: American Society for Testing and Materials (ASTM) A53/A53M-99b, A135-01, A252-98, A589-96, or American Petroleum Institute (API) 5L-2000. Well casing that conforms to any of the aforementioned ASTM or API standards shall also conform to the American National Standard Institute for Welded and Seamless Wrought Steel Pipe (ANSI/ASME B36.10M-2000). All well casing shall be stenciled with the applicable standard, or proper documentation of manufacturer specifications must be supplied to the permitting authority upon request. Copies of these standards may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, P. O. Box C700, West Conshohocken, PA. 19428-2959; the American Petroleum Institute 1220 L Street, N.W. Washington, DC 20005-4070; and the American National Standards Institute, 1819 L Street N.W., Washington, DC 20036, respectively.

(b) through (f) No change.

(g) Well casing, liner pipe, coupling, and well screens used for potable water well construction or repair shall conform to ~~Section 6 of~~ NSF International Standard/American National Standard NSF/ANSI 14-2008e 44-2001, Plastics Piping System Components and Related Materials, or NSF International Standard/American National Standard NSF/ANSI 61-2008 61-2001, Drinking Water System

Components – Health Effects, both of which are adopted and incorporated by reference herein. Copies of these copyrighted standards may be obtained from NSF International, P. O. Box 130140, Ann Arbor, MI 48113-0140.

(h) through (i) No change.

(2) Geothermal well heat exchanger pipe and fitting materials shall meet the standards and specifications in the document Closed-Loop/Geothermal Heat Pump Systems Design and Installation Standards, Revised Edition 2008, published by the International Ground Source Heat Pump Association, Oklahoma State University, which is adopted and incorporated by reference herein. In addition, the reference Closed-Loop/Ground-Source Heat Pump Systems Installation Guide, 1988, Oklahoma State University, is excellent and is included here as a guidance document. Copies of all of these references may be obtained from the International Ground Source Heat Pump Association, Oklahoma State University, 374 Cordell South, Stillwater, OK 74078-8018.

(a) All geothermal well heat exchanger pipe and fitting materials shall be stenciled with the applicable standard, or proper documentation of manufacturer specifications must be supplied to the permitting authority upon request.

(b) The Department or the permitting authority shall approve geothermal well heat exchanger pipe and fitting materials not meeting the standards and specifications in the document adopted in subsection 62-532.500(2), F.A.C., if the applicant makes a showing, certified by a professional engineer, to justify that such use would provide an equivalent material strength and durability.

(3)(2) Well Construction Criteria.

(a) ~~For Wwells casings, which are seated into obtaining water from~~ unconsolidated earth materials, ~~easing~~ shall extend from the upper terminus of the well to the well screen. The well screen shall be attached to the casing with a watertight seal.

(b) ~~For Wwells casings that are seated into a rock layer or other obtaining water from~~ consolidated earth materials, shall be a continuous and easing shall extend from the upper terminus of the well to no less than the top of the uppermost consolidated unit. Wells constructed of telescoping casings shall be considered as a continuous casing provided the grout requirements are met satisfied. The lower terminus ~~bottom end~~ of the well casing shall extend to or below the water level of the aquifer intended to supply water to the well or receive fluids from the well. In addition, all caving zones below the uppermost unit shall be cased.

(c) Geothermal wells shall be grouted in accordance with subparagraph 62-532.500(3)(i)6., F.A.C.

(d)(e) No change.

(e)(d) Prevention of Interchange of Water and Loss of Artesian Pressure.

All water wells shall be properly designed and constructed to prevent an interchange of water between water bearing zones ~~that which~~ may result in deterioration of the quality of water in one or more water bearing zones, or will result in a loss of artesian pressure. If a well cannot be properly completed to prevent such an unauthorized interchange of water between water bearing zones or to prevent a loss of artesian pressure, the well shall be abandoned and plugged in accordance with this Chapter or other directions from the permitting authority, which are appropriate for the hydrogeological conditions encountered.

(f) In the construction, repair, or abandonment of a water well, caution shall be taken to maintain the work site so as to minimize the potential entrance of contaminants into the bore hole and the ground water resource.

(g) Only water from a potable water source shall be used in the construction, repair or abandonment of a water well, including water for cleaning of well materials, drilling equipment, and water used to mix drilling fluids.

~~(h)(e)~~ No change.

~~(i)(f)~~ Grouting and Sealing.

~~1. All well casings seated into a Casing for wells which obtain their water from a rock layer or other such consolidated formation shall, at a minimum, be seated or sealed with neat cement grout, into that rock layer or other consolidated formation.~~

2. No change.

~~3. In the construction of water wells with driven casing, For limited use commercial public water systems, limited use community public water systems, and public water systems, potable water wells permitted pursuant to Chapter 62-524, F.A.C., and water wells serving bottled water plants constructed with driven casing, the minimum acceptable seal shall be accomplished by undercutting or under-reaming the last five feet of the hole before seating the casing. A minimum of one foot of such enlarged hole must be into the consolidated formation in which the casing will be seated. The entire enlarged portion of the hole shall be filled with cement grout, and then the casing shall be driven through the cement grout and seated into the enlarged one-foot portion of the consolidated formation. The uppermost 20 feet of casing shall be sealed with no less than a two-inch nominal thickness of cement grout. No other minimum seal shall be acceptable unless approved by the appropriate water management district or delegated permitting authority as providing equivalent protection to the resource.~~

4. For any part of a well casing with an outside diameter of four inches or larger intended to be installed in a bore hole which is larger in diameter than the inside ~~outside~~ diameter of the casing, the annular space shall be filled from bottom to top with not less than a nominal two-inch thickness of neat cement grout. For ~~those~~ well casings with an outside diameter of less than four inches, intended to be installed in a bore hole which

is larger in diameter than the inside diameter of the casing, the minimum grout thickness shall be a nominal one inch thickness of neat cement grout. The casing shall be centered in the bore hole prior to grouting. In those cases where, during grouting operations, the circulation of the grout is lost so that the annular space being grouted cannot be filled in one continuous operation, a tremie pipe shall be installed in the annular space to a point immediately above the zone of lost circulation and the annulus shall be bridged at that point by sand or other approved material introduced through the pipe. Grouting of annular space shall be completed using the tremie pipe or other equivalent method approved by the permitting authority.

5. No change.

6. Except as provided in subparagraph 5. above, grouting and sealing of water wells shall be accomplished by the practices and methods recommended by Appendix C of American Water Works Association (AWWA) Standard A100-97, AWWA Standard for Water Wells, and grouting and sealing of geothermal wells shall be accomplished by the practices and methods recommended by the Vertical Geothermal Heat Pump Systems Engineering Design and Field Procedures Manual, published by the International Ground Source Heat Pump Association, First Edition 2000, Oklahoma State University, which are adopted and incorporated by reference herein. Copies of these recommended practices and methods may be obtained from the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235; and the International Ground Source Heat Pump Association, Oklahoma State University, 374 Cordell South, Stillwater, OK 74078-8018, respectively.

7. Alternate grouting methods and materials providing equivalent protection shall be approved in writing by the permitting authority. Alternatives to the grouting methods described in subparagraphs 1.-6. Above, must be requested for use from the permitting authority as part of the construction permit application, or once construction begins only in situations where the methods in the rules are not working. In either situation, a detailed explanation of what and why alternate methods are requested must be provided. Alternate grout materials (other than neat cement grout) must be requested in the construction permit application, or once construction begins only when neat cement grout is not providing or will not provide as good a seal as the alternate materials.

(3) through (4) renumbered (4) through (5) No change.

Rulemaking Specific Authority 373.309 FS. Law Implemented 373.309, 373.313, 373.316 FS. History--New 8-17-74, Formerly 17-21.10, 17-21.100, Amended 7-30-89, 3-11-92, Formerly 17-532.500, Amended 3-28-02,_____.

62-532.900 Forms and Instructions.

The forms used by the Department for permitting and construction of a well are listed below by form number and name. Each form has been incorporated into this rule by

reference. Copies of these forms may be obtained by writing to the Department of Environmental Protection, Ground Water Regulatory Section, M.S. 3580, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. These forms also are available at the five regional water management district offices.

(1) State of Florida Permit Application to Construct, Repair, or Abandon a Well, Form Number 62-532.900(1), incorporated in subsection 62-532.400(1), F.A.C., effective _____.

(2) State of Florida Well Completion Report, Form Number 62-532.900(2), incorporated in Rule 62-532.410, F.A.C., effective _____.

Rulemaking Authority 373.309 FS. Law Implemented 373.309, 373.313, 373.316 FS. History—New _____.

TABLE I
WELL SETBACK DISTANCES
 [insert effective date of this rulemaking]

Part A Drinking Water Supply Wells Serving Public Water Systems or Bottled Water Plant Wells		
RULE	INSTALLATION	SETBACK (in feet) (footnote)
Reuse of Reclaimed Water and Land Application 62-610.421(3)	Slow Rate Land Application Restricted Public Access	500 (a)
62-610.521(2)	Rapid Rate Land Application	500 (b)
62-610.621(2)	Overland Flow Systems	500
62-610.621(4)	Transmission Facilities Conveying Reclaimed Water to Restricted Public Access Slow Rate Land Application Systems, Rapid Rate Land Application System, or Overland Flow Systems	100
62-610.471(1)	Public Access, Residential Irrigation, or Edible Crop Slow-rate Land Application Systems	75
62-610.471(3)	Transmission Facilities Conveying Reclaimed Water to Public Access, Residential Irrigation, or Edible Crop Slow-rate Land Application Systems	75
Domestic Wastewater Residuals 62-640.700(4)(b)	Domestic Wastewater Residuals Land Application Areas	500
Phosphogypsum Management 62-673.340(2)(d)	Phosphogypsum Stack Systems	500 (c)
Petroleum Storage Tank Systems 62-761.500(1)(a) and 62-762.501(1)(a)	Aboveground or Underground Storage Tanks	100
Solid Waste Management Facilities 62-701.300(2)(h)(b)	Solid Waste Disposal Facilities	500
62-701.300(12)(c)	Yard Trash Disposal, Storage, or Processing	200
62-701.300(13)	Storage or Treatment of Solid Waste in Tanks	100
Permitting and Construction of Public Water Systems 62-555.312(1) 64E-8.002(2)(b)2.	Onsite Sewage Treatment and Disposal Systems	200 (d), 100 (e)
Public Water Systems 62-555.312(3)(4)	Sanitary Hazard as defined in Rule 62-550 for drinking water supply wells serving public water systems	100 (f), 50 (g)
Feedlot and Dairy Wastewater Treatment and Management Requirements 62-670.500(6)(a)	Dairy Farm Waste – Unlined Storage and Treatment, or High Intensity Areas	300
62-670.500(6)(b)	Dairy Farm Waste – Land Application	200

Part B Drinking Water Supply Wells Serving Limited Use Commercial Public Water Systems and Limited Use Community Public Water Systems		
RULE	INSTALLATION	SETBACK (in feet) (footnote)
Reuse of Reclaimed Water and Land Application 62-610.421(3)	Slow Rate Land Application Restricted Public Access	500 (a)
62-610.521(2)	Rapid Rate Land Application	500 (b)
62-610.621(2)	Overland Flow Systems	100
62-610.621(4)	Transmission Facilities Conveying Reclaimed Water to Restricted Public Access Slow Rate Land Application Systems, Rapid Rate Land Application System, or Overland Flow Systems	100
62-610.471(1)	Public Access, Residential Irrigation, or Edible Crop Slow-rate Land Application Systems	75
62-610.471(3)	Transmission Facilities Conveying Reclaimed Water to Public Access, Residential Irrigation, or Edible Crop Slow-rate Land Application Systems	75
Domestic Wastewater Residuals 62-640.700(4)(b)	Domestic Wastewater Residuals Land Application Areas	500
Phosphogypsum Management 62-673.340(2)(d)	Phosphogypsum Stack Systems	500 (c)
Petroleum Storage Tank Systems 62-761.500(1)(a) and 62-762.501(1)(a)	Aboveground or Underground Storage Tanks	100
Solid Waste Management Facilities 62-701.300(2)(b)	Solid Waste Disposal Facilities	500
62-701.300(12)(a)	Yard Trash Disposal, Storage, or Processing (no set back required for from on-site water wells yard trash disposal)	100
62-701.300(13)	Storage or Treatment of Solid Waste in Tanks	100
Drinking Water Systems 64E-8.002(2)(b)2-	Onsite Sewage Treatment and Disposal Systems	200 (d), 100 (e)
	Sanitary Hazard	100 (f), (g)
64E-8.002(2)(b)1-	Pesticide Treated Slab	25 (g)
Feedlot and Dairy Wastewater Treatment and Management Requirements 62-670.500(6)(a)	Dairy Farm Waste – Unlined Storage and Treatment, or High Intensity Areas	300
62-670.500(6)(b)	Dairy Farm Waste – Land Application	200
Part C Private Wells Multifamily Wells		
RULE	INSTALLATION	SETBACK (in feet) (footnote)
Reuse of Reclaimed Water and Land Application 62-610.421(3)	Slow Rate Land Application Restricted Public Access	500 (a)
62-610.521(2)	Rapid Rate Land Application	500 (b)
62-610.621(2)	Overland Flow Systems	100
62-610.471(1)	Public Access, Residential Irrigation, or Edible Crop Slow-rate Land Application Systems	75

Domestic Wastewater Residuals 62-640.700(4)(b)	Domestic Wastewater Residuals Land Application Areas	300
Petroleum Storage Tank Systems 62-761.500(1)(a) and 62-762.501(1)(a)	Aboveground or Underground Storage Tanks	100
Solid Waste Management Facilities 62-701.300(2)(b)	Solid Waste Disposal Facilities	500
62-701.300(12)(a)	<u>Yard Trash Disposal, Storage, or Processing (no set back required for on-site water wells)</u>	100
62-701.300(13)	Storage or Treatment of Solid Waste in Tanks	100
Drinking Water Systems 64E-8.003(1)	Onsite Sewage <u>Treatment and</u> Disposal Systems	75
	Sanitary Hazard	75 (f), (g)
64E-8.002(2)(b)1.	Pesticide Treated Slab	25 (g)
Feedlot and Dairy Wastewater Treatment and Management Requirements 62-670.500(6)(a)	Dairy Farm Waste – Unlined Storage and Treatment, or High Intensity Areas	300
62-670.500(6)(b)	Dairy Farm Waste – Land Application	200
Part D Irrigation Wells and Geothermal Wells		
RULE	INSTALLATION	SETBACK (in feet)
Standards for Onsite Sewage Treatment and Disposal Systems 64E-6.005(1)(d)	Onsite Sewage <u>Treatment and</u> Disposal Systems	50

TABLE I FOOTNOTES

(a) This distance shall be reduced to 200 feet if facility Class I reliability is provided and shall be reduced to 100 feet if both facility Class I reliability and high-level disinfection are provided.

(b) This distance shall be reduced to 200 feet if both facility Class I reliability and high-level disinfection are provided and if the applicant provides reasonable assurance that applicable water quality standards will not be violated at the point of withdrawal.

(c) This distance applies only to shallow water supply wells (i.e., potable water wells that pump from an unconfined water table aquifer).

(d) This distance applies to public drinking water supply wells that serve water systems having total sewage flows greater than 2,000 gallons per day.

(e) This distance applies to public drinking water supply wells that serve water systems having total sewage flows less than or equal to 2,000 gallons per day.

(f) This distance applies to sanitary hazards that pose a potentially high risk to ground water quality and public health as defined in subsection 62-555.312(3), F.A.C. The following examples are of sanitary hazards that pose a potentially high risk: active or abandoned mines; airplane or train fueling or maintenance areas at airports and railroad yards; concentrated aquatic animal production facilities; domestic wastewater collection/transmission systems; drainage or injection wells, oil or gas production wells, and improperly constructed or abandoned wells (i.e., wells not constructed or abandoned in accordance with Chapter 62-532, F.A.C.); fertilizer, herbicide, or pesticide storage areas at agricultural sites, golf courses, nurseries, and parks; graveyards; impoundments and tanks that process, store, or treat domestic wastewater, domestic wastewater residuals, or industrial fluids or waste and that are not regulated under Rule 62-670.500, F.A.C.; industrial waste land application areas other than those regulated under Rule 62-670.500, F.A.C.; junkyards and salvage or scrap yards; pastures with more than five grazing animals per acre; cattle dip vats; pipelines conveying petroleum products, chemicals, or industrial fluids or wastes; and underground storage tanks

that are not regulated under Chapter 62-761, F.A.C., but are used for bulk storage of a liquid pollutant or hazardous substance (as defined in Chapter 62-761, F.A.C.) other than sodium hypochlorite solution. Sanitary hazard means a physical condition which involves or affects any part of a drinking water system or raw water source, and that creates an imminent or potentially serious risk to the health of any person who consumes water from that system. Examples of sanitary hazards include drainage wells; commercial applications of pesticides or fertilizers, such as golf courses, nurseries and crop production sites; animal feeding operations; improperly abandoned wells; active or abandoned phosphate mines; pipelines carrying industrial chemicals; railroad yards; domestic wastewater; cemeteries; stormwater retention/detention basins; tanks or lagoons used to store, treat, or dispose of liquid wastes; cattle dipping vats; tomato or egg wash wastewater land application areas; or waste transfer stations.

(g) This distance applies to sanitary hazards that pose a potentially moderate risk to ground water quality and public health as defined in subsection 62-555.312(3), F.A.C. The following examples are of sanitary hazards that pose a moderate risk: aboveground storage tanks that are not regulated under Chapter 62-762, F.A.C., but are used for bulk storage of a liquid pollutant or hazardous substance (as defined in Chapter 62-762, F.A.C.) other than sodium hypochlorite solution; fertilizer, herbicide, or pesticide application areas that are not under the ownership or control of the supplier of water at agricultural sites, golf courses, nurseries, and parks; railroad tracks; stormwater detention or retention basins; and surface water (the surface water setback does not apply to multi-family and private wells). This distance shall be reduced to 15 feet for wells that are installed through an impervious strata of clay, hardpan, or rock and that are constructed in accordance with subparagraph 62-532.500(2)(f)3, F.A.C.

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

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 6, 2009

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
Office of the Secretary**

RULE NOS.:	RULE TITLES:
62S-4.001	Definitions
62S-4.004	Application Procedures for Coastal Partnership Initiative Grants

62S-4.007	Review Procedures and Criteria
62S-4.008	Funding Coastal Partnership Initiative Grants

PURPOSE AND EFFECT: Rule amendments will improve and streamline an existing grant program and ensure timely, cost-effective grant management by amending review procedures, evaluation criteria and eligible applicants, amending the Work Plan, and revising the grant application form to reflect rule changes.

SUMMARY: The proposed rule amendments delete reference to a form; amend eligible applicants; remove specific grant categories; specify differing funding amounts; revise number and type of application copies; amend the Work Plan; amend evaluation criteria; delete equal distribution of funds by category; revise grant application form to reflect rule changes; and make other clarifications.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will have an impact on small business. Due to the structure of this rule and the proposed changes, only those entities that are specifically defined as approved "applicants" will be directly affected by proposed rule changes. These entities include local governments, national estuarine research reserves, colleges, community colleges, state universities (as listed in Section 1000.21, F.S.), regional planning councils, national estuary programs and non-profit organizations. Costs associated with this rule change stem mainly from a reduced planning grant cap size and an imposition of a cap on the percentage of third party matching allowed. The reduction in the use of 3rd party matching funds imposes costs by shifting the matching burden from non-monetary matching to cash and in-kind matching. In the case of the lower planning grant cap, costs are incurred when the maximum amount of the planning grant is reduced thereby increasing the potential financial burden on the recipient. However, the increase in costs associated with the planning grant cap is partially mitigated by an increased number of overall grants that may be distributed. The department estimates the net costs of both of these changes to be minimal based on data from previous grant cycles.

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: 380.22(3), 380.27 FS.

LAW IMPLEMENTED: 380.22 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: Susan Goggin: ph. (850)245-2161; fax (850)245-2189; email: susan.goggin@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62S-4.001 Definitions.

As used in this rule, except where the context clearly indicates a different meaning, the following terms shall have the meaning indicated:

(1) No change.

(2) "Applicant" means ~~Local governments of the 35 coastal counties and all municipalities within their boundaries that are required to include a coastal element in the local comprehensive plan; national estuarine research reserves; and national estuary programs.~~ The term also means Florida colleges, community colleges and state universities as listed in Section 1000.21, F.S., public and private colleges and universities, regional planning councils, national estuary programs and non-profit groups, as long as an eligible local government, ~~national estuarine research reserve, or national estuary program~~ agrees to participate as a partner.

(3) "Application" means a formal request for Coastal Partnership Initiative funds by an applicant consisting of a complete, original grant project application form, including required copies and ~~applicable~~ documentation.

(4) through (10) No change.

(11) "~~Special Designations~~" means ~~waters or areas designated by federal, state or local authorities that protect or preserve environmental, cultural or coastal resources.~~

(12) "~~306A Checklist~~" means the "Section 306A Guidance and Checklist" Form 62S-4.001(12), which became effective 1-29-09 and is hereby adopted and incorporated by reference. NOAA requires submission of the information in the checklist prior to release of funds under Section 306A of the Act for construction projects, invasive species removal, habitat restoration, capital outlay or land acquisition. 306A Checklists may be obtained from the CPI website at <http://www.dep.state.fl.us/cmp/grants/index.htm>, or by contacting FCMP staff at the Department of Environmental Protection, Florida Coastal Management Program, MS 47, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000.

Rulemaking Specific Authority 380.22(3) FS. Law Implemented 380.22 FS. History—New 10-15-81, Formerly 17-24.03, Amended 12-2-87, Formerly 17-24.030, Amended 11-22-93, 4-30-96, 6-10-01, Formerly 9M-1.003, Amended 8-11-03, 9-11-05, 1-29-09.

62S-4.004 Application Procedures for Coastal Partnership Initiative Grants.

(1) CPI Program Purpose. Eligible applicants may request financial assistance to implement projects to protect, enhance, and improve the management of natural, cultural, and historical coastal resources and to increase the sustainability, resiliency and preparedness of coastal communities. Grant applications must benefit the management of coastal resources, and meet the purpose and goals of at least one of the following CPI priority areas categories:

(a) Resilient Communities. The purpose goal of this priority area initiative is to help coastal communities prepare for and respond to the effects of climate change and natural hazard events and disasters. Project examples include: conducting vulnerability analyses and risk assessments; developing post-disaster redevelopment plans and business continuity plans; developing climate change adaptation strategies for incorporation in local comprehensive plans or ordinances; developing policies, guidance and best management practices; restoring and preserving coastal wetlands and shorelines; and developing energy efficiency and alternative energy strategies.

(b) Coastal Resource Stewardship. The purpose goal of this priority area initiative is to promote stewardship and appreciation of fragile coastal resources through ~~citizen, volunteer and local government~~ involvement. Stewardship project examples include dune and wetland restoration; invasive exotic plant removal control; coastal clean-ups; cultural resource protection; environmental awareness initiatives; coastal learning centers; and environmental education events and field trips.

(c) Access to Coastal Resources. The purpose goal of this priority area initiative is to help communities identify and improve public access to cultural, historical and natural areas while protecting resources from overuse and damage. Project examples include: planning for, and construction of small-scale projects such as fishing piers, dune crossovers, boardwalks, observation decks, and canoe and sailboat launches; natural shoreline restoration; invasive exotic plant species removal; waterfront park improvements; and development of recreational surface water use plans or policies pursuant to Section 163.3177(6)(g), F.S.

(d) Working Waterfronts. The working waterfronts priority area initiative is designed to assist communities with waterfront revitalization. The working waterfronts initiative aims to support projects that enhance and sustain traditional waterfront communities while addressing public access, resource protection, and hazard mitigation issues. Project examples in this category include constructing boat ramps, waterside boardwalks, kiosks and fish cleaning stations; and restoring shorelines and wetlands or implementing other measures that mitigate the effects of natural hazards.

(2) through (a) No change.

1. No more than \$30,000 ~~\$60,000~~ and no less than \$10,000 ~~\$20,000~~, for planning, design and coordination activities, land acquisition, small construction, or capital improvement projects; and

2. No more than \$60,000 and no less than \$10,000 for construction projects, habitat restoration, invasive exotic plant removal or land acquisition. These projects cannot involve planning and coordination activities as stated in subparagraph 62S-4.004(2)(a)1., F.A.C.

(b) Projects funded under the CPI must be located on publicly-owned or leased land, or land held in perpetuity under a conservation easement. Projects located on federally-owned lands are not eligible for FCMP funds.

(c) ~~Non-profit organizations are not eligible to receive be applicants for funds for construction projects, habitat restoration, invasive exotic plant removal under Section 306A capital outlay or land acquisition of the Aet. Applications submitted by non-profit organizations that propose these activities will be disqualified.~~

(d) A recipient will be required to provide 100% (1:1) matching funds, cash or in-kind. No more than one-half (50%) of match can be provided by a third party.

(e) No change.

~~(f) A project that receives a CPI grant may be considered again for funding in a subsequent grant cycle, provided that the first grant was successfully completed.~~

~~(g) A project that receives CPI funds for two consecutive funding cycles is not eligible to be considered again for funding until two subsequent funding cycles have passed, and provided that the previously funded projects were successfully completed.~~

~~(f)(h)~~ No change.

(3) through (4)(b) No change.

(5) Application Form. All Coastal Partnership Initiative (CPI) grant applications must be submitted on the CPI Application Form. The CPI Coastal Partnership Initiative Application Form 62S-4.004(5), effective date _____ (which includes the 306A checklist as incorporated in 62S-4.001(12)) is hereby incorporated by reference and is available from the FCMP grants CPI website at <http://www.dep.state.fl.us/cmp/grants/index.htm>. To request an application form, contact FCMP staff at the Department of Environmental Protection, Florida Coastal Management Program, MS 47, 3900 Commonwealth Blvd., Tallahassee 32399-3000.

~~(a) Applications shall be received by the FCMP submitted either in person, by certified or registered mail (return receipt requested), or by courier service. Applications shall be received at Department of Environmental Protection, FCMP, M.S. 47, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 on or before 4:00 p.m., Eastern Time Zone, on the date identified in the notice of availability of funds, which shall be a minimum of 60 days from the publication of the notice of availability of funds.~~

(b) One originally-signed application, four copies of the application and one CD/DVD version shall be submitted to: FCMP, M.S. 47, ATTN: CPI Applications, 3900 Commonwealth Blvd., Tallahassee, FL 32399-3000.

~~(c)(b)~~ It is the applicant's responsibility to ensure that one original application, four and 12 copies, and one CD/DVD version of the application are delivered at the proper time and

place. Applications submitted by fax or other electronic media are not acceptable. Applications received after the exact time and date specified above will be disqualified.

Rulemaking Specific Authority 380.22(3) FS. Law Implemented 380.22 FS. History--New 10-15-81, Formerly 17-24.04, Amended 12-2-87, Formerly 17-24.040, Amended 11-22-93, 4-30-96, 6-10-01, Formerly 9M-1.004, Amended 8-11-03, 9-11-05, 1-29-09, _____.

62S-4.007 Review Procedures and Criteria.

(1) through (3) No change.

Criteria for all Initiative Categories	Maximum Points
(a) The project location is clearly depicted on a map.	10 15
(b) Project description is clearly presented.	15 20
(c) Project objectives, tasks, deliverables and timelines clearly relate to the project description are clear.	20
(d) Applicant and partner roles are adequately identified.	10
(e) Project location is clearly described.	15
(d)(f) There is a <u>demonstrated clear</u> need <u>which for</u> the project <u>addresses.</u>	25 20
(e)(g) Project meets <u>purpose goal of at least one the chosen CPI priority category.</u>	10 15
(f)(h) Applicant demonstrates how the project will benefit coastal resource management.	25
(g) Project is feasible and can be completed within one year.	10
(i) There is community support for the project and project will benefit community.	5
(j) Project supports specific goals and objectives of the local comprehensive plan.	5
(k) If applicable, project helps achieve the goals of the following Department, state, local or federal programs:	
1. Local Mitigation Strategy.	5
2. Florida Forever, or a local land acquisition program.	5
3. Waterfronts Florida.	5
4. Special Designations.	5
(h)(i) Budget and budget narrative clearly shows how <u>FCMP funds and match funds will be expended in accordance with 62S-4.004(2)(d), and demonstrate a cost relationship to project activities by category.</u>	15
(i) Project costs are reasonable.	10
Total Maximum Points Possible	140 185

~~(4)(m)~~ Applications Within each category, projects that receive a final score of at least 110 points will be funded eligible for funding in rank order by score, depending on the

availability of funds. If more than one application project in a category receives the same score, those applications projects will receive equal treatment in making funding decisions.

~~(5)(a) Projects will be funded in rank order by score as determined by the evaluation committee and subject to the availability of funds. If the project is funded by NOAA, the subgrant agreement shall be executed within 90 days from approval unless mutually waived by the FCMP and recipient. Failing timely execution, the subgrant award shall not be awarded. Instead, the funds shall be awarded to the next eligible, unfunded CPI project in the same initiative category. If there is no eligible, unfunded CPI project in the same initiative category, then the funds will shall be allocated to other FCMP needs.~~

Rulemaking Specific Authority 380.22(3) FS. Law Implemented 380.22, 380.27 FS. History–New 10-15-81, Formerly 17-24.07, Amended 12-2-87, Formerly 17-24.070, Amended 11-22-93, 4-30-96, 6-10-01, Formerly 9M-1.007, Amended 8-11-03, 9-11-05, 1-29-09, _____.

62S-4.008 Funding Coastal Partnership Initiative Grants.

(1) The FCMP shall use the criteria and procedures established in this rule chapter to evaluate project applications and determine their eligibility to be included as part of Florida’s official cooperative agreement application for federal assistance under the Act. The final decision whether or not to fund a project is made by the Department and NOAA.

(2) Funding of any application submitted in response to the FCMP’s notice of availability of funds and in accordance with this rule chapter is subject to the amount of federal coastal zone management funds awarded to the FCMP and the amount allocated to the CPI by the FCMP. The FCMP may reduce awards based upon feasibility of project components.

~~(3) The total amount allocated to CPI shall initially be distributed equally among the categories. After fully funding all eligible applications in a CPI category, any excess funds in a category will be redistributed to categories in which the initial allocation is insufficient to fully fund all eligible applications. In redistributing funds, preference shall be given to achieving full funding of partially funded projects.~~

(4) through (6) renumbered (3) through (5) No change.

Rulemaking Specific Authority 120.569, 120.57, 380.22(3) FS. Law Implemented 120.569, 380.22 FS. History–New 1-29-09, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Susan Goggin
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael W. Sole
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 26, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 2010

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of the Secretary

RULE NOS.:	RULE TITLES:
62S-5.001	Definitions
62S-5.002	Application Procedures
62S-5.003	Review and Funding of Grants

PURPOSE AND EFFECT: Rule amendments will improve and streamline an existing grant program and ensure timely, cost-effective grant management.

SUMMARY: The proposed rule amendments delete definition of a federal form and requirement to submit federal form with grant application; revise number and type of application copies required; indicate a maximum Indirect Cost rate; clarify where projects may be located; and add that the Department is included in final decision on whether or not to fund a project.

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: 380.22(3) FS.

LAW IMPLEMENTED: 380.22, 380.27 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: Susan Goggin: ph. (850)245-2161; fax (850)245-2189; email: susan.goggin@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62S-5.001 Definitions.

As used in this rule, except where the context clearly indicates a different meaning, the following terms shall have the meaning indicated:

(1) through (7) No change.

~~(8) “306A Checklist” means the “Section 306A Guidance and Checklist” as incorporated in subsection 62S-4.001(12), F.A.C., required for applicants requesting funds for construction projects, invasive species removal, habitat restoration, capital outlay or land acquisition. NOAA requires submission of the information in the checklist prior to release of funds under Section 306A of the Act.~~

Rulemaking Specific Authority 380.22(3) FS. Law Implemented 380.22 FS. History–New 1-29-09, Amended _____.

62S-5.002 Application Procedures.

(1) through (4) No change.

(a) All applications shall be submitted on 8 1/2" x 11" white paper. One original ~~Ten signed copies of each application, four paper copies of the application, and one~~

CD-DVD copy of the application must be submitted. ~~No binding (other than paper clips or staples), cover, or folder/notebook shall be used.~~

(b) through (c)3. No change.

4. Budget. The application must include a budget that:

a. ~~Shows~~ Include a budget showing how funds will be expended and describes ~~describing~~ the source and amount of match funds, if any.

b. Indicates whether additional funds from other sources will be used to complete the proposed project. If total project costs exceed the amount of proposed FCMP funds and match funds, indicate the total project cost.

c. Reflects a maximum of 5% in indirect costs, if the applicant elects to include indirect costs in the project budget.

5. through a. No change.

b. The property on which construction activities will take place is owned or leased by the applicant or the applicant holds a sufficient easement. Projects located on federally-owned lands are not eligible for FCMP funds.

c. No change.

~~d. For construction projects, invasive species removal, habitat restoration, capital outlay or land acquisition, include a completed 306A checklist and other materials required by the 306A checklist with the application. 306A checklists may be obtained by contacting FCMP staff at the Department of Environmental Protection, M.S. 47, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000.~~

Rulemaking Specific Authority 380.22(3) FS. Law Implemented 380.22 FS. History–New 1-29-09, Amended _____.

62S-5.003 Review and Funding of Grants.

(1) No change.

(2) The FCMP shall use the criteria and procedures established in this rule chapter to evaluate project applications and determine their eligibility to be included as part of Florida’s official cooperative agreement application for federal assistance under the Act. The final decision whether or not to fund a project is made by the Department and NOAA.

(3) through (6) No change.

Rulemaking Specific Authority 380.22(3) FS. Law Implemented 380.22, 380.27 FS. History–New 1-29-09, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Susan Goggin

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

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

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

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-241.010	Purpose
69B-241.020	Scope
69B-241.030	Definitions
69B-241.035	Crimes of Moral Turpitude
69B-241.040	Calculating Penalty
69B-241.070	Departmental Discretion
69B-241.080	Penalties for Violation of Section 648.44, F.S.
69B-241.090	Penalties for Violation of Section 648.45, F.S.
69B-241.100	Penalties for Violation of Other Specific Provisions of the Insurance Code
69B-241.110	Penalties for Violation of Specific Provisions of Rule Chapter 69B-221, F.A.C.
69B-241.120	Penalties for Violation of Other Insurance Code Provisions
69B-241.130	Penalties for Violation of Other Department Rules
69B-241.140	Penalties for Violation of Department Orders
69B-241.150	Criminal Proceedings
69B-241.160	Aggravating/Mitigating Factors
69B-241.165	Imposition of Administrative Fine In Lieu of Suspension
69B-241.170	Field Office Settlement Stipulation

PURPOSE AND EFFECT: The purpose of the proposed rule chapter is to establish clear standards for penalties imposed upon bail agents subject to the provisions of Chapter 648, F.S., and Rule Chapter 69B-221, F.A.C. The proposed rule also incorporates new form DFS-H1-2021, “Field Office Settlement Stipulation,” that is to be used by the Department when offering licensees the opportunity to pay a fine for certain alleged non-criminal violations, in lieu of the administrative hearing process. The effect of the proposed rule chapter is to provide guidelines that provide a consistent approach for penalties imposed for violations of statute and rules.

SUMMARY: The proposed rule chapter implements the Department’s rulemaking duties under subsections 624.307(1) and 648.26(1)(a), F.S., and enforces the related provisions under Chapter 648, F.S., “Bail Bond Agents,” and all sections of Rule Chapter 69B-221, F.A.C., “Bail, Bonds and Bail Bond Agents.” The proposed rule chapter further establishes standards for the enumerated penalties within and incorporates new form DFS-H1-2021, “Field Office Settlement Stipulation.”

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared. The Department determined that the proposed rule chapter 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: 624.308, 648.26(1)(a) FS.

LAW IMPLEMENTED: 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS.

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

DATE AND TIME: Thursday, July 8, 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: Ray Wenger, (850)413-5660 or Ray.Wenger@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 RULES IS: Ray Wenger, Financial Administrator, Bureau of Investigation, Division of Insurance Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850)413-5660

THE FULL TEXT OF THE PROPOSED RULES IS:

PENALTY GUIDELINES FOR BAIL BOND AGENTS

69B-241.010 Purpose.

The purpose of this rule chapter is to implement the Department's duty under Sections 624.307(1) and 648.26(1)(a), F.S., to enforce Sections 648.27, 648.285, 648.29, 648.295, 648.30, 648.33, 648.34, 648.355, 648.36, 648.365, 648.382, 648.387, 648.388, 648.40, 648.41, 648.421, 648.43, 648.44, 648.441, 648.442, 648.4425, 648.45, 648.50, 648.55, and 648.571, F.S., and all sections of Rule Chapter 69B-221, F.A.C. by establishing standards for penalties described in those statutory and rule sections, and interpreting provisions in those sections as they relate to penalties imposed upon licensees specified in Rule 69B-241.020, F.A.C.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a) FS. History—New _____.

69B-241.020 Scope.

This rule chapter shall apply to all bail bond agents licensed under Chapter 648, F.S., who are subject to discipline under Section 648.45, F.S.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History—New _____.

69B-241.030 Definitions.

The following definitions shall apply for purposes of this rule chapter.

(1) "Administrative complaint" means a charging document filed by the Department against a licensee.

(2) "Administrative charges" means charges consisting of factual allegations with citations to violations of the Florida Insurance Code, Department rules or orders grouped together in one or more counts.

(3) "Count" is a single allegation or multiple allegations relating to a single transaction or occurrence which if true, would constitute a violation of one or more provisions of the Florida Insurance Code.

(4) "Crimes involving moral turpitude" means each felony crime identified in Rule 69B-241.035 et seq., F.A.C.

(5) "Department" means the Florida Department of Financial Services.

(6) "Final penalty" means the penalty imposed on a licensee by the Department.

(7) "Penalty per count" means the penalty to be assessed for a single count and is equal to the highest stated penalty in the count for all proven violations.

(8) "Stated penalty" means the penalty set forth in Rules 69B-241.080 through 69B-241.150, F.A.C.

(9) "Total penalty" means the sum of the highest stated penalties for each count.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History—New _____.

69B-241.035 Crimes of Moral Turpitude.

(1) Classification of Felony Crimes.

(a) The Department makes a general classification of felony crimes into three classes: A, B, and C, as listed in subsections (2), (3) and (4) of this rule. The lists refer only to such crimes when they are felonies, since certain of the crimes could be misdemeanors in some jurisdictions and felonies in other jurisdictions.

(b) These classifications reflect the Department's evaluation of various crimes in terms of moral turpitude, and of the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by someone who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) The lists are not all-inclusive. Where a particular crime involved in an application is not listed in this rule, the Department has the authority to analogize the crime to the most similar crime that is listed. No inference is to be drawn from the absence of any crime from this list, to the effect that said crime is not grounds for adverse action under this rule.

(e) In evaluating law enforcement records, the Department shall use the highest classification into which the crime fits, where "A" is the highest classification.

(f) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(2) Class "A" Crimes include all those listed in this subsection, where such crimes are felonies, and all are of equal weight notwithstanding from which subparagraph they are drawn. The Department finds that each felony crime listed in this subsection is a crime of moral turpitude.

(a) Submitting false insurance claims or applications.

(b) Crimes relating to workers' compensation insurance.

(c) Theft or other dishonest dealings with premiums or claims money.

(d) Making false reports to insurance regulatory officials.

(e) Grand theft or embezzlement from an insurance company or agency.

(f) Armed Robbery (face-to-face theft by threat of force or force).

(g) Extortion.

(h) Bribery.

(i) Misuse of public office.

(j) Obstructing justice.

(k) Treason against the United States, or a state, district, or territory thereof.

(l) Abuse of elderly or disabled persons.

(m) Altering public documents.

(n) Forgery.

(o) Perjury.

(p) Racketeering.

(q) Witness tampering.

(r) Child abuse.

(s) Grand Theft.

(t) Larceny.

(u) Burglary.

(v) Breaking and entering.

(w) Fraud.

(x) Embezzlement.

(y) Tax evasion.

(z) Defrauding an innkeeper.

(aa) Passing worthless check(s) with intent to defraud.

(bb) Failure to pay tax.

(cc) Buying, receiving, concealing, or possessing stolen property.

(dd) Fraudulent obtaining of food stamps or other welfare fraud.

(ee) Shoplifting.

(ff) Adulteration or poisoning of drugs or food.

(gg) Illegal possession of a firearm.

(hh) Impersonating or attempting to impersonate a law enforcement officer.

(ii) Robbery.

(jj) Unlawful possession of a postal key.

(kk) Securities fraud.

(ll) Sale of unregistered securities.

(mm) Sale of securities by an unregistered dealer.

(nn) Postal fraud.

(oo) Obtaining controlled substance by fraud.

(pp) Not paying required tax as a transferee of a controlled substance.

(qq) Uttering a forged check.

(rr) Forgery of a deed.

(ss) Defrauding the government.

(tt) Criminal possession of a forged instrument.

(uu) Credit card fraud.

(vv) Conspiracy.

(ww) Carrying a concealed weapon/firearm without a license to do so.

(xx) Murder in all degrees.

(yy) Aggravated Assault (e.g., as with a deadly weapon).

(zz) Aggravated Battery (e.g., as with a deadly weapon).

(aaa) Rape.

(bbb) Sexually molesting any minor.

(ccc) Sexual battery.

(ddd) Arson.

(eee) Aircraft piracy/hijacking.

(fff) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.

(ggg) Deriving income from another person's prostitution activities.

(hhh) Running a gambling establishment.

(iii) Unlawful placing, throwing, or discharging a bomb.

(jjj) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.

(kkk) Kidnapping.

(lll) Incest.

(3) Class "B" Crimes include the following felony crimes:

(a) Manslaughter.

- (b) Simple Assault.
- (c) Simple Battery.
- (d) Gambling.
- (e) Possession of burglary tools.
- (f) Resisting arrest with violence.
- (g) Damage to Property.
- (h) Criminal mischief.
- (i) Passing worthless check(s) without intent to defraud.
- (4) Class "C" Crimes include the following felony crimes:
 - (a) Public drunkenness.
 - (b) Driving under the influence.
 - (c) Trespassing.
 - (d) Resisting arrest without force.
 - (e) Disorderly conduct.
 - (f) Solicitation of prostitution.
 - (g) Prostitution.
 - (h) Obscenity.
 - (i) Bigamy.
 - (j) Sale of fireworks.
 - (k) Criminal trespass.
 - (l) Cruelty to animals.
 - (m) Personal use of controlled substances (illegal drugs).
 - (n) Possession of controlled substances (illegal drugs) for personal use.
 - (o) Possession of drug paraphernalia for personal use.
 - (p) Domestic disturbance not involving violence.
 - (q) Violation of fish and game laws.
 - (r) Illegal possession of weapon.
 - (s) Fleeing arrest or fleeing a law enforcement officer.
 - (t) Escape while in lawful custody.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History—New _____.

69B-241.040 Calculating Penalty.

(1) Penalty Per Count.

(a) The Department is authorized to find that multiple grounds exist under Section 648.45, F.S., for disciplinary action against the licensee based upon a single count in an administrative complaint which is based upon a single act of misconduct by a licensee. However, for the purpose of this rule chapter, only the violation specifying the highest stated penalty will be considered for that count. The highest stated penalty thus established for each count is referred to as the “penalty per count”.

(b) The requirement for a single highest stated penalty for each count in an administrative complaint shall be applicable regardless of the number or nature of the violations established in a single count of an administrative complaint.

(2) Total Penalty. Each penalty per count shall be added together and the sum shall be referred to as the “total penalty”.

(3) Final Penalty.

(a) The final penalty which will be imposed against a licensee under these rules shall be the total penalty, as adjusted to take into consideration any aggravating or mitigating factors, as set forth in Rule 69B-241.160, F.A.C.

(b) The Department may convert the total penalty to an administrative fine and probation if the licensee has not previously been subjected to an administrative penalty and the current action does not involve a violation of Section 648.45, F.S.:

(c) The Department will consider the factors set forth in rule subsection 69B-241.160(1), F.A.C., in determining whether to convert the total penalty to an administrative fine and probation.

(d) In the event that the final penalty would exceed a suspension of twenty-four (24) months, the final penalty shall be revocation. This provision shall not apply to an immediate temporary suspension imposed pursuant to Section 648.45(1), F.S.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History—New _____.

69B-241.070 Departmental Discretion.

(1) Stipulated Disposition. The provisions of this rule are not intended and shall not be construed to limit the ability of the Department to informally dispose of disciplinary actions by stipulation, agreed settlement or consent order whether or not the Department has initiated administrative charges.

(2) Cease and Desist Actions. This rule chapter shall not preclude the Department from initiating an administrative action against licensed or unlicensed individuals for the purpose of imposing cease and desist and penalty orders authorized by Section 626.9581, F.S.

(3) Collateral Actions. The provisions of this rule chapter are not intended and shall not be construed to limit the ability of the Department to pursue or recommend collateral, civil or criminal actions where appropriate.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History—New _____.

69B-241.080 Penalties for Violation of Section 648.44, F.S.

If it is found that the licensee has violated any of the following subsections of Section 648.44, F.S., the following stated penalty shall apply:

(1) Section 648.44(1)(a), F.S. – Suspension for 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(2) Section 648.44(1)(b), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(3) Section 648.44(1)(c), F.S. – Suspension for 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(4) Section 648.44(1)(d), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(5) Section 648.44(1)(e), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(6) Section 648.44(1)(f), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(7) Section 648.44(1)(g), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(8) Section 648.44(1)(h), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(9) Section 648.44(1)(i), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(10) Section 648.44(1)(j), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(11) Section 648.44(1)(k), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(12) Section 648.44(1)(l), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(13) Section 648.44(1)(m), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(14) Section 648.44(1)(n), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(15) Section 648.44(1)(o), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(16) Section 648.44(1)(p), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(17) Section 648.44(2), F.S. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(18) Section 648.44(3), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(19) Section 648.44(4), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(20) Section 648.44(5), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(21) Section 648.44(6)(a), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(22) Section 648.44(6)(b), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(23) Section 648.44(6)(c), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(24) Section 648.44(6)(d), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(25) Section 648.44(6)(e), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(26) Section 648.44(7), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(27) Section 648.44(8)(a), F.S. – Revocation.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New _____.

69B-241.090 Penalties for Violation of Section 648.45, F.S.

If it is found that the licensee has violated any of the following subsections of Section 648.45, F.S., for which suspension or revocation of license(s) and appointment(s) is authorized, the following stated penalty shall apply:

(1) Section 648.45(1), F.S. – Immediate temporary suspension of all licenses and appointments which shall continue if the licensee has been found guilty of, or has pleaded guilty or no contest to, the crime, whether or not a judgment or conviction has been entered, during a pending appeal.

(2) Section 648.45(2)(a), F.S. – Suspension until all qualifications have been met, or denial of application.

(3) Section 648.45(2)(b), F.S. –

(a) Suspension for 12 months if, had the license application or appointing form been accurate, the application or appointment would have been granted, based on the statutes and Department licensing rules applicable at the time the Department issued the license or appointment, and the documentation in the applicant's or licensee's file at the time the Department issued the license or appointment.

(b) Revocation of license or eligibility to hold license if, had the license application or appointing form been accurate, the application or appointment would have been denied, based on the statutes and Department licensing rules applicable at the time the Department issued the license or appointment.

(4) Section 648.45(2)(c), F.S. – Denial of issuance of license.

(5) Section 648.45(2)(d), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(6) Section 648.45(2)(e), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(7) Section 648.45(2)(f), F.S. – Temporary suspension until licensee has successfully completed up to 14 hours of intermediate-level continuing education courses in bail bonds that have been approved by the department; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(8) Section 648.45(2)(g), F.S. – Suspension for not less than 1 month for each count for the first violation; suspension for not less than 12 months up to 24 months, for every violation subsequent to the first.

(9) Section 648.45(2)(h), F.S. – Suspension for not less than 1 month for each count, plus full restitution with interest payable that equals or exceeds the prime rate set by the Federal Reserve Bank for the first violation; suspension for not less than 12 months up to 24 months, plus full restitution with interest payable that equals or exceeds the prime rate set by the Federal Reserve Bank for every violation subsequent to the first.

(10) Section 648.45(2)(i), F.S. – Administrative fine equal to at least two times the amount paid or forgone for the first violation; suspension for not less than 6 months up to 12 months and an administrative fine equal to at least five times the amount paid or forgone, for every violation subsequent to the first.

(11) Section 648.45(2)(j), F.S. – Suspension for not less than 3 months for each rule, order or provision of the Florida Insurance Code violated for the first violation; suspension for not less than 12 months up to 24 months, for every violation subsequent to the first.

(12) Section 648.45(2)(k), F.S. – Revocation.

(13) Section 648.45(2)(l), F.S. – Suspension for not less than 3 months for the first violation; suspension for not less than 12 months up to 24 months every violation subsequent to the first.

(14) Section 648.45(2)(m), F.S. – Temporary suspension, which shall continue until all obligations have been performed for the first violation; temporary suspension, which shall continue until all obligations have been performed for every violation subsequent to the first.

(15) Section 648.45(2)(n), F.S. – Suspension for not less than 3 months up to 6 months, for the first violation; suspension for not less than 12 months up to 24 months and an administrative fine equal to five times the dollar amount or value of the collateral, for every violation subsequent to the first.

(16) Section 648.45(2)(o), F.S. – Suspension for not less than 3 months up to 6 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(17) Section 648.45(2)(p), F.S. – Revocation.

(18) Section 648.45(3)(a), F.S. –

(a) Suspension of license for not less than 6 months but not more than 12 months.

(b) Revocation of license and eligibility to hold a license if, had the license application or appointing form been accurate, the application or appointment would have been denied, based on the statutes and Department licensing rules applicable at the time the Department issued the license or appointment.

(19) Section 648.45(3)(b), F.S. – Denial of issuance of license and revocation of eligibility for licensure or appointment under Chapter 648, F.S.

(20) Section 648.45(3)(c), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(21) Section 648.45(3)(d), F.S. –

(a) Temporary suspension which shall continue until all money belonging to any insurer has been fully paid over to the proper insurer; and

(b) Consecutive to the above, suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(22) Section 648.45(3)(e), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(23) Section 648.45(3)(f), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

Remaking Authority 624.308, 648.26(1)(a) F.S. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 F.S. History–New _____.

69B-241.100 Penalties for Violation of Other Specific Provisions of the Insurance Code.

If a licensee is found to have violated any of the following provisions of the Insurance Code, the following stated penalty shall apply:

(1) Section 648.27(8), F.S. – Suspension of the Managing General Agent’s license for not more than 3 months for the first violation; suspension for 6 months for every violation subsequent to the first.

(2) Section 648.285(1), F.S. – Immediate final order of suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and the primary bail bond agent.

(3) Section 648.295(1), F.S. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(4) Section 648.295(2), F.S. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(5) Section 648.30(1), F.S. – Suspension for not more than 6 months for the first violation; suspension for not less than 6 months up to 12 months for every violation subsequent to the first.

(6) Section 648.30(2), F.S. – Suspension for not more than 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(7) Section 648.30(3), F.S. – Suspension of the temporary bail bond agent’s license for not less than 6 months up to revocation.

(8) Section 648.33(2), F.S. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(9) Section 648.34(2)(c), F.S. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(10) Section 648.355(1)(e), F.S. – Except for violations for which the penalty is stated in the statute, the penalty shall be suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(11) Section 648.355(7), F.S. – Suspension for not more than 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(12) Section 648.355(8)(a), F.S. – Suspension for not more than 6 months for the first violation; suspension for not less than 6 months up to 12 months for every violation subsequent to the first.

(13) Section 648.355(8)(b), F.S. – Suspension for not more than 6 months for the first violation; suspension for not less than 6 months up to 12 months for every violation subsequent to the first.

(14) Section 648.36, F.S. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(15) Section 648.365(1), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(16) Section 648.382(1), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(17) Section 648.382(2)(b), F.S. – Denial or suspension of appointment and an administrative fine may be imposed in an amount up to the total amount owed to the insurer. The administrative fine is in addition to the amount owed to the insurer that shall also be paid.

(18) Section 648.382(4), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(19) Section 648.382(5), F.S. – Administrative fine of not less than \$250 and not more than \$500 for the first violation; an administrative fine of not less than \$500 for every violation subsequent to the first.

(20) Section 648.387(1), F.S. – Suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and operators.

(21) Section 648.387(4), F.S. – Suspension for not more than 6 months for the first violation; suspension for not more than 24 months for every violation subsequent to the first.

(22) Section 648.387(5), F.S. – Suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and operators.

(23) Section 648.388, F.S. – Suspension for not more than 6 months or until compliant for the first violation; suspension for not less than 6 months but not more than 12 months for every violation subsequent to the first.

(24) Section 648.40(2), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(25) Section 648.41, F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(26) Section 648.421, F.S. – Suspension for not more than 6 months for the first violation; suspension for not less than 3 months but not more than 12 months for every violation subsequent to the first.

(27) Section 648.43(2), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(28) Section 648.43(3), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(29) Section 648.441(1), F.S. – Suspension for not more than 3 months for the first violation; suspension for 12 months for every violation subsequent to the first.

(30) Section 648.442(1), F.S. – Suspension for not more than 3 months for the first violation; suspension for 12 months for every violation subsequent to the first.

(31) Section 648.442(2), F.S. – Suspension for not more than 3 months for the first violation; suspension for 12 months for every violation subsequent to the first.

(32) Section 648.442(3), F.S. – Suspension for not less than 3 months for the first violation; suspension for not less than 12 months for every violation subsequent to the first.

(33) Section 648.442(4), F.S. – Suspension for not less than 12 months up to 24 months; revocation for any subsequent violation.

(34) Section 648.442(5), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(35) Section 648.442(6), F.S. – Suspension for not less than 3 months for the first violation; suspension for not less than 12 months for every violation subsequent to the first.

(36) Section 648.442(7), F.S. – Suspension for not more than 12 months for the first violation; suspension for not less than 6 months up to 24 months for every violation subsequent to the first.

(37) Section 648.442(8), F.S. – Suspension of all current appointments until the licensee is in compliance.

(38) Section 648.442(10), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(39) Section 648.4425(1), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(40) Section 648.4425(2), F.S. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(41) Section 648.50(3), F.S. – Suspension for not more than 12 months.

(42) Section 648.55, F.S. – Suspension of license of the primary bail bond agent of that agency until such time as all bail bond agents in the agency are in compliance.

(43) Section 648.571, F.S. – Suspension for not less than 12 months up to 24 months for the first violation; revocation for any subsequent violation.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New _____.

69B-241.110 Penalties for Violation of Specific Provisions of Rule Chapter 69B-221, F.A.C.

If the licensee is found to have violated any of the following Department rules, the following stated penalties shall apply:

(1) Rule 69B-221.003, F.A.C. – Suspension for not more than 3 months or until compliant for the first violation; suspension for not less than 3 months but not more than 12 months for every violation subsequent to the first.

(2) Subsection 69B-221.051(1), F.A.C. – Suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and operators.

(3) Subsection 69B-221.051(2), F.A.C. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(4) Subsection 69B-221.051(3), F.A.C. – Administrative fine of not less than \$500 but not more than \$2,500 for the first violation; suspension for not more than 12 months and an administrative fine of not less than \$2,500 but not more than \$10,000 for the second violation and every violation subsequent to the first.

(5) Paragraph 69B-221.051(4)(a), F.A.C. – Suspension for not more than 6 months for the first violation; suspension for not less than 6 months up to 12 months for every violation subsequent to the first.

(6) Paragraph 69B-221.051(4)(b), F.A.C. – Administrative fine of up to two times the amount of hours worked times the amount of minimum salary or wages as required by Florida law.

(7) Paragraph 69B-221.051(4)(c), F.A.C. – Except for violations for which the penalty is stated in the Florida Statutes, the penalty shall be suspension for not more than 6 months and an administrative fine of \$500 per report for the first violation; suspension for not more than 12 months and an administrative fine of \$1,000 per report for every violation subsequent to the first.

(8) Subsection 69B-221.055(1), F.A.C. – Administrative fine of not less than \$1,000 but not more than \$5,000 for the first violation; administrative fine of not less than \$5,000 but not more than \$10,000 for every violation subsequent to the first.

(9) Subsection 69B-221.055(2), F.A.C. – Suspension for not more than 6 months and an administrative fine of not more than \$250 per file for the first violation; suspension for not more than 12 months and an administrative fine of not less than \$250 but not more than \$1,000 per file for every violation subsequent to the first.

(10) Rule 69B-221.060, F.A.C. – Suspension for not more than 6 months for the first violation; suspension for not less than 3 months but not more than 12 months for every violation subsequent to the first.

(11) Rule 69B-221.065, F.A.C. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(12) Rule 69B-221.085, F.A.C. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(13) Rule 69B-221.095, F.A.C. – Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(14) Rule 69B-221.100, F.A.C. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(15) Rule 69B-221.105, F.A.C. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(16) Rule 69B-221.110, F.A.C. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(17) Rule 69B-221.115, F.A.C. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(18) Rule 69B-221.120, F.A.C. – Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(19) Rule 69B-221.130, F.A.C. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(20) Rule 69B-221.135, F.A.C. – Suspension for not more than 12 months for the first violation; suspension for not less than 12 months for every violation subsequent to the first.

(21) Rule 69B-221.140, F.A.C. – Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(22) Rule 69B-221.145, F.A.C. – Suspension for 3 months for the first violation; suspension for 24 months up to revocation for every violation subsequent to the first.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New _____.

69B-241.120 Penalties for Violation of Other Insurance Code Provisions.

If the licensee is found to have violated a provision of the Florida Insurance Code, the stated penalty, unless otherwise prescribed in these rules or in the code provision violated, shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History–New _____.

69B-241.130 Penalties for Violation of Other Department Rules.

If the licensee is found to have violated a Department rule, the stated penalty, unless otherwise prescribed in these rules or in the specific rule violated, shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History–New _____.

69B-241.140 Penalties for Violation of Department Orders.

If a licensee is found to have violated a Department order, the stated penalty shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful, unless the penalty is prescribed in the order itself; except that if a licensee or an affiliated party transacts bail bonds in violation of an order of suspension, the penalty shall be an additional suspension of twenty-four (24) months if the violation was willful, or shall be an additional suspension of six (6) months if the violation was nonwillful.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History–New _____.

69B-241.150 Criminal Proceedings.

(1) If a licensee is convicted by a court of a violation of the Florida Insurance Code or a felony (regardless of whether or not such felony is related to a bail bond license), the penalty shall be revocation.

(2) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 12 months or more under the law of the United States of America or of any state thereof or under the law of any other country, which is a crime involving moral turpitude and is a crime involving breach of trust or dishonesty, the penalty shall be revocation.

(3) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 12 months or more under the law of the United States of America or of any state thereof or under the law of any other country, which is a crime involving moral turpitude or is a crime involving breach of trust or dishonesty, the penalty shall be revocation.

(4) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 12 months or more under the law of the United States of America or of any state thereof or under the law of any other country, which is not a crime involving moral turpitude and is not a crime involving breach of trust or dishonesty, the penalty shall be revocation.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History—New _____.

69B-241.160 Aggravating/Mitigating Factors.

The Department shall consider the following aggravating and mitigating factors and apply them to the total penalty in reaching the final penalty assessed against a licensee under this rule chapter. After consideration and application of these factors, the Department shall, if warranted by the Department's consideration of the factors, either decrease or increase the penalty to any penalty authorized by law.

(1) For penalties other than those assessed under Rule 69B-241.150, F.A.C.:

- (a) Willfulness of licensee's conduct;
- (b) Degree of actual injury to victim;
- (c) Degree of potential injury to victim;
- (d) Age or capacity of victim;
- (e) Restitution to victims;
- (f) Motivation of licensee;
- (g) Financial gain or loss to licensee;
- (h) Financial loss to victim;
- (i) Vicarious or personal responsibility;
- (j) Related criminal charge; disposition;
- (k) Existence of secondary violations in counts;
- (l) Previous disciplinary orders or prior warning by the Department; and
- (m) Other relevant factors.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History—New _____.

69B-241.165 Imposition of Administrative Fine In Lieu of Suspension.

In addition to any other administrative fine imposed, the Department, in its discretion, may convert the suspension imposed by the total penalty against the licensee under this rule chapter to an administrative fine pursuant to paragraphs 69B-241.040(3)(b)-(c), F.A.C., above, unless otherwise prohibited by statute. The aforementioned conversion shall be at a rate not less than \$1,000 per month of suspension.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History—New _____.

69B-241.170 Field Office Settlement Stipulation.

The Department, in its discretion, may offer a Field Office Settlement Stipulation ("FOSS") to any licensee as an opportunity to pay a fine for an alleged violation in lieu of the administrative hearing process. The FOSS shall only be offered to the respondent for committing certain non-criminal violations that pose no threat or harm to the public. The Department shall use form DFS-H1-2021 (Effective: _____)

titled, "Field Office Settlement Stipulation," which is adopted and incorporated herein by reference, to specify licensee violations and the amount of any respective fine. The fines utilized in the FOSS shall be as follows:

- (1) Advertising/Signage:
 - (a) Misleading and deceptive advertising in yellow page advertisement: \$500;
 - (b) Failure to include name, address and phone number in yellow page advertising: \$500;
 - (c) Failure to include address of record filed with Department in yellow page advertising: \$500;
 - (d) Advertising/other/Failure to (specify allegation): \$500;
 - (e) Building not suitably designated as an agency: \$2,000;
 - (f) Signage not readable from reasonable distance: \$2,000;
- (2) Business Engagement/Licensee:
 - (a) Building not open and accessible during reasonable business hours: \$2,000;
 - (b) Failure to designate primary bail bond agent for each bail bond agency location: \$2,000;
 - (c) Failure to submit Designation of Primary Bail Bond Agent form to the Department: \$2,000;
 - (d) Failure to notify the Department of any change to the bail bond agency name, ownership, primary bail bond agent, or other operator of the bail bond agency: \$2,000;
 - (e) Failure to appoint all bail bond agents with the same companies within the same bail bond agency: \$1,000;
 - (f) Failure to prominently display and post applicable service credit card charge: \$1,000;
- (3) Record Keeping:
 - (a) Failure to maintain a register: \$500;
 - (b) Failure to produce a register: \$500;
 - (c) Failure to keep individual file for each principal for whom bond is made: \$250;
 - (d) Failure to keep in individual file all documents defined in rule: \$250;
 - (e) Failure to complete or correctly write original application form: \$250;
 - (f) Failure to properly execute power of attorney/bond power number: \$500;
 - (g) Failure to state terms and conditions of the contract for a bail bond: \$500;
 - (h) Failure to provide Information Notice (Department's contact address): \$500;
 - (i) Failure to use a pre-numbered premium receipt: \$2,000;
 - (j) Failure to include name and address of agency on premium receipt: \$2,000;
 - (k) Failure to include name and address of surety company on premium receipt: \$2,000;
 - (l) Failure to use a pre-numbered collateral receipt: \$2,000;

(m) Failure to give to person giving collateral a pre-numbered collateral receipt: \$2,000;

(n) Failure to include name and address of agency on collateral receipt: \$2,000;

(o) Failure to include name and address of surety company on collateral receipt: \$2,000;

(p) Failure to attach the affidavit accepting collateral on the Department prescribed form to the bond within 30 days of the release of the defendant: \$500;

(q) Failure to respond to Department's request for information: \$2,000;

(r) Failure to indicate name and address of referring agent on transfer bond: \$500;

(s) Failure to complete statement of surrender: \$500;

(t) Failure to keep copies of bond forfeiture documents in individual files: \$250;

(u) Failure to file notice of change of bail bond agency name, business and/or personal addresses and phone numbers with the Department: \$2,000;

(4) Licensing/Appointments:

(a) Failure to submit to Department temporary bail bond agent certified monthly employment reports: \$500;

(b) Failure to file with the Department the temporary bail bond agent appointment: \$500;

(c) Failure to notify Department about termination of appointment of temporary bail bond agent: \$1,000.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Ray Wenger, Financial Administrator, Bureau of Investigation, Division of Insurance Agent and Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief of Financial Officer, Department of Financial Services

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 17, 2009

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF REVENUE

Miscellaneous Tax

RULE NO.: RULE TITLE:
12B-5.150 Public Use Forms

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. 14, April 9, 2010 issue of the Florida Administrative Weekly.

In response to written comments received from the Joint Administrative Procedures Committee, dated May 11, 2010, Forms DR-156, DR-156R, DR-166, and DR-185 will be changed.

Form DR-156, Florida Fuel Tax Application, has been amended as follows:

Information Page – How much is the ~~filing registration fee/license tax~~?

The ~~filing application~~ fee for a ~~retailer wholesaler~~ of alternative fuel is \$5. There is no fee for a local government user of diesel fuel or mass transit system. The ~~license tax fee~~ for each of the other license categories is \$30.

Page 4 – Bond Information

The license categories shown below usually require a bond. A wholesaler who has no import or export activity that sells only undyed diesel fuel and that is not authorized by the Department to remit fuel tax to its supplier is not required to have a bond. Please complete the information as it applies to your business to determine the bond(s) you must obtain.

Page 4 – Pollutants

Your bond will not exceed \$100,000 ~~and no bond is required if your three month tax liability is less than \$50.~~

Form DR-156R, Renewal Application for Florida Fuel/Pollutant License, has been as follows:

Page 1 – How much is the renewal ~~license tax/registration~~ fee?

The renewal ~~license tax/registration~~ fee for each of the license categories and each terminal location is \$30. A \$30 ~~registration~~ fee is not due for a pollutant license if you are also obtaining a fuel license.

Page 4 – Bond Information

The license categories shown below usually require a bond. A wholesaler who has no import or export activity that sells only undyed diesel fuel and that is not authorized by the Department to remit fuel tax to its supplier is not required to have a bond. An applicant applying for a pollutants tax license for the sole purpose of applying for refunds pursuant to Section 206.9942, F.S., of tax-paid pollutants is not required to post a bond.

Please list the information on the bonds your business currently has secured.

Form DR-166, Florida Pollutant Tax Application, has been amended as follows:

Page 1 – “Are there additional fees?”

Most applicants are required to post a bond. The bond shall equal three times the average monthly pollutants tax paid or due during the past 12 months, not to exceed \$100,000. ~~If the three month tax liability is less than \$50, we do not~~